



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

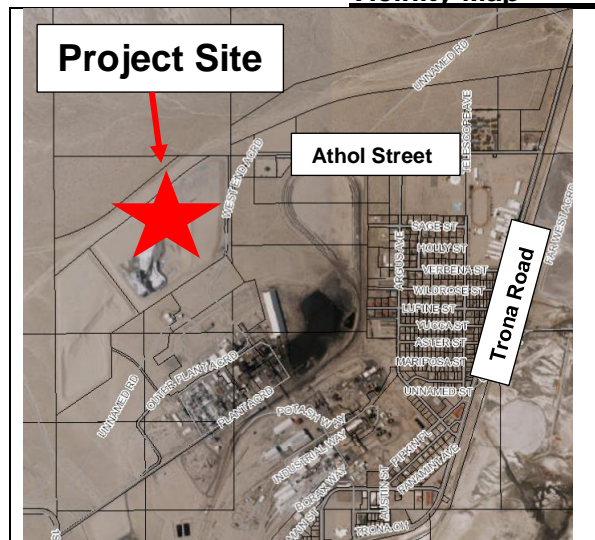
HEARING DATE: October 22, 2020

AGENDA ITEM #4

Project Description

APN: 0485-031-12
Applicant: Shawn Barker / Panamint Valley Limestone, Inc.
Community: Trona / 1ST Supervisorial District
Location: Approximately 0.87 miles west of the intersection of Trona Road and Athol Street, in Trona
Project No: P201800477/CUP/VAR
Staff: Jim Morrissey
Rep: Larry Trowsdale
Proposal: (1) Conditional Use Permit to establish a lime processing plant and (2) a major variance for a 167 ft. high air emissions stack, 164 ft. high kiln, and 120 ft. high loading bins that exceed the 112.5 ft. height limit for structures in industrial districts, on 62 acres.

Vicinity Map -



19 Hearing Notices Sent on: October 6, 2020

Report Prepared By: Jim Morrissey, Contract Planner

SITE INFORMATION:

Parcel Size: 62 acres

Terrain: Variable topography, due to previous excavation

Vegetation: Negligible

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Vacant Land/Ash Disposal Site	Regional Industrial (IR)
North	Vacant	Flood Way (FW), Resource Conservation (RC)
South	Mineral Processing Facility	Regional Industrial (IR)
East	Vacant/Railroad Facilities	Regional Industrial (IR)
West	Vacant	Regional Industrial (IR)

	<u>Agency</u>	<u>Comment</u>
City Sphere of Influence:	N/A	N/A
Water Service:	Searles Domestic Water Co.	Cal Public Utilities Agreement
Sewer Service:	N/A	Septic

STAFF RECOMMENDATION: That the Planning Commission **ADOPT** the proposed Mitigated Negative Declaration, **ADOPT** the recommended Findings, **APPROVE** the Conditional Use Permit, subject to the Conditions of Approval, **APPROVE** the Major Variance based on the recommended Findings, and **DIRECT** Staff to file a Notice of Determination.¹

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

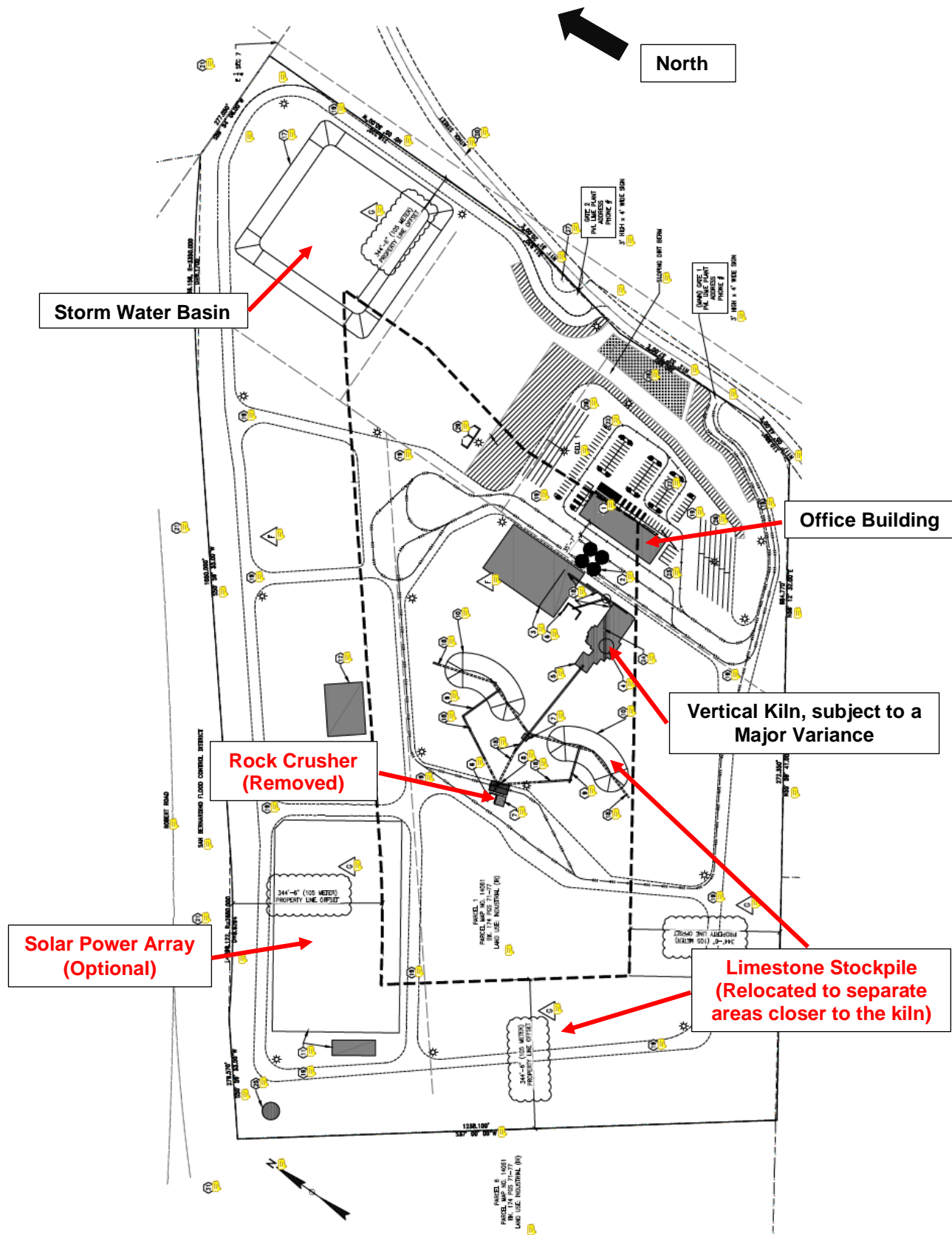
VICINITY MAP:
Aerial view of the Project Site



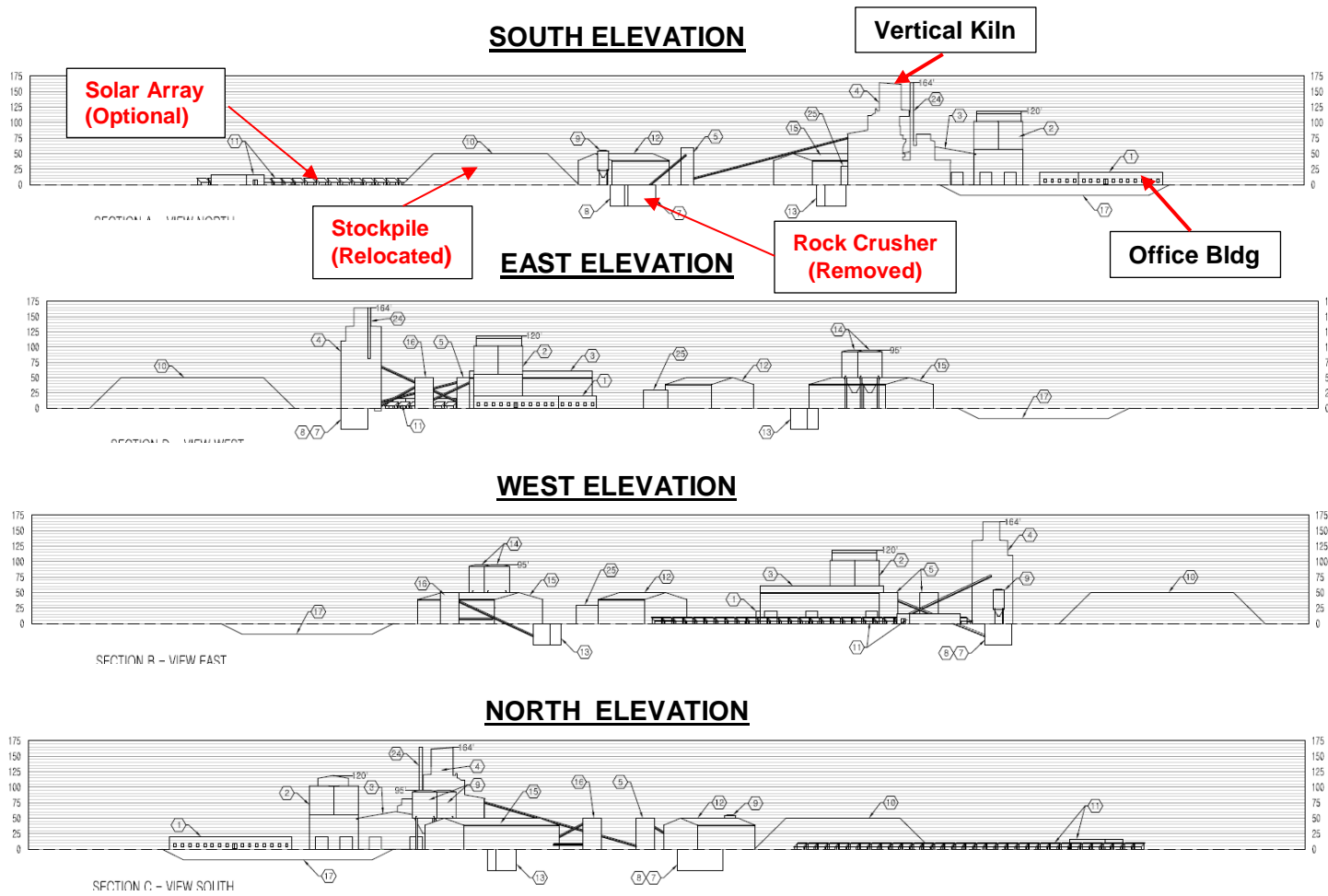
AERIAL MAP:



SITE PLAN:



BUILDING ELEVATIONS:



- | | |
|--|---|
| ① SITE OFFICE / LAB / CONTROL ROOM BUILDING | ⑫ PELLET PLANT |
| ② (4) TRUCK LOADING BINS | ⑬ TRUCK DUMP FOR LIMESTONE POWDER PLANT |
| ③ LIME PLANT | ⑭ (2) LIMESTONE POWDER TRUCK LOADING BINS |
| ④ VERTICAL KILN | ⑮ LIMESTONE POWDER PLANT |
| ⑤ SCREEN / TRANSFER TOWER | ⑯ TRANSFER TOWER |
| ⑥ CONCRETE WALL / LOADER POCKET | ⑰ STORM WATER BASIN |
| ⑦ CRUSHER | ⑳ STACK |
| ⑧ TRUCK DUMP | ㉑ WATER TANK |
| ⑨ MATERIAL BIN | |
| ⑩ 30,000 TON LIMESTONE STOCKPILE | |
| ⑪ SOLAR POWER GENERATION ARRAY / BATTERY BACK-UP SYSTEM | |

SITE PHOTOS

View of Trona from Trona Road, approximately 5 miles to the south of Project Site.



View to the south along southerly property line.



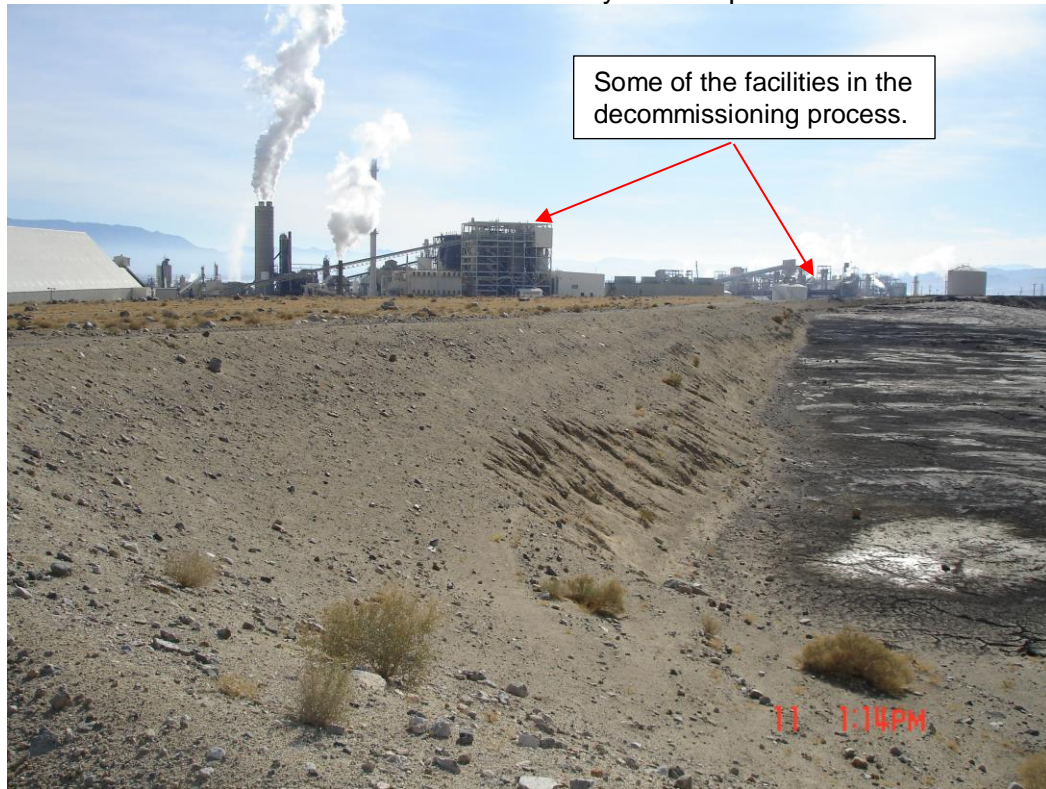
View to the east of railroad facility from the easterly property line.



View to the south across fly ash desposit.



View to the south across fly ash desposit.



View to the west from westerly edge of site.



View of the on-site well dispensing into an aluminum tank near westerly property line.



PROJECT DESCRIPTION:

The applicant requests approval of a Conditional Use Permit (CUP) to construct a lime processing plant on a vacant 62 acre parcel and a Major Variance to exceed height limitation for the air emission discharge stack height (167 feet), vertical kiln (164 feet), and loading bins (120 feet), which exceed 75 feet height limit, plus 50 percent, or 112.5 feet (Project). The subject property is designated Regional Industrial (IR) on the Land Use District Zoning Map. The proposed use is classified as Manufacturing Operations II – General Manufacturing, which provides for manufacturing operations that involve exterior storage, large equipment, large number of employees or that have historically been controversial. Major structures and operations proposed on-site include:

- A 20,744 sq. ft., one-story office building
- Lime Processing facility
- Air emission discharge stack (subject to approval of a Variance due to height)
- Vertical kiln (subject to approval of a Variance due to height)
- Limestone stockpile
- Limestone powder plant
- Limestone truck loading bins (subject to approval of a Variance due to height)
- Stormwater basin

Access to the property will be obtained from Athol Street, extending approximately 7/8ths of a mile west of Trona Road. Athol Street is currently paved, but only a portion is maintained by the County. The initial portion of Athol Street has a 45 foot right of way and will transition to provide a 40-foot right of way when the alignment transitions in a more southerly direction. The roadway width within the 40-foot right of way is 26 feet, allowing for one travel lane in each direction. The Project site abuts an existing flood control

levee that prevents off-site drainage of the nearby hills to enter the site. The applicant, Panamint Valley Limestone has presented a detailed project description in a letter of intent (Exhibit D).

The property was previously used as an ash landfill from an adjoining facility and has been covered with fill dirt. A portion of the the property exhibits a large depression intended for additional disposal of ash. Ash within the site exists in an exposed condition in the topgraphically depressed portion of the property.

Plant Operation

Limestone will be quarried and crushed at the Panamint Valley limestone quarry in Inyo County, approximately 25 miles north of the proposed Project site. The proposed Project originally envisioned transporting approximately 819 tons per day or 299,000 tons per year of limestone delivered by 25-ton trucks from the quarry to the proposed lime plant. This equates to about 33 round trips per day on the area's circulation system seven days a week. The processed lime transferred from the plant to market is then reduced in size through the manufacturing process to 440 tons per day, which equates to approximately 18 trips per day, although the air quality analysis identified 22 trips per day, seven days a week as a conservative number.

Lime products will be manufactured by heating natural limestone in a high temperature kiln. This has the effect of converting the limestone into high value lime products. All of the lime produced will be quicklime. Products from the plant, which was originally intended to produce quicklime, hydrated lime, and pelletized limestone, has been changed to only quicklime, which will reduce the amount of water required. The customer base for this product is large and diverse with the focus on Southern California, although some shipments will go to neighboring states.

The scope of the proposed development will consist of site grading, site preparation, appurtenant improvements, and construction of the proposed facilities with on-site parking and loading areas, circulation, appropriate landscaping and stormwater management improvements. Access to the Project site will be gated.

PROJECT ANALYSIS:

Site Planning: The proposed Project is a 62-acre lime processing facility. The various Project facilities and equipment are dispersed throughout the property. Changes have occurred since the Project was originally submitted, including modifications to eliminate or relocate particular facilities, including the configuration of the office building design, removal of the rock crushing activity, solar array, and relocation and a reduction in the size of the limestone stockpile from 30,000 to 20,000 tons. The solar array was initially proposed, but is now identified as optional due to its economic feasibility, which in part is dependent upon the effectiveness of battery storage. According to the applicant, the dispersion of structures and equipment is influenced by a number of factors including available land, large water retention pond, use of inclined conveyors to convey materials between various pieces of equipment, gradual grading to direct all site flows to the water retention ponds and allocation of a potential solar field site. All open areas will be graded as necessary to be consistent with the site drainage plan.

It is estimated that a maximum of nine employees will be on-site to operate the facility at any given time. The office building is relatively large at 20,744 sq. ft., but will not contain a significant number of persons due to its use as a lab, control room and office facility. The applicant has provided parking in excess of that required by the Development Code.

The proposed Project has three structures that would exceed the maximum allowable height limits. These facilities are essential to the "allowed industrial processes in industrial land use zoning districts." (Development Code Section 83.02.040(c)(2)) See further discussion below under Major Variance.

Code Compliance Summary: As noted above, the Project satisfies all applicable standards of the Development Code for development in the IR Land Use District subject to approval of the requested variances, as illustrated in Table 2 below:

Table 2: PROJECT CODE COMPLIANCE

Project Component	Development Code Standard/Regional Industrial		Project Plans
Manufacturing Operations	CUP		CUP
Parking	83 vehicles		85 vehicles
Landscaping	Minimum 15% Landscaping		15% of improved area (2.03 acres.)
Building Setbacks	Front Street Side Rear	25' 25' 10' or 0'	340' (approx.) N/A Extensive
Building Height	75 feet maximum, plus an addition height of 50% is permitted		167 feet, maximum facility height. A Major Variance has been requested.
Floor Area Ratio	.6:1		.21:1
Drive Aisles	26'		26'

Major Variance: A Major Variance to exceed height limitation in the IR Land Use District has been requested for the air emission discharge stack height (167 feet), vertical kiln (164 feet), and loading bins (120 feet), which exceed 75 feet height limit, plus 50 percent or 112.5 feet. The Development Code specifies the height measurements and height limit exceptions in Section 83.02.040 of the Development Code as follows:

(c) Allowed building/structure height increases. *The maximum building/structure height development standards established by Division 2 (Land Use Zoning Districts and Allowed Land Uses) may be increased as specified by this Section, provided the increase shall not conflict with airport safety regulations or conditions of an approved Conditional Use Permit.*

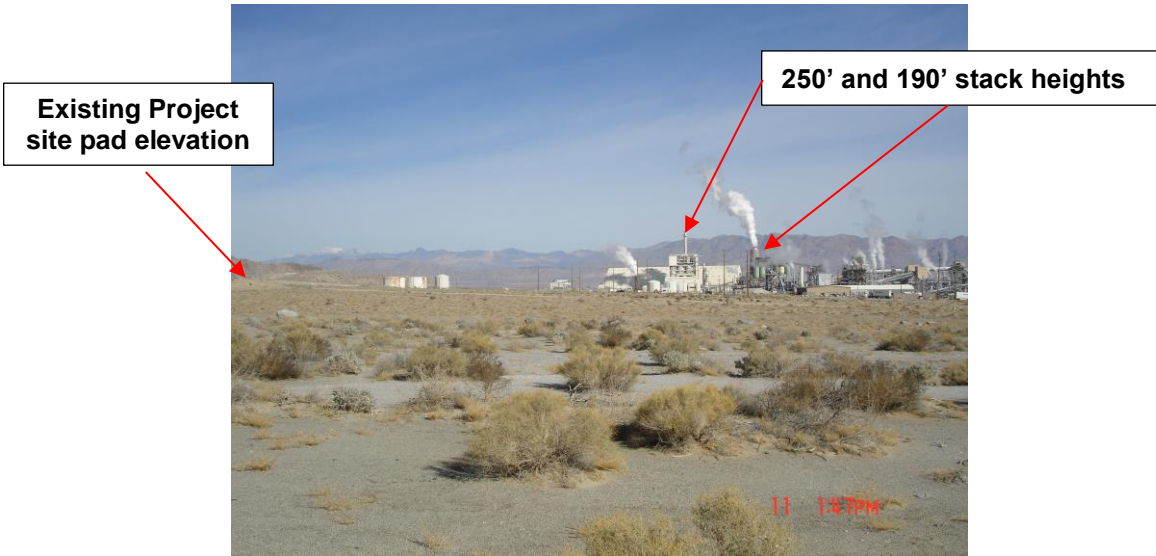
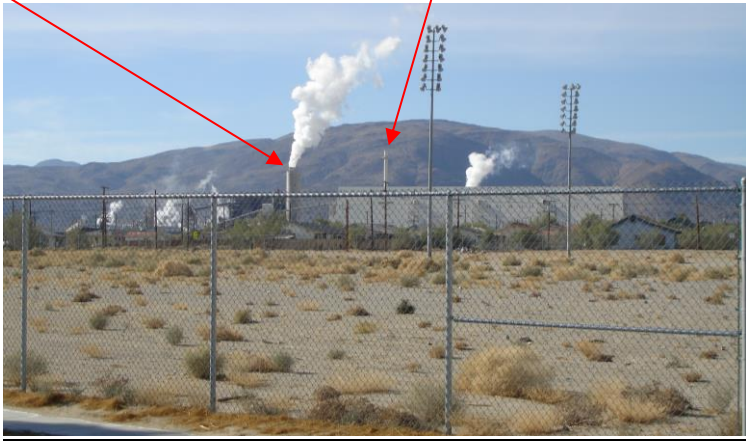
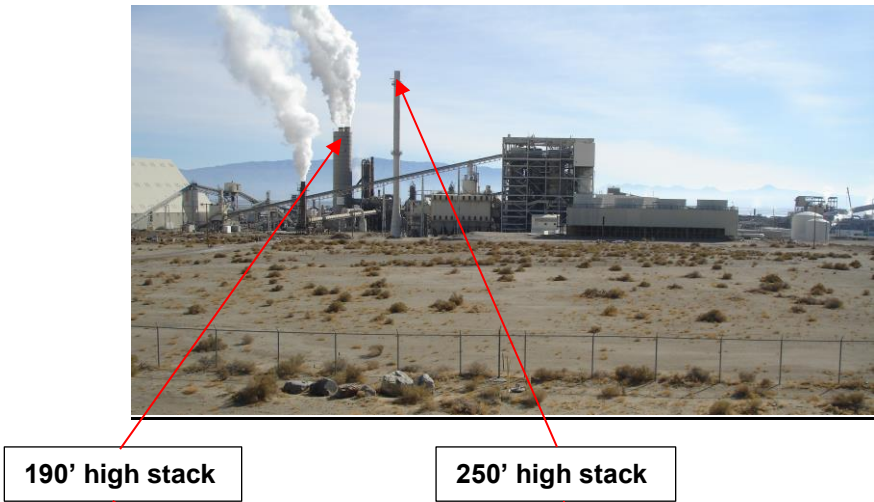
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(2) Miscellaneous structures. *The maximum structure height specified in a land use zoning district may be exceeded by no more than 50 percent for the following structures, except that a lower maximum height may be specified in the conditions of an approved Conditional Use Permit:*

...

(D) Cooling towers, smokestacks or other structures that are required by allowed industrial processes in industrial land use zoning districts.

The need for the stack height of 167 feet is based upon the need to emit emissions at a height greater than the nearby Project vertical kiln. The height of the proposed stack and Project buildings are not unusual as evidenced upon information provided by the applicant for the adjoining existing facility which has a stack height of approximately 190 and 250 feet. The photos below display the existing adjoining facility and associated stack height from the Project site (top photo), near Trona Road and school field (middle photo), and from west of site (last photo). Due to the difference in the topographic elevation between the existing adjoining facility and the Project site, the highest stack on the Project site is estimated to be 25 to 40 feet lower than the adjoining facility. Proposed findings in support of the requested variances are attached to this report as Exhibit B.



California Environmental Quality Act Compliance

An Initial Study was prepared for the proposed Project and circulated for review. Based upon those comments the Initial Study was modified and recirculated for review. The following are summaries of highlighted topics addressed in the Mitigated Negative Determination (MND). The comments received on both circulated versions of the document have been attached. Responses to the comments have been prepared by Tom Dodson Associates and revised by Staff. In addition, the mitigation measures prepared in the responses have been revised to reflect the timing of the activity and responsible entity.

Aesthetics: The proposed Project is an industrial facility, significantly removed from public view. Detailed building elevations have not been provided. The height of the structures can be observed from the surrounding area due to their size, although the site is relatively isolated with residences approximately 2,100 feet from the property. The surrounding terrain is significantly broad due to the property's location within a valley. The new facility would not obstruct views of the surrounding terrain and would be adjacent to an existing similar facility. Although new light sources would exist due to the development of the property, no significant lighting sources are proposed. Outside lighting fixtures would be shielded to prevent nighttime glare.

Air Quality: The Project air quality analysis shows that the Project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation, because the proposed use would not exceed thresholds of concern as established by the Mojave Desert Air Quality Management District (MDAQMD). The MDAQMD has issued a letter indicating a dust control plan will be required as a standard condition to regulate short-term construction activities that could create windblown dust. Painting activities will be restricted as needed to comply with MDAQMD standards. Mitigation measures and conditions of approval have been included that address a variety of items, such as a fugitive dust control plan and related dust suppression measures such as wind breaks, use of alternative powered vehicles, engine idling requirements, and use of approved construction equipment.

Water Availability and Use: Searles Domestic Water Company (SDWC) will provide the applicant with up to 8,000 cubic feet of water per month (2.1 AFY) to meet the Project's domestic needs based upon an order issued by the California Public Utilities Commission (CPUC) on April 29, 2020. The applicant has also drilled an on-site well for limited water use. In general, water is provided by SDWC to the Trona area from the Indian Wells Valley Groundwater Basin (IWVGB). The Indians Wells Valley Groundwater Authority pumps approximately 27,740 acre feet of water per year from the IWVGB, based upon the *Groundwater Sustainability Plan for the Indian Wells Valley Groundwater Basin*, dated January 2020. The Sustainability Plan notes that "the Searles Domestic Water Company relies on extracted groundwater imported from the IWVGB to its served communities in the Searles Valley..." (pg. ES-5) The Groundwater Basin has been in an overdraft condition for decades and has adopted a number of methods to address this issue, including purchasing water from outside sources, optimizing use of recycled water, undertaking conservation methods, relocating some groundwater pumping operations, along other methods.

It is estimated the proposed Project would utilize 2.1 acre-feet-year of water from the IWVGB or 0.00007 of the amount of water pumped from the Groundwater Basin. Even though the amount of water is negligible when compared to the amount pumped from the Basin, the applicant has agreed to establish a \$50,000.00 fund to implement measures through either SDWC or Indian Wells Valley Water District to replace existing domestic water equipment, such as toilets and repair leaks to offset their construction and operational use. If this method is not acceptable to either entity the applicant is willing to establish a trust account for future use to reduce the water demand from the IWVGB. This action has been incorporated as a mitigation measure in the proposed MND and as a condition of approval for the CUP.

The amount of water necessary for the proposed Project has been reduced from that originally contemplated now that only quicklime will be produced and not hydrated lime. This will reduce the amount of water required and will utilize an on-site well to provide water during construction, truck off-loading and

on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt), and in storage for potential fire suppression. Mitigation measures and conditions of approval have been included that address a variety of items, such as the establishment of a fund, if necessary, to replace existing domestic water equipment and obtaining water from Searles Domestic Water Company.

Regional Water Quality Control Board Lahontan Region – Revised Waste Discharge Requirements:

A portion of the Project site is an ash disposal area. Information contained in the *Closure and Post Closure Plan for the ACE Project Ash Landfill* prepared in Year 2000, contained findings related to the use of that area as an ash landfill and includes the following (see photos below).

- The ACE generation facility has been producing ash since September 1990, and has been discharging it to an unlined waste management unit, which is the subject property.
- The combustion process used at the ACE facility generates a non-hazardous inert ash waste stream, which consists of a combination of dry fly and bottom ash.
- The ash waste stream is mixed with brackish water to form an ash slurry, which solidifies into a concrete-like material and chemical constituents in the ash become fixated during the solidification process. This process has been demonstrated to reduce the leachability of metals found in the dry wash waste stream.
- The Regional Board indicated the site is an authorized disposal site for the ash waste stream and the ash is classified as a non-hazardous waste.



California Public Utilities Commission Proceedings:

Some of the environmental documentation is based upon action undertaken by the California Public Utilities Commission (CPUC). The CPUC issued decision 20-04-039 on April 29, 2020, that reads and finds in part as follows:

- Panamint Valley Limestone does not require Searles Domestic Water Company (SDWC) to provide any water for Panamint Valley Limestone's lime plant's operational use.
- The maximum number of employees at Panamint Valley Limestone's lime plant will be nine persons.
- SDWC has agreed to provide up to 8,000 cubic feet/month of water for Panamint Valley Limestone Panamint Valley Limestone's lime plant's domestic needs if Panamint Valley Limestone confirms that it would not seek in excess of 8,000 cubic/month from SDWC for use in its lime plant.
- SDWC can and should provide Panamint Valley Limestone with up to 8,000 cubic feet/month of water for its domestic needs.

Water Quality: A Preliminary Drainage Plan has been approved by the Land Development Division of Land Use Services. On-site runoff is to be directed to a basin at the easterly end of the property. A Water Quality Management Plan (WQMP) is not required since the property is beyond the boundaries of the MS4 (Municipal Sources) requirements of the San Bernardino County National Pollutant Discharge Elimination System (NPDES) Area-wide Stormwater Program. The Project drainage system will collect storm water runoff in two on-site underground corrugated metal pipe infiltration system designed and sized to accept storm water flows for on-site percolation within the prescribed period of time to avoid the nuisance of standing water.

Biological Resources: Based upon biological investigations of the site and surrounding area, it was noted there exists a potential for the Mojave Ground Squirrel and Borrego milk-vetch to occur along the potential natural gas pipeline alignment. In addition, due to the size of the property and its location the potential exists, although not identified as part of any biological investigation, that desert tortoise, golden eagle, burrowing owl, desert kit fox, American Badger, and other species may occur and that evaluations are necessary to confirm their presence/absence prior to development of the Project. Mitigation measures and conditions of approval have been included that address these items

Traffic: Based upon the amount of material delivered to the site from quarries and the amount of product generated by the facility for delivery to end users, the Project would generate approximately 88 vehicle trips each day. The facility would operate 24 hours a day seven days a week. Mitigation measures and conditions of approval have been included that address a variety of items related to traffic control and standard County requirements to minimize disruptions of public roadways.

Public Comments:

Project Notices were sent to surrounding property owners within 700 feet of the Project site, as required by Development Code Section 85.03.080. A Notice of Availability/Notice of Intent indicating the availability of the environmental documentation was noticed in the newspaper and County web site several times. The initial public review period was from November 26, 2019 to December 26, 2019, then again with a revised Initial Study from March 20, 2020 to April 20, 2020. The Project has been advertised in the Daily Press and hearing notices have been sent to surrounding land owners. Comments have been received from the surrounding land owner and government agencies and have been attached to this report.

RECOMMENDATION:

That the Planning Commission:

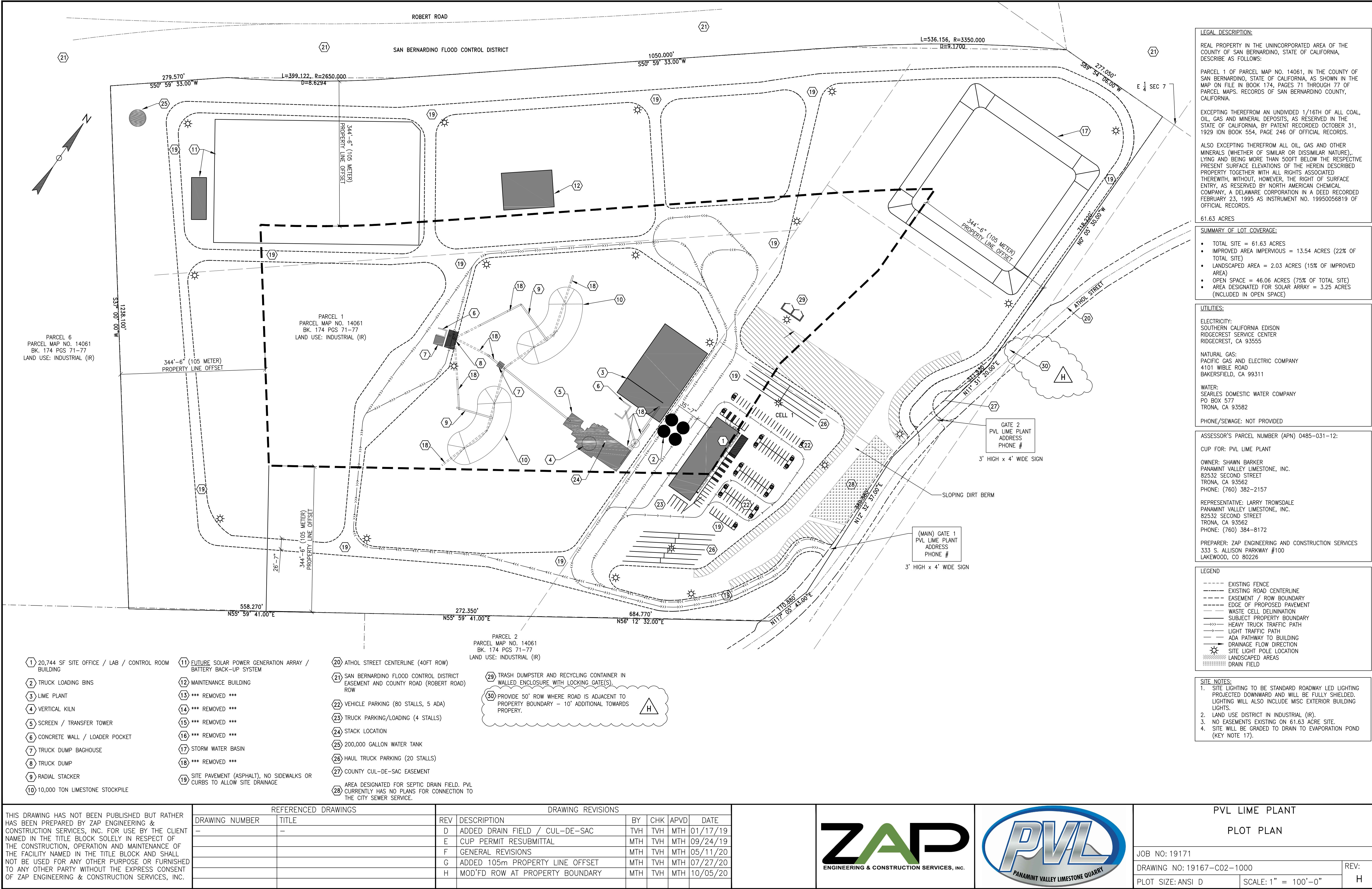
1. **ADOPT** the Mitigated Negative Declaration;
2. **ADOPT** the recommended Findings for approval of the Project;
3. **APPROVE** the Major Variance for a 167 ft. high air emissions stack, 164 ft. high kiln, and 120 ft. high loading bins that exceed the 112.5 ft. maximum height limit for structures in industrial districts;
4. **APPROVE** the Conditional Use Permit for the construction and operation of a lime processing facility and associated buildings and equipment, subject to the recommended Conditions of Approval; and
5. **DIRECT** staff to file a Notice of Determination.

ATTACHMENTS:

- EXHIBIT A: Site Plan
- EXHIBIT B: Findings
- EXHIBIT C: Conditions of Approval
- EXHIBIT D: Letter of Intent
- EXHIBIT E: Initial Study/Mitigated Negative Declaration
- EXHIBIT F: Comment Letters from California Department of Fish and Wildlife, San Bernardino County
Public Health-Environmental Health Services, Searles Domestic Water Company,
Lahontan Regional Water Quality Control Board, Mojave Desert Air Quality Management
District, Searles Valley Minerals, CalRecycle-Department of Resources Recycling and
Recovery,
- EXHIBIT G: Responses to Comments
- EXHIBIT H: Compiled Mitigation Measures

EXHIBIT A

Site Plan



LEGAL DESCRIPTION:

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBE AS FOLLOWS:

PARCEL 1 OF PARCEL MAP NO. 14061, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN IN THE MAP ON FILE IN BOOK 174, PAGES 71 THROUGH 77 OF PARCEL MAPS. RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

EXCEPTING THEREFROM AN UNDIVIDED 1/16TH OF ALL COAL, OIL, GAS AND MINERAL DEPOSITS, AS RESERVED IN THE STATE OF CALIFORNIA, BY PATENT RECORDED OCTOBER 31, 1929 ION BOOK 554, PAGE 246 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER MINERALS (WHETHER OF SIMILAR OR DISSIMILAR NATURE), LYING AND BEING MORE THAN 500FT BELOW THE RESPECTIVE PRESENT SURFACE ELEVATIONS OF THE HEREIN DESCRIBED PROPERTY TOGETHER WITH ALL RIGHTS ASSOCIATED THEREWITH, WITHOUT, HOWEVER, THE RIGHT OF SURFACE ENTRY, AS RESERVED BY NORTH AMERICAN CHEMICAL COMPANY, A DELAWARE CORPORATION IN A DEED RECORDED FEBRUARY 23, 1995 AS INSTRUMENT NO. 19950056819 OF OFFICIAL RECORDS.

61.63 ACRES

SUMMARY OF LOT COVERAGE:

- TOTAL SITE = 61.63 ACRES
- IMPROVED AREA IMPERVIOUS = 13.54 ACRES (22% OF TOTAL SITE)
- LANDSCAPED AREA = 2.03 ACRES (15% OF IMPROVED AREA)
- OPEN SPACE = 46.06 ACRES (75% OF TOTAL SITE)
- AREA DESIGNATED FOR SOLAR ARRAY = 3.25 ACRES (INCLUDED IN OPEN SPACE)

UTILITIES:

ELECTRICITY:
SOUTHERN CALIFORNIA EDISON
RIDGECREST SERVICE CENTER
RIDGECREST, CA 93555

NATURAL GAS:
PACIFIC GAS AND ELECTRIC COMPANY
4101 WIBLE ROAD
BAKERSFIELD, CA 99311

WATER:
SEARLES DOMESTIC WATER COMPANY
PO BOX 577
TRONA, CA 93582

PHONE/SEWAGE: NOT PROVIDED

ASSESSOR'S PARCEL NUMBER (APN) 0485-031-12:

CUP FOR: PVL LIME PLANT

OWNER: SHAWN BARKER
PANAMINT VALLEY LIMESTONE, INC.
82532 SECOND STREET
TRONA, CA 93562
PHONE: (760) 382-2157

REPRESENTATIVE: LARRY TROWSDALE
PANAMINT VALLEY LIMESTONE, INC.
82532 SECOND STREET
TRONA, CA 93562
PHONE: (760) 384-8172

PREPARER: ZAP ENGINEERING AND CONSTRUCTION SERVICES
333 S. ALLISON PARKWAY #100
LAKEWOOD, CO 80226

LEGEND

- EXISTING FENCE
- EXISTING ROAD CENTERLINE
- EASEMENT / ROW BOUNDARY
- EDGE OF PROPOSED PAVEMENT
- WASTE CELL DELINEINATION
- SUBJECT PROPERTY BOUNDARY
- HEAVY TRUCK TRAFFIC PATH
- LIGHT TRAFFIC PATH
- ADA PATHWAY TO BUILDING
- DRAINAGE FLOW DIRECTION
- SITE LIGHT POLE LOCATION
- LANDSCAPED AREAS
- DRAIN FIELD

SITE NOTES:

1. SITE LIGHTING TO BE STANDARD ROADWAY LED LIGHTING PROJECTED DOWNWARD AND WILL BE FULLY SHIELDED. LIGHTING WILL ALSO INCLUDE MISC EXTERIOR BUILDING LIGHTS.
2. LAND USE DISTRICT IN INDUSTRIAL (IR).
3. NO EASEMENTS EXISTING ON 61.63 ACRE SITE.
4. SITE WILL BE GRADED TO DRAIN TO EVAPORATION POND (KEY NOTE 17).

THIS DRAWING HAS NOT BEEN PUBLISHED BUT RATHER HAS BEEN PREPARED BY ZAP ENGINEERING & CONSTRUCTION SERVICES, INC. FOR USE BY THE CLIENT NAMED IN THE TITLE BLOCK SOLELY IN RESPECT OF THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE FACILITY NAMED IN THE TITLE BLOCK AND SHALL NOT BE USED FOR ANY OTHER PURPOSE OR FURNISHED TO ANY OTHER PARTY WITHOUT THE EXPRESS CONSENT OF ZAP ENGINEERING & CONSTRUCTION SERVICES, INC.

REFERENCED DRAWINGS		DRAWING REVISIONS						
DRAWING NUMBER	TITLE	REV	DESCRIPTION	BY	CHK	APVD	DATE	
---	---	D	ADDED DRAIN FIELD / CUL-DE-SAC	TVH	TVH	MTH	01/17/19	
		E	CUP PERMIT RESUBMITTAL	MTH	TVH	MTH	09/24/19	
		F	GENERAL REVISIONS	MTH	TVH	MTH	05/11/20	
		G	ADDED 105m PROPERTY LINE OFFSET	MTH	TVH	MTH	07/27/20	
		H	MOD'FD ROW AT PROPERTY BOUNDARY	MTH	TVH	MTH	10/05/20	



PVL LIME PLANT		
PLOT PLAN		
JOB NO: 19171		
DRAWING NO: 19167-C02-1000		REV:
PLOT SIZE: ANSI D	SCALE: 1" = 100'-0"	H

EXHIBIT B

Findings

FINDINGS

(1) Conditional Use Permit (CUP) to establish a Limestone processing facility, with various buildings and equipment on a single parcel, approximately 62 acres in size, and (2) Major Variance for an air emission discharge stack height (167 feet), vertical kiln (164 feet), and loading bins (120 feet), which exceed the 75 feet height limit, plus 50 percent or 112.5 feet, provided for in the Regional Industrial (IR) Land Use Zoning District (Project).

FINDINGS: CONDITIONAL USE PERMIT.

1. **The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, open space, setbacks, walls and fences, yards, and other required features pertaining to the application,** because the subject property is of adequate size and configuration to accommodate the proposed use and permit all proposed structures and activity areas to meet required setbacks, provide an adequate number of on-site parking spaces, allow for required vehicle maneuvering, and provide adequate landscape areas and features consistent with the requirements of the Development Code for the proposed land use.
2. **The site for the proposed use has adequate access,** because Athol Street is a paved roadway extending from Trona Road that provides physical access to the Project site, and the proposed conditions of approval will require additional road improvements to ensure safe pedestrian access and vehicular transit across the street to serve the proposed land use.
3. **The proposed use will not have a substantial adverse effect on abutting properties or the allowed use of the abutting properties, which means that the use will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance,** because the proposed Project is within an Regional Industrial Land Use District, buildings and improvements are a considerable distance from property lines and surrounding land uses are either of a similar type or government land noise levels would not adversely affect surrounding uses. In addition, the conditions of approval ensure that the Project will conform to performance standards, including those for noise and vibration, to reduce potential impacts to the nearby residences.
4. **The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the County General Plan** and implement the following goals and policies of the general plan.

Goal LU 9: Development will be in a contiguous manner as much as possible to minimize environmental impacts, minimize public infrastructure and service costs, and further countywide economic development goals.

Policy Implementation: The proposed Project is located in close proximity to an existing mineral processing facility and another facility that is in the process of being decommissioned. As a former ash disposal site for a previous use that is currently subject to a plant closure process through the Lohantan Regional Water Board, this would be a beneficial and environmentally suitable reuse of the property.

Policy D/LU 2.2: Upon completion of land exchanges with the BLM that are adjacent to industrial and mining uses and are being used for mining activity, convert those new private lands to a designation of Regional Industrial (IR).

Policy Implementation: Although the proposed Project is not part of a BLM land exchange, the use of the site for a Limestone processing facility is near existing industrial and mining related operations in the IR Land Use District. The adopted General Plan policy recognizes the use of private lands within the IR Land Use District is appropriate for the type of use proposed when near similar facilities.

5. **There is supporting infrastructure, existing or available, consistent with the intensity of the development, to accommodate the proposed Project without significantly lowering service levels.** The developer will be required to construct appropriate road improvements, provide adequate water and septic facilities, and extend adequate utilities to the property, in accordance with the conditions of approval.
6. **The lawful conditions stated in the approval are deemed reasonable and necessary to protect the overall public health, safety and general welfare,** because the conditions of approval include mitigation measures to reduce impacts to the environment, including air quality, biological resources, cultural resources, paleontological, and noise. In addition, the conditions will ensure the Project will meet the adopted County performance standards.
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,** because the proposed Project has identified a portion of the property that could utilize solar facilities, depending upon its feasibility to incorporate this feature into the Project.
8. **The Mitigated Negative Declaration (MND) adequately describes the mitigation measures placed upon the Project to reduce environmental impacts that would potentially result from the proposed Project and reflects the County's independent judgment.** The completed MND has determined that all Project impacts

will be less than significant with the incorporation of identified mitigation measures. The mitigation measures have been included in the Conditions of Approval to ensure that all impacts are reduced to a level of less than significant.

FINDINGS: MAJOR VARIANCE

1. **The granting of the Variance will not be materially detrimental to other properties or land uses in the area and will not substantially interfere with the present or future ability to use solar energy systems** because the proposed structure and building height requested is part of a typical mineral processing facility and is similar in height to a nearby operating facilities. The proposed Project site has identified land for use of a potential solar and battery field, depending upon the feasibility of that operation as it relates to the needs of the facility.
2. **There are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use that do not apply to other properties in the same vicinity and land use zoning district**, because the Project would require structures that exceed the building height permitted in the Development Code, as demonstrated by the on-going operation of a similar nearby facility. The need for the stack height is based upon the need to emit emissions at a height greater than the nearby Project vertical kiln.
3. **The strict application of the land use zoning district deprives the subject property of privileges enjoyed by other properties in the vicinity or in the same land use zoning district**, because other properties near the Project site have been developed with industrial structures that are larger in size than the proposed Project.
4. **The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan**, because the County General Plan encourages industrial uses and environmentally suitable development and the use is consistent with the development objectives of the Regional Industrial Land Use Zoning District.

EXHIBIT C

Conditions of Approval



Conditions of Approval

Record: PROJ-2020-00110

System Date: 10/05/2020

Record Type: Project Application

Primary

0485031120000

Record Status: In Process

APN: Application P201800477- PV Limestone in Trona

Name:

Description:

CONDITIONAL USE PERMIT TO ESTABLISH A LIME PROCESSING PLANT ON 62 ACRES IN TRONA. A MAJOR VARIANCE IS REQUIRED FOR THE 167-FOOT AIR EMISSIONS CONTROL STACK, 164-FOOT KILN, AND 120 FOOT LOADING BINS, SINCE THEY EXCEED THE 75-FOOT HIGH LIMIT AND 50% ADDITIONAL HEIGHT PERMITTED FOR STRUCTURES IN INDUSTRIAL DISTRICTS.

This document does not signify project approval.

If the project has been approved, then an effective date and an expiration date for these conditions can be found below. This content reflects County records as at the System Date and time below.

The following conditions of approval have been imposed for the project identified below. The applicant/developer shall complete all conditions of approval stipulated in the approval letter.

Conditions of Approval are organized by project phase, then by status, and finally by department imposing the condition.

On-going conditions must be complied with at all times. For assistance interpreting the content of this document, please contact the Land Use Services Department Planning Division.

Contact information is provided at the end of this document for follow-up on individual conditions.

On-going

Land Use Services – Land Development

1. Tributary Drainage: Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.
2. Erosion Control Installation: Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.
3. Additional Drainage Requirements: In addition to drainage requirements stated herein, other "on-site" and/or "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.
4. Natural Drainage: The natural drainage courses traversing the site shall not be occupied or obstructed.

Land Use Services - Planning

5. Development Impact Fees: Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances



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6. **Clear Sight Triangle:** Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic
7. **Continuous Effect/Revocation:** All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.
8. **Revisions:** Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.
9. **Construction Hours:** Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
10. **Cultural Resources:** During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.
11. **Extension of Time:** Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
12. **Lighting:** Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.
13. **On-going Condition:** Mitigation Measure AIR-10. Any operation or activity that might cause the emission of any smoke, fly ash, dust, fumes, vapors, gases, or other forms of air pollution, which can cause damage to human health, vegetation, or other forms of property, or can cause excessive soiling on any other parcel, shall conform to the requirements of the Mojave Desert Air Quality Management District.
14. **On-going Condition:** Mitigation Measure AIR-4. As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.
15. **On-going Condition:** Mitigation Measure GEO-6. The applicant/operator shall not process or otherwise import produced minerals as defined by California Code of Regulations Section 3695 unless the applicant/operator certifies, under penalty of perjury, that the imported minerals are not subject to SMARA or obtained from a mining operation identified on the AB 3098 List published by the California Department of Conservation pursuant to Public Resources Code Section 2717(b).



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16. On-going Condition: Mitigation Measure HYD-2. Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site. The Applicant shall inform the Planning Staff upon utilizing recycled water.
17. On-going Condition: Mitigation Measure HYD-3. Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.
18. On-going Condition: Mitigation Measure TRAN-2. The County shall require that all disturbances to public roadways maintained by the County be repaired in a manner that complies with the Standard Specifications for Public Works Construction (green book) or other applicable Caltrans or County standard design requirements.
19. Underground Utilities: No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.
20. Performance Standards : The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration, and the disposal of liquid waste
21. Additional Permits: The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:
22. GHG - Operational Standards: The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.
23. Construction Noise: The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer's specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.



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24. **Project Account:** The Project account number is PROJ-2020-00110. 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 Works, 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 expense 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 \$2,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.
25. **Continuous Maintenance:** The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.
26. **Project Location:** The Project site is located approximately 0.87 miles west of the intersection of Trona Road and Athol Street, in Trona.



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27. **Project Approval Description (CUP/MUP):** This Conditional Use Permit is conditionally approved to establish a limestone processing plant and a Major Variance for a 167 foot high air emissions stack, 164 foot high kiln, and 120 foot high loading bins that exceed the 112.5 foot height limit for structures in the Regional Industrial District, in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.
28. **Expiration:** This project permit approval shall expire and become void if it is not "exercised" within 36 months of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non-conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.

Public Health- Environmental Health Services

29. **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 environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq. For information, please call EHS/LEA at: 1-800-442- 2283.
30. **Noise Levels:** Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080. For information, please call EHS at 1-800-442-2283.
31. **Septic System Maintenance:** The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a EHS permitted pumper. For information, please call EHS/Wastewater Section at: 1-800-442-2283.

County Fire - Community Safety

32. **Permit Expiration:** Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.



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33. **Jurisdiction:** The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein "Fire Department". Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable status, codes, ordinances and standards of the Fire Department.

Prior to Land Disturbance

Outstanding

Land Use Services - Building and Safety

34. **Wall Plans:** Submit plans and obtain separate building permits for any required retaining walls.
35. **Geotechnical (Soil) Report Required Before Grading:** A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.
36. **Demolition Permit Required Before Grading:** Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

37. **On-site Flows:** On-site flows need to be directed to the nearest County road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.
38. **Regional Board Permit:** Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.
39. **NPDES Permit:** An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. www.swrcb.ca.gov
40. **Grading Plans:** Grading and Erosion control plans shall be submitted for review and approval obtained, prior to construction. All Drainage and WQMP improvements shall be shown on the Grading plans according to the approved Drainage study and WQMP reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
41. **Topo Map:** A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
42. **FEMA Flood Zone:** The project is located within Flood Zone D and X-Unshaded according to FEMA Panel Number 06027C4825D dated 8/16/2011. Flood hazards are undetermined in this area, but possible. No elevation requirements within Flood Zone X-Unshaded.. 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.
43. **Drainage Improvements:** A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$750 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.



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Land Use Services - Planning

44. Grading/Land Disturbance Condition: Mitigation Measure AIR-1. Fugitive Dust Control. The following measures shall be incorporated into all building and grading plans and specifications prior to issuance of permits for implementation during construction: • Apply soil stabilizers as necessary to inactive areas. • Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 mph. • Stabilize previously disturbed areas if subsequent construction is delayed. • Apply water to disturbed surfaces and haul roads 3 times/day. • Replace ground cover in disturbed areas quickly. • Reduce speeds on unpaved roads to less than 15 mph. • Trenches shall be left exposed for as short a time as possible. • Identify proper compaction for backfilled soils in construction specifications. AIR-1
45. Grading/Land Disturbance Condition: Mitigation Measure AIR-2. The following signage shall be erected no later than the commencement of grading: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum height text, black text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, identifying a responsible official for the site and local or toll free number that is accessible 24 hours per day: "[Site Name] {four-inch text} [Project Name/Project Number] {four-inch text} IF YOU SEE DUST COMING FROM {four-inch text} THIS PROJECT CALL: {six-inch text} [Contact Name], PHONE NUMBER {six-inch text} If you do not receive a response, Please Call {three-inch text} The MDAQMD at 1-800-635-4617 {three-inch text}"
46. Grading/Land Disturbance Condition: Mitigation Measure AIR-3. During project operations a 4,000-gallon water truck shall be available on-site at all times for dust control.
47. Grading/Land Disturbance Condition: Mitigation Measure AIR-5. Prior to grading, wind breaks and/or fencing shall be installed in areas that are susceptible to high wind induced dusting.
48. Grading/Land Disturbance Condition: Mitigation Measure AIR-6. Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes and shall ensure that all off-road equipment is compliant with the CARB in-use off-road diesel vehicle regulation.
49. Grading/Land Disturbance Condition: Mitigation Measure AIR-7. During construction all material transported off-site with dust blow off potential shall be sufficiently watered or securely covered to prevent excessive amounts of dust being generated.
50. Grading/Land Disturbance Condition: Mitigation Measure AIR-8. The Applicant shall use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. If the site contains exposed sand or fines deposits (and if the project would expose such soils through earthmoving), water application or chemical stabilization will be required to eliminate visible dust/sand from sand/fines deposits.
51. Grading/Land Disturbance Condition: Mitigation Measure AIR-9. The Applicant shall formulate and provide to Planning Staff for acceptance prior to issuance of a grading permit a high wind response plan that addresses enhanced dust control if winds are forecast to exceed 25-mph in any upcoming 24-hour period.
52. Grading/Land Disturbance Condition: Mitigation Measure AIR-11. Dust Control Plan. The Applicant shall prepare and submit a Dust Control Plan to Planning Staff for review and approval prior to issuance of a grading permit and to the MDAQMD prior to commencement of construction, which shall outline dust control measures that will be implemented during construction and operation of the proposed Project. This Plan shall meet MDAQMD's requirements, including applicable provisions of MDAQMD Rules 403 and 403.1.



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53. Grading/Land Disturbance Condition: Mitigation Measure AIR-12. The Applicant shall be required to utilize Tier 4 construction equipment for the duration of construction and, where applicable, during operation of the PVL Lime Plant.
54. Grading/Land Disturbance Condition: Mitigation Measure BIO-1. Where avoidance of the adjacent habitat is not feasible, the following actions shall be implemented prior to grading. For the temporary loss of the presumed occupied MGS habitat, the Applicant shall provide compensation for temporary loss of habitat and individual MGS in the following manner: (1) the Applicant shall obtain a 2081 Incidental Take Permit (ITP) from the CDFW; (2) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable MGS habitat at a 1:1 ratio; and (3) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the CDFW. No ground disturbance shall occur until the Applicant obtains an ITP. Note that the final compensation package contained in the permit may differ from the above compensation package, but the Applicant finds that this compensation package shall at a minimum meet the requirements of this measure. Documentation shall be provided to Planning Staff confirming such actions have occurred. Alternatively, the Applicant may perform a protocol MGS presence/absence survey consistent with CDFW Guidelines prior to initiating construction and should it be determined that the adjacent habitat is not occupied by MGS, the above mitigation measure need not be implemented.
55. Grading/Land Disturbance Condition: Mitigation Measure BIO-2. Prior to grading, the Applicant shall conduct a plant survey for the Borrego milk-vetch (*Astragalus lentiginosus* var. *borreganus*). This survey shall be conducted by a qualified professional biologist familiar with this species. If these plants are identified within the temporary project area of impact, the botanists shall relocate these plants to adjacent comparable habitat that will not be disturbed. Planning Staff shall be provided a copy of the report prior to relocation of the plants.
56. Grading/Land Disturbance Condition: Mitigation Measure BIO-3. In compliance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) the project proponent shall ensure that a pre-construction burrowing owl survey is conducted a maximum of 30 days prior to grading activities and Planning Staff is provided with a copy of the report findings. A qualified biologist shall conduct the survey to determine if there are any active burrowing owl burrows within or adjacent to (within 300 feet) the impact area. If an active burrow is observed outside the nesting season (September 1 to January 31) and the burrow is within the impact area, a Burrowing Owl Exclusion Plan shall be prepared and submitted to CDFW for approval, outlining procedures used to exclude burrowing owls (e.g., using passive relocation with one-way doors). The loss of any active burrowing owl burrow territory shall be mitigated through replacement of habitat and burrows at no less than a 1:1 ratio. If an active burrow is observed outside the nesting season (i.e., between September 1 and January 31) and the burrow is not within the impact area, construction work shall be restricted within 160 to 1,605 feet of the burrow (per CDFW 2012), depending on the time of year and level of disturbance near the site in accordance with guidelines specified by the CDFW.



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57. Grading/Land Disturbance Condition: Mitigation Measure BIO-4. Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required. Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS. Documentation shall be provided to Planning Staff confirming such actions have occurred.
58. Grading/Land Disturbance Condition: Mitigation Measure BIO-5. A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.
59. Grading/Land Disturbance Condition: Mitigation Measure BIO-6. Prior to ground disturbance of the following phases of the Project- 1 . Construction of the Lime Plant and 2. Construction of the Natural Gas Pipeline –the entity responsible for the construction thereof (Phase 1. Panamint Valley Lime, Phase 2. PG&E) shall conduct a floristic based assessment of special status plants and natural communities that adheres to the CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If it is determined that special status plants and/or natural communities may be impacted from the Project specific avoidance, minimization, and mitigation measures will be developed and implemented. The Biological Resources Assessments generated shall be provided to Planning Staff for review and acceptance and deemed adequate for three years following the date of the field assessment(s). After this time period an updated biological field assessment(s) will be required.
60. Grading/Land Disturbance Condition: Mitigation Measure BIO-7. Prior to ground disturbance of the proposed project, preconstruction surveys for desert kit fox and American badger pursuant to the corresponding approved CDFW protocols, as determined by a qualified biologist. • Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460. • American badger is a Species of Special Concern. • Should either species be found on or adjacent to the Project area, the Applicant shall require the preparation of either/both a desert kit fox or/and American badger mitigation and monitoring plan. • Desert Kit fox breeding season is January to the end of May. If a natal burrow is located on the Project site, a qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat. No Project activities or vegetation removal may occur within the buffer or habitat connectivity zone.



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61. Grading/Land Disturbance Condition: Mitigation Measure BIO-8. The Applicant and/or PG&E shall submit a Lake and Streambed Alteration Notification (SAA) to CDFW. If CDFW finds that the channel in the natural gas pipeline alignment is jurisdictional, the Applicant and/or PG&E shall process and obtain the SAA. No ground disturbance within potential jurisdictional areas shall occur until the Applicant and/or PG&E obtains an SAA. Note that the final compensation package contained in the permit shall be implemented by the Applicant and/or PG&E. Planning Staff shall be provided a copy of the final determination and/or SAA.
62. Grading/Land Disturbance Condition: Mitigation Measure BIO-9. The State of California prohibits the "take" of nesting birds and their nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.
63. Grading/Land Disturbance Condition: Mitigation Measure BIO-10. The following operational controls shall be implemented: a) Bird Cannons - set to operate at given intervals during operating hours; and, b) Bird bombs and whistler pyrotechnics - used by site personnel as a supplemental control tool. These tools shall be supplemental, and shall not be intended to harm birds. The operational controls shall only be implemented during the presence of stormwater in the onsite basin. Planning Staff shall be provided a schedule of proposed actions at least 48 hours in advance.
64. Grading/Land Disturbance Condition: Mitigation Measure CUL-1. Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the on-site archaeological professional, who is acceptable to the County and retained by the applicant. The archaeological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.
65. Grading/Land Disturbance Condition: Mitigation Measure GEO-2. Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of stored backfill material. If covering is not feasible, then measures such as the use of straw bales or sand bags, shall be placed around the stored material and used to capture and hold eroded material on the project site for future cleanup. Planning Staff shall be provided a letter identifying the measures that were instituted.
66. Grading/Land Disturbance Condition: Mitigation Measure GEO-3. The Applicant shall provide a letter of agreement that all exposed, disturbed soil (trenches, stored backfill, etc.) shall be sprayed with water or soil binders twice a day, or more frequently if fugitive dust is observed migrating from the site within which the PVL Lime Plant is being constructed.



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67. Grading/Land Disturbance Condition: Mitigation Measure GEO-4. The Applicant shall provide a letter of agreement that should any paleontological resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified paleontologist. Responsibility for making this determination shall be with the on-site paleontological professional, who is acceptable to the County and retained by the applicant. The paleontological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the CEQA Guidelines.
68. Grading/Land Disturbance Condition: Mitigation Measure NOI-1. All construction vehicles and fixed or mobile equipment shall be equipped with properly operating and maintained mufflers.
69. Grading/Land Disturbance Condition: Mitigation Measure NOI-2. All employees that will be exposed to noise levels greater than 75 dB over an 8 hour period shall be provided adequate hearing protection devices to ensure no hearing damage will result from construction activities.
70. Grading/Land Disturbance Condition: Mitigation Measure NOI-3. No construction activities shall occur during the hours of 7 PM through 7 AM, Monday through Friday, and 5 PM to 9 AM Saturdays; at no time shall construction activities occur on Sundays or holidays, unless a declared emergency exists.
71. Grading/Land Disturbance Condition: Mitigation Measure NOI-4. Equipment not in use for five minutes shall be shut off.
72. Grading/Land Disturbance Condition: Mitigation Measure NOI-5. Equipment shall be maintained and operated such that loads are secured from rattling or banging.
73. Grading/Land Disturbance Condition: Mitigation Measure NOI-6. Construction employees shall be trained in the proper operation and use of equipment consistent with these mitigation measures, including no unnecessary revving of equipment.
74. Grading/Land Disturbance Condition: Mitigation Measure NOI-7. The County will require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections by applicant personnel during construction activities with copies of the report filed with the County Planning Department. The Report shall be filed with the County within a 72 hour period.
75. Grading/Land Disturbance Condition: Mitigation Measure NOI-8. Construction staging areas shall be located as far from adjacent sensitive receptor locations as possible, for example near the north- or south-west corners of the project site.
76. Grading/Land Disturbance Condition: Mitigation Measure TRAN-1. The construction contractor will provide adequate traffic management resources, as determined by San Bernardino County. The County shall require a construction traffic management plan for work in public roads that complies with the Work Area Traffic Control Handbook, or other applicable standards, to provide adequate traffic control and safety during excavation activities. At a minimum, this plan shall include the following: a) Methods to minimize the amount of time spent on construction activities; b) Methods to minimize disruption of vehicle and alternative modes of transport traffic at all times, but particularly during periods of high traffic volumes; c) Methods to maintain safe traffic flow on local streets affected by construction at all times, including through the use of adequate signage, protective devices, flag persons or police assistance to ensure adequate traffic flow; d) Identification of alternative routes, if necessary, that can meet the traffic flow requirements of a specific area, including communication (signs, webpages, etc.) with drivers and neighborhoods where construction activities will occur; and e) Identification of methods or procedures to ensure that at the end of each construction day roadways shall be prepared for continued utilization without any significant roadway hazards remaining.



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77. Grading/Land Disturbance Condition: Mitigation Measure GEO-5. All grading activities shall be undertaken consistent with the adopted site Closure Plan agreed upon with the Regional Water Board..
78. Air Quality: Although the Project does not exceed Mojave Desert Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the Mojave Desert Air Quality Management District is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.
79. Diesel Regulations: The operator shall comply with all existing and future California Air Resources Board and Mojave Desert Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. The Mojave Desert Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.



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80. GHG - Construction Standards: The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flagperson shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.

Public Health- Environmental Health Services

81. Vector Control Requirement: The project area has a high probability of containing vectors. EHS Vector Control Section will determine the need for vector survey and any required control programs. A vector clearance letter shall be submitted to EHS/Land Use. For information, contact Vector Control at (800) 442-2283.

Public Works - Flood Control

82. Unauthorized Structures: The proposed Project is located adjacent to a San Bernardino County Flood Control District (SBCFCD) facility and right of way, Trona Channel (6-803-1A). Any encroachments including, but not limited to, grading, fence removal and installation, side drain connections on the District's right-of-way or facilities will require an encroachment permit from the SBCFCD prior to start of construction. Please contact the San Bernardino County Flood Control Permit Section (909) 387-7995 for further information regarding this process.

Public Works - Surveyor

83. 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.



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84. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

Prior to Issuance

Outstanding

County Fire - Community Safety

85. Access - 150+ feet: Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. These shall be extended to within one hundred fifty (150) feet of and shall give reasonable access to all portions of the exterior walls of the first story of any building.
86. Access - 30% slope: Where the natural grade between the access road and building is in excess of thirty percent (30%), an access road shall be provided within one hundred and fifty (150) feet of all buildings. Where such access cannot be provided, a fire protection system shall be installed. Plans shall be submitted to and approved by the Fire Department.
87. Combustible Protection: Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.
88. Fire Flow Test: Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.
89. 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.
90. Additional Requirements: In addition to the Fire requirements stated herein, other onsite and offsite 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.
91. Building Plans: Building plans shall be submitted to the Fire Department for review and approval.
92. Turnaround: Turnaround. An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12 % grade and have a minimum of forty-five (45) foot radius for all turns. In the Fire Safety Overlay District areas, there are additional requirements.
93. Water System: Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix IIIA of the Uniform Fire Code.



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94. Water System Certification: The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job site.
95. Water System Commercial: A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure.
96. Solar: Solar / Photovoltaic System Plans. Plans shall be submitted online through EZOP to the Fire Department for review and approval. Plans must be submitted and approved prior to Conditional Compliance Release of Building.
97. Access: The development shall have a minimum of two 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. Other recognized standards may be more restrictive by requiring wider access provisions. b. Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.
98. Fire Fee: The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.

County Fire - Hazardous Materials

99. Haz-Mat Approval: The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.

Land Use Services - Building and Safety

100. 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.
101. Temporary Use Permit: A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.

Land Use Services - Land Development

102. No Comments: CMRS Exclusion. Road improvements required for this development shall not be entered into the County Maintained Road System (CMRS).
103. No Comments: Turnarounds. Turnarounds at dead end streets shall be in accordance with the requirements of the County Department of Public Works and Fire Department.
104. No Comments: Two Access Points. A minimum two points of ingress/egress are required or alternative approved by County Fire Department.



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105. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Athol St (Local Road - 60') • Road Dedication. A 30 foot grant of easement is required to provide a half-width right-of-way of 30 feet. • Street Improvements. Design AC dike with match up paving 18 feet from centerline with a minimum 26 foot paved section within a 40 foot right-of-way. For double frontage parcels on Athol Street a full width section of 36 feet shall be required. • Driveway Approach. Design driveway approach per San Bernardino County Standard 129B, and located per San Bernardino County Standard 130. • Cul-de-sac Design. The proposed cul-de-sac shall be designed to County Standard 120.
106. Street Gradients: Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.
107. Slope Easements: Slope rights shall be dedicated, where necessary.
108. Encroachment Permits: Prior to installation of driveways, sidewalks, etc., an encroachment permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction.
109. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
110. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Mountain Desert Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element

Land Use Services - Planning

111. Signs: All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards: a. All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable. b. All sign lighting shall not exceed 0.5 foot-candle. c. No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety. d. Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.



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112. **GHG - Building Design:** Building Design. Building design and construction shall incorporate the following elements:
- Orient building locations to best utilize natural cooling/heating with respect to the sun and prevailing winds/natural convection to take advantage of shade, day lighting and natural cooling opportunities.
 - Utilize natural, low maintenance building materials that do not require finishes and regular maintenance.
 - Roofing materials shall have a solar reflectance index of 78 or greater.
 - All supply duct work shall be sealed and leak- tested. Oval or round ducts shall be used for at least 75 percent of the supply duct work, excluding risers.
 - Energy Star or equivalent appliances shall be installed.
 - A building automation system including outdoor temperature/humidity sensors will control public area heating, vent, and air conditioning units.
113. **GHG - Design Standards:** The developer shall submit for review and obtain approval from County Planning evidence that the conditioned measures have been incorporated into the design of the project. These are intended to reduce potential project greenhouse gas (GHGs) emissions. Proper installation of the approved design features and equipment shall be confirmed by County Building and Safety prior to final inspection of each structure.
114. **GHG - Irrigation:** Irrigation. The developer shall submit irrigation plans that are designed, so that all common area irrigation areas shall be capable of being operated by a computerized irrigation system, which includes either an on-site weather station, ET gauge or ET-based controller capable of reading current weather data and making automatic adjustments to independent run times for each irrigation valve based on changes in temperature, solar radiation, relative humidity, rain and wind. In addition, the computerized irrigation system shall be equipped with flow sensing capabilities, thus automatically shutting down the irrigation system in the event of a mainline break or broken head. These features will assist in conserving water, eliminating the potential of slope failure due to mainline breaks and eliminating over-watering and flooding due to pipe and/or head breaks.
115. **GHG - Landscaping:** Landscaping. The developer shall submit for review and obtain approval from County Planning of landscape and irrigation plans that are designed to include drought tolerant and smog tolerant trees, shrubs, and groundcover to ensure the long-term viability and to conserve water and energy. The landscape plans shall include shade trees around main buildings, particularly along southern and western elevations, where practical.
116. **GHG - Lighting:** Lighting. Lighting design for building interiors shall support the use of:
- Compact fluorescent light bulbs or equivalently efficient lighting.
 - Natural day lighting through site orientation and the use of reflected light.
 - Skylight/roof window systems.
 - Light colored building materials and finishes shall be used to reflect natural and artificial light with greater efficiency and less glare.
 - A multi-zone programmable dimming system shall be used to control lighting to maximize the energy efficiency of lighting requirements at various times of the day. Provide a minimum of 2.5 percent of the project's electricity needs by on-site solar panels.
117. **GHG - Plumbing:** Plumbing. All plumbing shall incorporate the following:
- All showerheads, lavatory faucets, and sink faucets shall comply with the California Energy Conservation flow rate standards.
 - Low flush toilets shall be installed where applicable as specified in California State Health and Safety Code Section 17921.3.
 - All hot water piping and storage tanks shall be insulated. Energy efficient boilers shall be used.
118. **GHG - Recycling:** Recycling. Exterior storage areas for recyclables and green waste shall be provided. Where recycling pickup is available, adequate recycling containers shall be located in public areas. Construction and operation waste shall be collected for reuse and recycling.



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119. GHG - TDM Program: Transportation Demand Management (TDM) Program. The project shall include adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. Preferred carpool/vanpool spaces shall be provided and, if available, mass transit facilities shall be provided (e.g. bus stop bench/shelter). The developer shall demonstrate that the TDM program has been instituted for the project or that the buildings will join an existing program located within a quarter mile radius from the project site that provides a cumulative 20% reduction in unmitigated employee commute trips. The TDM Program shall publish ride-sharing information for ride-sharing vehicles and provide a website or message board for coordinating rides. The Program shall ensure that appropriate bus route information is placed in each building.
120. GHG - Title 24 Energy Efficiency Requirements: Meet Title 24 Energy Efficiency requirements. The Developer shall document that the design of the proposed structures meets the current Title 24 energy-efficiency requirements. County Planning shall coordinate this review with the County Building and Safety. Any combination of the following design features may be used to fulfill this requirement, provided that the total increase in efficiency meets or exceeds the cumulative goal (100%+ of Title 24) for the entire project (Title 24, Part 6 of the California Code of Regulations; Energy Efficiency Standards for Residential and Non Residential Buildings, as amended: - Incorporate dual paned or other energy efficient windows, - Incorporate energy efficient space heating and cooling equipment, - Incorporate energy efficient light fixtures, photocells, and motion detectors, - Incorporate energy efficient appliances, - Incorporate energy efficient domestic hot water systems, - Incorporate solar panels into the electrical system, - Incorporate cool roofs/light colored roofing, - Incorporate other measures that will increase energy efficiency. - Increase insulation to reduce heat transfer and thermal bridging. - Limit air leakage throughout the structure and within the heating and cooling distribution system to minimize energy consumption.
121. Issuance/Building Permit Condition: Mitigation Measure AES-2. Prior to issuance of a Building Permit, an analysis of potential glare from sunlight or exterior lighting that may impact vehicles traveling on adjacent roadways shall be submitted to Planning Staff for review and approval. This analysis shall demonstrate that due to building orientation or exterior treatment, no significant glare may be caused that could negatively impact drivers on the local roadways or impact adjacent land uses. If potential glare impacts are identified, the building orientation, use of non-glare reflective materials or other design solutions acceptable to the County of San Bernardino shall be implemented to eliminate glare impacts.
122. Issuance/Building Permit Condition: Mitigation Measure GEO-1. Based upon the findings contained in the Geotechnical Investigation and Geotechnical Investigation Update (Appendix 4a and 4b of this document), all of the recommended design and construction measures identified in Appendix 4a (listed under "Conclusions and Recommendations," pages 5-16) and the site preparation summary identified in Appendix 4b (pages 3-7) shall be implemented by the Applicant. Implementation of these specific measures will address all of the identified geotechnical constraints identified at project site, including soil stability of future project-related structures.
123. Transitional Improvements: Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
124. Street Type Entrance: Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.
125. Soils Testing: Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.



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Public Health- Environmental Health Services

126. California Regional Water Quality Control Board Clearance: Written clearance shall be obtained from the designated California Regional Water Quality Control Board (listed below) and a copy forwarded to the Division of Environmental Health Services for projects with design flows greater than 10,000 gallons per day. Lahontan Region, 15095 Amargosa Road Bldg 2 Suite 210 Victorville, CA 92392.
127. Existing OWTS: Existing onsite wastewater treatment system can be used if applicant provides certification from a qualified professional (i.e., Professional Engineer (P.E.), Registered Environmental Health Specialist (REHS), C42 contractor, Certified Engineering Geologist (C.E.G.), etc.) that the system functions properly, meets code, and has the capacity required for the proposed project. Applicant shall provide documentation outlining methods used in determining function.
128. New OWTS: If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions: A soil percolation report per June 2017 standards shall be submitted to EHS for review and approval. If the percolation report cannot be approved, the project may require an alternative OWTS. For information, please contact the Wastewater Section at 1-800-442-2283.
129. Sewage Disposal: Method of sewage disposal shall be EHS approved onsite wastewater treatment system (OWTS).
130. Water and Sewer Service Verification: Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to DEHS verification of Local Agency Formation Commission (LAFCO) approval of either: (1) Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, (2) Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133. Submit verification of LAFCO authorization of said Out-of-Agency service agreement to DEHS.
131. Water Purveyor: Water purveyor shall be Searles Domestic Water Company or EHS approved.
132. Water Service Verification Letter: Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice. For information, contact the Water Section at 1-800-442-2283.
133. Demolition Inspection Required: All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any such premises. For information, contact EHS Vector Section at 1-800-442-2283.
134. 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 shall be submitted to DEHS for approval.
135. Demolition Inspection Required: All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any such premises. For information, contact EHS Vector Section at 1-800-442-2283.



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136. Preliminary Acoustical Information: Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the DEHS for review and approval. For information and acoustical checklist, contact DEHS at 1-800-442-2283.

Public Works - Solid Waste Management

137. CDWMP Part I: CDWMP Part I must be submitted prior to issuance of the permit. For questions related to the submittal of this plan please call (909) 386-8701 or visit the SMWD website at <https://cms.sbcounty.gov/dpw/SolidWasteManagement/ConstructionWasteManagement.aspx>

Prior to Final Inspection

Outstanding

County Fire - Community Safety

138. Fire Sprinkler-NFPA #13: An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans to the with hydraulic calculation and manufacturers specification sheets to the Fire Department for approval and approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.
139. Hydrant Marking: Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road.
140. Roof Certification: A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.
141. Fire Lanes: The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
142. Street Sign: This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.
143. Fire Extinguishers: Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
144. Key Box: An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.



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145. Material Identification Placards: The applicant shall install Fire Department approved material identification placards on the outside of all buildings and/or storage tanks that store or plan to store hazardous or flammable materials in all locations deemed appropriate by the Fire Department. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Any business with an N.F.P.A. 704 rating of 2-3-3 or above shall be required to install an approved key box vault on the premises, which shall contain business access keys and a business plan.
146. Combustible Vegetation: Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less.
147. Fire Alarm - Automatic: An automatic fire sprinkler monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
148. Fire Alarm - Manual: A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

Public Works - Solid Waste Management

149. CDWMP Part II: CDWMP Part II must be submitted prior to the Final Inspection. For questions related to the submittal of this plan please call (909) 386-8701 or visit the SWMD website at <https://cms.sbcounty.gov/dpw/SolidWasteManagement/ConstructionWasteManagement.aspx>

Prior to Occupancy

Outstanding

County Fire - Community Safety

150. Inspection by the Fire Department: Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

County Fire - Hazardous Materials

151. Permit Required: Prior to occupancy, the business operator shall be required to apply for one or more of the following permits, or apply for an exemption from hazardous material permitting requirements: Hazardous Material Permit, Hazardous Waste Permit, Aboveground Storage Tank Permit or an Underground Storage Tank Permit. Application for one or more of these permits shall occur by submitting a hazardous materials business plan using the California Environmental Reporting System (CERS). <http://cers.calepa.ca.gov/>



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152. Petroleum Product Storage: Facilities handling greater than 1320 gallons of petroleum products in aboveground storage tanks (shell capacity) shall prepare and implement a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112.3 and CHSC 25270.4.5(a). "Hazardous Material" means any material that, because of quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous Materials" include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment [H&SC 25501(n)(1)]. Additional information can be found at <http://www.sbcfire.org/ofm/Hazmat/PoliciesProcedures.aspx> or you may contact The Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

Land Use Services - Building and Safety

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

Land Use Services - Land Development

154. No Comments: Open Roads/Cash Deposit. Existing County roads, which will require reconstruction, shall remain open for traffic at all times, with adequate detours, during actual construction. A cash deposit shall be made to cover the cost of grading and paving prior to issuance of road encroachment permit. Upon completion of the road and drainage improvement to the satisfaction of the Department of Public Works, the cash deposit may be refunded.
155. Drainage Improvements: All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans.
156. LDD Requirements: All LDD requirements shall be completed by the applicant prior to occupancy.
157. Parkway Planting: Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by County Public Works and Current Planning and shall be maintained by the adjacent property owner or other County-approved entity.
158. Structural Section Testing: A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.
159. Private Roads/Improvements: All required on-site and off-site improvements shall be completed by the applicant. Construction of private roads and private road related drainage improvements shall be inspected and certified by the engineer. Certification shall be submitted to Land Development by the engineer identifying all supporting engineering criteria.
160. Road Improvements: All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.

Land Use Services - Planning

161. Condition Compliance: Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.



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162. Fees Paid: Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ-2020-00110.
163. Installation of Improvements: All required on-site improvements shall be installed per approved plans.
164. Landscaping/Irrigation: All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.
165. Screen Rooftop: All roof top mechanical equipment is to be screened from ground vistas.
166. Shield Lights: Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).
167. GHG - Installation/Implementation Standards: The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following: a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent. b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting. c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.
168. Occupancy Condition: Mitigation Measure AES-1. The Applicant shall paint structures exceeding the 75 feet height limit a similar color to the surrounding mountains (specifically, the Argus Mountain Range to the general north of the PVL Lime Plant site). Prior to painting the applicant shall provide Planning Staff with a color example for review and approval.
169. Occupancy Condition: Mitigation Measure GHG-1. The Applicant shall acquire 60,000 tons of permanent CO2 emission reduction credits, or the equivalent thereof equal to an offset of 60,000 tons of CO2 per year. The emission reduction credits shall be obtained from a trusted source that must be approved by the MDAQMD staff. A copy of the certification shall be provided to the MDAQMD and County Planning Staff upon receipt. The emission reduction credits must be purchased prior to operations of the PVL Lime Plant.
170. Occupancy Condition: Mitigation Measure HYD-1. PVL shall establish a fund in the amount of \$50,000 to provide Searles Domestic Water Company/Searles Valley Minerals and/or Indian Wells Valley Water District funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of their customers to offset 2.1-acre feet of existing potable water demand. Should SDWC, IWVWD, or their customers not accept or otherwise be able to put the total funds to use as provided herein within a period of one year, PVL will leave the remainder of the funds in a trust account dedicated for future use to reduce the water demand from the IWVGB. Information documenting the actions undertaken shall be provided to Planning Staff after each step of the process.



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If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services	San Bernardino Govt. Center	(909) 387-8311
Dept. (All Divisions)	High Desert Govt. Center	(760) 995-8140
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community)	High Desert Govt. Center	(760) 995-8190
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
	Solid Waste Management	(909) 386-8701
Dept. of Public Works	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Local Agency Formation Commission (LAFCO)		(909) 388-0480
	Water and Sanitation	(760) 955-9885
	Administration, Park and Recreation, Roads,	(909) 386-8800
External Agencies (Caltrans, U.S. Army, etc.)		See condition text for contact information...

EXHIBIT D

Letter of Intent



PO Box 681 • Trona CA 93592 • 760/372-4171 • Fax: 760/372-4332

Date: July 5, 2018

Linda Mawby
Senior Planner
San Bernardino County
385 N. Arrowhead Avenue
San Bernardino, CA 92415-0187

Subject: PVL Lime Project Letter of Intent, APN 0485-031-12

Dear Ms. Mawby:

Panamint Valley Limestone, Inc. is preparing an application for Conditional Use Permit to San Bernardino County Land Use Planning Department for a lime production plant in Searles Valley, California. This Letter of Intent is part of that application.

Panamint Valley Limestone, Inc. intends to construct a lime production plant on parcel APN 0485-031-12 located west of the community of Trona, California which it owns. The parcel is immediately west of industrial complexes owned by Searles Valley Minerals, Inc. (SVM). The PVL Lime plant activity will be similar in nature and appearance to the industrial activities ongoing at SVM and like SVM operations, will operate 24 hours per day all year.

Lime is produced by feeding naturally occurring limestone in the form of crushed rock into a high-temperature kiln where it is converted into a material called quicklime. The produced quicklime can be sold as is or further processed by adding water into hydrated lime. Both products have robust commercial demand and will be produced at the PVL Lime plant.

The limestone feedstock will be supplied from the Panamint Valley Limestone Quarry also owned and operated by Panamint Valley Limestone, Inc.. Approximately 24 truckloads per day of limestone will be delivered from the quarry to the plant. Approximately 26 truckloads per day of lime will be loaded out for delivery to customer locations. Existing public roads will be used for feedstock and delivery shipments. Another 5 truckloads per day of pelletized by-product limestone fines will be delivered to off-site customers. Limestone feedstock deliveries will mostly occur during daylight hours five days per week. Lime product loadout deliveries will occur on a 24-hour seven day per week schedule. On an average basis, the project will increase road traffic by 55 trucks per day.

The lime plant will employ approximately 40 persons for operations, maintenance and management. An additional 10 personnel will operate the limestone quarry and drive the limestone delivery trucks. This application for Conditional Use Permit covers only the lime plant as the quarry already has permits issued by Inyo County where it is located. Nevertheless, the beneficial impact of the lime plant will be an increase in employment of 50 people.

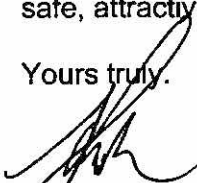
Your Safety Is Our Goal

The environmental impact of the lime plant will be minimized by deployment of Best Available Control Technology to minimize air emissions. Air permits will be obtained from the Mojave Air Quality Management District. Furthermore, as many of the production steps as feasible will be conducted inside closed structures which has the benefit of minimizing fugitive emissions and improving the visual appearance of the plant. There will be no process waste discharges. Storm and wash water will be contained on site and allowed to percolate or evaporate. Sanitary waste will be discharged to an on-site septic system.

Employee safety and comfort will be considered carefully. Adequate shelter, restroom, eating and parking facilities will be constructed, and appropriate first-aid facilities and wash stations will be installed. Facilities for compliance with the ADA Act will be incorporated.

PVL Lime's objectives are to meet or exceed contemporary design standards for creating a safe, attractive totally compliant mineral product manufacturing plant.

Yours truly,

 7-10-18

Shawn Barker, President
Panamint Valley Limestone, Inc.

EXHIBIT E

Initial Study/Mitigated Negative Declaration

**INITIAL STUDY
FOR THE
PANAMINT VALLEY LIMESTONE –
CONDITIONAL USE PERMIT
APN: 0485-031-12**

Lead Agency:

County of San Bernardino
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, California 92415-0182

Applicant:

Panamint Valley Limestone, Inc.
82532 Second Street
Trona, California 93562

Prepared By:

Tom Dodson & Associates
P.O. Box 2307
San Bernardino, California 92406
(909) 882-3612

March 2020

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**SAN BERNARDINO COUNTY
INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM**

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the California Environmental Quality Act (CEQA) Guidelines.

PROJECT LABEL

APNs:	0485-031-12	USGS Quad:	Trona West, CA
Applicant:	Panamint Valley Limestone, Inc. 82532 Second Street Trona, CA 93562	T, R, Section:	T25S, R43E 7
Location:	Approximately 0.87 miles west of the intersection of Trona Road and Athol Street, in Trona.	Thomas Bros:	
Project No:	P201800477	Community Plan:	N/A
Rep:	Larry Trowsdale	LUZD:	IR (Regional Industrial)
Proposal:	Conditional Use Permit to establish a Lime Processing Plant on approximately 62 acres, with a major variance for a 167-foot high stack that exceeds the 75-foot high height limit and 50% additional height permitted for towers in Industrial Land Use Districts.	Overlays:	FEMA Flood Zone X-Unshaded; Mojave Ground Squirrel and Desert Tortoise

PROJECT CONTACT INFORMATION

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

Contact person: Larry Trowsdale
Phone No: (760) 384-8172
E-mail: Larry.Trowsdale@pvllime.com

PROJECT DESCRIPTION

Existing Site Conditions

The proposed project site is located in the Desert Region of San Bernardino County, in the northwesternmost region of the County. More specifically, the proposed project is located in the unincorporated community of Trona in Searles Valley, California. Kern County is located to the west, as is the nearest major City—Ridgecrest, while Inyo County is located to the north of the project site, and Death Valley is located northeast of the project site. The community of Trona can be accessed via Trona Road/Highway 178, which ultimately connects to Highway 395 south and west of the project site, and Nadeau Trail/Highway 190 north of the project site. Figures 1 and 2 provide a regional and local context, respectively, of the project location.

The project site consists of a brownfield parcel approximately 62-acres in size that formerly served as a boiler ash disposal landfill. The site is oriented on a diagonal axis (northeast/southwest) because it is located directly adjacent to a floodway at the base of the nearby Argus Mountain Range. The site ranges in elevation from 1,823 ft above mean sea level at its highest point at the northwestern border to 1,750 ft above mean sea level at its lowest point at the northeastern border. Additionally, the project site contains a large below grade depression in the center of the site that was previously intended to serve as space for additional ash disposal. The project site also contains a large mound of dirt that is located above grade in the northeastern corner of the site. The mound of dirt will be excavated to serve as the site's stormwater retention basin, and the excavated material will be used to balance the site by filling in the aforementioned below grade depression.

The San Bernardino County General Plan Land Use Zoning classification is Regional Industrial (IR). The Land uses bordering the project site are outlined in Table 1 below:

**Table 1
EXISTING LAND USE AND LAND USE ZONING DISTRICTS**

Location	Existing Land Use	Land Use Zoning District
Project Site	Brownfield site: Vacant/Former boiler ash disposal landfill	Regional Industrial (IR)
North	Floodway	Floodway (FW)
South	Searles Valley Minerals	Regional Industrial (IR)
East	Immediately adjacent: Vacant Land & a Cemetery	Immediately adjacent: Regional Industrial (IR); In the general vicinity: Multiple Residential (RM), & Single Residential (RS)
West	Searles Valley Minerals	Immediately adjacent: Regional Industrial (IR) & Floodway (FW); In the general vicinity: Resource Conservation (RC)

The Searles Valley as a whole is one of the richest deposits of minerals in the world and home to Searles Valley Minerals (SVM) that runs three large industrial chemical plants. SVM also owns and operates a coal-fired power plant and railroad that serve the plant operations in Searles Valley.

Project Overview

Panamint Valley Limestone, Inc. (PVL or Applicant) proposes construction of an industrial lime production plant (PVL Lime Plant) on a 61-acre brownfield site on Parcel 0485-031-12 near the community of Trona in Searles Valley, California. The current San Bernardino County General Plan Land Use Zoning classification is Regional Industrial (IR). The County utilizes an integrated one-map system with both General Plan and Zoning classifications to ensure consistency between the two land use regulations. This designation is appropriate for the proposed activity. The proposed project site is adjacent to similar industrial mineral operation owned and operated by SVM.

Limestone feedstock will be quarried and crushed at PVL's limestone quarry in Inyo County, approximately 29 miles north of the proposed PVL Lime Plant. On average, 819 tons per day of limestone will be delivered by 25-ton trucks from the quarry to the proposed PVL Lime Plant. This equates to about 33 round trips per day on the area's circulation system.

Lime products are manufactured by heating natural limestone in a high temperature kiln. This has the effect of converting the limestone into high value lime products. Most of the lime product produced at the PVL Lime Plant will be quicklime. A small amount of water will be introduced into about 20% of the quicklime to produce

hydrated lime. Fine limestone not introduced into the kiln will be sold as a separate product but represents a very small portion of the output.

The PVL Lime Plant outputs, which consists of quicklime, hydrated lime, and a very low volume of limestone fines will be delivered to customers throughout the southwestern United States by 25-ton trucks. On average, about 550 tons of product will be shipped out each day, which will add another 22 truck round trips to the area circulation system. PVL will produce approximately 200,000 tons of lime products per year, all of which will be shipped by 25-ton capacity trucks 7-days a week. The customer base is large and diverse with the focus being on Southern California, but some shipments will go to neighboring states. It is not possible to designate exact customer locations in advance of operations of the PVL Lime Plant.

Project Related Trip Generation

The Trip Table (Table 2) below summarizes the projected roadway trip traffic. The figures provided count each leg of a round trip, e.g., one employee would make two trips traveling to and from work, and one product delivery truck would arrive empty and leave full of PVL lime product for one round trip. The County of San Bernardino factors employee and truck trips as follows: each employee vehicle trip will account for one (1) trip on the roadway, while the 25-ton truck trips will each count for three (3) trips on the roadways. The trips generated by the PVL Lime Plant are shown in Table 2 below. There will be no waste products generated for removal from the site.

Table 2
PVL VEHICLE TRAFFIC - TRIP GENERATION REPORT

Purpose	Weekday Day Shift	Weekday Night Shift	Weekend Day Shift	Weekend Night Shift	Total Vehicle Traffic per Weekday	Total Vehicle Traffic per Weekend day	Total Vehicle Traffic per Week	Total Vehicle Traffic Daily Avg.
Employee Vehicles	18	4	4	4	22	8	126	18.0
Limestone Trucks to Kiln	91.7	0	0	0	91.7	0	458.6	65.5
Lime to Market	50	9	8	0	59	8	311	44.4
TOTAL TRAFFIC	159.7	13	12	4	172.7	16	895.6	127.9

Note: Table shows trips in and out.

Project Hours of Operation & Employee Count

The PVL Lime Plant will operate 24 hours per day, 7 days per week. Feedstock and product shipping will mostly occur on weekdays during daytime hours. The employee count will vary as follows: 9 employees for each weekday daytime shift, 2 employees for each weekday nighttime shift, and 2 per each weekend day and weekend night shift. Weekday employees will work as long as 12-hour shifts up to 5 days per week. The maximum number of employees on site will be 9 persons, which will occur between 8:00 AM and 5:00 PM each weekday. During the remaining hours of the week, there will usually only be 2 employees on site at a time. The employee traffic is depicted in Table 2 above.

Site Access

All ingress and egress traffic will travel to and from the PVL Lime Plant gate along Athol Street, which is located approximately 5,200 feet to the east where Athol terminates at Trona Road. The portion of Athol Street, extending approximately 4,200 feet west of Trona Road, is a publicly maintained paved roadway. The balance of the roadway extending up to the subject property and that traverses private property is also paved and has been recorded as dedicated to the County, and will be maintained by the Applicant (PVL).

Incoming limestone trucks will travel from PVL's quarry to the north. All lime product trucks will proceed south from the Athol Street/Trona Road intersection to markets in Southern California and in the southwestern United States. Employee personnel vehicles will predominantly come from Trona and Ridgecrest to the south, though a few may come from a community located on the SR-178 north of Trona. The traffic routes are shown on Figure 3. This route is the only public road available to PVL; all other means by which to access the project are owned by SVM.

Site Plan

The PVL Lime Plant site plan is as follows, as shown on Figure 4 and Figure 5, depicts the site plan split into zones to aide in the following description:

In the Southeast (SE) Zone of the site, where the main gate and second gate are located, the site will develop a 20,744 square foot (SF) main office building, which will also contain a lab and a control room. The Lime Plant will be developed just west of the main office building. The Lime Plant will be connected to the vertical kiln by conveyors, and the vertical kiln building will contain a stack location within it. A second set of conveyors will transfer materials from the vertical kiln (located in the SE Zone) to a screen/transfer tower (located in the Southwest [SW] Zone) and then to a crusher building (located in the SW Zone) that will contain a material bin and a truck dump. A 500,000-gallon water tank will also be located within the SE Zone. In the SW Zone, two 10,000-ton backup stockpiles will be developed. In the Northwest (NW) Zone, a solar power generation array and battery back-up system may be developed. A stormwater basin will be developed in the NE Zone of the project site and drainage on site will be directed towards this stormwater basin. Pavement allowing truck access will be developed around the perimeter within the project site.

Parking

Parking will be provided near the office structure at the entrance of the PVL Lime Plant. The project will include automotive stalls, 5 of which will be handicapped stalls, and 20 haul truck parking stalls.

Infrastructure

The project site will develop a stormwater basin to collect on-site runoff, thereby preventing any stormwater discharge from leaving the site.

Figures 6-8 show the various utility alignments. The project will be served by Southern California Edison (SCE) through new underground powerline connections that will originate at Athol Street and Argus Avenue and proceed to the PVL plant by way of Athol Street. SCE has agreed to develop the new underground powerline connection.

Pacific Gas & Electric Company (PG&E) will provide natural gas to the project. PG&E has agreed to construct a gas line west of the project site that will connect the project site to an existing natural gas line located at First Street north of Trona Road. The pipeline will extend from PG&E's Trona valve station located at Wingate and F Street in the community of Argus. The route will go west on F Street to First Street and then north on First and an extension of First Street until it intersects the San Bernardino County Flood Control berm where it will turn northeast until it reaches the corner of the PVL site. At that corner, the gas line will enter PVL site. The route selected for the gas line that will serve the project will lie outside of the property owned or used by SVM and will have no impact on SVM operations.

PVL is seeking water service from Searles Domestic Water Company (SDWC). SDWC will provide potable water service to the project through a new connection within Athol Street that will connect to an existing connection at Athol Street and Argus Avenue. Although PVL has requested that SDWC provide water sufficient to meet all of its water needs, it has drilled an on-site well to provide water for its process water needs. PVL will need to install a treatment system to treat the water from the on-site well to potable or near potable quality. An on-site septic system will be used for sanitary wastewater disposal.

At this time, it is assumed that each entity will be responsible for installation of their respective utility lines. The installation of the above utilities, which will ensure that project site is connected to each utility system, is included in this environmental analysis.

Application with the County

Various portions of the proposed facility will exceed the 75-foot maximum height requirement allowed in the IR District. The tallest structure will be the 167-foot-high stack. The height of this stack is necessary due to the height of the equipment required to process lime. There are two similar stacks at nearby industrial plants, of similar or greater height (SVM's 190-foot stack, and ACE's 250-foot stack). Structures such as cooling towers or smokestacks required for allowed industrial processes may exceed the specified height requirement by 50 percent. However, this increased structure height would only achieve 112.5 feet. Since the additional 54.5 feet would exceed the 30% permitted to be processed as a minor variance, the proposed height would be subject to a major variance. The 75-foot-height requirement is also exceeded for the vertical kiln (165 feet high) and truck loading bins (120 feet high). PVL has applied for a major variance. Elevations depicting the proposed structures are shown on Figure 9.

Proposed Construction Process

Groundbreaking for grading of the proposed project site is anticipated to occur within the second half of 2020. PVL plans to begin construction in the second half of 2020, which is expected to continue through the first half of 2022, after which PVL plans to begin the commercial operation. Delivery of construction supplies will be accomplished using trucks during normal working hours. The preliminary estimate is that the material on site will be used to balance the site; therefore, the project quantity of cut and fill would net zero.

Construction will require an estimated maximum of 48 employees on site per day. The daily truck trips required during construction is anticipated to be between 0 and 50 trucks per day depending on the type of activities occurring on site. The estimated average number of truck trips per day required is 27 truck trips per day at peak. The equipment anticipated to be required to complete construction of the proposed project is as follows (although the exact construction equipment required is unknown at this time):

Site Work	Building Construction
Scrapers	Cranes
Excavators	Scissor Lifts
Backhoe Loaders	Industrial Forklifts
Graders	Boom Forklifts
Dozers	Air Compressors
Loaders	Manlift Booms
Track Loaders	Concrete Trucks
Soil Compactors	Concrete Pump Trucks
Vibratory Compactors	Generators
Water Trucks	Welders
Dump Trucks	

As the project site previously served as a boiler ash disposal landfill, the project will require excavation and contour grading that will likely disturb existing ash cover. The buried ash serves as an excellent base material for the proposed construction and activity. There is an existing depression in the ash contour that will be filled by moving ash and/or soil from higher elevations into the depression. This will have the desirable effect of creating a more uniform top surface elevation. The disturbance of the existing cover will be temporary. The cover will be restored in areas not covered by facilities, foundations, and roadways. Once such pushing or scraping operations are completed, any exposed ash will be covered to meet the previously permitted standards as described in the Ash Site Closure Plan (provided as Appendix A). Except where improvements are made or grading for drainage is required, the existing cover will remain intact. The temporary disturbance of the placed ash has a potential to result in non-hazardous dust emissions, which will be minimized through the application of water during grading and construction activities.

Project Site Location, Existing Site Land Uses and Conditions (include site photos)

The site is currently vacant and is a brownfield site formerly used as a boiler ash disposal landfill.



Exhibit 1: View looking east at the site



Exhibit 2: View looking north at the site



Exhibit 3: View looking west at the site



Exhibit 4: View looking south at the site

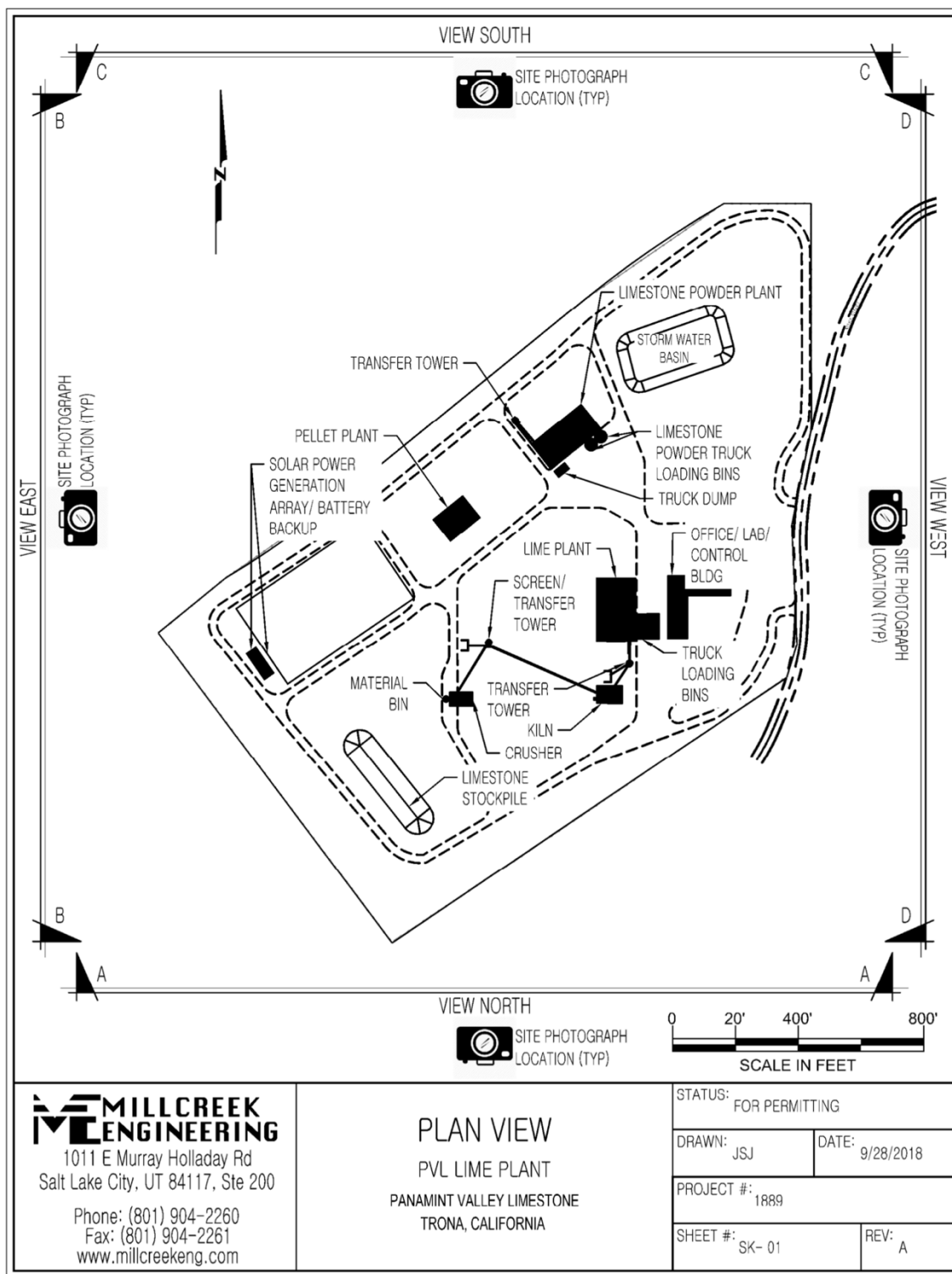


Exhibit 5: Plan View—Legend for Exhibits 1-4



Exhibit 6: Northwest portion of the project site looking to the Southeast of the project site.



Exhibit 7: PVL Lime Plant location – Looking northeast from the center of the Southwest side of the project site - view of open Cell #5 showing disposed boiler ash



Exhibit 8: PVL Lime Plant location – Looking south/southwest from the most southern point of the project site - comparison of vegetation density inside (foreground) and outside (background across fence) of proposed site.

ADDITIONAL APPROVALS THAT MAY BE REQUIRED BY OTHER PUBLIC AGENCIES

(Example: permits, financing approvals or participation agreements.)

- Mojave Desert Air Quality Management District: Authorities to Construct
- Regional Water Quality Control Board, Region 6: WDRs for retention pond
- Regional Water Quality Control Board, Region 6: Approval to alter ash disposal site cap
- Regional Water Quality Control Board, Region 6: 401 certification
- US Army Corps of Engineers: 404 permit
- San Bernardino County Fire Department: Project Approval
- San Bernardino County Environmental Health Service: Project Approval
- California Department of Fish and Wildlife: Incidental Take Permit
- California Department of Fish and Wildlife: Lake and Streambed Alteration Agreement

SUMMARY OF CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES

Four Tribes have requested consultation under AB 52 from County of San Bernardino that are historically affiliated with Searles Valley: the Fort Mojave Indian Tribe, the Colorado River Indian Tribe, the Morongo Band of Mission Indians, and the Twenty-Nine Palms Band of Mission Indians. These Tribes were contacted to initiate the AB-52 process on August 2, 2019 to notify the tribes of the proposed project through mailed letters. During the 30-day consultation period that concluded on September 2, 2019, responses were received from two tribes: the Twenty-Nine Palms Band of Mission Indians and the Morongo Band of Mission Indians. The Twenty-Nine Palms Band of Mission Indians requested that a cultural resources report be completed for this Project. The Morongo Band of Mission Indians responded on August 7, 2019 that they had no additional information to provide regarding this Project and did not request to consult. A consultation time was set up with Twenty-Nine Palms Band of Mission Indians for October 16, 2019, but no response was received. No further input has been provided by the Twenty-Nine Palms Band of Mission Indians or

any other Tribe consulted as part of the AB 52 Consultation process. Therefore, this stage of consultation has concluded, but copies of this document will be available for further review and comment by the Tribes.

EVALUATION FORMAT

This Initial Study is prepared in compliance with the California Environmental Quality Act, Public Resources Code section 21000, et seq. (CEQA) and the State CEQA Guidelines, California Code of Regulations section 15000, et seq. Specifically, the preparation of an Initial Study is guided by Section 15063 of the CEQA Guidelines. This format of the study is presented as follows. The project is evaluated based on its effect on 18 major categories of environmental factors. Each factor is reviewed by responding to a series of questions regarding the impact of the project on each element of the overall factor. The Initial Study checklist provides a formatted analysis that provides a determination of the effect of the project on the factor and its elements. The effect of the project is categorized into one of the following four categories of possible determinations:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
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Substantiation is then provided to justify each determination. One of the four following conclusions is then provided as a summary of the analysis for each of the major environmental factors.

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

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

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

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

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

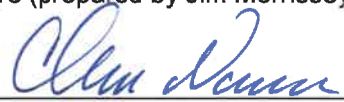
DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation, the following finding is made:

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


Signature (prepared by Jim Morrissey, Contract Planner)

3/16/20
Date


Signature (Chris Warrick, Supervising Planner)
Land Use Services Department/Planning Division

3/16/2020
Date

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS: Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning or other regulations governing scenic quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I. AESTHETICS

SUBSTANTIATION:

(Check ☐ if project is located within the view-shed of any Scenic Route listed in the General Plan)

- a) *Less Than Significant With Mitigation Incorporated* – Adverse impacts to scenic vistas can occur in one of two ways. First, an area itself may contain existing scenic vistas that would be altered by new development. The proposed PVL Lime Plant site is located on a site that previously served as a boiler ash disposal landfill that is designated for industrial use. As such, a review of the project site determined that there are no scenic vistas located internally within the area proposed for the development of the PVL Lime Plant, especially given the historical use of the project site. The project site is located in an industrial, developed area with industrial uses to the south and east, and with BLM land that segues into the Argus Mountain Range located generally to the north and west. Land immediately to the west is owned by Searles Valley Minerals Operations. The viewshed within the area bound by Trona Road, Athol Street, Robert Road, and First Street is dominated by industrial operations, including the SVM plant. The proposed PVL Lime Plant would be located within this viewshed area and would create an industrial development similar to that which surrounds the project site. A scenic vista impact can also occur when a scenic vista can be viewed from the project area or immediate vicinity and a proposed development may interfere with the view to a scenic vista. The project is situated in the Searles Valley, which is located between the Argus Mountain Range and the southern part of the Panamint Mountain Range and northern part of the Slate Mountain Range. As stated above, views in the general vicinity of the proposed project are dominated by industrial operations. Furthermore, the County General Plan and General Plan EIR do not identify the Trona area as containing scenic vistas. The proposed project site is zoned for industrial use, and the proposed project would develop an industrial use. Though the project requires a variance because the project exceeds the maximum height restrictions for the Regional Industrial zone classification, the features that would exceed this restriction would be tall, but not wide, and will not substantially obstruct the mountain vista from nearby onlookers. In addition, several existing stacks located off-site exceed this proposed height. In order to minimize impacts from the PVL Lime Plant structures that exceed 75 ft height limit set forth in the San Bernardino County Regional Industrial Zoning Development Standards, the project shall implement the following mitigation measure, which would ensure that the PVL Lime Plant development blends in with the mountainous viewshed to the north:

AES-1 *The Applicant shall paint structures exceeding the 75 feet height limit—as set forth in the San Bernardino County Regional Industrial Zoning Development Standards—a similar color to the surrounding mountains (specifically, the Argus Mountain Range to the general north of the PVL Lime Plant site).*

The effort required to connect utilities (natural gas, water, and electricity) to the proposed PVL Lime Plant site is anticipated to be carried out by each individual utility company (PG&E, SDWC, and SCE). However, for the purposes of this CEQA analysis, the installation of these utilities will be analyzed. The water pipeline is anticipated to be constructed below ground within Athol Street, the natural gas pipeline is proposed to be constructed within an alignment that aligns with First Street and connects to the site to the west, and the electrical line will be installed through the development of underground lines along Athol Street. Given that all utilities will be developed below ground, installation of these utilities will not have an impact on a scenic vista and will not impact the aesthetics.

As the only impact to aesthetics is the height of the project facilities, for which PVL has applied for a variance, and the width of the facilities will not substantially obstruct the mountain vista from nearby onlookers, the project will have a less than significant potential to have a substantial adverse effect on a scenic vista with implementation of the above mitigation measure.

- b) *No Impact* – The project site does not contain any scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway corridor. The project site is vacant and previously served as a boiler ash disposal landfill. As such, no scenic resources are located on site, given the historical development. Much of the site has been heavily impacted from the former boiler ash disposal activities. Limited revegetation (Photo 1) has occurred on most of the landfill area in the four years since the previous owner ceased operations on the boiler ash disposal landfill, with the exception of a portion of the site that still contains exposed ash (SW Zone & a small portion of the SE Zone). According to Caltrans, the proposed project is not located within a state scenic highway and the County of San Bernardino does not identify any locally important scenic roadways. No scenic resources exist within the proposed utility installation alignment within Athol Street or aligned with and within a portion of First Street due to the disturbance from off-road vehicles within the vacant land in which the natural gas pipeline alignment will be installed. Therefore, the proposed project cannot affect any scenic resources within a state scenic highway corridor. Based on the site condition and immediate surroundings, the project site itself does not contain any significant scenic resources. Therefore, no damage to a scenic resource will occur and any impacts under this issue are considered less than significant.
- c) *Less Than Significant With Mitigation Incorporated* – Please refer to the discussion under issue I(a) above. The County of San Bernardino General Plan has designated the project site for Regional Industrial use; a use of this type is allowed within this land use designation and zoning classification. However, the project does require a major variance due to the height limit that several of the proposed PVL Lime Plant structures would exceed. Given the industrial nature of the area, the proposed project would be considered to be located in an urbanized setting within a rural part of the County of San Bernardino. The County of San Bernardino Development code does not have any applicable zoning development standards pertaining to scenic quality. As stated under issue I(a) above, the proposed project requires a major variance, which would be mitigated through mitigation measure **AES-1** above, which would ensure that the structures that would exceed the County Standard height limit would blend in with the surrounding environment. However, industrial development surrounds the project site to the east, south, and west. As such, development of the PVL Lime Plant is anticipated to correspond with the surrounding industrial uses. Therefore, with the implementation of mitigation, development of the proposed PVL Lime Plant at the proposed location within the community of Trona would not substantially degrade the existing visual character or quality of public views of the site and its surroundings.

- d) *Less Than Significant With Mitigation Incorporated* – Please refer to the discussion under issue I(a) above. Implementation of the proposed project will create new sources of light during the operational phases of the Project. However, the proposed utility alignment will not require a permanent source of light once installed. Light and glare from interior and exterior building lighting, safety and security lighting, and vehicular traffic accessing the site will occur once the PVL Lime Plant is in operation. The San Bernardino County Development Code requires new projects to adhere to the provisions of the Chapter 83.07.040 Glare and Outdoor Lighting – Mountain and Desert Region. While the proposed project will generate a new source of lighting, it will occur within an industrial area and no residences exist within approximately 2,100 feet from the facility. As such, it is not anticipated that the PVL Lime Plant will generate a substantial new source of glare or light adversely affecting day or nighttime views in the project area. Furthermore, compliance with the provisions outlined in San Bernardino County Development Code 83.07.040 Glare and Outdoor Lighting – Mountain and Desert Regions is a mandatory requirement for all new construction with which a project must comply. However, because the PVL Lime Plant will operate 24 hours a day, 7 days a week, the following mitigation measure will ensure that the proposed project will comply with the San Bernardino County Development Code and minimize light and glare impacts to the surrounding community:

AES-2 *Prior to approval of the Final Design, an analysis of potential glare from sunlight or exterior lighting that may impact vehicles traveling on adjacent roadways shall be submitted to the City for review and approval. This analysis shall demonstrate that due to building orientation or exterior treatment, no significant glare may be caused that could negatively impact drivers on the local roadways or impact adjacent land uses. If potential glare impacts are identified, the building orientation, use of non-glare reflective materials or other design solutions acceptable to the County of San Bernardino shall be implemented to eliminate glare impacts.*

With implementation of this mitigation measure and compliance with the County Development Code, potential light and glare impacts associated with the proposed Project will be reduced to a less than significant level.

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

II. AGRICULTURE AND FORESTRY RESOURCES

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

- a) *No Impact* – The proposed project will occur within the boundaries of the former boiler ash disposal landfill, which does not contain any agricultural uses. Neither the project footprint nor the surrounding area are designated for agricultural use; no agricultural activities exist in the project area; and there is no potential for impact to any agricultural uses or values as a result of project implementation. According to the maps prepared pursuant to the farmland mapping and monitoring program of the California Resources Agency, no prime farmland, unique farmland, or farmland of state importance exists within the vicinity of the proposed project (Figure II-1). No adverse impact to any agricultural resources would occur from implementing the proposed project. No mitigation is required.

- b) *No Impact* – There are no agricultural uses currently within the boundaries of the project site or adjacent to the project site. The project site is zoned and designated for Regional Industrial use within the County of San Bernardino General Plan Land Use Zoning Designation Map. Therefore, no potential exists for a conflict between the proposed project and agricultural zoning or Williamson Act contracts within the project area. No mitigation is required.
- c) *No Impact* – Please refer to issues a) and b) above. The project site was previously utilized for industrial purposes and neither the land use zoning designation supports forest land or timberland uses or designations. No potential exists for a conflict between the proposed project and forest/timberland zoning. No mitigation is required.
- d) *No Impact* – There are no forest lands within the project area, because the project area is identified as a brownfield site that formerly served as a boiler ash disposal landfill. No potential for loss of forest land would occur if the project is implemented. No mitigation is required.
- e) *No Impact* – The project site and surrounding area do not support either agricultural or forestry uses, because the project site and environs are not designated for such uses and the remains of previous uses have adversely affected the ability of the land to support agricultural uses. As such, implementation of the proposed project would not cause or result in the conversion of Farmland or forest land to alternative use. There is no farmland or forest land located in the vicinity of the project site. No adverse impact would occur. No mitigation is required.

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

III. AIR Quality

SUBSTANTIATION: (Discuss conformity with the South Coast Air Quality Management Plan, if applicable)
The following information utilized in this section was obtained from the technical study “Air Quality/Greenhouse Gas Study, Panamint Valley Limestone, Lime Kiln and Processes” prepared by Paul Ervin of Biostream Inc. and Tom Snowden and Richard Wilson of WZI updated on January 18, 2020, and provided as Appendix 1 to this document. The CalEEMod emissions calculations are also provided as part of Appendix 1.

Background

Air Quality Standards

Monitored air quality is evaluated in the context of ambient air quality standards. These standards are the levels of air quality that are considered safe, with an adequate margin of safety, to protect the public health and welfare. National Ambient Air Quality Standards and California Ambient Air Quality Standards currently in effect are shown in Table III-1. Because the State of California established its Ambient Air Quality Standards several years before the establishment of the national standards, and because of unique air quality problems introduced by the State’s restrictive dispersion meteorology, there are differences between state and national clean air standards. Sources and health effects of various pollutants are shown in Table III-2.

Of the standards shown in Table III-1, those for ozone and particulate matter (PM-10) are exceeded at times in the Mojave Desert Air Basin. They are called “non-attainment pollutants.” Because of the variations in both the regional meteorology and in area-wide differences in levels of air pollution emissions, patterns of non-attainment have strong spatial and temporal differences.

**Table III-1
AMBIENT AIR QUALITY STANDARDS**

Pollutant	Average Time	California Standards ¹		National Standards ²		
		Concentration ³	Method ⁴	Primary ^{3,5}	Secondary ^{3,6}	Method ⁷
Ozone (O ₃) ⁸	1 Hour	0.09 ppm (180 µg/m ³)	Ultraviolet Photometry	–	Same as Primary Standard	Ultraviolet Photometry
	8 Hour	0.070 ppm (137 µg/m ³)		0.070 ppm (137 µg/m ³)		
Respirable Particulate Matter (PM-10) ⁹	24 Hour	50 µg/m ³	Gravimetric or Beta Attenuation	150 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	20 µg/m ³		–		
Fine Particulate Matter (PM-2.5) ⁹	24 Hour	–	–	35 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	12 µg/m ³	Gravimetric or Beta Attenuation	12.0 µg/m ³	15.0 µg/m ³	
Carbon Monoxide (CO)	1 Hour	20 ppm (23 mg/m ³)	Non-Dispersive Infrared Photometry (NDIR)	35 ppm (40 mg/m ³)	–	Non-Dispersive Infrared Photometry (NDIR)
	8 Hour	9 ppm (10 mg/m ³)		9 ppm (10 mg/m ³)	–	
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m ³)		–	–	
Nitrogen Dioxide (NO ₂) ¹⁰	1 Hour	0.18 ppm (339 µg/m ³)	Gas Phase Chemiluminescence	100 ppb (188 µg/m ³)	–	Gas Phase Chemiluminescence
	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)		0.053 ppm (100 µg/m ³)	Same as Primary Standard	
Sulfur Dioxide (SO ₂) ¹¹	1 Hour	0.25 ppm (655 µg/m ³)	Ultraviolet Fluorescence	75 ppb (196 µg/m ³)	–	Ultraviolet Flourescence; Spectrophotometry (Paraosaniline Method)
	3 Hour	–		–	0.5 ppm (1300 µg/m ³)	
	24 Hour	0.04 ppm (105 µg/m ³)		0.14 ppm (for certain areas) ¹¹	–	
	Annual Arithmetic Mean	–		0.030 ppm (for certain areas) ¹¹	–	
Lead 8 ^{12,13}	30-Day Average	1.5 µg/m ³	Atomic Absorption	–	–	–
	Calendar Quarter	–		1.5 µg/m ³ (for certain areas) ¹²	Same as Primary Standard	High Volume Sampler and Atomic Absorption
	Rolling 3-Month Avg	–		0.15 µg/m ³		
Visibility Reducing Particles ¹⁴	8 Hour	See footnote 14	Beta Attenuation and Transmittance through Filter Tape	No Federal Standards		
Sulfates	24 Hour	25 µg/m ³	Ion Chromatography			
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m ³)	Ultraviolet Fluorescence			
Vinyl Chloride ¹²	24 Hour	0.01 ppm (26 µg/m ³)	Gas Chromatography			

Footnotes

- California standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1 and 24 hour), nitrogen dioxide, suspended particulate matter – PM-10, PM-2.5, and visibility reducing particles, are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations.

- 2 National standards (other than ozone, particulate matter, and those based on annual averages or annual arithmetic mean) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest eight-hour concentration in a year, averaged over three years, is equal to or less than the standard. For PM-10, the 24-hour standard is attained when the expected number of days per calendar year, with a 24-hour average concentration above $150 \mu\text{g}/\text{m}^3$, is equal to or less than one. For PM-2.5, the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard. Contact U.S. EPA for further clarification and current federal policies.
- 3 Concentration expressed first in units in which it was promulgated. Equivalent units given in parentheses are based upon a reference temperature of 25C and a reference pressure of 760 torr. Most measurements of air quality are to be corrected to a reference temperature of 25C and a reference pressure of 760 torr; ppm in this table refers to ppm by volume, or micromoles of pollutant per mole of gas.
- 4 Any equivalent procedure which can be shown to the satisfaction of the California Air Resources Control Board (CARB) to give equivalent results at or near the level of the air quality standard may be used.
- 5 National Primary Standards: The levels of air quality necessary, with an adequate margin of safety to protect the public health.
- 6 National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
- 7 Reference method as described by the EPA. An "equivalent method" of measurement may be used but must have a "consistent relationship to the reference method" and must be approved by the EPA.
- 8 On October 1, 2015, the national 8-hour ozone primary and secondary standards were lowered from 0.075 to 0.070 ppm.
- 9 On December 14, 2012, the national PM-2.5 primary standard was lowered from $15 \mu\text{g}/\text{m}^3$ to $12.0 \mu\text{g}/\text{m}^3$. The existing national 24-hour PM-2.5 standards (primarily and secondary) were retained at $35 \mu\text{g}/\text{m}^3$, as was the annual secondary standard of $15 \mu\text{g}/\text{m}^3$. The existing 24-hour PM-10 standards (primarily and secondary) of $150 \mu\text{g}/\text{m}^3$ also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over 3 years.
- 10 To attain the 1-hour national standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 ppb. Note that the national 1-hour standard is in units of parts per billion (ppb). California standards are in units of parts per million (ppm). To directly compare the national 1-hour standard to the California standards the units can be converted from ppb to ppm. In this case, the national standard of 100 ppb is identical to 0.100 ppm.
- 11 On June 2, 2010, a new 1-hour SO₂ standard was established and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 ppb. The 1971 SO₂ national standards (24-hour and annual) remain in effect until one year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.

Note that the 1-hour national standard is in units of parts per billion (ppb). California standards are in units of parts per million (ppm). To directly compare the 1-hour national standard to the California standard the units can be converted to ppm. In this case, the national standard of 75 ppb is identical to 0.075 ppm.
- 12 The CARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.
- 13 The national standard for lead was revised on October 15, 2008 to a rolling 3-month average. The 1978 lead standard ($1.5 \mu\text{g}/\text{m}^3$ as a quarterly average) remains in effect until one year after an area is designated for the 2008 standard, except that in areas designated nonattainment for the 1978 standard, the 1978 standard remains in effect until implementation plans to attain or maintain the 2008 standard are approved.
- 14 In 1989, the CARB converted both the general statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are "extinction of 0.23 per kilometer" and "extinction of 0.07 per kilometer" for the statewide and Lake Tahoe Air Basin standards, respectively.

Table III-2
HEALTH EFFECTS OF MAJOR CRITERIA POLLUTANTS

Pollutants	Sources	Primary Effects
Carbon Monoxide (CO)	<ul style="list-style-type: none"> • Incomplete combustion of fuels and other carbon-containing substances, such as motor exhaust. • Natural events, such as decomposition of organic matter. 	<ul style="list-style-type: none"> • Reduced tolerance for exercise. • Impairment of mental function. • Impairment of fetal development. • Death at high levels of exposure. • Aggravation of some heart diseases (angina).
Nitrogen Dioxide (NO ₂)	<ul style="list-style-type: none"> • Motor vehicle exhaust. • High temperature stationary combustion. • Atmospheric reactions. 	<ul style="list-style-type: none"> • Aggravation of respiratory illness. • Reduced visibility. • Reduced plant growth. • Formation of acid rain.
Ozone (O ₃)	<ul style="list-style-type: none"> • Atmospheric reaction of organic gases with nitrogen oxides in sunlight. 	<ul style="list-style-type: none"> • Aggravation of respiratory and cardiovascular diseases. • Irritation of eyes. • Impairment of cardiopulmonary function. • Plant leaf injury.
Lead (Pb)	<ul style="list-style-type: none"> • Contaminated soil. 	<ul style="list-style-type: none"> • Impairment of blood function and nerve construction. • Behavioral and hearing problems in children.
Fine Particulate Matter (PM-10)	<ul style="list-style-type: none"> • Stationary combustion of solid fuels. • Construction activities. • Industrial processes. • Atmospheric chemical reactions. 	<ul style="list-style-type: none"> • Reduced lung function. • Aggravation of the effects of gaseous pollutants. • Aggravation of respiratory and cardio respiratory diseases. • Increased cough and chest discomfort. • Soiling. • Reduced visibility.
Fine Particulate Matter (PM-2.5)	<ul style="list-style-type: none"> • Fuel combustion in motor vehicles, equipment, and industrial sources. • Residential and agricultural burning. • Industrial processes. • Also, formed from photochemical reactions of other pollutants, including NO_x, sulfur oxides, and organics. 	<ul style="list-style-type: none"> • Increases respiratory disease. • Lung damage. • Cancer and premature death. • Reduces visibility and results in surface soiling.
Sulfur Dioxide (SO ₂)	<ul style="list-style-type: none"> • Combustion of sulfur-containing fossil fuels. • Smelting of sulfur-bearing metal ores. • Industrial processes. 	<ul style="list-style-type: none"> • Aggravation of respiratory diseases (asthma, emphysema). • Reduced lung function. • Irritation of eyes. • Reduced visibility. • Plant injury. • Deterioration of metals, textiles, leather, finishes, coatings, etc.

Source: California Air Resources Board, 2002.

Significance Thresholds

Any project is significant if it triggers or exceeds the most appropriate evaluation criteria. The District will clarify upon request which threshold is most appropriate for a given project. The following four emission criteria have been established, with the emissions comparison (criteria number 1) generally being sufficient to determine significance: (1) Generates total emissions (direct and indirect) in excess of the thresholds given in Table III-3; (2) Generates a violation of any ambient air quality standard when added to the local background; (3) Does not conform with the applicable attainment or maintenance plan(s); (4) Exposes sensitive receptors to substantial pollutant concentrations, including those resulting in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI) (non-cancerous) greater than or equal to 1.

A significant project must incorporate mitigation sufficient to reduce its impact to a level that is not significant. A project that cannot be mitigated to a level that is not significant must incorporate all feasible mitigation. Note that the emission thresholds are given as a daily value and an annual value, so that a multi-phased project (such as project with a construction phase and a separate operational phase) with phases shorter than one year can be compared to the daily value.

**Table III-3
SIGNIFICANT EMISSIONS THRESHOLDS
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

Criteria Pollutant	Annual Threshold (tons)	Daily Threshold (pounds)
Greenhouse Gases (CO ₂ e)	100,000	548,000
Carbon Monoxide (CO)	100	548
Oxides of Nitrogen (NO _x)	25	137
Volatile Organic Compounds (VOC)	25	137
Oxides of Sulfur (SO _x)	25	137
Particulate Matter (PM-10)	15	82
Particulate Matter (PM-2.5)	12	65
Hydrogen Sulfide (H ₂ S)	10	54
Lead (Pb)	.6	3

Source: Mojave Desert Air Quality Management District (MDAQMD)

Impacts from Construction

PVL will retain an Engineering, Procurement, and Construction (EPC) firm to manage the construction responsibilities of the PVL Lime Plant. Additionally, PVL Lime will monitor, and review all construction activities to mitigate any violations of air quality standards. During construction PVL will coordinate with the Construction Manager on a daily basis to minimize impacts.

The Air Quality Analysis also includes emissions calculations for the construction of the project's off-site components, including the following:

1. A water conveyance pipeline that will be approximately 3,730 feet in length
2. An underground electric conduit that will be approximately 3,730 feet in length
3. A natural gas pipeline that will be approximately 7,900 feet in length.

Additionally, in order to ensure the industrial water supply required to operate the PVL Lime Plant, PVL drilled a well on site, which has been included in both the operational and construction emissions analyses based on an estimated 5 days of drilling with two vehicles on site (one drill rig, one employee vehicle).

Construction Plan

Construction characteristics used to analyze air quality impacts are as follows:

Phase Name, Duration, Equipment, Quantity, and Trips

Construction of the project site includes the following activities:

1. Site Preparation: Earth work (60 working days) mobilize equipment, grading and scraping and lime pit/utilities excavation.
2. Roads and Drive ways: Temporary road surface preparation, all asphalt (28 working days).
3. Concrete work:
 - Lime plant concrete – 75 days;
 - Powder plant concrete – 40 days;
 - Office, lab & control room concrete – 20 days
 - Solar sta. concrete - 12 days; and,
 - Misc. concrete – 75 days
4. Mechanical work:
 - Lime plant steel erection – 80 days;
 - Powder plant steel erection – 20 days;
 - Building construction (includes construction of all habitable buildings on site)– 100 days;
 - Mechanical equipment placement – 100 days; and,
 - Piping – 90 days

Impacts from Operations

The Air Quality emissions were modeled using the following assumption: the PVL Lime Plant will operate 24 hour per day, seven days a week, 365 days per year.

All plant operations will be monitored and staffed continuously while the PVL Lime Plant is running. The process will be controlled by a computer system that will monitor and collect process data on a continuous basis. Process monitoring and data collection will also be available for management review via on line monitoring system 24 hours per day.

As required by the Mojave Desert Air Quality Management District (MDAQMD), PVL will install, operate and maintain any continuous emissions monitoring as required by regulation, including emissions from combustion and other sources.

The operational process will consist of:

1. **Limestone Sizing/Screening** – This will consist of conveying raw limestone through a vibrating screen system that will separate out “under sized” material and only allow “accepts” to enter the calcining process.

This system will have a feed hopper, three conveyors, a silo, vibrating screen, and a storage bunker for maintaining culled undersized material that will be sold as a separate product.
2. **Vertical Kiln** – This system will consist of kiln feed conveyors, discharge conveyors, and roller crusher. The kiln will be fired on natural gas and will operate at a heat input of 56 mmbtu/hr. Exhaust from the kiln will be directed through a fabric filter and the combustion process will be controlled by an automated system.
3. **Lime cooling and classifying** – As the calcined lime leaves the kiln it will pass through an air stream provided by the kiln blower system. This air will be the cooling medium for the hot lime.
4. **Hydrated Lime process** – This system will take the calcined lime and inject water into a portion of the material to hydrate it. It will have a silo, several vibratory and pneumatic conveyors, water injection system, slaking and screening equipment.

All conveyors will be enclosed and equipped with dust pick up and collection points throughout the plant. These systems will be discharged through approved filters in order to mitigate particulate matter emissions

- 5. Shipping and Receiving** –Raw limestone material will be shipped to the site daily where it will be stored in stockpiles on the ground prior to feeding into the system. Finished lime product will be handled in silo systems and loaded out as either: (1) quick lime, (2) hydrated lime, or (3) bulk bag and retail bagging of lime products.

Estimated truck trips and origin/destination of trips- (819 tons per day throughput) =

- Approximately 33 truckloads of material (at 25 tons per load) will travel 29 miles (one way) from the quarry to the plant.
- Approximately 22 truckloads of finished product will leave the site daily to market.
- Two stock piles will be used to deliver rock to the kiln at any time. Limestone rock will be hauled to the PVL Lime Plant and stock piled Monday through Friday. When no trucks are hauling lime from the quarry (Saturdays and Sundays), stock piles will be used to feed the plant with automated belt conveyors and an under pile reclaimer. The piles will be maintained at 10,000 tons each to have some reserve just in case the limestone quarry is down for repairs. These stock piles will give the proposed project 24 days of material on-site. This rock will be sized from 1" to 3.5". This size rock is used for dust control in other applications. These piles will not generate any dust from being stored.

Production Well

As stated under the construction emissions discussion above, PVL drilled an on-site well to ensure an operational water supply. The operational emissions analysis presented below incorporates the emissions a 50 gallon per minute well pump will generate.

Mobile Equipment

The PVL Lime Plant operations and maintenance will require the following mobile equipment on a daily basis.

- 2-300 hp diesel wheel loaders – CARB Tier IV approved emissions controls.
 - 2-50 hp diesel fork lifts CARB - Tier IV approved emissions controls
 - Diesel powered Emergency Generator 500kW - CARB approved emissions controls
- a) **Less Than Significant Impact** – Projects such as the proposed PVL Lime Plant do not directly relate to the Air Quality Management Plan in that there are no specific air quality programs or regulations governing general development. Conformity with adopted plans, forecasts and programs relative to population, housing, employment and land use are the primary yardsticks by which impact significance of planned growth is determined. Based on the analysis in Section XI (Land Use and Planning), the project requires a Conditional Use Permit (CUP) with a major variance, due to the height of the stack, to develop the PVL Lime Plant on the project site. With approval of the CUP and Major Variance applications, the PVL Lime Plant project will be fully consistent with the General Plan Land Use Zoning designation for the project site. Thus, the proposed project is consistent with regional planning forecasts maintained by the Southern California Association of Governments (SCAG) regional plans. Air quality impact significance for the proposed project has been analyzed on a project-specific basis. As the analysis of project-related emissions provided below indicates, the proposed project will not cause or be exposed to significant air pollution, and is, therefore, consistent with the applicable air quality plan.
- b) **Less Than Significant With Mitigation Incorporated** – Air pollution emissions associated with the proposed project would occur over both a short and long-term time period. Short-term emissions

include fugitive dust from construction activities (i.e., site prep, demolition, grading, and exhaust emission) at the proposed Project site. Long-term emissions generated by future operation of the proposed project primarily include limestone sizing, screening, limestone calcining via vertical kiln, lime cooling and classifying, hydrated lime process, shipping preparation-bagging, palletizing, bulk load out energy consumption, employee/visitor truck trips and any fugitive dust that might be generated by the PVL Lime Plant.

Construction Emissions

Utilizing the parameters set in the section above, construction activities will contribute the following emissions to the overall air quality inventory. CalEEMod was utilized to calculate emissions for this project, which is considered an acceptable means to determine air quality and greenhouse gas (GHG) emissions within the MDAQMD.

**Table III-4
CONSTRUCTION ACTIVITY MAXIMUM EMISSIONS RATE (TONS PER YEAR) – MITIGATED**

	VOC	NOx	CO	SO ₂	PM-10	PM-2.5
Annual Emissions (tons per year)	1.75	12.91	13.18	0.04	2.30	0.87
Daily Emissions (pounds per day)	9.6	70.7	72.2	0.2	12.6	4.8
Thresholds (Annual)	25	25	100	25	15	12
Thresholds (Daily)	137	137	548	137	82	65
Exceeds Thresholds?	NO	NO	NO	NO	NO	NO

Source: CalEEMod Appendices

**Table III-5
TOTAL CONSTRUCTION ACTIVITY MAXIMUM EMISSIONS (TONS) – MITIGATED
2019-2020**

	VOC	NOx	CO	SO ₂	PM-10	PM-2.5
Annual Emissions (tons 2020-2021)	3.50	25.82	26.35	0.08	4.59	1.74

Source: CalEEMod Appendices

As with daily emissions, annual construction related emissions are well below their respective CEQA significance thresholds. With the enhanced dust control mitigation measures listed below, construction activity air pollution emissions are not expected to exceed MDAQMD CEQA thresholds for any pollutant even if the phases are under simultaneous construction. Regardless, the PM-10 non-attainment status of the Mojave Desert area requires that Best Available Control Measures be used as required by the MDAQMD Rule 403. Therefore, the following mitigation measure shall be implemented.

AIR-1 Fugitive Dust Control. The following measures shall be incorporated into project plans and specifications for implementation during construction:

- Apply soil stabilizers as necessary to inactive areas.
- Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 mph.
- Stabilize previously disturbed areas if subsequent construction is delayed.
- Apply water to disturbed surfaces and haul roads 3 times/day.

- **Replace ground cover in disturbed areas quickly.**
- **Reduce speeds on unpaved roads to less than 15 mph.**
- **Trenches shall be left exposed for as short a time as possible.**
- **Identify proper compaction for backfilled soils in construction specifications.**

AIR-2 **The following signage shall be erected no later than the commencement of construction: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum height text, black text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, identifying a responsible official for the site and local or toll free number that is accessible 24 hours per day:**

**“[Site Name] {four-inch text}
[Project Name/Project Number] {four-inch text}
IF YOU SEE DUST COMING FROM {four-inch text}
THIS PROJECT CALL: {six-inch text}
[Contact Name], PHONE NUMBER {six-inch text}
If you do not receive a response, Please Call {three-inch text}
The MDAQMD at 1-800-635-4617 {three-inch text}”**

Operational Emissions

Utilizing the parameters set in the section above, operational activities will contribute the following emissions to the overall air quality inventory.

**Table III-6
OPERATIONAL ACTIVITY MAXIMUM EMISSIONS (TONS PER YEAR) – MITIGATED**

	VOC	NOx	CO	SO ₂	PM-10	PM-2.5
Annual Emissions (tons per year)	2.96	18.74	6.92	0.17	13.37	5.99
Daily Emissions (pounds per day)	16.8	111.8	38.4	0.9	80.8	12.1
Thresholds (Annual)	25	25	100	25	15	12
Thresholds (Daily)	137	137	548	137	82	65
Exceeds Thresholds?	NO	NO	NO	NO	NO	NO

Source: CalEEMod Appendices

As identified in Table III-6 (above), no criteria pollutant from this project will exceed any significant thresholds (either daily or annual) as prescribed in the MDAQMD regulations.

General Area Impacts

Because this will be the only lime manufacturing project in California, one of the greatest benefits will be the elimination of leakage (emission impacts from outside sources) due to manufacturing all of this product within the state boundaries.

Per California Air Resources Board:

“Emissions Leakage Risk: Introducing an environmental regulation in one jurisdiction can cause production costs and prices in that jurisdiction to increase relative to costs in jurisdictions that do not introduce comparable regulations. This can precipitate a shift in demand away from goods produced

in the implementing jurisdiction toward goods produced elsewhere. As a result, the reduction in production and emissions in the implementing jurisdiction is offset by increased production and emissions elsewhere. The offsetting increase in emissions is called emissions leakage. AB 32 directs CARB to design all GHG regulations to minimize leakage to the extent feasible (HSC § 38562(B)(8)).”

As an example, most lime is being imported into California. There are 18 active lime plants west of the Rocky Mountains, and of those, 11 are captive facilities where the lime is used in-house for sugar production. Seven of the plants are commercial operations and would be within PVL’s sphere of influence. Four of those seven plants are lime manufacturers with the most influence in the California lime markets.

One of these facilities, which is located closest to the Southern California markets, would be in direct contact with markets in Southern California and indirect contacts with other markets throughout the State of California. It is anticipated that output from the PVL Lime Plant will also be used within most of the same market regions.

The emission profile for the plant closest to the PVL Lime Plant shows greater emissions in several areas where the PVL project reflects a lower carbon impact and less transportation impact than the older technologies utilizing high carbon fuels and transportation. This result is mainly due to PVL utilizing utility grade natural gas as the fuel for the kiln operations (versus coal and pet coke). In addition, the PVL Lime Plant will maintain an overall lower emissions profile for the same amount of material processed and shipped. By locating this plant within California, PVL will be reducing overall emissions in the state in the following manner:

**Table III-7
COMPARISON OF PVL LIME PLANT TO NEAREST COMPETITOR**

Lime Plant Component	PVL Lime Plant	Nearest Competitor
Fuel Supply	Utility grade natural gas	Coal and/or Petroleum coke
Transportation (Raw Product)	Shorter distance—conversion to electric or hydrogen vehicles (future).	Longer distance—diesel powered trucks.

However, the following mitigation measure shall be implemented to minimize operational emissions impacts:

- AIR-3** *During project operations a 4,000-gallon water truck shall be available on-site at all times for dust control.*
- AIR-4** *As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.*
- AIR-5** *Wind breaks and/or fencing shall be developed in areas that are susceptible to high wind induced dusting.*
- AIR-6** *Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes and shall ensure that all off-road equipment is compliant with the CARB in-use off-road diesel vehicle regulation.*
- AIR-7** *All material transported off-site with dust blow off potential shall be sufficiently watered or securely covered to prevent excessive amounts of dust being generated.*

- AIR-8** *The Applicant shall use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. If the site contains exposed sand or fines deposits (and if the project would expose such soils through earthmoving), water application or chemical stabilization will be required to eliminate visible dust/sand from sand/fines deposits.*
- AIR-9** *The Applicant shall formulate a high wind response plan that addresses enhanced dust control if winds are forecast to exceed 25-mph in any upcoming 24-hour period.*
- AIR-10** *Any operation or activity that might cause the emission of any smoke, fly ash, dust, fumes, vapors, gases, or other forms of air pollution, which can cause damage to human health, vegetation, or other forms of property, or can cause excessive soiling on any other parcel, shall conform to the requirements of the Mojave Desert Air Quality Management District.*

With the implementation of the above mitigation measures, dust control prevention for the PVL Lime Plant project will be effective. Mitigation measures **AIR-1**, **AIR-2**, **AIR-4**, **AIR-5**, **AIR-7**, and **AIR-8** through **AIR-10** address fugitive dust. Fugitive dust contributes to particulate matter emissions. With the enhanced dust control mitigation measures listed above, construction and operational air pollution emissions are not expected to exceed MDAQMD CEQA thresholds for any pollutant even if the phases are under simultaneous construction. Regardless, the PM-10 non-attainment status of the Mojave Desert area requires use of Best Available Control Measures, as required by the MDAQMD Rule 403, which have been included as enforceable mitigation in the measures listed above.

Lime plants may be subject to emissions standards reflecting the application of Maximum Achievable Control Technology, which is a control mechanism to minimize hazardous air pollutants in the form of particulate matter to reduce the impact from fuel and contaminated raw material listed under the National Emission Standards for Hazardous Air Pollutants. Two factors mitigate the potential for hazardous emissions from the project. First, the Applicant will use utility grade natural gas certified by PG&E as non-hazardous. By precluding traditional fuels (coal and pet-coke), the Applicant will eliminate the potential for contamination from heavy metals such as mercury, lead, and zinc. Second, the Applicant will use a sole source of limestone input under its strict control. There will be no potential for contamination from outside sources of raw material. The limestone will be composited, sampled, and tested to confirm no existence of hazardous levels of toxic contaminants above the CCR Title 22-17 threshold limits. As outlined in the Air Quality Impact Assessment and within the analysis contained herein, the Applicant will maintain low emissions rates—well below the MDAQMD thresholds—by the use of modern fabric material filters with some of the lowest breakthrough rates in the industry.

AIR-4 is intended to minimize diesel particulate matter. The technology is not currently available, nor is it financially feasible to commit to hydrogen/electric trucks and tractors. However, the Applicant is committed to minimizing emissions and will utilize clean air vehicles when they become financially feasible. Mitigation measure **AIR-6** also addresses truck-related emissions, and is intended to minimize diesel particulate matter. The mitigation measures will be enforced by MDAQMD inspections and written documentation that these mitigation measures are being enforced by the Applicant.

Conclusion

Based on the data presented above, neither construction nor operational emissions would result in exceedance of significance thresholds for any criteria pollutants. With the mitigation provided above,

emissions impacts have been minimized to the greatest extent feasible resulting in a less than significant impact.

- c) *Less Than Significant With Mitigation Incorporated* – The proposed project would generate minimal construction and operation related emissions. The proposed project would not emit hazardous or toxic emissions that would create an excess cancer risk of more than 10 in one million or a non-cancerous health index of more than 1.0. Due to the rural location of this project, there are no medical facilities in close proximity. The closest residence to the project is about 2,100 ft from the PVL Lime Plant site, while the closest school – Trona Elementary School – is about 2,570 ft from the site. With the implementation of mitigation measures **AIR-1** through **AIR-10** outlined under issue III(b), implementation of the PVL Lime Plant development project is anticipated to have a less than significant potential to expose sensitive receptors to substantial pollutant concentrations.
- d) *Less Than Significant Impact* – Substantial odor-generating sources include land uses such as agricultural activities, feedlots, wastewater treatment facilities, landfills or various heavy industrial uses. The Project does not propose any such uses or activities that would result in potentially significant operational source odor impacts. Lime is not a mineral that would cause odor impacts when processed. The proposed project includes office and administration for the PVL Lime Plant, as well as the PVL Lime Plant operations. There are no sensitive receptors located within 1,000 feet of the proposed project, and the proposed project use is not of the type that would result in other emissions impacts that would affect a substantial number of people. The closest residence is 2,100 ft from the PVL site location, while the closest school to the PVL site is Trona Elementary School, which is about 2,570 ft from the project site. Furthermore, the town of Trona is home to a population of about 1,500 persons, as such there is not a substantial population that the proposed project could impact, particularly given the various other existing industrial operations within the small community. Therefore, impacts under this issue are considered less than significant. No mitigation is required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
IV. BIOLOGICAL RESOURCES: Will the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES

SUBSTANTIATION: (Check if project is located in the Biological Overlay or contains habitat for any species listed in the California Natural Diversity Database ☐): The following information utilized in this section was obtained from the technical study “Biological Analysis of a Proposed Lime Plant in Trona, California” prepared by EnviroPlus Consulting, Inc. dated June 2, 2018, and provided as Appendix 2a to this document. This Biological Analysis Report includes reference to several reports prepared by AECOM in 2012. These reports are provided as Appendix 2b, 2c, and 2d, and are intended to provide a greater understanding of the conclusions made in the Biological Analysis provided by EnviroPlus Consulting, Inc.

General Site Conditions

PVL proposes to construct and operate a lime production plant on a site near Trona, California. The project will be constructed on a 61.65 acre abandoned ash landfill. A potential for three new utilities will be constructed to serve the project, a natural gas pipeline, a water distribution pipeline, and an electrical distribution line. The Biological Analysis provided as Appendix 2 includes an analysis of the various utility installation alignments proposed. PG&E, SDWC, and SCE utility lines will be installed within Athol Street to connect to the proposed project.

This biological analysis combines the results of a multi-agency database review, a field survey conducted in May of 2018 and prior biological studies within and adjacent to the project area reported in 1988, 2012, and 2013.

The 61.6-acre former ash landfill is a heavily impacted industrial, non-hazardous waste site and the probability of encountering any sensitive species is very low.

Approximately 2,200 feet of the natural gas pipeline route lies in moderately disturbed native Allscale Shrubland Alliance. Within this area there is the potential to encounter Borrego milk-vetch (*Astragalus lentiginosus* var. *borreganus*). This species ranked as “4.3” by the California Native Plant Society is “of limited distribution in California” and is considered “not very endangered” by the California Native Plant Society. It is not a state or federally listed species.

One bird species, Le Conte’s thrasher (*Toxostoma lecontei*) has a moderate probability of occurrence. It is a species of special concern in California.

Potential habitat also exists for the California threatened Mohave ground squirrel (*Xerospermophilus mohavensis*; MGS). However, no suitable burrows for MGS were observed in the current survey and MGS were not detected during protocol trapping surveys conducted about 1,000 feet east of the gas pipeline route in 2013. This suggests that the probability of occurrence for MGS is low.

No evidence of sensitive species was observed along the route of the utilities along Athol Street. It will be located immediately adjacent to an existing paved road and the potential for sensitive species occurrence is considered very low.

The Biological Survey conducted on May 15, 2018 by Mr. Gilbert Goodlett concluded that no species or signs thereof were evident; Mr. Gilbert Goodlett surveyed for species identified by the California Natural Diversity Database (CNDDB), California Native Plant Society Database, and United States Fish & Wildlife Service (USFWS) Threatened & Endangered Animals List. The surveys previously conducted by AECOM were included in the Biological Analysis to compare with the current survey and confirm the results. However, based on comments provided by the California Department of Fish and Wildlife (CDFW), the Project will require species-specific preconstruction surveys for burrowing owl, desert tortoise, desert kit fox, Mohave ground squirrel (MGS), American badger, and Borrego milk-vetch.

- a) *Less Than Significant With Mitigation Incorporated* – Implementation of the project does not have a potential for a significant adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. The PVL Lime Plant site is a former ash landfill. As such, it is heavily impacted and the probability of locating any sensitive species is very low based on the results of current and prior surveys. A previous biological survey performed in 2012, documented in Appendix 2, concluded that: “This area [the PVL Lime Plant site] has been used for boiler ash disposal and does not support natural desert habitat. It is not suitable for occupancy by the MGS.” As stated above, no evidence of sensitive species was observed along the route of the utilities along Athol Street. However, potential habitat may exist for the California threatened MGS within the natural gas pipeline alignment. Thus, for purposes of this analysis, it is assumed that temporary ground disturbance within the natural gas pipeline alignment may have a potential to adversely impact MGS, a State listed Threatened species. As such, the following mitigation measures shall be implemented to prevent any impacts to MGS:

BIO-1 *Where avoidance of the adjacent habitat is not feasible, the following actions shall be implemented. For the temporary loss of the presumed occupied MGS habitat, the Applicant shall provide compensation for temporary loss of habitat and individual MGS in the following manner: (1) the Applicant shall obtain a 2081 Incidental Take Permit (ITP) from the CDFW; (2) the Applicant shall offset*

the loss of the temporarily disturbed habitat by purchase of acceptable MGS habitat at a 1:1 ratio; and (3) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the CDFW. No ground disturbance shall occur until the Applicant obtains an ITP. Note that the final compensation package contained in the permit may differ from the above compensation package, but the Applicant finds that this compensation package shall at a minimum meet the requirements of this measure.

Alternatively, the Applicant may perform a protocol MGS presence/absence survey consistent with CDFW Guidelines prior to initiating construction and should it be determined that the adjacent habitat is not occupied by MGS, the above mitigation measure need not be implemented.

As indicated in above, within the same natural gas pipeline area there is the potential to encounter Borrego milk-vetch (*Astragalus lentiginosus* var. *borreganus*). This species is of limited distribution in California and is not very endangered according to the California Native Plant Society. It is not a state or federally listed species; however, it is recommended to be surveyed in the pre-construction phase of the project, and avoided during construction. The biologist, Mr. Gilbert Goodlett, determined that a preconstruction survey for Borrego milk-vetch should be conducted not only due to the CNDDDB records search for the project, but also due to the survey he conducted in May of 2018. The following mitigation measure shall be implemented to avoid this species, should they be located within habitat that will be disturbed adjacent to the natural gas pipeline alignment.

BIO-2 ***Prior to construction, the Applicant shall conduct a plant survey for the Borrego milk-vetch (Astragalus lentiginosus var. borreganus). This survey shall be conducted by a qualified professional biologist familiar with this species. If these plants are identified within the temporary project area of impact, the botanists shall relocate these plants to adjacent comparable habitat that will not be disturbed.***

Regarding the Le Conte's thrasher, mitigation measure **BIO-9** protects these birds during the nesting season and for the thrasher. However, given the large footprint of the project area, that the footprint includes a very small undisturbed area with native vegetation, and that the current survey of the project area did not include species-specific protocols, mitigation to address the potential for burrowing owl is warranted, and shall be implemented as identified below:

BIO-3 ***In compliance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) the project proponent shall ensure that a pre-construction burrowing owl survey is conducted a maximum of 30 days prior to construction activities. A qualified biologist shall conduct the survey to determine if there are any active burrowing owl burrows within or adjacent to (within 300 feet) the impact area. If an active burrow is observed outside the nesting season (September 1 to January 31) and the burrow is within the impact area, a Burrowing Owl Exclusion Plan shall be prepared and submitted to CDFW for approval, outlining procedures used to exclude burrowing owls (e.g., using passive relocation with one-way doors). The loss of any active burrowing owl burrow territory shall be mitigated through replacement of habitat and burrows at no less than a 1:1 ratio. If an active burrow is observed outside the nesting season (i.e., between September 1 and January 31) and the burrow is not within the impact area, construction work shall be restricted within 160 to 1,605 feet of the burrow (per CDFW 2012), depending on the time of year and level of***

disturbance near the site in accordance with guidelines specified by the CDFW.

According to the AECOM report from 2012 (Provided as Appendix 2b), no nesting habitat for the golden eagle occurs within the proposed Project area, but suitable nesting habitat may occur within the Argus and Slate Mountain Ranges (located approximately 0.5 mile west of the Project and 9.5 miles east of the Project, respectively), and eagles are known to forage over large areas, e.g., up to 10 miles from their nests. The activity around the industrial plants and off-road, vehicle activity immediately adjacent to foraging habitat are likely to discourage golden eagle from foraging extensively within the proposed Project boundary, and potential use of the site is considered low. However, given the amount of time that has elapsed between the AECOM survey of the project in 2012, and the present, mitigation to ensure that further study is completed is provided below:

BIO-4 *Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required.*

Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for temporary loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS.

The above mitigation measure will ensure that impacts to this species will be less than significant.

Additionally, given the large size of the project area, the site includes a very small undisturbed area with native vegetation, and the current survey of the project area did not include species-specific protocols, mitigation is warranted to address the potential for desert tortoise. As such, the following mitigation measure is hereby incorporated:

BIO-5 *Although no desert tortoises were detected during the site surveys, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Following the pre-construction survey, the biologist will make a determination regarding tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area.*

Based on recommendation by CDFW, a floristic based assessment of special status plants and natural communities should be conducted prior to construction of the proposed project. As such, the following mitigation measure is hereby incorporated:

BIO-6 *Prior to the construction of the following phases of the Project—1. Construction of the Lime Plant and 2. Construction of the Natural Gas Pipeline—the entity responsible for the construction thereof (Phase 1. Panamint Valley Lime, Phase 2. PG&E) shall conduct a floristic based assessment of special status plants and natural communities that adheres to the CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If it is determined that special status plants and/or natural communities may be impacted from the Project specific avoidance, minimization, and mitigation measures will be developed and implemented. The Biological Resources Assessments generated shall be deemed adequate for three years following the date of the field assessment(s). After this time period an updated biological field assessment(s) will be required.*

Based on the disturbed condition of the roadway within which the remaining phases will be installed, the survey conducted in May of 2018 is acceptable to address any impacts to special status plants and natural communities along Athol Street. Based on CDFW recommendation, preconstruction surveys for desert kit fox and American Badger should be conducted prior to construction of the proposed project. As such, the following mitigation measures is hereby incorporated:

BIO-7 *Prior to the construction of the proposed project, preconstruction surveys for desert kit fox and American badger pursuant to the corresponding approved CDFW protocols, as determined by a qualified biologist.*

- *Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460.*
- *American badger is a Species of Special Concern.*
- *Should either species be found on or adjacent to the Project area, the Applicant shall require the preparation of either/both a desert kit fox or/and American badger mitigation and monitoring plan.*
- *Desert Kit fox breeding season is January to the end of May. If a natal burrow is located on the Project site, a qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat. No Project activities or vegetation removal may occur within the buffer or habitat connectivity zone.*

Therefore, with implementation of the above mitigation, there is a less than significant potential for implementation of this project to have a significant adverse effect on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

- b) *Less Than Significant With Mitigation Incorporated* – Implementation of the proposed project has a potential to have an adverse effect on any riparian habitat or sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS. Though the project footprint contains suitable habitat for several sensitive species, it does not contain any known riparian habitat or any other sensitive natural community identified by any agency. The project site itself consists of highly disturbed sandy ground, with scattered vegetation and evidence of dumping use, while the vegetation observed on-site includes allscale (*Atriplex polycarpa*), desert holly (*Atriplex hymenelytra*), and shadscale (*Atriplex confertifolia*). The project site has been subject to historic human disturbance and ongoing human use. However, given the large size of the project area, the site includes a very small undisturbed area with native vegetation, and the current survey of the

project area did not include floristic based assessment of special status plants and natural communities, a floristic based assessment of special status plants and natural communities should be conducted prior to construction of the proposed project. This requirement is addressed in Mitigation Measure **BIO-6**, above.

Based on the field review, the biologist's delineation identified 4 potential blue line streams crossing the natural gas pipeline route. Searles Valley is internally drained, and therefore, there are no outlets, and as such USFWS and the United States Army Corps of Engineers (Corps) have no jurisdiction over these drainage features. All hydrogeomorphic features on site, however, may meet the criteria of streambed waters as per Section 1600 of the Fish and Game Code administered by the CDFW. Thus, though there is no riparian or wetland habitat within these natural gas pipeline routes, the channels may fall within CDFW jurisdiction. Therefore, the following mitigation measure will be implemented.

BIO-8 *The Applicant and/or PG&E shall submit a Lake and Streambed Alteration Notification (SAA) to CDFW. If CDFW finds that the channel in the natural gas pipeline alignment is jurisdictional, the Applicant and/or PG&E shall process and obtain the SAA. No ground disturbance within potential jurisdictional areas shall occur until the Applicant and/or PG&E obtains an SAA. Note that the final compensation package contained in the permit shall be implemented by the Applicant and/or PG&E.*

Based on the field survey conducted by EnviroPlus Consulting, Inc. and the information contained in Appendix 2a, with implementation of mitigation measure **BIO-6** and **BIO-8**, significant impacts to riparian habitat or other sensitive communities are not anticipated to occur as a result of implementation of the proposed project.

- c) *No Impact* – According to the data gathered by EnviroPlus Consulting, Inc. in Appendix 2, no federally protected wetlands occur within the project footprint. Therefore, implementation of the proposed project will have no potential to impact any federally protected wetlands through direct removal, filling, hydrological interruption, or other means. No mitigation is required.
- d) *Less Than Significant With Mitigation Incorporated* – Based on the field survey of the project site, the Project will not substantially interfere with the movement of any native resident or migratory species or with established native or migratory wildlife corridors, or impede the use of native nursery sites. Once constructed, the natural gas pipeline and water conveyance pipeline will be located below ground, and therefore will have no potential to interfere with a wildlife corridor. However, the State does protect all migratory and nesting native birds. No impacts to nesting or migratory birds have been identified in Appendix 2 that would be located within the PVL Lime Plant site or the Athol Street utility corridor. However, several bird species were identified as potentially occurring in the project area. Thus, the project area may include locations that function as nesting locations for native birds. To prevent interfering with native bird nesting, and to comply with Fish and Game Code 3503, the following mitigation measure shall be implemented:

BIO-9 *The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active*

nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.

This project includes the development and utilization of a stormwater retention basin to collect stormwater runoff. The water collected in the stormwater retention basin is not anticipated to contain high levels of salinity. Furthermore, the preliminary drainage study concluded that, based on 24-hour rainfall depth and runoff coefficient, the area required for a retention basin will be 0.66 acres. The proposed basin will completely drain within the time period required by the County, which will minimize the potential for migratory birds to utilize the stormwater retention basin for extended periods given the minimal average rainfall experienced year-round in this portion of the County.

With implementation of the above measures, any effects on wildlife movement or the use of wildlife nursery sites can be reduced to less than significant impact.

- e) *Less Than Significant Impact* – Development of the proposed project would have a less than significant potential to conflict with any local policies or ordinances protecting biological resources. Impacts to biological resources have been addressed above under issues IV(a-d). Therefore, the potential for the project to conflict with local policies or ordinances pertaining to biological resources would be considered less than significant.
- f) *No Impact* – Please refer to the discussion under response IV(a) above. The Biological Resources Analysis provided as Appendix 2 concluded that the project is not located in an area within a Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, and implementation of the project will therefore not result in a significant impact to any such plans. No further mitigation is necessary.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
V. CULTURAL RESOURCES: Will the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

V. CULTURAL RESOURCES

SUBSTANTIATION: (Check if project is located in the ☐ or Paleontological ☐ Resources overlays or cite results of cultural resource review) The information utilized in this section of the Initial Study was obtained from the following technical study: "Phase I Historical/Archaeological Resources Survey: Industrial Lime Production Plant Project, near the Community of Trona, San Bernardino County, California" prepared by CRM TECH dated April 2, 2019 (Appendix 3).

Summary of the Finding

The purpose of the study is to provide the County with the necessary information and analysis to determine whether the project would cause substantial adverse changes to any "historical resources," as defined by CEQA, that may exist in or around the project area.

In order to identify such resources, CRM TECH conducted a historical/archaeological resources records search, pursued historical background research, contacted Native American representatives, and carried out a systematic field survey of the entire project area. The results of the records search indicate that an isolated lithic flake of prehistoric origin was recorded in the project area in 1989 and was subsequently designated 36-063304 in the California Historical Resources Inventory. During the field survey, however, the artifact could not be located.

Isolates like 36-063304, or localities with fewer than three artifacts, by definition do not qualify as archaeological sites due to the lack of contextual integrity and the resulting inability to yield important data. As such, they do not constitute potential "historical resources" and require no further consideration. In conclusion, no potential "historical resources" were encountered within or adjacent to the project area throughout the course of the study.

No further cultural resources investigation is recommended for the proposed project unless construction plans undergo such changes as to include areas not covered by this study. However, if buried cultural materials are encountered inadvertently during any earth-moving operations associated with the project, all work within 50 feet of the discovery should be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds.

a&b) *Less Than Significant With Mitigation Incorporated* – CEQA establishes that "a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment" (PRC §21084.1). "Substantial adverse change," according to PRC §5020.1(q), "means demolition, destruction, relocation, or alteration such that the significance of a historical resource would be impaired."

Per the above discussion and definition, as well as the information contained in Appendix 3, no historical or archaeological sites or isolates were located within the Project boundaries during the field review of the project area. Thus, none of them requires further consideration during this study.

In light of this information and pursuant to PRC §21084.1, the following conclusions have been reached for the Project:

- No historical resources within or adjacent to the Project area have any potential to be disturbed as they are not within the proposed area in which the facilities will be constructed and developed, and thus, the Project as currently proposed will not cause a substantial adverse change to any known historical resources.
- No further cultural resources investigation is necessary for the proposed project unless construction plans undergo such changes as to include areas not covered by this study.

However, if buried cultural materials are inadvertently discovered during any earth-moving operations associated with the Project, the following mitigation measure shall be implemented:

CUL-1 Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the on-site archaeological professional, who is acceptable to the County and retained by the applicant. The archaeological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.

With the above contingency mitigation incorporated, the potential for impact to cultural resources will be reduced to a less than significant level. No additional mitigation is required.

- c) ***Less Than Significant Impact*** – As noted in the discussion above, no available information suggests that human remains may occur within the Area of Potential Effect (APE) and the potential for such an occurrence is considered very low. Human remains discovered during the project will need to be treated in accordance with the provisions of HSC §7050.5 and PRC §5097.98, which is mandatory. State law (Section 7050.5 of the Health and Safety Code) as well as local laws requires that the Police Department, County Sheriff and Coroner's Office receive notification if human remains are encountered. Compliance with these laws is considered adequate mitigation for potential impacts and no further mitigation is required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
VI. ENERGY: Would the project:				
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VI. ENERGY

SUBSTANTIATION:

a&b) *Less Than Significant With Mitigation Incorporated* – During construction, the proposed project will utilize construction equipment that is CARB approved, minimizing emissions generated and electricity required to the extent feasible (as outlined under Section III, Air Quality, above). As stated in Section III, Air Quality, the construction of the proposed PVL Lime Plant would require mitigation measures to minimize emissions impacts from construction equipment use. These mitigation measures also apply to energy resources as they require equipment not in use for 5 minutes to be turned off, and for electrical construction equipment to be used where available. These measures would prevent a significant impact during construction due to wasteful, inefficient, or unnecessary consumption of energy resources, and would also conform to the CARB regulations regarding energy efficiency.

Additionally, the plant operations and maintenance will require the following mobile equipment on a daily basis, which are CARB approved and thus are energy efficient.

2-300 hp diesel wheel loaders – CARB Tier IV approved emissions controls.

2-50 hp diesel fork lifts CARB - Tier IV approved emissions controls

Diesel powered Emergency Generator 500kW - CARB approved emissions controls

California Code of Regulations Title 24, Part 6, California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was established in 1978 in response to a legislative mandate to reduce California's energy consumption. New standards were adopted by the Commission in 2008 as mandated by Assembly Bill 970 to reduce California's electricity demand. The proposed project is required to include energy efficient equipment to minimize energy impacts. Furthermore, the proposed project may install a solar array that would account for about 15% of the PVL Lime Plant's overall energy requirements, if the installation of solar is feasible for PVL. PVL has indicated that they intend to pursue solar, but the cost of installation versus the benefit to the project's energy supply may render the installation of solar at this project site infeasible. Should PVL install solar, PVL would install a solar/battery generation facility with a maximum 2,000 kW capacity. A battery backup system will broaden the curve during which solar energy will be available to cover the SCE peak demand period from 4:00 PM to 9:00 PM. Should PVL install a solar array, PVL would demonstrate further that the facility would not consume energy resources in a wasteful or inefficient manner. During operation most of the electricity will be consumed by electric motors for activities like conveying, sizing, and pollution control devices. A small amount will be used for site and building lighting. The total electricity requirement will vary during a 24-hour period from 1,000 to 1,200 kW, 360 days per year. During the five days allocated to maintenance, the electric load will be lower. SCE

will be the primary provider for electricity. According to SCE's website¹, SCE is committed to delivering power reliably and to meet demand. SCE is expanding and upgrading transmission and distribution networks to meet the region's growing demand for electricity, and improve grid performance, while meeting California's ambitious renewable-power goals. As such, it is anticipated that SCE would have ample power supply to serve the project without the need for additional electrical capacity.

The proposed project is anticipated to utilize natural gas as part of the process in which lime is transformed into a consumer product. The lime process is an intense user of thermal energy which will be provided by natural gas. The near constant gas demand will be 56 MMBTU/hr. PG&E will supply the natural gas. As stated under Section VIII, Greenhouse Gas, the proposed use of natural gas to process lime at the PVL Lime Plant is considered to be a positive alternative to the use of coal or petroleum coke, which produce greater contributions to GHG emissions than natural gas does. As such, the use of natural gas in support of the PVL Lime Plant operations would not be a wasteful, inefficient, or unnecessary use of resources, and the overall PVL Lime Plant operations would apply with applicable Federal, State, and local plans for renewable energy or energy efficiency. Impacts under this issue are less than significant with implementation of the mitigation measures identified in Section III, Air Quality, above.

¹ <https://www.sce.com/about-us/reliability/meeting-demand>

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. GEOLOGY AND SOILS: Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VII. GEOLOGY AND SOILS

SUBSTANTIATION: (Check ☐ if project is located in the Geologic Hazards Overlay District) The following information has been abstracted from the “Geotechnical Investigation, Proposed Lime Plant, Ace Ash Landfill, Athol Street and Roberts Road, Trona, California” dated August 14, 2018, prepared by Krazan & Associates, Inc. and updated February 25, 2019. These reports are provided as Appendix 4a and 4b, respectively.

a) i) Ground Rupture

Less Than Significant Impact – The project site is located within the community of Trona within the northwestern most portion of the County of San Bernardino. California as a whole is a seismically active state, though the proposed project site is not located on a fault or within a fault zone. According

to the United States Geological Survey (USGS) U.S. Quaternary Faults Map² (Figure VII-1), the project is located near the Garlock fault zone (south), Wilson Canyon fault (northwest), Panamint Valley fault zone (east), and Tank Canyon fault (east). Each fault is located at a distance of about 5 miles from the project or more. According to Figure VII-2, the site is not located within an area mapped for a geological risk as a result of not being located within an Alquist-Priolo fault zone. Based on the project site's distance from the nearest fault zone, the risk for ground rupture at the site location is low; therefore, it is not likely that future employees of the PVL Lime Plant will be subject to seismic hazards from rupture of a known earthquake fault. Therefore, any impacts under this issue are considered less than significant; no mitigation is required.

ii) Strong Seismic Ground Shaking

Less Than Significant Impact – As stated in the discussion above, several faults run through the area surrounding the proposed project, and as with much of southern California, the proposed structures will be subject to strong seismic ground shaking impacts should any major earthquakes occur in the future, though the proposed project is not in close proximity to an Alquist-Priolo fault zone. As stated above, the project is located near the Garlock fault zone (south), Wilson Canyon fault (northwest), Panamint Valley fault zone (east), and Tank Canyon fault (east). Each fault is located at a distance of about 5 miles from the project or more. As a result, and like all other development projects in the County, the proposed project will be required to comply with all applicable seismic design standards contained in the 2016 California Building Code (CBC), including Section 1613 Earthquake Loads. The CBC provides procedures for earthquake resistant structural design that include considerations for on-site soil conditions, occupancy, and the configuration of the structure including the structural system and height. The seismic design parameters presented in the Geotechnical Investigation (Page 15) are based on the soil profile and the proximity of known faults with respect to the subject site. The Project will comply with the CBC, which will ensure that structural integrity will be maintained in the event of an earthquake. Therefore, impacts associated with strong ground shaking will be less than significant without mitigation.

iii) Seismic-Related Ground Failure Including Liquefaction

Less Than Significant With Mitigation Incorporated – According to the San Bernardino County Land Use Plan General Plan Geologic Hazard Overlays map provided as Figure VII-3, the project site does not contain land with any liquefaction susceptibility. Furthermore, according to the Groundwater Availability and Impact Analysis Memo (Appendix 5b), the hydrograph indicates an increase in groundwater levels (groundwater was rising) starting in 1992 through approximately 1994, when depth to groundwater ranged from 262 feet below ground surface (BGS) to 268 feet BGS. From 1994 until 2009 depth to groundwater increased from approximately 262 feet BGS to 267 feet BGS. Since about 2010, groundwater levels have been relatively stable. The groundwater is at such a depth that liquefaction potential at this site is minimal. However, the Geotechnical Investigation provided as Appendix 4a and the Updated Geotechnical Investigation provided as Appendix 4b concluded that the fly ash or fly ash slurry located within the site may result in foundations supported on this material settling up to a foot. As stated in this report, the Applicant does not intend to support structures on foundations extending through this material. The following mitigation measure shall be implemented to ensure that the recommendations outlined in the Geotechnical Investigation are enforced:

GEO-1 *Based upon the findings contained in the Geotechnical Investigation and Geotechnical Investigation Update (Appendix 4a and 4b of this document), all of the recommended design and construction measures identified in Appendix 4a (listed under "Conclusions and Recommendations," pages 5-16) and the site preparation summary identified in Appendix 4b (pages 3-7) shall be implemented by the Applicant. Implementation of these specific measures will*

² <https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf>

address all of the identified geotechnical constraints identified at project site, including soil stability of future project-related structures.

Therefore, with implementation of the above mitigation measure, it is anticipated that the proposed project will have a less than significant potential to be susceptible to seismic-related ground failure, including liquefaction.

iv) Landslides

No Impact – The project area is relatively flat, sloping slightly from north to south. No hills or other significant topographic features exist on the project sites. According to the San Bernardino County General Plan, General Land Use Plan with Geologic Overlays (Figure VII-3), the project is not located in an area that is susceptible to landslides. No potential events have been identified that would result in adverse effects from landslides or that would cause landslides that could expose people or structures to such an event as a result of project implementation. No impacts are anticipated and no mitigation is required.

- b) *Less Than Significant With Mitigation Incorporated* – Due to the disturbed nature of the project site as a result of the site's previous use as an boiler ash disposal landfill, as well as they type of project being proposed, a potential for soil erosion, loss of topsoil, and/or placing structures on unstable soils is generally considered less than significant. The project site is vacant with minimal non-native vegetation coverage. County grading standards, best management practices and the Storm Water Pollution Prevention Plan (SWPPP) and Water Quality Management Plan are required to control the potential significant erosion hazards. The finished elevation of the project site is approximately 15 feet above the top of the adjacent floodway / levee, which is about 20 feet above adjacent grade. As such, runoff originating outside the project site cannot enter the project site due to existing site grading. It is anticipated that the required excavation and fill required to balance the site will not result in excess cut or fill. During project construction when soils are exposed, temporary soil erosion could occur, which could be exacerbated by rainfall. Project grading would be managed through the preparation and implementation of a SWPPP, and will be required to implement BMPs to achieve concurrent water quality controls after construction is completed and the PVL Lime Plant is in operation. The following mitigation measures or equivalent BMPs shall be implemented to address these issues:

GEO-2 *Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of stored backfill material. If covering is not feasible, then measures such as the use of straw bales or sand bags, shall be placed around the stored material and used to capture and hold eroded material on the project site for future cleanup.*

GEO-3 *All exposed, disturbed soil (trenches, stored backfill, etc.) shall be sprayed with water or soil binders twice a day, or more frequently if fugitive dust is observed migrating from the site within which the PVL Lime Plant is being constructed.*

With implementation of the above mitigation measures, implementation of the SWPPP and associated BMPs, any impacts under this issue are considered less than significant.

- c) *Less Than Significant With Mitigation Incorporated* – Refer to the discussion under VI(a) above. Potential instability associated with slope stability and liquefaction related to the project was determined to be less than significant, as outlined under discussion a(iii) and a(iv) above. The potential for shrinkage or subsidence at the site was determined to be limited by the data compiled in Appendix 4. The San Bernardino County Hydrology Manual states that the soils at the project site

are Hydrologic Soil Group “D”, which is an indication of poor infiltration. Furthermore, the Geotechnical Investigation states that the surface soils at the site have a loose consistency, and they are highly disturbed with low strength characteristics and are highly compressible when saturated. The Geotechnical Investigation concludes that the surface soils should be recompacted, which should stabilize the surface soils for development. Mitigation Measure **GEO-1** below will ensure that all recommendations outlined in the Geotechnical Investigation are implemented. The Geotechnical Investigation recommends that fill material should be compacted to a minimum of 90 percent of maximum density based on ASTM Test Method D1557. Additionally, the fly ash or fly ash slurry material that underlain the site have varying strength characteristics and the Geotechnical Investigation recommends that the foundations for structures should not be constructed on this material. The Mitigation Measure **GEO-1** shall be implemented to ensure that the recommendations outlined in the Geotechnical Investigation are enforced. Therefore, with the implementation of the above mitigation measure, impacts under this issue are considered less than significant.

- d) *Less Than Significant With Mitigation Incorporated* – According to the Geotechnical Investigation, the upper soils consisted of approximately 6 to 12 inches of very loose silty sand or fly ash slurry fill. These soils are distributed, have low strength characteristic and are highly compressible. Expansive soils are generally of a clay type soil, not a sandy soil such as the Manet series soils that underlay the project site. Thus, based on the absence of clay-type soils on site, the proposed project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property. However, a Geotechnical Investigation (Appendix 4) has been prepared for the project and in order to ensure that the structures and paving on site are constructed on stable soils, Mitigation Measure **GEO-1** above shall be implemented to ensure than any impacts under this issue are less than significant.
- e) *Less Than Significant With Mitigation Incorporation* – The Project area and surrounding development do not have access to a municipal wastewater system and require the use of individual on-site septic systems. As previously noted, the proposed project is supported by stable soils. Based on the nearly exclusive use of septic tanks or other alternative wastewater disposal systems within the area (no municipal wastewater collection or treatment systems exist), the soils are capable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. The Geotechnical Report provided as Appendix 4 to this Initial Study performed a percolation test in accordance with the “Manual Septic Tank Practice,” which indicated that the soils tested at approximately 4 to 8 feet have moderate absorption characteristics. The Geotechnical Report concluded that recommended design and construction measures should be implemented to minimize impacts. As such, implementation of mitigation measure **GEO-1** will ensure that the installation of the septic tank will occur within stable soils. Furthermore, the Project will be required to comply with the 2007 California Plumbing Code (Part 5, Title 24, California Code of Regulations), which sets parameters for private sewage disposal. Thus, with compliance of applicable California Code and implementation of mitigation measure **GEO-1**, any impacts under this issue are considered less than significant.
- f) *Less Than Significant With Mitigation Incorporated* – The potential for discovering paleontological resources during development of the Project is considered highly unlikely based on the fact that the site has been previously engineered and disturbed at depth. No unique geologic features are known or suspected to occur on or beneath the sites. However, because these resources are located beneath the surface and can only be discovered as a result of ground disturbance activities, the following measure shall be implemented:

GEO-4 *Should any paleontological resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified paleontologist. Responsibility for making this determination shall be with the on-site paleontological professional, who is acceptable to the*

County and retained by the applicant. The paleontological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the CEQA Guidelines.

With incorporation of this contingency mitigation, the potential for impact to paleontological resources will be reduced to a less than significant level. No additional mitigation is required.

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

VIII. GREENHOUSE GAS EMISSIONS

SUBSTANTIATION: The following information utilized in this section was obtained from the technical study “Air Quality/Greenhouse Gas Study, Panamint Valley Limestone, Lime Kiln and Processes” prepared by Paul Ervin of Biostream Inc. and Tom Snowden of WZI, updated on January 18, 2020, and provided as Appendix 1 to this document.

Global Climate Change (GCC) is defined as the change in average meteorological conditions on the earth with respect to temperature, precipitation, and storms. An individual project like the Project evaluated in this GHG Analysis cannot generate enough greenhouse gas emissions to effect a discernible change in global climate. However, the Project may participate in the potential for GCC by its incremental contribution of greenhouse gasses combined with the cumulative increase of all other sources of greenhouse gases, which when taken together constitute potential influences on GCC.

In December September 2011, the County of San Bernardino adopted the “Greenhouse Gas Emissions Reduction Plan” (“GHG Plan”). The purpose of the GHG Plan is to reduce the County’s internal and external GHG emissions by 15 percent below current (2011) levels by year 2020 in consistency with State climate change goals pursuant to AB32. The GHG Plan has been designed in accordance with Section 15183.5 of the State CEQA Guidelines which provides for streamline review of climate change issues related to development projects when found consistent with an applicable greenhouse gas emissions reduction plan.

Section 5.6 of the GHG Plan identifies the procedures for reviewing development projects for consistency with the GHG Plan. The GHG Plan includes a two-tiered development review procedure to determine if a project could result in a significant impact related to greenhouse gas emissions or otherwise comply with the GHG Plan pursuant to Section 15183.5 of the State CEQA Guidelines. The initial screening procedure is to determine if a project will emit 3,000 metric tons of carbon dioxide equivalent (MTCO₂E) per year or more. Projects that do not exceed this threshold require no further climate change analysis but are required to implement mandatory reducing measures in the project’s conditions of approval.

Projects exceeding this threshold must meet a minimum 31 percent emissions reduction in order to garner a less than significant determination. This can be met by either (1) achieving 100 points from a menu of mitigation options provided in the GHG Plan or (2) quantifying proposed reduction measures. Projects failing to meet the 31 percent reduction threshold would have a potentially significant impact related to climate change and greenhouse gas emissions.

Significance Thresholds

California has several laws regulating greenhouse gases, including Assembly Bill (AB) 32, Senate Bill (SB) 1368, SB 32, Executive Order (EO) S-03-05, EO S-20-06, EO S-01-07, and B-30-15.

AB 32, known as the California Global Warming Solutions Act of 2006 is one of the most significant pieces of environmental legislation that California has adopted. Among other things, it is designed to maintain California's reputation as a "national and international leader on energy conservation and environmental stewardship," mandating the quantification and reduction of GHGs. It has had, and will continue to have, wide-ranging effects on California businesses and lifestyles as well as far reaching effects on other states and countries. A unique aspect of AB 32, beyond its broad and wide-ranging mandatory provisions and dramatic GHG reduction requirements, are the short time frames within which it must be implemented. Major components of AB 32 include:

- Require the monitoring and reporting of GHG emissions beginning with sources or categories of sources that contribute the most to statewide emissions.
- Requires immediate "early action" control programs on the most readily controlled GHG sources.
- Mandates that by 2020, California's GHG emissions be reduced to 1990 levels.
- Forces an overall reduction of GHG gases in California by 25-40%, from business as usual, to be achieved by 2020.
- Must complement efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminants.

In 2016, SB 32 required further reduction of GHG targets, requiring CARB to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions to reduce statewide greenhouse gas emissions to at least 40% of 1990 levels by the end of 2030. AB 32 also required CARB to develop a Scoping Plan. The Scoping Plan is an iterative document that describes the State's strategies for meeting the GHG emission reduction targets set by AB 32 and SB 32.

The Scoping Plan relies on CARB's cap-and-trade program to reach the GHG emissions reduction targets of AB 32 and SB 32. The cap-and-trade regulations were implemented in 2011, and set the 2013 emissions year as the first compliance year. The cap-and-trade program imposes enforceable GHG emission caps for covered facilities. By setting a firm, statewide emissions limit and an enforceable compliance obligation on individual emissions sources, the cap-and-trade program ensures that individual emissions sources are consistent with the declining statewide emission limit.

In response to the requirements of SB 97, the State Natural Resources Agency developed guidelines for the treatment of GHG emissions under CEQA. These guidelines became state laws as part of Title 14 of the California Code of Regulations in March 2010 and have since been updated.

A project would have a potentially significant impact if it:

- Generates GHG emissions, directly or indirectly, that may have a significant impact on the environment, or,
- Conflicts with an applicable plan, policy or regulation adopted to reduce GHG emissions.

Section 15064.4 of the Guidelines were recently amended to state that "In determining the significance of impacts, the lead agency may consider a project's consistency with the State's long-term climate goals or strategies, provided that substantial evidence supports the agency's analysis of how those goals or strategies address the project's incremental contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable."

The project will be a covered source under the cap-and-trade program and as such will have an enforceable compliance obligation to procure allowances consistent with the overall declining cap on emissions.

In addition, MDAQMD has required additional GHG emission mitigation as part of its authority under the Clean Air Act.

a&b) *Less Than Significant With Mitigation Incorporated* – The MDAQMD sets a quantitative significance threshold for Greenhouse Gases below which a project is considered less than significant. CalEEMod was utilized to calculate emissions for this project, which is considered an acceptable means to determine Air Quality and GHG emissions within the MDAQMD.

**Table VIII-1
CONSTRUCTION EMISSIONS**

MDAQMD Threshold (Tons CO ₂ e/yr)	Project Impacts (Tons CO ₂ e/yr)	Significant Impact?
100,000	3,953	NO

**Table VIII-2
TOTAL ESTIMATED CONSTRUCTION EMISSIONS (2019-2020)**

MDAQMD Threshold (Tons CO ₂ e/yr)	Project Impacts (Tons CO ₂ e) 2019-2020	Significant Impact?
100,000	7,905	NO

**Table VIII-3
OPERATIONAL EMISSIONS**

MDAQMD Threshold (Tons CO ₂ e/yr)	Project Impacts (Tons CO ₂ e/yr) (tons)	Significant Impact?
100,000	159,132.7	YES Requires Mitigation

**Table VIII-4
TOTAL EMISSIONS INCLUSIVE OF CONSTRUCTION & OPERATION
CONSTRUCTION EMISSIONS ARE AMORTIZED¹**

MDAQMD Threshold (Tons CO ₂ e/yr)	Project Impacts (Tons CO ₂ e/yr) (tons)	Significant Impact?
100,000	CONSTRUCTION: 263.5 ¹ OPERATION: 159,132.7	YES Requires Mitigation
	TOTAL: 159,396.2	

¹ Amortization of construction emissions assumes the emissions will disperse over a period of 30 years.

As shown in the Tables above, the project is well below the MDAQMD emissions threshold for construction related GHG emissions. However, the proposed project operations are above the MDAQMD emissions threshold for operations related GHG emissions. In order to mitigate the combined exceedance, PVL intends to offset the emissions by purchasing 60,000 tons of permanent CO₂ emission reduction credits, which will be valid in perpetuity (i.e. for the life of the project). With these credits, emissions will be reduced below the 100,000-ton threshold, resulting in less than significant impacts.

GHG-1 *The Applicant shall acquire 60,000 tons of permanent CO₂ emission reduction credits, or the equivalent thereof equal to an offset of 60,000 tons of CO₂ per year. The emission reduction credits shall be obtained from a trusted source*

that must be approved by the MDAQMD staff. A copy of the certification shall be provided to the MDAQMD and County upon receipt. The emission reduction credits must be purchased prior to operations of the PVL Lime Plant.

The project has three main sources of GHG emissions: limestone calcination, stationary source combustion, and vehicular transportation emissions. The GHG emissions will exceed the threshold for the California AB-32 cap-and-trade program, making the facility a mandatory cap-and-trade entity. The facility will comply with this adopted policy or regulation for the reduction of GHG emissions.

CARB has confirmed that the PVL Lime Plant Project will be subject to and must comply with the Cap-and-Trade program and the Mandatory Reporting Regulation, which will collectively ensure that the Projects emissions are within the statewide program limitations adopted pursuant to AB 32 and SB 32.

The CEQA guidelines provide discretion to lead agencies in exercising expert judgment in setting a GHG significance threshold. In addition to evaluating consistency with programmatic goals in setting a GHG significance threshold, Section 15064.4 of the Guidelines also contemplate the incremental contribution of GHG emissions. Based on conversations with CARB, the benefit of developing the PVL Lime Plant project outweigh the project's impacts as a new source contributing to regional greenhouse gas emissions. This is because the project is located within the State in which many of the PVL Lime Plant's customers will be served. There are 18 active Lime plants West of the Rocky Mountains, and of those, 11 are captive facilities where the lime is used in house for Sugar production. Seven of the plants are commercial operations and would be within PVL's sphere of influence.³ Four of the above plants are Lime manufacturers with the most influence in the California lime markets. One of these facilities is located closest to the Southern California markets and would be in direct contact with markets in that area and indirectly with other markets within the State of California. It is believed that output from the PVL plant will also be used within most of the same market regions.

The majority of all lime that comes into California would use the Las Vegas to Kramer Junction corridor and as shown in Table VIII-5, by intersecting this route from Trona, there would be a significant reduction in overall vehicle emissions. This "leakage" is what CARB has expressed interest in reducing. The data shown in Table VIII-5 utilizes the Las Vegas to Kramer Junction corridor because this is the route the majority of Lime suppliers would use to transport lime on the west coast. Very little (if any lime of this grade) comes in from other routes of entry into California. Lhoist was selected as a target location because they are the largest and closest supplier east of the proposed PVL Lime Plant, making them the logical choice with which to compare reductions in transportation emissions from a plant in California versus a plant east of California, with the intent that a majority of PVL would serve a majority of the customer base in California once in operation.

As previously stated, there are no lime plants located within California, and as such the reduction in transportation that would occur as a result of the PVL Lime Plant's proximity to its customer base is substantial, such that the proposed project's operational emissions profile—related to truck trips only—would net 71% reduction from business-as-usual, and 2.3 metric ton quantitative reduction in CO₂e from reducing the vehicle miles travelled to transport lime products to customers.

³ USGS Mineral Industries Survey at <http://www.lime.org> or by calling (703) 243-5463

Table VIII-5
EMISSIONS REDUCTION CALCULATION: IN STATE (PVL) VS OUT OF STATE (LHOIST)

	Vehicle Type	Quantity	Tons/ Load	Round-Trip Distance (mi)	Ton per Mile	CO ₂ (g/ton /mi)	CH ₄ (g/ton /mi)	N ₂ O (g/ton/ mi)	CO ₂	CH ₄	N ₂ O	
Trona, CA To Kramer Junction, CA	Heavy Duty Diesel Vehicle	44.4	25	62	124	1,430	0.015	0.0048	157,460	1.65	0.53	grams /day
Lhoist, Las Vegas, NV to Kramer Junction, CA				214	428				543,492	5.70	1.82	
Assumptions: 1. Identical conditions (equipment, loads, traffic, etc.) Notes: * Ton-mile calculation reflects tonnage transported and returned empty									6.56	0.00007	2.20 E-05	Kg/hr
									22.65	0.00024	7.60 E-05	
									1.39	2.51 E-05	8.04 E-06	MT/yr
									8.27	8.67 E-05	2.77 E-05	
									Comparative Percent Reduction: 71.03%			

The emission profile for the closest plant—which happens to be the plant with the most influence—indicates that there are several areas where the PVL project reflects a lower carbon, and less transportation impacts when compared to the nearby Lime Plants, which utilize older technologies utilizing high carbon fuels and require greater transportation to reach their respective markets.

In addition to the reductions shown in Table VIII-3 and stated above, there are several other features that reduce overall emissions on a plant/plant comparison basis.

1. The Kiln will use utility grade natural gas. Out of state lime producers use either coal or petroleum coke, which produce greater contributions to GHG emissions than natural gas does.
2. The Kiln technology is a “state of the art” vertical dual chamber versus rotary type.
3. The plant will convert all its raw material hauling fleet to zero emissions technology (Tesla, Hydrogen, etc.) making for additional reductions as the technology becomes available and cost effective. (These reductions weren’t included in the AQ/GHG Report).
4. The use of certified emission reduction credits where needed.

Based on the reduced emissions that would result from implementing the mitigation measure identified above, development of the PVL Lime Plant would result in less than significant impacts related to greenhouse gas emissions.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. HAZARDS AND HAZARDOUS MATERIALS

SUBSTANTIATION:

a&b) *Less Than Significant Impact* – During construction, there is a potential for accidental release of petroleum products in sufficient quantity to pose a significant hazard to people and the environment. All spills or leakage of petroleum products during construction activities will be remediated in compliance with applicable state and local regulations regarding cleanup and disposal of the contaminant released. The contaminated waste will be collected and disposed of at an appropriately licensed disposal or treatment facility. Compliance with state and local regulations will minimize the potential for accidental exposure of persons to hazardous materials.

The proposed project consists of the development of a lime plant, which will convert lime into quicklime. Quicklime is not a hazardous material. According to the National Lime Association⁴, lime is widely used to treat hazardous wastes. Lime stabilizes most metals by converting them to more

⁴ <https://www.lime.org/lime-basics/uses-of-lime/enviromental/hazardous-wastes/>

chemically stable forms that are less likely to leach. In addition, lime can react with soils to solidify materials inhibiting the leaching of hazardous constituents and also neutralizes acidic materials within such constituents. Quicklime is an alkaline material that is reactive in the presence of moisture, and as such, must be handled properly by employees of PVL. As such, the Applicant is required to comply with the US Department of Labor Occupational Safety and Health Administration procedures for exposure to and handling of chemicals⁵ through use of the Material Safety Data Sheet⁶. As stated under Issue 3, Air Quality, the Project may be subject to emissions standards reflecting the application of Maximum Achievable Control Technology. The Applicant will use utility grade natural gas that has been certified by PG&E as non-hazardous. By precluding traditional fuels (coal and pet-coke), the Applicant will eliminate the potential for contamination from heavy metals such as mercury, lead, and zinc. Second, the Applicant will use a sole source of limestone input under its strict control and as such, there will be no potential for contamination from outside sources of raw material. The limestone will be composited, sampled, and tested to confirm no existence of hazardous levels of toxic contaminants above the CCR Title 22-17 threshold limits. As outlined in the Air Quality Impact Analysis of this and as discussed herein, the Applicant will use modern fabric material filters with some of the lowest breakthrough rates in the industry. With compliance to Federal, State, and local regulations regarding the handling of lime and lime byproducts, and with the above mitigation measure, the Project would not create a significant hazard to the public or the environment either through the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Impacts are considered less than significant with implementation of standard best management practices (BMPs) and no mitigation is required.

- c) *No Impact* – The project site is located greater than one-quarter mile from any public school. The nearest public schools, Trona High School and Trona Elementary School, are located adjacent to one another along Trona Road just south of the intersection of Athol Street and Trona Road (more than one half of a mile from the Project site). Based on this information, implementation of the Project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. No adverse impacts are anticipated. No additional mitigation is required.
- d) *Less Than Significant Impact* – The project site previously served as a boiler ash landfill. The site is not located on a list of hazardous materials sites that are currently under remediation. According to the California State Water Resources Control Board's GeoTracker website (consistent with Government Code Section 65962.5), which provides information regarding Leaking Underground Storage Tanks (LUST), there are no active LUST sites located at the project site, though there are two LUST cleanup sites (one open case, and one closed case) located about 1,000 feet from the nearest point within the project site, and there are also three Waste Discharge Requirements (WDRs), which includes sites that operate under WDRs issued by the State Water Resources Control Board or a Regional Water Quality Control Board. WDRs address non-designated waste discharges that are typically applied to land (refer to Figures IX-1 through IX-6). These sites have no potential to create a hazard that would affect the operations of the proposed Project. Therefore, the proposed construction and operation of the site as the PVL Lime Plant will not create a significant hazard to the population or to the environment from their implementation. Impacts under this issue are considered less than significant and no mitigation is required.
- e) *No Impact* – According to a review of Google Maps (1/22/19) the Project site is not located within two miles of an airport or private airstrip. The closest airport is the Trona Airport located approximately 4 miles northeast of the project site at 15490 Trona Airport Rd, Trona, CA 93562. Therefore, construction and operation of the project at this location would not result in a safety hazard for people

⁵ <https://www.osha.gov/chemicaldata/chemResult.html?RecNo=203>

⁶ https://www.lime.org/documents/lime_basics/fact-safety_precautions.pdf

residing or working in the project area as a result of proximity to a public airport or private airstrip. No impacts are anticipated and no mitigation is required.

- f) *Less Than Significant With Mitigation Incorporated* – The proposed project is located along Athol Street within the community of Trona in the County of San Bernardino. Athol Street connects with Trona Road to the northeast and also connects to Plant Access Road to the south/southwest. The project will occur mostly within the boundaries of the PVL Lime Plant site; however, construction to install the utilities that will connect to the project site will occur within Athol Street and within a corridor aligned with First Street to the southwest of the project site. In order to prevent any impacts to emergency access to the project site and surrounding area due to construction within and adjacent to Athol Street, a congestion management plan shall be implemented through mitigation identified under Section XVII, the Transportation/Traffic Section of this document. Mitigation to address any potential traffic disruption and emergency access during construction is included in this section. Therefore, the potential for the development of the Project to physically interfere with any adopted emergency response plans or evacuation plans is considered a less than significant impact with mitigation incorporated. No further mitigation is required.
- g) *No Impact* – According to the San Bernardino County Land Use Plan General Plan Hazard Overlays Map, the proposed project is not located within a Fire Safety Overlay District. The proposed project is located just south of a floodway, and is in an industrial area with very little fuel load in the surrounding area that could be susceptible to wildfires. Additionally, the surrounding mountains are rocky, with little vegetation that would serve as fuel load. Therefore, because the proposed project is located outside of the area identified as a high fire hazard zone within the County's General Plan, the proposed project will have no potential to expose people or structures to a significant risk of loss, injury or death involving wildland fires. No mitigation is required.

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

X. HYDROLOGY AND WATER QUALITY

SUBSTANTIATION: The following information utilized in this section was obtained from: (1) the technical study “Preliminary Hydrology and Hydraulics Study, PVL Lime Plant” prepared by AECOM, dated June 20, 2018, and provided as Appendix 5a to this document, and (2) “Ground Water (Hydrologic) Technical Memorandum Report to Support San Bernardino Conditional Use Permit Related to Adequate Service Certification Water and Sewer (Form W2) – PVL Lime Plant APN: 0485-031-12” prepared by Luhdorff & Scalmanini Consulting Engineers, dated July 3, 2019, and provided as Appendix 5b to this document.

- a) *Less Than Significant Impact* – The proposed project is located within a developed area within the California Regional Water Quality Control Board (RWQCB), Lahontan Region. The PVL Lime Plant site was previously a boiler ash disposal landfill, and as such has been highly disturbed from previous activities at the site. For a developed area, the only three sources of potential violation of water quality standards or waste discharge requirements are from generation of municipal wastewater; stormwater runoff; and potential discharges of pollutants, such as accidental spills. The project will not generate municipal wastewater, since no municipal wastewater systems exist within the project footprint. Due

to the rural nature of the community of Trona, the project will dispose of domestic sewage produced on site of the PVL Lime Plant through use of an on-site septic tank. The installation of this new septic tank will not violate any water quality standards or waste discharge requirements because the project will comply with the San Bernardino County Department of Public Health's standards for alternative wastewater disposal⁷. Compliance with County standards regarding sewage disposal is considered sufficient to prevent any significant impacts from occurring as a result of project implementation.

To address stormwater and accidental spills within this environment, any new project must ensure that site development implements a SWPPP to control potential sources of water pollution that could violate any standards or discharge requirements during construction. A Water Quality Management Plan is not required for this area because it is beyond the MS4 boundary. In the short term, construction activities will have some potential to affect the quality of stormwater discharged from the project footprint. Land disturbance activities could result in erosion and sedimentation immediately adjacent to the project sites. Spills or leaks of petroleum products used by construction equipment could also potentially affect the quality of surface water. However, as stated under Hazards and Hazardous Materials, during operations, the products of the PVL Lime Plant operations are often used to prevent groundwater contamination, and as such, the ongoing processing of lime at the site is not anticipated to result in groundwater contamination.

The project will be required to obtain a general construction National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit prior to the start of construction. Obtaining coverage under the General Construction NPDES permit requires the preparation and implementation of a SWPPP, which would specify the BMPs that the project would be required to implement during construction activities to ensure that all potential water pollutants of concern are prevented, minimized, and/or otherwise appropriately treated prior to being discharged from the subject property. Compliance with the terms and conditions of the NPDES and the SWPPP is mandatory and is judged adequate mitigation by the regulatory agencies for potential impacts to stormwater during construction activities. Because the project site consists of impervious surfaces, the project has identified on-site drainage that will direct runoff to the on-site retention pond that will be developed as part of the project.

Finally, the proposed brownfield project site was previously used as a boiler ash landfill for the ACE power plant, subject to Waste Discharge Requirements (WDRs) as directed by the RWQCB. RWQCB Order Number R6V-2004-0008 includes a determination that the boiler ash disposed at the facility is "inert." California Code of Regulations, title 27, section 20230(a) defines inert waste as "that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste." RWQCB Board Order No. R6V-2017-0004 noted that "samples collected from the ash waste since 1997 further support the inert designation" and concluded that: "The waste that has been discharged to the Facility does not pose a threat to water quality," and, therefore rescinded the WDRs. "(RWQCB Board Order No. R6V-2017-0004, Rescission of WDR Board Order No. 6-00-92 provided as Appendix 5d). Based on comments received from the Lahonton RWQCB (refer to the Comment Letter provided as Appendix 5e), the landfill waste on the project site does not pose a threat to water quality with the proposed modifications to the parcel.

As such, with implementation of these mandatory plans and their BMPs, and compliance with any WDRs, the development of the PVL Lime Plant will not cause a violation of any water quality standards or WDRs. Impacts under this issue are considered less than significant and no mitigation is required.

- b) *Less Than Significant Impact with Mitigation Incorporated* - Implementation of the proposed project will require 2.1 acre-feet per year (AFY) of potable water for domestic uses (i.e., for use in drinking

⁷ <http://wp.sbcounty.gov/dph/programs/ehs/wastewater/>

fountains, bathrooms, and eye wash stations, etc.), and 39.9 AFY for its operational uses. The project is located within SDWC's service area and PVL asked SDWC to provide water sufficient to meet all of its domestic and operational needs. SDWC refused, and that issue is being addressed through a complaint proceeding pending before the California Public Utilities Commission. To ensure a water supply for the project, PVL drilled an on-site well that will provide water sufficient to meet the needs of the project, but the water will have to be cleaned to potable or near-potable quality for all operational uses. This environmental review addresses the impacts of PVL using its on-site well and receiving water from SDWC.

SDWC purchases water from SVM (SDWC is a wholly owned subsidiary of SVM), pursuant to a 30-year Water Purchase Agreement entered in 2015. The Water Purchase Agreement provides that "SVM agrees to sell SDWC up to 200,000,000 gallons per year [approximately 613.78 AFY] of SVM's surplus water produced from its various wells." However, SDWC reports that the amount of water it purchases each year from SVM varies, depending on demands within SDWC. SDWC reports that in 2018, it purchased 197 AF from SVM. Between 2010 and 2014, SDWC reports it purchased an average of 226 AFY, as reported by SDWC in their annual report. This water is pumped from the Indian Wells Valley Groundwater Basin (IWVGB) and conveyed approximately 30 miles by pipeline to the Searles Valley for potable residential and commercial uses in Trona. PVL's on-site well draws water from the Searles Valley Groundwater Basin.

Potable (Domestic) Water

For potable or domestic water needs, PVL intends to obtain an estimated 1.3 gallons per minute (GPM) or 2.1 AFY of potable water from SDWC. The proposed project domestic water demands are approximately 0.9% of the total groundwater produced from the IWVGB that is delivered to SDWC. As such, the small domestic water demands of the project would be less than significant with the implementation of the following mitigation measure designed to minimize the impact to the IWVGB, which is currently experiencing overdraft conditions, thereby stressing the importance of water conservation.

HYD-1 PVL shall offer Searles Domestic Water Company/Searles Valley Minerals funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its customers to offset 2.1-acre feet of existing potable water demand.

Industrial (Process) Water

PVL has constructed a groundwater well on the project site to supply the 39.9 AFY of water for the process demands. The on-site well is able to provide an estimated 30 gpm of water that will be treated to meet process water quality requirements. To assess the extent and degree of groundwater drawdown in response to project extraction at 30 gpm, a drawdown analysis was conducted (Appendix 5b). The impact analysis is based on continuous pumping rate of 30 gpm (approximately 49 AFY) on a 24-hour per day schedule for a 20-year period. DWR estimated that the groundwater storage capacity of the Searles Valley Groundwater Basin is approximately 2,140,000 AF (DWR, 2004). The test pumping rate of 49 AFY (approximately 10 AFY more than the project's process water needs) represents less than 0.003 percent of the Searles Valley Groundwater Basin storage capacity. As detailed in Appendix 5b, the continuous extraction of water through the new well operation will cause a cone of depression around the well with the highest amount of groundwater drawdown at the new well's location and less impact at distances farther from the well. At the distance of 2,000 ft, the groundwater table will be lowered by 0.5 ft after 20 years of nonstop pumping of the new well. This drop of the water table occurs only in response to this well's operation while the current condition of the water table is the superposition (contribution) of all drawdowns due to all other pumping wells active in the area. At 2,000 ft away from the new well, the groundwater table starts to drop after 10 hours of pumping the new well and the drawdown after 20 years at the same location

is less than 0.5 ft. The results of this analysis indicate the drawdown of water table at the radius of approximately one mile from the well, after 20 years of continuous pumping at 30 gpm, is less than 6 inches. This is shown graphically on Exhibit X-1 below.

Exhibit X-1
DRAWDOWN(S) INFLUENCE OF THE NEW WELL AT THE RADIUS OF 5,000 FT AFTER 20 YEARS



The Groundwater Availability and Impact Analysis provided as Appendix 5b concluded that sufficient groundwater supplies exist in the Searles Valley Groundwater Basin and are quantified as being at least 7,000 AF/year (inflow) flowing beneath the project site. The analysis conducted estimated that the proposed project would utilize approximately 25% more than the 39.9 AFY of water needed for operational purposes. Even at this higher rate, the anticipated groundwater production represents substantially less than 1% of the total amount of groundwater flowing into the Searles Valley Groundwater Basin. The analysis confirmed that pumping of up to 49 AFY from the local aquifer could be maintained by groundwater inflow. Operating the project's on-site well will also have minimal impacts on nearby industrial wells. The predicted drawdown after 20 years of continuous pumping (assuming no recharge) is less than 6 inches at a radius of 5,000 feet. As a comparison, groundwater levels fluctuate seasonally more than 6 inches in this area, as indicated by the Groundwater Availability and Impact Analysis provided as Appendix 5b. Thus, the volume of groundwater proposed for use in support of PVL's operations is not forecast to cause a substantial decrease in groundwater supplies in the Searles Valley Groundwater Basin. Further with the capture of the runoff from the project site and delivery to the on-site detention basin, this project will not substantially impede groundwater recharge or impede sustainable groundwater management in the project area. As such, obtaining water sufficient to meet the project's operational water demands from the on-site well will not cause a significant adverse impact on the Searles Valley Groundwater Basin.

Should SDWC issue a will serve letter to PVL for the project's operational water needs, the 39.9 AFY of water needed would represent a miniscule increase (0.14%) in the average annual volume pumped from the IWVGB, which is about 27,740 AFY.

The State has identified the IWVGB as in "critical overdraft." Based on the recently adopted Sustainable Groundwater Management Plan for the IWVGB, it is anticipated over the course of the next 20 years, many, if not all, groundwater producers in the IWVGB, including SVM, will be required to reduce their production of groundwater to eliminate the condition of critical overdraft no later than 2040. As such, should PVL obtain its process water needs from the IWVGB, mitigation measures **HYD-1 through HYD-3** address and minimize the potentially significant impacts to the IWVGB that may result to a level of less than significant.

- c) i. Result in substantial erosion or siltation on-site or offsite?

Less Than Significant Impact – The proposed project is not anticipated to significantly change the volume of flows downstream of the project site, and would not be anticipated to change the amount of surface water in any water body in an amount that could initiate a new cycle of erosion or sedimentation downstream of the project site. The on-site drainage system will capture the incremental increase in runoff from the project site associated with project development. Runoff will be retained on the project site within the retention pond located at the eastern end of the project site. This system will be designed to intercept the peak 100-year flow rate from the project site or otherwise be retained on site and discharged, consistent with San Bernardino County requirements (Appendix 5a, Hydrology). The downstream drainage system will not be altered and due to on-site drainage improvements, the potential for downstream erosion or sedimentation will be controlled to a less than significant impact level.

- c) ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-site or offsite?

Less Than Significant Impact – The proposed project will alter the existing drainage courses or patterns on-site but will maintain the existing offsite downstream drainage system through control of future discharges from the site, which would prevent flooding on-site or offsite from occurring. The proposed on-site drainage improvements include the installation of a retention pond that will capture all runoff from the site. The site will be designed to direct on-site runoff to the retention pond. This system has been designed to intercept the peak 100-year flow rate from the project site. Thus, the implementation of on-site drainage improvements and applicable requirements will ensure that drainage and stormwater will not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site. Impacts under this issue are considered less than significant with no mitigation required.

- c) iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Less Than Significant Impact – The proposed project will alter and control on-site drainage, improving the existing offsite downstream drainage system, thereby preventing the project from exceeding the capacity of existing or planned stormwater drainage systems and from providing substantial additional sources of polluted runoff. The site will be designed to direct on-site runoff to the retention pond. This system has been designed to intercept the peak 100-year flow rate from the project site. Thus, the implementation of on-site drainage improvements and applicable requirements will ensure that that drainage and stormwater will not create or contribute runoff that would exceed the capacity of existing or planned offsite stormwater drainage systems or provide substantial additional sources of polluted runoff. Impacts under this issue are considered less than significant with no mitigation required.

c) iv. Impede or redirect flood flows?

Less Than Significant Impact – According to the Hydrology Report provided as Appendix 5a, the existing levee is sufficient to divert the 100-year, 24-hour flow from Rockcrusher Canyon west of the project site. As a result, that portion of the project classified as Zone “D” is unlikely to experience a flood hazard. As shown on the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Map (FIRM) #06071C0075H provided as Figure X-1, the project site is partially located within Zone A, which represents an area that can be flooded by the 1% annual chance storm (100-year) and partially within Zone X, which represents an area with a 0.2% annual chance storm (500-year). Zone D represents areas of undetermined flood hazard. As previously stated, the existing levee is sufficient to divert the 100-year, 24-hour flow from Rockcrusher Canyon west of the project site. Furthermore, development of this site is not anticipated to redirect or impede flood flow at the project site, particularly given that drainage on site will be directed to the stormwater retention basin, which will be capable of intercepting the peak 100-year flow rate from the project site. Therefore, impacts under this issue are considered less than significant and no mitigation is required.

- d) *Less Than Significant Impact* – As stated under issue IX(g-h), the proposed project is located adjacent to the Rockcrusher Canyon. According to the Hydrology Report provided as Appendix 5a, the existing levee is sufficient to divert the 100-year, 24-hour flow from Rockcrusher Canyon west of the project site. There are no dams upstream from the project site, and as such, dam inundation is not anticipated to occur at the project site. The project is located more than 135 miles from the Pacific Ocean, therefore, there is no potential for tsunami to occur within the project area. Additionally, though the Searles Lake is located near the project site, Searles Lake is generally a dry lakebed and therefore seiche is not of concern at the project site. As such, given that the levee located adjacent to the project site is sufficient to divert the 100-year, 24-hr flow, and that the project will develop a stormwater retention pond that has been designed to intercept the peak 100-year flow rate from the project site, the proposed project is not anticipated to release pollutants due to project inundation. Therefore, impacts under this issue are considered less than significant and no mitigation is required.

- e) *Less Than Significant With Mitigation Incorporated* – The Searles Valley Groundwater Basin, from which PVL's on-site well will draw water, is not identified as a medium or high-priority basin by DWR and is therefore, not required by the Sustainable Groundwater Management Act (SGMA) to prepare a Groundwater Sustainability Plan (GSP). As such, groundwater production from the Searles Valley Groundwater Basin will not have any impact on a sustainable groundwater management plan and no mitigation is required.

The IWVGB, from which SDWC obtains water for distribution in Trona, is identified as a high-priority basin under SGMA. Accordingly, the Indian Wells Valley Groundwater Authority (IWVGA) prepared a GSP for the IWVGB, dated January 2020, provided as Appendix 5c. The GSP provides, in part, that there is a need to reduce overall groundwater production from the IWVGB and the IWVGA is exploring alternative water supplies to replace the historical reliance on groundwater from the IWVGB. The IWVGA also seeks to encourage conservation plans, noting in particular previously adopted conservation measures to mitigate the conditions of overdraft in the IWVGB. The GSP proposes coordination with domestic and municipal groundwater producers to develop additional voluntary and rebate-based conservation efforts for domestic uses, and suggests promoting additional conservation efforts for industrial uses. The GSP provides that IWVGA will “coordinate with SVM to investigate the potential for and feasibility of conservation in the industrial water uses of SVM,” and “[i]f SVM's use of recycled and/or brackish water is determined to be feasible, the IWVGA will construct new facilities for production and conveyance of recycled and/or brackish water to SVM, as well as all necessary retrofits to SVM's existing potable water facilities. The IWVGA will also coordinate with Searles Valley Minerals Inc. to investigate the potential for and feasibility of accepting recycled water for use in Searles Valley Minerals' industrial water uses.” This plan has just been recently adopted and as such, many of the implementing actions have not been established. In the

event that PVL obtains water sufficient to meet its process water needs from SDWC and the IWVGB, the following mitigation measure shall be implemented:

HYD-2 *Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site.*

HYD-3 *Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.*

The analysis of total water consumption and effects indicates that the proposed project's total water demand for domestic and operational needs will be less than significant, with implementation of mitigation measures to the extent the project obtains process water from the IWVGB through SDWC.

Furthermore, the proposed project is required to comply with the Water Quality Standards outlined in the Basin Plan for the Lahonton RWQCB. By controlling water quality during construction and operations through implementation of short-term SWPPP and drainage study design requirements at the site, as well as implementation of Mitigation Measures **HYD-2** through **HYD-3** (in the event process water is provided by SDWC), the project will have a less than significant potential to conflict with the applicable Groundwater Sustainability Plan.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
XI. LAND USE AND PLANNING: Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XI. LAND USE AND PLANNING

SUBSTANTIATION:

- a) *Less Than Significant Impact* – The proposed project consists of one parcel of land, designated and zoned for Regional Industrial (IR) use by San Bernardino County. The surrounding uses in three directions are Industrial related, while the use to the north is a Floodway beyond which is land designated for Resource Conservation (RC) use. Given that the surrounding area consists primarily of industrial land uses, and the entirety of the proposed project site was previously used as an boiler ash disposal landfill that is currently vacant, development of the site as the PVL Lime Plant is not anticipated to physically divide an established community. Impacts under this issue are considered less than significant and no mitigation is required.
- b) *Less Than Significant With Mitigation Incorporated* – Please refer to the discussion under XI(a) above. The proposed project site is zoned for industrial use, and the proposed project would develop an industrial use. However, the proposed project requires a major variance because the project exceeds the maximum height restrictions for the Regional Industrial zone classification. The proposed features that would exceed this restriction would be tall, but not wide, emissions stack and the County General Plan and General Plan EIR do not identify the Trona area as containing scenic resources. However, in order to prevent environmental impacts to the surrounding scenery, the project shall implement mitigation measure **AES-1**, which would ensure that the PVL Lime Plant development blends in with the mountainous viewshed to the north. Therefore, since the County is considering the major variance at this project site, and since the proposed use is similar to the surrounding industrial development, it is not anticipated that the proposed project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No further mitigation is required.

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. MINERAL RESOURCES: Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. MINERAL RESOURCES

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

- a) *No Impact* – The proposed project is located on a site which formerly contained a boiler ash disposal landfill, and as such, does not contain important minerals resources. Furthermore, the proposed project involves the development of a lime processing plant (the PVL Lime Plant), which in and of itself will allow the site to generate product from mineral resources driven in from an existing nearby limestone mine. The mine and mining activities are not a part of the project. Therefore, the development of the site is not anticipated to result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. No impacts are anticipated and no mitigation is required.

- b) *No Impact* – The County of San Bernardino states the following in regards to mineral resource goals:

In areas containing valuable mineral resources, establish and implement conditions, criteria, and standards that are designed to protect the access to, and economic use of, these resources, provided that the mineral extraction does not result in significant adverse environmental effects and that open space uses have been considered for the area once mining operations cease.

The County's General Plan indicates that mining and processing of mineral resources is valuable to the County so long as a significant environmental effect does not occur. The proposed PVL Lime Plant would not result in a significant impact under any of the Initial Study Checklist Topics, provided mitigation measures are implemented. As state above, the proposed project site does not contain any known mineral resources as it previously served as a boiler ash disposal landfill. The proposed project would bring in limestone from a mining operation nearby and process it into lime products. As such, the development of the proposed PVL Lime Plant at the proposed site would not result in the loss of any available locally important resource recovery site delineated on a local general plan, specific plan or other land use plan, as no such delineations of this site are known. No impacts under this issue are anticipated and no mitigation is required.

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. NOISE: Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of a project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. NOISE

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

Background

Noise is generally described as unwanted sound. The proposed PVL Lime Plant will be an industrial lime production plant. Lime products are manufactured by heating natural limestone in a high temperature kiln. This has the effect of converting the limestone into high value lime products. The project includes construction of the PVL Lime Plant and installation of utilities (to be performed by the utility provider) within and adjacent to Athol Street in order to provide utility infrastructure to the project. The proposed project is located in a highly industrial area with very few residential uses in the immediate vicinity. The nearest sensitive residential receptor to the utility installation alignment (along Athol Street) is more than 950 feet from the alignment at any point in which construction will occur. The nearest sensitive residential receptor to the PVL Lime Plant site is more than 2,220 feet from any point within the site. The nearest sensitive residential receptor to the proposed natural gas pipeline is adjacent to the alignment or within 50 feet of the proposed natural gas pipeline at various points along First Street.

The unit of sound pressure ratio to the faintest sound detectable to a person with normal hearing is called a decibel (dB). Sound or noise can vary in intensity by over one million times within the range of human hearing. A logarithmic loudness scale, similar to the Richter scale for earthquake magnitude, is therefore used to keep sound intensity numbers at a convenient and manageable level. The human ear is not equally sensitive to all sound frequencies within the entire spectrum. Noise levels at maximum human sensitivity from around 500 to 2,000 cycles per second are factored more heavily into sound descriptions in a process called "A-weighting," written as "dBA."

Leq is a time-averaged sound level; a single-number value that expresses the time-varying sound level for the specified period as though it were a constant sound level with the same total sound energy as the time-varying level. Its unit of measure is the decibel (dB). The most common averaging period for Leq is hourly.

Because community receptors are more sensitive to unwanted noise intrusion during more sensitive evening and nighttime hours, state law requires that an artificial dBA (A-weighted decibel) increment be added to quiet time noise levels. The State of California has established guidelines for acceptable

community noise levels that are based on the Community Noise Equivalent Level (CNEL) rating scale (a 24-hour integrated noise measurement scale). The guidelines rank noise land use compatibility in terms of "normally acceptable," "conditionally acceptable," and "clearly unacceptable" noise levels for various land use types. The State Guidelines, Land Use Compatibility for Community Noise Exposure, single-family homes are "normally acceptable" in exterior noise environments up to 60 dB CNEL and "conditionally acceptable" up to 70 dB CNEL based on this scale. Multiple family residential uses are "normally acceptable" up to 65 dB CNEL and "conditionally acceptable" up to 70 CNEL. Schools, libraries and churches are "normally acceptable" up to 70 dB CNEL, as are office buildings and business, commercial and professional uses with some structural noise attenuation.

- a) *Less Than Significant With Mitigation Incorporated* – Though proposed project site is located in a rural area, the background noise is moderate to high because of the industrial operations surrounding the proposed project, including the SVM operation, which is just southeast of the project site. Roadway noise in the vicinity of the PVL Lime Plant site is minimal, and roadway traffic along Athol Street is minimal. The main source of roadway noise in the vicinity of the proposed project is along Trona Road, which is the main roadway that provides access to Trona and Searles Valley. Background noise is anticipated to be at or lower than the San Bernardino Development Code noise standard for Industrial uses (70 dBA 24 hours a day). The proposed project site previously served as a boiler ash disposal landfill, which would have contributed noise to the setting in which the site is located.

Short Term Construction Noise

Short-term construction noise impacts associated with the proposed project will occur in phases as the project site is developed. The earth-moving sources are the noisiest type of equipment typically ranging from 82 to 85 dB at 50 feet from the source. Temporary construction noise is exempt from the County Noise Performance Standards between 7:00 a.m. and 7:00 p.m., except Sundays and Federal holidays. The proposed project would be constructed in compliance with the County's Noise Performance Standards, and therefore construction of the project would be less than significant. However, to minimize the noise generated on the site to the extent feasible, the following mitigation measures shall be implemented:

- NOI-1** *All construction vehicles and fixed or mobile equipment shall be equipped with properly operating and maintained mufflers.*
- NOI-2** *All employees that will be exposed to noise levels greater than 75 dB over an 8-hour period shall be provided adequate hearing protection devices to ensure no hearing damage will result from construction activities.*
- NOI-3** *No construction activities shall occur during the hours of 7 PM through 7 AM, Monday through Friday, and 5 PM to 9 AM Saturdays; at no time shall construction activities occur on Sundays or holidays, unless a declared emergency exists.*
- NOI-4** *Equipment not in use for five minutes shall be shut off.*
- NOI-5** *Equipment shall be maintained and operated such that loads are secured from rattling or banging.*
- NOI-6** *Construction employees shall be trained in the proper operation and use of equipment consistent with these mitigation measures, including no unnecessary revving of equipment.*
- NOI-7** *The County will require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will*

be accomplished by random field inspections by applicant personnel during construction activities with copies of the report filed with the County Planning Department. The Report shall be filed with the County within a 72 hour period.

NOI-8 Construction staging areas shall be located as far from adjacent sensitive receptor locations as possible, for example near the north- or south-west corners of the project site.

Long-Term Operational Noise

During operation of the proposed project, noise generated from the PVL Lime Plant will be greater than that which exists at the former boiler ash disposal landfill at present. The proposed project will operate 24 hours a day, though it is anticipated that the proposed project will not exceed the Industrial Noise Standards, particularly given the great distance at which the nearest sensitive receptor is located. Noise attenuates at a rate of approximately 6 to 7 decibels per doubling of distance, and much like construction noise, equipment required to operate the PVL Lime Plant will generate some noise, anticipated to range from approximately 75 dBA to 85 dBA at 50 feet from the source. Given the distance from the nearest residence to the area in which the PVL Lime Plant operations will occur, the noise environment at the nearest resident will be well within the levels deemed acceptable by the County of San Bernardino. According to the County of San Bernardino Development Code, the maximum acceptable stationary noise level at Residential land uses between the hours of 7 a.m. and 10 p.m. is 55 dBA, and 45 dBA between the hours of 10 p.m. and 7 a.m. Additionally, the San Bernardino County Development Code has standards for adjacent mobile noise sources: Interior 45 (day-night average sound level (Ldn) dBA and Exterior 60 Ldn dBA. The proposed project is anticipated to generate noise in the evenings, and during the daytime, but as previously stated, it is anticipated that the nearest sensitive receptor will not experience noise disturbance at a level greater than the standards outlined in the San Bernardino County Development Code. Therefore, through the implementation of the mitigation measures identified above, neither operation or construction of the proposed project would violate noise standards outlined in the San Bernardino County Development Code. Impacts under this issue are considered less than significant with mitigation incorporated.

- b) ***Less Than Significant Impact*** – Vibration is the periodic oscillation of a medium or object. The rumbling sound caused by vibration of room surfaces is called structure borne noises. Sources of groundborne vibrations include natural phenomena (e.g. earthquakes, volcanic eruptions, sea waves, landslides) or human-made causes (e.g. explosions, machinery, traffic, trains, construction equipment). Vibration sources may be continuous or transient. Vibration is often described in units of velocity (inches per second), and discussed in decibel (VdB) units in order to compress the range of numbers required to describe vibration. Vibration impacts related to human development are generally associated with activities such as train operations, construction, and heavy truck movements.

The background vibration-velocity level in residential areas (from ongoing activities in a residential area such as cars driving by, etc.) is generally 50 VdB, while the groundborne vibration directly adjacent to an industrial facility requiring movement of heavy machinery might be greater. Groundborne vibration is normally perceptible to humans at approximately 65 VdB, while 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible. Construction activity can result in varying degrees of groundborne vibration, but is generally associated with pile driving and rock blasting. Other construction equipment, such as air compressors, light trucks, hydraulic loaders, etc. generates little or no ground vibration. The San Bernardino County Development Code offers minimal guidance on Vibration. San Bernardino County Development Code 83.01.090 provides guidance regarding how vibration should be measured and offers the following Standard:

(a) Vibration standard. No ground vibration shall be allowed that can be felt without the aid of instruments at or beyond the lot line, nor shall any vibration be allowed which produces a particle velocity greater than or equal to two-tenths (0.2) inches per second measured at or beyond the lot line.

Construction is exempt from vibration regulations during the hours of 7 AM and 7 PM. As such, vibration related to construction activities will be less than significant because the project will limit construction to these hours. Operational vibration is anticipated to be less than significant given that there are no large pieces of heavy machinery that would operate at or near the property line. Therefore, any vibration generated within the site is not anticipated to be felt beyond the lot line. Therefore, any impacts under this issue are considered less than significant. No mitigation is required.

- c) No Impact – According to a review of Google Maps (1/22/19) the Project site is not located within 2 miles of an airport or private airstrip. The closest airport is the Trona Airport located approximately 4 miles northeast of the project site at 15490 Trona Airport Rd, Trona, CA 93562. Given that the proposed project is not located within an airport land use plan and the property's distance to the nearest airport, construction and operation of the project is not anticipated to result in exposure of people working or residing in the area to excessive noise levels. As such, no impacts are anticipated and no mitigation is required.

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. POPULATION AND HOUSING: Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. POPULATION AND HOUSING

SUBSTANTIATION:

- a) *Less Than Significant Impact* – The proposed PVL Lime Plant is anticipated to employ about 30 persons once in operation and require a temporary construction work force of approximately 48 persons. It is unknown whether the new employees will be drawn from the general area or will bring new residents to the project area, but it is anticipated that many of the employees will reside in Trona, which is an unincorporated area in San Bernardino County. According to SCAG, the total population within unincorporated San Bernardino County was 309,759 persons in 2016⁸, or 14.5% of the overall County population of 2,139,570. According to the County of San Bernardino General Plan, the population within the County is anticipated to grow to 2,830,000 by 2020⁹, which can be translated to an approximate unincorporated population of 410,350 ($0.145 \times 2,830,000 = 410,350$) by 2020. Therefore, the proposed project would create a potential for 30 more opportunities for employment, which is only an increase in population of 0.0073% if each of the 30 new workers are new residents to unincorporated San Bernardino County. Given that the County General Plan indicates that the planned population is anticipated to grow by 100,591 from the 2016 population, the potential increase in residents is well within the planned population growth within unincorporated San Bernardino County. Additionally, it is not anticipated that the project would result in indirect growth within the area as development of the PVL Lime Plant would not create additional infrastructure beyond that which is required to connect the project to utilities. The proposed project is not such that indirect population growth would occur, particularly given the minimal population that exists within the Trona area and the existing industrial mining operations that provide employment opportunities. Thus, based on the type of project (industrial lime processing plant) and the small increment of potential additional population generated by project implementation, the proposed project will not induce substantial population growth either directly or indirectly.
- b) *No Impact* – There are no residences within the project site, as the project site is vacant and previously served as a boiler ash disposal landfill. No persons currently reside on the site or within the utility corridors and therefore, implementation of the proposed project will not displace substantial numbers of existing housing, or persons necessitating the construction of replacement housing elsewhere. Thus, no impacts will occur and no mitigation is required.

⁸ <https://www.scag.ca.gov/Documents/UnIncAreaSanBernardinoCounty.pdf>

⁹ <http://www.sbcounty.gov/Uploads/lus/GeneralPlan/FINALGP.pdf>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
XV. PUBLIC SERVICES: Will the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

XV. PUBLIC SERVICES

SUBSTANTIATION:

- a) *Less Than Significant Impact* – The San Bernardino County Fire Department (SBCFD) provides fire protection and emergency medical services for the community of Trona. The proposed project is located within a rural area with a very small population (under 2,000 persons live in the community of Trona). The nearest fire station to the proposed project is San Bernardino County Fire Station #57, located at 83732 Trona Road, located approximately 0.5 mile east of the project site at Athol Street and Trona Road. The PVL Lime Plant has minimal potential for random fire events during operations, but will be served by fire equipment at Station #57 that is available to combat a fire that should one occur during operation of the PVL Lime Plant. It would take less than 3 minutes for SBCFD to reach the site from Station #57. Based on the above information, the proposed project does not pose a significant fire hazard, nor is the proposed project forecast to cause a significant demand for fire protection services. The County will require standard building construction techniques for the new structures to minimize fire hazard, and standard conditions will be imposed to ensure adequate fire flow at the new facilities. These requirements are considered adequate measures to prevent any significant impacts. Thus, no mitigation is required.
- b) *Less Than Significant Impact* – The community of Trona receives police services through the San Bernardino County Sheriff's Department. The Department enforces local, state, and federal laws; performs investigations and makes arrests; administers emergency medical treatment; and responds to County emergencies. The Barstow Patrol Station, located at 13215 Market St, Trona, manages the Trona substation, which is about 0.5 mile south / southwest of the proposed project site. The corporal and two patrol deputies assigned to this "resident post" handle calls in the many small desert communities in the northwest corner of San Bernardino County. Sheriff's Volunteers from the Trona Citizens on Patrol assist the deputies. According to the San Bernardino County Sheriff website,¹⁰, because of the remote area, the deputies often work with other agencies (including but not limited to the California Highway Patrol, Ridgecrest Police Department, Kern County Sheriff's Office, Inyo County Sheriff's Office, CDFW, U.S. Bureau of Land Management (BLM), China Lake Police Department, California Department of Corrections, and the U.S. National Park Service from Death

¹⁰ <http://wp.sbcounty.gov/sheriff/patrol-stations/barstowtrona/>

Valley) to successfully handle the many tasks needed to keep the area safe. The proposed project will not include the kind of uses or activities that would likely attract criminal activity, except for random trespass and/or theft; however, any random trespass is unlikely given that the facility will be fenced to control access and the type of activities proposed would not typically attract criminal activities. Therefore, due to the proposed use of the project site, implementation of the proposed project would not substantially increase the demand for law enforcement services beyond that already existing at the project site.

- c) *Less Than Significant Impact* – The proposed project is anticipated to employ a maximum of 30 persons. The project is not anticipated to generate any new direct demand for the area schools. The proposed project may place additional demand on school facilities, but such demand would be indirect and speculative. The Trona area is served by the Trona Joint Unified School District. The closest residence to the proposed project is about 2,100 ft from the PVL Lime Plant site boundary, while the closest school –Trona Elementary School & Trona High School– is about 2,570 ft from the site boundary. The State of California requires a portion of the cost of construction of public schools to be paid through a fee collected on residential, commercial, and industrial developments. The development impact fee mitigation program of the Trona Joint Unified School District adequately provides for mitigating the impacts of the proposed project in accordance with current state law. Since this is a mandatory requirement, no further mitigation measures are required to reduce school impacts caused by the proposed project to a less than significant level.
- d) *Less Than Significant Impact* – The proposed project will not directly add to the existing demand on local recreational facilities. The project will develop a lime processing plant which will result in the creation of approximately 30 new jobs. The project is not anticipated to generate any new direct demand for parks within the County, as this project would have a minimal potential to induce population growth within the County. Other than sports facilities located at area schools, which are open to the public when not in use by the schools, there are no parks within the community of Trona. The project will contribute to the County's General Fund through payment of property and sales tax, which is considered sufficient to offset any impacts to parks that result from implementing the project. Additionally, the project will contribute property and sales taxes to the general fund to offset the minimal potential for increased demand for park and recreation services within the County that may result from implementation of the proposed project. Thus, the proposed project will have a less than significant impact to parks and recreation facilities.
- e) *Less Than Significant Impact* – Other public facilities include library and general municipal services. Since the project will not directly induce substantial population growth, it is not forecast that the use of such facilities will substantially increase as a result of the proposed project. The project will contribute to the County's General Fund through payment of property and sales tax, which is considered sufficient to offset any impacts to other public facilities as a result of implementing the project. Thus, any impacts under this issue are considered less than significant and no mitigation is required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
XVI. RECREATION:				
a) Will the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVI. RECREATION

SUBSTANTIATION:

- a) *Less Than Significant Impact* – As addressed in the discussion under XIV above, the proposed project does not include a use that would substantially induce population growth. As stated in the discussion under Population and Housing, the project would create approximately 30 jobs at the new PVL Lime Plant; however, it is unknown what portion of the employees will be new residents. The proposed project will contribute to the County's General Fund through payment of property and sales tax. Given that the proposed PVL Lime Plant would not induce substantial population growth, and the availability of open space and BLM land for recreational use in the surrounding area, the project is not anticipated to result in a substantial increase in the use of existing park and recreation facilities. Therefore, any impacts under this issue are considered less than significant. No mitigation is required.
- b) *No Impact* – The previous use at the proposed project site was a boiler ash disposal landfill, which did not include any recreational facilities. The proposed PVL Lime Plant will not require the development or expansion of recreational facilities. Therefore, the proposed project is not anticipated to cause an adverse physical effect on the environment as a result of construction or expansion of recreational facilities.

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

XVII. TRANSPORTATION

SUBSTANTIATION:

- a) *Less Than Significant Impact* – The proposed project is located within the community of Trona within San Bernardino County. The proposed project is located along Athol Street, and will include utility connections that would be installed within: Athol Street, a corridor that aligns with First Street southwest of the proposed project, and a portion of First Street. The San Bernardino County Transportation Authority 2016 Congestion Management Program¹¹ indicates the Level of Service (LOS) of SR-178 from County Line to a Culvert at 35.645711^o, 117.522009^o East Bound and West Bound are operating at a LOS of “B” for both AM and PM peak hours. The County of San Bernardino considers a LOS of “E” to be unacceptable.

Construction activity will require an average of about 27 trips per day for a period of about 350 working days, though the amount will vary between 0 to 50 truck trips per day depending on the type of activities occurring on site. The average daily traffic during operation of the proposed project would be about 127 trips per day, this includes employee vehicle trips, lime stone trucks trips to kiln, and lime truck trips to market. The construction traffic is considered minimal and not anticipated to lower the LOS levels within this roadway segment or surrounding segments to an unacceptable level. Given that the proposed project would utilize Trona Road and SR-178 as a primary route to and from the project site while in operation, it is not anticipated that the addition of 127 trips per day along this highway would result in a decrease in LOS to an unacceptable LOS. It is anticipated that the acceptable levels of service of these roadways will be maintained with implementation of the proposed project. Therefore, implementation of the project has a less than significant potential to conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system. No mitigation is required.

- b) *Less Than Significant Impact* – The proposed project involves the development of a lime plant in the community of Trona, which is part of the County of San Bernardino. The San Bernardino County has not yet developed a threshold for vehicle miles travelled. However, the proposed project has demonstrated throughout this environmental document that the development of the proposed PVL Lime Plant within the state of California would reduce overall vehicle miles travelled required to take lime products to market. The PVL Lime Plant outputs, which consists of quicklime, hydrated lime, and a very low volume of limestone fines will be delivered to customers throughout the southwestern United States by 25-ton trucks. The customer base is large and diverse with the focus being on Southern

¹¹ <http://www.gosbcta.com/sbcta/plans-projects/CMP/CMP16-Complete-061416.pdf>

California, but some shipments will go to neighboring states. Given that there are currently no lime plants within the state of California, the development of a lime plant within the state to serve customers within the state who are currently receiving lime product from outside of the state, would result in less vehicle miles travelled to deliver the lime outputs to in-state customers. Therefore, development of the PVL Lime Plant is not anticipated to result in significant impact related to vehicle miles travelled, and thus would not conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b). Impacts under this issue are considered less than significant.

- c) *Less Than Significant With Mitigation Incorporated* – The proposed project is located along Athol Street, which is a local roadway that intersects with Trona Road, the major roadway through Searles Valley. The project will temporarily alter the existing roadway (Athol Street and First Street) during construction of the proposed utility connections required to operate the proposed project. However, this alteration will not create any hazards due to design features of incompatible uses. In the short term, construction of the utilities within Athol Street and First Street has the potential to disrupt traffic. To mitigate the potential impacts to traffic flow, the following mitigation measure shall be implemented:

TRAN-1 The construction contractor will provide adequate traffic management resources, as determined by San Bernardino County. The County shall require a construction traffic management plan for work in public roads that complies with the Work Area Traffic Control Handbook, or other applicable standards, to provide adequate traffic control and safety during excavation activities. At a minimum, this plan shall include the following:

- a) Methods to minimize the amount of time spent on construction activities;***
- b) Methods to minimize disruption of vehicle and alternative modes of transport traffic at all times, but particularly during periods of high traffic volumes;***
- c) Methods to maintain safe traffic flow on local streets affected by construction at all times, including through the use of adequate signage, protective devices, flag persons or police assistance to ensure adequate traffic flow;***
- d) Identification of alternative routes, if necessary, that can meet the traffic flow requirements of a specific area, including communication (signs, webpages, etc.) with drivers and neighborhoods where construction activities will occur; and***
- e) Identification of methods or procedures to ensure that at the end of each construction day roadways shall be prepared for continued utilization without any significant roadway hazards remaining.***

TRAN-2 The County shall require that all disturbances to public roadways maintained by the County be repaired in a manner that complies with the Standard Specifications for Public Works Construction (green book) or other applicable Caltrans or County standard design requirements.

Upon implementation of a construction traffic management plan, any potential increase in hazards due to design features or incompatible use will be considered less than significant in the short term. In the long term, no impacts to any hazards or incompatible uses in existing roadways are anticipated because once the utilities are constructed, the roadway will be returned to its original condition, or better. Operation of the proposed Lime Plant would be similar to the surrounding uses, and the design of the project would not create any hazards to surrounding roadways. Thus, any impacts are considered less than significant with implementation of mitigation. No additional mitigation is required.

- d) *Less Than Significant With Mitigation Incorporated* – The proposed project consists of activities that will take place along Athol Street and First Street in the community of Trona. Trucks travelling to and from the project site would utilize Trona Road/SR-178 to access the site by way of Athol Street. Access to the site is adequate and the nearest emergency response station is located just east of the project site at Trona Road and Athol Street. Additionally, according to the San Bernardino General Plan, no known emergency access plans or routes or emergency response or evacuation plans will be affected by this project in the short- or long-term. With implementation of mitigation measures **TRAN-1** and **TRAN-2**, the adequate emergency access along Athol Street and First Street will be maintained. Because of the lack of adverse impacts on local circulation, no potential for significant impacts on emergency access are forecast to occur during construction or operation. No further mitigation is required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
XVIII. TRIBAL CULTURAL RESOURCES: Will the project:				
a) Would the project cause a substantial change in the significance of tribal cultural resources, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to the California Native American Tribe, and that is?				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XVIII. TRIBAL CULTURAL RESOURCES

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

A Tribal Resource is defined in the Public Resources Code section 21074 and includes the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe that are either of the following: included or determined to be eligible for inclusion in the California Register of Historical Resources or included in a local register of historical resources as defined in subdivision (k) of Section 5020.1;
- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purpose of this paragraph, the lead agency shall consider the significance of the resources to a California American tribe;
- A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape;
- A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "non-unique archaeological resource" as defined in

subdivision (h) of Section 21083.2 may also be a tribal resource if it conforms with the criteria of subdivision (a).

- a)i-ii *Less Than Significant With Mitigation Incorporated* – The project site is located within the community of Trona, which is part of San Bernardino County. The County has been contacted pursuant to Public Resources Code section 21080.3.1 by the following California Native American tribes that are traditionally and culturally affiliated with the County of San Bernardino: Fort Mojave Indian Tribe, Colorado River Indian Tribe, Morongo Band of Mission Indians, and Twenty-Nine Palms Band of Mission Indians. The AB 52 consultation letters were sent out to the above tribes on August 2, 2019. During the 30-day consultation period that concluded on September 2, 2018, two tribes submitted responses: the Twenty-Nine Palms Band of Mission Indians and the Morongo Band of Mission Indians. The Morongo Band of Mission Indians responded on August 7, 2019 that they had no additional information to provide regarding this project and did not request to consult. The Twenty-Nine Palms Band of Mission Indians responded on August 13, 2019, requesting a copy of the cultural report. The letter stated that the Twenty Palms Band of Mission Indians Tribal Historic Preservation Office is not aware of any tribal resources in the area, though the Tribe may provide further recommendations based on their review of the Cultural Resources Study. E-mail correspondence with the Tribe establishing a meeting time to discuss the Project on October 16, 2019 did not receive a response. No further mitigation beyond mitigation measure **CUL-1** is required to minimize impacts to Tribal Cultural Resources. Impacts under these issues are considered less than significant with the implementation of mitigation.

CUL-1 *Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the on-site archaeological professional, who is acceptable to the County and retained by the applicant. The archaeological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.*

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIX. UTILITIES AND SERVICE SYSTEMS: Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment, or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

XIX. UTILITIES AND SERVICE SYSTEMS

SUBSTANTIATION:

a) Water

Less Than Significant Impact –The proposed project will require the installation of a water conveyance pipeline to reach the site. The water utility that serves the project area, SDWC, would install this pipeline within Athol Street at a location west of the intersection of Athol Street and Trona Road, extending generally west to the boundary of the project site. The installation of this pipeline underground would not cause any significant environmental effects and, as discussed under issue X(b) of this document, the water system will not require expansion of existing water facilities beyond the construction of the conveyance pipeline to the proposed project. Therefore, development of the PVL Lime Plant would not result in a significant environmental effect related to the relocation or construction of new or expanded water facilities. Impacts are less than significant.

Wastewater

Less Than Significant Impact – Due to the rural nature of the community of Trona, the proposed project will not be connected to any municipal wastewater treatment system, because none exist in the project area. The project will develop a septic system on site to provide restroom facilities for employees and visitors. The project will be required to comply with the San Bernardino County standards for septic tank installations. Once the new septic tank has been constructed and is in use, it would be self-contained and will not require treatment at a wastewater treatment facility. Therefore, the development of the septic system required to dispose of wastewater at the site is not anticipated to result in a significant environmental effect. Impacts are less than significant.

Stormwater

Less Than Significant Impact – The surface water runoff from the project site will be managed in accordance with the approved SWPPP and consistent with the criteria contained in the approved Drainage/Hydrology Study, as discussed in the Hydrology and Water Quality Section (Section X) of this Initial Study. The on-site drainage will capture the incremental increase in runoff from the project site associated with project development. Runoff will be detained within the on-site retention pond located at the eastern end of the project site. This system will be designed to intercept the peak 100-year flow rate from the project site or otherwise be detained on site and discharged in conformance with San Bernardino County requirements (Appendix 5a, Hydrology). Therefore, surface water will be adequately managed on site and as such, development of the PVL Lime Plant would not result in a significant environmental effect related to the relocation or construction of new or expanded stormwater facilities. Impacts are less than significant.

Electric Power

Less Than Significant Impact – Development of the PVL Lime Plant would require construction underground electrical conduits along Athol Street. SCE has agreed to develop the new connections. SCE is expanding and upgrading its transmission and distribution networks to meet the region's growing demand for electricity, and improve grid performance, while meeting California's ambitious renewable-power goals. As such, it is anticipated that SCE would have ample power supply to serve the project without the need for additional electrical capacity. Development of the underground conduits along Athol Street would not result in a significant environmental effect related to the relocation or construction of new or expanded energy facilities. Impacts are less than significant.

Natural Gas

Less Than Significant Impact – Development of the PVL Lime Plant will require construction of a new gas pipeline within First Street and a corridor that aligns with First Street to connect to the project site at the western boundary. The installation of this pipeline underground would not cause any significant environmental effects, and the natural gas required for this project will not require expansion of existing facilities beyond the construction of the conveyance pipeline to the proposed project. Therefore, development of the PVL Lime Plant would not result in a significant environmental effect related to the relocation or construction of new or expanded natural gas facilities. Impacts are less than significant.

Telecommunications

No Impact – Development of the PVL Lime Plant would require installation of wireless internet service that would also serve as phone service. This will be accomplished through the installation of a satellite dish or local wi-fi receiver to receive the signal required for wireless internet service. This effort would not result in a significant environmental effect related to the relocation or construction of new or expanded telecommunication facilities. No impacts are anticipated.

- b) *Less Than Significant With Mitigation Incorporated* – Please refer to the discussion under Hydrology, Section X(b). The proposed project intends to utilize potable water from SDWC for its domestic water needs. PVL also seeks to obtain its operational water from SDWC; however, PVL has drilled an on-site well to provide its operational water. To use water from the on-site well, PVL must install a treatment system to clean the water to potable or near potable levels for its various operational needs. Should SDWC provide water sufficient to meet all of PVL's domestic and operational needs, the amount of water at issue would represent 18.5% of the SDWC average volume utilized per year: 226 AF (reflective of an average yearly volume of water use between 2010 and 2014, as reported by SDWC in their annual report). If SDWC supplies only the domestic water for the project, this will represent an increase in only 0.93% of the recent average SDWC volume. As such, the impacts of relying on the on-site well will have no significant impact and the impacts of relying on the water from SDWC will be less than significant with the implementation of mitigation measures **HYD-1 through HYD-3**. As such, a sufficient water supply exists to meet the project's requirements.

- c) *No Impact* – The project area does not presently have a wastewater treatment collection system or treatment provider. The project will develop a septic system on site to provide restroom facilities for employees and visitors. The Project will be required to comply with the San Bernardino County standards for septic tank installations. Once the new septic tank has been constructed and is in use, it would be self-contained and will not require treatment at a wastewater treatment facility. Therefore, there is no potential to adversely impact a wastewater treatment provider. No mitigation is required.
- d&e) *Less Than Significant Impact* – The proposed project will generate demand for solid waste service and has a minimal potential to contribute to potentially significant cumulative demand impacts on the solid waste system. Solid waste generation rates outlined on the CalRecycle¹² website indicate solid waste generation rates of 3 lbs. per employee per 1,000 SF per day or 622.38 lbs. per day for the proposed PVL Lime Plant project. The total solid waste generated per year would equal about 113.59 tons or after an assumed 50% diversion to be recycled per the state's solid waste diversion requirements under AB 939, the project solid waste generation will be about 56.80 tons per year.

The Trona-Argus Transfer Station serves the project area for waste disposal. The Applicant will be responsible for hauling solid waste to the Trona-Argus Transfer Station. The Transfer station can accept 88 tons per day, with a maximum permitted capacity of 352 tons on site at any given time. This facility transfers waste to other County facilities or other nearby landfills, such as the Ridgecrest Sanitary Landfill, which has a maximum permitted capacity of 10,500,000 cubic yards (CY) and a remaining capacity of about 5,037,428 CY according to the CalRecycle website for this landfill.¹³ The Ridgecrest Sanitary Landfill accepts a maximum of 701 tons per day. The proposed project is not anticipated to generate much construction waste as there are no structures on site that would require demolition and the Applicant intends to balance the soils on site. As demonstrated above, it is anticipated that operation of the project would generate about 56.80 tons per year, which represents 0.022% of the Ridgecrest Sanitary Landfill's maximum permitted capacity per year. The project is anticipated to generate about 0.31 tons per day or about 0.35% of the Trona Transfer Station's maximum daily throughput. This is a miniscule percentage of the available throughput, and as such, the proposed project is not anticipated to generate solid waste in excess of State or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. Furthermore, any hazardous materials collected on the project site during either construction of the Project will be transported and disposed of by a permitted and licensed hazardous materials service provider. Therefore, the project is expected to comply with all regulations related to solid waste under federal, state, and local statutes. Impacts under these issues are considered less than significant. No further mitigation is necessary.

¹² <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>

¹³ <https://www2.calrecycle.ca.gov/SWFacilities/Directory/15-AA-0059/Detail/>

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

XX. WILDFIRE

SUBSTANTIATION:

- a) *Less Than Significant With Mitigation Incorporated* – The proposed project is located adjacent to U.S. BLM land, though it is not located within an area classified as a very high fire hazard severity zone. The San Bernardino County Land Use Plan General Plan Hazard Overlay Map (Figure IX-7) indicates that the proposed project is not located within a fire safety boundary (overlay district). Furthermore, it would take less than 3 minutes for SBCFD to reach the site from Station #53 which is located just east of the project site. As stated under previous sections, the proposed project would require installation of natural gas and possibly water pipeline within Athol Street, which would require a construction traffic management plan that would be implemented through mitigation measure **TRAN-1** to ensure adequate traffic flow along Athol Street and within First Street when these pipelines are being constructed. As such, given that the proposed project is not located in or near a state responsibility area or land classified as very high fire hazard severity zone, it is not anticipated that the proposed project would substantially impair an adopted emergency response plan or emergency evacuation plan.
- b) *No Impact* – As stated under issue XX(a) above, the proposed project is not located in or near a state responsibility area or land classified as very high fire hazard severity zone. Furthermore, the proposed project is adjacent to a mountain range with no fuel that would sustain a wildfire. Therefore, based on the project location and the surrounding setting, the proposed project would have no potential to expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire due to slope, prevailing winds, and other factors. No Impacts are anticipated and no mitigation is required.
- c) *No Impact* – As stated under issue XX(a) above, the proposed project is not located in or near a state responsibility area or land classified as very high fire hazard severity zone. Furthermore, the proposed project is adjacent to a mountain range with no fuel that would sustain a wildfire. The project will require the installation of electricity pole lines along Athol Street, installation of a natural

gas pipeline within First Street, and possibly the installation of a water pipeline within Athol Street. Athol Street within the project footprint is adjacent to a levee which allows for a break between the roadway and the BLM land that makes up the mountain range just north of the project site. Furthermore, First Street and the corridor beyond it, within which the natural gas pipeline will be installed is removed from the mountains, and contains limited vegetation. Therefore, given the location of the roadways within which and adjacent to which the required utilities will be installed, it is not anticipated that the proposed project would exacerbate fire risk or that may result in temporary or ongoing impacts to the environment. No impacts are anticipated under this issue.

- d) *Less Than Significant Impact* — As stated under issue XX(a) above, the proposed project is not located in or near a state responsibility area or land classified as very high fire hazard severity zone. Furthermore, the proposed project is adjacent to a mountain range with no fuel that would sustain a wildfire. The proposed project is separated by a floodway/levee from the nearby mountain range. It is not anticipated that the adjacent mountains could support a wildfire given the limited fuel available to sustain a fire of any magnitude. Therefore, it is not anticipated that the proposed project would expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact or Does Not Apply
XXI. MANDATORY FINDINGS OF SIGNIFICANCE:				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

SUBSTANTIATION: The analysis in this Initial Study and the findings reached indicate that the proposed project can be implemented without causing any new project specific or cumulatively considerable unavoidable significant adverse environmental impacts. Mitigation is required to control potential environmental impacts of the proposed project to a less than significant impact level. The following findings are based on the detailed analysis of the Initial Study of all environmental topics and the implementation of the mitigation measures identified in the previous text and summarized in this section.

- a) *Less Than Significant With Mitigation Incorporated* – The Project has no potential to cause a significant impact upon any biological or cultural resources. The project has been identified as having no potential to degrade the quality of the natural environment, substantially reduce habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal, because the project site previously served as a boiler ash disposal landfill, so no natural biological habitat exists within the Project site. However, mitigation was identified in order to protect both on and off-site nesting birds. Based on the historic disturbance of the site, and its current disturbed condition, the potential for impacting biological resources is low, though the natural gas pipeline alignment is located in an area containing potentially suitable habitat for certain species, which requires mitigation to minimize impacts to biological resources. Additionally, mitigation measures were identified in order to protect cultural resources that might exist within the Project site. Therefore, with implementation of previously identified mitigation measures, the Project will not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Please refer to the biological and cultural sections of this Initial Study.

- b) *Less Than Significant With Mitigation Incorporated* – The nature of the Project as a new lime plant is such that without proper site design and mitigation, leaks and spills of organic matter could occur. However, with the implementation of a SWPPP and associated BMPs, no significant long-term impacts to the environment would occur from Project operations. Long-term environmental goals would benefit from the development of the proposed project, because the PVL Lime Plant would be constructed and operated in a more environmentally friendly manner than the lime plants that currently serve the California Market, but which are located out of state. The Project has fourteen (14) potential impacts that are individually limited, but may be cumulatively considerable, including: Aesthetics, Air Quality, Biology, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas, Hydrology and Water Quality, Land Use and Planning, Noise, Tribal Cultural Resources, Transportation, Utilities and Service Systems, and Wildfire. These issues require the implementation of mitigation measures to reduce impacts to a less than significant level and ensure that cumulative effects are not cumulatively considerable. All other environmental issues were found to have no significant impacts without implementation of mitigation. The Project is not considered growth-inducing, as defined by *State CEQA Guidelines*. The potential cumulative environmental effects of implementing the proposed project have been determined to be less than considerable and thus, would have a less than significant cumulative impact.
- c) *Less Than Significant With Mitigation Incorporated* – The proposed project includes activities that have a potential to cause direct substantial adverse effects on humans. The issues of Aesthetics, Air Quality, Geology and Soils, Greenhouse Gas, Hazards and Hazardous Materials, Noise, and Wildfire require the implementation of mitigation measures to reduce human impacts to a less than significant level. All other environmental issues were found to have no significant impacts on humans without utilization of mitigation. The potential for direct human effects from implementing the proposed project have been determined to be less than significant.

Conclusion

This document evaluated all CEQA issues contained in the latest Initial Study Checklist form. The evaluation determined that either no impact or less than significant impacts would be associated with the issues of Agricultural and Forestry Resources, Mineral Resources, Population/Housing, Public Services, and Recreation. The issues of Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas, Hydrology and Water Quality, Land Use and Planning, Noise, Tribal Cultural Resources, Transportation, Utilities and Service Systems, and Wildfire require the implementation of mitigation measures to reduce impacts to a less than significant level. The required mitigation has been proposed in this Initial Study to reduce impacts for these issues to a less than significant impact.

Based on the findings in this Initial Study, San Bernardino County proposes to adopt a Mitigated Negative Declaration (MND) for the PVL Lime Plant development project. A Notice of Availability/Notice of Intent to Adopt a Mitigated Negative Declaration (NOA/NOI) will be issued for this project by the County. The Initial Study and NOA/NOI will be circulated for 30 days of public comment because this project involves the state as either a responsible or trustee agency. At the end of the 30-day review period, a final MND package will be prepared and it will be reviewed by the County for a possible adoption at a future County Planning Commission hearing, the date for which has not yet been determined. If you or your agency comments on the MND/NOA/NOI for this project, you will be notified about the meeting date in accordance with the requirements in Section 21092.5 of CEQA.

MITIGATION MEASURES

Any mitigation measures that are not “self-monitoring” shall have a Mitigation Monitoring and Reporting Program prepared and adopted at time of project approval. Condition compliance will be verified by existing procedure.

Aesthetics

- AES-1 The Applicant shall paint structures exceeding the 75 feet height limit—as set forth in the San Bernardino County Regional Industrial Zoning Development Standards—a similar color to the surrounding mountains (specifically, the Argus Mountain Range to the general north of the PVL Lime Plant site).
- AES-2 Prior to approval of the Final Design, an analysis of potential glare from sunlight or exterior lighting that may impact vehicles traveling on adjacent roadways shall be submitted to the City for review and approval. This analysis shall demonstrate that due to building orientation or exterior treatment, no significant glare may be caused that could negatively impact drivers on the local roadways or impact adjacent land uses. If potential glare impacts are identified, the building orientation, use of non-glare reflective materials or other design solutions acceptable to the County of San Bernardino shall be implemented to eliminate glare impacts.

Air Quality

- AIR-1 Fugitive Dust Control. The following measures shall be incorporated into project plans and specifications for implementation during construction:
- Apply soil stabilizers as necessary to inactive areas.
 - Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 mph.
 - Stabilize previously disturbed areas if subsequent construction is delayed.
 - Apply water to disturbed surfaces and haul roads 3 times/day.
 - Replace ground cover in disturbed areas quickly.
 - Reduce speeds on unpaved roads to less than 15 mph.
 - Trenches shall be left exposed for as short a time as possible.
 - Identify proper compaction for backfilled soils in construction specifications.
- AIR-2 The following signage shall be erected no later than the commencement of construction: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum height text, black text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, identifying a responsible official for the site and local or toll free number that is accessible 24 hours per day:
- “[Site Name] {four-inch text}
[Project Name/Project Number] {four-inch text}
IF YOU SEE DUST COMING FROM {four-inch text}
THIS PROJECT CALL: {six-inch text}
[Contact Name], PHONE NUMBER {six-inch text}
If you do not receive a response, Please Call {three-inch text}
The MDAQMD at 1-800-635-4617 {three-inch text}”
- AIR-3 During project operations a 4,000-gallon water truck shall be available on-site at all times for dust control.

- AIR-4 As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.
- AIR-5 Wind breaks and/or fencing shall be developed in areas that are susceptible to high wind induced dusting.
- AIR-6 Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes and shall ensure that all off-road equipment is compliant with the CARB in-use off-road diesel vehicle regulation.
- AIR-7 All material transported off-site with dust blow off potential shall be sufficiently watered or securely covered to prevent excessive amounts of dust being generated.
- AIR-8 The Applicant shall use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. If the site contains exposed sand or fines deposits (and if the project would expose such soils through earthmoving), water application or chemical stabilization will be required to eliminate visible dust/sand from sand/fines deposits.
- AIR-9 The Applicant shall formulate a high wind response plan that addresses enhanced dust control if winds are forecast to exceed 25-mph in any upcoming 24-hour period.
- AIR-10 Any operation or activity that might cause the emission of any smoke, fly ash, dust, fumes, vapors, gases, or other forms of air pollution, which can cause damage to human health, vegetation, or other forms of property, or can cause excessive soiling on any other parcel, shall conform to the requirements of the Mojave Desert Air Quality Management District.

Biological Resources

- BIO-1 Where avoidance of the adjacent habitat is not feasible, the following actions shall be implemented. For the temporary loss of the presumed occupied MGS habitat, the Applicant shall provide compensation for temporary loss of habitat and individual MGS in the following manner: (1) the Applicant shall obtain a 2081 Incidental Take Permit (ITP) from the CDFW; (2) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable MGS habitat at a 1:1 ratio; and (3) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the CDFW. No ground disturbance shall occur until the Applicant obtains an ITP. Note that the final compensation package contained in the permit may differ from the above compensation package, but the Applicant finds that this compensation package shall at a minimum meet the requirements of this measure.

Alternatively, the Applicant may perform a protocol MGS presence/absence survey consistent with CDFW Guidelines prior to initiating construction and should it be determined that the adjacent habitat is not occupied by MGS, the above mitigation measure need not be implemented.

- BIO-2 Prior to construction, the Applicant shall conduct a plant survey for the Borrego milk-vetch (*Astragalus lentiginosus* var. *borreganus*). This survey shall be conducted by a qualified professional biologist familiar with this species. If these plants are identified within the temporary project area of impact, the botanists shall relocate these plants to adjacent comparable habitat that will not be disturbed.
- BIO-3 In compliance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) the project proponent shall ensure that a pre-construction burrowing owl survey is conducted a maximum of

30 days prior to construction activities. A qualified biologist shall conduct the survey to determine if there are any active burrowing owl burrows within or adjacent to (within 300 feet) the impact area. If an active burrow is observed outside the nesting season (September 1 to January 31) and the burrow is within the impact area, a Burrowing Owl Exclusion Plan shall be prepared and submitted to CDFW for approval, outlining procedures used to exclude burrowing owls (e.g., using passive relocation with one-way doors). The loss of any active burrowing owl burrow territory shall be mitigated through replacement of habitat and burrows at no less than a 1:1 ratio. If an active burrow is observed outside the nesting season (i.e., between September 1 and January 31) and the burrow is not within the impact area, construction work shall be restricted within 160 to 1,605 feet of the burrow (per CDFW 2012), depending on the time of year and level of disturbance near the site in accordance with guidelines specified by the CDFW.

- BIO-4 Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required.

Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for temporary loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS.

- BIO-5 Although no desert tortoises were detected during the site surveys, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Following the pre-construction survey, the biologist will make a determination regarding tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area.

- BIO-6 Prior to the construction of the following phases of the Project—1. Construction of the Lime Plant and 2. Construction of the Natural Gas Pipeline—the entity responsible for the construction thereof (Phase 1. Panamint Valley Lime, Phase 2. PG&E) shall conduct a floristic based assessment of special status plants and natural communities that adheres to the CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If it is determined that special status plants and/or natural communities may be impacted from the Project specific avoidance, minimization, and mitigation measures will be developed and implemented. The Biological Resources Assessments generated shall be deemed adequate for three years following the date of the field assessment(s). After this time period an updated biological field assessment(s) will be required.

- BIO-7 Prior to the construction of the proposed project, preconstruction surveys for desert kit fox and American badger pursuant to the corresponding approved CDFW protocols, as determined by a qualified biologist.

- Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460.
- American badger is a Species of Special Concern.
- Should either species be found on or adjacent to the Project area, the Applicant shall require the preparation of either/both a desert kit fox or/and American badger mitigation and monitoring plan.
- Desert Kit fox breeding season is January to the end of May. If a natal burrow is located on the Project site, a qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat. No Project activities or vegetation removal may occur within the buffer or habitat connectivity zone.

BIO-8 The Applicant and/or PG&E shall submit a Lake and Streambed Alteration Notification (SAA) to CDFW. If CDFW finds that the channel in the natural gas pipeline alignment is jurisdictional, the Applicant and/or PG&E shall process and obtain the SAA. No ground disturbance within potential jurisdictional areas shall occur until the Applicant and/or PG&E obtains an SAA. Note that the final compensation package contained in the permit shall be implemented by the Applicant and/or PG&E.

BIO-9 The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.

Cultural Resources

CUL-1 Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the on-site archaeological professional, who is acceptable to the County and retained by the applicant. The archaeological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.

Geology and Soils

GEO-1 Based upon the findings contained in the Geotechnical Investigation and Geotechnical Investigation Update (Appendix 4a and 4b of this document), all of the recommended design and construction measures identified in Appendix 4a (listed under “Conclusions and Recommendations,” pages 5-16) and the site preparation summary identified in Appendix 4b (pages 3-7) shall be implemented by the Applicant. Implementation of these specific measures will address all of the identified geotechnical constraints identified at project site, including soil stability of future project-related structures.

GEO-2 Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of stored backfill material. If covering is not feasible, then measures such as the use of straw bales or sand bags, shall be placed around

the stored material and used to capture and hold eroded material on the project site for future cleanup.

- GEO-3 All exposed, disturbed soil (trenches, stored backfill, etc.) shall be sprayed with water or soil binders twice a day, or more frequently if fugitive dust is observed migrating from the site within which the PVL Lime Plant is being constructed.
- GEO-4 Should any paleontological resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified paleontologist. Responsibility for making this determination shall be with the on-site paleontological professional, who is acceptable to the County and retained by the applicant. The paleontological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the CEQA Guidelines.

Greenhouse Gas

- GHG-1 The Applicant shall acquire 60,000 tons of permanent CO₂ emission reduction credits, or the equivalent thereof equal to an offset of 60,000 tons of CO₂ per year. The emission reduction credits shall be obtained from a trusted source that must be approved by the MDAQMD staff. A copy of the certification shall be provided to the MDAQMD and County upon receipt. The emission reduction credits must be purchased prior to operations of the PVL Lime Plant.

Hydrology and Water Quality

- HYD-1 PVL shall offer Searles Domestic Water Company/Searles Valley Minerals funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its customers to offset 2.1-acre feet of existing potable water demand.
- HYD-2 Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site.
- HYD-3 Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.

Noise

- NOI-1 All construction vehicles and fixed or mobile equipment shall be equipped with properly operating and maintained mufflers.
- NOI-2 All employees that will be exposed to noise levels greater than 75 dB over an 8-hour period shall be provided adequate hearing protection devices to ensure no hearing damage will result from construction activities.
- NOI-3 No construction activities shall occur during the hours of 7 PM through 7 AM, Monday through Friday, and 5 PM to 9 AM Saturdays; at no time shall construction activities occur on Sundays or holidays, unless a declared emergency exists.

- NOI-4 Equipment not in use for five minutes shall be shut off.
- NOI-5 Equipment shall be maintained and operated such that loads are secured from rattling or banging.
- NOI-6 Construction employees shall be trained in the proper operation and use of equipment consistent with these mitigation measures, including no unnecessary revving of equipment.
- NOI-7 The County will require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections by applicant personnel during construction activities with copies of the report filed with the County Planning Department. The Report shall be filed with the County within a 72 hour period.
- NOI-8 Construction staging areas shall be located as far from adjacent sensitive receptor locations as possible, for example near the north- or south-west corners of the project site.

Transportation

- TRAN-1 The construction contractor will provide adequate traffic management resources, as determined by San Bernardino County. The County shall require a construction traffic management plan for work in public roads that complies with the Work Area Traffic Control Handbook, or other applicable standards, to provide adequate traffic control and safety during excavation activities. At a minimum, this plan shall include the following:
- a) Methods to minimize the amount of time spent on construction activities;
 - b) Methods to minimize disruption of vehicle and alternative modes of transport traffic at all times, but particularly during periods of high traffic volumes;
 - c) Methods to maintain safe traffic flow on local streets affected by construction at all times, including through the use of adequate signage, protective devices, flag persons or police assistance to ensure adequate traffic flow;
 - d) Identification of alternative routes, if necessary, that can meet the traffic flow requirements of a specific area, including communication (signs, webpages, etc.) with drivers and neighborhoods where construction activities will occur; and
 - e) Identification of methods or procedures to ensure that at the end of each construction day roadways shall be prepared for continued utilization without any significant roadway hazards remaining.
- TRAN-2 The County shall require that all disturbances to public roadways maintained by the County be repaired in a manner that complies with the Standard Specifications for Public Works Construction (green book) or other applicable Caltrans or County standard design requirements.

PROJECT-SPECIFIC REFERENCES

- AECOM, “Desert Tortoise, Western Burrowing Owl, Desert Kit Fox, and American Badger Presence/Absence Survey for the ACE Phoenix Project San Bernardino County, California” dated July 2012
- AECOM, “Preliminary Hydrology and Hydraulics Study, PVL Lime Plant” dated June 20, 2018
- AECOM, “Preliminary Site Characterization for Biological Resources for the ACE Phoenix Project, San Bernardino County, California” dated June 1, 2012
- CRM TECH, “Phase I Historical/Archaeological Resources Survey: Industrial Lime Production Plant Project, near the Community of Trona, San Bernardino County, California” dated April 2, 2019
- EnviroPlus Consulting, Inc., “Biological Analysis of a Proposed Lime Plant in Trona, California” dated June 2, 2018
- Eremico Biological Services, “Mohave Ground Squirrel Survey at the Proposed Phoenix Combined Heat and Power Project Site, Trona, San Bernardino County, California” dated July 29, 2013
- Paul Ervin (of Biostream Inc.) and Tom Snowden/Richard Wilson (of WZI), “Air Quality/Greenhouse Gas Study, Panamint Valley Limestone, Lime Kiln and Processes” dated January 18, 2020
- Indian Wells Valley Groundwater Authority (IWVGA), “Final Draft Groundwater Sustainability Plan for the Indian Wells Valley Groundwater Basin, Bulletin 118 Basin No. 6-054” dated January 2020
- Krazan & Associates, Inc., “Geotechnical Investigation, Proposed Lime Plant, Ace Ash Landfill, Athol Street and Roberts Road, Trona, California” dated August 14, 2018, updated February 25, 2019
- Luhdorff & Scalmanini, “Ground Water (Hydrologic) Technical Memorandum to Support San Bernardino Conditional Use Permit Related to Adequate Service Certification Water and Sewer (Form W2) – PVL Lime Plant APN: 0485-031-12” dated July 3, 2019
- San Bernardino County General Plan

Links:

<https://www.sce.com/about-us/reliability/meeting-demand>

<https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf>

USGS Mineral Industries Survey at <http://www.lime.org> or by calling (703) 243-5463

<https://www.lime.org/lime-basics/uses-of-lime/enviromental/hazardous-wastes/>

<https://www.osha.gov/chemicaldata/chemResult.html?RecNo=203>

https://www.lime.org/documents/lime_basics/fact-safety_precautions.pdf

<http://wp.sbcounty.gov/dph/programs/ehs/wastewater/>

<https://www.scag.ca.gov/Documents/UnIncAreaSanBernardinoCounty.pdf>

<http://www.sbcounty.gov/Uploads/lus/GeneralPlan/FINALGP.pdf>

<http://wp.sbcounty.gov/sheriff/patrol-stations/barstowtrona/>

<http://www.gosbcta.com/sbcta/plans-projects/CMP/CMP16-Complete-061416.pdf>

<https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>

<https://www2.calrecycle.ca.gov/SWFacilities/Directory/15-AA-0059/Detail/>

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APPENDIX 5e

LAHONTAN RWQCB COMMENT LETTER

EXHIBIT F

Correspondence



Searles Valley Minerals

13200 Main St., Trona, CA 93562-1995
P.O.Box 367, Trona, CA 93592-0367
760.372.4311

May 5, 2020

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

RECEIVED
2020 MAY 12 01:29
LAND USE SERVICES
ADMINISTRATION

ADDENDUM RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO
ADOPT AN INITIAL STUDY / MITIGATED NEGATIVE DECLARATION PANAMINT
VALLEY LIMESTONE (RECIRCULATION)

In the IS/MND Panamint Valley Limestone (Recirculation), Project P201800477, Panamint Valley Limestone (PVL) variously asserts, claims, and speculates that: "Searles Domestic Water Company (SDWC) will provide potable water service to the project through a new connection within Athol Street that will connect to an existing connection at Athol Street and Argus Avenue" [pg. 4, IS/MND (Recirculation)]. This claim is false. Additionally, similar assertions, conjectures and opinions presented by PVL on pages 14, 30, 55-60, 76-77 and 87, about its access to water from SDWC are also incorrect. They are incorrect because the decision (attached) of the California Public Utilities Commission (Decision 20-04-039) in case 18-12-012 established that SDWC will provide PVL with up to 8,000 cubic feet/month (2.1 AFY) of water for domestic use only. Furthermore, the Commission decision stipulates that "Panamint Valley Limestone, Inc. must monitor its domestic water use to ensure that it does not use its domestic water for any purpose at its lime plant other than for its domestic needs ..." Any assertions or statements by PVL in its IS/MND (Recirculation), or any future revised IS/MND, that contradict the Commission's decision should be seen as suspect, if not misleading or false.

Sincerely,

Anoop Sukumaran
Environmental Manager
Searles Valley Minerals, Inc.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 29, 2020

TO PARTIES OF RECORD IN CASE 18-12-012, DECISION 20-04-039:

On March 27, 2020, a Presiding Officer's Decision in this proceeding was mailed to all parties. Public Utilities Code Section 1701.2 and Rule 15.5(a) of the Commission's Rules of Practice and Procedure provide that the Presiding Officer's Decision becomes the decision of the Commission if no appeal or request for review has been filed within 30 days of the mailing of the Presiding Officer's Decision.

No timely appeals to the Commission or requests for review have been filed. Therefore, the Presiding Officer's Decision is now the decision of the Commission.

The decision number is shown above.

/s/ S. PAT TSEN for
Anne E. Simon
Chief Administrative Law Judge

AES:gp2

Attachment

Decision 20-04-039 April 24, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PANAMINT VALLEY
LIMESTONE, INC.,

Complainant,

v.

SEARLES DOMESTIC WATER
COMPANY, LLC (U368W),

Defendant.

Case 18-12-012

**PRESIDING OFFICER DECISION DENYING MOTION FOR EMERGENCY
RELIEF AND GRANTING MOTION TO DISMISS**

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**PRESIDING OFFICER DECISION DENYING MOTION FOR EMERGENCY
RELIEF AND GRANTING MOTION TO DISMISS**

Summary

After review of the Motion for Emergency Relief filed by Complainant Panamint Valley Limestone, Inc. (PVL) and after review of the Motion To Dismiss filed by Defendant Searles Domestic Water Company, LLC (SDWC), and in light of review of all relevant pleadings, all relevant evidence, and controlling authority, we find no disputed issues of material fact and thus no basis to hold an evidentiary hearing as all relevant and timely issues raised in the Second Amended Complaint can be decided as a matter of law. We deny PVL's Motion for Emergency Relief. We grant SDWC's Motion to Dismiss the PVL Second Amended Complaint. We direct SDWC to comply as directed herein.

This proceeding is closed.

1. Background

Panamint Valley Limestone, Inc. (PVL) is a commercial entity seeking to build a limestone processing plant in San Bernardino county. Searles Domestic Water Company, LLC (SDWC) is the water company in the territory where PVL is seeking to build its facility. PVL demands that SDWC supply its facility with water for its domestic requirements (bathrooms, etc.) and for operational requirements (the processing of the limestone), and PVL also demands that SDWC complete a form certifying to the County of San Bernardino (County) that it will provide PVL with water, so as to enable PVL to receive a Conditional Use Permit from the County necessary for the development of the lime processing plant.

PVL contends that SDWC is statutorily discriminating against it by refusing to provide it with water. SDWC responds that PVL has failed to make

out its case for discrimination, that it is entitled to refuse PVL's demand for the lime plant's operational water requirements, and that providing PVL with domestic water is moot in the face of the failure of the PVL to obtain operational water. However, SDWC acknowledged that it would provide PVL with domestic water if PVL's complaint were dismissed.

1.1. General Background

PVL reports that it is a California corporation, with a principal place of business in the town of Trona, in San Bernardino County. PVL is seeking water service from SDWC for a property located in San Bernardino County, in SDWC's water utility service territory. PVL intends to operate a lime plant at the subject property.¹

SDWC, a class C water company, has operated for the past 75 years, serving approximately 900 customers in San Bernardino County. SDWC states that 80 percent of its water sales by volume are to single family residences, that 14 percent of its water sales are to commercial and multi-residential customers, and that 6 percent of its water sales are to public authorities and irrigation customers.² SDWC further states that it serves no "large users" as that term is defined by the Commission ("Large water users are...[those] who use at least five times as much water as the average single family residential customer...": Decision (D.) 16-11-006 at B43).

SDWC also states that its sole water supply is purchased from its parent corporation Searles Valley Minerals Inc. (SVM) which "pumps from 5 wells in the

¹ PVL Second Amended Complaint at 3.

² SDWC Motion to Dismiss the Second Amended Complaint at 2.

Indian Wells Valley."³ SDWC reports that the California Department of Water Resources' most recent assessment of threatened aquifers in California determined that the Indian Wells Valley Basin aquifer is one of twenty-one groundwater basins that are subject to "critical conditions of overdraft."⁴ Further, the Indian Wells Valley Groundwater Authority is presently drafting a groundwater sustainability plan, and it is instructing all groundwater pumpers to submit their historical pumping figures and other relevant materials by March 1, 2020, and thereafter a final report will be reviewed for consideration at its June 20, 2020 meeting.⁵

1.2. Procedural Background

On December 12, 2018, PVL filed a verified Complaint against SDWC (its later Amended Complaints were also verified). PVL generally asserted that SDWC should supply it with its water needs to serve the lime plant it is seeking to develop. PVL's Complaint contains exhibits demonstrating that its request to SDWC for its proposed plant would require 26 gallons per minute (GPM) of potable water.^{6,7}

On February 4, 2019, SDWC filed a verified Answer. It asserted in part that PVL had failed to cite a statute or a Commission order that SDWC had allegedly violated. SDWC also asserted that its tariff contained "Special Condition 3 [which] permits SDWC to limit water delivery to any customer to

³ D. 08-05-008.

⁴ SDWC Motion To Dismiss the Second Amended Complaint at 2-3.

⁵ Status Conference Transcript at 13-14.

⁶ Water units: 1 cubic foot (CF) is 7.5 gallons. 1 acre-foot is 325,851 gallons, or 43,600 CF. For reference, the average American home uses 12,000 gallons / 1,600 CF/month.

⁷ 26 GPM is approximately 1,150,000 gallons/month, or approximately 150,000 CF/month, or approximately 42 acre-feet/year.

8,000 cubic feet/month”⁸: put otherwise, under its tariff, SDWC must be willing to supply customers with up to 8,000 CF/month.

On April 2, 2019, PVL filed an Amended Complaint, alleging SDWC discriminated against PVL under Public Utilities (Pub. Util.) Code §453(a) for refusing to provide it 26 GPM of water “at the direction of and/or to provide a competitive business advantage to an affiliated entity [SVM] that is not subject to regulation by the Commission.” PVL further alleged that SDWC “has or must seek to obtain water” to serve its facility. PVL also asserted that SDWC had to provide PVL with a “Form W1 Public Water Service Certification” (Form W1) that was allegedly required by the County in order for the County to issue to PVL a Conditional Use Permit (Permit) necessary for PVL to develop its planned lime plant.

On April 3, 2019, a Prehearing Conference (PHC) was held. At the PHC, each party indicated that it wished to bring a motion in the proceeding. A schedule for the motions was set forth.

On April 16, 2019, SDWC filed a verified Answer to the Amended Complaint. It asserted that it had offered to supply the Form W1 if PVL agreed that it would accept a maximum of 8,000 CF/month of water (a limit beyond which, under its tariff, SDWC may exercise a right of discretion). SDWC further asserted that PVL had refused that offer.

On April 18, 2019, PVL filed a Motion for Emergency Relief. The Motion contends that SDWC “should be compelled to: (i) provide PVL the amount of necessary for domestic use at the subject property, which is less than the SDWC non-discretionary tariff threshold; and (ii) execute the Form W1...” On

⁸ Answer at 4. As a calculation of units, 8,000 CF/month is approximately 1.4 GPM.

May 1, 2019, SDWC filed its opposition, arguing in part that the Motion did not provide a supporting procedural basis. On May 8, 2019, PVL filed a reply to the opposition. On May 22, 2019, SDWC filed a sur-reply.

On April 24, 2019, SDWC filed a Motion to Dismiss the Amended Complaint of PVL, essentially contending that, because PVL's Amended Complaint failed to identify any entity in whose favor SDWC discriminated, therefore PVL had not appropriately applied Pub. Util. §453(a). SDWC also contended that PVL's assertion that it is entitled to 8,000 CF/month of water is meritless as "neither SDWC nor this Commission are required to pretend that the 'domestic' use is actually 'separate and apart' from the potable water requirements of the lime plant [... the] 'domestic' uses PVL seeks to isolate will not occur unless a plant requiring over a million gallons of water a month is placed in SDWC's service area."⁹ For this same reason, SDWC contended that its refusal to sign a Form W1 violated no statute or commission decision.

On May 6, 2019, PVL filed a Second Amended Complaint, which newly requested injunctive relief in seeking that SDWC provide 26 GPM of water for domestic use and in seeking that SDWC execute the Form W1. On May 15, 2019, SDWC filed its Answer to the Second Amended Complaint.

On May 15, 2019, SDWC filed a Motion to Dismiss the Second Amended Complaint. On May 22, 2019, PVL filed an opposition. On June 5, 2019, SDWC filed a reply to the opposition.

On January 6, 2020, a Status Conference was conducted. At the Status Conference, the Assigned Administrative Law Judge (ALJ) requested that PVL provide a copy of its November 2019 County of San Bernardino Conditional Use

⁹ Motion to Dismiss at 10-11.

Permit, Initial Study/Proposed Mitigated Negative Declaration (Permit), and also a copy of its Form W2, Private Water Service, both of which were referenced in the Status Conference. On January 7, 2020, PVL's Counsel provided these documents. On March 27, 2020, by ALJ Ruling, these documents were accepted into the record as evidence. On January 31, 2020, pursuant to a granted motion, SDWC filed in this proceeding such comments as it had filed with the County pursuant to the Permit.

1.3. Factual Background

PVL's verified Second Amended Complaint contains the following factual assertions:

Par. 3. PVL determined that its requirements for water for *domestic* use at the subject property would be less than the non-discretionary tariff threshold of SDWC... [I]t is continuing to refuse to provide service to PVL, even in an amount within SDWC's non-discretionary threshold. SDWC is also refusing to execute the Form W1 [...] required by the County [...] to issue PVL the [...] Permit necessary for PVL to develop its planned lime plant on the subject property. SDWC's refusal to provide water sufficient to meet PVL's domestic water needs and execute the County form is causing PVL to suffer irreparable harm.

Par. 5. PVL brings this action in response to SDWC's refusal to provide approximately 26 [GPM] to the lime plant that PVL is developing on property located within SDWC's service area, and SDWC's subsequent refusal to provide water necessary to meet PVL's domestic water needs, which total less than 8,000 cubic feet per month... PVL further contends that SDWC is discriminating against PVL, in violation of [Pub. Util.] §453(a), and improperly refusing to provide the requested water service at the direction of and/or to provide a competitive business advantage to an affiliated entity that is not subject to regulation by the Commission.

Par. 10. PVL intends a lime plant on the Subject Property. The lime plant will operate 24 hours per day and will employ approximately 35-40 people.

Par. 11. In April 2018, PVL requested that SDWC provide approximately 40 gallons of water per minute to the Subject Property.

Par. 15. Promptly [after September 2018], PVL delivered to SDWC's office... a spreadsheet detailing more specifically PVL's water requirements for the Subject Property. In particular, the spreadsheet clarified that the average daily water demand for the Subject Property would be approximately 26 [GPM].

Par. 47. SDWC's refusal to provide and confirm water sufficient even to meet PVL's *domestic* water is causing PVL irreparable harm. SDWC's refusal to execute the County Form W1 is preventing the County from issuing PVL's Conditional Use Permit Application and proceeding with the California Environmental Quality Act review necessary for PVL to develop the Subject Property. As a result of this delay, PVL is at substantial risk of losing investors and partners, which would cause the development of the Subject Property to fail¹⁰... PVL will also lose its competitive advantage and will also lose the leverage it has made toward amending the California Air Resources Board's Cap and Trade program to provide allocations for lime production facilities.¹¹

PVL produced two County documents: the Panamint Valley Limestone Form W2, and the Panamint Valley Limestone Conditional Use Permit. Excerpts of these documents are as follows:

Form W2¹²

Applicant Name: Panamint Valley Limestone
APN 0485-031-02

¹⁰ There is no reference to factual support for this argument.

¹¹ There is no reference to factual support for this argument.

¹² Pursuant to Rule 13.9, Pub. Util. §§ 1701(a), and Evidence Code §452, the Commission here takes judicial notice of this Form W2 document and its contents as having been presented by PVL, having been created through the substantial input of PVL regarding issues synonymous with the issues presented here, and standing for one of the same purposes for which PVL presents its Complaint here.

Project P201800477

The County Department of Public Health, Division of Environmental Health Services finds that:

“X” The subject property has a water well approved for use by the proposed project. Approved for industrial use.

“X” Other: Potable water use is currently under review with EHS.

Signed and dated 7/12/19.

San Bernardino County.

PVL also produced the following:

Panamint Valley Limestone Conditional Use Permit¹³

Initial Study / Proposed Mitigated Negative Declaration

San Bernardino County Planning Division

November 2019

Project Label: APN 0485-031-12

Applicant: Panamint Valley Limestone, Inc.

Project No.: P201800477

Rep: Larry Trowsdale¹⁴

Project Overview: ...On average, 650 tons per day (TPD) of limestone will be delivered... All of the lime produced will be quicklime. A small amount of water will be introduced into about 50 percent of the quicklime to produce hydrated lime.¹⁵

Project Hours of Operation & Employee Count: The PVL Lime Plant will operate 24 hours a day, 7 days a week... The employee count

¹³ Pursuant to Rule 13.9, Pub. Util. §§ 1701(a), and Evidence Code §452, the Commission here takes judicial notice of this Permit document and its contents as having been presented by PVL, having been created through the substantial input of PVL regarding issues synonymous with the issues presented here, and standing for many of the same purposes for which PVL presents its Complaint here.

¹⁴ Permit at 1. Mr. Trowsdale is identified in news reports as the spokesperson for PVL.

¹⁵ Permit at 2.

will vary as follows: 9 employees for each weekday shift, 2 employees for each weekday nighttime shift, and 2 per each weekend day and weekend night shift.... The maximum number of employees on site will be 9 persons...¹⁶

A 500,000 gallon water tank will also be located within the SE Zone...

Searles Domestic Water Company will provide potable water service to the project most likely through a new connection within Athol Street that will connect to an existing connection at Athol Street and Argus Avenue. The Water Company will be responsible for developing water lines that will connect to the proposed project. The project will require 1.4 gallons of potable water per minute. The proposed project intends to develop an onsite well that would provide water for industrial purposes (non-potable). The project will require 20 gallons of industrial water per minute.¹⁷

Additional Approval Required By Other Public Agencies:

... Regional Water Quality Control Board, Region 6.¹⁸

... Additionally, in order to supply a portion of the water required to operate the PVL Lime Plant, a well will be installed, which has been included in both the operational and construction emission's analysis. The well can be installed in 5 days, with two vehicles on site (one drill rig, one employee vehicle).¹⁹

... Production Well. As stated under the construction emissions discussion above, the PVL Lime Plant will drill a well to supply a portion of the water on site. The operational emissions analysis presented below incorporates the emissions a 26-50 gallon per minute well pump would generate.²⁰

¹⁶ Permit at 3.

¹⁷ Permit at 4.

¹⁸ Permit at 10.

¹⁹ Permit at 22.

²⁰ Permit at 24.

... Implementation of the proposed Project will utilize water from two sources. For drinking water, the project proposed to obtain an estimated 1.3 gpm of potable water from the Searles Domestic Water Company... The remaining water proposed to be consumed by the proposed Project consists of brackish water that will be supplied by an onsite water well that will be drilled to meet operational requirements for water. This well will be designed to provide an estimated 30 gpm of brackish water that will be treated to meet "process" water demand.^{21,22}

Finally, PVL has variously stated that "it will require potable water for its industrial operations"²³ and that the lime processing requires "near-potable [water] because the lime being produced is, in some instances, at least food-grade quality."²⁴ PVL was clear that regarding its domestic water needs, "it was estimated that the highest demand could be up to eight -- just under [] the 8,000 cubic feet per month, which is the tariff for non-discretionary limit. And that is for domestic purposes... And that water could, in our position, be segregated... there are very simple ways to put a meter to penalize after-the-fact should you find that someone's using more than they've been allotted for domestic purposes."²⁵

²¹ Permit at 47-48.

²² The January 31, 2020 filing of SDWC regarding its Permit comments addressed the Permit's assertions in this section, to wit, that the amount of water SDWC purchases from SVM was here overstated by approximately 10 times the actual amount, and that PVL contradicts information presented by PVL in this CPUC proceeding that PVL has asserted its lime plant process requires the use of potable water, that PVL requested SDWC provide 42 acre-feet a year of potable water, that SDWC has denied that request, and that PVL has not asserted in this proceeding that it will drill a well to obtain operational requirements for water.

²³ Motion for Emergency Relief at 1.

²⁴ Status Conference Transcript at 35.

²⁵ Status Conference Transcript at 31, 37.

2. Review and Denial of the PVL Motion for Emergency Relief

PVL's Motion for Emergency Relief cites generally to Rule 11.1. Rule 11.1(a) states as follows: "A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission." PVL, citing through prior decision to Pub. Util. §701, asserts that the Commission is authorized as follows:

To 'do all things, whether specifically designated in [the Public Utilities Act] or in addition thereto, which are 'necessary and convenient' in the exercise of its jurisdiction over public utilities... The commission's authority has been 'liberally construed' and includes not only administrative but also legislative and judicial powers.²⁶

PVL's Motion did not otherwise provide any basis for its legal analysis, consideration, or means of measure.

SDWC opposes the PVL Motion by, in part, arguing that PVL fails to cite to authority or create an argument or analysis as to possible Commission application for a standard for injunctive relief, and therefore asserted that PVL's Motion is not before the Commission in a procedurally sound manner. SDWC laid out the factors to be considered by the Commission in the appropriate analysis for the application of injunctive relief:

- (1) Does an "emergency" exist? Will a large number of utility customers lose service (or suffer some comparable disadvantage) absent immediate action by the Commission?
- (2) Will the party seeking interim relief likely prevail on the merits?
- (3) Will the party seeking interim relief suffer irreparable injury without the order?

²⁶ Citing to *San Diego Gas & Electric Co.*, 12 Cal.4th 915.

(4) Will granting relief not cause substantial harm to the nonmoving party and others?

(5) Will granting relief be in the public interest?²⁷

SDWC observed that PVL's Motion for injunctive relief only cited to the Commission's ambit of authority to resolve jurisdictional, administrative, legislative, and judicial issues. SDWC's observation is correct (to that point in time) that PVL has not pled a prayer for injunctive relief, and that it had not alleged the existence of an emergency or the consequences of a failure of relief. SDWC explored the factual reasons why the injunctive relief factors articulated in past Commission decisions were not met by PVL.

In a presumed response to the SDWC's opposition, PVL then filed its Second Amended Complaint, which was amended to add a prayer for injunctive relief. In PVL's reply to SDWC's opposition, PVL wrote that SDWC's refusal to comply with PVL's requests were causing it "irreparable harm, including loss of investors and its competitive business advantage."²⁸ Importantly, PVL asserted as follows: "SDWC's refusal to provide the water sought in this Motion²⁹ and

²⁷ SDWC opposition re Motion for Emergency Relief at 3-4, citing to D.01-04-008, D.05-04-040, and D.06-05-040.

²⁸ PVL Reply re Motion for Emergency Relief at 2.

²⁹ Despite that there are multiple Complaint filings and Motion filings in a presumed effort to bring accuracy and clarity, it remains unclear as to exactly what PVL is requesting.

On the one hand, the Second Amended Complaint reads in critical part as follows:

"5. PVL brings this action in response to SDWC's refusal to provide approximately 26 [GPM] to the lime plant that PVL is developing on property located within SDWC's service area, and SDWC's subsequent refusal to provide water necessary to meet PVL's domestic water needs, which total less than 8,000 CF per month..."

"21. By letter date March 19, 2019, PVL again asked SDWC to agree to provide up to 8,000 CF of water per month and to execute the Form W1 with the understanding that SDWC would be limiting its commitment to 8,000 CF of water. A true and correct copy of the March 19, 2019 letter is attached hereto as Exhibit F."

execute the County Form is preventing the County from granting PVL a Conditional Use Permit and proceeding with the California Environmental Quality Act review necessary for PVL to develop the Subject Property.”³⁰

Typically, review of a motion for emergency relief would begin with consideration of the merits of the motion’s procedural underpinnings. Perhaps unusually, here it is necessary to understand the Motions factual underpinnings. This is due to PVL’s January 7, 2020 production of the Permit and Form W2, which was subsequent to PVL’s April 18, 2019 Motion for Emergency Relief, and which factually undercut the Motion’s asserted facts, and consequently also undercuts any need to consider the procedural footing of the Motion.

Functionally, there are three issues addressed in the Motion. First, PVL asserted that the County could not issue PVL a Permit. Yet, clearly, it has. Second, PVL asserted that SDWC had to complete a Form W1. Yet, clearly, PVL provided its own Form W2, supplanting the need for SDWC’s Form W1. Third,

On the other hand, the Motion reads in critical part as follows:

“SDWC repeatedly refused this request [[to] confirm that it would provide water sufficient to meet PVL’s *domestic* water needs (separate and apart from its needs for water for industrial uses at the Subject Property)], stating that it will not provide water to PVL unless PVL will confirm that it “no longer seeks water in excess of 8,000 CF/month.” As such an agreement would require dismissal of this action, and as PVL cannot predict what its obligations may be into the future, it cannot comply with the condition imposed by SDWC. (Motion for Emergency Relief at 3-4.)

Consequently, it is unclear whether these filings indicate whether PVL would be satisfied with 8,000 CF/month -- as seems to be indicated in Paragraph 21 of the Second Amended Complaint -- or if it would not be satisfied with 8,000 CF/month, as indicated by the Motion for Emergency Relief. As the Motion for Emergency Relief may be addressed as a distinct request for relief, as apart from the Second Amended Complaint, for these immediate purposes, as the Motion is essentially self-reflective and self-contained, the determination regarding the Motion will address the relief sought in the Motion, having largely been supported by the Second Amended Complaint (primarily in that Complaint’s request for injunctive relief, which is foundational to (at least) the basis for the Motion).

³⁰ Reply re Motion for Emergency Relief at 5.

PVL contended that SDWC's (in)actions were causing PVL irreparable harm. Yet, clearly, PVL has been able to move forward with its project, as evidenced by the County's Permit, and so there can be no argument of harm.

We conclude that as a matter of law and fact, no emergency exists, and therefore there can be no need for immediate action by the Commission. There is no basis for PVL to prevail on the merits of its Motion, or on the merits of its Complaint, as it has suffered no harm, and for this same reason it will not suffer irreparable injury.

For these reasons, the Motion for Emergency Relief is denied.

3. Procedural Standard for Review of the SDWC Motion to Dismiss

SDWC has brought a Motion to Dismiss PVL's Second Amended Complaint. SDWC cited to Pub. Util. §1701 as the basis for its Motion. Additionally, SDWC cited past Commission practice, and indicated the standard for dismissal for failure to state a claim (here, for failure of the complaint to allege a violation of law or to allege a violation of a Commission rule or order).

Rule 11.2 specifically recognizes a motion to dismiss "based on the pleadings." The Commission's review of a motion to dismiss "is analogous in several respects to a motion for summary judgment in civil practice."³¹ Like summary judgment procedure, the purpose of a motion to dismiss is to permit determination "before hearing whether there are any triable issues as to any material fact," and in doing so, a motion to dismiss, like a motion for summary judgment, "promotes and protects the administration of justice and expedites litigation by the elimination of needless trials."³²

³¹ D.94-04-082, referring to Rule 56, the predecessor to Rule 11.2.

³² *Ibid.*

The Commission requires the same kind of showing in a motion to dismiss that the courts require in a motion for summary judgment:

The party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact.³³

These legal standards provide the analytical framework for considering SDWC's motion to dismiss. That motion presents a question that must be determined. The motion is fully briefed and capable of determination.

3.1. Review and Grant of the SDWC Motion to Dismiss

Despite filing a Complaint, a First Amended Complaint, and a Second Amended Complaint, PVL has failed to adequately plead a sound basis for a complaint. There are three bases for dismissing the complaint: a. it fails to assert a claim under a statute; b. it is premature; c. its claims are conclusively rebutted by PVL's factual assertions made to the County. Each of these is an independent basis for dismissal.

3.1.1. PVL fails to assert a claim under a statute

Regarding the claim under the statute, SDWC correctly identifies that, in accordance with the Commission's application of Pub. Util. §453(a), the claimant must identify some form of preferential treatment that discriminates against the claimant. "'Discrimination [under Pub. Util. §453(a)] by a public utility does not mean merely and literally unlike treatment accorded by a utility to those who may wish to do business with it, but refers to partiality in treatment of those in like circumstances seeking a class of service offered to the public in general.'"

³³ 25 Cal.4th 826, 850.

(*International Cable T.V. Corp. v. All Metal Fabricators* (1966) 66 Cal.P.U.C. 366, cited in D.14-05-026.) Here, SDWC argues that PVL must point to a customer receiving water beyond the 8,000 CF/month amount to which SDWC's tariff enables it to discretionarily limit customers, in order for PVL to make out a properly pled claim pursuant to Pub. Util. §453(a) that SDWC is discriminating against PVL by refusing to provide 150,000 CF/month.³⁴

PVL's opposition to the Motion first argues that SDWC "improperly exercised the discretion under the tariff" regarding several customers and SVM.³⁵ While seemingly a cogently argument, examination of these allegations reveals a different light. Other than SVM, the exceeding customers are two 10-unit and one 56-unit apartment complexes, which, on an individual unit basis, use below the 8,000 CF/month discretionary limit.³⁶ Regarding SVM, there were months in which the 8,000 CF/month discretionary limit was exceeded, but this was due to water delivered to another location that should have been on a separate account, and will be terminated or converted to a separate account.^{37,38} These facts defeat the argument that SDWC has exercised a grant of discretion toward a customer and therefore SDWC is now discriminating against PVL by refusing to exercise that same grant of discretion toward PVL. PVL's pleading is without supporting facts in this regard.

³⁴ Motion at 5.

³⁵ PVL Opposition at 11-12.

³⁶ SDWC Reply at 4-5, quoting its data responses.

³⁷ SDWC Reply at 4-6, quoting its data responses.

³⁸ SDWC also points out that, at 11,000 CF/month, the amount of water SVM received even with the undeclared additional account is still merely about 7% of the amount PVL is seeking, and therefore does not stand as support that SDWC is discriminating against PVL because the amounts at issue are so dramatically different. SDWC Reply at 6-7.

PVL's opposition also asserts that SVM "manipulated" SDWC, that SVM "has been able to prevent SDWC from having any 'large users'", that "SVM and SDWC are not distinct entities", that they are "alter egos", and that "the Commission must recognize the actions of SVM, but in granting relief, need not necessarily exercise jurisdiction over SVM."³⁹ It is noted that the Commission has jurisdiction over SDWC, and this jurisdiction is both the scope and length of the Commission's authority and interest.⁴⁰ PVL's allegations regarding SVM are not of any relevance in deciding the strength of the pleading regarding Pub. Util. §453(a). Nor is any allegation vis-à-vis SVM's relationship to SDWC per se a basis to withstand this Motion to Dismiss given the absence of discrimination and given the Commission's jurisdiction solely over SDWC.⁴¹

Lastly, it is also noted that SDWC has no "large users" as that term is defined by the Commission, and yet PVL would seek to be a large user under that definition.⁴² This fact belies the difficulty PVL faces in asserting discrimination, given the remarkable disparity in the amount of its water request compared to the amount of water SDWC provides to all its other customers. It can be presumed that the Commission considered SDWC's water supply and its customer base in authorizing SDWC's tariff right to exercise discretion when considering requests of more than 8,000 CF/month.

³⁹ PVM Opposition at 13-16.

⁴⁰ It is also noted that SVM's relationship to SDWC is a known fact, clear to the Commission, and this proceeding is not a basis for review of the merits of that relationship.

⁴¹ Other than citing to SDWC's Annual Reports and certain LinkedIn profiles, PVL has not provided any facts to support the manipulative assertions made in its arguments, even after having conducted discovery.

⁴² D.16-11-006 at B43.

3.1.2. PVL's Claim Is Premature

PVL attempts to argue that SDWC would have adequate water for PVL if it were to attempt to identify sufficient water rights.⁴³

However, as PVL acknowledges, the Indian Wells Valley Groundwater Authority is going to implement a new annual pumping allocation for those entities that pump groundwater from the Indian Wells Valley aquifer (the source of SDWC's waters), and that only at the June 20, 2020 meeting is the Authority going to consider how to reallocate water rights from that aquifer.⁴⁴

Consequently, it is unclear how PVL can, as part of its premise, make out an argument that SDWC has sufficient water availability such that it will be capable of satisfying PVL's request for approximately 42 feet-acres/year. PVL's asserted water requirements are presumed to be based upon years of such need. Yet, it is clear that SDWC's sourced water pumping rights may be curtailed after the impending Authority meeting.

PVL is aware of the Authority's steps and impending meeting. PVL is also aware (if only through this proceeding) that SDWC's water rights may be curtailed. Therefore, PVL's arguments regarding SDWC's ability to provide PVL with all the water PVL is seeking are premature.

3.1.3. PVL's Pleading is Conclusively Rebutted with PVL's Factual Assertions Made to the County

Necessary to the consideration of any pleading are a set of facts that the reviewer must accept as true. By that token, a set of pleading facts that cannot be accepted as true must be struck from consideration in support of the pleading.

⁴³ PVL Opposition at 6-9.

⁴⁴ Status Conference Transcript at 12-14.

The pleading would then have to stand on the strength of any remaining facts that support the pleading.

Here, PVL's asserted pleading facts are squarely undercut by the facts PVL asserted to the County pursuant to the County's issuance of the Permit and by the facts PVL asserted to the County pursuant to the Form W2. Those pleading facts were central to the pleading. Therefore, without those pleading facts, the pleading is hollowed to such a degree that it must fail as a whole.

In their most critical parts, the following elements of PVL's Second Amended Complaint contains factual assertions that are undercut by PVL's input into the County's Permit, by the Form W2, and by PVL's Status Conference statements:

1. PVL requires SDWC to provide a Form W1 for it to be able to obtain a Permit from the County, and therefore SDWC's refusal is causing PVL to suffer irreparable harm.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide a Form W1.
2. PVL requires potable water for its lime plant's operational use.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require potable water for its lime plant's operational use.
3. PVL requires SDWC to provide 26 GPM of water for its lime plant.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide 26GPM of water for its lime plant's operational use.
4. As a result of SDWC's actions, PVL is at substantial risk of losing investors and partners, which would cause the development of the Subject Property to fail.

- In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide any water for its lime plant's operational use, and therefore SDWC could not be responsible for PVL losing investors and partners.
5. As a result of SDWC's actions, PVL will lose its competitive advantage and will also lose the leverage it has made toward amending the California Air Resources Board's Cap and Trade program to provide allocations for lime production facilities.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide water for its lime plant's operational use, and therefore SDWC could not be responsible for PVL losing competitive advantage.
 6. The lime plant will employ approximately 35-40 people.
 - In fact, the maximum number of employees on site at PVL's lime plant will be 9 persons.
 7. SDWC's refusal to provide water sufficient to meet PVL's domestic water needs is causing PVL irreparable harm.
 - In fact, PVL acknowledges that SDWC has agreed to provide up to 8,000 CF/month of water at its lime plant for its domestic needs if PVL confirms that it would not seek water in excess of 8,000 CF/month.
 8. PVL has refused SDWC's agreement to provide up to 8,000 CF/month because "PVL cannot predict what its obligations may be into the future."
 - In fact, PVL acknowledges that its lime plant's domestic water needs are 8,000 CF/month or less (*i.e.*, 1.4 GPM).

Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.⁴⁵ Here, primarily through consideration of the

⁴⁵ 556 US 662, 663-664.

information admitted by PVL in the County Permit and Form W2, PVL's Second Amended Complaint cannot present a plausible claim for relief. The claims for relief are conclusively rebutted, and PVL's Complaint must be dismissed.

4. Categorization and Need for Hearings

The Instruction to Answer filed on January 4, 2019, categorized this Complaint as adjudicatory as defined in Rule 1.3(a) and anticipated that this proceeding would require evidentiary hearings. Because there are no disputed issues of material fact, there is no reason to hold evidentiary hearing: all issues raised in the PVL Second Amended Complaint are decided as a matter of law in accordance with this decision. Therefore, PVL's Second Amended Complaint must be dismissed and the evidentiary determination is changed to state that no evidentiary hearings are necessary.

5. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Jason Jungreis is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

Findings of Fact

1. The Indian Wells Valley Groundwater Authority is presently drafting a groundwater sustainability plan, and a final report will be reviewed for consideration at its June 20, 2020 meeting.
2. No emergency exists concerning PVL's Form W1 request of SDWC.
3. No emergency exists concerning PVL's request for SDWC to provide water to PVL's proposed lime plant.
4. PVL does not require SDWC to provide a Form W1.
5. PVL does not require potable water for its lime plant's operational use.

6. PVL does not require SDWC to provide any water for PVL's lime plant's operational use.

7. The maximum number of employees at PVL's lime plant will be 9 persons.

8. SDWC has agreed to provide up to 8,000 CF/month of water for PVL's lime plant's domestic needs if PVL confirms that it would not seek in excess of 8,000 CF/month from SDWC for use in its lime plant.

9. PVL's lime plant's domestic water needs are 8,000 CF/month or less.

10. PVL is able to meter its use of domestic water to ensure that it does not use its domestic water for any other purpose at its lime plant.

Conclusions of Law

1. SDWC's tariff contains Special Condition 3 that permits SDWC to limit water delivery to any customer to 8,000 cubic feet/month.

2. SDWC can and should provide PVL with up to 8,000 cubic feet/month of water for its domestic needs.

3. PVL's Second Amended Complaint cannot present a plausible claim for relief.

4. As a matter of law, PVL's Motion for Emergency Relief should be denied.

5. As a matter of law, SDWC's Motion to Dismiss should be granted.

O R D E R

IT IS ORDERED that:

1. Searles Domestic Water Company, LLC, must provide Panamint Valley Limestone, Inc., with up to 8,000 cubic feet/month of water for Panamint Valley Limestone, Inc.'s lime plant's domestic needs.

2. Panamint Valley Limestone, Inc., must monitor its domestic water use to ensure that it does not use its domestic water for any purpose at its lime plant other than for its domestic needs, and must do so through its installation of a

dedicated water meter for this purpose, and must monthly report its meter information to Searles Domestic Water Company, LLC, to confirm the amount of water it is using for its domestic needs.

3. Panamint Valley Limestone, Inc.'s Motion for Emergency Relief is denied.
4. Searles Domestic Water Company, LLC's Motion to Dismiss Panamint Valley Limestone, Inc.'s Second Amended Complaint is granted.
5. Complaint 18-12-012 is closed.

This order is effective today.

Dated April 29, 2020, at San Francisco, California.

SEARLES DOMESTIC WATER COMPANY

P.O. BOX 577

TRONA, CALIFORNIA 93592

(760) 382-3776/8553

RECEIVED

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LAND USE SERVICES
ADMINISTRATION

May 6, 2020

Jim Morrissey, Contract Planner
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Email: Jim.Morrissey@lus.sbcounty.gov

Dear Mr. Morrissey,

Searles Domestic Water Company, LLC (SDWC) commented previously (01/10/20) on factual errors and contradictions it found in a Panamint Valley Limestone (PVL) Conditional use Permit Initial Study/Proposed Mitigated Negative Declaration (IS/MND) issued in November 2019. We submit comments today that are relevant to a revised IS/MND Panamint Valley Limestone (Recirculation) issued for public comment and review in March 2020.

Our comments here reference a California Public Utilities Commission (Commission) Decision (Decision 20-04-039) in case 18-2-012 that established that SDWC will provide PVL with up to 8,000 cubic feet/month of water for domestic use only. Specifically, the Commission ordered that: "Panamint Valley Limestone, Inc. must monitor its domestic water use to ensure that it does not use its domestic water for any purpose at its lime plant other than for its domestic needs and must do so through its installation of a dedicated water meter for this purpose, and must monthly report its meter information to Searles Domestic Water company, LLC, to confirm the amount of water it is using for its domestic needs." This Commission Decision (attached) brings necessary clarity to the various assertions made by PVL in the IS/MND about the availability of and its access to potable water from SDWC.

Thank you for your consideration.

Sincerely,



Audrey Schuyler
Manager, Searles Domestic Water Company

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 29, 2020

TO PARTIES OF RECORD IN CASE 18-12-012, DECISION 20-04-039:

On March 27, 2020, a Presiding Officer's Decision in this proceeding was mailed to all parties. Public Utilities Code Section 1701.2 and Rule 15.5(a) of the Commission's Rules of Practice and Procedure provide that the Presiding Officer's Decision becomes the decision of the Commission if no appeal or request for review has been filed within 30 days of the mailing of the Presiding Officer's Decision.

No timely appeals to the Commission or requests for review have been filed. Therefore, the Presiding Officer's Decision is now the decision of the Commission.

The decision number is shown above.

/s/ S. PAT TSEN for
Anne E. Simon
Chief Administrative Law Judge

AES:gp2

Attachment

ALJ/POD-JSJ/gp2

Date of Issuance: 4/29/2020

Decision 20-04-039 April 24, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PANAMINT VALLEY
LIMESTONE, INC.,

Complainant,

v.

SEARLES DOMESTIC WATER
COMPANY, LLC (U368W),

Defendant.

Case 18-12-012

**PRESIDING OFFICER DECISION DENYING MOTION FOR EMERGENCY
RELIEF AND GRANTING MOTION TO DISMISS**

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**PRESIDING OFFICER DECISION DENYING MOTION FOR EMERGENCY
RELIEF AND GRANTING MOTION TO DISMISS**

Summary

After review of the Motion for Emergency Relief filed by Complainant Panamint Valley Limestone, Inc. (PVL) and after review of the Motion To Dismiss filed by Defendant Searles Domestic Water Company, LLC (SDWC), and in light of review of all relevant pleadings, all relevant evidence, and controlling authority, we find no disputed issues of material fact and thus no basis to hold an evidentiary hearing as all relevant and timely issues raised in the Second Amended Complaint can be decided as a matter of law. We deny PVL's Motion for Emergency Relief. We grant SDWC's Motion to Dismiss the PVL Second Amended Complaint. We direct SDWC to comply as directed herein.

This proceeding is closed.

1. Background

Panamint Valley Limestone, Inc. (PVL) is a commercial entity seeking to build a limestone processing plant in San Bernardino county. Searles Domestic Water Company, LLC (SDWC) is the water company in the territory where PVL is seeking to build its facility. PVL demands that SDWC supply its facility with water for its domestic requirements (bathrooms, etc.) and for operational requirements (the processing of the limestone), and PVL also demands that SDWC complete a form certifying to the County of San Bernardino (County) that it will provide PVL with water, so as to enable PVL to receive a Conditional Use Permit from the County necessary for the development of the lime processing plant.

PVL contends that SDWC is statutorily discriminating against it by refusing to provide it with water. SDWC responds that PVL has failed to make

out its case for discrimination, that it is entitled to refuse PVL's demand for the lime plant's operational water requirements, and that providing PVL with domestic water is moot in the face of the failure of the PVL to obtain operational water. However, SDWC acknowledged that it would provide PVL with domestic water if PVL's complaint were dismissed.

1.1. General Background

PVL reports that it is a California corporation, with a principal place of business in the town of Trona, in San Bernardino County. PVL is seeking water service from SDWC for a property located in San Bernardino County, in SDWC's water utility service territory. PVL intends to operate a lime plant at the subject property.¹

SDWC, a class C water company, has operated for the past 75 years, serving approximately 900 customers in San Bernardino County. SDWC states that 80 percent of its water sales by volume are to single family residences, that 14 percent of its water sales are to commercial and multi-residential customers, and that 6 percent of its water sales are to public authorities and irrigation customers.² SDWC further states that it serves no "large users" as that term is defined by the Commission ("Large water users are...[those] who use at least five times as much water as the average single family residential customer...": Decision (D.) 16-11-006 at B43).

SDWC also states that its sole water supply is purchased from its parent corporation Searles Valley Minerals Inc. (SVM) which "pumps from 5 wells in the

¹ PVL Second Amended Complaint at 3.

² SDWC Motion to Dismiss the Second Amended Complaint at 2.

Indian Wells Valley."³ SDWC reports that the California Department of Water Resources' most recent assessment of threatened aquifers in California determined that the Indian Wells Valley Basin aquifer is one of twenty-one groundwater basins that are subject to "critical conditions of overdraft."⁴ Further, the Indian Wells Valley Groundwater Authority is presently drafting a groundwater sustainability plan, and it is instructing all groundwater pumpers to submit their historical pumping figures and other relevant materials by March 1, 2020, and thereafter a final report will be reviewed for consideration at its June 20, 2020 meeting.⁵

1.2. Procedural Background

On December 12, 2018, PVL filed a verified Complaint against SDWC (its later Amended Complaints were also verified). PVL generally asserted that SDWC should supply it with its water needs to serve the lime plant it is seeking to develop. PVL's Complaint contains exhibits demonstrating that its request to SDWC for its proposed plant would require 26 gallons per minute (GPM) of potable water.^{6,7}

On February 4, 2019, SDWC filed a verified Answer. It asserted in part that PVL had failed to cite a statute or a Commission order that SDWC had allegedly violated. SDWC also asserted that its tariff contained "Special Condition 3 [which] permits SDWC to limit water delivery to any customer to

³ D. 08-05-008.

⁴ SDWC Motion To Dismiss the Second Amended Complaint at 2-3.

⁵ Status Conference Transcript at 13-14.

⁶ Water units: 1 cubic foot (CF) is 7.5 gallons. 1 acre-foot is 325,851 gallons, or 43,600 CF. For reference, the average American home uses 12,000 gallons / 1,600 CF/month.

⁷ 26 GPM is approximately 1,150,000 gallons/month, or approximately 150,000 CF/month, or approximately 42 acre-feet/year.

8,000 cubic feet/month”⁸: put otherwise, under its tariff, SDWC must be willing to supply customers with up to 8,000 CF/month.

On April 2, 2019, PVL filed an Amended Complaint, alleging SDWC discriminated against PVL under Public Utilities (Pub. Util.) Code §453(a) for refusing to provide it 26 GPM of water “at the direction of and/or to provide a competitive business advantage to an affiliated entity [SVM] that is not subject to regulation by the Commission.” PVL further alleged that SDWC “has or must seek to obtain water” to serve its facility. PVL also asserted that SDWC had to provide PVL with a “Form W1 Public Water Service Certification” (Form W1) that was allegedly required by the County in order for the County to issue to PVL a Conditional Use Permit (Permit) necessary for PVL to develop its planned lime plant.

On April 3, 2019, a Prehearing Conference (PHC) was held. At the PHC, each party indicated that it wished to bring a motion in the proceeding. A schedule for the motions was set forth.

On April 16, 2019, SDWC filed a verified Answer to the Amended Complaint. It asserted that it had offered to supply the Form W1 if PVL agreed that it would accept a maximum of 8,000 CF/month of water (a limit beyond which, under its tariff, SDWC may exercise a right of discretion). SDWC further asserted that PVL had refused that offer.

On April 18, 2019, PVL filed a Motion for Emergency Relief. The Motion contends that SDWC “should be compelled to: (i) provide PVL the amount of necessary for domestic use at the subject property, which is less than the SDWC non-discretionary tariff threshold; and (ii) execute the Form W1...” On

⁸ Answer at 4. As a calculation of units, 8,000 CF/month is approximately 1.4 GPM.

May 1, 2019, SDWC filed its opposition, arguing in part that the Motion did not provide a supporting procedural basis. On May 8, 2019, PVL filed a reply to the opposition. On May 22, 2019, SDWC filed a sur-reply.

On April 24, 2019, SDWC filed a Motion to Dismiss the Amended Complaint of PVL, essentially contending that, because PVL's Amended Complaint failed to identify any entity in whose favor SDWC discriminated, therefore PVL had not appropriately applied Pub. Util. §453(a). SDWC also contended that PVL's assertion that it is entitled to 8,000 CF/month of water is meritless as "neither SDWC nor this Commission are required to pretend that the 'domestic' use is actually 'separate and apart' from the potable water requirements of the lime plant [... the] 'domestic' uses PVL seeks to isolate will not occur unless a plant requiring over a million gallons of water a month is placed in SDWC's service area."⁹ For this same reason, SDWC contended that its refusal to sign a Form W1 violated no statute or commission decision.

On May 6, 2019, PVL filed a Second Amended Complaint, which newly requested injunctive relief in seeking that SDWC provide 26 GPM of water for domestic use and in seeking that SDWC execute the Form W1. On May 15, 2019, SDWC filed its Answer to the Second Amended Complaint.

On May 15, 2019, SDWC filed a Motion to Dismiss the Second Amended Complaint. On May 22, 2019, PVL filed an opposition. On June 5, 2019, SDWC filed a reply to the opposition.

On January 6, 2020, a Status Conference was conducted. At the Status Conference, the Assigned Administrative Law Judge (ALJ) requested that PVL provide a copy of its November 2019 County of San Bernardino Conditional Use

⁹ Motion to Dismiss at 10-11.

Permit, Initial Study/Proposed Mitigated Negative Declaration (Permit), and also a copy of its Form W2, Private Water Service, both of which were referenced in the Status Conference. On January 7, 2020, PVL's Counsel provided these documents. On March 27, 2020, by ALJ Ruling, these documents were accepted into the record as evidence. On January 31, 2020, pursuant to a granted motion, SDWC filed in this proceeding such comments as it had filed with the County pursuant to the Permit.

1.3. Factual Background

PVL's verified Second Amended Complaint contains the following factual assertions:

Par. 3. PVL determined that its requirements for water for *domestic* use at the subject property would be less than the non-discretionary tariff threshold of SDWC... [I]t is continuing to refuse to provide service to PVL, even in an amount within SDWC's non-discretionary threshold. SDWC is also refusing to execute the Form W1 [...] required by the County [...] to issue PVL the [...] Permit necessary for PVL to develop its planned line plant on the subject property. SDWC's refusal to provide water sufficient to meet PVL's domestic water needs and execute the County form is causing PVL to suffer irreparable harm.

Par. 5. PVL brings this action in response to SDWC's refusal to provide approximately 26 [GPM] to the lime plant that PVL is developing on property located within SDWC's service area, and SDWC's subsequent refusal to provide water necessary to meet PVL's domestic water needs, which total less than 8,000 cubic feet per month... PVL further contends that SDWC is discriminating against PVL, in violation of [Pub. Util.] §453(a), and improperly refusing to provide the requested water service at the direction of and/or to provide a competitive business advantage to an affiliated entity that is not subject to regulation by the Commission.

Par. 10. PVL intends a lime plant on the Subject Property. The lime plant will operate 24 hours per day and will employ approximately 35-40 people.

Par. 11. In April 2018, PVL requested that SDWC provide approximately 40 gallons of water per minute to the Subject Property.

Par. 15. Promptly [after September 2018], PVL delivered to SDWC's office... a spreadsheet detailing more specifically PVL's water requirements for the Subject Property. In particular, the spreadsheet clarified that the average daily water demand for the Subject Property would be approximately 26 [GPM].

Par. 47. SDWC's refusal to provide and confirm water sufficient even to meet PVL's *domestic* water is causing PVL irreparable harm. SDWC's refusal to execute the County Form W1 is preventing the County from issuing PVL's Conditional Use Permit Application and proceeding with the California Environmental Quality Act review necessary for PVL to develop the Subject Property. As a result of this delay, PVL is at substantial risk of losing investors and partners, which would cause the development of the Subject Property to fail¹⁰... PVL will also lose its competitive advantage and will also lose the leverage it has made toward amending the California Air Resources Board's Cap and Trade program to provide allocations for lime production facilities.¹¹

PVL produced two County documents: the Panamint Valley Limestone Form W2, and the Panamint Valley Limestone Conditional Use Permit. Excerpts of these documents are as follows:

Form W2¹²

Applicant Name: Panamint Valley Limestone

APN 0485-031-02

¹⁰ There is no reference to factual support for this argument.

¹¹ There is no reference to factual support for this argument.

¹² Pursuant to Rule 13.9, Pub. Util. §§ 1701(a), and Evidence Code §452, the Commission here takes judicial notice of this Form W2 document and its contents as having been presented by PVL, having been created through the substantial input of PVL regarding issues synonymous with the issues presented here, and standing for one of the same purposes for which PVL presents its Complaint here.

Project P201800477

The County Department of Public Health, Division of Environmental Health Services finds that:

“X” The subject property has a water well approved for use by the proposed project. Approved for industrial use.

“X” Other: Potable water use is currently under review with EHS.

Signed and dated 7/12/19.

San Bernardino County.

PVL also produced the following:

Panamint Valley Limestone Conditional Use Permit¹³

Initial Study / Proposed Mitigated Negative Declaration

San Bernardino County Planning Division

November 2019

Project Label: APN 0485-031-12

Applicant: Panamint Valley Limestone, Inc.

Project No.: P201800477

Rep: Larry Trowsdale¹⁴

Project Overview: ...On average, 650 tons per day (TPD) of limestone will be delivered... All of the lime produced will be quicklime. A small amount of water will be introduced into about 50 percent of the quicklime to produce hydrated lime.¹⁵

Project Hours of Operation & Employee Count: The PVL Lime Plant will operate 24 hours a day, 7 days a week... The employee count

¹³ Pursuant to Rule 13.9, Pub. Util. §§ 1701(a), and Evidence Code §452, the Commission here takes judicial notice of this Permit document and its contents as having been presented by PVL, having been created through the substantial input of PVL regarding issues synonymous with the issues presented here, and standing for many of the same purposes for which PVL presents its Complaint here.

¹⁴ Permit at 1. Mr. Trowsdale is identified in news reports as the spokesperson for PVL.

¹⁵ Permit at 2.

will vary as follows: 9 employees for each weekday shift, 2 employees for each weekday nighttime shift, and 2 per each weekend day and weekend night shift.... The maximum number of employees on site will be 9 persons...¹⁶

A 500,000 gallon water tank will also be located within the SE Zone...

Searles Domestic Water Company will provide potable water service to the project most likely through a new connection within Athol Street that will connect to an existing connection at Athol Street and Argus Avenue. The Water Company will be responsible for developing water lines that will connect to the proposed project. The project will require 1.4 gallons of potable water per minute. The proposed project intends to develop an onsite well that would provide water for industrial purposes (non-potable). The project will require 20 gallons of industrial water per minute.¹⁷

Additional Approval Required By Other Public Agencies:

... Regional Water Quality Control Board, Region 6.¹⁸

... Additionally, in order to supply a portion of the water required to operate the PVL Lime Plant, a well will be installed, which has been included in both the operational and construction emission's analysis. The well can be installed in 5 days, with two vehicles on site (one drill rig, one employee vehicle).¹⁹

... Production Well. As stated under the construction emissions discussion above, the PVL Lime Plant will drill a well to supply a portion of the water on site. The operational emissions analysis presented below incorporates the emissions a 26-50 gallon per minute well pump would generate.²⁰

¹⁶ Permit at 3.

¹⁷ Permit at 4.

¹⁸ Permit at 10.

¹⁹ Permit at 22.

²⁰ Permit at 24.

... Implementation of the proposed Project will utilize water from two sources. For drinking water, the project proposed to obtain an estimated 1.3 gpm of potable water from the Searles Domestic Water Company... The remaining water proposed to be consumed by the proposed Project consists of brackish water that will be supplied by an onsite water well that will be drilled to meet operational requirements for water. This well will be designed to provide an estimated 30 gpm of brackish water that will be treated to meet "process" water demand.^{21,22}

Finally, PVL has variously stated that "it will require potable water for its industrial operations"²³ and that the lime processing requires "near-potable [water] because the lime being produced is, in some instances, at least food-grade quality."²⁴ PVL was clear that regarding its domestic water needs, "it was estimated that the highest demand could be up to eight -- just under [] the 8,000 cubic feet per month, which is the tariff for non-discretionary limit. And that is for domestic purposes... And that water could, in our position, be segregated... there are very simple ways to put a meter to penalize after-the-fact should you find that someone's using more than they've been allotted for domestic purposes."²⁵

²¹ Permit at 47-48.

²² The January 31, 2020 filing of SDWC regarding its Permit comments addressed the Permit's assertions in this section, to wit, that the amount of water SDWC purchases from SVM was here overstated by approximately 10 times the actual amount, and that PVL contradicts information presented by PVL in this CPUC proceeding that PVL has asserted its lime plant process requires the use of potable water, that PVL requested SDWC provide 42 acre-feet a year of potable water, that SDWC has denied that request, and that PVL has not asserted in this proceeding that it will drill a well to obtain operational requirements for water.

²³ Motion for Emergency Relief at 1.

²⁴ Status Conference Transcript at 35.

²⁵ Status Conference Transcript at 31, 37.

2. Review and Denial of the PVL Motion for Emergency Relief

PVL's Motion for Emergency Relief cites generally to Rule 11.1. Rule 11.1(a) states as follows: "A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission." PVL, citing through prior decision to Pub. Util. §701, asserts that the Commission is authorized as follows:

To 'do all things, whether specifically designated in [the Public Utilities Act] or in addition thereto, which are 'necessary and convenient' in the exercise of its jurisdiction over public utilities... The commission's authority has been 'liberally construed' and includes not only administrative but also legislative and judicial powers.²⁶

PVL's Motion did not otherwise provide any basis for its legal analysis, consideration, or means of measure.

SDWC opposes the PVL Motion by, in part, arguing that PVL fails to cite to authority or create an argument or analysis as to possible Commission application for a standard for injunctive relief, and therefore asserted that PVL's Motion is not before the Commission in a procedurally sound manner. SDWC laid out the factors to be considered by the Commission in the appropriate analysis for the application of injunctive relief:

- (1) Does an "emergency" exist? Will a large number of utility customers lose service (or suffer some comparable disadvantage) absent immediate action by the Commission?
- (2) Will the party seeking interim relief likely prevail on the merits?
- (3) Will the party seeking interim relief suffer irreparable injury without the order?

²⁶ Citing to *San Diego Gas & Electric Co.*, 12 Cal.4th 915.

(4) Will granting relief not cause substantial harm to the nonmoving party and others?

(5) Will granting relief be in the public interest?²⁷

SDWC observed that PVL's Motion for injunctive relief only cited to the Commission's ambit of authority to resolve jurisdictional, administrative, legislative, and judicial issues. SDWC's observation is correct (to that point in time) that PVL has not pled a prayer for injunctive relief, and that it had not alleged the existence of an emergency or the consequences of a failure of relief. SDWC explored the factual reasons why the injunctive relief factors articulated in past Commission decisions were not met by PVL.

In a presumed response to the SDWC's opposition, PVL then filed its Second Amended Complaint, which was amended to add a prayer for injunctive relief. In PVL's reply to SDWC's opposition, PVL wrote that SDWC's refusal to comply with PVL's requests were causing it "irreparable harm, including loss of investors and its competitive business advantage."²⁸ Importantly, PVL asserted as follows: "SDWC's refusal to provide the water sought in this Motion²⁹ and

²⁷ SDWC opposition re Motion for Emergency Relief at 3-4, citing to D.01-04-008, D.05-04-040, and D.06-05-040.

²⁸ PVL Reply re Motion for Emergency Relief at 2.

²⁹ Despite that there are multiple Complaint filings and Motion filings in a presumed effort to bring accuracy and clarity, it remains unclear as to exactly what PVL is requesting.

On the one hand, the Second Amended Complaint reads in critical part as follows:

"5. PVL brings this action in response to SDWC's refusal to provide approximately 26 [GPM] to the lime plant that PVL is developing on property located within SDWC's service area, and SDWC's subsequent refusal to provide water necessary to meet PVL's domestic water needs, which total less than 8,000 CF per month..."

"21. By letter date March 19, 2019, PVL again asked SDWC to agree to provide up to 8,000 CF of water per month and to execute the Form W1 with the understanding that SDWC would be limiting its commitment to 8,000 CF of water. A true and correct copy of the March 19, 2019 letter is attached hereto as Exhibit F."

execute the County Form is preventing the County from granting PVL a Conditional Use Permit and proceeding with the California Environmental Quality Act review necessary for PVL to develop the Subject Property.”³⁰

Typically, review of a motion for emergency relief would begin with consideration of the merits of the motion’s procedural underpinnings. Perhaps unusually, here it is necessary to understand the Motions factual underpinnings. This is due to PVL’s January 7, 2020 production of the Permit and Form W2, which was subsequent to PVL’s April 18, 2019 Motion for Emergency Relief, and which factually undercut the Motion’s asserted facts, and consequently also undercuts any need to consider the procedural footing of the Motion.

Functionally, there are three issues addressed in the Motion. First, PVL asserted that the County could not issue PVL a Permit. Yet, clearly, it has. Second, PVL asserted that SDWC had to complete a Form W1. Yet, clearly, PVL provided its own Form W2, supplanting the need for SDWC’s Form W1. Third,

On the other hand, the Motion reads in critical part as follows:

“SDWC repeatedly refused this request [[to] confirm that it would provide water sufficient to meet PVL’s *domestic* water needs (separate and apart from its needs for water for industrial uses at the Subject Property)], stating that it will not provide water to PVL unless PVL will confirm that it “no longer seeks water in excess of 8,000 CF/month.” As such an agreement would require dismissal of this action, and as PVL cannot predict what its obligations may be into the future, it cannot comply with the condition imposed by SDWC. (Motion for Emergency Relief at 3-4.)

Consequently, it is unclear whether these filings indicate whether PVL would be satisfied with 8,000 CF/month -- as seems to be indicated in Paragraph 21 of the Second Amended Complaint -- or if it would not be satisfied with 8,000 CF/month, as indicated by the Motion for Emergency Relief. As the Motion for Emergency Relief may be addressed as a distinct request for relief, as apart from the Second Amended Complaint, for these immediate purposes, as the Motion is essentially self-reflective and self-contained, the determination regarding the Motion will address the relief sought in the Motion, having largely been supported by the Second Amended Complaint (primarily in that Complaint’s request for injunctive relief, which is foundational to (at least) the basis for the Motion).

³⁰ Reply re Motion for Emergency Relief at 5.

PVL contended that SDWC's (in)actions were causing PVL irreparable harm. Yet, clearly, PVL has been able to move forward with its project, as evidenced by the County's Permit, and so there can be no argument of harm.

We conclude that as a matter of law and fact, no emergency exists, and therefore there can be no need for immediate action by the Commission. There is no basis for PVL to prevail on the merits of its Motion, or on the merits of its Complaint, as it has suffered no harm, and for this same reason it will not suffer irreparable injury.

For these reasons, the Motion for Emergency Relief is denied.

3. Procedural Standard for Review of the SDWC Motion to Dismiss

SDWC has brought a Motion to Dismiss PVL's Second Amended Complaint. SDWC cited to Pub. Util. §1701 as the basis for its Motion. Additionally, SDWC cited past Commission practice, and indicated the standard for dismissal for failure to state a claim (here, for failure of the complaint to allege a violation of law or to allege a violation of a Commission rule or order).

Rule 11.2 specifically recognizes a motion to dismiss "based on the pleadings." The Commission's review of a motion to dismiss "is analogous in several respects to a motion for summary judgment in civil practice."³¹ Like summary judgment procedure, the purpose of a motion to dismiss is to permit determination "before hearing whether there are any triable issues as to any material fact," and in doing so, a motion to dismiss, like a motion for summary judgment, "promotes and protects the administration of justice and expedites litigation by the elimination of needless trials."³²

³¹ D.94-04-082, referring to Rule 56, the predecessor to Rule 11.2.

³² *Ibid.*

The Commission requires the same kind of showing in a motion to dismiss that the courts require in a motion for summary judgment:

The party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact.³³

These legal standards provide the analytical framework for considering SDWC's motion to dismiss. That motion presents a question that must be determined. The motion is fully briefed and capable of determination.

3.1. Review and Grant of the SDWC Motion to Dismiss

Despite filing a Complaint, a First Amended Complaint, and a Second Amended Complaint, PVL has failed to adequately plead a sound basis for a complaint. There are three bases for dismissing the complaint: a. it fails to assert a claim under a statute; b. it is premature; c. its claims are conclusively rebutted by PVL's factual assertions made to the County. Each of these is an independent basis for dismissal.

3.1.1. PVL fails to assert a claim under a statute

Regarding the claim under the statute, SDWC correctly identifies that, in accordance with the Commission's application of Pub. Util. §453(a), the claimant must identify some form of preferential treatment that discriminates against the claimant. "'Discrimination [under Pub. Util. §453(a)] by a public utility does not mean merely and literally unlike treatment accorded by a utility to those who may wish to do business with it, but refers to partiality in treatment of those in like circumstances seeking a class of service offered to the public in general.'"

³³ 25 Cal.4th 826, 850.

(*International Cable T.V. Corp. v. All Metal Fabricators* (1966) 66 Cal.P.U.C. 366, cited in D.14-05-026.) Here, SDWC argues that PVL must point to a customer receiving water beyond the 8,000 CF/month amount to which SDWC's tariff enables it to discretionarily limit customers, in order for PVL to make out a properly pled claim pursuant to Pub. Util. §453(a) that SDWC is discriminating against PVL by refusing to provide 150,000 CF/month.³⁴

PVL's opposition to the Motion first argues that SDWC "improperly exercised the discretion under the tariff" regarding several customers and SVM.³⁵ While seemingly a cogently argument, examination of these allegations reveals a different light. Other than SVM, the exceeding customers are two 10-unit and one 56-unit apartment complexes, which, on an individual unit basis, use below the 8,000 CF/month discretionary limit.³⁶ Regarding SVM, there were months in which the 8,000 CF/month discretionary limit was exceeded, but this was due to water delivered to another location that should have been on a separate account, and will be terminated or converted to a separate account.^{37,38} These facts defeat the argument that SDWC has exercised a grant of discretion toward a customer and therefore SDWC is now discriminating against PVL by refusing to exercise that same grant of discretion toward PVL. PVL's pleading is without supporting facts in this regard.

³⁴ Motion at 5.

³⁵ PVL Opposition at 11-12.

³⁶ SDWC Reply at 4-5, quoting its data responses.

³⁷ SDWC Reply at 4-6, quoting its data responses.

³⁸ SDWC also points out that, at 11,000 CF/month, the amount of water SVM received even with the undeclared additional account is still merely about 7% of the amount PVL is seeking, and therefore does not stand as support that SDWC is discriminating against PVL because the amounts at issue are so dramatically different. SDWC Reply at 6-7.

PVL's opposition also asserts that SVM "manipulated" SDWC, that SVM "has been able to prevent SDWC from having any 'large users'", that "SVM and SDWC are not distinct entities", that they are "alter egos", and that "the Commission must recognize the actions of SVM, but in granting relief, need not necessarily exercise jurisdiction over SVM."³⁹ It is noted that the Commission has jurisdiction over SDWC, and this jurisdiction is both the scope and length of the Commission's authority and interest.⁴⁰ PVL's allegations regarding SVM are not of any relevance in deciding the strength of the pleading regarding Pub. Util. §453(a). Nor is any allegation vis-à-vis SVM's relationship to SDWC per se a basis to withstand this Motion to Dismiss given the absence of discrimination and given the Commission's jurisdiction solely over SDWC.⁴¹

Lastly, it is also noted that SDWC has no "large users" as that term is defined by the Commission, and yet PVL would seek to be a large user under that definition.⁴² This fact belies the difficulty PVL faces in asserting discrimination, given the remarkable disparity in the amount of its water request compared to the amount of water SDWC provides to all its other customers. It can be presumed that the Commission considered SDWC's water supply and its customer base in authorizing SDWC's tariff right to exercise discretion when considering requests of more than 8,000 CF/month.

³⁹ PVM Opposition at 13-16.

⁴⁰ It is also noted that SVM's relationship to SDWC is a known fact, clear to the Commission, and this proceeding is not a basis for review of the merits of that relationship.

⁴¹ Other than citing to SDWC's Annual Reports and certain LinkedIn profiles, PVL has not provided any facts to support the manipulative assertions made in its arguments, even after having conducted discovery.

⁴² D.16-11-006 at B43.

3.1.2. PVL's Claim Is Premature

PVL attempts to argue that SDWC would have adequate water for PVL if it were to attempt to identify sufficient water rights.⁴³

However, as PVL acknowledges, the Indian Wells Valley Groundwater Authority is going to implement a new annual pumping allocation for those entities that pump groundwater from the Indian Wells Valley aquifer (the source of SDWC's waters), and that only at the June 20, 2020 meeting is the Authority going to consider how to reallocate water rights from that aquifer.⁴⁴

Consequently, it is unclear how PVL can, as part of its premise, make out an argument that SDWC has sufficient water availability such that it will be capable of satisfying PVL's request for approximately 42 feet-acres/year. PVL's asserted water requirements are presumed to be based upon years of such need. Yet, it is clear that SDWC's sourced water pumping rights may be curtailed after the impending Authority meeting.

PVL is aware of the Authority's steps and impending meeting. PVL is also aware (if only through this proceeding) that SDWC's water rights may be curtailed. Therefore, PVL's arguments regarding SDWC's ability to provide PVL with all the water PVL is seeking are premature.

3.1.3. PVL's Pleading is Conclusively Rebutted with PVL's Factual Assertions Made to the County

Necessary to the consideration of any pleading are a set of facts that the reviewer must accept as true. By that token, a set of pleading facts that cannot be accepted as true must be struck from consideration in support of the pleading.

⁴³ PVL Opposition at 6-9.

⁴⁴ Status Conference Transcript at 12-14.

The pleading would then have to stand on the strength of any remaining facts that support the pleading.

Here, PVL's asserted pleading facts are squarely undercut by the facts PVL asserted to the County pursuant to the County's issuance of the Permit and by the facts PVL asserted to the County pursuant to the Form W2. Those pleading facts were central to the pleading. Therefore, without those pleading facts, the pleading is hollowed to such a degree that it must fail as a whole.

In their most critical parts, the following elements of PVL's Second Amended Complaint contains factual assertions that are undercut by PVL's input into the County's Permit, by the Form W2, and by PVL's Status Conference statements:

1. PVL requires SDWC to provide a Form W1 for it to be able to obtain a Permit from the County, and therefore SDWC's refusal is causing PVL to suffer irreparable harm.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide a Form W1.
2. PVL requires potable water for its lime plant's operational use.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require potable water for its lime plant's operational use.
3. PVL requires SDWC to provide 26 GPM of water for its lime plant.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide 26GPM of water for its lime plant's operational use.
4. As a result of SDWC's actions, PVL is at substantial risk of losing investors and partners, which would cause the development of the Subject Property to fail.

- In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide any water for its lime plant's operational use, and therefore SDWC could not be responsible for PVL losing investors and partners.
5. As a result of SDWC's actions, PVL will lose its competitive advantage and will also lose the leverage it has made toward amending the California Air Resources Board's Cap and Trade program to provide allocations for lime production facilities.
 - In fact, the existence of the Form W2 and the existence of the Permit demonstrates that PVL does not require SDWC to provide water for its lime plant's operational use, and therefore SDWC could not be responsible for PVL losing competitive advantage.
 6. The lime plant will employ approximately 35-40 people.
 - In fact, the maximum number of employees on site at PVL's lime plant will be 9 persons.
 7. SDWC's refusal to provide water sufficient to meet PVL's domestic water needs is causing PVL irreparable harm.
 - In fact, PVL acknowledges that SDWC has agreed to provide up to 8,000 CF/month of water at its lime plant for its domestic needs if PVL confirms that it would not seek water in excess of 8,000 CF/month.
 8. PVL has refused SDWC's agreement to provide up to 8,000 CF/month because "PVL cannot predict what its obligations may be into the future."
 - In fact, PVL acknowledges that its lime plant's domestic water needs are 8,000 CF/month or less (*i.e.*, 1.4 GPM).

Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.⁴⁵ Here, primarily through consideration of the

⁴⁵ 556 US 662, 663-664.

information admitted by PVL in the County Permit and Form W2, PVL's Second Amended Complaint cannot present a plausible claim for relief. The claims for relief are conclusively rebutted, and PVL's Complaint must be dismissed.

4. Categorization and Need for Hearings

The Instruction to Answer filed on January 4, 2019, categorized this Complaint as adjudicatory as defined in Rule 1.3(a) and anticipated that this proceeding would require evidentiary hearings. Because there are no disputed issues of material fact, there is no reason to hold evidentiary hearing: all issues raised in the PVL Second Amended Complaint are decided as a matter of law in accordance with this decision. Therefore, PVL's Second Amended Complaint must be dismissed and the evidentiary determination is changed to state that no evidentiary hearings are necessary.

5. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Jason Jungreis is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

Findings of Fact

1. The Indian Wells Valley Groundwater Authority is presently drafting a groundwater sustainability plan, and a final report will be reviewed for consideration at its June 20, 2020 meeting.
2. No emergency exists concerning PVL's Form W1 request of SDWC.
3. No emergency exists concerning PVL's request for SDWC to provide water to PVL's proposed lime plant.
4. PVL does not require SDWC to provide a Form W1.
5. PVL does not require potable water for its lime plant's operational use.

6. PVL does not require SDWC to provide any water for PVL's lime plant's operational use.

7. The maximum number of employees at PVL's lime plant will be 9 persons.

8. SDWC has agreed to provide up to 8,000 CF/month of water for PVL's lime plant's domestic needs if PVL confirms that it would not seek in excess of 8,000 CF/month from SDWC for use in its lime plant.

9. PVL's lime plant's domestic water needs are 8,000 CF/month or less.

10. PVL is able to meter its use of domestic water to ensure that it does not use its domestic water for any other purpose at its lime plant.

Conclusions of Law

1. SDWC's tariff contains Special Condition 3 that permits SDWC to limit water delivery to any customer to 8,000 cubic feet/month.

2. SDWC can and should provide PVL with up to 8,000 cubic feet/month of water for its domestic needs.

3. PVL's Second Amended Complaint cannot present a plausible claim for relief.

4. As a matter of law, PVL's Motion for Emergency Relief should be denied.

5. As a matter of law, SDWC's Motion to Dismiss should be granted.

O R D E R

IT IS ORDERED that:

1. Searles Domestic Water Company, LLC, must provide Panamint Valley Limestone, Inc., with up to 8,000 cubic feet/month of water for Panamint Valley Limestone, Inc.'s lime plant's domestic needs.

2. Panamint Valley Limestone, Inc., must monitor its domestic water use to ensure that it does not use its domestic water for any purpose at its lime plant other than for its domestic needs, and must do so through its installation of a

dedicated water meter for this purpose, and must monthly report its meter information to Searles Domestic Water Company, LLC, to confirm the amount of water it is using for its domestic needs.

3. Panamint Valley Limestone, Inc.'s Motion for Emergency Relief is denied.
4. Searles Domestic Water Company, LLC's Motion to Dismiss Panamint Valley Limestone, Inc.'s Second Amended Complaint is granted.
5. Complaint 18-12-012 is closed.

This order is effective today.

Dated April 29, 2020, at San Francisco, California.



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 20, 2019

Jim Morrissey
County of San Bernardino
385 N. Arrowhead Ave.
San Bernardino, CA 92415

Subject: Initial Study/Mitigated Negative Declaration- Panamint Valley Limestone- Conditional Use Permit (SCH2019119083)

Dear Mr. Morrissey:

The California Department of Fish and Wildlife (CDFW) received the Initial Study and Mitigated Negative Declaration (MND) for Panamint Valley Limestone (SCH2019119083) (Project) from the County of San Bernardino (Lead Agency) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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

CDFW ROLE

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

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

Conserving California's Wildlife Since 1870

PROJECT DESCRIPTION SUMMARY

Project Location

The proposed Project is located in the community of Trona in Searles Valley, San Bernardino County. The Project area is approximately 0.87 miles west of the intersection of Trona Road and Athol Street.

Project Description

The proposed Project is the construction of an industrial lime production plant on a 61.65-acre brownfield site that formerly served as an ash disposal landfill. Proposed facilities include a lime plant, office building, pellet plant, limestone powder plant, solar power generation array, loading bins, vertical kiln, conveyors, a water storage tank, paved internal roadways, a storm water basin, and other ancillary facilities. Construction of utilities for the proposed Project would include laying a natural gas pipeline, a water distribution pipeline, and an electrical distribution line.

COMMENTS AND RECOMMENDATIONS

Project Specific Comments and Recommendations

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

Nesting Birds

Fish and Game Code 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 make pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code Section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by 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.).

CDFW recommends the Lead Agency condition BIO-4 to require inclusion of surveying for nesting bird activity in the adjacent habitat around the Project site. CDFW also recommends the qualified biologist be onsite daily to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences.

The IS/MND also notes Le Conte's thrasher, a Species of Special Concern (SSC) may be present and refers to mitigation measure BIO-3. This should be corrected to BIO-4.

Additionally, CDFW requests consideration of another SSC, burrowing owl. CDFW recommends the Lead Agency require pre-construction surveys be performed following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>)

State Threatened, Endangered, and Candidate Species

CDFW has discretionary authority over activities that could result in the “take” of any species listed as candidate, threatened, or endangered, pursuant to the California Endangered Species Act (CESA; Fish and Game Code, § 2050 *et seq.*). 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 (ITP) or a consistency determination in certain circumstances (Fish and Game Code, §§ 2080.1 & 2081).

CDFW has concerns about the methods described in Appendix 2, Biological Analysis of a Proposed Lime Plant in Trona, California (EnviroPlus Consulting, Inc., 2018) for determining presence of sensitive biological resources, such as CESA-listed species. It should be noted that the described pedestrian survey was a habitat assessment, as species-specific protocols were not performed. Additionally, surveys performed in prior years were referenced. It should be noted CDFW considers wildlife surveys to be valid for one year.

CDFW agrees that Mohave ground squirrel (MGS) presence should be assumed or determined through a protocol trapping survey as described in BIO-1. The Mohave Ground Squirrel Survey Guidelines (Department of Fish and Game, July 2010) are available on CDFW's website: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>.

While desert tortoise sign was not detected, protocols required for desert tortoise presence/absence surveys were not performed. CDFW recommends a protocol level survey for desert tortoise be required by the Lead Agency. CDFW recommends pre-construction surveys to use the methods described in the most recent United States Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual with use of perpendicular survey routes covering 100 percent of the Project area and a 50-foot buffer zone.

The mitigation measure BIO-1 references obtaining an ITP. Information for applying for an ITP for MGS or desert tortoise can be found on CDFW's website at <https://www.wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>.

Special Status Plants

BIO-2 recommends a pre-construction survey for Borrego milk-vetch. This recommendation is based on review of CDFW's California Natural Diversity Database (CNDDB). Please note, CNDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the potential presence of species within the general area of the Project site.

CDFW recommends the Lead Agency require a thorough, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities before the commencement of Project activities (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are

completed during periods of drought. CDFW generally considers biological field assessments for rare plants valid for a period of up to three years. If special status plants and natural communities may be impacted from the Project, CDFW recommends that the Lead Agency include specific avoidance, minimization, and mitigation measures in the environmental document and make the implementation of each measure a requirement.

Additional Wildlife Surveys

CDFW recommends the Lead Agency require pre-construction surveys for desert kit fox and American badger with CDFW approved protocols. Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460. American badger is a Species of Special Concern. Should either species be found on or adjacent to the Project area, it is recommended the Lead Agency require the preparation of a desert kit fox and American badger mitigation and monitoring plan. Desert kit fox breeding season is January to the end of May. If a natal burrow is located on the Project site, a qualified biologist should determine appropriate buffers and maintain connectivity to adjacent habitat. No Project activities or vegetation removal may occur within the buffer or habitat connectivity.

Lake and Streambed Alteration Agreement

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

CDFW's issuance of an LSA Agreement is a "Project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources.

Per BIO-3, ephemeral streams or desert washes may be impacted by the Project. CDFW recommends the mitigation measure require submission of Lake or Streambed Alteration Notification to CDFW. Upon receipt of a complete notification, CDFW determines if the Project activities may substantially adversely affect existing fish and wildlife resources. Notification information can be found on CDFW's website (<https://www.wildlife.ca.gov/Conservation/LSA/Notify-CDFW>).

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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

Mr. Morrissey
IS/Mitigated Negative Declaration
Panamint Valley Limestone (SCH2019119083)
Page 5 of 5

Project surveys to the CNDDDB. The CNDDDB field survey form can be submitted online at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>, or a completed PDF Field Survey Form (<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>) can be completed and mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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. If you should have any questions pertaining to this letter, please contact Ashley Rosales, Environmental Scientist at Ashley.Rosales@Wildlife.ca.gov or (909) 980-8607.

Sincerely,



Scott Wilson
Environmental Program Manager

ec: State Clearinghouse



April 24, 2020
Sent via email

Jim Morrissey
Planner
County of San Bernardino
Land Use Services Dept.
385 N. Arrowhead Ave.
San Bernardino, CA 92415

Panamint Valley Limestone - Conditional Use Permit (Project)
Mitigated Negative Declaration (MND)
SCH# 2019119083

Dear Mr. Morrissey:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the County of San Bernardino for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines¹. CDFW previously submitted comments in response to the originally circulated MND

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: Panamint Valley Limestone, Inc.

Objective: The objective of the Project is to construct an industrial lime production plant on a 61.65-acre site that formerly served as an ash disposal landfill. Primary Project activities include the construction of on-site facilities (lime plant, office building, pellet plant, limestone powder plant, solar power generation array, loading bins, vertical kiln, conveyors, a water storage tank, paved internal roadways, a storm water basin, and other ancillary facilities) and laying a natural gas pipeline, a water distribution pipeline, and an electrical distribution line.

Location: Trona, San Bernardino County; approximately 0.87 miles west of the intersection of Trona Road and Athol Street; 35.769542°, -117.387171°

Timeframe: Unknown

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County of San Bernardino in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment 1, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Mitigation Measure and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 1: BIO-5, Desert Tortoise

Section IV, Page 33

Issue: CDFW appreciates the inclusion of BIO-5 to avoid, minimize, and mitigate potentially significant impacts to desert tortoise, a threatened species. CDFW would like to note that should presence be confirmed in the Project area, some of the actions within the measure would be considered forms of take (hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill) (Fish and Game Code, § 86).

Specific impact: Project activities and proposed mitigation measure have the potential to take desert tortoise, a CESA-listed species.

Why impact would occur: BIO-5 proposes the qualified biologist conducting the pre-construction survey will determine if any of the following actions are warranted for desert tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. CDFW would like to note that, installing exclusionary fencing in desert tortoise habitat may result in take if desert tortoise are present and in such circumstance CDFW's recommend a CESA Incidental Take Permit (ITP) be obtained. Additionally, if desert tortoise individuals are found within the Project site, handling or translocation would also be take and CDFW recommends an ITP is obtained..

Evidence impact would be significant: Take is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: 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 through obtaining an ITP. CDFW recommends BIO-5 be modified to the following measure:

MM BIO-5: A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area

and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.

II. Editorial Comments and/or Suggestions

To provide clarity to BIO-9, Sections 3503, 3503.5 and 3513 pursuant to Fish and Game Code prohibits the take of all birds and their nests or eggs, including raptors and other migratory non-game birds (as listed under the United States Migratory Bird Treaty Act). As such, CDFW recommends the first sentence of BIO-9 state, "The State of California prohibits the "take" of *nesting birds and their nests*." With this modification, it will clarify take of nesting bird individuals is also prohibited.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County of San Bernardino in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ashley Rosales, Environmental Scientist at 760-219-9452 or Ashley.Rosales@Wildlife.ca.gov.

Jim Morrissey, Planner
County of San Bernardino
Panamint Valley Limestone - Conditional Use Permit, SCH #2019119083
April 24, 2020
Page 5 of 6

Sincerely,

A handwritten signature in blue ink that reads "Scott Wilson". The signature is fluid and cursive, with the first name "Scott" and last name "Wilson" clearly distinguishable.

Scott Wilson
Environmental Program Manager

Attachment 1: Draft Mitigation Monitoring and Reporting Program for CDFW-proposed
Mitigation Measures.

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

HCPB CEQA Coordinator
Habitat Conservation Planning Branch

ATTACHMENT 1

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Mitigation Measure	Implementation Schedule	Responsible Party
MM BIO-5: A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Project Proponent



Department of
Resources Recycling and Recovery

Jared Blumenfeld
Secretary for
Environmental Protection

Scott Smithline
CalRecycle Director

January 3, 2020

Mr. Jim Morrissey
Jim.Morrissey@lus.sbcounty.gov
San Bernardino County
Land Use Services Department
385 N. Arrowhead Avenue
San Bernardino, CA 92415

Subject: SCH No. 2019119083 – Initial Study/Mitigated Negative Declaration
Panamint Valley Limestone Conditional Use Permit – San Bernardino
County

Dear Mr. Morrissey:

Thank you for allowing the Department of Resources Recycling and Recovery (CalRecycle) staff to provide comments on the proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

PROJECT DESCRIPTION

The County of San Bernardino, acting as Lead Agency, has prepared and circulated a Notice of Completion (NOC) of an Initial Study/Mitigated Negative Declaration (IS/MND) in order to comply with CEQA and to provide information to, and solicit consultation with, Responsible Agencies in the approval of the proposed project.

The proposed Panamint Valley Limestone Processing Plant (proposed project) is located west of the intersection of Trona Road and Athol Street in Trona, Assessor Parcel Number 0485-031-12. The project site is approximately 62 acres, and the site is currently zoned Regional Industrial. The site is surrounded by Floodway to the north, Searles Valley Minerals to the south and west, and vacant land and a cemetery to the east.

The proposed project is to construct an industrial lime production plant on land that was previously used as an ash disposal site.

COMMENTS

CalRecycle staff's comments on the proposed project are listed below. Where a specific location in the document is noted for the comment, please ensure the comment is addressed throughout all sections of the Draft IS/MND, in addition to the specific location noted.

This site was previously permitted as a non-hazardous ash disposal site that operated under a Standardized Non-Hazardous Ash Solid Waste Facility Permit issued to Ace Cogeneration Company (SWIS No. 36-AA-0311). The non-hazardous ash disposal site was required to be restored pursuant to Title 14, California Code of Regulations (14 CCR), Section 17379.1. The restoration of the site was completed in June 2017. It is unclear in the IS/MND if the disposal site's cover that was placed during the restoration will be impacted by the proposed project. Will any of the previously disposed ash be excavated/relocated/consolidated? If so, the extent and handling of the ash should be described and any potential impacts analyzed in the IS/MND.

It appears from Figures 4 and 5 that the limestone plant structures and other operational aspects will be constructed on parts of the ash disposal site. What measures will be implemented to maintain the cover and other measures that were completed and approved by the solid waste local enforcement agency as part of the site's restoration to ensure protection of the public health, safety and environment from the non-hazardous ash disposal site?

Solid Waste Regulatory Oversight

The San Bernardino County Environmental Health Services is the Local Enforcement Agency (LEA) for San Bernardino County and responsible for providing regulatory oversight of solid waste handling and disposal activities. Please contact the LEA, Kimberly Tra, at 800.442.2283 to discuss potential regulatory requirements for the proposed project.

CONCLUSION

CalRecycle staff thanks the Lead Agency for the opportunity to review and comment on the environmental document and hopes that this comment letter will be useful to the Lead Agency preparing the MND and in carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of any subsequent environmental documents, copies of public notices and any Notices of Determination for this proposed project.

If the environmental document is adopted during a public hearing, CalRecycle staff requests 10 days advance notice of this hearing. If the document is adopted without a public hearing, CalRecycle staff requests 10 days advance notification of the date of the adoption and proposed project approval by the decision-making body.

CalRecycle staff appreciates the lead agency's approval for the additional time to review and provide comments on the IS/MND.

If you have any questions regarding these comments, please contact me at 916.341.6413 or by e-mail at jeff.hackett@calrecycle.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Hackett", with a stylized flourish extending to the right.

Jeff Hackett, Manager
Permits & Assistance South Section
Waste Permitting, Compliance & Mitigation Division

cc: Benjamin Escotto, CalRecycle
Kimberly Tra, San Bernardino County Environmental Health Services, LEA



Public Health Environmental Health Services

Trudy Raymundo
Director

Corwin Porter
Assistant Director

Maxwell Ohikhuare, M.D.
Health Officer

Jennifer Osorio
Division Chief

December 27, 2019

Jim Morrissey
Land Use Services Department
San Bernardino County
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187

SUBJECT: SCH#2019119083 P201800477- Panamint Valley Limestone CUP/Initial Study (IS)

Dear Mr. Morrissey,

Thank you for allowing San Bernardino County Local Enforcement Agency (LEA) to provide comments on the SCH#2019119083 P201800477- Panamint Valley Limestone CUP/Initial Study (IS), as it is the LEA's obligation as a responsible agency, and, as required in the California Environmental Quality Act (CEQA) process.

DESCRIPTION OF PROJECT

The proposed project site is located adjacent to Searles Valley Minerals Standardized Ash Landfill (SVMSAL) (SWIS#36-AA-0343), and is within a 1000' radius of, and separated by less than 300' at the closest point, to the proposed project, which requires LEA to comment on the project. The site is the former ACE Cogeneration Expansion Project (ACE) with a contiguous ash landfill (SWIS# 36-AA-0311) existing at the site. The project will establish a lime processing plant on approximately 62 acres, with a kiln and a 167-foot high emissions control stack. Limestone from a quarry in Inyo County will provide approximately 650 tons of raw product delivered per day, via trucks making 26 round trips per day (25 ton truck capacity). Truck access will be made via Athol Street, from the Northeast. The SVMSAL is located to the Southwest of the site, however, a 7900' pressurized gas pipeline will be connected by PG&E from the Southwest, via First St. and Trona Road. The IS describes the site as a "Brownfield parcel," and is also described as a vacant/former ash disposal landfill.

COMMENTS

The project description and IS will be reviewed by the LEA due to the site history as a fly ash landfill. The IS does not fully describe the history of the site, however, a DRAFT of a Geotechnical Engineering Investigation dated August 14, 2018, provides bore-hole detail into what lies on and below grade. A letter dated December 2, 2015 from ACE to the LEA, states that the coal-fired boiler had not been in use since

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October 2014, and that a new owner would determine if redevelopment would be a viable option. Subsequently, an order was docketed with the California Energy Commission on November 14, 2017: “Order Approving Petition to Amend the Facility License,” (Order NO: 17-1108-1a) from the State Energy Resources Conservation and Development Commission, stating that a decommissioning plan was approved, and allows for a portion of ash landfill cell #5 to remain open, separate the ash landfill from the rest of the ACE (ACE Cogeneration Expansion Project) facility, and terminate the Commission’s jurisdiction over the ash landfill. At this time, cell #5 is still considered “open.”

A letter from LEA to Mr. Trowsdale (ACE) dated December 21, 2017, states that ACE has complied with CCR 14 § 17379.1 (a-b). This letter verified from CalRecycle and LEA that the permit is void, and that the inspection frequency is zero. The letter also states ACE shall comply with restoration requirements as stated in the above-mentioned section of CCR Title 14.

Comments on the IS and related documents will be summarized below.

Searles Valley Minerals Standardized Ash Landfill (SVMSAL);
 State Energy Resources Conservation and Development Commission (Commission)
 Panamint Valley Limestone (PVL)
 Geotechnical Engineering Investigation DRAFT (GEI)
 Trona Transfer Station (TTS)
 San Bernardino County Solid Waste Management Division (SWMD)
 Landfill Gas (methane) (LFG)
 Municipal Solid Waste (MSW)

Section	Page	Comment
Project Overview	2 (IS)	The proposed project is within a 1000’ radius to SVMSAL, and as close as 300’, which requires LEA to review proposed project. It is also located on an ash landfill
Project Overview	2 (IS)	The Commission may have terminated jurisdiction over the ACE ash landfill, however the LEA have jurisdiction over landfills.
Infrastructure	4 (IS)	Address if the proposed gas line installation from First Street would affect operations at SVMSAL.
Application with the County	5 (IS)	Comment should be added that the LEA will review proposed use for ACE ash landfill.
Project Site Location (photos)	9 (IS) Exhibit 7	Photograph shows fly ash at surface level at open cell #5
Additional Approvals required	10 (IS)	County Environmental Health Service is listed for septic system. Also list LEA

VII. Geology and Soils (iii)	36 (IS)	<p>Liquefaction or ground failure noted as “no impact.” The GEI states that the soils have low strength characteristics and need to be re-compacted. And, foundations supported by fly ash may settle up to one foot.</p> <p>The area has also recently been seismically active. Please clarify.</p>
XIX. Utilities and Service Systems Substantiation	68, d & e (IS)	<p>The IS states that solid waste from the TTS has peak loading of 352 tons per day while the existing Registration permit allows for 88 tons per day. (The 352 tons peak loading may have come from the closed landfill). Also, waste collected at TTS is transferred to the Barstow Sanitary Landfill, not the Ridgecrest Sanitary Landfill. PVL would have to contract with SWMD for solid waste disposal at TTS.</p> <p>State if PVL will contract with a separate hauler to transfer solid waste to the Ridgecrest landfill.</p>
Conclusion	72 (IS)	<p>The ash landfill is not addressed, and CCR Title 27 21190 (Post Closure Land Use) may apply. Data would need to support if LFG, MSW etc. is present or not. The GEI states that the scope of their services does not address LFG, MSW or hazardous materials.</p>
GEO-3	75 (IS)	<p>States that all the recommended design and construction measures identified in Appendix 4 (GEI) listed under Conclusions and Recommendations (pages 5-6) shall be implemented by the Applicant.</p> <p>CCR Title 27 21190 may apply regarding structural requirements.</p>
GEI	2	<p>States that scattered piles of ash are located within the site. Upper soils consist of approximately 6-12 inches of very loose silty sand or fly ash slurry.</p> <p>CCR Title 27 21190 may also apply for integrity of the cover of the landfill.</p>
GEI	6	<p>States that the site is underlain by 9 to 51 feet of fly ash or fly ash slurry. Foundations supported on the fly ash material may settle up to one foot and that differential settlement of 6 inches could occur.</p> <p>CCR Title 27 21190 requires LEA approval</p>
GEI Limitations	17	<p>The report has the purpose of evaluating soil conditions in terms of building foundations and on-site drainage disposal designs. The scope of the document does not address the presence or absence of hazardous materials or toxic materials in the soil (Including methane LFG)</p> <p>CCR Title 27 21190 may apply regarding LFG monitoring and mitigation requirements.</p>

SUBJECT: SCH#2019119083 P201800477- Panamint Valley Limestone CUP/Initial Study
DATE: December 27, 2019
PAGE 4 of 4

CONCLUSION

The LEA staff thanks the Lead Agency for the opportunity to review and comment on this environmental document and hopes that this comment letter will be useful to the Lead Agency in carrying out their responsibilities in the CEQA process. Our comments may change as more information is received and reviewed, however please review our comments listed above.

The LEA requests copies of any subsequent environmental documents, public notices, and any Notices of Determination for this project.

If you have any questions regarding these comments, please contact me at 800-442-2283 or Brad.Larson@dph.sbcounty.gov

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Larson', with a stylized flourish at the end.

Brad Larson R.E.H.S II

Environmental Health Services/LEA

Cc: Kimberly Tra, LEA (Kimberly.Tra@dph.sbcounty.gov)

Ben Escotto, CalRecycle (Benjamin.Escotto@calrecycle.ca.gov)

Rodney Tolosa, LEA (Rodney.Tolosa@dph.sbcounty.gov)

December 2, 2015



**ACE
Cogeneration
Company**

Trona Operating Partners

Hal Houser
San Bernardino County Department of Public Health
351 N. Mt. View Avenue
San Bernardino, CA 92415-0010

Re: ACE Cogeneration Company

Dear Mr. Houser,

The ACE Cogeneration Company has not operated the coal-fired boiler since October 2014. The facility was recently purchased by New Mill Capital (contact information below). New Mill Capital is reviewing the facility operations and determining if redevelopment is a viable option. The facility is not expected to operate in the future as a coal-fired power plant. The Department of Public Health will be notified in the event that the facility status changes from non-operational. It seems appropriate to modify the current monthly inspection schedule to quarterly or semi-annual.

New Owner Contact Information:

Gregory Schain
Principal
New Mill Capital
575 Lexington Avenue, 4th Floor
New York, NY 10022
Phone: 818-495-6515

Please contact me at (818) 495-6515 or Nathan Britt, Maintenance Manager (760) 977-7598 if you have any questions.

Sincerely,

Gregory Schain
Principal

Plant: P.O. Box 66, Trona, CA 93592 - 12801 Mariposa Street, Trona CA 93562 - Tel (760) 372-2113 - Fax (760) 372-2153
Corporate: 600 Anton Blvd, 11th Floor, Costa Mesa, CA 92626 - Tel (949) 529-5281

Public Health Environmental Health Services

Trudy Raymundo
Director
Corwin Porter, MPH, REHS
Assistant Director
Maxwell Ohikhuare, MD
Health Officer
Josh Dugas, REHS
Division Chief

December 21, 2017

Larry Trowsdale
Ace Cogeneration Company, LP
PO Box 66
Trona, CA 93592

SUBJECT: ACE COGENERATION COMPANY (SWIS# 36-AA-0311) RESCINDING OF PERMIT

Dear Mr. Trowsdale,

The local enforcement agency (LEA) has received notification that the California Energy Commission has approved the petition to amend the facility license for Ace Cogeneration Company via the attached docket dated November 14, 2017. The LEA is aware that ACE Cogeneration has ceased acceptance of waste and completed restoration activities which comply with the following requirements in Title 14 CCR§17379.1 (a-b):

- (a) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.
- (b) The operator shall ensure that the following site restoration procedures are performed upon completion of operation and termination of service:
 - (1) The operation or disposal/monofill facility grounds, excluding the disposal area, shall be cleaned of all nonhazardous ash, construction scraps, and other materials related to the operation or disposal/monofill facility, and these materials legally recycled, reused, or disposed of;
 - (2) All machinery shall be cleaned of nonhazardous ash prior to removal from the facility;
 - (3) All remaining structures shall be cleaned of nonhazardous ash.

Based on this information, the LEA and CalRecycle staff concur that the inspection frequency for this site may be reduced to zero and the permit for this facility shall be void. Please notify the LEA seven (7) days prior to transferring for disposal the refractory material from the boiler.

If you have any questions, please contact me at Jessica.duron@dph.sbcounty.gov or 800-442-2283.

Sincerely,



BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD
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Vice Chairman, Fourth District
Page 236 of 475

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Fifth District

DENA M. SMITH
Interim Chief Executive Officer

RESCINDING OF PERMIT

December 21, 2017

PAGE 2 of 2

Jessica Duron, REHS

Environmental Health Special I, LEA Program

CC:

Virginia Rosales, CalRecycle (Virginia.rosales@calrecycle.ca.gov)

Dianne Ohiosumua, CalRecycle (Dianne.ohiosumua@calrecycle.ca.gov)

Jan Zimmerman, Lahontan Regional Water Quality Control Board

(jan.zimmerman@waterboards.ca.gov)

Shelby Barker, Lahontan Regional Water Quality Control Board

(Shelby.barker@waterboards.ca.gov)

Diana Almond, San Bernardino County LEA (Diana.Almond@dph.sbcounty.gov)

DOCKETED

Docket Number:	86-AFC-01C
Project Title:	Compliance - Application for Certification for the (ACE) Argus Cogeneration Expansion AFC
TN #:	221765
Document Title:	Order Approving Petition to Amend the Facility License
Description:	Order No: 17-1108-1a
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/14/2017 9:36:52 AM
Docketed Date:	11/14/2017

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

**ARGUS COGENERATION
EXPANSION PROJECT**

Docket No. 86-AFC-01C

**ORDER APPROVING
PETITION TO AMEND
THE FACILITY LICENSE**

The Argus Cogeneration Expansion Project (ACE) ceased operations in October of 2014 and is subject to a decommissioning plan, approved by the Commission in 2015.

On June 6, 2017, the ACE Cogeneration Company, the facility owner, filed a petition with the Commission requesting to modify Conditions of Certification Soil Resources 8-4 D and Visual Resources 3-8 to allow a portion of ash landfill Cell #5 to remain open; separate the ash landfill from the rest of the AEC facility; and terminate the Commission's jurisdiction over the ash landfill.

When ACE ceased operations, all ash remaining at the boiler was disposed in the landfill and ash disposal operations terminated. Therefore, the ash landfill is no longer required and could potentially be used for other industrial development.

On August 9, 2017, ACE Cogeneration Company requested that the Commission include in its review of the ash landfill separation petition, continued use of an on-site diesel generator to provide primary power to the facility. Approving the use of the on-site generator will allow the project owner to continue rotating the turbine- generator shaft. This would prevent damage to the shaft and increase the potential that it and other equipment from the ACE project can be sold and reused.

STAFF RECOMMENDATION

Commission staff reviewed the petition, finds that it complies with the requirements of Title 20, section 1769(a) of the California Code of Regulations and that the proposed modifications would not result in additional unmitigated, significant environmental impacts. The facility would remain non-operational and in compliance with all applicable laws, ordinances, regulations and standards. Therefore, staff recommends approval of the petition to amend the existing license.

ENERGY COMMISSION FINDINGS

Based on the record, including staff's analysis, the Commission concludes that the proposed modifications will not result in any significant impacts to public health and safety, or to the environment. The Commission finds that:

- The petition meets all the filing criteria of Title 20, section 1769 (a), of the California Code of Regulations, concerning post-certification project modifications;
- The modifications will not change the findings in the Commission's Final Decision, pursuant to Title 20, section 1748, of the California Code of Regulations;
- The project will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code, section 25525;
- The modifications will not change the findings of the 2015 approved decommissioning plan;
- The modifications will allow for the potential sale of the ash landfill site and the reuse of this disturbed industrial site.

CONCLUSION AND ORDER

The California Energy Commission hereby adopts staff's recommendations and approves the amended conditions of certification to the Commission Decision for the Argus Cogeneration Expansion Project as set forth in the Staff Assessment.

IT IS SO ORDERED

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on November 08, 2017.

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None

Original Signed by:

Cody Goldthrite
Secretariat



Public Health Environmental Health Services

Trudy Raymundo
Director

Corwin Porter
Assistant Director

Maxwell Ohikhuare, M.D.
Health Officer

Jennifer Osorio
Division Chief

January 10, 2020
Jim Morrissey
Land Use Services Department
San Bernardino County
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187

SUBJECT: SCH#2019119083 P201800477- Panamint Valley Limestone CUP/Initial Study (IS)

Dear Mr. Morrissey,

Thank you for allowing San Bernardino County Local Enforcement Agency (LEA) to provide comments on the SCH#2019119083 P201800477- Panamint Valley Limestone CUP/Initial Study (IS), as it is the LEA's obligation as a responsible agency, and, as required in the California Environmental Quality Act (CEQA) process.

DESCRIPTION OF PROJECT

The proposed project site is located west of the intersection of Trona Road and Athol Street in Trona, Assessor Parcel Number 0485-031-12. The site is the former ACE Cogeneration Expansion Project (ACE) with a contiguous ash landfill (SWIS# 36-AA-0311) existing at the site. The project will establish a lime processing plant on approximately 62 acres, with a kiln and a 167-foot high emissions control stack. Limestone from a quarry in Inyo County will provide approximately 650 tons of raw product delivered per day, via trucks making 26 round trips per day (25 ton truck capacity). Truck access will be made via Athol Street, from the Northeast. The SVMSAL is located to the Southwest of the site, however, a 7900' pressurized gas pipeline will be connected by PG&E from the Southwest, via First St. and Trona Road. The IS describes the site as a "Brownfield parcel," and is also described as a vacant/former ash disposal landfill.

COMMENTS

The project description and IS will be reviewed by the LEA due to the site history as a fly ash landfill. The IS does not fully describe the history of the site, however, a DRAFT of a Geotechnical Engineering Investigation dated August 14, 2018, provides bore-hole detail into what lies on and below grade. A letter dated December 2, 2015 from ACE to the LEA, states that the coal-fired boiler had not been in use since October 2014, and that a new owner would determine if redevelopment would be a viable option. Subsequently, an order was docketed with the California Energy Commission on November 14, 2017:

BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD
First District

JANICE RUTHERFORD
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Chairman, Fourth District
Page 241 of 475

JOSIE GONZALES
Vice Chair, Fifth District

Gary McBride
Chief Executive Officer

“Order Approving Petition to Amend the Facility License,” (Order NO: 17-1108-1a) from the State Energy Resources Conservation and Development Commission, stating that a decommissioning plan was approved, and allows for a portion of ash landfill cell #5 to remain open, separate the ash landfill from the rest of the ACE (ACE Cogeneration Expansion Project) facility, and terminate the Commission’s jurisdiction over the ash landfill. At this time, cell #5 is still considered “open.”

A letter from LEA to Mr. Trowsdale (ACE) dated December 21, 2017, states that ACE has complied with Title 14, California Code of Regulations (14 CCR) Section 17379.1 (a-b). This letter verified from CalRecycle and LEA that the permit is void, and that the inspection frequency is zero. The letter also states ACE shall comply with restoration requirements as stated in the above-mentioned section of CCR Title 14.

In reference to the Geotechnical Engineering Investigation, what measures would be taken to maintain the existing cover and it’s restored condition? In addition, what measures would be taken to clean and re-engineer the soils, gravel, and particularly the exposed ash, so as to provide a suitable base for planned improvements? Or, what is the final disposition of the exposed ash?

Comments on the IS and related documents will be summarized below.

Searles Valley Minerals Standardized Ash Landfill (SVMSAL);
State Energy Resources Conservation and Development Commission (Commission)
Panamint Valley Limestone (PVL)
Geotechnical Engineering Investigation DRAFT (GEI)
Trona Transfer Station (TTS)
San Bernardino County Solid Waste Management Division (SWMD)
Landfill Gas (methane) (LFG)
Municipal Solid Waste (MSW)

Section	Page	Comment
Project Overview	2 (IS)	The proposed project is within a 1000’ radius to SVMSAL, and as close as 300’, which requires LEA to review proposed project. It is also located on an ash landfill.
Project Overview	2 (IS)	The Commission may have terminated jurisdiction over the ACE ash landfill, however the LEA have jurisdiction over landfills.
Infrastructure	4 (IS)	Address if the proposed gas line installation from First Street would affect operations at SVMSAL.
Application with the County	5 (IS)	Comment should be added that the LEA will review proposed use for ACE ash landfill.
Project Site Location (photos)	9 (IS) Exhibit 7	Photograph shows fly ash at surface level at open cell #5

		What measures would be taken to maintain the existing cover and it's restored condition?
Additional Approvals required	10 (IS)	County Environmental Health Service is listed for septic system. The LEA is also part of Environmental Health Services, Land Use Protection Program (LUPP).
VII. Geology and Soils (iii)	36 (IS)	Liquefaction or ground failure noted as "no impact." The GEI states that the soils have low strength characteristics and need to be re-compacted. And, foundations supported by fly ash may settle up to one foot. The area has also recently been seismically active. Please clarify.
XIX. Utilities and Service Systems Substantiation	68, d & e (IS)	The IS states that solid waste from the TTS has peak loading of 352 tons per day while the existing Registration permit allows for 88 tons per day. (The 352 tons peak loading may have come from the closed landfill). Also, waste collected at TTS is transferred to the Barstow Sanitary Landfill, not the Ridgecrest Sanitary Landfill. PVL would have to contract with SWMD for solid waste disposal at TTS. State if PVL will contract with a separate hauler to transfer solid waste to the Ridgecrest landfill.

CONCLUSION

The LEA staff thanks the Lead Agency for the opportunity to review and comment on this environmental document and hopes that this comment letter will be useful to the Lead Agency in carrying out their responsibilities in the CEQA process. Our comments may change as more information is received and reviewed, however please review our comments listed above.

The LEA requests copies of any subsequent environmental documents, public notices, and any Notices of Determination for this project.

If you have any questions regarding these comments, please contact me at 800-442-2283 or Brad.Larson@dph.sbcounty.gov

Sincerely,



Brad Larson R.E.H.S II

Environmental Health Services/LEA

Cc: Kimberly Tra, LEA (Kimberly.Tra@dph.sbcounty.gov)

Ben Escotto, CalRecycle (Benjamin.Escotto@calrecycle.ca.gov)

Rodney Tolosa, LEA (Rodney.Tolosa@dph.sbcounty.gov)

December 2, 2015



**ACE
Cogeneration
Company**

Trona Operating Partners

Hal Houser
San Bernardino County Department of Public Health
351 N. Mt. View Avenue
San Bernardino, CA 92415-0010

Re: ACE Cogeneration Company

Dear Mr. Houser,

The ACE Cogeneration Company has not operated the coal-fired boiler since October 2014. The facility was recently purchased by New Mill Capital (contact information below). New Mill Capital is reviewing the facility operations and determining if redevelopment is a viable option. The facility is not expected to operate in the future as a coal-fired power plant. The Department of Public Health will be notified in the event that the facility status changes from non-operational. It seems appropriate to modify the current monthly inspection schedule to quarterly or semi-annual.

New Owner Contact Information:

Gregory Schain
Principal
New Mill Capital
575 Lexington Avenue, 4th Floor
New York, NY 10022
Phone: 818-495-6515

Please contact me at (818) 495-6515 or Nathan Britt, Maintenance Manager (760) 977-7598 if you have any questions.

Sincerely,

Gregory Schain
Principal

Plant: P.O. Box 66, Trona, CA 93592 - 12801 Mariposa Street, Trona CA 93562 - Tel (760) 372-2113 - Fax (760) 372-2153
Corporate: 600 Anton Blvd, 11th Floor, Costa Mesa, CA 92626 - Tel (949) 529-5281

Public Health Environmental Health Services

Trudy Raymundo
Director
Corwin Porter, MPH, REHS
Assistant Director
Maxwell Ohikhuare, MD
Health Officer
Josh Dugas, REHS
Division Chief

December 21, 2017

Larry Trowsdale
Ace Cogeneration Company, LP
PO Box 66
Trona, CA 93592

SUBJECT: ACE COGENERATION COMPANY (SWIS# 36-AA-0311) RESCINDING OF PERMIT

Dear Mr. Trowsdale,

The local enforcement agency (LEA) has received notification that the California Energy Commission has approved the petition to amend the facility license for Ace Cogeneration Company via the attached docket dated November 14, 2017. The LEA is aware that ACE Cogeneration has ceased acceptance of waste and completed restoration activities which comply with the following requirements in Title 14 CCR§17379.1 (a-b):

- (a) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.
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 - (2) All machinery shall be cleaned of nonhazardous ash prior to removal from the facility;
 - (3) All remaining structures shall be cleaned of nonhazardous ash.

Based on this information, the LEA and CalRecycle staff concur that the inspection frequency for this site may be reduced to zero and the permit for this facility shall be void. Please notify the LEA seven (7) days prior to transferring for disposal the refractory material from the boiler.

If you have any questions, please contact me at Jessica.duron@dph.sbcounty.gov or 800-442-2283.

Sincerely,



BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD
Chairman, First District

JANICE RUTHERFORD
Second District

JAMES RAMOS
Third District

CURT HAGMAN
Vice Chairman, Fourth District
Page 245 of 475

JOSIE GONZALES
Fifth District

DENA M. SMITH
Interim Chief Executive Officer

RESCINDING OF PERMIT

December 21, 2017

PAGE 2 of 2

Jessica Duron, REHS

Environmental Health Special I, LEA Program

CC:

Virginia Rosales, CalRecycle (Virginia.rosales@calrecycle.ca.gov)

Dianne Ohiosumua, CalRecycle (Dianne.ohiosumua@calrecycle.ca.gov)

Jan Zimmerman, Lahontan Regional Water Quality Control Board

(jan.zimmerman@waterboards.ca.gov)

Shelby Barker, Lahontan Regional Water Quality Control Board

(Shelby.barker@waterboards.ca.gov)

Diana Almond, San Bernardino County LEA (Diana.Almond@dph.sbcounty.gov)

DOCKETED

Docket Number:	86-AFC-01C
Project Title:	Compliance - Application for Certification for the (ACE) Argus Cogeneration Expansion AFC
TN #:	221765
Document Title:	Order Approving Petition to Amend the Facility License
Description:	Order No: 17-1108-1a
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/14/2017 9:36:52 AM
Docketed Date:	11/14/2017

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

**ARGUS COGENERATION
EXPANSION PROJECT**

Docket No. 86-AFC-01C

**ORDER APPROVING
PETITION TO AMEND
THE FACILITY LICENSE**

The Argus Cogeneration Expansion Project (ACE) ceased operations in October of 2014 and is subject to a decommissioning plan, approved by the Commission in 2015.

On June 6, 2017, the ACE Cogeneration Company, the facility owner, filed a petition with the Commission requesting to modify Conditions of Certification Soil Resources 8-4 D and Visual Resources 3-8 to allow a portion of ash landfill Cell #5 to remain open; separate the ash landfill from the rest of the AEC facility; and terminate the Commission's jurisdiction over the ash landfill.

When ACE ceased operations, all ash remaining at the boiler was disposed in the landfill and ash disposal operations terminated. Therefore, the ash landfill is no longer required and could potentially be used for other industrial development.

On August 9, 2017, ACE Cogeneration Company requested that the Commission include in its review of the ash landfill separation petition, continued use of an on-site diesel generator to provide primary power to the facility. Approving the use of the on-site generator will allow the project owner to continue rotating the turbine- generator shaft. This would prevent damage to the shaft and increase the potential that it and other equipment from the ACE project can be sold and reused.

STAFF RECOMMENDATION

Commission staff reviewed the petition, finds that it complies with the requirements of Title 20, section 1769(a) of the California Code of Regulations and that the proposed modifications would not result in additional unmitigated, significant environmental impacts. The facility would remain non-operational and in compliance with all applicable laws, ordinances, regulations and standards. Therefore, staff recommends approval of the petition to amend the existing license.

ENERGY COMMISSION FINDINGS

Based on the record, including staff's analysis, the Commission concludes that the proposed modifications will not result in any significant impacts to public health and safety, or to the environment. The Commission finds that:

- The petition meets all the filing criteria of Title 20, section 1769 (a), of the California Code of Regulations, concerning post-certification project modifications;
- The modifications will not change the findings in the Commission's Final Decision, pursuant to Title 20, section 1748, of the California Code of Regulations;
- The project will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code, section 25525;
- The modifications will not change the findings of the 2015 approved decommissioning plan;
- The modifications will allow for the potential sale of the ash landfill site and the reuse of this disturbed industrial site.

CONCLUSION AND ORDER

The California Energy Commission hereby adopts staff's recommendations and approves the amended conditions of certification to the Commission Decision for the Argus Cogeneration Expansion Project as set forth in the Staff Assessment.

IT IS SO ORDERED

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on November 08, 2017.

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None

Original Signed by:

Cody Goldthrite
Secretariat

SEARLES DOMESTIC WATER COMPANY
P.O. BOX 577
TRONA, CALIFORNIA 93592
(760) 382-3776/8553

January 10, 2020

Jim Morrissey, Contract Planner
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Email: Jim.Morrissey@lus.sbcounty.gov

Dear Mr. Morrissey,

This letter is to inform you of a factual error and a contradiction in the Panamint Valley Limestone Conditional Use Permit Initial Study/Proposed Mitigated Negative Declaration (hereinafter "Permit Study") dated November 2019. We understand that the comment period has closed. However, we would like to correct these factual errors.

On page 47 of the document, the last paragraph section (b) states:

Less Than Significant Impact with Mitigation Incorporated - Implementation of the proposed Project will utilize water from two sources. For drinking water, the project proposes to obtain an estimated 1.3 gpm of potable water from the Searles Domestic Water Company (SDWC). Searles Valley Minerals (SVM) pumps approximately 2,500-acre feet per year in the Indian Wells Valley and transports it to Searles Valley where approximately 1,800 to 1,900-acre feet per year is provided to the Searles Domestic Water Company (SDWC) to supply residences and businesses in Trona with potable water.

This is factually inaccurate. The amount of surplus water that the Searles Domestic Water Company (SDWC) purchases from Searles Valley Minerals varies slightly on a yearly basis, but was 197 AFY in 2018. From 2010 to 2014 inclusive the amount purchased averaged 226 AFY. At no time since the establishment of SDWC in 1944 has the amount of surplus water purchased by the SDWC from SVM come close to the 1,800 to 1,900 AFY as stated in the paragraph above.

On page 48 of the document, the first paragraph states:

The remaining water proposed to be consumed by the proposed Project consists of brackish water that will be supplied by an onsite water well that will be drilled to meet operational requirements for water. This well will be designed to provide an estimated 30 gpm of brackish water that will be treated to meet "process" water demand.

This claim by Panamint Valley Limestone (PVL) to the county of San Bernardino contradicts the information presented by PVL in an ongoing proceeding before the California Public Utilities Commission (PUC). In this ongoing PUC proceeding, Panamint Valley Limestone claims that their processes can only use potable water, and they are seeking 26 gpm (42 AFY) of potable water from the SDWC for this purpose. This is incremental water demand that the SDWC has informed Panamint Valley Limestone it is unable to provide. The Permit Study is devoid of any reference to (1) Panamint Valley Limestone's request to SDWC for 42 AFY of potable water, (2) the fact that the request has been denied or (3) the basis for that request in light of the Permit Study's statement that on "an onsite water well...will be drilled to meet operational requirements for water."

Thank you for your consideration.

Sincerely,



Audrey Schuyler
Manager, Searles Domestic Water Company

Mojave Desert Air Quality Management District

Brad Poiriez, Executive Director

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • Fax 760.245.2022

www.MDAQMD.ca.gov • @MDAQMD

RECEIVED

2019 DEC 27 PM 3:47

LAND USE SERVICES
ADMINISTRATION



December 20, 2019

Jim Morrissey, Contract Planner
County of San Bernardino
Land Use Services Department – Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Project: P201800477/PANAMINT VALLEY LIMESTONE

Dear Mr. Morrissey:

The Mojave Desert Air Quality Management District (District) has received a request for conditions/comments for P201800477, a proposal for the construction of an industrial lime production plant on a 61-acre brownfield site near the community of Trona. Limestone feedstock will be quarried and crushed at the Panamint Valley limestone quarry in Inyo County, approximately 25 miles north of the proposed PVL Lime Plant. On average, 650 tons per day (TPD) of limestone will be delivered by 25-ton trucks from the quarry to the proposed lime plants (approximately 26 round trips per day). Lime products will be manufactured by heating natural limestone in a high temperature kiln. All of the lime produced will be quicklime. A small amount of water will be introduced into about 50% of the quicklime to produce hydrated lime. Fine limestone byproduct particles from the process will be pelletized and sold. The PVL Lime Plant outputs, which consists of quicklime, hydrated lime, and pelletized limestone, will be delivered to customers throughout the southwestern United States by 25-ton trucks. On average, about 650 tons of product will be shipped out each day, which will add another 26 truck round trips to the area circulation system. PVL Lime will produce approximately 243,000 tons of lime and pelletized limestone products per year, all of which will be shipped by 25-ton capacity trucks 7-days a week.

The District concurs with the determination of “Less Than Significant” and “Less than Significant with Mitigation” for Air Quality Issues. The District recognizes that the Initial Study identifies that appropriate equipment and process permits will be obtained prior to construction, and dust control measures will be provided before any grading, contouring, filling or site construction commences. The District recommends the County require that the following dust mitigation measures be required for the development of the project (enforceable by the District AND by the land use agency):

- Prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project. DCP requirements and application may be located at <http://mdaqmd.ca.gov/permitting/compliance-forms> ;
- The following signage shall be erected not later than the commencement of construction: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum text height, black

text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, with the contact name of a responsible official for the site and a local or toll-free number that is accessible 24 hours per day:

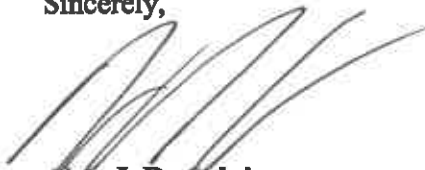
“[Site Name] {four inch text}
[Project Name/Project Number] {four inch text}
IF YOU SEE DUST COMING FROM {four inch text}
THIS PROJECT CALL: {four inch text}
[Contact Name], PHONE NUMBER XXX-XXXX {six inch text}
If you do not receive a response, Please Call {three inch text}
The MDAQMD at 1-800-635-4617 {three inch text}”

- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.

All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Tracy Walters at extension 6122.

Sincerely,



Alan J. De Salvio

Deputy Director – Mojave Desert Operations

AJD/tw

SBC P201800477 Panamint Valley Limestone

Lahontan Regional Water Quality Control Board

December 18, 2019

File: Environmental Doc Review
San Bernardino County

Jim Morrissey
County of San Bernardino
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187
Jim.Morrissey@lus.sbcounty.gov

Comments on the Draft Initial Study and Mitigated Negative Declaration for Panamint Valley Limestone - Conditional Use Permit, San Bernardino County, State Clearinghouse Number 2019119083

The Lahontan Regional Water Quality Control Board (Water Board) received an Initial Study and Mitigated Negative Declaration (IS/MND) for the above-referenced Project (Project) on November 25, 2019. The IS/MND was prepared by San Bernardino County (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA).

Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. We thank the County for providing Water Board staff the opportunity to review and comment on the IS/MND and for taking the initiative to develop the IS/MND with considerations to potential effects on water quality and for integrating elements into the Plan that promote watershed management and reduce the effects of hydromodification. Our comments on the proposed Project are outlined below.

WATER BOARD'S AUTHORITY

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of

PETER C. PUMPHREY, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

COMMENTS ON THE ENVIRONMENTAL REVIEW

1. The proposed Project will be on a brownfield parcel that was previously used as the Argus Boiler Ash Landfill. This operation was permitted with Water Board waste discharge requirements (WDR). Board Order Number R6V-2004-0008 states "Findings 2, 6, and 9 describe the waste disposed at the Facility as inert. The Facility consists of two unlined, unclassified landfills and can only accept inert waste, pursuant to California Code of Regulations (CCR), title 27, section 20230, subdivision (b). Finding 10 supports the designation of inert as the waste cannot impact water quality. Samples collected from the waste since 2003 further support this designation." These findings are supported by soluble threshold limit concentration analyses on the waste. This finding was used as part of the justification for the rescission of the WDR in 2015. Please add to the hydrology/water quality section to address that the landfill waste does not pose a threat to water quality with the proposed modifications to the parcel.

PERMITTING REQUIREMENTS FOR INDIVIDUAL PROJECTS

A number of activities have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include the following.

1. Land disturbance of more than one acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.
2. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.

Water Board staff requests that the IS/MND recognize the potential permits that may be required for the Project, as outlined above. Information regarding these permits, including application forms, can be downloaded from our website at <http://www.waterboards.ca.gov/lahontan/>. Early consultation with Water Board staff regarding potential permitting is recommended.

Thank you for the opportunity to comment on the IS/MND. If you have any questions regarding this letter, please contact me at (760) 241-7373 amanda.lopez@waterboards.ca.gov or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 jan.zimmerman@waterboards.ca.gov. Please send all future correspondence regarding this Project to the Water Board's email address at Lahontan@waterboards.ca.gov and be sure to include the State Clearinghouse No. and Project name in the subject line.

Amanda Lopez
Engineering Geologist

cc: State Clearinghouse (SCH 2019119083) (state.clearinghouse@opr.ca.gov)

R:\RB6\RB6Victorville\Shared\Units\JAN's UNIT\Lopez\CEQA\2019-11 MND Panamint Valley Limestone, Trona, CA\Panamint Valley Limestone_Trona_ISMND.docx

January 23, 2020

Mr. Jim Morrissey, Planner
Mr. Chris Warrick, Supervising Planner
San Bernardino County
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Dear Mr. Morrissey and Mr. Warrick:

This letter is an addendum to the comments submitted by Searles Valley Minerals Inc. (SVM) in its letter dated December 20, 2019 in response to the SBC Land Services Draft Initial Study/Mitigated Negative Declaration (IS/MND) that identifies and evaluates the environmental impacts to a proposed Conditional Use Permit for Project Number: P201800477, a Lime Processing Plant. Upon further review of the IS/MND, SVM has identified additional material factual errors that should be corrected even though the comment period has expired.

Overstatement of SVM Water Deliveries to SDWC

1. On page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the document states that SVM pumps approximately 2,500 acre feet per year (AFY) from the Indian Wells Valley Groundwater Basin (IWVGB) and delivers "approximately 1,800 AFY to 1,900 AFY" of potable water to Searles Domestic Water Company (SDWC). This is a material, factual error. SVM does not deliver anything close to 1,800 AFY to 1,900 AFY of potable water to SDWC. While in recent years SVM has pumped about 2,650 AFY from the IWVGB, the actual quantity of water delivered in recent years by SVM to SDWC is about 197 AFY, one tenth of the amount stated in the IS/MND. The amount of water purchased by SDWC can be verified by a review of its annual reports filed with the CPUC and available on the CPUC's website.

<ftp://ftp.cpuc.ca.gov/waterannualreports/Water%20Division/Annual%20Reports/>

Potable Water Required by Project

2. Also, on page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the report states that the "proposed project's 1.3 gpm consumption of potable water equates to approximately 2.1-acre feet per year." That volume is sharply inconsistent with the demand for potable water set forth in a formal complaint the project applicant, Panamint Valley Limestone ("PVL") filed with the California Public Utilities Commission (CPUC) on December 13, 2018. The complaint, docketed as Case No. 18-12-012, has been amended twice but all versions of it ask the CPUC to issue an order "(d)irecting SDWC to provide the requested water service to the Subject Property in an amount of approximately 26 gallons per minute [42AFY]."¹ Attached is a copy of a Declaration dated May 2019 by

¹ Second Amended Complaint (May 6, 2019), Part V.b. at p.10.

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M288/K330/288330397.PDF>



Shawn Barker, President of PVL, in which he states under penalty of perjury that his prior demand for potable water for the project of 40 gpm was in error and that “the actual water demand to operate the Subject Property would be approximately 26 gallons per minute”, twenty times the 1.3 gpm of potable water relied on in the IS/MND. The Complaint is available on the CPUC’s website.²

Inconsistencies Between PVL Projections of Potable Water Requirements for Project

3. On page 66, in subparagraph b) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether there are sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. The IS/MND does not, however discuss whether or not there are sufficient water supplies to sustain this project and reasonably foreseeable future development during normal, dry and multiple dry years. Instead (p.67), it relies on the discussion of Hydrology set forth at Section X of the IS/MND.

As asserted in sections 1 and 2 of this addendum, however, Section X relies on PVL’s factually inaccurate and seemingly contradictory water use information. PVL has presented different projections to two government agencies, the CPUC and the San Bernardino County Land Use Services Department/Planning Division (SBC). That is why the volume of potable water projected in Section X (2.1 AFY), is one-twentieth of the volume cited to the CPUC, 26 gpm (42 AFY). The IS/MND (p.48) indicates that PVL will drill a 26 gpm – 50 gpm³ well (pg. 24) to acquire brackish water which it will treat to meet its needs.

The 26 gpm (42 AFY) required for PVL’s project has been variously identified as potable water, non-potable water, industrial water, process water, treated brackish water and water. These are distinctions without a difference and are consequently misleading. The fact that PVL’s representation of its minimum potable water need of 26 gpm (42 AFY) has been represented differently to different government agencies is unfortunate but does not alter the fact that the project requires, at least, 26 gpm (42 AFY) of potable water and has provisioned for pumping 26 gpm – 50 gpm of water.

Effect of New Potable Water Service to Project on the Environment

4. On page 66, in subparagraph a) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether the construction of the project will require new water facilities the construction of which could cause significant environmental damage. As set forth in Section 2 and 3 *supra* above, Panamint Valley Limestone has previously stated that it will require (and has requested) 26 gpm (42 AFY) of potable water. Providing that volume of potable water will require at least a 20% increase in the potable water that SDWC will require from SVM. SVM has informed SDWC that SDWC cannot assume that SVM will be able to supply SDWC an additional 42 AFY for any purpose. The basis for SVM’s view is well known to anyone conversant with groundwater conditions in this region of California. According to the California Department of Water Resources (DWR), the IWVGB (Basin 6-54) the sole source of the potable water SVM delivers to SDWC, is one of twenty-one groundwater basins in California that are subject to “critical conditions of overdraft.” (DWR Bulletin 118, Interim Update 2016, p. 12, Table 1, page 8.) Groundwater pumping from the basin is over three times the volume of the

² See link at footnote 2 *supra*.

³ 26 gpm – 50 gpm is equal to roughly 42-80 AFY



basin's natural volume of recharge. Continued overdrafting of the basin will result in undesirable results as defined in the SGMA legislation section 10721, such as chronic lowering of groundwater levels, significant reduction of groundwater storage, degraded water quality, and localized land subsidence.

Future Substantial Reductions in the Volume of Potable Groundwater to the Project Location

5. As noted above, PVL's actual water requirement of, at least, 26 gpm (42 AFY) has the potential to increase the water demand on SDWC by over 20%. A demand on pumped groundwater of this magnitude would have a potentially significant environmental impact on the IWVGB which DWR has found to be in a state of "critical overdraft". This critical overdraft is likely well known to SBC since Mr. Robert Page, Registrar of Voters, San Bernardino County and Director, Indian Wells Valley Groundwater Authority (IWVGA), voted recently in favor of the IWVGA's Groundwater Sustainability Plan (GSP) that calls for drastic reductions in groundwater pumping from the IWVGB by agriculture, business, industry and various water districts. After the date for comments on the IS/MND, the IWVGA adopted the draft GSP and it is now operative.

The numbers showing the critical condition of overdraft in the IWVGB are dramatic. The GSP calls for a reduction in pumping from the IWVGB from the current total of 27,750 AFY (average from 2010-2015) to 7650 AFY (the current recharge volume) by 2040, a 72% reduction in pumping. According to the GSP, based upon California water rights, beneficial uses, and pumping history from 2010 to 2014 inclusive, entities that today pump water from the IWVGB will be eligible to receive an annual allocation of the safe yield of water (7650 AFY), if any. Those entities not granted an allocation will be granted access to a single-use, non-transferrable, one-time portion of a transient pool of no more than 51,000 acre-feet total for all pumpers. Once this water has been consumed, the pool will cease. PVL's demand for 26 gpm (42 AFY) from SDWC, in a matter now before the CPUC, is tantamount to a circumvention of the GSP just as it is being implemented. In fact, the 42 AFY of water that PVL is seeking from SDWC exceeds the current pumping of three agricultural entities that will be required to reduce or end pumping under the recently approved GSP.

With the exception of the US Navy Base, all current pumpers in the basin, including SVM, will be required to make drastic water pumping reductions to meet the greater than 70% pumping reductions required to eliminate the condition of critical overdraft no later than CY2040. This is factual and foreseeable, not conjectural, and is a result of the actions mandated by the Sustainable Groundwater Management Act (SGMA) and the resulting GSP and its mandated pumping allocations and conservation measures. All of this information is public and available online at <https://iwwga.org/gsp-chapters>.

CEQA Precludes a Modified Negative Declaration With Regard to The Project

6. Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act states that the Lead Agency, understood here to be SBC, "shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." PVL is demanding 42AFY from SDWC, in its case before the CPUC. The demand, if realized, would result in a reasonably foreseeable physical change to the environment. This physical change to the environment will result when SDWC attempts to serve PVL's demand for significant additional pumping from the IWVGB which is in a condition of critical overdraft and which the IWVGA now seeks to mitigate with a



Searles Valley Minerals

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GSP that requires significant reductions in current pumping. Since the only source of water available to the SDWC today is water sourced from the IWVGB, it is foreseeable that additional pumping from a basin where pumping reductions are now being required by a newly adopted GSP will worsen, not mitigate, the critical condition of overdraft of the IWVGB. Consequently, SVM believes SBC erred when it issued PVL a Conditional Use Permit with a Proposed Mitigated Negative Declaration.

SVM understands that the lead agency, SBC Planning Division, can only make evaluations of projects based upon the information presented to it. Since preparation of an EIR is crucial to environmental protection under CEQA, SVM understands that if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. SVM has identified factual errors in the IS/MND issued by SBC November 20, 2019 as well as provided evidence of sworn testimony by PVL before the CPUC that PVL is seeking 26 gpm (42 AFY) of potable water from SDWC (attached). This potable water is sourced from the IWVGB which is in critical overdraft and now operating under a GSP that calls for drastic reductions in water pumping, and other conservation measures, to protect the basin from further environmental damage. With the information now made available to the SBC Planning Division, there is substantial evidence that this project may have a foreseeable significant effect on the environment. Consequently, it would be improper for the agency to dispense with preparation of an EIR, the preparation of which is foundational to environmental protection under CEQA.

Thank you for your consideration,

Sincerely,

Anoop Sukumaran
Environmental Manager

2203/007/X214269.v1 rev. 03

DECLARATION OF SHAWN A. BARKER

I, Shawn A. Barker, declare:

1. I am the President of Complainant in this action, Panamint Valley Limestone, Inc. ("PVL"). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, could competently testify to all matters set forth herein.
2. I make this declaration in support of PVL's Opposition to the Motion to Dismiss the Second Amended Complaint filed by Defendant Searles Domestic Water Company, LLC ("SDWC").
3. In October 2014, Shawn Barker Construction Company, of which I am also the president, purchased from ACE Cogeneration Company ("ACE") a lime quarry located in the Panamint Valley Mountain Range, which is located in Inyo County.
4. Around that time, I started looking for industrial land on which to develop a lime production facility.
5. I discovered in past investigations that the all of the property zoned for industrial use available in or around Trona, California was owned by Searles Valley Minerals, Inc. with the exception of one parcel, the Subject Property, that was owned by ACE.
6. On April 4, 2018, PVL purchased the Subject Property from ACE.
7. Shortly thereafter, I contacted Audrey Schuyler, the manager of SDWC, to request water service for the Subject Property. During our initial conversation, I advised Ms. Schuyler that I believed I would need approximately 40 gallons of water per minute for the Subject Property. Ms. Schuyler advised me that before she could issue a will serve letter, she had to confirm with Greg Corrion, who I understood to be employed by Searles Valley Minerals, Inc., that the Subject Property was located in SDWC's service area.

8. About a week or two later, I followed up with Ms. Schuyler regarding the will serve letter. Ms. Schuyler advised me that she was preparing the letter and would get it to me in a couple of days. On May 28, 2018, Ms. Schuyler issued the will serve letter.

9. After further review, I discovered that my initial estimate of the water needed for the Subject Property was too high, and that the actual water demand to operate the Subject Property would be approximately 26 gallons per minute.

10. PVL's development of the Subject Property for use as a lime processing facility will compete with SVM and its related entities for water, potential employees, use of natural gas and electricity utility infrastructure, and for use of the roads that lead into and out of Trona.

11. Although PVL would prefer to obtain all of its water from SDWC, it is pursuing other sources of water for its process needs. PVL has drilled a well on the Subject Property and is exploring additional options for its process water, to mitigate its damages and to ensure it has sufficient water in the event it does not obtain the full relief sought in this action.

12. I have never made any indication that PVL would take water from SDWC in an amount greater than permitted through this action or otherwise.

13. I am familiar with Trona, and based on my knowledge of the area, I am aware that SVM owns the property located to the east of SVM's Lake Garage site is also owned by SVM, where it operates stations to wash vehicles.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of May 2019 in Trona, California.

Shawn Barker

Shawn A. Barker
President, Panamint Valley Limestone, Inc.

Lahontan Regional Water Quality Control Board

April 20, 2020

File: Environmental Doc Review
San Bernardino County

Jim Morrissey
County of San Bernardino
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187
Jim.Morrissey@lus.sbcounty.gov

Comments on the Revised Draft Initial Study and Mitigated Negative Declaration for Panamint Valley Limestone - Conditional Use Permit, San Bernardino County, State Clearinghouse Number 2019119083

Lahontan Regional Water Quality Control Board (Water Board) staff received an Initial Study and Mitigated Negative Declaration (IS/MND) for the above-referenced Project (Project) on November 25, 2019. The IS/MND was prepared by San Bernardino County (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). A subsequent revised IS/MND was prepared and issued for public comment and review on March 20, 2020. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. We thank the County for providing Water Board staff the opportunity to review and comment on the revised draft IS/MND and for taking the initiative to develop the IS/MND with considerations to potential effects on water quality and for integrating elements that promote watershed management and reduce the effects of hydromodification. Our comments on the proposed Project are outlined below.

WATER BOARD'S AUTHORITY

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of

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waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

COMMENTS ON THE ENVIRONMENTAL REVIEW

1. Panamint Valley Limestone (PVL) installed a well on the property to supply water for the process. The groundwater in Searles Valley is of brackish quality, therefore, PVL plans to install a treatment system to make the water potable to be able to use it in the process. The IS/MND does not describe the proposed treatment technology nor how the byproducts and/or waste generated by the treatment process will be disposed. Please revise the IS/MND to describe the proposed water treatment process and to describe how the waste generated will be handled and then disposed of. The IS/MND should include a list of mitigation measures that, when implemented, would reduce all potential impacts from all proposed water treatment processes to a less than significant level.
2. The revised IS/MND states that there will be two 10,000-ton stockpiles developed on the ground, and that "The limestone will be composited, sampled, and tested to confirm no existence of hazardous levels of toxic contaminants above the CCR Title 22-17 threshold limits." Please clarify what sampling frequency will be used to confirm there are no contaminants in the limestone and explain what other measures will be taken to ensure there is no direct discharge of contaminants to the ground. The IS/MND should include a list of mitigation measures that, when implemented, would reduce all potential impacts as a result of stockpiling materials on the ground to a less than significant level.
3. The original Project description stated that there would be "zero discharge" from the site. In the revised IS/MND, this statement was removed; it is unclear whether the lime process will generate any liquid or solid wastes and, if so, how those wastes will be handled and disposed of. Without this information in the IS/MND, Water Board staff cannot evaluate whether the Project poses a threat to water quality or whether additional mitigation measures need to be imposed to ensure the protection of water quality. Please revise the IS/MND to include all potential waste streams that may be generated on site, a description for how these wastes will be contained and managed on site, and a description for how these wastes will ultimately be disposed of.
4. For the record, Water Board staff original comments did not discuss "alteration" of the ash disposal site cap. Additionally, the Water Board determined that the former ash landfill contained inert wastes and on June 10, 2015 rescinded the Waste Discharge Requirements issued for the former landfill. The Water Board did not require formal closure of the site as part of that rescission.

PERMITTING REQUIREMENTS FOR INDIVIDUAL PROJECTS

A number of activities have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include the following.

1. Land disturbance of more than one acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.
2. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.
3. Discharge of waste to land may require Waste Discharge Requirements issued by the Lahontan Water Board in compliance with the California Code of Regulations, title 27, section 20005 et seq. If the Project includes wastes that can be characterized as either designated and/or non-hazardous, and a planned discharge to land would occur, a Report of Waste Discharge application, Form 200, will be required to be submitted to Water Board staff a minimum of 140 days prior to the proposed waste discharge.
4. Activities associated with containment and disposal of wastewater generated from water treatment processes may require coverage under Board Order No. R6T-2020-0017, General Waste Discharge Requirements for Small Industrial Wastewater Treatment Systems, issued by the Lahontan Water Board.

Water Board staff requests that the IS/MND recognize the potential permits that may be required for the Project, as outlined above. Information regarding these permits, including application forms, can be downloaded from our website at <http://www.waterboards.ca.gov/lahontan/>. Early consultation with Water Board staff regarding potential permitting is recommended.

Thank you for the opportunity to comment on the IS/MND. If you have any questions regarding this letter, please contact me at (760) 241-7373 amanda.lopez@waterboards.ca.gov or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 jan.zimmerman@waterboards.ca.gov. Please send all future correspondence regarding this Project to the Water Board's email address at Lahontan@waterboards.ca.gov and be sure to include the State Clearinghouse No. and Project name in the subject line.



Amanda Lopez
Engineering Geologist

cc: State Clearinghouse (SCH 2019119083) (state.clearinghouse@opr.ca.gov)
Anoop Sukumaran, Searles Valley Minerals, (sukumara@svminerals.com)

Toothaker, Sarah

From: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>
Sent: Monday, March 23, 2020 9:31 AM
To: Morrissey, Jim
Cc: West, Austin@DOT; Larry.Trowsdale@PVLlime.com
Subject: SCH 2019119083 Panamint Valley Limestone MND/CUP State Rte 178/Caltrans

Hello Jim,

We see there is still incorrect referencing of roadway names within this current document. It is correctly labeled in Figure 1, but Figure 3 still labels Trona Rd as State Route 178, which it is not:

FIGURE 3
Traffic Routes



The wording in this section implies it is one and the same:

XVII. TRANSPORTATION

d)

“...would utilize Trona Road/SR-178 to access the site by way of Athol Street.”

Segment description from the Caltrans Report we sent last December:

9	Kern-San Bernardino county line to the end of the adopted route in San Bernardino County, Pinnacle Road in the Searles Valley
---	---

Again, not a major issue, but you might want to correct this throughout so such error is not perpetuated in future documents.

Best regards,
Gayle Rosander
External Project Liaison

Caltrans District 9
500 South Main Street
Bishop, CA 93514

760.872.0785

From: Morrissey, Jim <Jim.Morrissey@lus.sbcounty.gov>
Sent: Tuesday, December 3, 2019 1:09 PM
To: West, Austin@DOT <Austin.West@dot.ca.gov>; Larry Trowsdale <wepco2012@gmail.com>; Larry.Trowsdale@PVLlime.com
Cc: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>; Shawn Barker <shawnbarker@shawnbarkerconstruction.com>; Kaitlyn Dodson <kaitlyn@tdaenv.com>
Subject: RE: Panamint Valley Limestone Initial Study - State Highway 178/Caltrans

Thanks.

Jim Morrissey
Planner
Land Use Services Department
Phone: 909-387- 4234
Fax: 909-387-3223
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187

Our job is to create a county in which those who reside and invest can prosper and achieve well-being.
www.SBCounty.gov

County of San Bernardino Confidentiality Notice: This communication contains confidential information sent solely for the use of the intended recipient. If you are not the intended recipient of this communication, you are not authorized to use it in any manner, except to immediately destroy it and notify the sender.

From: West, Austin@DOT <Austin.West@dot.ca.gov>
Sent: Tuesday, December 03, 2019 11:40 AM
To: Morrissey, Jim <Jim.Morrissey@lus.sbcounty.gov>; Larry Trowsdale <wepco2012@gmail.com>; Larry.Trowsdale@PVLlime.com
Cc: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>; Shawn Barker <shawnbarker@shawnbarkerconstruction.com>; Kaitlyn Dodson <kaitlyn@tdaenv.com>
Subject: RE: Panamint Valley Limestone Initial Study - State Highway 178/Caltrans

Hi Jim,

We will not be submitting a formal comment letter.

-Austin

From: Morrissey, Jim <Jim.Morrissey@lus.sbcounty.gov>
Sent: Tuesday, December 03, 2019 11:33 AM
To: Larry Trowsdale <wepco2012@gmail.com>; Larry.Trowsdale@PVLlime.com; West, Austin@DOT <Austin.West@dot.ca.gov>
Cc: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>; Shawn Barker <shawnbarker@shawnbarkerconstruction.com>; Kaitlyn Dodson <kaitlyn@tdaenv.com>
Subject: RE: Panamint Valley Limestone Initial Study - State Highway 178/Caltrans

Good Morning;

Thank you Austin. You indicated “we do not deem it necessary to submit a comment letter.” Will we be receiving a formal comment letter on the project from Caltrans, aside from the roadway ownership/maintenance situation? Thanks.

Jim Morrissey

Planner
Land Use Services Department
Phone: 909-387- 4234
Fax: 909-387-3223
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415

From: Larry Trowsdale <wepco2012@gmail.com>
Sent: Tuesday, December 03, 2019 11:19 AM
To: Larry.Trowsdale@PVLlime.com; West, Austin@DOT <austin.west@dot.ca.gov>
Cc: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>; Shawn Barker <shawnbarker@shawnbarkerconstruction.com>; Morrissey, Jim <Jim.Morrissey@lus.sbcounty.gov>; Kaitlyn Dodson <kaitlyn@tdaenv.com>
Subject: Re: Panamint Valley Limestone Initial Study - State Highway 178/Caltrans

Austin,
Thank you for the correction. We will incorporate it going forward.
Larry

Larry Trowsdale
PVL Lime

From: West, Austin@DOT <Austin.West@dot.ca.gov>
Sent: Tuesday, December 3, 2019 8:49:06 AM
To: Larry.Trowsdale@pvlime.com <Larry.Trowsdale@pvlime.com>
Cc: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>
Subject: Panamint Valley Limestone Initial Study - State Highway 178/Caltrans

Hello Larry,

I am in receipt of the Panamint Valley Limestone Initial Study and would like to offer a small (non-CEQA) point of clarification.

On page 3 of the IS/MND, the document states that “All ingress and egress traffic will travel to and from the PVL Lime Plant gate along Athol Street, which is located approximately 5,200 feet to the east where Athol terminates at State Highway 178 (SR-178) (Trona Road). The portion of Athol Street, extending approximately 4,200 feet west of Trona Road, is a publicly maintained paved roadway.”

SR 178 in San Bernardino County runs from the Kern-San Bernardino county line and terminates at Pinnacle Rd, approximately 8 miles west of Athol Street. The portion of Trona Road quoted above is a county maintained road and is not part of the State Highway System (more information attached – page 45).

Since this is a minor point, we do not deem it necessary to submit a comment letter. However, you may wish to amend your document to clarify where the county maintained portion of Trona Road and SR 178 meet.

Please let me know if you have any questions.

Austin West

Transportation Planning Unit
Caltrans - District 9

April 17, 2020

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO ADOPT AN
INITIAL STUDY / MITIGATED NEGATIVE DECLARATION PANAMINT VALLEY
LIMESTONE (RECIRCULATION)

Searles Valley Minerals Inc. (SVM) submits the following comments in response to the SBC Land Use Services draft NOI Initial Study/Mitigated Negative Declaration Panamint Valley Limestone (IS/MND), dated March 20, 2020, which identifies and evaluates the environmental impacts of the proposed Panamint Valley Limestone (PVL) Conditional Use Permit. This project (Project Number: P201800477) seeks a Conditional Use Permit to establish a lime processing plant on approximately 62 acres of property (APN 0485-031-12) near an elementary school, a high school and neighboring residences and also seeks a major variance for a 167-foot high air emissions discharge stack that exceeds the 75-foot high limit for such stacks, plus the additional 50% height permitted for towers in industrial districts.

On August 12, 2019, Searles Valley Minerals (SVM) submitted comments in response to the SBC Land Use Services planning project notice dated July 31, 2019 seeking a major variance for the 167-foot high air emissions discharge stack to be installed as part of the proposed PVL lime processing plant. SVM outlined in its comments the deleterious environmental impacts that needed to be addressed as a part of the proposed lime processing plant's request for a Conditional Use Permit.

On December 20, 2019, SVM submitted detailed comments on the deficiencies in the Panamint Valley Limestone (PVL) draft IS/MND, dated November 26, 2019, published on the SBC website. On January 23, 2020, SVM submitted addendum comments to the administrative record about factual errors in the published draft IS/MND that required correction.



The purpose of this letter is to submit comments for the record on the draft NOI IS/MND Panamint Valley Limestone (Recirculation), hereinafter IS/MND PVL (Recirculation), dated March 20, 2020, published on the SBC website. This letter includes as an attachment separate technical review comments provided by Yorke Engineering on the IS/MND PVL (Recirculation) for the Hydrology, Water Quality, Air Quality, Greenhouse Gas, Biological Resources, Hazards and Hazardous Materials sections of the IS/MND. This letter also includes as an attachment separate legal comments provided by Goodin, MacBride, Squeri & Day, LLP about PVL's representations about the availability of "Industrial (Process) Water" for its project.

In addition to SVM's submission of comments, SVM includes by reference and attachment (Attachment 01) a Comment Letter on the Revised (Recirculated) PVL IS/MND – Project No.: P201800477 from Yorke Engineering, LLC (Yorke) that presents technical comments on the deficiencies in the IS/MND being recirculated by SBC Land Use Services on behalf of the Panamint Valley Limestone Project No.: P201800477. Yorke commented previously on the Air Quality (AQ) and Greenhouse Gas Emissions (GHG) sections of the November 2019 Draft IS/MND for the PVL project. Yorke understands this project and has the technical and regulatory expertise to evaluate it. Yorke notes that many of its comments highlighting deficiencies in the November 2019 draft IS/MND have not been addressed in the March 2020 IS/MND PVL (Recirculation) document. These deficiencies include, but are not limited to, inadequate documentation of AQ and GHG analyses, emissions models run incorrectly, omitted sources in emissions calculations, unsubstantiated and questionable GHG and respirable particulate matter (PM₁₀) mitigation proposals and a complete absence of the requisite health risk assessment (HRA) for a project with emissions of toxic air contaminants (TACs). The lack of an HRA that provides a quantitative analysis of the health risk posed to nearby schools and neighborhoods of the Trona community as a consequence of TACs emissions during both the construction and operations phases of this project remains a significant deficiency of this IS/MND.

In view of the contradictory and unsubstantiated claims made by PVL about its water needs and water sources; especially, "Industrial (Process) Water" in both the November 2019 draft IS/MND and the March 2020 IS/MND PVL (Recirculation), SVM asked Yorke to perform a technical assessment of the Hydrology and Water Quality sections of this latest IS/MND. The IS/MND states that an on-site retention pond will be developed as part of the project, but lacks a suitable analysis of the site soils for retention. The Hydrology section is silent about the WDR alluded to on Pg. 10 of the



IS/MND and no analysis is presented about how the retention pond will meet water infiltration standards. Using the information presented by the Applicant in Exhibit X-1 and Figure 8, it is readily calculated that the potential net lowering of the groundwater table will be greater than the water table drawdown claimed by the Applicant. Finally, the proposed mitigation measures related to water usage in sections HYD-1, HYD-2 and HYD-3 lack specifics and are little more than vague assertions that: the Applicant will (HYD-1) "offer" unspecified funds for water conservation items; Applicant will (HYD-2), if possible, "utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site." However, since no estimation of the volume of water that could be used in this manner is given, Applicant simply promises (HYD-3) to "implement business practices that are consistent with [IWVGA] ...conservation measures." Taken together, these three proposed mitigation measures lack specifics on implementation and any demonstration of the sufficiency of the mitigation proposals given the potential scenarios requiring mitigation.

In addition to SVM's submission of comments, SVM includes by reference and attachment (Attachment 02) a comment letter titled Initial Study for the Panamint Valley Limestone – Conditional Use Permit Project No.: P201800477 from Goodin, MacBride, Squeri & Day, LLP (MacBride) that speaks to the Applicant's (PVL) misrepresentations and unsupported claims about receiving "Industrial (Process) Water" from SDWC for the PVL project. Additionally, MacBride cites the pleadings, ruling and POD in a CPUC legal proceeding (Case 18-12-012) that dismissed Applicant's request for "Industrial (Process) Water" from SDWC. Furthermore, Applicant's proposed mitigation measures, as presented in the IS/MND PVL (Recirculation) document; namely, HYD-1, HYD-2, HYD-3 are wholly inadequate to offset the Applicant's proposed pumping. This means, the IS/MND being recirculated is based upon unsupported claims of access to "Industrial (Process) Water" from SDWC and specious arguments about potential mitigation measures. In other words, Applicant's representations in the IS/MND PVL (Recirculation) fail to provide the evidence required to qualify for an MND under CEQA.

This the second time in five months that the Applicant, PVL, has submitted an IS/MND with similar, recurring deficiencies. Many of the comments made by SVM, et al. on the first IS/MND are not addressed in the revised document. The documentation provided in the IS/MND PVL (Recirculation) for the AQ and GHG analyses are inadequate, contain many inconsistencies and statements that are unsupported and appear to be incorrect. Furthermore, the Applicant's representations about the availability of "Industrial (Process) Water" from SDWC are

factually in error. Rather than relying on the Applicant, PVL, to correct these recurring deficiencies and errors, SVM believes that proceeding to an EIR at this time is warranted; especially, given the complexity and magnitude of the potential project impacts on several of the CEQA Checklist topics.

In summary, SVM observes that the March 2020 IS/MND PVL (Recirculation) documentation is inadequate to make a finding of less than significant impact from the PVL project. SVM also observes that if there is a potential for significant project impacts and the mitigation is questionable or unclear, then an EIR rather than an MND is needed to assure the public and other agencies that a thorough assessment and impact analysis has been performed during the project approval process. Consequently, SVM requests, at a minimum, that SBC withdraw the March 2020 IS/MND PVL (Recirculation) until it can be corrected, properly documented and re-issued.

Sincerely,



Anoop Sukumaran
Environmental Manager
Searles Valley Minerals, Inc.

Attachments:

1. (Attachment 01) Comment Letter on the Revised (Recirculated) PVL IS/MND – Project No.: P201800477 from Yorke Engineering, LLC.
2. (Attachment 02) Comment Letter titled Initial Study for the Panamint Valley Limestone – Conditional Use Permit Project No.: P201800477 from Goodin, MacBride, Squeri & Day, LLP
3. (Attachment 03) August 12, 2019 SVM comments to SBC Land Use Conditional Use Permit



4. (Attachment 04) December 20, 2019 SVM comments to SBC Land Use Draft Initial Study/Mitigated Negative Declaration (IS/MND) Project No.:P201800477
5. (Attachment 5) January 23, 2020 SVM Addendum comments to SBC Land Use Draft Initial Study/Mitigated Negative Declaration (IS/MND) Project No.:P201800477

April 17, 2020

Mr. Anoop Sukumaran
Environmental Manager
Searles Valley Minerals
13200 Main Street
Trona, CA 93562
Work: (760) 372-2547
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Subject: Comment Letter on the Revised (Recirculated) Panamint Valley Limestone Initial Study/Mitigated Negative Declaration – Project No.: P201800477

Dear Mr. Sukumaran:

Per your request, Yorke Engineering, LLC (Yorke) provided comments dated December 20, 2019, on the Air Quality (AQ) and Greenhouse Gas (GHG) Emissions Sections and an attached AQ Report of the November 2019 Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Panamint Valley Limestone (PVL) Project. A revised IS/MND for the PVL Project was issued in March 2020, and Yorke has again been requested to review the revised IS/MND document. In addition to comments on the AQ and GHG Emissions Sections, Yorke is also providing comments on the Hydrology and Water Quality, Biological Resources, and Hazards and Hazardous Materials impact analyses and IS/MND Sections. These comments have been prepared based on reviews by a group of Yorke staff who are experienced with these topics and qualified to provide comments.

The purpose of this letter is to present technical comments on the adequacy of the information and analyses to determine the significance of the proposed project's impacts as required by the California Environmental Quality Act (CEQA). In order to qualify for an MND under CEQA, substantial evidence (as mandated through several recent court cases) must be provided to fully demonstrate that these impacts will be mitigated to less than significant levels. If the project's impacts are not shown to be mitigated to less than significant levels, an Environmental Impact Report (EIR) would be required. If impacts are found to be significant in the EIR even after implementation of *all feasible* mitigation measures, a statement of overriding considerations would be needed in order to approve the proposed project.

The main observations from Yorke's review of the AQ and GHG Emissions Sections of the IS/MND are that, due to inconsistencies and omitted sources in emission calculations and due to questionable mitigation as explained in detail below, the mitigated project respirable particulate matter (PM₁₀) and GHG emissions are likely over the CEQA significance thresholds for PM₁₀ and GHG (respectively). In this review, we have also identified similar questions about the impact and analysis and proposed mitigations related to water and biology. An EIR rather than an MND is generally needed if there is a potential for significant impacts and the mitigation is questionable or unclear. Given that this is the second round of comments from Yorke, and many of the comments on the first version of the IS/MND were not addressed in the revised document, Yorke believes that proceeding to an EIR at this time is warranted, especially given the complexity and magnitude of the potential PVL Project impacts on several of the CEQA Checklist topics.

Although additional detail has been provided, Yorke would like to stress that the documentation provided in the IS/MND for the AQ and GHG analyses in particular continues to be very inadequate, contains many inconsistencies, emissions models run incorrectly, and statements that are unsupported or appear incorrect. Rather than relying on the Applicant for this information, the County should consider using an independent third party consultant to prepare the impact analyses, and help the County to determine whether an IS/MND document is sufficient or if an EIR process is warranted at this time. An EIR would give the public and other agencies a more thorough assessment upon which to base the decision to approve this PVL Project.

HYDROLOGY AND WATER QUALITY

Water use and quality are crucial issues in the Searles Valley. Given the uncertainties relative to both potable and operational water supply as discussed below, the Applicant should be required to complete a formal Water Supply Assessment as opposed to the limited studies completed to date. The following comments are related to the hydrology and water quality analyses:

1. Page 55 of the IS/MND states, *“Because the project site consists of impervious surfaces, the project has identified on-site drainage that will direct runoff to the on-site retention pond that will be developed as part of the project.”* According to the project description and figures, a storm water basin will be developed in the NE Zone of the project site (Cell 3 area) and that drainage on-site will be directed toward this storm water basin. Section 4.0 of the Preliminary Hydrology and Hydraulics Study provides a calculation of the size and depth of the required retention pond to capture site runoff; however, both Sections 4.0 and 5.0 of the Study state that such a retention pond will require *“...pervious soils that would allow the basin to completely drain within the time period required by the County. If such soil is not present on the site then a detention system would be required.”* The Geology and Soils Section of the IS, pages 43-44, states, *“The San Bernardino County Hydrology Manual states that the soils at the project site are Hydrologic Soil Group ‘D’, which is an indication of poor infiltration.”* This section also states that additional compaction of soils will be necessary for construction. The analysis therefore does not clearly support the use of the planned on-site retention pond due to the lack of analysis of the suitability of site soils for retention.
2. Page 10 of the IS/MND states that required approvals may include an approval to modify the ash disposal “site cap.” However, there is no discussion or evaluation in the IS/MND or associated documents regarding the post-closure conditions of the ash landfill or the “site cap.” Although the Regional Board comment letter in Appendix 5e cites the inert nature of the waste, it is not clear that any of the previous waste disposal site evaluations [e.g., the evaluation discussed in Finding 10 of the previous waste discharge requirements (WDRs), which the Regional Board letter references] or the evaluation of the need to modify the “site cap” took into consideration the direct disposal of water to the subsurface in the form of a) the planned domestic wastewater septic system and b) the storm water retention pond. Disposal site closure conditions, such as site caps, are typically expressly designed to prevent discharge of water through the emplaced wastes. Previous monitoring of unsaturated zone groundwater conditions as cited by the Regional Board letter are therefore not representative of the proposed project conditions, since it appears significant water will be introduced into the former landfill.

3. The IS/MND indicates that an on-site well has already been installed. However, there was no statement that all required water rights and permits were obtained related to the installation and use of this well for the PVL Project.
4. The analysis states that the project will be subject to storm water permitting under California's Construction General Permit but does not address permitting of the operational facility under California's Industrial General Permit. Both General Permits are federally based National Pollutant Discharge Elimination System (NPDES) permits, and thus, if one applies, the other will also. (The SIC Code for the lime manufacturing process is one that requires operational storm water permitting.)
5. The IS/MND on page 10 states that WDRs may be required to be obtained from the Regional Board for the storm water retention pond. However, this fact is not mentioned in the Hydrology section, and no analysis is presented. Related or in addition, recent Board requirements (e.g., in the amended Industrial General Permit, but also from other Board guidance) for storm water infiltration require that the any infiltrated storm water meet drinking water standards. This means that even relatively low levels of various inorganic and organic constituents cannot be present in the infiltrated water. The operating plant will utilize various organic and inorganic chemicals for various operations. This means that there is a potential for impacts to storm water that could result in the storm water not meeting drinking water standards and thus not being suitable for placing in an unlined retention pond without pretreatment. No analysis of this situation is presented.
6. Exhibit X-1 in the IS/MND and Figure 8 in the Hydrology analysis purport to show the same evaluation of water table drawdown at a radius of 5,000 feet after 20 years. However, the drawdown in Figure 8 is indicated to be 1 foot (as supported by the other graphs in the analysis) while Exhibit X-1 shows 0.3 feet. Further, the analysis implies that the drawdown would be within the seasonal variation in groundwater table (noted to be up to 6 inches), but fails to add this seasonal variation into the analysis of the project's potential lowering of the groundwater table. Because these two effects are additive, the potential net lowering of the groundwater table would be greater (i.e., the combined total).
7. The proposed mitigation measures related to water usage seem vague, and it is not clear whether the impacts would be sufficiently mitigated. For instance, HYD-1, which deals with the small (2.1-acre feet) usage of potable water, says the Applicant will "offer" funds to replace 2.1-acre feet usage with water conservation items. The amount of funds necessary is not specified, and there is no indication or guarantee that the Searles Domestic Water Company (SDWC) would have a program in place where they could accept and manage these funds or that the residents want those items – in which case, sufficient mitigation may not occur. HYD-2 and HYD-3 deal with the larger 39 acre-feet of water usage for the process, but these measures likewise lack specifics on implementation and a demonstration of the sufficiency of the mitigation given the two potential scenarios.
8. The Indian Wells Valley Groundwater Basin (IWVGB) Groundwater Sustainability Plan was included as Attachment 5c, but the figures for the plan are not included on San Bernardino's CEQA website for this project. We were able to find the figures on the IWVGB website, which confirm that the Trona area is not within the same groundwater basin. It is unclear how conservation measures implemented in the Indian Wells Valley

Basin will necessarily fully mitigate the project's water use, especially since it is not clear what those measures will be or when those measures will be identified or implemented.

9. The revised IS/MND now indicates that CEQA Checklist Items a) and b) are Less Than Significant (LTS), which is a change from the prior draft IS/MND for this project. However, since mitigation measures are proposed and in our opinion are needed to reduce the impacts to LTS (presuming a more detailed presentation can do so), the findings should be "LTS After Mitigation." The paragraph under Mandatory Findings should be updated to reflect this change.
10. Regarding on-site well use, the analysis states, "...the water will have to be cleaned to potable or near-potable quality for all operational uses," but the IS/MND does not further address the feasibility or impacts of this water treatment. This is particularly true in light of water analysis results presented in the Hydrology Report, which, for example, detected arsenic in the on-site well water of 2,400 micrograms per liter ($\mu\text{g/L}$), which is 240 times the California maximum contaminant level (MCL) for drinking water of 10 $\mu\text{g/L}$. The analysis also seems to address an either/or proposition, i.e., that either on-site well water or water from the SDWC is exclusively utilized, rather than addressing the equally likely possibility of mixed use.

AIR QUALITY AND GREENHOUSE GAS IMPACTS

Yorke's primary comments on the AQ and GHG Impacts Sections of the IS/MND are related to the following issues, which are first summarized and then additional detail is provided below:

- One of Yorke's primary comments on the prior November 2019 Draft IS/MND was that it had insufficient documentation to reach any conclusion about the significance of the AQ and GHG impacts due to the proposed project. The revised March 2020 IS/MND now includes a more detailed AQ Report and emissions calculations, which is an improvement over the prior version. However, although more detailed equipment description and emissions calculations have been provided, Yorke still has concerns that the emissions, and hence, the AQ/GHG impacts, have been significantly underestimated based on a review of another recent similar project, especially for PM_{10} . There appear to be discrepancies between the project description and the sources analyzed and missing sources in the emissions inventory, as well as an underestimation of the emissions from the sources included. If Yorke's calculations are correct, PM_{10} emissions could be a significant impact that requires further mitigation.
- Another Yorke comment on the November 2019 IS/MND was that it lacked a health risk assessment (HRA), and an HRA has still not been provided in the revised IS/MND. Both the construction phase and operations phase would have emissions of toxic air contaminants (TACs), which could pose a substantial health risk to the nearby community of Trona. There are diesel particulate matter (DPM) emissions due to trucks both on-site and passing through populated neighborhoods (continuously, throughout the operational phase), and there are toxic metals in the dust generated by the disturbance of the existing ash landfill, the lime kiln combustion emissions, and other construction and operations activities. These impacts need to be quantitatively analyzed in order to show that the project would not have significant impacts on the nearby community.

- Based on the Applicant's calculations in the IS/MND, the PVL Project GHG emissions exceed the Mojave Desert Air Quality Management District (MDAQMD) CEQA GHG significance threshold. Although the GHG discussion has been revised, the GHG emissions calculations and findings are still not clearly substantiated, as the mitigation is not clearly presented and it is uncertain if the mitigation described is valid or will be sufficient to reduce these impacts to less than significant. As a general comment, the MDAQMD significance threshold for GHG emissions at 100,000 tons per year (tpy) is much higher than most areas; for instance, the South Coast Air Quality Management District (SCAQMD) has a GHG emissions threshold of 10,000 metric tons (MT) per year, and Santa Barbara County has a GHG threshold of 3,000 MT per year. It is almost unimaginable, given the efforts by the California Air Resources Board (CARB) and other State agencies to reduce GHG emissions, that a new facility (not a replacement for an existing facility) in California with a potential to emit well over 100,000 tpy of GHG emissions would not be considered to have a significant impact. At the very least, a very robust discussion of the GHG emissions and how they are indeed mitigated should be provided in the MND. Alternatively, an EIR should be considered to fully analyze this impact and provide full disclosure to the public and other agencies of the ramifications of this project.

Additional detail on our comments related to the AQ and GHG Emissions Sections of the revised March 2020 IS/MND are provided below and in the attached emissions calculation tables for operations and construction emissions.

- 1) **Operations Emissions:** Yorke obtained copies of permits from several other lime plants in the United States. In particular, we obtained a permit issued in November 2019 for a 660 tons per day Lhoist lime plant in Comal County, TX. This Lhoist plant will also be natural gas-fired and appears to have very similar equipment and production rates compared to the proposed PVL Project, proposed at 550 tons per day. Since the Lhoist lime plant was recently permitted, it was required to meet the current Best Available Control Technology (BACT) requirements for lime plants of this type, and so should be representative of a well-controlled lime plant.

Based on the Lhoist permit, Yorke estimated that the PM₁₀ emissions reported in the IS/MND for the permitted sources at the PVL Project are about half of what the PM₁₀ emissions would be for PVL after adjustment for production rate and other factors, e.g., dust collectors appear to be too small for this operation (see Table 1 attached). For instance, the PVL PM₁₀ emissions from the kiln are given as 4.47 tpy, while the Yorke calculated PM₁₀ emissions for the PVL kiln based on the Lhoist permit would be 14.64 tpy. Other sources may need to be included, for example, it is unclear if sufficient water truck emissions¹ have been included (it is our understanding that emissions from dedicated mobile sources should be included with the permitted sources) or other sources mentioned in the document, such as the pellet plant, have been included. Even without these missing sources, if only the material handling emissions are added to the kiln emissions, the total PVL plant stationary source emissions subject to permit would be over the 15 tpy MDAQMD New Source Review (NSR) major source threshold for PM₁₀, in which case

¹ It is also not clear if sufficient water for dust control has been accounted for in the water needed for the project (discussed in the Hydrology and Water Quality Section) to meet the soil moisture content assumed.

offsets from banked emission reduction credits (ERCs) would be required. Furthermore, the emissions estimates analyzed in the IS/MND need to be achievable and permissible by the MDAQMD; if some source emissions have been left out or underestimated, additional CEQA analyses may be needed later once PVL's Authority to Construct permit application is processed in order to disclose those additional impacts to the public. Although Table 1 focuses on PM₁₀, we found similar calculation issues with nitrogen oxides (NO_x) and other pollutant emissions. Additional discussion of this NSR issue is provided in comment #5, Regulatory Analysis, below.

The above discussion relates mainly to the stationary source permitted emissions. For CEQA, the emission calculations need to include both permitted and unpermitted sources (e.g., fugitive dust and mobile source emissions) for the determination if impacts are significant. All sources of both direct and indirect emissions during operation from stationary and mobile sources need to be included in the CEQA analysis. Table 2 shows some examples of fugitive dust emissions that seem to have been underestimated or not included (as well as the sources mentioned in Note 1 on Table 2). Since it appears that both the MDAQMD NSR major source thresholds and the CEQA significance thresholds for PM₁₀ could be exceeded, offsets and additional mitigation is likely to be required. This is another issue where an EIR would provide a more comprehensive analysis.

- 2) **Construction Emissions:** Similar to the operations emissions, statements about construction activities made in the document were difficult to verify in the emissions calculations, since various construction activities were not differentiated. For instance, the Project Description (top of page 2 and also page 5) indicates that the site contains a large below-grade depression and a large mound of dirt from the former ash landfill that will be excavated for the retention pond and spread throughout the site. The amounts of cut and fill should be provided and specific calculations for this earthmoving activity provided. Similarly, the construction impact analysis on page 22 indicates that the emissions from construction and operation of the on-site well have been included in the emissions analysis, but a drill rig is not included in the list of construction equipment on page 5, and well drilling is not listed in the construction plan on page 23 or seen in the emissions attachments. Typically, construction emissions for the plant site would be presented separately from linear construction activities, such as construction of the natural gas pipeline, underground power line, water pipeline(s), and access road. This differentiation would help ensure that the emissions are complete and help the public to understand the spatial and temporal distribution of the emissions.

In addition to the uncertainty about what activities have been addressed in the construction emissions, we note the following potential problems with the California Emissions Estimator Model (CalEEMod) outputs provided in the attachments:

- There were numerous error messages in the outputs.
- There was no justification for the moisture content assumed, and it appears to be too high for the very dry soils in this area.
- Each day of construction appeared to be treated as a separate phase inconsistent with the instruction manual for CalEEMod applications, which indicates that activities should be organized into multiple phases defined by the principal activity

involved – for instance, site preparation and grading, plant construction, pipeline installation, etc.

- It is not clear in the number of days listed for each construction activity on page 23 which ones could overlap.
- Construction worker commute trips and construction material deliveries and waste haulage were not mentioned for the construction emissions. These sources and the assumptions made for these emissions should be included in the document.

Similar to the operations emissions discussed in comment #2 above, Yorke conducted a CalEEMod analysis as shown in Attachment 2. If corrections are made, all activities as noted above are included, and each activity/phase is added together, the construction emissions would also exceed the annual PM₁₀ CEQA threshold of 15 tpy. In that case, additional mitigation such as spreading construction activities over a longer period may be needed to be less than significant.

- 3) **Health Risk Assessment – Operational Phase:** Because this project involves dedicated truck traffic and equipment with DPM emissions, a combustion process in the kiln, and fugitive dust from material handling of mined materials that could contain toxic metals which are concentrated in the combustion process, a detailed TAC evaluation and HRA should be provided in the IS/MND in order to evaluate health risk impacts. The findings for CEQA Checklist Item c) cannot be made without this analysis.
- 4) **Health Risk Assessment – Construction Phase:** There will be a large number of diesel-fueled equipment used during construction, and DPM emissions have a very high cancer potency. Also, as noted in comment #3 above, excavation and grading of the former ash landfill site is planned, and the disturbed soils emitted as fugitive dust could contain heavy metals and other TACs (since the ash is from a coal-fired boiler). Based on the total number of days listed for each construction activity on page 23, the construction period could last for more than a year. The California Office of Environmental Health Hazard Assessment (OEHHA) guidance recommends that a construction HRA be done for construction periods lasting more than 6 months. Therefore, a construction HRA as well as one for operational emissions should be prepared in order to determine if significant health risk impacts could occur.
- 5) **Regulatory Analysis:** Other than a discussion of the air quality attainment plans² adopted by the MDAQMD, a focused regulatory analysis has not been provided in the IS/MND and should be provided. In particular, project emissions (once corrected) should be compared to various MDAQMD NSR thresholds to demonstrate that the proposed PVL Project will be able to comply with requirements for BACT, offsets, and ambient air quality impact analyses if emissions are over applicable thresholds. If over the offset thresholds, the project would need to purchase ERCs to meet the offsets requirements for PM₁₀ and any other pollutant over the thresholds. The applicability and requirements of federal

² The first sentence in Section III. Air Quality should refer to "...conformity with the MDAQMD Plan." rather than "...the SCAQMD Plan, if applicable." (There is no doubt that the MDAQMD Searles Valley PM₁₀ Plan is applicable.) Furthermore, it is recommended that Table 1 in Appendix 1 focus on the attainment status specifically in the project area of the Searles Valley rather than the entire MDAQMD, since references to Riverside County and other areas are irrelevant.

regulations such as the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) that are applicable to lime plants should be discussed. If the lime plant NESHAP is applicable, then a Title V Operating Permit would be required, and should be added to the list of approvals needed on page 10.

A clear regulatory analysis of GHG emissions requirements outside CEQA should also be included, such as additional detail on how many allowances must be provided under the Cap and Trade (C&T) program. For example, it is likely that, for 2022 through 2031, there will be a declining balance of GHG allowances provided under the C&T program, such that allowance purchases for those years after the first year could amount to on the order of \$8 million over the next 10 years. This is over and above any GHG mitigation provided for the project.

- 6) **Stationary Source CEQA GHG Analysis:** Based on the Applicant's calculations in the IS/MND, the project operational phase GHG emissions exceed the MDAQMD CEQA GHG thresholds from the lime plant. The emissions from dedicated mobile sources, such as the trucks that deliver limestone from the quarry to the lime plant should be included as part of the stationary source emissions. The discussion of mitigation is vague and unclear as to whether it is possible to reduce this impact to be less than significant. The GHG discussion mentions compliance with the C&T program, but the results of recent court cases should be reviewed to demonstrate if compliance with this program offers mitigation from a CEQA perspective. Further, a mitigation measure, GHG-1, is proposed that 60,000 tons of GHG ERC will be purchased from a "trusted source", with no details provided. Who would decide the validity of the GHG ERCs? Does MDAQMD have a GHG ERC bank, or would these ERCs come from elsewhere within California, or even out of state? Is there 60,000 tons of GHG ERC currently available for purchase? Given the huge magnitude of these GHG emissions, a very robust discussion is needed to demonstrate that valid mitigation under State CEQA requirements will be provided and is available prior to approving this PVL Project. If it cannot be shown that the project will not exceed the MDAQMD CEQA GHG thresholds after the procurement of valid GHG mitigation, the project will require an EIR with overriding considerations to explain why it should be approved in spite of a significant impact.
- 7) **Mobile Source GHG Analysis:** The IS/MND indicates that the GHG emissions due to transportation of materials from the quarry to the plant and then from the lime plant to the markets are mitigated, since the GHG emissions are less than the emissions would be for lime distribution (i.e., the baseline) from lime plants outside of California. The information provided is sketchy about where lime customers are located within Southern California, and how lime coming from the Trona lime plant would necessarily be closer than if coming from the identified plant in Las Vegas, NV. It is also not clear if the PVL lime plant would replace those out of state shipments, or if the demand is such that these emissions would be additive, even if the Las Vegas plant shifted to providing its lime to other areas – GHG is a global issue. The provided analysis is a vast oversimplification, and a detailed marketing analysis should be provided, given the significance of the impact. Additional information should be provided to demonstrate that these GHG emissions due to transportation will be mitigated and that this new production will not increase GHG emissions over the baseline through increased production both within and outside

California. Given the complexity of a marketing analysis and uncertainties about the mitigation, and hence the potential for significant impacts, a robust discussion in an EIR where the project could be more fully evaluated, should be considered.

Although it does not appear that any GHG emissions reductions were claimed at this point, mitigation measure AIR-4 in the IS/MND (page 27) promises, “*As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.*” Although this sounds auspicious, it seems doubtful that the measure would ever be implemented since the measure will only be “considered” and only if “financially feasible” – with no definition of when that threshold would be achieved. Therefore, this mitigation measure seems hollow.

In addition, CARB has already announced electric vehicle mandates in California starting gradually within the next 5-7 years, implying that all facilities will be required to switch to electric vehicles per that schedule; hence, this switch on the PVL project (unless accelerated relative to mandates) is part of business as usual and is not a valid mitigation measure. Given that the mitigation measure is already questionable because it is vague and defies credibility, this additional clarification may not be necessary.

BIOLOGICAL RESOURCES

The revised draft IS/MND indicates that additional pre-construction surveys are proposed in response to comments from the California Department of Fish and Wildlife (CDFW). A copy of the CDFW comment letter dated December 20, 2019, was obtained from the County. The letter notes that pre-construction surveys are needed for a number of potential species, as well as potentially an Incidental Take Permit (ITP) and streambed alteration agreement. Although several proposed mitigation measures have been added to the revised IS/MND in response to these CDFW comments, some concerns remain as described below.

1. BIO-1 indicates that an ITP will be obtained from the CDFW for the Mohave Ground Squirrel (MGS). This proposed measure appears to indicate that only temporary disturbance of habitat is expected, which implies that the only potential MGS habitat is found along the pipeline route. Although the draft IS/MND indicates that no habitat exists on the proposed plant site where the former ash landfill is located, this determination relies to some extent on the Eremico report done in 2012 (Appendix 2d). We note that the Summary in the Eremico report indicates that the findings are only valid for 1 year, and it is possible that the MGS habitat could have improved in the last 8 years, since it is presumed there has been minimal disturbance in the area. We recommend that the mitigation measure be revised to indicate that CDFW will be consulted to determine the area to be surveyed for both temporary and long-term impacts to the MGS habitat. Furthermore, the mitigation ratio for impacted areas should be 1:1 or as determined necessary by the CDFW – not based on a mitigation package that the “Applicant finds” is needed. We also believe that a single absence/presence survey may be insufficient to rule out presence, and hence the alternative provided in this mitigation measure may not be acceptable to the CDFW.
2. Although this comment pertains mainly to BIO-1, we suggest that the survey areas (i.e., within and around the plant site as well as the pipeline route) and compensation ratios

identified in the other BIO measures be tied to recommendations from the CDFW as a minimum.

3. BIO-4 mentions that compensation for “temporary” loss of habitat suitable for golden eagles will be provided. As described in the text that precedes measure BIO-4, the concern should be focused on “foraging” habitat, i.e., any habitat within 10 miles of golden eagle nesting areas where small mammals could exist that serve as a food source for the eagles. We think that the mitigation measure should be rewritten to make it clear that the potential compensation should be related to foraging habitat areas within and around the plant site and gas pipeline if eagles are found within 10 miles of the site during the pre-construction survey.
4. BIO-6 states that the floristic survey results “*shall be deemed adequate for three years following the date of the field assessments.*” Is the CDFW in agreement that this period is consistent with protocols for botanical surveys? The CDFW’s letter indicates that surveys are valid for 1 year.
5. BIO-9 deals with protection of migratory bird nests during the nesting season. The project description indicates that a retention pond will be constructed, but additional information is needed on this pond. The analysis should include a description of the pond that indicates how much water will typically be in the retention pond and the water quality in the pond. Mitigation may be needed to prevent migratory birds from using the pond if the water quality is poor.
6. The analysis indicates that impacts related to CEQA Checklist Item e) would not conflict with any local policies or ordinances, and hence will be less than significant. This is a conclusory statement with no evidence of its validity presented. All applicable local policies and ordinances related to biological resources should be identified in the IS/MND, with information on how the project will comply with those requirements also provided.

HAZARDS AND HAZARDOUS MATERIALS

The Hazards and Hazardous Materials Section should include analysis of the project components identified below.

1. The installation of a new natural gas pipeline per CEQA Checklist Item a) could “...*create a significant hazard to the public ... through the routine transport ... of hazardous materials.*” The IS/MND should discuss the potential risks and impacts to the public related to the installation of a new natural gas pipeline, since the public health and safety risks associated with operation of high-pressure gas pipelines in California is well known from various high-profile accidental releases. Any risk associated with the undergrounding of electrical power lines should also be addressed.
2. This Section of the IS/MND mentions use of fuels/hazardous materials during construction but does not address use of hazardous materials during plant operation. For a plant of this size, there will need to be handling of petroleum products such as fuel (for vehicles and off-road equipment used, for example, to manage the large lime stockpiles), as well as handling and use of a wide variety of lubricants and maintenance chemicals for facility and equipment maintenance purposes. The threat of potential spills and releases of these operational chemicals and fuels should also be evaluated.

3. The plot plan provided as Figure 4 shows battery storage, and the IS/MND indicates that a solar system with backup battery storage may be installed. Information (e.g., size and type) on the potential battery storage as well as potential risks should be provided, as batteries can be a source of fire hazards, which can lead to toxic releases during a fire. These impacts are commonly mitigated with proper safety plans, with a specific mitigation measure required. (The noise impacts associated with batteries should also be addressed, along with a more formal quantitative analysis of the noise impacts from the lime plant as well.)

CONCLUSION

Various qualified Yorke staff reviewed the five sections of the revised (March 2020) IS/MND discussed herein and provided comments in this letter. We note that many comments in the comment letters dated December 20, 2019, on the initial IS/MND were not addressed, such as inadequacies and inconsistencies between the project description and the air quality analysis, lack of an HRA, clear regulatory analyses, justification of the tall kiln stack that requires a variance, etc. Based on the comments above, the revised IS/MND still does not adequately evaluate the above-referenced program areas and does not propose adequate mitigation measures for several identified impacts. With the needed corrections, impacts to water supply, climate change from GHG emissions, air quality, and biological resources could well be significant and/or require very costly mitigation that could render the proposed PVL Project financially infeasible. We request your consideration of these comments to ensure that the Project can meet its regulatory obligations without undue impacts to the environment. We also recommend that preparation of an EIR for this project be considered, due to the substantial potential for significant impacts and the uncertainty of the mitigations proposed.

Should you have any questions or concerns, please contact either of us at (949) 248-8490.

Sincerely,



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Enclosures:

1. Attachment 1 – Operations Emissions Tables
2. Attachment 2 – Construction CalEEMod Analysis

ATTACHMENT 1 – OPERATIONS EMISSIONS TABLES

Table 1: Permitted Sources Annual Emissions, PM10 - Texas Lhoist, Panamint (PVL) Initial Study (IS), and Yorke PVL¹

Item	Source ²	Lhoist (tpy) ²	PVL IS (tpy) ³	Case A: Yorke PVL without Additions (tpy) ^{4,5}	Case B: Yorke PVL with Additions (tpy) ^{4,6}	Ratio: Case A to PVL IS	Fig. 1 Reference ⁷
1	Vertical Lime Kiln Baghouse Stack	17.57	4.47	14.64	14.64	3.27	G
2	Lime Belt Conveyor and Crusher Baghouse Stack	0.09	0.88	0.08	0.08	0.08	D,E
3	Lime Belt Conveyor Baghouse Stack	0.09	0.88	0.08	0.08	0.08	E
4	Vibrating Feeder 1 Baghouse Stack	0.09	-	0.08	0.08	-	E
5	Vibrating Feeder 2 Baghouse Stack	0.07	-	-	0.06	-	E
6	Intermediate Silo and Off-Spec Loadout Baghouse Stack ⁸	0.56	-	-	0.47	-	F
7	Product Silo Baghouse Stack	0.28	0.88	0.23	0.23	0.26	I
8	Product Loading Spout Baghouse Stack	0.09	0.88	0.08	0.08	0.08	I
9	Lime Kiln Screening Operations	0.11	-	0.09	0.09	-	F
10	Conveyance Operations 1	0.11	-	0.09	0.09	-	E
11	Material Transfer Operations 1	0.18	-	0.15	0.15	-	A,B,C,J
12	Reject Lime Truck Loading	<0.01	-	<0.01	<0.01	-	-
13	Product Loading	0.04	-	0.03	0.03	-	I
14	Vibrating Screens	0.28	-	0.23	0.23	-	H
15	Conveyance Operations 2	0.05	-	-	0.04	-	E
16	Material Transfer Operations 2	0.14	-	-	0.12	-	A,B,C,J
-	Total	19.75	8.00	15.78	16.46	1.97	-

Notes:

1. Lhoist's New Braunfels Lime Plant in Texas permitted a new natural gas-fired vertical kiln in Nov. 2019, comparable to PVL's proposed kiln.
2. Sources and emissions are based on permit and PSD review by TCEQ for Lhoist's new kiln system. Stockpile emissions are excluded (captured as unpermitted sources).
3. PVL IS values are from the March revised study. Calculations include baghouse emissions for storage, bag filling, and limestone delivery, burning, and crushing. These have been matched up to fit the equipment list as appropriately as possible.
4. Case A and B PVL emissions are estimated by scaling Lhoist's new kiln throughput (660 tpd) to PVL's proposed throughput (550 tpd).
5. Case A: PVL Emissions without Additions represents emissions only from similar units described in PVL's Initial Study (IS) document.
6. Case B: PVL Emissions with Additions represents emissions based on Lhoist's equipment list.
7. Reference to Figure 1, which provides a schematic of PVL plant operations based on the plot plan and description in the Initial Study.
8. PVL Initial Study pg. 23 describes the screening system to have "a storage bunker for maintaining culled undersized material that will be sold as a separate product."

PVL Plant Operations

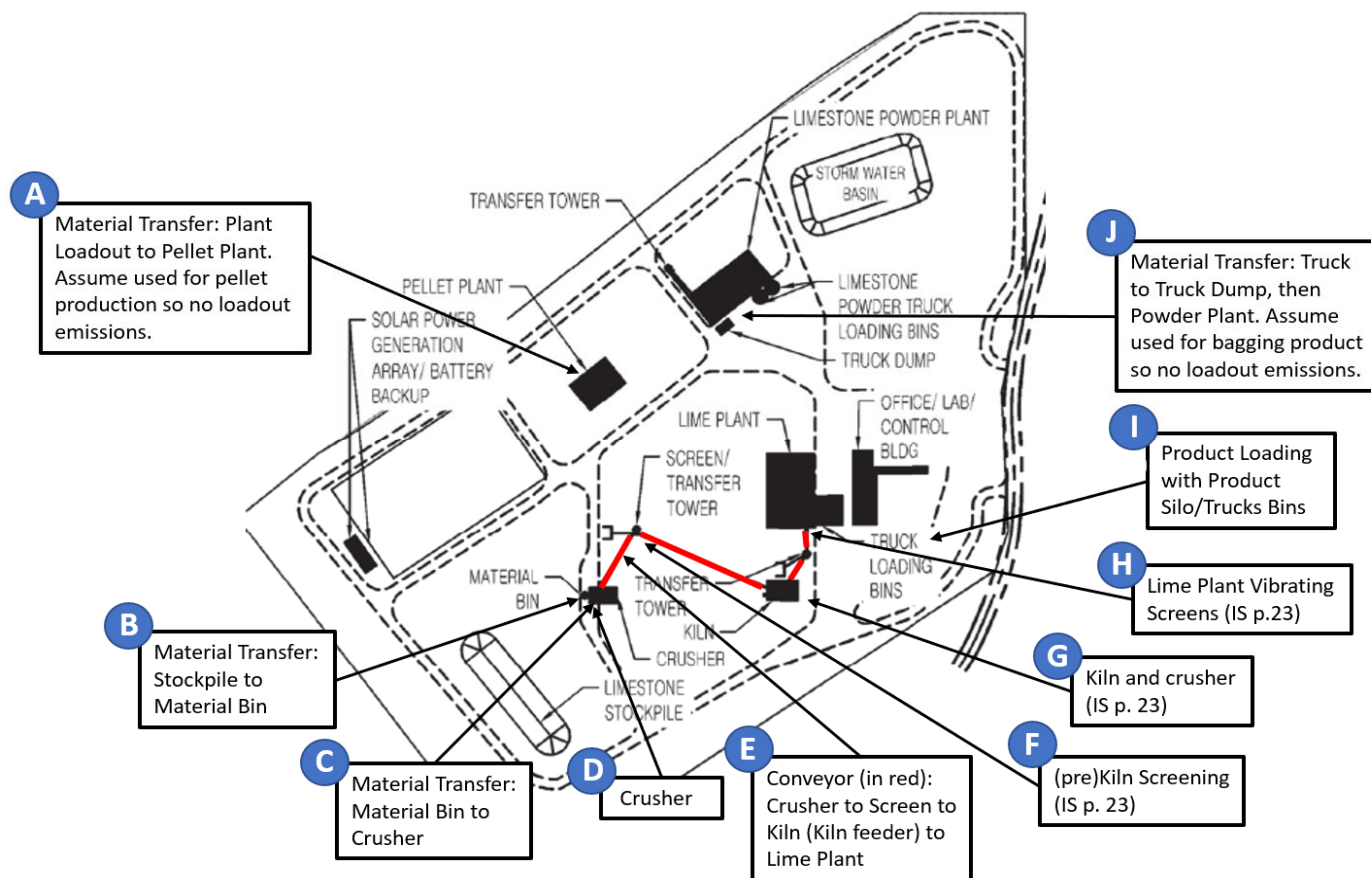


Figure 1: Depiction of plot plan with permitted equipment operations used in Table 1. Conveyors outlined in red.

Notes:

1. Adapted from Exhibit 5 of Initial Study (IS) p. 8 and unit descriptions.

Table 2: Unpermitted Sources Annual Emissions, PM10 - Panamint (PVL) Initial Study (IS) and Yorke PVL^{1,2}

Source	PVL IS (tpy)	Yorke PVL (tpy)	Ratio: Yorke PVL to PVL IS
Road Dust Entrainment (Unpaved roads) ^{3,4}	-	1.76	-
Stockpile Fugitives (handling only) ⁵	0.51	2.09	4.10
Total	0.51	3.85	7.56

Notes:

1. Above PM emissions do not include contributions from mobile source exhaust emissions or wind erosion.
2. PVL IS values are from the March IS and associated calculations.
3. Road dust entrainment was not included in PVL IS.
4. Yorke calculation assumes unpaved roads going to stockpiles and product loadout, IS trip data, and AP-42 13.2.2 factors.
5. Yorke calculation based on 819 tpd limestone stockpile throughput and AP-42 13.4.2 factors.

ATTACHMENT 2 –CONSTRUCTION CALEEMOD ANALYSIS

Panamint CalEEMod Emission Summary, lb/day

CalEEMod Run	Worst Case Year	Key Assumption	Fugitive PM10	Exhaust PM10	Total PM10	Significance Threshold	Over Threshold?
Panamint General Projects	2019	16.61 acres in 180 days, 2% moisture, trip length distance to Ridgecrest	123.9	2.4	126.2	82	Yes
Mound Movement	2019	19.85 acres, 79,800 cu yd in 60 days, 2% moisture	26.9	2.1	29.0	82	No
Utilities Projects	2019	0.54 acres, 5,120 cu yd in 2 days, 2% moisture	9.8	0.5	10.3	82	No
Total	2019	-	160.5	5.0	165.5	82	Yes

Panamint CalEEMod Emission Summary, ton/yr

CalEEMod Run	Worst Case Year	Key Assumption	Fugitive PM10	Exhaust PM10	Total PM10	Significance Threshold	Over Threshold?
Panamint General Projects	2019	16.61 acres in 180 days, 2% moisture, trip length distance to Ridgecrest	4.1	0.2	4.3	15	No
Mound Movement	2019	19.85 acres, 79,800 cu yd in 60 days, 2% moisture	0.8	0.1	0.9	15	No
Utilities Projects	2019	0.54 acres, 5,120 cu yd in 2 days, 2% moisture	0.0	0.0	0.0	15	No
Total	2019	-	4.9	0.3	5.2	15	No

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Mound Movement

#	Parameter	Option Selected	Comments
1	Land use type	Industrial	Other options are commercial, educational, parking, recreational, residential, retail.
2	Land use subtype	General Heavy Industry	Other options are general light industry, industrial park, manufacturing, and warehouses.
3	Project acreage	19.85	Google Earth measurement of mound and depression.
4	Phase name/type	Grading	Best option for material movement.
5	Start and end dates	2/16/2019 - 5/10/2019 (60 days)	Assume 60 days for mound movement.
6	Off-road equipment	Bulldozing hours/day reduced by factor of 2, so that total hours matches original CalEEMod default.	CalEEMod creates a default fleet based on site acreage.
7	Material imported	79,800 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 3 ft.
8	Material exported	79,800 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 3 ft.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Zero haul trips; material moved onsite to onsite. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	No other construction phases for this run.
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acre

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Grading	Excavators	2	8	158	0.38
2	Grading	Graders	1	8	187	0.41
3	Grading	Rubber Tired Dozers	1	4	247	0.4
4	Grading	Scrapers	2	8	367	0.48
5	Grading	Tractors/ Loaders/ Backhoes	2	8	97	0.37

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Utilities

#	Parameter	Option Selected	Comments
1	Land use type	Industrial	Other options are commercial, educational, parking, recreational, residential, retail.
2	Land use subtype	General Heavy Industry	Other options are general light industry, industrial park, manufacturing, and warehouses.
3	Project acreage	0.54	7,900 ft of utilities x 3 ft wide trench.
4	Phase name/type	Grading	Best option for material movement.
5	Start and end dates	1/7/2019 - 1/10/2019 (4 days)	Assume 4 days for utilities installation.
6	Off-road equipment	Defaults, see table below	CalEEMod creates a default fleet based on site acreage.
7	Material imported	5,120 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 5 ft.
8	Material exported	5,120 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 5 ft.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Zero haul trips; material moved onsite to onsite. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	No other construction phases for this run.
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acreage

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Grading	Concrete Industrial Saws	1	8	81	0.73
2	Grading	Rubber Tired Dozers	1	1	247	0.4
3	Grading	Tractors/ Loaders/ Backhoes	2	6	97	0.37

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Project Without Mound Movement or Utilities

#	Parameter	Option Selected	Comments
1	Land use type	Commercial Industrial Parking Parking Parking	CalEEMod runs in Panamint document appendix.
2	Land use subtype	General Office Building Manufacturing Other Asphalt Surfaces Other Non-Asphalt Surfaces Parking Lot	CalEEMod runs in Panamint document appendix.
3	Project acreage	16.61	CalEEMod runs in Panamint document appendix.
4	Phase name/type	Site Preparation Grading Building Construction Paving Architectural Coating	Nothing at site, so demolition removed.
5	Start and end dates	1/7/2019 - 1/18/2019 (10 days) 1/19/2019 - 3/1/2019 (30 days) 3/2/2019 - 9/13/2019 (140 days) 3/2/2019 - 3/29/2019 (20 days) 8/17/2020 - 9/13/2020 (20 days)	180 days for construction.
6	Off-road equipment	CalEEMod defaults.	CalEEMod creates a default fleet based on site acreage.
7	Material imported	0	Mound movement in separate model run.
8	Material exported	0	Mound movement in separate model run.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	Use defaults for demolition, on-road fugitive dust, and architectural coatings
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acreage

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Demolition	Concrete/ Industrial Saws	1	8	81	0.73
2	Demolition	Excavators	3	8	158	0.38
3	Demolition	Rubber Tired Dozers	2	8	247	0.4
4	Site Preparation	Rubber Tired Dozers	3	8	247	0.4
5	Site Preparation	Tractors/ Loaders/ Backhoes	4	8	97	0.37
6	Grading	Excavators	2	8	158	0.38
7	Grading	Graders	1	8	187	0.41
8	Grading	Rubber Tired Dozers	1	8	247	0.4
9	Grading	Scrapers	2	8	367	0.48
10	Grading	Tractors/ Loaders/ Backhoes	2	8	97	0.37
11	Building Constructio n	Cranes	1	7	231	0.29
12	Building Constructio n	Forklifts	3	8	89	0.2
13	Building Constructio n	Generator Sets	1	8	84	0.74
14	Building Constructio n	Tractors/ Loaders/ Backhoes	3	7	97	0.37
15	Building Constructio n	Welders	1	8	46	0.45
16	Paving	Pavers	2	8	130	0.42
17	Paving	Paving Equipment	2	8	132	0.36
18	Paving	Rollers	2	8	80	0.38
19	Architectural Coating	Air Compressors	1	6	78	0.48

Attachment 02

April, 17, 2020

INITIAL STUDY FOR THE PANAMINT VALLEY LIMESTONE –CONDITIONAL USE PERMITProject Number (P201800477) (“Initial Study”)*From Goodin, MacBride, Squeri & Day, LLP (T. MacBride)***X. Hydrology and Water Quality****SUBSTANTIATION:****The Initial Study states that**

Implementation of the proposed project will require 2.1 acre-feet per year (AFY) of potable water for domestic uses (i.e., for use in drinking fountains, bathrooms, and eye wash stations, etc.), and 39.9 AFY for its operational uses. The project is located within SDWC’s service area and PVL asked SDWC to provide water sufficient to meet all

of its domestic and operational needs. SDWC refused, and that issue is being addressed through a complaint proceeding pending before the California Public Utilities Commission. To ensure a water supply for the project, PVL drilled an on-site well that will provide water sufficient to meet the needs of the project, but the water will have to be cleaned to potable or near-potable quality for all operational uses. This environmental review addresses the impacts of PVL using its on-site well and receiving water from SDWC.

and

Potable (Domestic) Water

For potable or domestic water needs, PVL intends to obtain an estimated 1.3 gallons per minute (GPM) or 2.1 AFY of potable water from SDWC. The proposed project domestic water demands are approximately 0.9% of the total groundwater produced from the IWVGB that is delivered to SDWC. As such, the small domestic water demands of the project would be less than significant with the implementation of the following mitigation measure designed to minimize the impact to the IWVGB, which is currently experiencing overdraft conditions, thereby stressing the importance of water conservation.

and

Industrial (Process) Water



PVL has constructed a groundwater well on the project site to supply the 39.9 AFY of water for the process demands. The on-site well is able to provide an estimated 30 gpm of water that will be treated to meet process water quality requirements. To assess the extent and degree of groundwater drawdown in response to project extraction at 30 gpm, a drawdown analysis was conducted (Appendix 5b). The impact analysis is based on continuous pumping rate of 30 gpm (approximately 49 AFY) on a 24-hour per day schedule for a 20-year period. DWR estimated that the groundwater storage capacity of the Searles Valley Groundwater Basin is approximately 2,140,000 AF (DWR, 2004). The test pumping rate of 49 AFY (approximately 10 AFY more than the project's process water needs) represents less than 0.003 percent of the Searles Valley Groundwater Basin storage capacity. As detailed in Appendix 5b, the continuous extraction of water through the new well operation will cause a cone of depression around the well with the highest amount of groundwater drawdown at the new well's location and less impact at distances farther from the well. At the distance of 2,000 ft, the groundwater table will be lowered by 0.5 ft after 20 years of nonstop pumping of the new well. This drop of the water table occurs only in response to this well's operation while the current condition of the water table is the superposition (contribution) of all drawdowns due to all other pumping wells active in the area. At 2,000 ft away from the new well, the groundwater table starts to drop after 10 hours of pumping the new well and the drawdown after 20 years at the same location is less than 0.5 ft. The results of this analysis indicate the drawdown of water table at the radius of approximately one mile from the well, after 20 years of continuous pumping at 30 gpm, is less than 6 inches. This is shown graphically on Exhibit X-1 below.

Comments:

**Dispute Between Applicant and Searles Domestic Water Company ("SDWC")
over Supply of Potable Water**

The Draft Initial Study states that Applicant will receive "potable or domestic water needs...[of]...1.3 gallons per minute (GPM) or 2.1 AFY...from SDWC."¹ Pursuant to SDWC's approved tariff with the California Public Utilities Commission ("CPUC"), that is the maximum amount of water (8000 cf/month) SDWC is obligated to provide to Applicant.

¹ Initial Study, p. 56.



Applicant, however, has also asked SDWC to provide “Industrial (Process) Water” to Applicant in an amount in excess of one million gallons of water per month.² Specifically, Applicant seeks a total of 42.3 AFY of potable water from SDWC. SDWC has refused to provide that volume of potable water to Applicant, relying on the CPUC-approved provision of its tariff permitting SDWC to limit water use by any customer to 8000 cf/month, roughly 2.2 AFY.

In response to SDWC’s refusal to provide Applicant such a large volume of potable water, Applicant instituted a “complaint proceeding pending before the California Public Utilities Commission”³ asking the CPUC to order SDWC to provide 42.3AFY of potable water to Applicant.⁴ In May of 2019, SDWC moved to dismiss the complaint for failure to state a cause of action. On March 27, 2020, the Presiding Officer in the CPUC proceeding issued a Presiding Officers Decision (“POD”) granting SDWC’s motion to dismiss Applicant’s complaint.⁵ If adopted by the full CPUC, the proceeding will come to an end. The proceeding before the CPUC has been pending since the end of 2018. The CPUC is expected to take action with regard to the POD this summer.

The pleadings, rulings and the POD in the CPUC proceeding may be viewed at:
https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5_PROCEEDING_SELECT:C1812012

SDWC Purchases of Potable Water From SVM

The Initial Study states that:

SDWC purchases water from SVM (SDWC is a wholly owned subsidiary of SVM), pursuant to a 30-year Water Purchase Agreement entered in 2015. The Water Purchase Agreement provides that “SVM agrees to sell SDWC up to 200,000,000 gallons per year [approximately 613.78 AFY] of SVM’s surplus water produced from its various wells.” However, SDWC reports that the amount of water it purchases each year from SVM varies, depending on demands within SDWC. SDWC reports that in 2018, it purchased 197 AF from SVM. Between 2010 and 2014, SDWC reports it purchased an average of 226 AFY, as reported by SDWC in their annual report. This water is pumped from the

² 39.9 AFY is equal to 1,1073,342 gallons/month.

³ Initial Study, p. 56.

⁴ Paragraph 5 of Applicant’s most recent Amended Complaint to the CPUC states that, Applicant seeks “26 gallons of water per minute to the lime plan...”

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M288/K330/288330397.PDF>

“26 gallons of water per minute” is equal to 42.3 AFY of potable water.

⁵ The POD and information about appealing the POD may be viewed at:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M330/K052/330052710.PDF>

Indian Wells Valley Groundwater Basin (IWVGB) and conveyed approximately 30 miles by pipeline to the Searles Valley for potable residential and commercial uses in Trona. PVL's on-site well draws water from the Searles Valley Groundwater Basin.⁶

Comments:

In 2016, the California Department of Water Resources ("DWR") issued its most recent assessment of threatened aquifers (groundwater basins) in California. DWR determined that the IWVGB (Basin 6-54), the aquifer from which SDWC's potable water supply is drawn, is one of twenty-one groundwater basins in California that is subject to "critical conditions of overdraft."⁷ Recent updates by DWR confirm that the condition continues today.⁸

Accordingly, pursuant to California's Sustainable Groundwater Management Act (SGMA)⁹, the Indian Wells Valley Groundwater Authority ("IWVGA") is in the process of adopting a Groundwater Sustainability Plan ("GSP") that is expected to sharply reduce the ability of SVM and others to pump water from the IWVGB.¹⁰ Chapter 5 of the GSP outlines the process to be followed in the amount of ground water that will be available to current pumpers including SVM.¹¹

The final allocations to pumpers are expected to be announced in June of 2020. The draft GSP points out the harsh reality faced by most pumpers from the IWVGB. Over four times as much water is being pumped out of the basin than is recharging it.¹² Moreover the US Navy, because of sovereign immunity, is not subject to any significant state restraints on pumping.¹³ Other pumpers, including SVM, expect sharp reductions

⁶ Initial Study, p. 56. Emphasis supplied.

⁷ *California's Groundwater; Working Toward Sustainability*, DWR Bulletin 118, Interim Update 2016, p. 12, Table 1. At page 8, DWR stated that:

(A) basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts."

https://water.ca.gov/LegacyFiles/groundwater/bulletin118/docs/Bulletin_118_Interim_Update_2016.pdf

⁸ <https://water.ca.gov/Programs/Groundwater-Management/Bulletin-118/Critically-Overdrafted-Basins>

⁹ California Water Code Section 10720 *et seq*

¹⁰ <https://iwvga.org/gsp-chapters>

¹¹ Chapter Five may be viewed at <https://static1.squarespace.com/static/5a70e98dd55b41f44cbb2be0/t/5dc20ebcc6f9485f714210d1/1572998857390/Section+5+-+Projects+and+Management+Actions.pdf>

¹² *Id* at Section 5.1

¹³ *Id* at Section 5.1.1.1.



of the volume of water they may pump from the IWVGB. There is no realistic possibility that any amount of the allocation to SVM could be characterized as “surplus.”

Under these circumstances, there is no likelihood that SDWC could prudently expect to increase its purchases from SVM by over 20% to accommodate Applicant’s request for “Industrial (Process) Water”. Moreover, it now appears highly unlikely that the PUC will require it to do so.

Applicants Mitigation Measures Are Wholly Insufficient to Offset Pumping of Process Water From the IWVGB

The Initial Study States that:

The State has identified the IWVGB as in “critical overdraft.” Based on the recently adopted Sustainable Groundwater Management Plan for the IWVGB, it is anticipated over the course of the next 20 years, many, if not all, groundwater producers in the IWVGB, including SVM, will be required to reduce their production of groundwater to eliminate the condition of critical overdraft no later than 2040. As such, should PVL obtain its process water needs from the IWVGB, mitigation measures HYD-1 through HYD-3 address and minimize the potentially significant impacts to the IWVGB that may result to a level of less than significant.¹⁴

The proposed mitigation measures are:

HYD-1 PVL shall offer Searles Domestic Water Company/Searles Valley Minerals funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its customers to offset 2.1-acrefeet of existing potable water demand.

HYD-2 Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site.

HYD-3 Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring

¹⁴ Initial Study, p. 58.



that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.¹⁵

Comments:

HYD-1 is apparently predicated on Applicant's successful drilling and operation of a well to satisfy its need for 39.9 AFY of process water. HYD-2 and HYD-2, however, are predicated on Applicant employing 39.9 AFY of water from the IWVGB as process water in Trona.

HYD-2 simply states that Applicant will, if possible, "utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site." It offers no estimation of the volume of water it could use in that fashion. Applicant, understandably, does not contend that its "landscape irrigation" requirements would come close to the over one million gallons a month (almost 1,400 gallons an hour) of potable water it seeks from SDWC and, ultimately, the IWVGB.

HYD-3 is simply a promise to "implement business practices that are consistent with [IWVGA]...conservation measures", apparently so long as they are "consistent with facility operational requirements."

Nothing in HYD-2 or HYD-3 offers a basis for concluding that they would significantly alleviate the effects of Applicant's substantial increased consumption of potable water from the IWVGB (through SDWC/SVM).

¹⁵ *Id* at p. 56, 60.



SAN BERNARDINO COUNTY
LAND USE SERVICES
PLANNING PROJECT NOTICE
385 North Arrowhead Avenue, First Floor, San Bernardino, CA 92415-0187

Referral Date:
July 31, 2019

ATTENTION PROPERTY OWNERS

Page 1 of 2

The development proposal listed below has been filed with County Planning. Please comment in the space below. You may attach additional pages as necessary.

Your comments must be received by Planning no later than August 14, 2019 to be sure that they are included in the final project action. However, comments will be taken up to the time of the project decision. Please refer to this project by the Applicant's name and the Assessor Parcel Number indicated below. If you have no comment, a reply is not necessary. If you have any questions regarding this proposal, please contact Planner, JIM MORRISSEY at (909) 387-4234 or mail your comments to the address above. If you wish, you may also FAX your comments to (909) 387-3223.

ASSESSOR PARCEL NUMBER: 0485-031-12 (See map below for more information)

PROJECT NUMBER: P201800477/CF

APPLICANT: PANAMINT VALLEY LIMESTONE INC

LAND USE DISTRICT (ZONING): IR

IN THE COMMUNITY OF: TRONA/1ST/ SUPERVISORIAL DISTRICT

LOCATED AT: 13057 ATHOL ST TRONA 92252

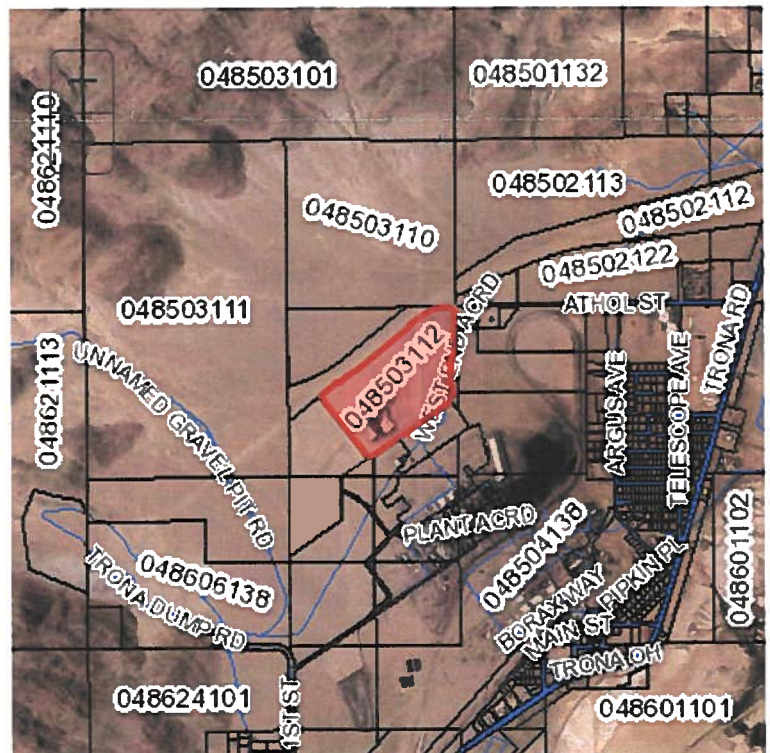
PROPOSAL: CONDITIONAL USE PERMIT TO ESTABLISH A LIME PROCESSING PLANT ON 62 ACRES IN TRONA. A MAJOR VARIANCE IS REQUIRED FOR THE 167-FOOT AIR EMISSIONS CONTROL STACK SINCE IT EXCEEDS THE 75-FOOT HIGH LIMIT AND 50% ADDITIONAL HEIGHT PERMITTED FOR TOWERS IN INDUSTRIAL DISTRICTS.

If you want to be notified of the project decision, please print your name clearly and legibly on this form and mail it to the address above along with a self-addressed, stamped envelope. All decisions are subject to an appeal period of ten (10) calendar days after an action is taken.

Comments (If you need additional space, please attach additional pages):

Please see
attached comments.

VICINITY MAP



SIGNATURE

ANOOP SUKUMARAN
MGR- SVM

DATE

8/12/19

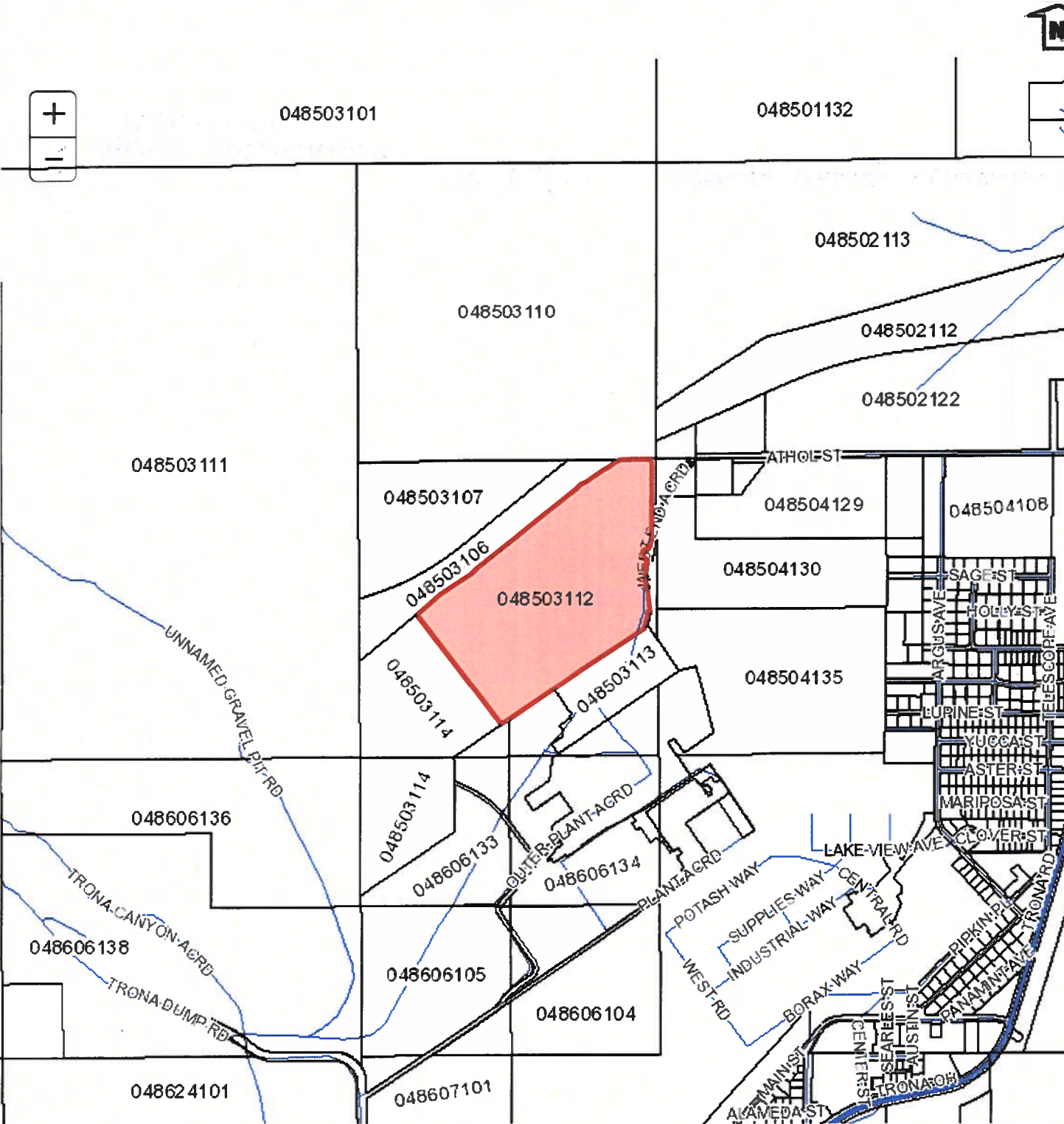
AGENCY

SEARLES VALLEY MINERALS

IF THIS DECISION IS CHALLENGED IN COURT, SUCH CHALLENGE MAY BE LIMITED TO ONLY THOSE ISSUES RAISED IN WRITING AND DELIVERED TO LAND USE SERVICES BEFORE THE PROJECT DECISION IS MADE.

IF A PUBLIC HEARING IS HELD ON THE PROPOSAL, YOU OR SOMEONE ELSE MUST HAVE RAISED THOSE ISSUES AT THE PUBLIC HEARING OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE HEARING BODY AT, OR PRIOR TO, THE HEARING. DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, TIME RESTRICTIONS MAY BE PLACED ON ORAL TESTIMONY AT ANY PUBLIC HEARING ABOUT THIS PROPOSAL. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

PARCEL MAP



August 12, 2019

San Bernardino County
Land Use Services
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Re: **Panamint Valley Limestone Inc., Assessor Parcel Number 0485-031-12**

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Planning Project Notice dated July 31, 2019. This project (Project Number: P201800477/CF) seeks a major variance for a 167-foot air emissions control stack to be installed as part of a proposed lime processing plant on the site of a former fly ash pit (APN 0485-031-12).

1. This project (Project Number: P201800477/CF) is located in an area of the Mojave Desert Air Quality Management District (MDAQMD) which is classified as non-attainment for the California ozone standard (CAAQS) and non-attainment for both the California and Federal PM₁₀ standards. Since an air emissions control stack does not mitigate emissions, but only serves to disperse emissions, this project will increase air pollution in the MDAQMD.
2. This project (Project Number: P201800477/CF) proposes new manufacturing activities that trigger the California Environmental Quality Act (CEQA). Consequently, the air pollution loading caused by this project will have to be evaluated thoroughly prior to granting a major variance for an air emissions dispersal stack with the potential to contribute to significant deterioration in air quality within the MDAQMD. Such evaluation includes, but is not limited to, compliance with CAAQS, PM₁₀, and GHG (CO₂ emissions). Since USEPA has identified lime manufacturing as a major source of hazardous air pollutants (HAP), the lime manufacturing source category is subject to the national emission standards for hazardous air pollutants (NESHAPS); that is, lime plants are subject to emission standards reflecting the application of maximum achievable control technology (MACT). An air emissions stack does not fulfill MACT requirements.
3. This project (Project Number: P201800477/CF) will have a substantial adverse impact on the abutting property; especially, sensitive receptors in the adjacent neighborhood and nearby schools, medical clinic, libraries, churches and community centers that lie within the pollutant dispersal zone of the proposed air emissions stack.
4. This project (Project Number: P201800477/CF) proposes to establish a lime processing plant on a site that is landlocked by abutting properties. The 62-acre site is accessible only by a narrow, two-lane road called Athol Street. This narrow residential road passes through a residential neighborhood and along Trona High School and Trona Elementary School before intersecting another two-lane road named Trona Rd. All truck traffic to and from the lime processing plant will have to move along these two intersecting two-lane roads on a 24-hr basis to support

continuous operation of the lime processing plant. All limestone rock will have to be trucked to this site from a distant quarry. All processed lime will have to leave the site via the same two-lane road. This round-the-clock heavy-haul truck traffic will generate excessive traffic, noise, vibration and other disturbances for the residential neighborhoods and schools along the only road to this facility.

5. This project (Project Number: P201800477/CF) proposes to establish manufacturing activities that require a major variance for a 167-foot air emissions stack to be located on a previously disturbed 62 acre ash landfill site in a location near the epicenter of two recent major earthquakes; a 6.4 quake on July 4 and a 7.1 quake on July 5, 2019. These earthquakes heavily damaged buildings in Searles Valley, including properties abutting the proposed project site and buildings along the only available truck traffic routes of Athol Street and Trona Rd. Additionally, this area is subject to high seasonal winds that will place severe lateral loading on the proposed 17-story stack structure.
6. The proposed project site (Project Number: P201800477/CF) is a 62 acre former fly ash pit that was used by an adjacent, but now decommissioned, coal-fired electric power plant. The current Use Code for parcel APN 0485-031-12 is "Electrical Generation." The infrastructure required to put solar generated electric power onto the CA power grid via SCE is still in place and directly adjacent to APN 0485-031-12. A better and higher use of the 62-acre site would be as a solar energy plant. This is because Trona, CA has one of the highest insolation rates in North America. Today's efficient, fixed-tilt photovoltaic plants can generate 1 GWh/yr. per each 2.8 acre parcel. This means a 32-acre site can generate enough solar-based electricity for 1,000 average homes. This 62-acre site could generate enough electricity to power over 1,900 average homes in an area where Searles Valley's four neighboring communities total about 1,000 homes. The proposed lime processing plant will preclude generating solar energy on this former electrical generation site with its direct access to the electricity grid.
7. This proposed lime processing plant (Project Number: P201800477/CF) will require approximately 13.5 million gallons (approximately 42 acre feet) of potable water annually. The only source of potable water for Searles Valley is an aquifer in Indian Wells Valley, about 30 miles away. According to the State of California, that aquifer is in a critical overdraft condition and a Groundwater Authority (IWVGA) has been formed to develop a plan by January 2020, latest, to bring the aquifer back into equilibrium. The local water utility, Searles Domestic Water Company LLC, is unable to commit to supply the potable water that PVL estimates it needs for the proposed lime processing plant.

Respectfully submitted,

Searles Valley Minerals Inc.

By: _____

Anoop Sukumaran
Manager-Environmental

December 20, 2019

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

**RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO
ADOPT AN INITIAL STUDY / MITIGATED NEGATIVE DECLARATION
PANAMINT VALLEY LIMESTONE**

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Draft Initial Study / Mitigated Negative Declaration (IS/MND) that identify and evaluate the environmental impacts of the Conditional Use Permit. This project (Project Number: P201800477) seek a conditional use permit to establish a lime processing plant and a major variance for a 167-foot high air emissions control stack that exceeds the 75-foot high limit, plus the additional 50% height permitted for towers in industrial districts; on approximately 62 acres; APN 0485-031-12.

On August 12, 2019, Searles Valley Minerals (SVM) submitted comments in response to SBC Land Use Services planning project notice dated July 31, 2019 seeking a major variance for 167- foot air emissions stack to be installed as part of the lime processing plant. SVM in its comments outlined deleterious environmental impacts that need to be addressed as a part of the proposed lime processing plant.

The purpose of this letter is to provide comments on the Panamint Valley Limestone (PVL) draft IS/MND published by SBC on their website. This letter will include SVM August 12, 2019 comments as an addendum that are still relevant to the IS/MND, additional comments developed by SVM directly through review of the IS/MND document and also separate comments from an environmental services firm (Yorke Engineering) that prepares CEQA air quality and GHG studies for projects, including industrial and mining projects, in multiple counties and Air Districts throughout California. Yorke Engineering



was contracted by SVM to perform an independent review, specifically for the air quality (AQ) and GHG impact areas, in Project No. P201800477.

For the AQ and GHG impact areas, Yorke was contracted to do a preliminary review only, not to attempt to reproduce the calculations. One of Yorke's first conclusions was that the AQ and GHG analysis that is presented in the draft IS/MND is not transparent, and there is insufficient documentation available for a third party to perform an independent analysis. As shown in the attached comments, Yorke has concluded that there is a high risk that the project does not meet the criteria to be approved under a mitigated negative declaration and that an EIR is needed to properly evaluate this project.

While Yorke cannot establish with certainty that the emission and GHG significance thresholds have been exceeded by the project with mitigation, we can demonstrate that there is a potential problem and that there is not enough information to make a definitive determination. One of the requirements of the MND is that there be sufficient documentation to reach the necessary conclusion of less than significant impact with mitigation. If this conclusion cannot be reached, it is necessary for the county to reject the current draft IS/MND until it can be properly documented and re-issued, and/or reach a decision that an EIR is needed for this project (such that the project cannot be considered for county approval until the EIR is prepared and subjected to public review).

For the AQ section, in addition to the Yorke concerns about lack of documentation and high risk that the mitigated project is still above the AQ significance thresholds, SVM would like to express an important concern about dust issues, which can have a direct impact on SVM operations and on residential neighbors. The dust control measures in the draft IS/MND are inadequate. To the extent that dust is not controlled and travels onto the SVM property, SVM will be unfairly blamed for this dust, and this is a significant problem in the context of stringent dust control standards under both MDAQMD requirements (already applied to SVM) and under the new AB 617 community protection programs that are currently being implemented.

Aesthetics

Approval of the project includes a variance request for a stack height of 167 feet for the limestone kiln, which significantly exceeds the 75 feet normally allowed. The analysis concludes that this additional height can be mitigated by painting



the stack the color of the surrounding mountains. However, the draft Initial Study/Mitigated Negative Declaration (IS/MND) does not provide information on why such a tall stack is needed. Is this a design/engineering requirement for the equipment or is the extra stack needed to demonstrate compliance with air quality requirements (in which case, emissions could be causing more burden on a regional basis). An explanation of why the additional height is needed and if any other mitigations are feasible should be included in order to justify approval of the variance. SVM has previously submitted comments on the tall stack and related issues in the SVM August 2019 letter, which was in response to an earlier notification about this project at that time.

Biological Impacts

Potential Impacts to Biological Resources are discussed in Section IV of the Environmental Checklist of the IS/MND. Appendix 2 – Biological Analysis contains additional information. Upon review of Section IV and Appendix 2, insufficient evidence has been in the order to determine that the potential project impacts will be adequately mitigated has been provided.

The Biological Analysis in Appendix 2 cites a prior survey done by AECOM in 2012 for a proposed project (ACE Phoenix). Since that proposed project was withdrawn, it appears that the prior survey results were not published. Given the reliance that the Biological Analysis report places on that prior survey, it would be helpful if that 2012 survey report could be included as an Attachment to Appendix 2. It is unclear if the conclusions drawn from that prior survey applied only to the ash landfill area or also to power plant areas immediately adjacent to the closed landfill or surrounding lands. For instance, although the quality of the golden eagle foraging habitat is low in this area, this area is within range of golden eagle habitat, and the document lacks discussion of how the project could impact this species. There is also a stormwater retention basin planned, and the IS/MND lacks discussion of potential impacts such a body of water may have on migratory birds.

Proposed mitigation measure BIO-1 of the IS/MND indicates that a Fish and Game Code § 2081 Incidental Take Permit (ITP) will be obtained from the California Department of Fish and Wildlife (CDFW) for potential impacts to Mohave Ground Squirrel (MGS). We note that this CDFW ITP (or a Streambed Alteration Agreement) are not included in the list of needed approvals on page

10 of the IS/MND. The proposed mitigation ratio for impacts to MGS for an unspecified number of acres in BIO-1 is 1:1. Based on input from the CDFW, the California Energy Commission (CEC) had indicated that a mitigation ratio of 5:1 for MGS would have been required for the proposed Ridgecrest Solar Power Project¹ within about 18 miles of this project site. Likewise, the Palmdale Hybrid Power Project² (PHPP) was required to provide MGS mitigation at a ratio of 2:1 for the power plant site and 3:1 for the transmission line, in spite of the fact that a prior MGS presence/absence survey of the power plant site had not found any MGS (note, costs for the purchase and administration of 665 acres of compensation lands for MGS mitigation for PHPP was estimated to be over ten million dollars in 2011). Due to these and other projects where more significant MGS mitigation was required, some evidence that CDFW agrees with the proposed 1:1 ratio for MGS in this area and/or that conducting of a protocol absence/presence survey would necessarily negate the need for mitigation, such as a letter from CDFW, should be provided in the IS/MND.

Hydrology and Water Quality Impacts

Section X of the IS/MND indicates that the project will include a stormwater retention basin and a septic system. The list of approvals on page 10 of the IS/MND associated with these aspects should be more specific, e.g., rather than listing only the agency (Regional Water Quality Control Board, Region 6), this list should contain the specific permit or approval that is needed – i.e., the discussion indicates that a construction SWPPP/NPDES permit will be required. The list also indicates that permits will be needed from the County Environmental Health Service, which may include a septic system permit among others. For the stormwater retention basin, the list of approvals on page 10 indicates “This project will not require a WDR because zero discharge will leave the site.” In our experience, storm water detention ponds are somewhat controversial as to when they require Waste Discharge Requirements (WDRs). Some Regional Water Quality Control Boards (RWQCBs) tend to require any project with potential discharges of industrial pollutants to submit a Report of Waste Discharge, upon which they decide whether WDRs are required.

1 CEC, 2010. Staff Assessment and Draft Environmental Impact Statement and Draft Desert Conservation Area Plan Amendment for the Ridgecrest Solar Power Project. Condition of Certification BIO-12.

2 CEC, 2011. Commission Decision for the Palmdale Hybrid Power Project. Conditions of Certification BIO-19 and BIO-20.



Additional information should be provided to confirm if anything more than only sediment would be contained in the storm water run-off. Has the Lahontan RWQCB approved the design of the retention basin and agreed that no WDRs are required? Some evidence that Lahontan RWQCB agrees, such as a letter from Lahontan RWQCB, should be provided in the IS/MND.

The IS/MND documentation is inadequate to make a finding of less than significant impact and hence the draft IS/MND is unacceptable in its current format and SVM requests that the county withdraw the draft IS/MND until it can be properly documented and re-issued .

If you have any questions regarding any of the documents submitted or the information contained therein, please do not hesitate to contact me at (760)-372-2547 or sukumara@svminerals.com.

Sincerely,

Anoop Sukumaran
Environmental Manager

Encl: August 12, 2019 SVM comments to SBC Land Use Conditional Use Permit.

Yorke Engineering technical expert comments on the PVL Initial Study/ Mitigated Negative Declaration (IS/MND) proposal AQ and GHG sections.

December 20, 2019

Mr. Anoop Sukumaran
Environmental Manager
Searles Valley Minerals
13200 Main Street
Trona, CA 93562
Work: (760) 372-2547
Fax: (760) 372-2130
E-mail: Sukumara@SVMinerals.com

Subject: Panamint Comment Letter on Air Quality and Greenhouse Gas

Dear Mr. Sukumaran:

Per your request, Yorke Engineering, LLC (Yorke) has reviewed the air quality (AQ) and greenhouse gas (GHG) sections, including an AQ Report provided as an attachment, for the Panamint Valley Limestone (Panamint) Draft Initial Study/Mitigated Negative Declaration (IS/MND). The purpose of this letter is to present technical comments on the adequacy of this information and analyses to determine the significance of the proposed project's impacts as required by the California Environmental Quality Act (CEQA). In order to qualify as an MND under CEQA, substantial evidence must be provided to fully demonstrate that these impacts will be mitigated to less than significant levels. If the project's impacts are not shown to be mitigated to less than significant levels, an Environmental Impact Report (EIR) must be prepared.

INTRODUCTION

Yorke is an environmental services firm that has extensive experience in AQ and GHG impact assessments. Yorke routinely prepares CEQA AQ and GHG studies for projects in California, including industrial and mining projects in multiple counties and Air Districts. Yorke has been contracted by SVM to review the AQ and GHG sections of the Panamint Draft IS/MND. Yorke staff who performed the review of these sections of the Draft IS/MND have over 20 years of experience in CEQA AQ and GHG studies.

As an initial note, the Draft IS/MND has insufficient documentation to reach any conclusion about the significance of the AQ and GHG impacts due to the proposed project. The AQ Report indicates that the design of the project is not complete, and that emission calculations will be provided in a future permit application. Some total emissions estimates are provided, but the document lacks the detailed information on what sources were included, how the emissions were calculated, and what construction activities or operations were assumed. Hence, it is not possible to conclude that the project AQ and GHG impacts are "less than significant with mitigation incorporated." The GHG findings also are not clearly substantiated, and it is unclear if the mitigation described will be sufficient in an MND context. The analyses clearly do not meet the standards for substantial evidence that have been established by recent court cases regarding the adequacy of AQ and GHG analyses and mitigation for CEQA documents.

If the project's impacts are not shown to be mitigated to less than significant, the project must proceed to an EIR and, if impacts are found to be significant after mitigation in the EIR, there must

be a statement of overriding considerations (SOC). To meet the criteria for an MND, the applicant must demonstrate that the project impacts are less than significant with mitigation incorporated using detailed quantification, and qualitative arguments are not sufficient to fully inform the public or other agencies on the potential for impacts. In the SOC, it is possible to include qualitative factors and explanations that make the project benefits outweigh the significant impacts shown, but only after finding that the project has significant impacts that cannot feasibly be mitigated.

In this section of the technical comment letter, we start by listing required components of the AQ and GHG studies and then compare the Draft IS/MND to the required components for these sections.

MND AQ AND GHG STUDY REQUIRED COMPONENTS

To reach a finding of no significant impact with mitigation incorporated in an MND, the following steps are needed:

- A) Clear project description indicating the types, quantities, and operating characteristics of all emission sources and activities, addressing criteria pollutant, Toxic Air Contaminant (TAC), and GHG emissions, for both construction and operation of the project.
- B) Inclusion of all emission source categories and emission sources within each category, from both project stationary sources and project-related mobile source emissions.
- C) Use of valid emission calculation procedures for each source and activity.
- D) Selection of applicable emission significance thresholds and comparison of project emissions to these thresholds (for construction and operational phases).
- E) Evaluation of potential mitigation measures and quantification of their effect on the impacts.
- F) Calculation of all TAC emissions, including diesel particulate matter (DPM) from off-road mobile sources on the facility property, as well as off-site travel associated with the project.
- G) Identification of nearby residential, worker and sensitive receptors and determination of health risk impacts, and, if necessary, completion of a health risk assessment (HRA) addressing the impact of the project's TAC emissions.
- H) Sufficient information such that all analyses provided as part of the IS/MND can be verified to be accurate and complete.
- I) The operations listed in the MND must be complete to ensure all potential impacts have been analyzed and provide sufficient information such that it can be confirmed that future operations are consistent with the impact determinations.
- J) Identification of conditions that ensure the mitigation measures that are described in the MND will be implemented and are effective.

MND AIR QUALITY STUDY – EVALUATION OF FINDINGS IN DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

Overview

The Draft IS/MND does not clearly demonstrate that the project has less than significant AQ impacts because there is insufficient documentation to quantify the emissions and impacts. The documentation is not transparent and is insufficient to allow a third party to reproduce the calculations.

1. Lack of clear project description.
 - The project documentation does not include an adequate facility plot plan (plot plan is included but not legible and appears cursory), construction or operation equipment list, equipment specifications or control technology planned, or other items needed to understand the project.
2. Failure to include all emission source categories and sources within each category.
 - The unpermitted emission sources, such as unpaved roads, storage piles, and similar sources have not been explicitly included.
 - The on-site mobile sources appear to be underestimated.
 - There is no equipment list and no clear picture of how all the site functions will be performed, including unloading, loading, bulldozing, and other functions.
 - It is indicated that a solar array and battery storage facility may be included, but information is lacking on the size, grading, panel washing and maintenance activities, etc. that would be needed to determine impacts for this type of facility.
3. Emission calculation procedures not substantiated.
 - There are no detailed emission calculations by source, including uncontrolled and controlled emission factors and assumptions used, and therefore emissions totals cannot be relied upon.
 - Based on calculations derived from experience with similar projects at other sites (including a review of project documents for other projects on the County's website), the project operating emissions for NO_x and PM₁₀ appear to be underestimated by a factor of 1.5 to 2 or more (in each case). For PM₁₀, the factor is about 2-3, and Yorke reached this conclusion by looking at similar solid material handling facilities. For NO_x, Yorke looked at NO_x emissions from similar sources, and developed a specific example for this site (and concluded that the factor was 1.5 to 2). NO_x emissions from on-road vehicles, off-road vehicles, and the lime kiln were estimated to be in the range of 25 to 40 tons for the project. Emissions from on-road vehicles were estimated using the trip rates provided in the MND and EMFAC emission factors for on-road trucks. Emissions from off-road vehicles were estimated using the equipment in the MND and expected additional equipment that is likely to be needed (such as a dozer and water truck). Emissions were estimated using federal engine standards and 2,000 operating hours per year. Emissions from the lime kiln were estimated assuming the BTU rating and typical

NO_x emission factor. The range of emissions in this estimation depends on the tier level of off-road vehicles considered and other factors (which were estimated in the example).

4. Comparison to emission thresholds may have reached an incorrect conclusion.
 - Based on potential missing emission sources and underestimated emissions by source, the comparison to emissions significance thresholds is likely not accurate to establish that the project has a less than significant impact.
5. Evaluation of mitigation measures incomplete.
 - Six AQ mitigation measures are listed but the reductions achieved by these measures have not been quantified. In addition, mitigation measure benefits cannot be accurately estimated if emissions without mitigation are not correctly assessed.
 - It is not clear how the proposed mitigation measures will be enforced.
6. TAC emission calculations or description/analysis of the potential for health risks are not provided.
 - DPM from construction equipment and from trucks and emergency generators during operation can have a substantial health risk on nearby receptors, not to mention TACs from the calciner, other combustion sources, and fugitive dust.
 - There was no screening HRA performed, and hence a conclusion cannot be reached about exposure to sensitive receptors.
7. Insufficient information is provided to be able to tell if future operations will be consistent with those analyzed.
 - Because the project is not well defined and documented in the Draft IS/MND, it would be impossible to determine once built if project changes are within the envelope of the impact analysis.

MND GHG STUDY – EVALUATION OF FINDINGS IN THE DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

In addition to the issues noted above for the AQ study, the GHG mitigation measures presented are qualitative only and hence are insufficient to demonstrate that the project has been mitigated to less than significant impacts. Furthermore, it is unclear how unsubstantiated statements about California Air Resources Board (ARB) determinations provide actual GHG mitigation for the project.

8. GHG – Comments linked to AQ comments above.
 - Given that the GHG emission calculations are directly tied to the project understanding and the operating characteristics used for the criteria pollutant emission calculations, the comments under #1, #2, and #3 above also apply to the GHG section.
9. GHG – Incorrect significance criteria value.

- The GHG significance criteria value published by MDAQMD for direct and indirect emissions from projects is 100,000 tons/year of carbon dioxide equivalents (CO₂e), not 100,000 metric tons (MT)/year.
- The box for GHG emissions on page 12 should also be checked as a potentially significant impact requiring mitigation.

10. GHG – Not demonstrated to be sufficiently mitigated.

- The MND document indicates that the GHG emissions will exceed the significance threshold established by MDAQMD for projects.
- The GHG threshold exceedance may be exacerbated given the issues discussed above for AQ, such as ensuring a complete source inventory is included and emissions calculated correctly.
- Although some potential mitigation is discussed, quantification of these reductions is not provided, so it is impossible to know if the measures have adequately mitigated the GHG emissions. For instance, there is a discussion provided that by locating this facility closer to the end users of lime products, that GHG emissions related to transportation of these products from other locations will be reduced. While this reduction may be true, the amount of GHG emissions reduced must be quantified in order to demonstrate that the project GHG emissions have been sufficiently mitigated. We note that such a study would be extremely complex, involving economic and other analyses, to show where the lime comes from now and how that would change with and without the proposed project.
- The GHG section (including Exhibit 2 in the AQ Report) also indicates that there have been discussions with the ARB, but it is unclear how the ARB support of the project or proposed regulatory changes for lime plants is considered to be mitigation. No specifics on how GHG emissions are reduced is provided.
- There is also some indication that the project will receive some allocations in the Assembly Bill 32 Cap and Trade Program, but again, it is not clear how much of the project GHG emissions would be subject to this program, e.g., mobile sources would not be subject, and there is no substantial evidence provided to show that participation would sufficiently mitigate the project's GHG emissions to a level of less than significant.

CONCLUSION

As noted above, we did not find sufficient information to determine if all potential sources of AQ and GHG emissions have been included and could not replicate emissions calculations based on the information provided. No information was provided on TAC emissions and the potential health risks from TAC emissions. Emissions estimates provided appear lower than expected (based on experience with similar projects), and hence the significance of the emissions may not have been adequately characterized and mitigated. For both criteria pollutants and GHG, the benefits of the mitigation measures were not quantified, and not shown to mitigate the emissions to less than significant. The mitigation measures included for AQ impacts were vague and may not be enforceable. The mitigation measures included for GHG impacts were based on unsubstantiated

Mr. Anoop Sukumaran

December 20, 2019

Page 6 of 6

statements. The Draft IS/MND did not meet the burden of substantial evidence required by CEQA to claim that AQ and GHG impacts were mitigated, and that AQ and GHG impacts were less than significant with mitigation incorporated.

Should you have any questions or concerns, please contact me at (949) 248-8490 x244.

Sincerely,

A handwritten signature in black ink that reads "A McQueen". The signature is written in a cursive, flowing style.

Anne McQueen, Ph.D., P.E.

Principal Engineer

Yorke Engineering, LLC

AMcQueen@YorkeEngr.com

August 12, 2019

San Bernardino County
Land Use Services
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Re: **Panamint Valley Limestone Inc., Assessor Parcel Number 0485-031-12**

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Planning Project Notice dated July 31, 2019. This project (Project Number: P201800477/CF) seeks a major variance for a 167-foot air emissions control stack to be installed as part of a proposed lime processing plant on the site of a former fly ash pit (APN 0485-031-12).

1. This project (Project Number: P201800477/CF) is located in an area of the Mojave Desert Air Quality Management District (MDAQMD) which is classified as non-attainment for the California ozone standard (CAAQS) and non-attainment for both the California and Federal PM₁₀ standards. Since an air emissions control stack does not mitigate emissions, but only serves to disperse emissions, this project will increase air pollution in the MDAQMD.
2. This project (Project Number: P201800477/CF) proposes new manufacturing activities that trigger the California Environmental Quality Act (CEQA). Consequently, the air pollution loading caused by this project will have to be evaluated thoroughly prior to granting a major variance for an air emissions dispersal stack with the potential to contribute to significant deterioration in air quality within the MDAQMD. Such evaluation includes, but is not limited to, compliance with CAAQS, PM₁₀, and GHG (CO₂ emissions). Since USEPA has identified lime manufacturing as a major source of hazardous air pollutants (HAP), the lime manufacturing source category is subject to the national emission standards for hazardous air pollutants (NESHAPS); that is, lime plants are subject to emission standards reflecting the application of maximum achievable control technology (MACT). An air emissions stack does not fulfill MACT requirements.
3. This project (Project Number: P201800477/CF) will have a substantial adverse impact on the abutting property; especially, sensitive receptors in the adjacent neighborhood and nearby schools, medical clinic, libraries, churches and community centers that lie within the pollutant dispersal zone of the proposed air emissions stack.
4. This project (Project Number: P201800477/CF) proposes to establish a lime processing plant on a site that is landlocked by abutting properties. The 62-acre site is accessible only by a narrow, two-lane road called Athol Street. This narrow residential road passes through a residential neighborhood and along Trona High School and Trona Elementary School before intersecting another two-lane road named Trona Rd. All truck traffic to and from the lime processing plant will have to move along these two intersecting two-lane roads on a 24-hr basis to support

continuous operation of the lime processing plant. All limestone rock will have to be trucked to this site from a distant quarry. All processed lime will have to leave the site via the same two-lane road. This round-the-clock heavy-haul truck traffic will generate excessive traffic, noise, vibration and other disturbances for the residential neighborhoods and schools along the only road to this facility.

5. This project (Project Number: P201800477/CF) proposes to establish manufacturing activities that require a major variance for a 167-foot air emissions stack to be located on a previously disturbed 62 acre ash landfill site in a location near the epicenter of two recent major earthquakes; a 6.4 quake on July 4 and a 7.1 quake on July 5, 2019. These earthquakes heavily damaged buildings in Searles Valley, including properties abutting the proposed project site and buildings along the only available truck traffic routes of Athol Street and Trona Rd. Additionally, this area is subject to high seasonal winds that will place severe lateral loading on the proposed 17-story stack structure.
6. The proposed project site (Project Number: P201800477/CF) is a 62 acre former fly ash pit that was used by an adjacent, but now decommissioned, coal-fired electric power plant. The current Use Code for parcel APN 0485-031-12 is "Electrical Generation." The infrastructure required to put solar generated electric power onto the CA power grid via SCE is still in place and directly adjacent to APN 0485-031-12. A better and higher use of the 62-acre site would be as a solar energy plant. This is because Trona, CA has one of the highest insolation rates in North America. Today's efficient, fixed-tilt photovoltaic plants can generate 1 GWh/yr. per each 2.8 acre parcel. This means a 32-acre site can generate enough solar-based electricity for 1,000 average homes. This 62-acre site could generate enough electricity to power over 1,900 average homes in an area where Searles Valley's four neighboring communities total about 1,000 homes. The proposed lime processing plant will preclude generating solar energy on this former electrical generation site with its direct access to the electricity grid.
7. This proposed lime processing plant (Project Number: P201800477/CF) will require approximately 13.5 million gallons (approximately 42 acre feet) of potable water annually. The only source of potable water for Searles Valley is an aquifer in Indian Wells Valley, about 30 miles away. According to the State of California, that aquifer is in a critical overdraft condition and a Groundwater Authority (IWVGA) has been formed to develop a plan by January 2020, latest, to bring the aquifer back into equilibrium. The local water utility, Searles Domestic Water Company LLC, is unable to commit to supply the potable water that PVL estimates it needs for the proposed lime processing plant.

Respectfully submitted,

Searles Valley Minerals Inc.

By: _____

Anoop Sukumaran
Manager-Environmental

January 23, 2020

Mr. Jim Morrissey, Planner
Mr. Chris Warrick, Supervising Planner
San Bernardino County
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Dear Mr. Morrissey and Mr. Warrick:

This letter is an addendum to the comments submitted by Searles Valley Minerals Inc. (SVM) in its letter dated December 20, 2019 in response to the SBC Land Services Draft Initial Study/Mitigated Negative Declaration (IS/MND) that identifies and evaluates the environmental impacts to a proposed Conditional Use Permit for Project Number: P201800477, a Lime Processing Plant. Upon further review of the IS/MND, SVM has identified additional material factual errors that should be corrected even though the comment period has expired.

Overstatement of SVM Water Deliveries to SDWC

1. On page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the document states that SVM pumps approximately 2,500 acre feet per year (AFY) from the Indian Wells Valley Groundwater Basin (IWVGB) and delivers "approximately 1,800 AFY to 1,900 AFY" of potable water to Searles Domestic Water Company (SDWC). This is a material, factual error. SVM does not deliver anything close to 1,800 AFY to 1,900 AFY of potable water to SDWC. While in recent years SVM has pumped about 2,650 AFY from the IWVGB, the actual quantity of water delivered in recent years by SVM to SDWC is about 197 AFY, one tenth of the amount stated in the IS/MND. The amount of water purchased by SDWC can be verified by a review of its annual reports filed with the CPUC and available on the CPUC's website.

<ftp://ftp.cpuc.ca.gov/waterannualreports/Water%20Division/Annual%20Reports/>

Potable Water Required by Project

2. Also, on page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the report states that the "proposed project's 1.3 gpm consumption of potable water equates to approximately 2.1-acre feet per year." That volume is sharply inconsistent with the demand for potable water set forth in a formal complaint the project applicant, Panamint Valley Limestone ("PVL") filed with the California Public Utilities Commission (CPUC) on December 13, 2018. The complaint, docketed as Case No. 18-12-012, has been amended twice but all versions of it ask the CPUC to issue an order "(d)irecting SDWC to provide the requested water service to the Subject Property in an amount of approximately 26 gallons per minute [42AFY]."¹ Attached is a copy of a Declaration dated May 2019 by

¹ Second Amended Complaint (May 6, 2019), Part V.b. at p.10.

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M288/K330/288330397.PDF>



Shawn Barker, President of PVL, in which he states under penalty of perjury that his prior demand for potable water for the project of 40 gpm was in error and that “the actual water demand to operate the Subject Property would be approximately 26 gallons per minute”, twenty times the 1.3 gpm of potable water relied on in the IS/MND. The Complaint is available on the CPUC’s website.²

Inconsistencies Between PVL Projections of Potable Water Requirements for Project

3. On page 66, in subparagraph b) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether there are sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. The IS/MND does not, however discuss whether or not there are sufficient water supplies to sustain this project and reasonably foreseeable future development during normal, dry and multiple dry years. Instead (p.67), it relies on the discussion of Hydrology set forth at Section X of the IS/MND.

As asserted in sections 1 and 2 of this addendum, however, Section X relies on PVL’s factually inaccurate and seemingly contradictory water use information. PVL has presented different projections to two government agencies, the CPUC and the San Bernardino County Land Use Services Department/Planning Division (SBC). That is why the volume of potable water projected in Section X (2.1 AFY), is one-twentieth of the volume cited to the CPUC, 26 gpm (42 AFY). The IS/MND (p.48) indicates that PVL will drill a 26 gpm – 50 gpm³ well (pg. 24) to acquire brackish water which it will treat to meet its needs.

The 26 gpm (42 AFY) required for PVL’s project has been variously identified as potable water, non-potable water, industrial water, process water, treated brackish water and water. These are distinctions without a difference and are consequently misleading. The fact that PVL’s representation of its minimum potable water need of 26 gpm (42 AFY) has been represented differently to different government agencies is unfortunate but does not alter the fact that the project requires, at least, 26 gpm (42 AFY) of potable water and has provisioned for pumping 26 gpm – 50 gpm of water.

Effect of New Potable Water Service to Project on the Environment

4. On page 66, in subparagraph a) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether the construction of the project will require new water facilities the construction of which could cause significant environmental damage. As set forth in Section 2 and 3 *supra* above, Panamint Valley Limestone has previously stated that it will require (and has requested) 26 gpm (42 AFY) of potable water. Providing that volume of potable water will require at least a 20% increase in the potable water that SDWC will require from SVM. SVM has informed SDWC that SDWC cannot assume that SVM will be able to supply SDWC an additional 42 AFY for any purpose. The basis for SVM’s view is well known to anyone conversant with groundwater conditions in this region of California. According to the California Department of Water Resources (DWR), the IWVGB (Basin 6-54) the sole source of the potable water SVM delivers to SDWC, is one of twenty-one groundwater basins in California that are subject to “critical conditions of overdraft.” (DWR Bulletin 118, Interim Update 2016, p. 12, Table 1, page 8.) Groundwater pumping from the basin is over three times the volume of the

² See link at footnote 2 *supra*.

³ 26 gpm – 50 gpm is equal to roughly 42-80 AFY



basin's natural volume of recharge. Continued overdrafting of the basin will result in undesirable results as defined in the SGMA legislation section 10721, such as chronic lowering of groundwater levels, significant reduction of groundwater storage, degraded water quality, and localized land subsidence.

Future Substantial Reductions in the Volume of Potable Groundwater to the Project Location

5. As noted above, PVL's actual water requirement of, at least, 26 gpm (42 AFY) has the potential to increase the water demand on SDWC by over 20%. A demand on pumped groundwater of this magnitude would have a potentially significant environmental impact on the IWVGB which DWR has found to be in a state of "critical overdraft". This critical overdraft is likely well known to SBC since Mr. Robert Page, Registrar of Voters, San Bernardino County and Director, Indian Wells Valley Groundwater Authority (IWVGA), voted recently in favor of the IWVGA's Groundwater Sustainability Plan (GSP) that calls for drastic reductions in groundwater pumping from the IWVGB by agriculture, business, industry and various water districts. After the date for comments on the IS/MND, the IWVGA adopted the draft GSP and it is now operative.

The numbers showing the critical condition of overdraft in the IWVGB are dramatic. The GSP calls for a reduction in pumping from the IWVGB from the current total of 27,750 AFY (average from 2010-2015) to 7650 AFY (the current recharge volume) by 2040, a 72% reduction in pumping. According to the GSP, based upon California water rights, beneficial uses, and pumping history from 2010 to 2014 inclusive, entities that today pump water from the IWVGB will be eligible to receive an annual allocation of the safe yield of water (7650 AFY), if any. Those entities not granted an allocation will be granted access to a single-use, non-transferrable, one-time portion of a transient pool of no more than 51,000 acre-feet total for all pumpers. Once this water has been consumed, the pool will cease. PVL's demand for 26 gpm (42 AFY) from SDWC, in a matter now before the CPUC, is tantamount to a circumvention of the GSP just as it is being implemented. In fact, the 42 AFY of water that PVL is seeking from SDWC exceeds the current pumping of three agricultural entities that will be required to reduce or end pumping under the recently approved GSP.

With the exception of the US Navy Base, all current pumpers in the basin, including SVM, will be required to make drastic water pumping reductions to meet the greater than 70% pumping reductions required to eliminate the condition of critical overdraft no later than CY2040. This is factual and foreseeable, not conjectural, and is a result of the actions mandated by the Sustainable Groundwater Management Act (SGMA) and the resulting GSP and its mandated pumping allocations and conservation measures. All of this information is public and available online at <https://iwvga.org/gsp-chapters>.

CEQA Precludes a Modified Negative Declaration With Regard to The Project

6. Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act states that the Lead Agency, understood here to be SBC, "shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." PVL is demanding 42AFY from SDWC, in its case before the CPUC. The demand, if realized, would result in a reasonably foreseeable physical change to the environment. This physical change to the environment will result when SDWC attempts to serve PVL's demand for significant additional pumping from the IWVGB which is in a condition of critical overdraft and which the IWVGA now seeks to mitigate with a



Searles Valley Minerals

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GSP that requires significant reductions in current pumping. Since the only source of water available to the SDWC today is water sourced from the IWVGB, it is foreseeable that additional pumping from a basin where pumping reductions are now being required by a newly adopted GSP will worsen, not mitigate, the critical condition of overdraft of the IWVGB. Consequently, SVM believes SBC erred when it issued PVL a Conditional Use Permit with a Proposed Mitigated Negative Declaration.

SVM understands that the lead agency, SBC Planning Division, can only make evaluations of projects based upon the information presented to it. Since preparation of an EIR is crucial to environmental protection under CEQA, SVM understands that if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. SVM has identified factual errors in the IS/MND issued by SBC November 20, 2019 as well as provided evidence of sworn testimony by PVL before the CPUC that PVL is seeking 26 gpm (42 AFY) of potable water from SDWC (attached). This potable water is sourced from the IWVGB which is in critical overdraft and now operating under a GSP that calls for drastic reductions in water pumping, and other conservation measures, to protect the basin from further environmental damage. With the information now made available to the SBC Planning Division, there is substantial evidence that this project may have a foreseeable significant effect on the environment. Consequently, it would be improper for the agency to dispense with preparation of an EIR, the preparation of which is foundational to environmental protection under CEQA.

Thank you for your consideration,

Sincerely,

Anoop Sukumaran
Environmental Manager

2203/007/X214269.v1 rev. 03

DECLARATION OF SHAWN A. BARKER

I, Shawn A. Barker, declare:

1. I am the President of Complainant in this action, Panamint Valley Limestone, Inc. ("PVL"). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, could competently testify to all matters set forth herein.
2. I make this declaration in support of PVL's Opposition to the Motion to Dismiss the Second Amended Complaint filed by Defendant Searles Domestic Water Company, LLC ("SDWC").
3. In October 2014, Shawn Barker Construction Company, of which I am also the president, purchased from ACE Cogeneration Company ("ACE") a lime quarry located in the Panamint Valley Mountain Range, which is located in Inyo County.
4. Around that time, I started looking for industrial land on which to develop a lime production facility.
5. I discovered in past investigations that the all of the property zoned for industrial use available in or around Trona, California was owned by Searles Valley Minerals, Inc. with the exception of one parcel, the Subject Property, that was owned by ACE.
6. On April 4, 2018, PVL purchased the Subject Property from ACE.
7. Shortly thereafter, I contacted Audrey Schuyler, the manager of SDWC, to request water service for the Subject Property. During our initial conversation, I advised Ms. Schuyler that I believed I would need approximately 40 gallons of water per minute for the Subject Property. Ms. Schuyler advised me that before she could issue a will serve letter, she had to confirm with Greg Corrion, who I understood to be employed by Searles Valley Minerals, Inc., that the Subject Property was located in SDWC's service area.

8. About a week or two later, I followed up with Ms. Schuyler regarding the will serve letter. Ms. Schuyler advised me that she was preparing the letter and would get it to me in a couple of days. On May 28, 2018, Ms. Schuyler issued the will serve letter.

9. After further review, I discovered that my initial estimate of the water needed for the Subject Property was too high, and that the actual water demand to operate the Subject Property would be approximately 26 gallons per minute.

10. PVL's development of the Subject Property for use as a lime processing facility will compete with SVM and its related entities for water, potential employees, use of natural gas and electricity utility infrastructure, and for use of the roads that lead into and out of Trona.

11. Although PVL would prefer to obtain all of its water from SDWC, it is pursuing other sources of water for its process needs. PVL has drilled a well on the Subject Property and is exploring additional options for its process water, to mitigate its damages and to ensure it has sufficient water in the event it does not obtain the full relief sought in this action.

12. I have never made any indication that PVL would take water from SDWC in an amount greater than permitted through this action or otherwise.

13. I am familiar with Trona, and based on my knowledge of the area, I am aware that SVM owns the property located to the east of SVM's Lake Garage site is also owned by SVM, where it operates stations to wash vehicles.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of May 2019 in Trona, California.

Shawn Barker

Shawn A. Barker
President, Panamint Valley Limestone, Inc.

December 20, 2019

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

**RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO
ADOPT AN INITIAL STUDY / MITIGATED NEGATIVE DECLARATION
PANAMINT VALLEY LIMESTONE**

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Draft Initial Study / Mitigated Negative Declaration (IS/MND) that identify and evaluate the environmental impacts of the Conditional Use Permit. This project (Project Number: P201800477) seek a conditional use permit to establish a lime processing plant and a major variance for a 167-foot high air emissions control stack that exceeds the 75-foot high limit, plus the additional 50% height permitted for towers in industrial districts; on approximately 62 acres; APN 0485-031-12.

On August 12, 2019, Searles Valley Minerals (SVM) submitted comments in response to SBC Land Use Services planning project notice dated July 31, 2019 seeking a major variance for 167- foot air emissions stack to be installed as part of the lime processing plant. SVM in its comments outlined deleterious environmental impacts that need to be addressed as a part of the proposed lime processing plant.

The purpose of this letter is to provide comments on the Panamint Valley Limestone (PVL) draft IS/MND published by SBC on their website. This letter will include SVM August 12, 2019 comments as an addendum that are still relevant to the IS/MND, additional comments developed by SVM directly through review of the IS/MND document and also separate comments from an environmental services firm (Yorke Engineering) that prepares CEQA air quality and GHG studies for projects, including industrial and mining projects, in multiple counties and Air Districts throughout California. Yorke Engineering



was contracted by SVM to perform an independent review, specifically for the air quality (AQ) and GHG impact areas, in Project No. P201800477.

For the AQ and GHG impact areas, Yorke was contracted to do a preliminary review only, not to attempt to reproduce the calculations. One of Yorke's first conclusions was that the AQ and GHG analysis that is presented in the draft IS/MND is not transparent, and there is insufficient documentation available for a third party to perform an independent analysis. As shown in the attached comments, Yorke has concluded that there is a high risk that the project does not meet the criteria to be approved under a mitigated negative declaration and that an EIR is needed to properly evaluate this project.

While Yorke cannot establish with certainty that the emission and GHG significance thresholds have been exceeded by the project with mitigation, we can demonstrate that there is a potential problem and that there is not enough information to make a definitive determination. One of the requirements of the MND is that there be sufficient documentation to reach the necessary conclusion of less than significant impact with mitigation. If this conclusion cannot be reached, it is necessary for the county to reject the current draft IS/MND until it can be properly documented and re-issued, and/or reach a decision that an EIR is needed for this project (such that the project cannot be considered for county approval until the EIR is prepared and subjected to public review).

For the AQ section, in addition to the Yorke concerns about lack of documentation and high risk that the mitigated project is still above the AQ significance thresholds, SVM would like to express an important concern about dust issues, which can have a direct impact on SVM operations and on residential neighbors. The dust control measures in the draft IS/MND are inadequate. To the extent that dust is not controlled and travels onto the SVM property, SVM will be unfairly blamed for this dust, and this is a significant problem in the context of stringent dust control standards under both MDAQMD requirements (already applied to SVM) and under the new AB 617 community protection programs that are currently being implemented.

Aesthetics

Approval of the project includes a variance request for a stack height of 167 feet for the limestone kiln, which significantly exceeds the 75 feet normally allowed. The analysis concludes that this additional height can be mitigated by painting



the stack the color of the surrounding mountains. However, the draft Initial Study/Mitigated Negative Declaration (IS/MND) does not provide information on why such a tall stack is needed. Is this a design/engineering requirement for the equipment or is the extra stack needed to demonstrate compliance with air quality requirements (in which case, emissions could be causing more burden on a regional basis). An explanation of why the additional height is needed and if any other mitigations are feasible should be included in order to justify approval of the variance. SVM has previously submitted comments on the tall stack and related issues in the SVM August 2019 letter, which was in response to an earlier notification about this project at that time.

Biological Impacts

Potential Impacts to Biological Resources are discussed in Section IV of the Environmental Checklist of the IS/MND. Appendix 2 – Biological Analysis contains additional information. Upon review of Section IV and Appendix 2, insufficient evidence has been in the order to determine that the potential project impacts will be adequately mitigated has been provided.

The Biological Analysis in Appendix 2 cites a prior survey done by AECOM in 2012 for a proposed project (ACE Phoenix). Since that proposed project was withdrawn, it appears that the prior survey results were not published. Given the reliance that the Biological Analysis report places on that prior survey, it would be helpful if that 2012 survey report could be included as an Attachment to Appendix 2. It is unclear if the conclusions drawn from that prior survey applied only to the ash landfill area or also to power plant areas immediately adjacent to the closed landfill or surrounding lands. For instance, although the quality of the golden eagle foraging habitat is low in this area, this area is within range of golden eagle habitat, and the document lacks discussion of how the project could impact this species. There is also a stormwater retention basin planned, and the IS/MND lacks discussion of potential impacts such a body of water may have on migratory birds.

Proposed mitigation measure BIO-1 of the IS/MND indicates that a Fish and Game Code § 2081 Incidental Take Permit (ITP) will be obtained from the California Department of Fish and Wildlife (CDFW) for potential impacts to Mohave Ground Squirrel (MGS). We note that this CDFW ITP (or a Streambed Alteration Agreement) are not included in the list of needed approvals on page

10 of the IS/MND. The proposed mitigation ratio for impacts to MGS for an unspecified number of acres in BIO-1 is 1:1. Based on input from the CDFW, the California Energy Commission (CEC) had indicated that a mitigation ratio of 5:1 for MGS would have been required for the proposed Ridgecrest Solar Power Project¹ within about 18 miles of this project site. Likewise, the Palmdale Hybrid Power Project² (PHPP) was required to provide MGS mitigation at a ratio of 2:1 for the power plant site and 3:1 for the transmission line, in spite of the fact that a prior MGS presence/absence survey of the power plant site had not found any MGS (note, costs for the purchase and administration of 665 acres of compensation lands for MGS mitigation for PHPP was estimated to be over ten million dollars in 2011). Due to these and other projects where more significant MGS mitigation was required, some evidence that CDFW agrees with the proposed 1:1 ratio for MGS in this area and/or that conducting of a protocol absence/presence survey would necessarily negate the need for mitigation, such as a letter from CDFW, should be provided in the IS/MND.

Hydrology and Water Quality Impacts

Section X of the IS/MND indicates that the project will include a stormwater retention basin and a septic system. The list of approvals on page 10 of the IS/MND associated with these aspects should be more specific, e.g., rather than listing only the agency (Regional Water Quality Control Board, Region 6), this list should contain the specific permit or approval that is needed – i.e., the discussion indicates that a construction SWPPP/NPDES permit will be required. The list also indicates that permits will be needed from the County Environmental Health Service, which may include a septic system permit among others. For the stormwater retention basin, the list of approvals on page 10 indicates “This project will not require a WDR because zero discharge will leave the site.” In our experience, storm water detention ponds are somewhat controversial as to when they require Waste Discharge Requirements (WDRs). Some Regional Water Quality Control Boards (RWQCBs) tend to require any project with potential discharges of industrial pollutants to submit a Report of Waste Discharge, upon which they decide whether WDRs are required.

1 CEC, 2010. Staff Assessment and Draft Environmental Impact Statement and Draft Desert Conservation Area Plan Amendment for the Ridgecrest Solar Power Project. Condition of Certification BIO-12.

2 CEC, 2011. Commission Decision for the Palmdale Hybrid Power Project. Conditions of Certification BIO-19 and BIO-20.



Additional information should be provided to confirm if anything more than only sediment would be contained in the storm water run-off. Has the Lahontan RWQCB approved the design of the retention basin and agreed that no WDRs are required? Some evidence that Lahontan RWQCB agrees, such as a letter from Lahontan RWQCB, should be provided in the IS/MND.

The IS/MND documentation is inadequate to make a finding of less than significant impact and hence the draft IS/MND is unacceptable in its current format and SVM requests that the county withdraw the draft IS/MND until it can be properly documented and re-issued .

If you have any questions regarding any of the documents submitted or the information contained therein, please do not hesitate to contact me at (760)-372-2547 or sukumara@svminerals.com.

Sincerely,

Anoop Sukumaran
Environmental Manager

Encl: August 12, 2019 SVM comments to SBC Land Use Conditional Use Permit.

Yorke Engineering technical expert comments on the PVL Initial Study/ Mitigated Negative Declaration (IS/MND) proposal AQ and GHG sections.

December 20, 2019

Mr. Anoop Sukumaran
Environmental Manager
Searles Valley Minerals
13200 Main Street
Trona, CA 93562
Work: (760) 372-2547
Fax: (760) 372-2130
E-mail: Sukumara@SVMinerals.com

Subject: Panamint Comment Letter on Air Quality and Greenhouse Gas

Dear Mr. Sukumaran:

Per your request, Yorke Engineering, LLC (Yorke) has reviewed the air quality (AQ) and greenhouse gas (GHG) sections, including an AQ Report provided as an attachment, for the Panamint Valley Limestone (Panamint) Draft Initial Study/Mitigated Negative Declaration (IS/MND). The purpose of this letter is to present technical comments on the adequacy of this information and analyses to determine the significance of the proposed project's impacts as required by the California Environmental Quality Act (CEQA). In order to qualify as an MND under CEQA, substantial evidence must be provided to fully demonstrate that these impacts will be mitigated to less than significant levels. If the project's impacts are not shown to be mitigated to less than significant levels, an Environmental Impact Report (EIR) must be prepared.

INTRODUCTION

Yorke is an environmental services firm that has extensive experience in AQ and GHG impact assessments. Yorke routinely prepares CEQA AQ and GHG studies for projects in California, including industrial and mining projects in multiple counties and Air Districts. Yorke has been contracted by SVM to review the AQ and GHG sections of the Panamint Draft IS/MND. Yorke staff who performed the review of these sections of the Draft IS/MND have over 20 years of experience in CEQA AQ and GHG studies.

As an initial note, the Draft IS/MND has insufficient documentation to reach any conclusion about the significance of the AQ and GHG impacts due to the proposed project. The AQ Report indicates that the design of the project is not complete, and that emission calculations will be provided in a future permit application. Some total emissions estimates are provided, but the document lacks the detailed information on what sources were included, how the emissions were calculated, and what construction activities or operations were assumed. Hence, it is not possible to conclude that the project AQ and GHG impacts are "less than significant with mitigation incorporated." The GHG findings also are not clearly substantiated, and it is unclear if the mitigation described will be sufficient in an MND context. The analyses clearly do not meet the standards for substantial evidence that have been established by recent court cases regarding the adequacy of AQ and GHG analyses and mitigation for CEQA documents.

If the project's impacts are not shown to be mitigated to less than significant, the project must proceed to an EIR and, if impacts are found to be significant after mitigation in the EIR, there must

be a statement of overriding considerations (SOC). To meet the criteria for an MND, the applicant must demonstrate that the project impacts are less than significant with mitigation incorporated using detailed quantification, and qualitative arguments are not sufficient to fully inform the public or other agencies on the potential for impacts. In the SOC, it is possible to include qualitative factors and explanations that make the project benefits outweigh the significant impacts shown, but only after finding that the project has significant impacts that cannot feasibly be mitigated.

In this section of the technical comment letter, we start by listing required components of the AQ and GHG studies and then compare the Draft IS/MND to the required components for these sections.

MND AQ AND GHG STUDY REQUIRED COMPONENTS

To reach a finding of no significant impact with mitigation incorporated in an MND, the following steps are needed:

- A) Clear project description indicating the types, quantities, and operating characteristics of all emission sources and activities, addressing criteria pollutant, Toxic Air Contaminant (TAC), and GHG emissions, for both construction and operation of the project.
- B) Inclusion of all emission source categories and emission sources within each category, from both project stationary sources and project-related mobile source emissions.
- C) Use of valid emission calculation procedures for each source and activity.
- D) Selection of applicable emission significance thresholds and comparison of project emissions to these thresholds (for construction and operational phases).
- E) Evaluation of potential mitigation measures and quantification of their effect on the impacts.
- F) Calculation of all TAC emissions, including diesel particulate matter (DPM) from off-road mobile sources on the facility property, as well as off-site travel associated with the project.
- G) Identification of nearby residential, worker and sensitive receptors and determination of health risk impacts, and, if necessary, completion of a health risk assessment (HRA) addressing the impact of the project's TAC emissions.
- H) Sufficient information such that all analyses provided as part of the IS/MND can be verified to be accurate and complete.
- I) The operations listed in the MND must be complete to ensure all potential impacts have been analyzed and provide sufficient information such that it can be confirmed that future operations are consistent with the impact determinations.
- J) Identification of conditions that ensure the mitigation measures that are described in the MND will be implemented and are effective.

MND AIR QUALITY STUDY – EVALUATION OF FINDINGS IN DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

Overview

The Draft IS/MND does not clearly demonstrate that the project has less than significant AQ impacts because there is insufficient documentation to quantify the emissions and impacts. The documentation is not transparent and is insufficient to allow a third party to reproduce the calculations.

1. Lack of clear project description.
 - The project documentation does not include an adequate facility plot plan (plot plan is included but not legible and appears cursory), construction or operation equipment list, equipment specifications or control technology planned, or other items needed to understand the project.
2. Failure to include all emission source categories and sources within each category.
 - The unpermitted emission sources, such as unpaved roads, storage piles, and similar sources have not been explicitly included.
 - The on-site mobile sources appear to be underestimated.
 - There is no equipment list and no clear picture of how all the site functions will be performed, including unloading, loading, bulldozing, and other functions.
 - It is indicated that a solar array and battery storage facility may be included, but information is lacking on the size, grading, panel washing and maintenance activities, etc. that would be needed to determine impacts for this type of facility.
3. Emission calculation procedures not substantiated.
 - There are no detailed emission calculations by source, including uncontrolled and controlled emission factors and assumptions used, and therefore emissions totals cannot be relied upon.
 - Based on calculations derived from experience with similar projects at other sites (including a review of project documents for other projects on the County's website), the project operating emissions for NO_x and PM₁₀ appear to be underestimated by a factor of 1.5 to 2 or more (in each case). For PM₁₀, the factor is about 2-3, and Yorke reached this conclusion by looking at similar solid material handling facilities. For NO_x, Yorke looked at NO_x emissions from similar sources, and developed a specific example for this site (and concluded that the factor was 1.5 to 2). NO_x emissions from on-road vehicles, off-road vehicles, and the lime kiln were estimated to be in the range of 25 to 40 tons for the project. Emissions from on-road vehicles were estimated using the trip rates provided in the MND and EMFAC emission factors for on-road trucks. Emissions from off-road vehicles were estimated using the equipment in the MND and expected additional equipment that is likely to be needed (such as a dozer and water truck). Emissions were estimated using federal engine standards and 2,000 operating hours per year. Emissions from the lime kiln were estimated assuming the BTU rating and typical

NO_x emission factor. The range of emissions in this estimation depends on the tier level of off-road vehicles considered and other factors (which were estimated in the example).

4. Comparison to emission thresholds may have reached an incorrect conclusion.
 - Based on potential missing emission sources and underestimated emissions by source, the comparison to emissions significance thresholds is likely not accurate to establish that the project has a less than significant impact.
5. Evaluation of mitigation measures incomplete.
 - Six AQ mitigation measures are listed but the reductions achieved by these measures have not been quantified. In addition, mitigation measure benefits cannot be accurately estimated if emissions without mitigation are not correctly assessed.
 - It is not clear how the proposed mitigation measures will be enforced.
6. TAC emission calculations or description/analysis of the potential for health risks are not provided.
 - DPM from construction equipment and from trucks and emergency generators during operation can have a substantial health risk on nearby receptors, not to mention TACs from the calciner, other combustion sources, and fugitive dust.
 - There was no screening HRA performed, and hence a conclusion cannot be reached about exposure to sensitive receptors.
7. Insufficient information is provided to be able to tell if future operations will be consistent with those analyzed.
 - Because the project is not well defined and documented in the Draft IS/MND, it would be impossible to determine once built if project changes are within the envelope of the impact analysis.

MND GHG STUDY – EVALUATION OF FINDINGS IN THE DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

In addition to the issues noted above for the AQ study, the GHG mitigation measures presented are qualitative only and hence are insufficient to demonstrate that the project has been mitigated to less than significant impacts. Furthermore, it is unclear how unsubstantiated statements about California Air Resources Board (ARB) determinations provide actual GHG mitigation for the project.

8. GHG – Comments linked to AQ comments above.
 - Given that the GHG emission calculations are directly tied to the project understanding and the operating characteristics used for the criteria pollutant emission calculations, the comments under #1, #2, and #3 above also apply to the GHG section.
9. GHG – Incorrect significance criteria value.

- The GHG significance criteria value published by MDAQMD for direct and indirect emissions from projects is 100,000 tons/year of carbon dioxide equivalents (CO₂e), not 100,000 metric tons (MT)/year.
- The box for GHG emissions on page 12 should also be checked as a potentially significant impact requiring mitigation.

10. GHG – Not demonstrated to be sufficiently mitigated.

- The MND document indicates that the GHG emissions will exceed the significance threshold established by MDAQMD for projects.
- The GHG threshold exceedance may be exacerbated given the issues discussed above for AQ, such as ensuring a complete source inventory is included and emissions calculated correctly.
- Although some potential mitigation is discussed, quantification of these reductions is not provided, so it is impossible to know if the measures have adequately mitigated the GHG emissions. For instance, there is a discussion provided that by locating this facility closer to the end users of lime products, that GHG emissions related to transportation of these products from other locations will be reduced. While this reduction may be true, the amount of GHG emissions reduced must be quantified in order to demonstrate that the project GHG emissions have been sufficiently mitigated. We note that such a study would be extremely complex, involving economic and other analyses, to show where the lime comes from now and how that would change with and without the proposed project.
- The GHG section (including Exhibit 2 in the AQ Report) also indicates that there have been discussions with the ARB, but it is unclear how the ARB support of the project or proposed regulatory changes for lime plants is considered to be mitigation. No specifics on how GHG emissions are reduced is provided.
- There is also some indication that the project will receive some allocations in the Assembly Bill 32 Cap and Trade Program, but again, it is not clear how much of the project GHG emissions would be subject to this program, e.g., mobile sources would not be subject, and there is no substantial evidence provided to show that participation would sufficiently mitigate the project's GHG emissions to a level of less than significant.

CONCLUSION

As noted above, we did not find sufficient information to determine if all potential sources of AQ and GHG emissions have been included and could not replicate emissions calculations based on the information provided. No information was provided on TAC emissions and the potential health risks from TAC emissions. Emissions estimates provided appear lower than expected (based on experience with similar projects), and hence the significance of the emissions may not have been adequately characterized and mitigated. For both criteria pollutants and GHG, the benefits of the mitigation measures were not quantified, and not shown to mitigate the emissions to less than significant. The mitigation measures included for AQ impacts were vague and may not be enforceable. The mitigation measures included for GHG impacts were based on unsubstantiated

Mr. Anoop Sukumaran

December 20, 2019

Page 6 of 6

statements. The Draft IS/MND did not meet the burden of substantial evidence required by CEQA to claim that AQ and GHG impacts were mitigated, and that AQ and GHG impacts were less than significant with mitigation incorporated.

Should you have any questions or concerns, please contact me at (949) 248-8490 x244.

Sincerely,

A handwritten signature in black ink that reads "A McQueen". The signature is written in a cursive, flowing style.

Anne McQueen, Ph.D., P.E.

Principal Engineer

Yorke Engineering, LLC

AMcQueen@YorkeEngr.com

August 12, 2019

San Bernardino County
Land Use Services
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Re: **Panamint Valley Limestone Inc., Assessor Parcel Number 0485-031-12**

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Planning Project Notice dated July 31, 2019. This project (Project Number: P201800477/CF) seeks a major variance for a 167-foot air emissions control stack to be installed as part of a proposed lime processing plant on the site of a former fly ash pit (APN 0485-031-12).

1. This project (Project Number: P201800477/CF) is located in an area of the Mojave Desert Air Quality Management District (MDAQMD) which is classified as non-attainment for the California ozone standard (CAAQS) and non-attainment for both the California and Federal PM₁₀ standards. Since an air emissions control stack does not mitigate emissions, but only serves to disperse emissions, this project will increase air pollution in the MDAQMD.
2. This project (Project Number: P201800477/CF) proposes new manufacturing activities that trigger the California Environmental Quality Act (CEQA). Consequently, the air pollution loading caused by this project will have to be evaluated thoroughly prior to granting a major variance for an air emissions dispersal stack with the potential to contribute to significant deterioration in air quality within the MDAQMD. Such evaluation includes, but is not limited to, compliance with CAAQS, PM₁₀, and GHG (CO₂ emissions). Since USEPA has identified lime manufacturing as a major source of hazardous air pollutants (HAP), the lime manufacturing source category is subject to the national emission standards for hazardous air pollutants (NESHAPS); that is, lime plants are subject to emission standards reflecting the application of maximum achievable control technology (MACT). An air emissions stack does not fulfill MACT requirements.
3. This project (Project Number: P201800477/CF) will have a substantial adverse impact on the abutting property; especially, sensitive receptors in the adjacent neighborhood and nearby schools, medical clinic, libraries, churches and community centers that lie within the pollutant dispersal zone of the proposed air emissions stack.
4. This project (Project Number: P201800477/CF) proposes to establish a lime processing plant on a site that is landlocked by abutting properties. The 62-acre site is accessible only by a narrow, two-lane road called Athol Street. This narrow residential road passes through a residential neighborhood and along Trona High School and Trona Elementary School before intersecting another two-lane road named Trona Rd. All truck traffic to and from the lime processing plant will have to move along these two intersecting two-lane roads on a 24-hr basis to support

continuous operation of the lime processing plant. All limestone rock will have to be trucked to this site from a distant quarry. All processed lime will have to leave the site via the same two-lane road. This round-the-clock heavy-haul truck traffic will generate excessive traffic, noise, vibration and other disturbances for the residential neighborhoods and schools along the only road to this facility.

5. This project (Project Number: P201800477/CF) proposes to establish manufacturing activities that require a major variance for a 167-foot air emissions stack to be located on a previously disturbed 62 acre ash landfill site in a location near the epicenter of two recent major earthquakes; a 6.4 quake on July 4 and a 7.1 quake on July 5, 2019. These earthquakes heavily damaged buildings in Searles Valley, including properties abutting the proposed project site and buildings along the only available truck traffic routes of Athol Street and Trona Rd. Additionally, this area is subject to high seasonal winds that will place severe lateral loading on the proposed 17-story stack structure.
6. The proposed project site (Project Number: P201800477/CF) is a 62 acre former fly ash pit that was used by an adjacent, but now decommissioned, coal-fired electric power plant. The current Use Code for parcel APN 0485-031-12 is "Electrical Generation." The infrastructure required to put solar generated electric power onto the CA power grid via SCE is still in place and directly adjacent to APN 0485-031-12. A better and higher use of the 62-acre site would be as a solar energy plant. This is because Trona, CA has one of the highest insolation rates in North America. Today's efficient, fixed-tilt photovoltaic plants can generate 1 GWh/yr. per each 2.8 acre parcel. This means a 32-acre site can generate enough solar-based electricity for 1,000 average homes. This 62-acre site could generate enough electricity to power over 1,900 average homes in an area where Searles Valley's four neighboring communities total about 1,000 homes. The proposed lime processing plant will preclude generating solar energy on this former electrical generation site with its direct access to the electricity grid.
7. This proposed lime processing plant (Project Number: P201800477/CF) will require approximately 13.5 million gallons (approximately 42 acre feet) of potable water annually. The only source of potable water for Searles Valley is an aquifer in Indian Wells Valley, about 30 miles away. According to the State of California, that aquifer is in a critical overdraft condition and a Groundwater Authority (IWVGA) has been formed to develop a plan by January 2020, latest, to bring the aquifer back into equilibrium. The local water utility, Searles Domestic Water Company LLC, is unable to commit to supply the potable water that PVL estimates it needs for the proposed lime processing plant.

Respectfully submitted,

Searles Valley Minerals Inc.

By: _____

Anoop Sukumaran
Manager-Environmental

EXHIBIT G

Responses to Comments

TOM DODSON & ASSOCIATES

PHYSICAL ADDRESS: 2150 N. ARROWHEAD AVENUE SAN BERNARDINO, CA 92405

MAILING ADDRESS: PO BOX 2307, SAN BERNARDINO, CA 92406

TEL (909) 882-3612 • FAX (909) 882-7015

E-MAIL TDA@TDAENV.COM



MEMORANDUM

July 23, 2020

From: Kaitlyn Dodson-Hamilton

To: Mr. Jim Morrissey

Subj: Completion of the Mitigated Negative Declaration for the Panamint Valley Limestone Project (SCH#: 2019119083)

The County of San Bernardino (County) received 4 written comment letters on the proposed Mitigated Negative Declaration for the Panamint Valley Limestone Project. CEQA requires a Negative Declaration to consist of the Initial Study; copies of the comments; any responses to comments as compiled on the following pages; and any other project-related material prepared to address issues evaluated in the Initial Study.

For this project, the original Initial Study will be utilized as one component of the Final Mitigated Negative Declaration (MND) package. The attached responses to comments, combined with the Initial Study and the Mitigation Monitoring and Reporting Program, constitute the Final MND package that will be used by the County to consider the environmental effects of implementing the proposed project.

The following parties submitted comments. The comments in this letter are addressed in the attached Responses to Comments:

1. California Department of Transportation, Caltrans District 9
2. Mojave Desert Air Quality Management District
3. Searles Valley Minerals
4. California Department of Fish and Wildlife
5. Lahonton Regional Water Quality Control Board

Because mitigation measures are required for this project to reduce potentially significant impacts to a less than significant level, the Mitigation Monitoring and Reporting Program (MMRP) attached to this package is required to be adopted as part of this Final MND package. The MMRP has been incorporated by reference to this package for approval and implementation. The County consideration of the proposed project and adoption of the Mitigated Negative Declaration will occur at a hearing, the date for which has not yet been scheduled.

Do not hesitate to give me a call if you have any questions regarding the contents of this package.

A handwritten signature in black ink, appearing to read 'Kaitlyn Dodson-Hamilton' with a stylized flourish at the end.

Kaitlyn Dodson-Hamilton
Attachments

Comment Letter #1

From: Rosander, Gayle J@DOT <gayle.rosander@dot.ca.gov>
Sent: Monday, March 23, 2020 9:31 AM
To: Morrissey, Jim <Jim.Morrissey@lus.sbcounty.gov>
Cc: West, Austin@DOT <Austin.West@dot.ca.gov>; Larry.Trowsdale@PVLlime.com
Subject: SCH 2019119083 Panamint Valley Limestone MND/CUP State Rte 178/Caltrans

Hello Jim,

We see there is still incorrect referencing of roadway names within this current document. It is correctly labeled in Figure 1, but Figure 3 still labels Trona Rd as State Route 178, which it is not:

Comment 1-1

FIGURE 3
Traffic Routes



The wording in this section implies it is one and

the same:

XVII. TRANSPORTATION

d)

"...would utilize Trona Road/SR-178 to access the site by way of Athol Street."

Segment description from the Caltrans Report we sent last December:

9	Kern-San Bernardino county line to the end of the adopted route in San Bernardino County, Pinnacle Road in the Searles Valley
---	---

Again, not a major issue, but you might want to correct this throughout so such error is not perpetuated in future documents.

Best regards,
Gayle Rosander
External Project Liaison
Caltrans District 9
500 South Main Street
Bishop, CA 93514

Comment 1-2

760.872.0785

**RESPONSE TO COMMENT
LETTER #1
CALIFORNIA DEPARTMENT OF TRANSPORTATION
CALTRANS DISTRICT 9**

- 1-1 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. Your corrections are noted and any use of the term "State Route 178" or "SR-178" in reference to the nearest regional thoroughway in the Project vicinity within the Initial Study/Mitigated Negative Declaration (IS/MND) is henceforth corrected and replaced as "Trona Road" by reference.
- 1-2 Thank you for your comments. The contact information provided in this comment will be retained in the Project file.

Comment Letter #2

Mojave Desert Air Quality Management District

Brad Poiriez, Executive Director

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • Fax 760.245.2022

www.MDAQMD.ca.gov • @MDAQMD



April 2, 2020

Jim Morrissey, Contract Planner

County of San Bernardino

Land Use Services Department – Planning Division

385 North Arrowhead Avenue, First Floor

San Bernardino, CA 92415-0187

Project: P201800477/PANAMINT VALLEY LIMESTONE- CONDITIONAL USE PERMIT

Dear Mr. Morrissey:

2-1 The Mojave Desert Air Quality Management District (District) has reviewed a recirculated Notice of Availability/Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration for Panamint Valley Limestone (P201800477). The District concurs with the revised analysis, findings, and additional mitigation, and acknowledges that most comments sent previously from the MDAQMD have been included as mitigation.

2-2 The District still requests a Dust Control Plan be submitted to the District prior to commencing earth-moving activity, which describes all applicable dust control measures that will be implemented at the project during construction and operation. DCP requirements and application may be located at <http://mdaqmd.ca.gov/permitting/compliance-forms>. Initial Study Mitigation Measure Air-1 notes the following measures will be incorporated into project plans and specifications for implementation during construction, including to "Prepare a *high wind dust control plan* and implement plan elements and terminate soil disturbance when winds exceed 25 mph." The DCP required is not only for high wind events. Please note, this project is also subject to the provisions of MDAQMD Rule 403.1 – *Fugitive Dust Control for The Searles Valley Planning Area*.

2-3 Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Tracy Walters at extension 6122.

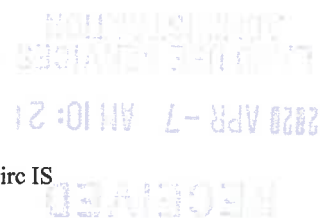
Sincerely,

Alan J. De Salvio

Deputy Director – Mojave Desert Operations

AJD/tw

SBC P201800477 Panamint Valley Limestone Recirc IS



**RESPONSE TO COMMENT
LETTER #2
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

- 2-1 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The County appreciates Mojave Desert Air Quality Management District's (MDAQMD) input and review of the previously circulated IS/MND as well as the analysis, findings, and additional mitigation measures that have been included as part of the recirculated IS/MND.
- 2-2 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. The County acknowledges that the Project is subject to the applicable provisions of MDAQMD Rules 403 and 403.1. The County also understands that the requested Dust Control Plan will ensure that dust control measures are implemented continuously during construction and operation, not just for high wind events. Therefore, the following additional mitigation measure is hereby incorporated into the Final IS/MND to address the suggested mitigation measure put forth in this comment:

AIR-11 Dust Control Plan. The Applicant shall prepare and submit a Dust Control Plan to the MDAQMD prior to commencement of construction, which shall outline dust control measures that will be implemented during construction and operation of the proposed Project. This Plan shall meet MDAQMD's requirements, including applicable provisions of MDAQMD Rules 403 and 403.1.

- 2-3 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The contact information provided will be retained in the project file.



April 17, 2020

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO ADOPT AN
INITIAL STUDY / MITIGATED NEGATIVE DECLARATION PANAMINT VALLEY
LIMESTONE (RECIRCULATION)

- 3-1** Searles Valley Minerals Inc. (SVM) submits the following comments in response to the SBC Land Use Services draft NOI Initial Study/Mitigated Negative Declaration Panamint Valley Limestone (IS/MND), dated March 20, 2020, which identifies and evaluates the environmental impacts of the proposed Panamint Valley Limestone (PVL) Conditional Use Permit. This project (Project Number: P201800477) seeks a Conditional Use Permit to establish a lime processing plant on approximately 62 acres of property (APN 0485-031-12) near an elementary school, a high school and neighboring residences and also seeks a major variance for a 167-foot high air emissions discharge stack that exceeds the 75-foot high limit for such stacks, plus the additional 50% height permitted for towers in industrial districts.
- 3-2** On August 12, 2019, Searles Valley Minerals (SVM) submitted comments in response to the SBC Land Use Services planning project notice dated July 31, 2019 seeking a major variance for the 167-foot high air emissions discharge stack to be installed as part of the proposed PVL lime processing plant. SVM outlined in its comments the deleterious environmental impacts that needed to be addressed as a part of the proposed lime processing plant's request for a Conditional Use Permit.
- 3-3** On December 20, 2019, SVM submitted detailed comments on the deficiencies in the Panamint Valley Limestone (PVL) draft IS/MND, dated November 26, 2019, published on the SBC website. On January 23, 2020, SVM submitted addendum comments to the administrative record about factual errors in the published draft IS/MND that required correction.

**RESPONSE TO COMMENT
LETTER #3
SEARLES VALLEY MINERALS**

- 3-1 Thank you for your comments, which are noted and will be made available to the County decision-makers. Your description of the location of the Project and request and basis for a Major Variance are correct, and the distances between Project site and the nearest school and residences, respectively, are addressed in the IS/MND. The County staff has agreed to process the Project with a Major Variance to allow for the 167-foot tall kiln exhaust, though the ultimate decision to approve the proposed Project will be made by County decision-makers.
- 3-2 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. SVM's previous comments are also noted and will be made available to the County decision-makers for consideration, and are further addressed throughout these responses to comments.
- 3-3 SVM's previously submitted comments dated December 20, 2019 and January 23, 2020, are noted and will remain available to the County decision-makers for consideration. These comments are further addressed within these responses to comments. All attachments and previous comment letters are addressed.



3-4

The purpose of this letter is to submit comments for the record on the draft NOI IS/MND Panamint Valley Limestone (Recirculation), hereinafter IS/MND PVL (Recirculation), dated March 20, 2020, published on the SBC website. This letter includes as an attachment separate technical review comments provided by Yorke Engineering on the IS/MND PVL (Recirculation) for the Hydrology, Water Quality, Air Quality, Greenhouse Gas, Biological Resources, Hazards and Hazardous Materials sections of the IS/MND. This letter also includes as an attachment separate legal comments provided by Goodin, MacBride, Squeri & Day, LLP about PVL's representations about the availability of "Industrial (Process) Water" for its project.

3-5

In addition to SVM's submission of comments, SVM includes by reference and attachment (Attachment 01) a Comment Letter on the Revised (Recirculated) PVL IS/MND – Project No.: P201800477 from Yorke Engineering, LLC (Yorke) that presents technical comments on the deficiencies in the IS/MND being recirculated by SBC Land Use Services on behalf of the Panamint Valley Limestone Project No.: P201800477. Yorke commented previously on the Air Quality (AQ) and Greenhouse Gas Emissions (GHG) sections of the November 2019 Draft IS/MND for the PVL project. Yorke understands this project and has the technical and regulatory expertise to evaluate it. Yorke notes that many of its comments highlighting deficiencies in the November 2019 draft IS/MND have not been addressed in the March 2020 IS/MND PVL (Recirculation) document. These deficiencies include, but are not limited to, inadequate documentation of AQ and GHG analyses, emissions models run incorrectly, omitted sources in emissions calculations, unsubstantiated and questionable GHG and respirable particulate matter (PM₁₀) mitigation proposals and a complete absence of the requisite health risk assessment (HRA) for a project with emissions of toxic air contaminants (TACs). The lack of an HRA that provides a quantitative analysis of the health risk posed to nearby schools and neighborhoods of the Trona community as a consequence of TACs emissions during both the construction and operations phases of this project remains a significant deficiency of this IS/MND.

3-6

In view of the contradictory and unsubstantiated claims made by PVL about its water needs and water sources; especially, "Industrial (Process) Water" in both the November 2019 draft IS/MND and the March 2020 IS/MND PVL (Recirculation), SVM asked Yorke to perform a technical assessment of the Hydrology and Water Quality sections of this latest IS/MND. The IS/MND states that an on-site retention pond will be developed as part of the project, but lacks a suitable analysis of the site soils for retention. The Hydrology section is silent about the WDR alluded to on Pg. 10 of the

- 3-4 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. The County acknowledges the attachments to your Comment Letter identified as provided by Yorke Engineering and legal counsel, and understands SVM's purpose for the submission of this Comment Letter. The comments included in those attachments are addressed in these responses to comments.
- 3-5 Your comment, including the incorporation of the "Attachment 01" to your comment letter, is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. The project proponent has responded below to all comments made by SVM and Yorke Engineering. Responses have been made to all comments received on both the November 2019 draft, and the March 2020 Recirculation document. AQ and GHG models and calculations have been re-run and documented in response to comments, as described in detailed responses below. A Health Risk Assessment (HRA) was not prepared, based on guidance from MDAQMD that such an analysis was not necessary for this Project. According to the *Air Toxics Hot Spots Program Risk Assessment Guidelines: The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*, prepared by the Office of Environmental Health Hazard Assessment California Environmental Protection Agency in February 2015, "The Hot Spots Act requires that each local Air Pollution Control District or Air Quality Management District...determine which facilities will prepare an HRA."

It is further noted this comment includes factual discrepancies within the Air Quality ("AQ") emissions calculations, which are addressed below specifically under response to comments 3-12, and throughout these responses to comments. The suggested deficiencies by Yorke and SVM reflect a lack a full understanding of the Project, the reasons for which are outlined below under comments response to comments 3-99, and throughout these responses to comments. The suggestions that Trona is an area containing significant sensitive receptors in the vicinity of the Project site is misleading, as the majority of residents and sensitive receptors are located more than 2,000 feet from the proposed Project site, and the Project site is located further from sensitive receptors than existing SVM industrial operations. The Applicant, Panamint Valley Limestone, Inc. (referred to herein as "Applicant" or "PVL") acknowledges that some construction will occur in closer proximity to sensitive receptors due to the installation of project-related infrastructure, and that trucks will utilize Athol Street, which is closer to nearby sensitive receptors. However, given that the average daily truck trips during operations will only be 109.9, while the maximum daily trips during construction are anticipated at 50 roundtrips per day, as determined in the IS/MND, County staff determined that, based on the recommendation that an HRA is not recommended by the MDAQMD for this project, with the implementation of the identified mitigation measures, the increased health risk to sensitive receptors within this highly industrial area is not substantial. This point is supported by MDAQMD's direction that an HRA for this Project is not required (See Attachment 1).

- 3-6 The IS/MND noted the uncertainty reflecting the source of water to meet the Project's needs that resulted from the then-pending Complaint action before the California Public Utilities Commission (CPUC) between Applicant and Searles Domestic Water Company ("SDWC"), a wholly-owned subsidiary of SVM. In light of the uncertainty resulting from this pending action, IS/MND addressed the water supply that would result following the different potential outcomes of that proceeding. The CPUC has since issued a decision in that matter, clarifying that SDWC will provide water for the Project's domestic needs, and

the Applicant has drilled an onsite well to provide its operational water as discussed further herein (see responses to comments 3-21 and 3-22, below). We acknowledge your comments include assessment provided by Yorke, which are addressed in more detail below. The IS/MND incorrectly states that the onsite retention pond is an “infiltration basin,” so henceforth the record shall be corrected to state that the stormwater retention pond will be evaporative, lined with suitable material—anticipated to be a geomembrane pond liner around 40-60 millimeters thick—such that infiltration will not occur. The retention pond will be designed to evaporate within the time period required by the County, as a standard condition; although it is anticipated that a WDR will not be required in relation to the retention pond, the Applicant has, and will continue to consult with the State and Regional Boards to determine permit requirements, including WDRs, and the list of approvals provided on Page 10 was expanded to include “Regional Water Quality Control Board, Region 6: WDRs for retention pond.” Please refer to response to comment 3-20, which addresses the issue of groundwater drawdown in full, as this comment is repeated in Yorke’s letter.

With respect to the mitigation measures, the CPUC issued an order that requires SDWC to provide Applicant with up to 8,000 cubic feet of water per month (2.1 AFY) to meet the Project’s domestic needs. As SDWC delivers water to Trona from the Indian Wells Valley Groundwater Basin (IWVGB), HYD-1 is intended to help offset SDWC’s increased demand by offering to provide low flow toilets or other water reduction equipment to reduce demand from the IWVGB. Although the 2.1 AFY of water that the Project will use from the IWVGB, as compared to the average current annual volume pumped from the IWVGB, which as noted in the IS/MND is about 27,740 AFY, is de minimis, the Applicant agreed to fund measures to offset use and assist in addressing the current groundwater conditions in the IWVGB in recognition of the importance of water conservation. In order to provide flexibility should SDWC reject or not be able to put the Applicant’s offer to use to fund the replacement of existing domestic water equipment or manage leaks, etc., the Applicant will also extend this offer to the Indian Wells Valley Water District, which provides water from the Indian Wells Valley Groundwater Basin to residents and businesses in Ridgecrest. If neither entity accepts or is able to exercise the offer, PVL will establish a trust account for future use to reduce the water demand from the IWVGB. As installation of a low-flow toilet saves an estimated 2,000 gallons per year, the installation of approximately 342 toilets could conserve approximately 2.1 AFY. As such, it is anticipated that a fund of \$50,000 will be more than sufficient to replace the number of toilets needed to conserve 2.1 AFY. Therefore, in response to this comment, the County agrees to amend mitigation measure HYD-1 to state the following in this comment:

HYD-1 ~~PVL shall offer to establish a fund in the amount of \$50,000 to provide Searles Domestic Water Company/Searles Valley Minerals, and/or Indian Wells Valley Water District funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its-their customers to offset 2.1-acre feet of existing potable water demand. Should SDWC, IWVWD, or their customers not accept or otherwise be able to put the total funds to use as provided herein within a period of one year, PVL will leave the remainder of the funds in a trust account dedicated for future use to reduce the water demand from the IWVGB.~~

As a result of the resolution of the CPUC proceeding, mitigation measures HYD-2 and HYD-3 will not be required, as the Applicant will not be obtaining process water from SDWC, which was the qualifier that triggered these mitigation measures. These mitigation measures do not lack specifics. Furthermore, the Applicant has determined and reported to the County that it does not anticipate that the project will demand the amount of process

water previously anticipated. This is because, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression. Substantial evidence is provided throughout these responses to comments and within the Mitigation Monitoring and Reporting Program (MMRP) addressing the hydrology, and the validity of the mitigation measures provided as part of the IS/MND.



**3-6
cont'd**

IS/MND and no analysis is presented about how the retention pond will meet water infiltration standards. Using the information presented by the Applicant in Exhibit X-1 and Figure 8, it is readily calculated that the potential net lowering of the groundwater table will be greater than the water table drawdown claimed by the Applicant. Finally, the proposed mitigation measures related to water usage in sections HYD-1, HYD-2 and HYD-3 lack specifics and are little more than vague assertions that: the Applicant will (HYD-1) "offer" unspecified funds for water conservation items; Applicant will (HYD-2), if possible, "utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site." However, since no estimation of the volume of water that could be used in this manner is given, Applicant simply promises (HYD-3) to "implement business practices that are consistent with [IWVGA] ...conservation measures." Taken together, these three proposed mitigation measures lack specifics on implementation and any demonstration of the sufficiency of the mitigation proposals given the potential scenarios requiring mitigation.

3-7

In addition to SVM's submission of comments, SVM includes by reference and attachment (Attachment 02) a comment letter titled Initial Study for the Panamint Valley Limestone – Conditional Use Permit Project No.: P201800477 from Goodin, MacBride, Squeri & Day, LLP (MacBride) that speaks to the Applicant's (PVL) misrepresentations and unsupported claims about receiving "Industrial (Process) Water" from SDWC for the PVL project. Additionally, MacBride cites the pleadings, ruling and POD in a CPUC legal proceeding (Case 18-12-012) that dismissed Applicant's request for "Industrial (Process) Water" from SDWC. Furthermore, Applicant's proposed mitigation measures, as presented in the IS/MND PVL (Recirculation) document; namely, HYD-1, HYD-2, HYD-3 are wholly inadequate to offset the Applicant's proposed pumping. This means, the IS/MND being recirculated is based upon unsupported claims of access to "Industrial (Process) Water" from SDWC and specious arguments about potential mitigation measures. In other words, Applicant's representations in the IS/MND PVL (Recirculation) fail to provide the evidence required to qualify for an MND under CEQA.

3-8

This the second time in five months that the Applicant, PVL, has submitted an IS/MND with similar, recurring deficiencies. Many of the comments made by SVM, et al. on the first IS/MND are not addressed in the revised document. The documentation provided in the IS/MND PVL (Recirculation) for the AQ and GHG analyses are inadequate, contain many inconsistencies and statements that are unsupported and appear to be incorrect. Furthermore, the Applicant's representations about the availability of "Industrial (Process) Water" from SDWC are

- 3-7 Your comment, including the incorporation of the document identified as “Attachment 02” to your comment letter, is noted and will be made available to the County decision-makers for consideration prior to a final decision on the proposed Project. In response to this comment, County staff notes that the IS/MND does not assert that the Project will receive industrial water from SDWC; it states that PVL “asked SDWC to provide water to sufficient to meet all of its domestic and operational needs,” but “SDWC refused, and that issue is being addressed through a complaint proceeding pending before the California Public Utilities Commission.” It further noted that “PVL drilled an onsite well that will provide water sufficient to meet the needs of the project,” and the review “addresses the impacts of PVL using its onsite well and receiving water from SDWC.” As such, the IS/MND was not based upon “misrepresentations and unsupported claims about receiving ‘Industrial (Process) Water’ from SDWC for the PVL project.” PVL has also reported to the County that the CPUC concluded its proceeding and ordered SDWC to provide PVL up to 8,000 cubic feet of water per month for domestic needs and did not direct SDWC to provide water for industrial purposes. As further addressed below and above in the responses to comments identified as 3-6, 3-21, and 3-22, County staff has determined that the impact of the domestic water demand of approximately 2.1 AFY from SDWC is less than significant with the implementation of HYD-1. Mitigation measures HYD-2 and HYD-3 were considered in the event that SDWC would provide water to PVL to meet its operational needs. As noted, as a result of the CPUC decision, PVL would instead need to obtain any operational water from its onsite well, which is also addressed in the IS/MND. As noted therein, the County determined that obtaining operational water from the onsite well will not cause a significant adverse impact on the Searles Valley Groundwater Basin; therefore, mitigation measures HYD-2 and HYD-3 are no longer applicable. Furthermore, as stated under response to comment 3-6, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression.
- 3-8 Your comments regarding the supporting documentation for, and adequacy and accuracy of the analysis of, the proposed Project’s AQ and GHG impacts are further addressed in the responses to your more detailed comments on those issues below. With respect to the industrial water supply for the proposed Project, as noted in the responses to comments identified as 3-6, 3-7, 3-21, and 3-22, the IS/MND accurately reflects PVL’s anticipated source for industrial water, consistent with your representations regarding the impact of the CPUC decision. Any perceived factual errors identified in your comments are either unsubstantiated or are otherwise resolved within these responses to comments. Accordingly, and after careful consideration of your comments and the evidence in the record, County staff concludes and recommends that an EIR is not required for this Project.

**3-8
cont'd**

factually in error. Rather than relying on the Applicant, PVL, to correct these recurring deficiencies and errors, SVM believes that proceeding to an EIR at this time is warranted; especially, given the complexity and magnitude of the potential project impacts on several of the CEQA Checklist topics.

3-9

In summary, SVM observes that the March 2020 IS/MND PVL (Recirculation) documentation is inadequate to make a finding of less than significant impact from the PVL project. SVM also observes that if there is a potential for significant project impacts and the mitigation is questionable or unclear, then an EIR rather than an MND is needed to assure the public and other agencies that a thorough assessment and impact analysis has been performed during the project approval process. Consequently, SVM requests, at a minimum, that SBC withdraw the March 2020 IS/MND PVL (Recirculation) until it can be corrected, properly documented and re-issued.

Sincerely,



Anoop Sukumaran
Environmental Manager
Searles Valley Minerals, Inc.

Attachments:

1. (Attachment 01) Comment Letter on the Revised (Recirculated) PVL IS/MND – Project No.: P201800477 from Yorke Engineering, LLC.
2. (Attachment 02) Comment Letter titled Initial Study for the Panamint Valley Limestone – Conditional Use Permit Project No.: P201800477 from Goodin, MacBride, Squeri & Day, LLP
3. (Attachment 03) August 12, 2019 SVM comments to SBC Land Use Conditional Use Permit

- 3-9 The County understands and acknowledges the standard pursuant to which CEQA requires preparation of an EIR. The County also acknowledges SVM's opinion that the documentation in the IS/MND is inadequate and its request that it be withdrawn, corrected, and reissued. After review and consideration of all comments received, with the incorporation of the additional mitigation measures provided herein, County staff has concluded that the evidence is sufficient to make a finding of a less than significant impact. The County's determination is further supported and confirmed by the additional information provided herein, and in the Attachments hereto.



4. (Attachment 04) December 20, 2019 SVM comments to SBC Land Use Draft Initial Study/Mitigated Negative Declaration (IS/MND) Project No.:P201800477
5. (Attachment 5) January 23, 2020 SVM Addendum comments to SBC Land Use Draft Initial Study/Mitigated Negative Declaration (IS/MND) Project No.:P201800477

April 17, 2020

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Subject: Comment Letter on the Revised (Recirculated) Panamint Valley Limestone Initial Study/Mitigated Negative Declaration – Project No.: P201800477

Dear Mr. Sukumaran:

3-10

Per your request, Yorke Engineering, LLC (Yorke) provided comments dated December 20, 2019, on the Air Quality (AQ) and Greenhouse Gas (GHG) Emissions Sections and an attached AQ Report of the November 2019 Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Panamint Valley Limestone (PVL) Project. A revised IS/MND for the PVL Project was issued in March 2020, and Yorke has again been requested to review the revised IS/MND document. In addition to comments on the AQ and GHG Emissions Sections, Yorke is also providing comments on the Hydrology and Water Quality, Biological Resources, and Hazards and Hazardous Materials impact analyses and IS/MND Sections. These comments have been prepared based on reviews by a group of Yorke staff who are experienced with these topics and qualified to provide comments.

3-11

The purpose of this letter is to present technical comments on the adequacy of the information and analyses to determine the significance of the proposed project's impacts as required by the California Environmental Quality Act (CEQA). In order to qualify for an MND under CEQA, substantial evidence (as mandated through several recent court cases) must be provided to fully demonstrate that these impacts will be mitigated to less than significant levels. If the project's impacts are not shown to be mitigated to less than significant levels, an Environmental Impact Report (EIR) would be required. If impacts are found to be significant in the EIR even after implementation of *all feasible* mitigation measures, a statement of overriding considerations would be needed in order to approve the proposed project.

3-12

The main observations from Yorke's review of the AQ and GHG Emissions Sections of the IS/MND are that, due to inconsistencies and omitted sources in emission calculations and due to questionable mitigation as explained in detail below, the mitigated project respirable particulate matter (PM₁₀) and GHG emissions are likely over the CEQA significance thresholds for PM₁₀ and GHG (respectively). In this review, we have also identified similar questions about the impact and analysis and proposed mitigations related to water and biology. An EIR rather than an MND is generally needed if there is a potential for significant impacts and the mitigation is questionable or unclear. Given that this is the second round of comments from Yorke, and many of the comments on the first version of the IS/MND were not addressed in the revised document, Yorke believes that proceeding to an EIR at this time is warranted, especially given the complexity and magnitude of the potential PVL Project impacts on several of the CEQA Checklist topics.

- 3-10 The County understands Yorke Engineering, LLC's (Yorke) role as a secondary party retained by Searles Valley Minerals (SVM) that reviewed and provided comments on the identified sections of the December 2019 and March 2020 iterations of the Project IS/MND.
- 3-11 The County acknowledges SVM's representations regarding the purpose for which the letter from Yorke is being offered. The County also acknowledges your comments regarding the CEQA process, and is aware of the distinction between making a finding of a less than significant impact under an MND versus making a finding of a significant impact for which an EIR must be prepared.
- 3-12 As discussed in responses to more specific comments below, the assumptions made in Yorke's emissions calculations rely upon assumptions based on a recently-permitted lime plant located in Texas, the Lhoist New Braunfels plant, which processes far more lime each day than the proposed Project and, unlike the proposed Project, uses a rock crusher onsite. These assumptions do not reflect the actual operational emissions generated by this Project and do not accurately reflect the mitigation measures identified. The County has considered and addressed all comments received. In response to your comments, the Applicant has confirmed and provided additional factual details regarding the proposed Project, correcting by this reference the amount that PVL intends to ship to 400 tons per day, and the modeling has been re-run, and confirms the County's previous findings (see response to comments 3-5 and Attachment 2). As such, County staff has concluded that the IS/MND, as amended herein, demonstrates that the mitigation measures are adequate and an EIR is not required for this Project. The final decision on this issue, however, will be made by the County decision-makers.

3-13

Although additional detail has been provided, Yorke would like to stress that the documentation provided in the IS/MND for the AQ and GHG analyses in particular continues to be very inadequate, contains many inconsistencies, emissions models run incorrectly, and statements that are unsupported or appear incorrect. Rather than relying on the Applicant for this information, the County should consider using an independent third party consultant to prepare the impact analyses, and help the County to determine whether an IS/MND document is sufficient or if an EIR process is warranted at this time. An EIR would give the public and other agencies a more thorough assessment upon which to base the decision to approve this PVL Project.

HYDROLOGY AND WATER QUALITY

3-14

Water use and quality are crucial issues in the Searles Valley. Given the uncertainties relative to both potable and operational water supply as discussed below, the Applicant should be required to complete a formal Water Supply Assessment as opposed to the limited studies completed to date. The following comments are related to the hydrology and water quality analyses:

3-15

1. Page 55 of the IS/MND states, *“Because the project site consists of impervious surfaces, the project has identified on-site drainage that will direct runoff to the on-site retention pond that will be developed as part of the project.”* According to the project description and figures, a storm water basin will be developed in the NE Zone of the project site (Cell 3 area) and that drainage on-site will be directed toward this storm water basin. Section 4.0 of the Preliminary Hydrology and Hydraulics Study provides a calculation of the size and depth of the required retention pond to capture site runoff; however, both Sections 4.0 and 5.0 of the Study state that such a retention pond will require *“...pervious soils that would allow the basin to completely drain within the time period required by the County. If such soil is not present on the site then a detention system would be required.”* The Geology and Soils Section of the IS, pages 43-44, states, *“The San Bernardino County Hydrology Manual states that the soils at the project site are Hydrologic Soil Group ‘D’, which is an indication of poor infiltration.”* This section also states that additional compaction of soils will be necessary for construction. The analysis therefore does not clearly support the use of the planned on-site retention pond due to the lack of analysis of the suitability of site soils for retention.

3-16

2. Page 10 of the IS/MND states that required approvals may include an approval to modify the ash disposal “site cap.” However, there is no discussion or evaluation in the IS/MND or associated documents regarding the post-closure conditions of the ash landfill or the “site cap.” Although the Regional Board comment letter in Appendix 5e cites the inert nature of the waste, it is not clear that any of the previous waste disposal site evaluations [e.g., the evaluation discussed in Finding 10 of the previous waste discharge requirements (WDRs), which the Regional Board letter references] or the evaluation of the need to modify the “site cap” took into consideration the direct disposal of water to the subsurface in the form of a) the planned domestic wastewater septic system and b) the storm water retention pond. Disposal site closure conditions, such as site caps, are typically expressly designed to prevent discharge of water through the emplaced wastes. Previous monitoring of unsaturated zone groundwater conditions as cited by the Regional Board letter are therefore not representative of the proposed project conditions, since it appears significant water will be introduced into the former landfill.

- 3-13 The County acknowledges Yorke's opinion regarding the documentation provided in the IS/MND, but does not agree. The County has considered Yorke's comments. After review, however, County staff has determined that the evidence detailed in the IS/MND and the analysis provided by consultants supported its finding that the Project, subject to the mitigation measures identified, supported the recommendation that an MND is appropriate. In response to the comments received, the Applicant has provided additional evidence and the models have been re-run as documented and described in the response to comments below. This, coupled with the few additional and revised mitigation measures provided herein, further supports the County's finding that the Project, as mitigated, will have a less than significant impact. As such, County staff believes and recommends that this Project should be processed as an MND.
- 3-14 The "uncertainties" regarding potable and operational water supply suggested in this comment have been resolved by the conclusion of the CPUC proceeding, as further elucidated throughout these responses to comments. Yorke also suggests that a formal Water Supply Assessment (WSA) should be prepared for this Project; however, Senate Bill (SB) 610, as amended, requires public water suppliers to prepare WSAs for large-scale projects. Searles Domestic Water Company, which will be supplying only the domestic water supply for this Project is not a public water supplier, as defined by SB 610, and is therefore not subject to SB 610. Furthermore, as discussed in the IS/MND, only approximately 13.5 acres of the Project site will be improved area, with approximately 75% of the land remaining preserved as open space. As such, the Project requires only 2.1 AFY of water from SDWC, which equates to approximately 0.9% of the total groundwater produced from the Indian Wells Valley Groundwater Basin (IWVGB) that is delivered to SDWC and approximately 1% of the total amount of water SDWC provides to its customers annually; therefore, the proposed Project does not require an WSA. The IS/MND also includes an analysis performed by Luhdorff & Scalmanini Consulting Engineers that analyzed the groundwater supplies available to the proposed Project from the onsite production of water for the proposed Project's industrial or operational needs, and appended the Groundwater Sustainability Plan for the Indian Wells Valley Groundwater Basin. Furthermore, as stated under responses to comments 3-6 and 3-7, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression. In addition to the consideration of the water supplies available to the proposed Project for its domestic and operational needs, the IS/MND analyzed the environmental impacts of the Project's use of water from the two sources.
- 3-15 The responses to this Comment are addressed above. As stated in the response to comment 3-6, the IS/MND incorrectly states that the onsite retention pond is an "infiltration basin." The stormwater retention pond will be evaporative and will have an impervious bottom to prevent infiltration—anticipated to be a geomembrane pond liner around 40-60 millimeters thick. PVL has provided a revised Preliminary Drainage Study, dated April 17, 2020, included as Attachment 3 to this response. The revised plan clarifies that all stormwater falling on the top surface of the project site will be directed to an onsite retention/evaporation pond. The study characterizes the soil as Hydrologic Soil Group D and includes calculations of the peak stormwater flows for 5, 10, 25, and 100 year rain

totals, and also contains pond size calculations. The retention pond will be designed to evaporate within the time period required by the County, as a standard condition.

- 3-16 The closure plan for the ash disposal site was prepared by AECOM and is provided as Attachment 4 to these responses to comments. The closure plan states, “the closure activities of the ash landfill do not require additional CEQA assessment” (page 3-2). The Applicant is required to follow through with the post-closure activities located on page 4-1. There is no indication that any significant impacts will occur as a result of the site’s previous use. The suggestion that a significant amount of water will be introduced at the site is not correct, though there will be an onsite domestic septic system, which will be developed to County standards. Additionally, as noted above, there will be an onsite stormwater retention pond that will be evaporative, not infiltrative in nature. As such, based on the data provided in the closure plan, attached to these responses to comments, the statements in this comment are not informed by the factual evidence provided herein, within the IS/MND, and within the attachments provided.

- | | |
|-------------|--|
| 3-17 | <p>3. The IS/MND indicates that an on-site well has already been installed. However, there was no statement that all required water rights and permits were obtained related to the installation and use of this well for the PVL Project.</p> |
| 3-18 | <p>4. The analysis states that the project will be subject to storm water permitting under California's Construction General Permit but does not address permitting of the operational facility under California's Industrial General Permit. Both General Permits are federally based National Pollutant Discharge Elimination System (NPDES) permits, and thus, if one applies, the other will also. (The SIC Code for the lime manufacturing process is one that requires operational storm water permitting.)</p> |
| 3-19 | <p>5. The IS/MND on page 10 states that WDRs may be required to be obtained from the Regional Board for the storm water retention pond. However, this fact is not mentioned in the Hydrology section, and no analysis is presented. Related or in addition, recent Board requirements (e.g., in the amended Industrial General Permit, but also from other Board guidance) for storm water infiltration require that the any infiltrated storm water meet drinking water standards. This means that even relatively low levels of various inorganic and organic constituents cannot be present in the infiltrated water. The operating plant will utilize various organic and inorganic chemicals for various operations. This means that there is a potential for impacts to storm water that could result in the storm water not meeting drinking water standards and thus not being suitable for placing in an unlined retention pond without pretreatment. No analysis of this situation is presented.</p> |
| 3-20 | <p>6. Exhibit X-1 in the IS/MND and Figure 8 in the Hydrology analysis purport to show the same evaluation of water table drawdown at a radius of 5,000 feet after 20 years. However, the drawdown in Figure 8 is indicated to be 1 foot (as supported by the other graphs in the analysis) while Exhibit X-1 shows 0.3 feet. Further, the analysis implies that the drawdown would be within the seasonal variation in groundwater table (noted to be up to 6 inches), but fails to add this seasonal variation into the analysis of the project's potential lowering of the groundwater table. Because these two effects are additive, the potential net lowering of the groundwater table would be greater (i.e., the combined total).</p> |
| 3-21 | <p>7. The proposed mitigation measures related to water usage seem vague, and it is not clear whether the impacts would be sufficiently mitigated. For instance, HYD-1, which deals with the small (2.1-acre feet) usage of potable water, says the Applicant will "offer" funds to replace 2.1-acre feet usage with water conservation items. The amount of funds necessary is not specified, and there is no indication or guarantee that the Searles Domestic Water Company (SDWC) would have a program in place where they could accept and manage these funds or that the residents want those items – in which case, sufficient mitigation may not occur. HYD-2 and HYD-3 deal with the larger 39 acre-feet of water usage for the process, but these measures likewise lack specifics on implementation and a demonstration of the sufficiency of the mitigation given the two potential scenarios.</p> |
| 3-22 | <p>8. The Indian Wells Valley Groundwater Basin (IWVGB) Groundwater Sustainability Plan was included as Attachment 5c, but the figures for the plan are not included on San Bernardino's CEQA website for this project. We were able to find the figures on the IWVGB website, which confirm that the Trona area is not within the same groundwater basin. It is unclear how conservation measures implemented in the Indian Wells Valley</p> |

- 3-17 Yorke noted that there was no statement regarding whether the Applicant has obtained water rights for the proposed onsite well. PVL owns the property upon which the lime plant site is located and where the water well was drilled. Under State law, PVL also owns the rights to the groundwater beneath its property. The Searles Valley Groundwater Basin (SVGB) is not adjudicated and not currently regulated by a Groundwater Sustainability Agency under SGMA; as such, PVL can drill a well and utilize the water on the site without having to take any steps to establish its right to the use of that water. PVL drilled and completed the well on May 30, 2019 using a state certified driller, Abundant Water Wells, Inc., C-57 License No. 981850. A copy of the Application for Well Permit issued by the San Bernardino County Department of Public Health is included with this response as Attachment 5. Therefore, as documented herein and as attached, the well that has been drilled at the site is a fully permitted well, and the Applicant has the rights to the water it extracts from the SVGB.
- 3-18 The statements regarding California's Construction General Permit and California's Industrial General Permit in this comment are correct in the sense that both of these permits are required, and both permits will be obtained prior to construction/operation of the proposed Project. Each of these permits, including the County building permit, are required of the Applicant and will be obtained as mandated by the County, State, and Federal Government.
- 3-19 PVL has, and will continue to consult with the State and Regional Boards to determine permit requirements, including WDRs. The stormwater retention pond will hold only stormwater runoff. The lime process does not use any hazardous or toxic substances. Minor drips of substances from vehicles or equipment will be captured locally by sumps and an oil/water separator if deemed necessary. As stated in the response to comment 3-15, the evaporation pond will be built with an impervious bottom—anticipated to be a geomembrane pond liner around 40-60 millimeters thick. There will be no potential for infiltration to the groundwater that underlies the project site.
- 3-20 The 0.3 ft drawdown estimate (May 2019, LSCE)) and the 1 ft drawdown estimate (July 2019, LSCE) were derived from two different sets of aquifer parameters used for the calculations. For the May 2019 analysis, the only data available to estimate aquifer parameters was from Well-39A (almost 0.5 mile away from the site location). However, for the second analysis (July 2019), new site-specific data became available from a pumping test conducted at a new well. The main goal of the Hydrology Analysis developed was to simulate the net change in groundwater that might occur to the aquifer system as a result of pumping a new well (referenced as the study well). The analytical method uses "current" water table conditions for saturated aquifer thickness in the drawdown calculation. This drawdown is only due to the pumping from the study well and does not consider any other variables that are not under control of the property owner, such as the seasonal rise or fall of the water table during pumpage, or a decrease of the water table due to other off-site pumping activities. Changes in water table elevations varies due to seasonal changes (rainfall, groundwater pumping, etc.), and it is not related to just the new well pumping. In other words, off-site pumping activities or groundwater seasonal variation will occur, no matter if this well is in use pumping water or not. Therefore, the drawdown calculated in the report estimates that the water table changes only due to the operation of the new well. The report only simulated the portion of the "combined total drawdown" for which the new well is responsible. Seasonal changes in groundwater levels will either reduce or increase groundwater levels in the area depending on the hydrologic period, but the impacts from pumping the new well will have a net impact of less than 1-foot at a distance

of 5,000 feet from the pumping center. The analysis presented within indicates that groundwater production of approximately 30 gallons per minute will not adversely impact any non-PVL operated wells. It should also be noted that this analysis assumes continuous operation for 20 years, and no additional recharge to the aquifer system is simulated, as determined by the hydrologist at Luhdorff & Scalmanini that prepared the Ground Water (Hydrologic) Technical Memorandum provided as Appendix 5b to the recirculated IS/MND. As stated under responses to comments 3-6, 3-7, and 3-14, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression.

- 3-21 On April 29, 2020, the CPUC issued Decision 20-04-039 in the matter between PVL and SDWC, identified as CPUC Complaint Case No. 18-12-012. The CPUC Decision required SDWC to serve PVL with potable water with up to 8,000 cubic feet/month (2.1 AFY) of water for the PVL lime plant's domestic needs. The CPUC otherwise dismissed the action, and as such, did not order SDWC to provide additional water to PVL for its process water requirements. A discussion of mitigation measures HYD-1, HYD-2, and HYD-3 is provided under response to comment 3-6. Please refer back to this comment.
- 3-22 Though the Indian Wells Valley Groundwater Basin (I WVGB) does not underlie the Project, SVM is aware that I WVGB is the source of the domestic water supply that it provides to SDWC, which SDWC in turn provides to its customers in Trona. As such, it is imperative that the Groundwater Sustainability Plan (GSP) from this Basin be analyzed as part of this IS/MND, as it is the source of the domestic water supply to which this Project intends to connect. The I WVGB GSP has not identified specific conservation measures to which future Projects obtaining water from the I WVGB should or must adhere. As such—and as discussed above in response to comment 3-6—mitigation measure HYD-1, as revised herein, requires PVL to provide funds to mitigate PVL's domestic water supply, which will be obtained through SVM's importation of water from the I WVGB, by providing funds to supply provide low flow toilets and other water demand reducing equipment to residents of and businesses within Trona and/or Ridgecrest, which also relies on water from the Indian Wells Valley Groundwater Basin. If such funds are not accepted within a period of one year, PVL will deposit the remaining funds into a trust account to be used to reduce use of groundwater from the I WVGB. Furthermore, as also discussed above, as a result of the resolution of the CPUC complaint action between PVL and SDWC, the Applicant will not obtain industrial process water from SDWC and the I WVGB. Therefore, the conservation measures proposed to mitigate the use of water from the I WVGB to serve as industrial process water (HYD-2 and HYD-3) will not be required.

**3-22
cont'd**

Basin will necessarily fully mitigate the project's water use, especially since it is not clear what those measures will be or when those measures will be identified or implemented.

3-23

9. The revised IS/MND now indicates that CEQA Checklist Items a) and b) are Less Than Significant (LTS), which is a change from the prior draft IS/MND for this project. However, since mitigation measures are proposed and in our opinion are needed to reduce the impacts to LTS (presuming a more detailed presentation can do so), the findings should be "LTS After Mitigation." The paragraph under Mandatory Findings should be updated to reflect this change.

3-24

10. Regarding on-site well use, the analysis states, "...the water will have to be cleaned to potable or near-potable quality for all operational uses," but the IS/MND does not further address the feasibility or impacts of this water treatment. This is particularly true in light of water analysis results presented in the Hydrology Report, which, for example, detected arsenic in the on-site well water of 2,400 micrograms per liter ($\mu\text{g/L}$), which is 240 times the California maximum contaminant level (MCL) for drinking water of 10 $\mu\text{g/L}$. The analysis also seems to address an either/or proposition, i.e., that either on-site well water or water from the SDWC is exclusively utilized, rather than addressing the equally likely possibility of mixed use.

AIR QUALITY AND GREENHOUSE GAS IMPACTS

Yorke's primary comments on the AQ and GHG Impacts Sections of the IS/MND are related to the following issues, which are first summarized and then additional detail is provided below:

3-25

- One of Yorke's primary comments on the prior November 2019 Draft IS/MND was that it had insufficient documentation to reach any conclusion about the significance of the AQ and GHG impacts due to the proposed project. The revised March 2020 IS/MND now includes a more detailed AQ Report and emissions calculations, which is an improvement over the prior version. However, although more detailed equipment description and emissions calculations have been provided, Yorke still has concerns that the emissions, and hence, the AQ/GHG impacts, have been significantly underestimated based on a review of another recent similar project, especially for PM_{10} . There appear to be discrepancies between the project description and the sources analyzed and missing sources in the emissions inventory, as well as an underestimation of the emissions from the sources included. If Yorke's calculations are correct, PM_{10} emissions could be a significant impact that requires further mitigation.

3-26

- Another Yorke comment on the November 2019 IS/MND was that it lacked a health risk assessment (HRA), and an HRA has still not been provided in the revised IS/MND. Both the construction phase and operations phase would have emissions of toxic air contaminants (TACs), which could pose a substantial health risk to the nearby community of Trona. There are diesel particulate matter (DPM) emissions due to trucks both on-site and passing through populated neighborhoods (continuously, throughout the operational phase), and there are toxic metals in the dust generated by the disturbance of the existing ash landfill, the lime kiln combustion emissions, and other construction and operations activities. These impacts need to be quantitatively analyzed in order to show that the project would not have significant impacts on the nearby community.

- 3-23 The statements made in this comment are unclear. This comment asserts the “CEQA Checklist Items a) and b)” have been revised from the prior iteration of the IS/MND to “Less Than Significant.” Given that this comment is under the Hydrology and Water Quality header in Yorke’s letter, it is untrue that “Items a) and b)” are both checked “Less Than Significant.” Hydrology and Water Quality Item a), which relates to potential violations of any water quality standards or waste discharge requirements or substantial degradation of surface or groundwater quality, is checked Less Than Significant Impact, while Item b) is checked Less Than Significant with Mitigation Incorporated. The discussion under Item a), which was revised from Less Than Significant With Mitigation Incorporated to Less Than Significant Impact. As detailed in the robust discussion in the IS/MND, the County staff determined that no mitigation is required (see pages 54-55). The comment noting Yorke’s opinion that mitigation measures are needed has been considered. Although County staff disagrees, your comment will be provided to the County decision-makers for consideration prior to a decision on the proposed Project. This comment also suggests that the “Mandatory Findings” should be updated to reflect this change, but all of the items under Mandatory Findings of Significance are checked “Less Than Significant With Mitigation Incorporated” (see pages 81-82). No changes are required.
- 3-24 As discussed above, PVL will meet its domestic potable water needs by purchasing up to 8,000 cubic feet of water per month (2.1 AFY) from SDWC. The process water requirements estimated to be about 39.9 AFY will be provided from the onsite water well. Furthermore, as stated under responses to comments 3-6, 3-7, 3-14, and 3-20, above, and response to comments 1-114 and 5-3 below, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression. Thus, the groundwater extracted from the onsite will not require treatment in order to be used in support of project operations. The two water systems—domestic and process—will not be interconnected, and there will be no potential for mixed use.
- 3-25 In response to these comments, the emissions model and calculations were re-run. The emissions from plant operations were calculated based on the plant Process Flow Diagrams, equipment specifications, and process rates prepared by ZAP Engineering (the plant design engineers). All emissions were calculated in accordance with MDAQMD methods, where available, or USEPA AP-42 methods when an MDAQMD method was not available. After re-calculating emissions, all criteria pollutants including PM₁₀ remain below MDAQMD significance thresholds, confirming the prior conclusions. The Plot Plan and Site Plan Zones provided in the IS/MND as Figures 4 and 5 respectively identified a crusher as part of the PVL Lime Plant; a revised Plot Plan is included here and the project description on p. 4 and the operational process description on p. 23 of the IS/MND are hereby revised to remove the references to reflect that a rock crusher is not required and will not be developed as part of this Project (see Attachment 6). Limestone is not crushed at this site; the crushing of limestone takes place prior to delivery of the stone at the quarry. Any assumptions based on an onsite rock-crusher or resulting from reliance on the “similar project” in Texas, which processes far more lime each day than the proposed Project and, unlike the proposed Project, uses a rock crusher onsite, would incorrectly skew the final tally of PM₁₀ emissions for the Project resulting in greater PM₁₀ emissions than would exist under the Project as proposed. Yorke’s assumptions are based on a different facility.

The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided as Attachment 2 to these responses to comments in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations. All sources of both direct and indirect emissions during operation from stationary and mobile sources are included as part of this comprehensive air quality impact and GHG impact analysis.

- 3-26 Please refer back to response to comment 3-5, within which the contents of this comment have mostly been addressed. The project site does not contain significant sensitive receptors in its vicinity; the majority of residents and sensitive receptors are located more than 2,000 feet from the proposed project site, further from sensitive receptors than existing industrial operations in Trona. There are no toxic metals within the remains of the ash landfill as demonstrated by the closure report provided as an attachment to these responses to comments. The other emissions issues noted are addressed in the analysis and documents provided. As stated in response to comment 3-5, the MDAQMD confirmed that no HRA is required. (See Attachment 1).

3-27

- Based on the Applicant's calculations in the IS/MND, the PVL Project GHG emissions exceed the Mojave Desert Air Quality Management District (MDAQMD) CEQA GHG significance threshold. Although the GHG discussion has been revised, the GHG emissions calculations and findings are still not clearly substantiated, as the mitigation is not clearly presented and it is uncertain if the mitigation described is valid or will be sufficient to reduce these impacts to less than significant. As a general comment, the MDAQMD significance threshold for GHG emissions at 100,000 tons per year (tpy) is much higher than most areas; for instance, the South Coast Air Quality Management District (SCAQMD) has a GHG emissions threshold of 10,000 metric tons (MT) per year, and Santa Barbara County has a GHG threshold of 3,000 MT per year. It is almost unimaginable, given the efforts by the California Air Resources Board (CARB) and other State agencies to reduce GHG emissions, that a new facility (not a replacement for an existing facility) in California with a potential to emit well over 100,000 tpy of GHG emissions would not be considered to have a significant impact. At the very least, a very robust discussion of the GHG emissions and how they are indeed mitigated should be provided in the MND. Alternatively, an EIR should be considered to fully analyze this impact and provide full disclosure to the public and other agencies of the ramifications of this project.

Additional detail on our comments related to the AQ and GHG Emissions Sections of the revised March 2020 IS/MND are provided below and in the attached emissions calculation tables for operations and construction emissions.

3-28

- 1) **Operations Emissions:** Yorke obtained copies of permits from several other lime plants in the United States. In particular, we obtained a permit issued in November 2019 for a 660 tons per day Lhoist lime plant in Comal County, TX. This Lhoist plant will also be natural gas-fired and appears to have very similar equipment and production rates compared to the proposed PVL Project, proposed at 550 tons per day. Since the Lhoist lime plant was recently permitted, it was required to meet the current Best Available Control Technology (BACT) requirements for lime plants of this type, and so should be representative of a well-controlled lime plant.

3-29

Based on the Lhoist permit, Yorke estimated that the PM₁₀ emissions reported in the IS/MND for the permitted sources at the PVL Project are about half of what the PM₁₀ emissions would be for PVL after adjustment for production rate and other factors, e.g., dust collectors appear to be too small for this operation (see Table 1 attached). For instance, the PVL PM₁₀ emissions from the kiln are given as 4.47 tpy, while the Yorke calculated PM₁₀ emissions for the PVL kiln based on the Lhoist permit would be 14.64 tpy. Other sources may need to be included, for example, it is unclear if sufficient water truck emissions¹ have been included (it is our understanding that emissions from dedicated mobile sources should be included with the permitted sources) or other sources mentioned in the document, such as the pellet plant, have been included. Even without these missing sources, if only the material handling emissions are added to the kiln emissions, the total PVL plant stationary source emissions subject to permit would be over the 15 tpy MDAQMD New Source Review (NSR) major source threshold for PM₁₀, in which case

¹ It is also not clear if sufficient water for dust control has been accounted for in the water needed for the project (discussed in the Hydrology and Water Quality Section) to meet the soil moisture content assumed.

- 3-27 Project GHG emissions are clearly calculated in accordance with accepted models and practices. A revised set of models and calculations has been presented as part of this response to comment (Attachment 2). GHG emissions will be mitigated to below significance levels by the purchase and retirement of a bank of 60,000 metric tons per year of SJVAPCD EPA-approved CO₂e Emissions Reductions Credits. This credit bank is being established specifically for the purpose of providing offsets for CEQA mitigation purposes. The ERCs are identified and under contract (ERC Certificate #C-1467-24). Please also refer to Comment Letter #2 provided by the MDAQMD, dated April 2, 2020, which states "The District concurs with the revised analysis, findings, and additional mitigation, and acknowledges that most comments sent previously from the MDAQMD have been included as mitigation." The Environmental Consultant also confirmed with Alan De Salvio at MDAQMD that these emission credits are an acceptable form of mitigation.
- 3-28 The commenter's comparison of this Project to a different plant in a different state does not create a valid shortcoming of the MND or calculations. The emissions from plant operations were calculated based on the plant Process Flow Diagrams, equipment specifications, and process rates prepared by ZAP Engineering, the plant design engineers. All emissions were calculated in accordance with MDAQMD methodology, where available, or USEPA AP-42 methods when an MDAQMD method was not available. Please also refer back to response to comment 3-12, which corrects the record to reflect that the assumptions in the IS/MND are based on the actual amount that PVL intends to ship: 400 tons per day.
- 3-29 The commenter's comparison of this Project to a different plant in a different state does not create a valid shortcoming of the MND or calculations. The emissions from the Project plant operations were calculated based on the Project plant Process Flow Diagrams, equipment specifications, and process rates prepared by ZAP Engineering, the plant design engineers. All emissions were calculated in accordance with MDAQMD methodology, where available, or USEPA AP-42 methods when an MDAQMD method was not available. Kiln emissions were calculated based on the kiln manufacturer's data, and specifications provided by ZAP Engineering. Dust collector emissions were also calculated based on specifications provided by ZAP Engineering. The commenter cannot draw a valid inference about the appropriate design of this particular facility based on permits for a different facility with a different design. All sources included in the proposed Project have been accounted for. Permitted stationary source emissions, fugitive dust emissions, operational mobile source emissions, and area source emissions have all been quantified using accepted practice. No water truck is to be used onsite, so no water truck was included. Emissions calculations were performed in consultation with MDAQMD, and with the same methods as were used for permitting calculations. With all emissions included, no criteria pollutants exceed applicable MDAQMD significance thresholds.

Please also refer back to response to comment 3-28, which partially addresses the concerns raised in this comment. MDAQMD has also granted PVL a facility-wide PM₁₀ limit of 14.9 tons per year, which it must adhere to in order to operate. Therefore, the concern raised in this comment that the PVL Lime Plant would be subject to a permit over the 15 ton per year MDAQMD New Source Review major source threshold is incorrect. Furthermore, MDAQMD did not provide any objections to the emissions calculations as part of their Comment Letter #2, dated April 2, 2020, which suggests concurrence with the emissions estimates as modeled. Therefore, the concern raised in this comment that the modeling has been performed inadequately is an opinion of SVM and Yorke that appears to rely on incorrect assumptions regarding how this Project will operate.

3-29
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offsets from banked emission reduction credits (ERCs) would be required. Furthermore, the emissions estimates analyzed in the IS/MND need to be achievable and permissible by the MDAQMD; if some source emissions have been left out or underestimated, additional CEQA analyses may be needed later once PVL's Authority to Construct permit application is processed in order to disclose those additional impacts to the public. Although Table 1 focuses on PM₁₀, we found similar calculation issues with nitrogen oxides (NO_x) and other pollutant emissions. Additional discussion of this NSR issue is provided in comment #5, Regulatory Analysis, below.

The above discussion relates mainly to the stationary source permitted emissions. For CEQA, the emission calculations need to include both permitted and unpermitted sources (e.g., fugitive dust and mobile source emissions) for the determination if impacts are significant. All sources of both direct and indirect emissions during operation from stationary and mobile sources need to be included in the CEQA analysis. Table 2 shows some examples of fugitive dust emissions that seem to have been underestimated or not included (as well as the sources mentioned in Note 1 on Table 2). Since it appears that both the MDAQMD NSR major source thresholds and the CEQA significance thresholds for PM₁₀ could be exceeded, offsets and additional mitigation is likely to be required. This is another issue where an EIR would provide a more comprehensive analysis.

3-30

- 2) **Construction Emissions:** Similar to the operations emissions, statements about construction activities made in the document were difficult to verify in the emissions calculations, since various construction activities were not differentiated. For instance, the Project Description (top of page 2 and also page 5) indicates that the site contains a large below-grade depression and a large mound of dirt from the former ash landfill that will be excavated for the retention pond and spread throughout the site. The amounts of cut and fill should be provided and specific calculations for this earthmoving activity provided. Similarly, the construction impact analysis on page 22 indicates that the emissions from construction and operation of the on-site well have been included in the emissions analysis, but a drill rig is not included in the list of construction equipment on page 5, and well drilling is not listed in the construction plan on page 23 or seen in the emissions attachments. Typically, construction emissions for the plant site would be presented separately from linear construction activities, such as construction of the natural gas pipeline, underground power line, water pipeline(s), and access road. This differentiation would help ensure that the emissions are complete and help the public to understand the spatial and temporal distribution of the emissions.

3-31

In addition to the uncertainty about what activities have been addressed in the construction emissions, we note the following potential problems with the California Emissions Estimator Model (CalEEMod) outputs provided in the attachments:

3-32

- There were numerous error messages in the outputs.
- There was no justification for the moisture content assumed, and it appears to be too high for the very dry soils in this area.

3-33

- Each day of construction appeared to be treated as a separate phase inconsistent with the instruction manual for CalEEMod applications, which indicates that activities should be organized into multiple phases defined by the principal activity

- 3-30 In response to these comments, the earthmoving emissions from the “Mound Movement” were calculated using CalEEMod. Model inputs of cut and fill were determined from a topographic survey of the project site performed on 6/10/2020. The timing of the construction emissions was estimated based on the projected construction schedule. No drill rig was included in the model runs, as the onsite well is already drilled. Linear utility construction was additionally calculated in a separate CalEEMod run. All construction emissions were tabulated and totaled by year, and by maximum year.

Yorke’s assumptions related to the earth movement required for the “mound movement” are substantially overestimated.

- 3-31 Your comment has been noted and will be provided to the County decision-makers. The revised model runs prepared in response to comment have no output errors.
- 3-32 The Project proponent has no empirical data for soil moisture content. Therefore, it is appropriate, and accepted practice, to use the conservative model defaults for all instances where real world data is not available. The commenter also presents no basis in data to support the supposition that the moisture content is not appropriate.
- 3-33 In response to this, and other comments, the construction emissions were re-run in CalEEMod (Attachment 2). The detailed construction schedule provided by the design team was aggregated into general phases in accordance with the CalEEMod manual. Construction equipment where unknown was run as model default. All equipment was assumed to be Tier 4 Final, as the County has suggested this as an additional mitigation measure, which shall be incorporated by reference, as follows:

AIR-12 The Applicant shall be required to utilize Tier 4 construction equipment for the duration of construction and, where applicable, during operation of the PVL Lime Plant.

3-33
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involved – for instance, site preparation and grading, plant construction, pipeline installation, etc.

3-34

- It is not clear in the number of days listed for each construction activity on page 23 which ones could overlap.

3-35

- Construction worker commute trips and construction material deliveries and waste haulage were not mentioned for the construction emissions. These sources and the assumptions made for these emissions should be included in the document.

3-36

Similar to the operations emissions discussed in comment #2 above, Yorke conducted a CalEEMod analysis as shown in Attachment 2. If corrections are made, all activities as noted above are included, and each activity/phase is added together, the construction emissions would also exceed the annual PM₁₀ CEQA threshold of 15 tpy. In that case, additional mitigation such as spreading construction activities over a longer period may be needed to be less than significant.

3-37

- 3) **Health Risk Assessment – Operational Phase:** Because this project involves dedicated truck traffic and equipment with DPM emissions, a combustion process in the kiln, and fugitive dust from material handling of mined materials that could contains toxic metals which are concentrated in the combustion process, a detailed TAC evaluation and HRA should be provided in the IS/MND in order to evaluate health risk impacts. The findings for CEQA Checklist Item c) cannot be made without this analysis.

3-38

- 4) **Health Risk Assessment – Construction Phase:** There will be a large number of diesel-fueled equipment used during construction, and DPM emissions have a very high cancer potency. Also, as noted in comment #3 above, excavation and grading of the former ash landfill site is planned, and the disturbed soils emitted as fugitive dust could contain heavy metals and other TACs (since the ash is from a coal-fired boiler). Based on the total number of days listed for each construction activity on page 23, the construction period could last for more than a year. The California Office of Environmental Health Hazard Assessment (OEHHA) guidance recommends that a construction HRA be done for construction periods lasting more than 6 months. Therefore, a construction HRA as well as one for operational emissions should be prepared in order to determine if significant health risk impacts could occur.

3-39

- 5) **Regulatory Analysis:** Other than a discussion of the air quality attainment plans² adopted by the MDAQMD, a focused regulatory analysis has not been provided in the IS/MND and should be provided. In particular, project emissions (once corrected) should be compared to various MDAQMD NSR thresholds to demonstrate that the proposed PVL Project will be able to comply with requirements for BACT, offsets, and ambient air quality impact analyses if emissions are over applicable thresholds. If over the offset thresholds, the project would need to purchase ERCs to meet the offsets requirements for PM₁₀ and any other pollutant over the thresholds. The applicability and requirements of federal

² The first sentence in Section III. Air Quality should refer to "...conformity with the MDAQMD Plan." rather than "...the SCAQMD Plan, if applicable." (There is no doubt that the MDAQMD Searles Valley PM₁₀ Plan is applicable.) Furthermore, it is recommended that Table 1 in Appendix 1 focus on the attainment status specifically in the project area of the Searles Valley rather than the entire MDAQMD, since references to Riverside County and other areas are irrelevant.

- 3-34 In response to this, and other comments, the construction emissions were re-run in CalEEMod (Attachment 2). The detailed construction schedule provided by the design team was aggregated into general phases in accordance with the CalEEMod manual.
- 3-35 In response to this, and other comments, the construction emissions were re-run in CalEEMod (Attachment 2). The detailed construction schedule provided by the design team was aggregated into general phases in accordance with the CalEEMod manual. CalEEMod defaults were used as a conservative estimate of construction commute, delivery, and haulage emissions.
- 3-36 In response to this, and other comments, the construction emissions were re-run in CalEEMod (Attachment 2). The detailed construction schedule provided by the design team was aggregated into general phases in accordance with the CalEEMod manual. No pollutants exceed the applicable MDAQMD significance thresholds. Any models run by outside organizations are unlikely to be accurate, as the actual construction details and schedule have not been released to any such organization.
- 3-37 Please refer to responses to comments 3-5 and 3-26, which respond to the issue that is raised in this comment. As discussed above, an HRA relating to construction and operations is not required for this Project.
- 3-38 Please refer to responses to comments 3-5 and 3-26, which respond to the issues raised in this comment. As discussed above, an HRA relating to construction and operations is not required for this Project.
- 3-39 Your comment provided in footnote is noted and the IS/MND is revised as provided herein such that the first sentence in Section III. Air Quality, shall refer to “conformity with the **MDAQMD Plan**,” replacing the reference to the “SCAQMD Plan, if applicable.” Additionally, all emissions from this Project were compared to NSR requirements for the project location as directed by the MDAQMD; documentation has been provided to the MDAQMD as part of PVL’s Application for Authority to Construct/Permit to Operate for a 400 ton/day Lime Manufacturing Facility. As noted above, the modeling was re-run, confirming that the Project emissions, as mitigated, will not exceed significance thresholds. Additionally, as noted in the IS/MND under the header for Additional Approvals that May be Required by Other Public Agencies, the Applicant will obtain an operating permit from the MDAQMD/ MDAQMD has evaluated the emissions from the proposed PVL lime plant and determined that the emissions are below the level in 40 Code of Federal Regulations (CFR) AAAAAA that would make the plant subject to 40 CFR Subpart AAAAAA. Furthermore, MDAQMD staff, which determine compliance with all applicable federal regulations in the case of facilities with Title V requirements, has indicated that Title V does not apply to the Project (Attachment 11).

3-39
cont'd

regulations such as the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) that are applicable to lime plants should be discussed. If the lime plant NESHAP is applicable, then a Title V Operating Permit would be required, and should be added to the list of approvals needed on page 10.

3-40

A clear regulatory analysis of GHG emissions requirements outside CEQA should also be included, such as additional detail on how many allowances must be provided under the Cap and Trade (C&T) program. For example, it is likely that, for 2022 through 2031, there will be a declining balance of GHG allowances provided under the C&T program, such that allowance purchases for those years after the first year could amount to on the order of \$8 million over the next 10 years. This is over and above any GHG mitigation provided for the project.

3-41

- 6) **Stationary Source CEQA GHG Analysis:** Based on the Applicant's calculations in the IS/MND, the project operational phase GHG emissions exceed the MDAQMD CEQA GHG thresholds from the lime plant. The emissions from dedicated mobile sources, such as the trucks that deliver limestone from the quarry to the lime plant should be included as part of the stationary source emissions. The discussion of mitigation is vague and unclear as to whether it is possible to reduce this impact to be less than significant. The GHG discussion mentions compliance with the C&T program, but the results of recent court cases should be reviewed to demonstrate if compliance with this program offers mitigation from a CEQA perspective. Further, a mitigation measure, GHG-1, is proposed that 60,000 tons of GHG ERC will be purchased from a "trusted source", with no details provided. Who would decide the validity of the GHG ERCs? Does MDAQMD have a GHG ERC bank, or would these ERCs come from elsewhere within California, or even out of state? Is there 60,000 tons of GHG ERC currently available for purchase? Given the huge magnitude of these GHG emissions, a very robust discussion is needed to demonstrate that valid mitigation under State CEQA requirements will be provided and is available prior to approving this PVL Project. If it cannot be shown that the project will not exceed the MDAQMD CEQA GHG thresholds after the procurement of valid GHG mitigation, the project will require an EIR with overriding considerations to explain why it should be approved in spite of a significant impact.

3-42

- 7) **Mobile Source GHG Analysis:** The IS/MND indicates that the GHG emissions due to transportation of materials from the quarry to the plant and then from the lime plant to the markets are mitigated, since the GHG emissions are less than the emissions would be for lime distribution (i.e., the baseline) from lime plants outside of California. The information provided is sketchy about where lime customers are located within Southern California, and how lime coming from the Trona lime plant would necessarily be closer than if coming from the identified plant in Las Vegas, NV. It is also not clear if the PVL lime plant would replace those out of state shipments, or if the demand is such that these emissions would be additive, even if the Las Vegas plant shifted to providing its lime to other areas – GHG is a global issue. The provided analysis is a vast oversimplification, and a detailed marketing analysis should be provided, given the significance of the impact. Additional information should be provided to demonstrate that these GHG emissions due to transportation will be mitigated and that this new production will not increase GHG emissions over the baseline through increased production both within and outside

- 3-40 The County understands that this is a CEQA document, in which agencies such as the MDAQMD create thresholds of significance from which to determine whether a project will cause a significant impact. The applicability of the Cap and Trade program is not a requirement of CEQA. Utilizing the MDAQMD's thresholds, it is clear that with valid emissions credits that will be applied to Project operations in perpetuity, an option contract for which has been procured by the Applicant, the Project will not exceed significance thresholds. Yorke's statements regarding the Cap and Trade program's declining balance of GHG allowances are speculative and not applicable to the significance determination for this Project and therefore will not be further considered in these responses to comments.
- 3-41 Project GHG emissions are calculated clearly in accordance with accepted models and practices. A revised set of models and calculations has been presented as part of this response to comment. Mobile source emissions from limestone and product delivery are calculated and included in GHG emissions totals. Compliance with Cap-and-Trade is not offered as a mitigation measure, but is mentioned to demonstrate compliance with a statewide GHG reduction mandate. GHG emissions will be mitigated to below significance levels by the purchase and retirement of SJVAPCD EPA-approved CO₂e Emissions Reductions Credits. This credit bank is being established specifically for the purpose of providing offsets for CEQA mitigation purposes. The ERCs to be used are identified and under contract (ERC Certificate #C-1467-24). County staff believes that, based on the evidence provided and the analysis conducted, as well as MDAQMD's approval of the mitigation provided in the IS/MND, the determination within the IS/MND is correctly determined to be "Less Than Significant with Mitigation Incorporated." As previously stated, County staff has considered Yorke's belief that an EIR is required for this Project, but has concluded that all categories within this IS/MND can be mitigated as demonstrated within the IS/MND, and as further supported and confirmed in these responses to comments, recommends the Project proceed accordingly. However, the determination lies with the County decision-makers, to whom your comments will be provided.
- 3-42 All lime delivered to Southern California from the Project or the other existing lime plants must travel through Kramer Junction, California. Lhoist is the primary lime producer that provides lime to the market that PVL will serve; it is the closest lime plant to the Southern California market. That lime is processed in and must be transported from Las Vegas, Nevada. PVL's lime would originate in California, with the lime plant located in Trona, California. From Kramer Junction, traffic fans out to multiple and variable customers throughout Southern California. As such, the distances from Kramer Junction to each customer would not change. A detailed market analysis would not change the outcome of the comparison provided in Table VIII-5, as the emissions reductions are calculated in terms of the distance from the location of each lime plant to Kramer Junction.

Please refer to IS/MND Table VIII-5, which is amended below to correct the record, as a few transcription errors were included in the recirculated document (Table VIII-5 stated that the trip from Trona, CA to Kramer Junction, CA would generate 1.39 MT/yr of CO₂, corrected below to state 2.39 MT/yr of CO₂ and incorrectly identified the distance as the round-trip distance, and the round-trip distance as the ton per mile, which have been corrected below:

The mileage is shown here:

Lhoist	428	miles round trip
PVL	124	miles round trip

**Table VIII-5
EMISSIONS REDUCTION CALCULATION: IN STATE (PVL) VS OUT OF STATE (LHOIST)**

	Vehicle Type	Quantity	Tons/ Load	Round-Trip Distance (mi)	Ton per Mile	CO ₂ (g/ton /mi)	CH ₄ (g/ton /mi)	N ₂ O (g/ton/ mi)	CO ₂	CH ₄	N ₂ O	
Trona, CA To Kramer Junction, CA	Heavy Duty Diesel Vehicle	44.4	25	124	.040 3225 0806	1,430	0.015	0.0048	157,460	1.65	0.53	grams /day
Lhoist, Las Vegas, NV to Kramer Junction, CA				428	0.11 6822 43				543,492	5.70	1.82	
Assumptions: 1. Identical conditions (equipment, loads, traffic, etc.) Notes: * Ton-mile calculation reflects tonnage transported and returned empty									6.56	0.00007	2.20 E-05	Kg/hr
									22.65	0.00024	7.60 E-05	
									4.39 2.39	2.51 E-05	8.04 E-06	MT/yr
									8.27	8.67 E-05	2.77 E-05	
									Comparative Percent Reduction: 71.03% (Kg/hr) 83% (MT/yr)			

3-43

California. Given the complexity of a marketing analysis and uncertainties about the mitigation, and hence the potential for significant impacts, a robust discussion in an EIR where the project could be more fully evaluated, should be considered.

3-44

Although it does not appear that any GHG emissions reductions were claimed at this point, mitigation measure AIR-4 in the IS/MND (page 27) promises, “*As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.*” Although this sounds auspicious, it seems doubtful that the measure would ever be implemented since the measure will only be “considered” and only if “financially feasible” – with no definition of when that threshold would be achieved. Therefore, this mitigation measure seems hollow.

3-45

In addition, CARB has already announced electric vehicle mandates in California starting gradually within the next 5-7 years, implying that all facilities will be required to switch to electric vehicles per that schedule; hence, this switch on the PVL project (unless accelerated relative to mandates) is part of business as usual and is not a valid mitigation measure. Given that the mitigation measure is already questionable because it is vague and defies credibility, this additional clarification may not be necessary.

BIOLOGICAL RESOURCES

3-46

The revised draft IS/MND indicates that additional pre-construction surveys are proposed in response to comments from the California Department of Fish and Wildlife (CDFW). A copy of the CDFW comment letter dated December 20, 2019, was obtained from the County. The letter notes that pre-construction surveys are needed for a number of potential species, as well as potentially an Incidental Take Permit (ITP) and streambed alteration agreement. Although several proposed mitigation measures have been added to the revised IS/MND in response to these CDFW comments, some concerns remain as described below.

3-47

1. BIO-1 indicates that an ITP will be obtained from the CDFW for the Mohave Ground Squirrel (MGS). This proposed measure appears to indicate that only temporary disturbance of habitat is expected, which implies that the only potential MGS habitat is found along the pipeline route. Although the draft IS/MND indicates that no habitat exists on the proposed plant site where the former ash landfill is located, this determination relies to some extent on the Eremico report done in 2012 (Appendix 2d). We note that the Summary in the Eremico report indicates that the findings are only valid for 1 year, and it is possible that the MGS habitat could have improved in the last 8 years, since it is presumed there has been minimal disturbance in the area. We recommend that the mitigation measure be revised to indicate that CDFW will be consulted to determine the area to be surveyed for both temporary and long-term impacts to the MGS habitat. Furthermore, the mitigation ratio for impacted areas should be 1:1 or as determined necessary by the CDFW – not based on a mitigation package that the “Applicant finds” is needed. We also believe that a single absence/presence survey may be insufficient to rule out presence, and hence the alternative provided in this mitigation measure may not be acceptable to the CDFW.

3-48

2. Although this comment pertains mainly to BIO-1, we suggest that the survey areas (i.e., within and around the plant site as well as the pipeline route) and compensation ratios

- 3-43 The marketing for this Project is proprietary information of the Applicant and does not need to be demonstrated to comply with CEQA. The “uncertainties” regarding the GHG mitigation suggested in this comment are elucidated throughout these responses to comments. An EIR is not a path that the County staff believes is required for this Project given that the IS/MND has demonstrated that, with mitigation, all impact categories can be lowered below quantitative significance thresholds.
- 3-44 The referenced mitigation measure is a valid measure as MDAQMD has concurred with all air quality and greenhouse gas related mitigation measures provided as part of the IS/MND. It is apparent that, at present, electric/hydrogen trucks and tractors are not financially feasible for a new business, but because technology is advancing so quickly, the intent of this measure is to ensure that, once the cost of this technology reaches an industry standard, the Applicant will invest in hydrogen or electric trucks/tractors that would emit far less emissions.
- 3-45 The statements made by Yorke in this comment are speculative. The California Air Resources Board (CARB) has not issued a mandate stating that all trucks and vehicles must be electric within the next 5-7 years as implied by this comment. CARB has several programs aimed at improving the efficiency and reducing truck and car related emissions, such as the Zero Emissions Vehicle (ZEV) regulation, which “is designed to achieve the state’s long-term emission reduction goals by requiring manufacturers to offer for sale specific numbers of the very cleanest cars available.”¹ Additionally, CARB’s Truck and Bus Regulation indicates that “by January 1, 2023, nearly all trucks and buses will be required to have 2010 or newer model year engines to reduce particulate matter (PM) and oxides of nitrogen (NOx) emissions.”² This statement very clearly disputes that electric or hydrogen trucks will be mandated in the next 5-7 years. Therefore, given that there is no specific mandate by CARB for Projects such as this to operate with electric vehicles in the near term future, it is anticipated that the Applicant will obtain or utilize electric/hydrogen trucks and tractors prior to such practices to be mandated by CARB.
- 3-46 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project.
- 3-47 This comment suggests that there may be suitable habitat for Mohave Ground Squirrel (MGS) within the former ash landfill within which the Project will be developed based on the fact that the site has not been surveyed since 2012. This is incorrect; a Biological Assessment was provided as part of this IS/MND, and a survey of the project site, natural gas pipeline, and electrical distribution line were included as part of these activities. The Biological Assessment provided as Appendix 2a of the IS/MND states on page 8, “The Site is a former ash landfill. As such it is heavily impacted and the probability of locating any sensitive species is very low based on the results of current and prior surveys.” Therefore, no expanded mitigation to include a survey of this site is required; furthermore, in the California Department of Fish and Wildlife’s (CDFW) comment letter (Comment Letter #4) on the IS/MND recirculation, no comment on this mitigation measure was made. Note that a biologist meeting the performance standards in mitigation measure BIO-1 must consult with CDFW and comply with their regulations, and therefore, no mitigation is required to indicate that CDFW should be consulted as it is a requirement of obtaining an Incidental Take Permit.

¹ https://ww2.arb.ca.gov/sites/default/files/2019-06/zev_regulation_factsheet_082418_0.pdf

² <https://ww2.arb.ca.gov/our-work/programs/truck-and-bus-regulation/about>

- 3-48 Please refer to the discussion under response 3-47. Consultation with CDFW for many of the mitigation measures is mandatory. Mitigation ratios will be imposed by CDFW as a part of this consultation, which the Applicant will be required to implement.

3-48 cont'd	identified in the other BIO measures be tied to recommendations from the CDFW as a minimum.
3-49	3. BIO-4 mentions that compensation for “temporary” loss of habitat suitable for golden eagles will be provided. As described in the text that precedes measure BIO-4, the concern should be focused on “foraging” habitat, i.e., any habitat within 10 miles of golden eagle nesting areas where small mammals could exist that serve as a food source for the eagles. We think that the mitigation measure should be rewritten to make it clear that the potential compensation should be related to foraging habitat areas within and around the plant site and gas pipeline if eagles are found within 10 miles of the site during the pre-construction survey.
3-50	4. BIO-6 states that the floristic survey results “ <i>shall be deemed adequate for three years following the date of the field assessments.</i> ” Is the CDFW in agreement that this period is consistent with protocols for botanical surveys? The CDFW’s letter indicates that surveys are valid for 1 year.
3-51	5. BIO-9 deals with protection of migratory bird nests during the nesting season. The project description indicates that a retention pond will be constructed, but additional information is needed on this pond. The analysis should include a description of the pond that indicates how much water will typically be in the retention pond and the water quality in the pond. Mitigation may be needed to prevent migratory birds from using the pond if the water quality is poor.
3-52	6. The analysis indicates that impacts related to CEQA Checklist Item e) would not conflicts with any local policies or ordinances, and hence will be less than significant. This is a conclusory statement with no evidence of its validity presented. All applicable local policies and ordinances related to biological resources should be identified in the IS/MND, with information on how the project will comply with those requirements also provided.

HAZARDS AND HAZARDOUS MATERIALS

The Hazards and Hazardous Materials Section should include analysis of the project components identified below.

3-53	1. The installation of a new natural gas pipeline per CEQA Checklist Item a) could “... <i>create a significant hazard to the public ... through the routine transport ... of hazardous materials.</i> ” The IS/MND should discuss the potential risks and impacts to the public related to the installation of a new natural gas pipeline, since the public health and safety risks associated with operation of high-pressure gas pipelines in California is well known from various high-profile accidental releases. Any risk associated with the undergrounding of electrical power lines should also be addressed.
3-54	2. This Section of the IS/MND mentions use of fuels/hazardous materials during construction but does not address use of hazardous materials during plant operation. For a plant of this size, there will need to be handling of petroleum products such as fuel (for vehicles and off-road equipment used, for example, to manage the large lime stockpiles), as well as handling and use of a wide variety of lubricants and maintenance chemicals for facility and equipment maintenance purposes. The threat of potential spills and releases of these operational chemicals and fuels should also be evaluated.

- 3-49 This mitigation measure applies to the natural gas pipeline alignment. Once the pipeline is installed, no operational activities would occur as the pipeline will be located below ground. The County agrees that the wording of the mitigation measure for clarity could be improved, but does not agree that golden eagle habitat exists within the proposed project site. The County agrees to amend mitigation measure BIO-4 to state the following in this comment:

BIO-4 *Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required.*

Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for temporary loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS.

- 3-50 In comment 3-46, Yorke states “A copy of the CDFW comment letter dated December 20, 2019, was obtained from the County.” Yorke appears to have overlooked CDFW’s statement on pages 3-4 of their December 2019 Comment Letter (provided as an attachment to these responses to comments; refer to the paragraph labeled 2-12), “CDFW generally considers biological field assessments for rare plants valid for a period of up to three years.” Given this statement, the three year validity has been deemed acceptable to CDFW and will remain so stated in Mitigation Measure BIO-6. Furthermore, in CDFW’s comment letter (Comment Letter #4) on the IS/MND recirculation, no comment on this mitigation measure was made.

- 3-51 The County acknowledges that the Searles Valley has experienced issues related to migratory birds utilizing area ponds. However, this Project proposes a stormwater retention basin, which will collect stormwater and is not anticipated to collect water containing high salinity as the purpose of the basin is to collect runoff that would be generated by a storm event. The proposed basin will allow stormwater to evaporate within the time period required by the County, which will minimize the potential for migratory birds to utilize the stormwater retention basin for extended periods given the minimal average rainfall experienced year-round in this portion of the County. However, in order to minimize the habitation of birds at the Project site, the following mitigation is hereby incorporated by reference:

BIO-10 *The following operational controls shall be implemented: a) Bird Cannons – set to operate at given intervals during operating hours; and, b) Bird bombs and whistler pyrotechnics – used by site personnel as a supplemental control tool. These tools shall be supplemental, and shall not be intended to harm birds. The operational controls shall only be implemented during the presence of stormwater in the onsite basin.*

- 3-52 The San Bernardino County General Plan EIR states on page IV-55 “The General Plan implementation within the Desert Region will not adversely affect or conflict with local

policies or ordinances protecting biological resources such as tree preservation policy or ordinance.” The proposed Project will be developed within a land use suitable for the proposed use of the site, and not within a land use designated for conservation of biological resources by the County within which a conflict of local policies thereof could occur. Additionally, the County requires all CUP applications to incorporate County mitigation measures, where applicable. This is a requirement of the Applicant as part of the CUP process. Ultimately, no local policies or ordinances pertaining to biological resources within the County apply to this Project.

- 3-53 The underground gas line and electrical line will be designed and installed by regulated public utility companies in compliance with applicable regulations and utility standards. These lines will be developed under standard procedures and with standard designs. The natural gas line will not be a high pressure gas line, but will be a distribution pressure line that would be equivalent to a line pressured to a house. This type of distribution line is utilized for every house connected to SoCalGas’s system. Most of the linear extent of these utilities will not be in neighborhoods or areas occupied by people. Upgrading the existing natural gas line is considered a benefit to the community, as it will be safer when the Project is completed than it is at present as an aging pipeline.
- 3-54 The California Hazardous Materials Release Response Plans and Inventory Law of 1985 (Business Plan Act) requires preparation of hazardous materials business plans and disclosure of hazardous materials inventories, including an inventory of hazardous materials handled, plans showing where hazardous materials are stored, an emergency response plan, and provisions for employee training in safety and emergency response procedures (California Health and Safety Code, Division 20, Chapter 6.95, Article 1). Furthermore, the Section 2550 et seq. of the California Health and Safety Code also requires that entities storing hazardous materials be prepared to respond to releases. Those using and storing hazardous materials are required to submit a Hazardous Materials Business Plan (HMBP) to their local Certified Unified Program Agency (CUPA) program and to report releases to their CUPA and the State Office of Emergency Services. Local regulatory agencies enforce many federal and State regulations through the CUPA program. The San Bernardino County Fire Department (SBCFD) is the lead agency for the investigation and cleanup of leaking underground storage tank sites. The RWQCB is the lead agency for other groundwater cases. The DTSC can be the lead agency for cases with no groundwater issues and is the lead agency for investigation and remediation of the hazardous sites discussed above. As the CUPA, the SBCFD enforces the hazardous materials-related standards of the California Fire Code, including requirements for signage of hazardous materials storage areas, storage of flammable materials, secondary containment for storage containers, and separation of incompatible chemicals. Therefore, the Applicant is required to submit the HMBP to the CUPA, in this case the SBCFD, who will review and approve the measures in this Plan. The HMBP is deemed sufficient to mitigate any potential operational hazards. Furthermore, measures to prevent hazards are a requirement of Water Quality Management Plans (WQMP), which the Applicant is required to prepare as discussed in the IS/MND. Finally, Yorke and SVM characterize the operations of the proposed lime plant as hazardous, which is untrue. Accidental spills of standard materials, such as petroleum, are possible, but can be minimized through the HMBP and WQMP. No hazardous chemicals beyond routine lubricants, paint, and office cleaning supplies would be used as part of the lime plant operations. As noted in response to comment 5-5, any such materials will be held in a Title 22 prescribed hazardous waste station in containers labeled to identify the contents and dated. Disposal of the containers will be done by licensed hazardous waste disposal contractors.

3-55

3. The plot plan provided as Figure 4 shows battery storage, and the IS/MND indicates that a solar system with backup battery storage may be installed. Information (e.g., size and type) on the potential battery storage as well as potential risks should be provided, as batteries can be a source of fire hazards, which can lead to toxic releases during a fire. These impacts are commonly mitigated with proper safety plans, with a specific mitigation measure required. (The noise impacts associated with batteries should also be addressed, along with a more formal quantitative analysis of the noise impacts from the lime plant as well.)

CONCLUSION

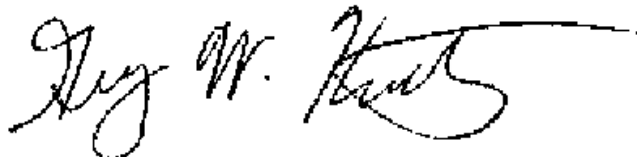
3-56

Various qualified Yorke staff reviewed the five sections of the revised (March 2020) IS/MND discussed herein and provided comments in this letter. We note that many comments in the comment letters dated December 20, 2019, on the initial IS/MND were not addressed, such as inadequacies and inconsistencies between the project description and the air quality analysis, lack of an HRA, clear regulatory analyses, justification of the tall kiln stack that requires a variance, etc. Based on the comments above, the revised IS/MND still does not adequately evaluate the above-referenced program areas and does not propose adequate mitigation measures for several identified impacts. With the needed corrections, impacts to water supply, climate change from GHG emissions, air quality, and biological resources could well be significant and/or require very costly mitigation that could render the proposed PVL Project financially infeasible. We request your consideration of these comments to ensure that the Project can meet its regulatory obligations without undue impacts to the environment. We also recommend that preparation of an EIR for this project be considered, due to the substantial potential for significant impacts and the uncertainty of the mitigations proposed.

Should you have any questions or concerns, please contact either of us at (949) 248-8490.

Sincerely,

3-57



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Enclosures:

1. Attachment 1 – Operations Emissions Tables
2. Attachment 2 – Construction CalEEMod Analysis

- 3-55 PVL is not designing or installing a solar or battery power plant at this time. The intention of including this item on the Plot Plan was to show an area allocated to that potential use in the future. If a solar or battery system was installed in the future it would be designed and built in conformance with all applicable laws, ordinances, regulations, and standards. A separate building permit requiring County agency approvals would be obtained. Furthermore, these systems do not typically generate substantial noise. The overall noise impact from the lime plant was analyzed and reported in the Environmental Sound Study by Burns McDonnell, October 30, 2018. A copy of that study is included as Attachment 7 to these responses to comments.
- 3-56 Please note that responses to all comments made by Yorke and SVM are addressed herein. The County acknowledges that this is the opinion of SVM and Yorke, and simply doesn't agree with the statements made in this comment. The evidence and additional mitigation measures provided herein and within the Attachments to these responses to comments is sufficient to make a finding of a less than significant impact.
- 3-57 The contact information provided in this comment shall be retained in the Project file.

ATTACHMENT 1 – OPERATIONS EMISSIONS TABLES

Table 1: Permitted Sources Annual Emissions, PM10 - Texas Lhoist, Panamint (PVL) Initial Study (IS), and Yorke PVL¹

Item	Source ²	Lhoist (tpy) ²	PVL IS (tpy) ³	Case A: Yorke PVL without Additions (tpy) ^{4,5}	Case B: Yorke PVL with Additions (tpy) ^{4,6}	Ratio: Case A to PVL IS	Fig. 1 Reference ⁷
1	Vertical Lime Kiln Baghouse Stack	17.57	4.47	14.64	14.64	3.27	G
2	Lime Belt Conveyor and Crusher Baghouse Stack	0.09	0.88	0.08	0.08	0.08	D,E
3	Lime Belt Conveyor Baghouse Stack	0.09	0.88	0.08	0.08	0.08	E
4	Vibrating Feeder 1 Baghouse Stack	0.09	-	0.08	0.08	-	E
5	Vibrating Feeder 2 Baghouse Stack	0.07	-	-	0.06	-	E
6	Intermediate Silo and Off-Spec Loadout Baghouse Stack ⁸	0.56	-	-	0.47	-	F
7	Product Silo Baghouse Stack	0.28	0.88	0.23	0.23	0.26	I
8	Product Loading Spout Baghouse Stack	0.09	0.88	0.08	0.08	0.08	I
9	Lime Kiln Screening Operations	0.11	-	0.09	0.09	-	F
10	Conveyance Operations 1	0.11	-	0.09	0.09	-	E
11	Material Transfer Operations 1	0.18	-	0.15	0.15	-	A,B,C,J
12	Reject Lime Truck Loading	<0.01	-	<0.01	<0.01	-	-
13	Product Loading	0.04	-	0.03	0.03	-	I
14	Vibrating Screens	0.28	-	0.23	0.23	-	H
15	Conveyance Operations 2	0.05	-	-	0.04	-	E
16	Material Transfer Operations 2	0.14	-	-	0.12	-	A,B,C,J
-	Total	19.75	8.00	15.78	16.46	1.97	-

Notes:

1. Lhoist's New Braunfels Lime Plant in Texas permitted a new natural gas-fired vertical kiln in Nov. 2019, comparable to PVL's proposed kiln.
2. Sources and emissions are based on permit and PSD review by TCEQ for Lhoist's new kiln system. Stockpile emissions are excluded (captured as unpermitted sources).
3. PVL IS values are from the March revised study. Calculations include baghouse emissions for storage, bag filling, and limestone delivery, burning, and crushing. These have been matched up to fit the equipment list as appropriately as possible.
4. Case A and B PVL emissions are estimated by scaling Lhoist's new kiln throughput (660 tpd) to PVL's proposed throughput (550 tpd).
5. Case A: PVL Emissions without Additions represents emissions only from similar units described in PVL's Initial Study (IS) document.
6. Case B: PVL Emissions with Additions represents emissions based on Lhoist's equipment list.
7. Reference to Figure 1, which provides a schematic of PVL plant operations based on the plot plan and description in the Initial Study.
8. PVL Initial Study pg. 23 describes the screening system to have "a storage bunker for maintaining culled undersized material that will be sold as a separate product."

- 3-58 The table provided in this comment showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations as Attachment 2 to these responses to comments.

PVL Plant Operations

3-59

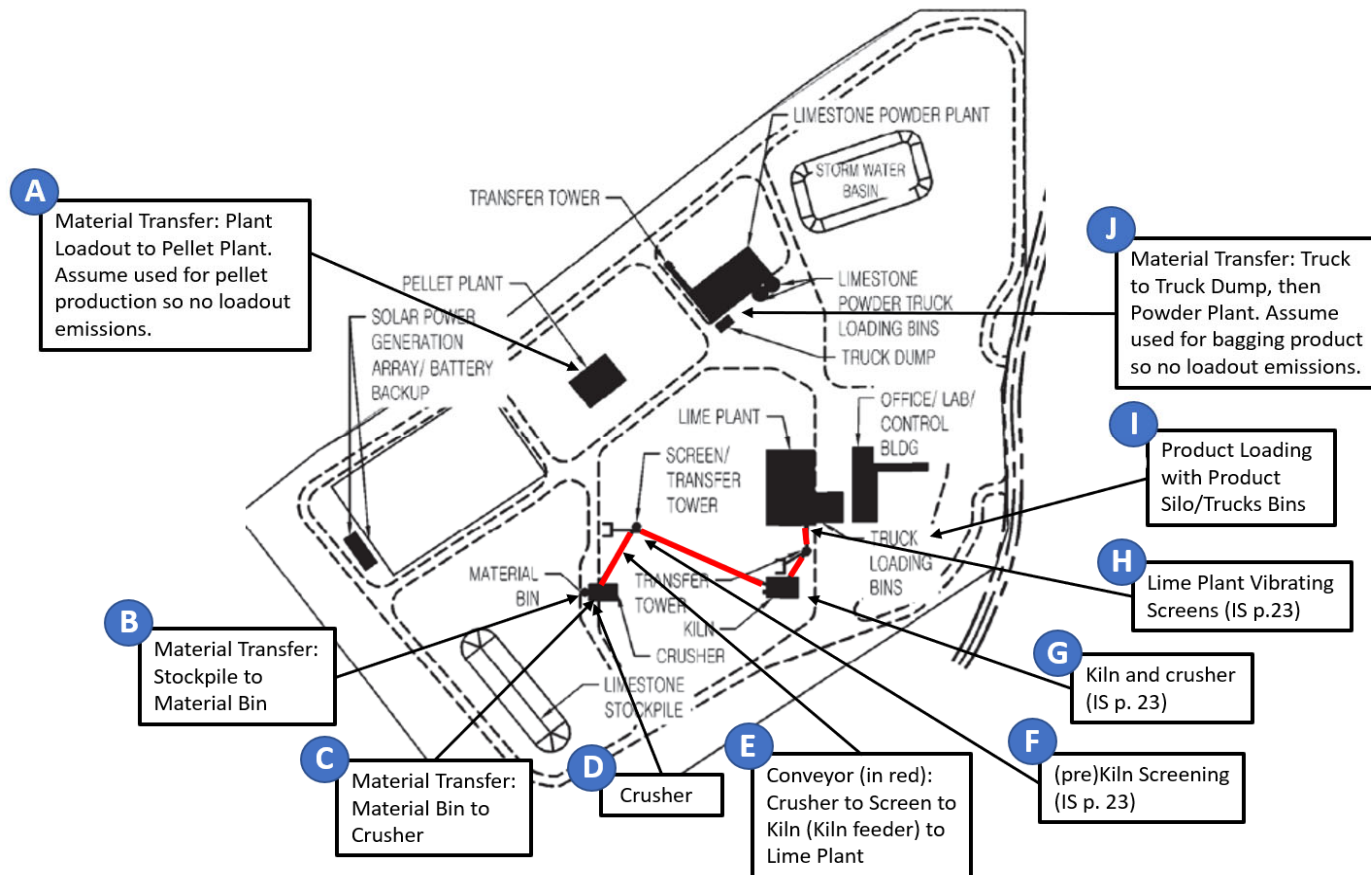


Figure 1: Depiction of plot plan with permitted equipment operations used in Table 1. Conveyors outlined in red.

Notes:

1. Adapted from Exhibit 5 of Initial Study (IS) p. 8 and unit descriptions.

3-59 Attached to these comments is a revised Plot Plan provided for clarity (Attachment 6), and also responds to certain assumptive errors made by the commenter regarding the Project operations. The Plot Plan and Site Plan Zones provided in the IS/MND as Figures 4 and 5 respectively identified a crusher as part of the PVL Lime Plant; these figures have been updated and the project description on p. 4 and the operational process description on p. 23 of the IS/MND are hereby revised to remove the references to reflect that a rock crusher is not required and will not be developed as part of this Project. As previously stated, the lime that will be delivered from Panamint Valley to the PVL Lime Plant will not require crushing on the Project site. The plot plan provided in this comment also incorrectly identifies other details, including, for example: a pellet plant (see box "A"), which is not a part of the Project; and, material transfer from the stockpile to the material bin (see box "B"), which will not occur, as the stockpiles on the Project site will feed directly to a main feed conveyor, moving the feed directly to small and large rock storage silos, as reflected in the Process Flow Diagrams provided in Attachment 6.

Table 2: Unpermitted Sources Annual Emissions, PM10 - Panamint (PVL) Initial Study (IS) and Yorke PVL^{1,2}

Source	PVL IS (tpy)	Yorke PVL (tpy)	Ratio: Yorke PVL to PVL IS
Road Dust Entrainment (Unpaved roads) ^{3,4}	-	1.76	-
Stockpile Fugitives (handling only) ⁵	0.51	2.09	4.10
Total	0.51	3.85	7.56

Notes:

1. Above PM emissions do not include contributions from mobile source exhaust emissions or wind erosion.
2. PVL IS values are from the March IS and associated calculations.
3. Road dust entrainment was not included in PVL IS.
4. Yorke calculation assumes unpaved roads going to stockpiles and product loadout, IS trip data, and AP-42 13.2.2 factors.
5. Yorke calculation based on 819 tpd limestone stockpile throughput and AP-42 13.4.2 factors.

- 3-60 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations provided as Attachment 2.

In response to the notes provided as part of these tables, each comment, by number is responded to as follows:

- 1) Operational emissions calculated for the PVL Lime Plant project included all operational mobile sources, including limestone and product deliveries.
- 2) Your comment is noted.
- 3) Your model appears to assume that the Project includes dirt access roads; this is incorrect, as all access roads will be paved access roads.
- 4) Your model also appears to assume that the Project includes dirt access roads; this is incorrect, as all access roads will be paved access roads.
- 5) The stockpile calculations were done with MDAQMD Mine Operations v3 sheet (provided as part of Attachment 2). The rock sizes are from 1 ½"-3 ½".

ATTACHMENT 2 –CONSTRUCTION CALEEMOD ANALYSIS

Panamint CalEEMod Emission Summary, lb/day

3-61

CalEEMod Run	Worst Case Year	Key Assumption	Fugitive PM10	Exhaust PM10	Total PM10	Significance Threshold	Over Threshold?
Panamint General Projects	2019	16.61 acres in 180 days, 2% moisture, trip length distance to Ridgecrest	123.9	2.4	126.2	82	Yes
Mound Movement	2019	19.85 acres, 79,800 cu yd in 60 days, 2% moisture	26.9	2.1	29.0	82	No
Utilities Projects	2019	0.54 acres, 5,120 cu yd in 2 days, 2% moisture	9.8	0.5	10.3	82	No
Total	2019	-	160.5	5.0	165.5	82	Yes

Panamint CalEEMod Emission Summary, ton/yr

3-62

CalEEMod Run	Worst Case Year	Key Assumption	Fugitive PM10	Exhaust PM10	Total PM10	Significance Threshold	Over Threshold?
Panamint General Projects	2019	16.61 acres in 180 days, 2% moisture, trip length distance to Ridgecrest	4.1	0.2	4.3	15	No
Mound Movement	2019	19.85 acres, 79,800 cu yd in 60 days, 2% moisture	0.8	0.1	0.9	15	No
Utilities Projects	2019	0.54 acres, 5,120 cu yd in 2 days, 2% moisture	0.0	0.0	0.0	15	No
Total	2019	-	4.9	0.3	5.2	15	No

- 3-61 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations (Attachment 2).
- 3-62 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations (Attachment 2).

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Mound Movement

#	Parameter	Option Selected	Comments
1	Land use type	Industrial	Other options are commercial, educational, parking, recreational, residential, retail.
2	Land use subtype	General Heavy Industry	Other options are general light industry, industrial park, manufacturing, and warehouses.
3	Project acreage	19.85	Google Earth measurement of mound and depression.
4	Phase name/type	Grading	Best option for material movement.
5	Start and end dates	2/16/2019 - 5/10/2019 (60 days)	Assume 60 days for mound movement.
6	Off-road equipment	Bulldozing hours/day reduced by factor of 2, so that total hours matches original CalEEMod default.	CalEEMod creates a default fleet based on site acreage.
7	Material imported	79,800 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 3 ft.
8	Material exported	79,800 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 3 ft.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Zero haul trips; material moved onsite to onsite. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	No other construction phases for this run.
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acre

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Grading	Excavators	2	8	158	0.38
2	Grading	Graders	1	8	187	0.41
3	Grading	Rubber Tired Dozers	1	4	247	0.4
4	Grading	Scrapers	2	8	367	0.48
5	Grading	Tractors/ Loaders/ Backhoes	2	8	97	0.37

- 3-63 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations (Attachment 2).

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Utilities

#	Parameter	Option Selected	Comments
1	Land use type	Industrial	Other options are commercial, educational, parking, recreational, residential, retail.
2	Land use subtype	General Heavy Industry	Other options are general light industry, industrial park, manufacturing, and warehouses.
3	Project acreage	0.54	7,900 ft of utilities x 3 ft wide trench.
4	Phase name/type	Grading	Best option for material movement.
5	Start and end dates	1/7/2019 - 1/10/2019 (4 days)	Assume 4 days for utilities installation.
6	Off-road equipment	Defaults, see table below	CalEEMod creates a default fleet based on site acreage.
7	Material imported	5,120 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 5 ft.
8	Material exported	5,120 cu yds	Estimate using area of depression from Google Earth and Assumed averaged depth of 5 ft.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Zero haul trips; material moved onsite to onsite. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	No other construction phases for this run.
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acreage

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Grading	Concrete Industrial Saws	1	8	81	0.73
2	Grading	Rubber Tired Dozers	1	1	247	0.4
3	Grading	Tractors/ Loaders/ Backhoes	2	6	97	0.37

- 3-64 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations (Attachment 2).

CalEEMod (v 2016.3.2) Assumptions Summary - Run for Project Without Mound Movement or Utilities

#	Parameter	Option Selected	Comments
1	Land use type	Commercial Industrial Parking Parking Parking	CalEEMod runs in Panamint document appendix.
2	Land use subtype	General Office Building Manufacturing Other Asphalt Surfaces Other Non-Asphalt Surfaces Parking Lot	CalEEMod runs in Panamint document appendix.
3	Project acreage	16.61	CalEEMod runs in Panamint document appendix.
4	Phase name/type	Site Preparation Grading Building Construction Paving Architectural Coating	Nothing at site, so demolition removed.
5	Start and end dates	1/7/2019 - 1/18/2019 (10 days) 1/19/2019 - 3/1/2019 (30 days) 3/2/2019 - 9/13/2019 (140 days) 3/2/2019 - 3/29/2019 (20 days) 8/17/2020 - 9/13/2020 (20 days)	180 days for construction.
6	Off-road equipment	CalEEMod defaults.	CalEEMod creates a default fleet based on site acreage.
7	Material imported	0	Mound movement in separate model run.
8	Material exported	0	Mound movement in separate model run.
9	Mean vehicle speed	7.1 mph	CalEEMod default.
10	Material moisture content, bulldozing	2%	Assume CalEEMod default not representative of desert conditions.
11	Material moisture content, truck loading	2%	Assume CalEEMod default not representative of desert conditions.
12	Average wind speed	2.6 m/s	Default value specified by CalEEMod for MDAQMD.
13	Material silt content	6.90%	CalEEMod default.
14	Trips and VMT parameters	24.3 miles for trips. Others defaults.	Distance to Ridgecrest.
15	Other construction parameters	Defaults	Use defaults for demolition, on-road fugitive dust, and architectural coatings
16	Operation and vegetation parameters	Defaults	Use default values for operational data.
17	Unpaved road moisture content	0.50%	CalEEMod runs in Panamint document appendix.
18	Unpaved road vehicle speed	15 mph	CalEEMod runs in Panamint document appendix.

CalEEMod Default Off-Road Equipment Units Based off of Construction Acreage

#	Phase	Equipment	Unit Amount	Hr/Day	HP	Load Factor
1	Demolition	Concrete/ Industrial Saws	1	8	81	0.73
2	Demolition	Excavators	3	8	158	0.38
3	Demolition	Rubber Tired Dozers	2	8	247	0.4
4	Site Preparation	Rubber Tired Dozers	3	8	247	0.4
5	Site Preparation	Tractors/ Loaders/ Backhoes	4	8	97	0.37
6	Grading	Excavators	2	8	158	0.38
7	Grading	Graders	1	8	187	0.41
8	Grading	Rubber Tired Dozers	1	8	247	0.4
9	Grading	Scrapers	2	8	367	0.48
10	Grading	Tractors/ Loaders/ Backhoes	2	8	97	0.37
11	Building Constructio n	Cranes	1	7	231	0.29
12	Building Constructio n	Forklifts	3	8	89	0.2
13	Building Constructio n	Generator Sets	1	8	84	0.74
14	Building Constructio n	Tractors/ Loaders/ Backhoes	3	7	97	0.37
15	Building Constructio n	Welders	1	8	46	0.45
16	Paving	Pavers	2	8	130	0.42
17	Paving	Paving Equipment	2	8	132	0.36
18	Paving	Rollers	2	8	80	0.38
19	Architectural Coating	Air Compressors	1	6	78	0.48

- 3-65 The table provided showing Yorke's calculations will be provided to the County decision-makers. However, this table reflects assumptions based on a different facility. The PVL analysis is specific to this facility design and project details, as detailed in the model runs and calculations provided in support of the IS/MND as well as the refined data provided herein which is reflected in the revised model runs and calculations (Attachment 2).



Attachment 02

April, 17, 2020

INITIAL STUDY FOR THE PANAMINT VALLEY LIMESTONE –CONDITIONAL USE PERMIT

Project Number (P201800477) (“Initial Study”)

From Goodin, MacBride, Squeri & Day, LLP (T. MacBride)

X. Hydrology and Water Quality

SUBSTANTIATION:

The Initial Study states that

Implementation of the proposed project will require 2.1 acre-feet per year (AFY) of potable water for domestic uses (i.e., for use in drinking fountains, bathrooms, and eye wash stations, etc.), and 39.9 AFY for its operational uses. The project is located within SDWC’s service area and PVL asked SDWC to provide water sufficient to meet all

of its domestic and operational needs. SDWC refused, and that issue is being addressed through a complaint proceeding pending before the California Public Utilities Commission. To ensure a water supply for the project, PVL drilled an on-site well that will provide water sufficient to meet the needs of the project, but the water will have to be cleaned to potable or near-potable quality for all operational uses. This environmental review addresses the impacts of PVL using its on-site well and receiving water from SDWC.

3-66

and

Potable (Domestic) Water

For potable or domestic water needs, PVL intends to obtain an estimated 1.3 gallons per minute (GPM) or 2.1 AFY of potable water from SDWC. The proposed project domestic water demands are approximately 0.9% of the total groundwater produced from the IWVGB that is delivered to SDWC. As such, the small domestic water demands of the project would be less than significant with the implementation of the following mitigation measure designed to minimize the impact to the IWVGB, which is currently experiencing overdraft conditions, thereby stressing the importance of water conservation.

and

Industrial (Process) Water

**3-66
cont'd**

PVL has constructed a groundwater well on the project site to supply the 39.9 AFY of water for the process demands. The on-site well is able to provide an estimated 30 gpm of water that will be treated to meet process water quality requirements. To assess the extent and degree of groundwater drawdown in response to project extraction at 30 gpm, a drawdown analysis was conducted (Appendix 5b). The impact analysis is based on continuous pumping rate of 30 gpm (approximately 49 AFY) on a 24-hour per day schedule for a 20-year period. DWR estimated that the groundwater storage capacity of the Searles Valley Groundwater Basin is approximately 2,140,000 AF (DWR, 2004). The test pumping rate of 49 AFY (approximately 10 AFY more than the project's process water needs) represents less than 0.003 percent of the Searles Valley Groundwater Basin storage capacity. As detailed in Appendix 5b, the continuous extraction of water through the new well operation will cause a cone of depression around the well with the highest amount of groundwater drawdown at the new well's location and less impact at distances farther from the well. At the distance of 2,000 ft, the groundwater table will be lowered by 0.5 ft after 20 years of nonstop pumping of the new well. This drop of the water table occurs only in response to this well's operation while the current condition of the water table is the superposition (contribution) of all drawdowns due to all other pumping wells active in the area. At 2,000 ft away from the new well, the groundwater table starts to drop after 10 hours of pumping the new well and the drawdown after 20 years at the same location is less than 0.5 ft. The results of this analysis indicate the drawdown of water table at the radius of approximately one mile from the well, after 20 years of continuous pumping at 30 gpm, is less than 6 inches. This is shown graphically on Exhibit X-1 below.

Comments:

Dispute Between Applicant and Searles Domestic Water Company ("SDWC")
over Supply of Potable Water

The Draft Initial Study states that Applicant will receive "potable or domestic water needs...[of]...1.3 gallons per minute (GPM) or 2.1 AFY...from SDWC."¹ Pursuant to SDWC's approved tariff with the California Public Utilities Commission ("CPUC"), that is the maximum amount of water (8000 cf/month) SDWC is obligated to provide to Applicant.

¹ Initial Study, p. 56.

- 3-66 Your comment, which appears to identify certain details provided in the IS/MND, and your representation of PVL's request for water from SDWC that preceded the complaint case before CPUC between PVL and SDWC, which has since concluded, is noted and will be provided to the County decision-makers. The resolution of that proceeding confirming the sources of domestic and operational water supply for the Project is discussed above under responses to comments 3-6, 3-7, 3-14, 3-21, and 3-22.



**3-66
cont'd**

Applicant, however, has also asked SDWC to provide “Industrial (Process) Water” to Applicant in an amount in excess of one million gallons of water per month.² Specifically, Applicant seeks a total of 42.3 AFY of potable water from SDWC. SDWC has refused to provide that volume of potable water to Applicant, relying on the CPUC-approved provision of its tariff permitting SDWC to limit water use by any customer to 8000 cf/month, roughly 2.2 AFY.

3-67

In response to SDWC’s refusal to provide Applicant such a large volume of potable water, Applicant instituted a “complaint proceeding pending before the California Public Utilities Commission”³ asking the CPUC to order SDWC to provide 42.3AFY of potable water to Applicant.⁴ In May of 2019, SDWC moved to dismiss the complaint for failure to state a cause of action. On March 27, 2020, the Presiding Officer in the CPUC proceeding issued a Presiding Officers Decision (“POD”) granting SDWC’s motion to dismiss Applicant’s complaint.⁵ If adopted by the full CPUC, the proceeding will come to an end. The proceeding before the CPUC has been pending since the end of 2018. The CPUC is expected to take action with regard to the POD this summer.

3-68

The pleadings, rulings and the POD in the CPUC proceeding may be viewed at:
https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5_PROCEEDING_SELECT:C1812012

SDWC Purchases of Potable Water From SVM

The Initial Study states that:

3-69

SDWC purchases water from SVM (SDWC is a wholly owned subsidiary of SVM), pursuant to a 30-year Water Purchase Agreement entered in 2015. The Water Purchase Agreement provides that “SVM agrees to sell SDWC up to 200,000,000 gallons per year [approximately 613.78 AFY] of SVM’s surplus water produced from its various wells.” However, SDWC reports that the amount of water it purchases each year from SVM varies, depending on demands within SDWC. SDWC reports that in 2018, it purchased 197 AF from SVM. Between 2010 and 2014, SDWC reports it purchased an average of 226 AFY, as reported by SDWC in their annual report. This water is pumped from the

² 39.9 AFY is equal to 1,1073,342 gallons/month.

³ Initial Study, p. 56.

⁴ Paragraph 5 of Applicant’s most recent Amended Complaint to the CPUC states that, Applicant seeks “26 gallons of water per minute to the lime plan...”

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M288/K330/288330397.PDF>

“26 gallons of water per minute” is equal to 42.3 AFY of potable water.

⁵ The POD and information about appealing the POD may be viewed at:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M330/K052/330052710.PDF>



Indian Wells Valley Groundwater Basin (IWVGB) and conveyed approximately 30 miles by pipeline to the Searles Valley for potable residential and commercial uses in Trona. PVL's on-site well draws water from the Searles Valley Groundwater Basin.⁶

Comments:

In 2016, the California Department of Water Resources ("DWR") issued its most recent assessment of threatened aquifers (groundwater basins) in California. DWR determined that the IWVGB (Basin 6-54), the aquifer from which SDWC's potable water supply is drawn, is one of twenty-one groundwater basins in California that is subject to "critical conditions of overdraft."⁷ Recent updates by DWR confirm that the condition continues today.⁸

Accordingly, pursuant to California's Sustainable Groundwater Management Act (SGMA)⁹, the Indian Wells Valley Groundwater Authority ("IWVGA") is in the process of adopting a Groundwater Sustainability Plan ("GSP") that is expected to sharply reduce the ability of SVM and others to pump water from the IWVGB.¹⁰ Chapter 5 of the GSP outlines the process to be followed in the amount of ground water that will be available to current pumpers including SVM.¹¹

The final allocations to pumpers are expected to be announced in June of 2020. The draft GSP points out the harsh reality faced by most pumpers from the IWVGB. Over four times as much water is being pumped out of the basis than is recharging it.¹² Moreover the US Navy, because of sovereign immunity, is not subject to any significant state restraints on pumping.¹³ Other pumpers, including SVM, expect sharp reductions

⁶ Initial Study, p. 56. Emphasis supplied.

⁷ *California's Groundwater; Working Toward Sustainability*, DWR Bulletin 118, Interim Update 2016, p. 12, Table 1. At page 8, DWR stated that:

(A) basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts."

https://water.ca.gov/LegacyFiles/groundwater/bulletin118/docs/Bulletin_118_Interim_Update_2016.pdf

⁸ <https://water.ca.gov/Programs/Groundwater-Management/Bulletin-118/Critically-Overdrafted-Basins>

⁹ California Water Code Section 10720 *et seq*

¹⁰ <https://iwvga.org/gsp-chapters>

¹¹ Chapter Five may be viewed at <https://static1.squarespace.com/static/5a70e98dd55b41f44cbb2be0/t/5dc20ebcc6f9485f714210d1/1572998857390/Section+5+-+Projects+and+Management+Actions.pdf>

¹² *Id* at Section 5.1

¹³ *Id* at Section 5.1.1.1.

**3-69
cont'd**

- 3-67 Your comment, which appears to summarize the procedural history of the complaint case before CPUC between PVL and SDWC, which has since concluded, is noted and will be provided to the County decision-makers. The resolution of that proceeding confirming the sources of domestic and operational water supply for the Project is discussed above under responses to comments 3-6, 3-7, 3-14, 3-21, and 3-22.
- 3-68 The link provided will be retained in the project file.
- 3-69 Your comment, and the links provided therein, are noted and will be provided to County decision-makers. The Final Draft of the IWWGB Groundwater Sustainability Plan, including section 5 thereof (identified in your comments as "Chapter 5"), was included as Appendix 5c to the IS/MND. Your description of the contractual water supply agreement between SVM and SDWC is also noted; however, as discussed above, the CPUC action between PVL and SDWC has concluded, confirming that SDWC will provide up to 8,000 cfs of potable water per month to PVL for its domestic water supply and PVL will obtain its non-potable operational water from its onsite well. Additionally, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, and 3-24, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression.



**3-69
cont'd**

of the volume of water they may pump from the IWVGB. There is no realistic possibility that any amount of the allocation to SVM could be characterized as “surplus.”

Under these circumstances, there is no likelihood that SDWC could prudently expect to increase its purchases from SVM by over 20% to accommodate Applicant’s request for “Industrial (Process) Water”. Moreover, it now appears highly unlikely that the PUC will require it to do so.

Applicants Mitigation Measures Are Wholly Insufficient to Offset Pumping of Process Water From the IWVGB

The Initial Study States that:

The State has identified the IWVGB as in “critical overdraft.” Based on the recently adopted Sustainable Groundwater Management Plan for the IWVGB, it is anticipated over the course of the next 20 years, many, if not all, groundwater producers in the IWVGB, including SVM, will be required to reduce their production of groundwater to eliminate the condition of critical overdraft no later than 2040. As such, should PVL obtain its process water needs from the IWVGB, mitigation measures HYD-1 through HYD-3 address and minimize the potentially significant impacts to the IWVGB that may result to a level of less than significant.¹⁴

The proposed mitigation measures are:

3-70

HYD-1 PVL shall offer Searles Domestic Water Company/Searles Valley Minerals funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its customers to offset 2.1-acrefeet of existing potable water demand.

HYD-2 Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site.

HYD-3 Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring

¹⁴ Initial Study, p. 58.

3-70 The responses to this comment are addressed above under response to comments 3-6, 3-21 and 3-22, which address the concerns raised in this comment fully. As noted herein, Applicant will utilize an onsite well—which is one of the two alternatives discussed in the IS/MND—to provide the operational/process water needs for the Project. Additionally, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, 3-24, and 3-69, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression. In light of the status of the pending complaint action at the time of the publication of the IS/MND, the County analyzed the Project under both potential outcomes. The Applicant and County acknowledge that the process water will not be obtained from SDWC. As discussed above, because the Applicant will obtain its operational/process water from its onsite well, mitigation measures HYD-1 and HYD-2 are rendered moot and need not be implemented.



**3-70
cont'd**

that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.¹⁵

Comments:

HYD-1 is apparently predicated on Applicant's successful drilling and operation of a well to satisfy its need for 39.9 AFY of process water. HYD-2 and HYD-2, however, are predicated on Applicant employing 39.9 AFY of water from the IWVGB as process water in Trona.

3-71

HYD-2 simply states that Applicant will, if possible, "utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site." It offers no estimation of the volume of water it could use in that fashion. Applicant, understandably, does not contend that its "landscape irrigation" requirements would come close to the over one million gallons a month (almost 1,400 gallons an hour) of potable water it seeks from SDWC and, ultimately, the IWVGB.

HYD-3 is simply a promise to "implement business practices that are consistent with [IWVGA]...conservation measures", apparently so long as they are "consistent with facility operational requirements."

Nothing in HYD-2 or HYD-3 offers a basis for concluding that they would significantly alleviate the effects of Applicant's substantial increased consumption of potable water from the IWVGB (through SDWC/SVM).

¹⁵ *Id* at p. 56, 60.

3-71 The responses to this comment are addressed above under response to comments 3-6, 3-21, 3-22, and 3-70. These responses address the concerns raised in this comment fully.



SAN BERNARDINO COUNTY
LAND USE SERVICES
PLANNING PROJECT NOTICE
385 North Arrowhead Avenue, First Floor, San Bernardino, CA 92415-0187

Referral Date:
July 31, 2019

ATTENTION PROPERTY OWNERS

Page 1 of 2

The development proposal listed below has been filed with County Planning. Please comment in the space below. You may attach additional pages as necessary.

Your comments must be received by Planning no later than August 14, 2019 to be sure that they are included in the final project action. However, comments will be taken up to the time of the project decision. Please refer to this project by the Applicant's name and the Assessor Parcel Number indicated below. If you have no comment, a reply is not necessary. If you have any questions regarding this proposal, please contact Planner, JIM MORRISSEY at (909) 387-4234 or mail your comments to the address above. If you wish, you may also FAX your comments to (909) 387-3223.

ASSESSOR PARCEL NUMBER: 0485-031-12 (See map below for more information)

PROJECT NUMBER: P201800477/CF

APPLICANT: PANAMINT VALLEY LIMESTONE INC

LAND USE DISTRICT (ZONING): IR

IN THE COMMUNITY OF: TRONA/1ST/ SUPERVISORIAL DISTRICT

LOCATED AT: 13057 ATHOL ST TRONA 92252

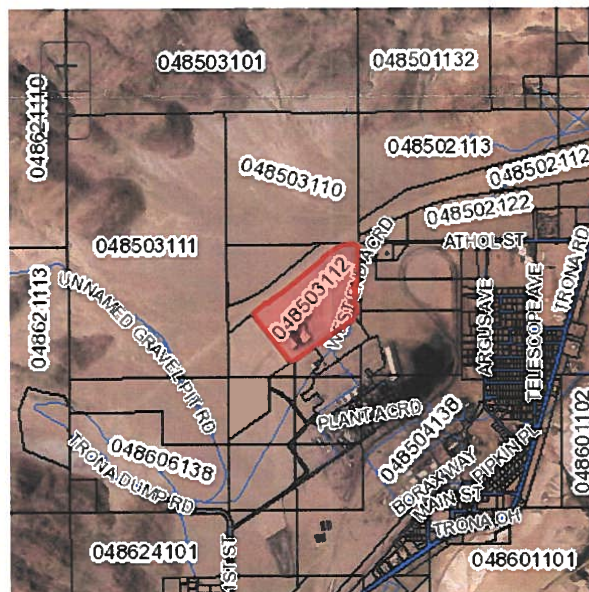
PROPOSAL: CONDITIONAL USE PERMIT TO ESTABLISH A LIME PROCESSING PLANT ON 62 ACRES IN TRONA. A MAJOR VARIANCE IS REQUIRED FOR THE 167-FOOT AIR EMISSIONS CONTROL STACK SINCE IT EXCEEDS THE 75-FOOT HIGH LIMIT AND 50% ADDITIONAL HEIGHT PERMITTED FOR TOWERS IN INDUSTRIAL DISTRICTS.

If you want to be notified of the project decision, please print your name clearly and legibly on this form and mail it to the address above along with a self-addressed, stamped envelope. All decisions are subject to an appeal period of ten (10) calendar days after an action is taken.

Comments (If you need additional space, please attach additional pages):

Please see
attached comments.

VICINITY MAP



SIGNATURE

ANOOP SUKUMARAN
MGR- SVM

DATE

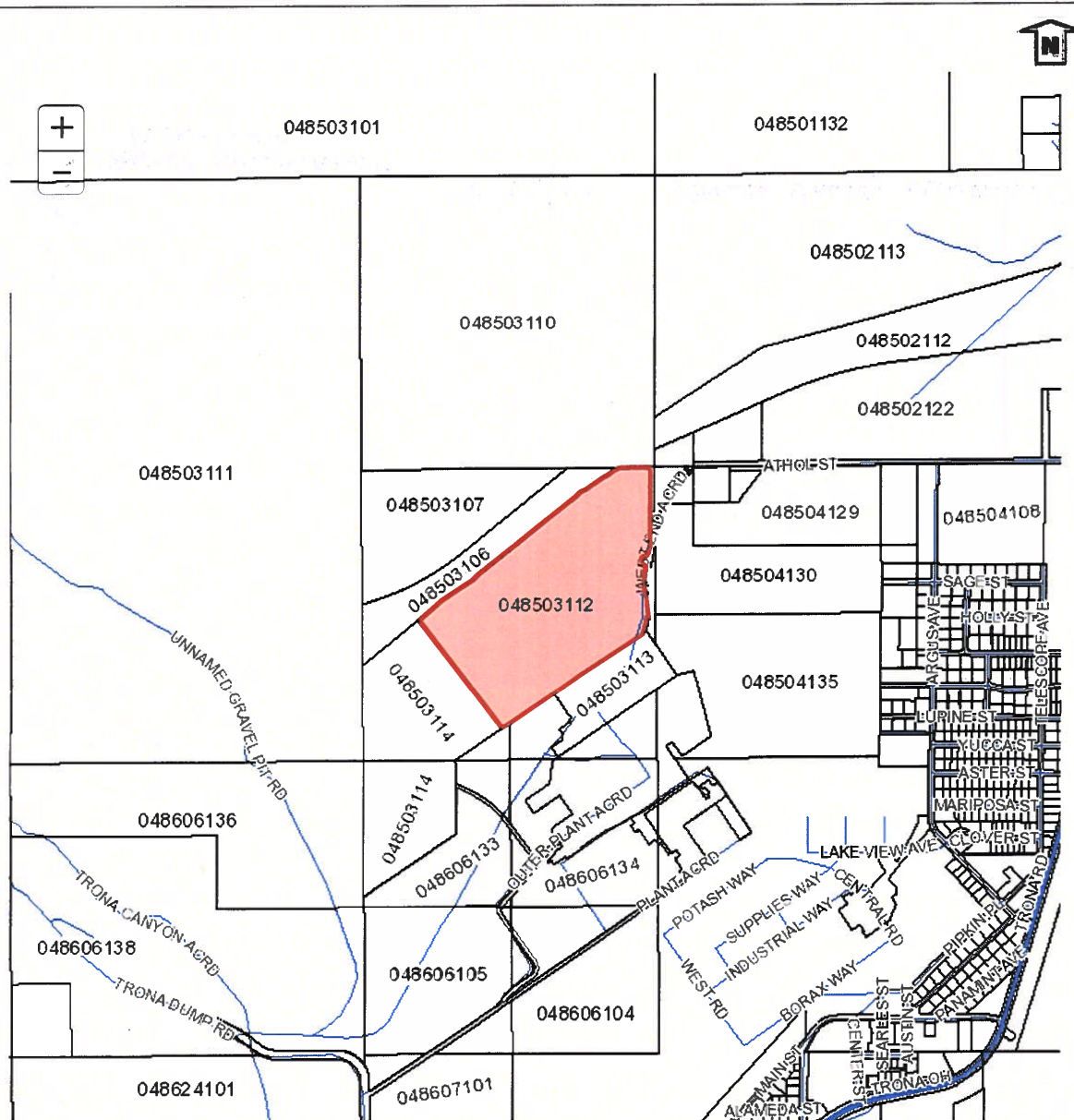
8/12/19

AGENCY

SEARLES VALLEY MINERALS

IF THIS DECISION IS CHALLENGED IN COURT, SUCH CHALLENGE MAY BE LIMITED TO ONLY THOSE ISSUES RAISED IN WRITING AND DELIVERED TO LAND USE SERVICES BEFORE THE PROJECT DECISION IS MADE.

IF A PUBLIC HEARING IS HELD ON THE PROPOSAL, YOU OR SOMEONE ELSE MUST HAVE RAISED THOSE ISSUES AT THE PUBLIC HEARING OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE HEARING BODY AT, OR PRIOR TO, THE HEARING. DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, TIME RESTRICTIONS MAY BE PLACED ON ORAL TESTIMONY AT ANY PUBLIC HEARING ABOUT THIS PROPOSAL. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.



August 12, 2019

San Bernardino County
Land Use Services
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Re: **Panamint Valley Limestone Inc., Assessor Parcel Number 0485-031-12**

3-72

Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Planning Project Notice dated July 31, 2019. This project (Project Number: P201800477/CF) seeks a major variance for a 167-foot air emissions control stack to be installed as part of a proposed lime processing plant on the site of a former fly ash pit (APN 0485-031-12).

3-73

1. This project (Project Number: P201800477/CF) is located in an area of the Mojave Desert Air Quality Management District (MDAQMD) which is classified as non-attainment for the California ozone standard (CAAQS) and non-attainment for both the California and Federal PM₁₀ standards. Since an air emissions control stack does not mitigate emissions, but only serves to disperse emissions, this project will increase air pollution in the MDAQMD.

3-74

2. This project (Project Number: P201800477/CF) proposes new manufacturing activities that trigger the California Environmental Quality Act (CEQA). Consequently, the air pollution loading caused by this project will have to be evaluated thoroughly prior to granting a major variance for an air emissions dispersal stack with the potential to contribute to significant deterioration in air quality within the MDAQMD. Such evaluation includes, but is not limited to, compliance with CAAQS, PM₁₀, and GHG (CO₂ emissions). Since USEPA has identified lime manufacturing as a major source of hazardous air pollutants (HAP), the lime manufacturing source category is subject to the national emission standards for hazardous air pollutants (NESHAPS); that is, lime plants are subject to emission standards reflecting the application of maximum achievable control technology (MACT). An air emissions stack does not fulfill MACT requirements.

3-75

3. This project (Project Number: P201800477/CF) will have a substantial adverse impact on the abutting property; especially, sensitive receptors in the adjacent neighborhood and nearby schools, medical clinic, libraries, churches and community centers that lie within the pollutant dispersal zone of the proposed air emissions stack.

3-76

4. This project (Project Number: P201800477/CF) proposes to establish a lime processing plant on a site that is landlocked by abutting properties. The 62-acre site is accessible only by a narrow, two-lane road called Athol Street. This narrow residential road passes through a residential neighborhood and along Trona High School and Trona Elementary School before intersecting another two-lane road named Trona Rd. All truck traffic to and from the lime processing plant will have to move along these two intersecting two-lane roads on a 24-hr basis to support

- 3-72 Thank you for your comment; as previously stated, the County staff has agreed to process the Project with a Major Variance to allow for the 167-foot tall kiln exhaust stack; though the ultimate decision to approve the proposed Project will be made by County decision-makers. The description of these specific parts of the Project is correct.
- 3-73 The data and analysis contained herein specifically addressing SVM's comments related to PM10, as well as the substantiating data contained in the Air Quality Impact Analysis (AQIA) and the updated calculations provided as Attachment 2, establish that the Project's emissions for criteria pollutants, and specifically PM10, will be below MDAQMD thresholds. This has been confirmed by additional modeling and analysis conducted in response to this and other comments made within this comment letter. Furthermore, in addition to the kiln exhaust stack, the Applicant will employ best available control measures (BACMs) to minimize emissions. As such, though this Project will increase pollutants emitted in the MDAQMD, the Project will not exceed MDAQMD thresholds, and as such will not result in a significant impact.
- 3-74 The Applicant acknowledges that lime plants may be subject to emissions standards reflecting the application of Maximum Achievable Control Technology (MACT). MACT is mainly a control mechanism to minimize hazardous air pollutants in the form of particulate matter (PM) to reduce the impact from fuel and contaminated raw material listed under the National Emission Standards for Hazardous Air Pollutants. This Project is below the MACT threshold requirement emissions (Attachment 2).

The commenter suggests that the Project must comply with the CAAQS, PM10 and GHG emissions. Using approved modeling and MDAQMD guidelines, PVL has calculated the emissions from the proposed lime plant, and the Applicant has conferred with MDAQMD and have determined that regulated emissions are below significance thresholds or in the case of GHG, are offset by the acquisition of registered credits. Please refer to the Air Quality and GHG emissions model results spreadsheet provided as Attachment 2 to these responses to comments.

The commenter suggests that the Project is subject to national emissions standards for hazardous air pollutants (NESHAPS). MDAQMD has evaluated the emissions from the proposed PVL lime plant and determined that the emissions are below the level in 40 CFR AAAAA that would make the plant subject to that regulation.

The commenter suggests that lime plants are subject to the application of MACT control technology; however, MACT control technology is applicable only if the plant triggers thresholds in 40 CFR Subpart AAAAA. According to MDAQMD, PVL does not trigger the 40 CFR Subpart AAAAA thresholds. Furthermore, per manufacturer's guarantees, dust emissions from each of the required processes will be controlled to a level below the applicable threshold.

Additionally, two factors mitigate the potential for hazardous emissions from the Project. First, the Applicant will use utility grade natural gas that has been certified by PG&E as non-hazardous. By precluding traditional fuels (coal and petcoke), the Applicant will eliminate the potential for contamination from heavy metals such as mercury, lead, and zinc. Second, the Applicant will use a sole source of limestone input under its strict control. There will be no potential for contamination from outside sources of raw material. The Applicant's lime will be composited, sampled, and tested to confirm no existence of hazardous levels of toxic contaminants above the CCR Title 22 threshold limits. As

outlined in the AQIA, provided as an Appendix to this IS/MND, and as shown in the emissions model provided as Attachment 2, and discussed herein, the Applicant will maintain low emissions rates—well below the MDAQMD thresholds—by the use of modern fabric material filters with some of the lowest breakthrough rates in the industry. The County notes that the “control stack” does not control anything. All emissions for this process are controlled and mitigated prior to entering the exhaust stack of the process.

- 3-75 Please refer to responses to comments 3-5 and 3-26. The issue that is raised in this comment is fully addressed in this response, specifically related to the fact that an HRA—relating to construction and operations—is not required for this Project (see Attachment 1).
- 3-76 SVM or its predecessor in interest originally sold the landlocked Project site to the Applicant’s predecessor in interest—ACE—without granting access to the site. Since the time of the property transfer, ACE has leased from SVM the property immediately adjacent to the Project site. When the ACE facility was in operation at the Project site, SVM permitted ACE to use an access route that traverses SVM’s property. SVM has not permitted the same access to the Applicant. As a result, the Applicant has finalized a dedication of a road easement through the County that extends Athol Street—the main site access road—to the north side of the Project site. The County Department of Public Works approved the Applicant’s traffic plan and thereby the Applicant’s proposed use of Athol Street. Additionally, the increase in traffic resulting from the Project will be similar to historical limestone and lime product truck traffic that existed when the Westend plant imported limestone from the Panamint Valley quarry and, after processing, exported lime from Westend. The impacts related to traffic, noise, and vibration were deemed less than significant with the implementation of mitigation in the IS/MND, which was published in the months since this letter was received.

3-76
cont'd

continuous operation of the lime processing plant. All limestone rock will have to be trucked to this site from a distant quarry. All processed lime will have to leave the site via the same two-lane road. This round-the-clock heavy-haul truck traffic will generate excessive traffic, noise, vibration and other disturbances for the residential neighborhoods and schools along the only road to this facility.

3-77

5. This project (Project Number: P201800477/CF) proposes to establish manufacturing activities that require a major variance for a 167-foot air emissions stack to be located on a previously disturbed 62 acre ash landfill site in a location near the epicenter of two recent major earthquakes; a 6.4 quake on July 4 and a 7.1 quake on July 5, 2019. These earthquakes heavily damaged buildings in Searles Valley, including properties abutting the proposed project site and buildings along the only available truck traffic routes of Athol Street and Trona Rd. Additionally, this area is subject to high seasonal winds that will place severe lateral loading on the proposed 17-story stack structure.

3-78

6. The proposed project site (Project Number: P201800477/CF) is a 62 acre former fly ash pit that was used by an adjacent, but now decommissioned, coal-fired electric power plant. The current Use Code for parcel APN 0485-031-12 is "Electrical Generation." The infrastructure required to put solar generated electric power onto the CA power grid via SCE is still in place and directly adjacent to APN 0485-031-12. A better and higher use of the 62-acre site would be as a solar energy plant. This is because Trona, CA has one of the highest insolation rates in North America. Today's efficient, fixed-tilt photovoltaic plants can generate 1 GWh/yr. per each 2.8 acre parcel. This means a 32-acre site can generate enough solar-based electricity for 1,000 average homes. This 62-acre site could generate enough electricity to power over 1,900 average homes in an area where Searles Valley's four neighboring communities total about 1,000 homes. The proposed lime processing plant will preclude generating solar energy on this former electrical generation site with its direct access to the electricity grid.

3-79

7. This proposed lime processing plant (Project Number: P201800477/CF) will require approximately 13.5 million gallons (approximately 42 acre feet) of potable water annually. The only source of potable water for Searles Valley is an aquifer in Indian Wells Valley, about 30 miles away. According to the State of California, that aquifer is in a critical overdraft condition and a Groundwater Authority (IWVGA) has been formed to develop a plan by January 2020, latest, to bring the aquifer back into equilibrium. The local water utility, Searles Domestic Water Company LLC, is unable to commit to supply the potable water that PVL estimates it needs for the proposed lime processing plant.

Respectfully submitted,

Searles Valley Minerals Inc.

By: 
Anoop Sukumaran
Manager-Environmental

- 3-77 The height of the stack is necessary due to the height of the equipment required to process lime. The Applicant is cognizant of the factors relevant to a variance, and the impacts that the recent earthquake had on the two taller stacks that are adjacent to the Project site: SVM's 190-foot stack, and ACE's 250 foot stack. While both of the existing stacks survived the recent earthquake, the Project will incorporate new design margins by following prudent engineering practices to better withstand any future earthquakes. We direct you to the Geology and Soils section of the IS/MND and the Geotechnical Investigation provided as Appendix 4a and 4b to the IS/MND, in which this topic was discussed and the impact of constructing the proposed 167-foot tall stack was determined to be less than significant with the incorporation of seismic design measures.
- 3-78 SVM's comment regarding the Project site's current "Electrical Generation" use designation and alternative energy production options for the Project site does not acknowledge that (1) the Project site is not connected to the ACE Cogeneration Facility's existing grid connection; (2) Southern California Edison decommissioned the ACE cogeneration facility's existing grid connection and has plans to remove the facilities before the end of 2019; and, (3) the County has indicated that it does not prefer to permit large solar plants at this time. As such, each of these items are hinderances to the suggestion that this Project site should be used to generate solar energy. The California grid has been struggling to address the surplus of electricity coming from solar power during periods when solar plants are at maximum generation.³ As a result, the Applicant does not have the ability to secure a profitable Power Purchase Agreement. Solar power is also outside of the Applicant's core business, which is mining and marketing limestone products. However, the Applicant is considering a small solar plant onsite to supply its own energy on a net metering basins, which remains cost effective, and serves to provide a renewable source of energy to the Project operations. Should a solar plant be developed onsite in the future, it would be a 2 megawatt PV system; the tall structures onsite will not interfere with the placement or output of the solar system and the Project orientation will avoid interfering with any neighboring solar facilities, should solar systems be constructed in the future at neighboring properties.
- 3-79 Please refer to the discussion under Hydrology and Water Quality in the IS/MND, which was published in the months since this letter was received. Since the time that this letter was received, the circumstances around the water demand at the project site have changed, as documented throughout these responses to comments. Refer to responses 3-6, 3-14, and 3-22. Following the initial submission of these comments, the IS/MND addressed the then-pending CPUC action regarding the scope of SDWC's obligation to provide water for the Project. Although the IS/MND circulated after this comment letter was submitted analyzed the impact resulting from the two potential outcomes of the CPUC proceeding, that matter has now been resolved, confirming that SDWC must provide up to 8,000 cubic feet of potable water per month to meet the Project's domestic water needs; Applicant will obtain its operational/industrial water supply from an onsite well. Furthermore, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, 3-24, 3-69 and 3-70, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt);

³ <https://www.latimes.com/projects/la-fi-electricity-solar/>

and (3) in storage for potential fire suppression. Based on the analysis extracted from the Hydrology and Water Quality section of the IS/MND, the circumstances surrounding SVM's concern regarding the Project's demand for potable water has been rectified, and the determination in the IS/MND regarding water supply was less than significant with mitigation incorporated.

December 20, 2019

Jim Morrissey, Contract Planner
909-387-4234
County of San Bernardino
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

**RE: NOTICE OF AVAILABILITY (NOA) / NOTICE OF INTENT (NOI) TO
ADOPT AN INITIAL STUDY / MITIGATED NEGATIVE DECLARATION
PANAMINT VALLEY LIMESTONE**

3-80 | Searles Valley Minerals Inc. submits the following comments in response to the SBC Land Use Services Draft Initial Study / Mitigated Negative Declaration (IS/MND) that identify and evaluate the environmental impacts of the Conditional Use Permit. This project (Project Number: P201800477) seek a conditional use permit to establish a lime processing plant and a major variance for a 167-foot high air emissions control stack that exceeds the 75-foot high limit, plus the additional 50% height permitted for towers in industrial districts; on approximately 62 acres; APN 0485-031-12.

3-81 | On August 12, 2019, Searles Valley Minerals (SVM) submitted comments in response to SBC Land Use Services planning project notice dated July 31, 2019 seeking a major variance for 167- foot air emissions stack to be installed as part of the lime processing plant. SVM in its comments outlined deleterious environmental impacts that need to be addressed as a part of the proposed lime processing plant.

3-82 | The purpose of this letter is to provide comments on the Panamint Valley Limestone (PVL) draft IS/MND published by SBC on their website. This letter will include SVM August 12, 2019 comments as an addendum that are still relevant to the IS/MND, additional comments developed by SVM directly through review of the IS/MND document and also separate comments from an environmental services firm (Yorke Engineering) that prepares CEQA air quality and GHG studies for projects, including industrial and mining projects, in multiple counties and Air Districts throughout California. Yorke Engineering

- 3-80 Thank you for your comment; the County staff has agreed to process the Project with a Major Variance to allow for the 167-foot tall kiln exhaust stack; though the ultimate decision to approve the proposed Project will be made by County decision-makers. Your description of these specific parts of the Project are correct.
- 3-81 The August 12, 2019 letter provided by SVM was received and reviewed by the Applicant and by the County. The Applicant responded to those comments in a letter dated August 23, 2019. Additionally, SVM has included this letter as an attachment to their Comment Letter and as such, has been responded to under responses 3-72 to 3-79.
- 3-82 This comment will be made available to County decision-makers for consideration prior to a decision on the proposed project. As stated in response 3-81, SVM has included this letter as an attachment to their Comment Letter and as such, has been responded to under responses 3-72 to 3-79. The purpose of SVM's Comment Letter on this Project is clear.



3-82 | was contracted by SVM to perform an independent review, specifically for the
cont'd | air quality (AQ) and GHG impact areas, in Project No. P201800477.

3-83 | For the AQ and GHG impact areas, Yorke was contracted to do a preliminary review only, not to attempt to reproduce the calculations. One of Yorke's first conclusions was that the AQ and GHG analysis that is presented in the draft IS/MND is not transparent, and there is insufficient documentation available for a third party to perform an independent analysis. As shown in the attached comments, Yorke has concluded that there is a high risk that the project does not meet the criteria to be approved under a mitigated negative declaration and that an EIR is needed to properly evaluate this project.

3-84 | While Yorke cannot establish with certainty that the emission and GHG significance thresholds have been exceeded by the project with mitigation, we can demonstrate that there is a potential problem and that there is not enough information to make a definitive determination. One of the requirements of the MND is that there be sufficient documentation to reach the necessary conclusion of less than significant impact with mitigation. If this conclusion cannot be reached, it is necessary for the county to reject the current draft IS/MND until it can be properly documented and re-issued, and/or reach a decision that an EIR is needed for this project (such that the project cannot be considered for county approval until the EIR is prepared and subjected to public review).

3-85 | For the AQ section, in addition to the Yorke concerns about lack of documentation and high risk that the mitigated project is still above the AQ significance thresholds, SVM would like to express an important concern about dust issues, which can have a direct impact on SVM operations and on residential neighbors. The dust control measures in the draft IS/MND are inadequate. To the extent that dust is not controlled and travels onto the SVM property, SVM will be unfairly blamed for this dust, and this is a significant problem in the context of stringent dust control standards under both MDAQMD requirements (already applied to SVM) and under the new AB 617 community protection programs that are currently being implemented.

3-86 | **Aesthetics**
Approval of the project includes a variance request for a stack height of 167 feet for the limestone kiln, which significantly exceeds the 75 feet normally allowed. The analysis concludes that this additional height can be mitigated by painting

- 3-83 SVM's comment regarding insufficient documentation of emissions calculations no longer applies as the CalEEMod Appendices were provided as part of Appendix 1 to the recirculated IS/MND. As such, an EIR is not a path that the County staff believes is required for this Project given that the IS/MND has demonstrated that, with mitigation, air quality and greenhouse gas impacts can be lowered below significance thresholds.
- 3-84 As demonstrated in the CalEEMod Appendices that were provided as part of Appendix 1 to the recirculated IS/MND, there is sufficient data provided to conclude that Air Quality and GHG impacts will not exceed significance thresholds. The County concludes that this Project meets the requirements to be processed as a Mitigated Negative Declaration (MND) as sufficient documentation as defined by CEQA has been provided in the IS/MND and these responses to comments. An EIR is not required because no impact category has been deemed potentially significant.
- 3-85 The Project is demonstrably below MDAQMD thresholds for all individual pollutants (NO_x, CO, SO_x, PM₁₀, PM_{2.5}, and VOC), as outlined in the Air Quality Impact Analysis (AQIA). Operational GHG emissions are mitigated below significance thresholds. The County understands SVM's concerns regarding fugitive dust. Mitigation Measures AIR-2, AIR-8 AIR-9, AIR-10, and response to comments incorporated measure AIR-11 have been added to the recirculated document to further minimize the fugitive dust concerns raised by SVM in this comment. Furthermore, PVL will be hauling in raw rock at 1"-3" size and placing it on disturbed areas. this method is used as cover to control dust at nearby Owen's Lake and from the old Argus ash pile on Searles Dry Lakebed and will further prevent fugitive dust issues that are common in the Community of Trona. With the implementation of the above mitigation measures and the raw rock cover onsite, the County believes that dust control prevention for the PVL Lime Plant Project will be effective.
- 3-86 As stated under response 3-77, the height of the stack is necessary due to the height of the equipment required to process lime. Please refer to the response under 3-77.



**3-86
cont'd**

the stack the color of the surrounding mountains. However, the draft Initial Study/Mitigated Negative Declaration (IS/MND) does not provide information on why such a tall stack is needed. Is this a design/engineering requirement for the equipment or is the extra stack needed to demonstrate compliance with air quality requirements (in which case, emissions could be causing more burden on a regional basis). An explanation of why the additional height is needed and if any other mitigations are feasible should be included in order to justify approval of the variance. SVM has previously submitted comments on the tall stack and related issues in the SVM August 2019 letter, which was in response to an earlier notification about this project at that time.

3-87

Biological Impacts

Potential Impacts to Biological Resources are discussed in Section IV of the Environmental Checklist of the IS/MND. Appendix 2 – Biological Analysis contains additional information. Upon review of Section IV and Appendix 2, insufficient evidence has been in the order to determine that the potential project impacts will be adequately mitigated has been provided.

3-88

The Biological Analysis in Appendix 2 cites a prior survey done by AECOM in 2012 for a proposed project (ACE Phoenix). Since that proposed project was withdrawn, it appears that the prior survey results were not published. Given the reliance that the Biological Analysis report places on that prior survey, it would be helpful if that 2012 survey report could be included as an Attachment to Appendix 2. It is unclear if the conclusions drawn from that prior survey applied only to the ash landfill area or also to power plant areas immediately adjacent to the closed landfill or surrounding lands. For instance, although the quality of the golden eagle foraging habitat is low in this area, this area is within range of golden eagle habitat, and the document lacks discussion of how the project could impact this species. There is also a stormwater retention basin planned, and the IS/MND lacks discussion of potential impacts such a body of water may have on migratory birds.

3-89

Proposed mitigation measure BIO-1 of the IS/MND indicates that a Fish and Game Code § 2081 Incidental Take Permit (ITP) will be obtained from the California Department of Fish and Wildlife (CDFW) for potential impacts to Mohave Ground Squirrel (MGS). We note that this CDFW ITP (or a Streambed Alteration Agreement) are not included in the list of needed approvals on page

- 3-87 Additional and revised mitigation measures to address biological resource concerns raised by CDFW were included in the recirculated IS/MND, including measures BIO-1 (revised), BIO-3 (additional), BIO-4 (revised in the IS/MND and revised herein), BIO-5 (additional and revised herein), BIO-6 (additional), BIO-7 (additional), BIO-8 (revised), BIO-9 (revised), and BIO-10 (additional and provided herein). These measures are deemed sufficient to ensure that impacts from the proposed project will be less than significant. Furthermore, the County concludes that there is sufficient evidence to make this determination.
- 3-88 Please refer to the discussion under response 3-51, which addresses migratory bird concerns and provides the additional mitigation measure BIO-10. Mitigation measure BIO-4 addresses potential impacts to golden eagle habitat. The AECOM surveys requested in this comment have since been made public as Appendices 2b, 2c, and 2d to the recirculated IS/MND. The added mitigation measures address any potential biological impacts related to the project and minimize impacts below significance thresholds.
- 3-89 Please refer to CDFW's previous Comment Letter prepared in December of 2019 and provided as an attachment to these responses to comments (Attachment 8). Based on the input from CDFW in their comment letter, the Mojave Ground Squirrel (MGS) mitigation identified in the IS/MND is deemed sufficient, particularly given that CDFW's Comment Letter provided in response to the recirculated IS/MND does not include any concerns related to MGS mitigation. Furthermore, the mitigation (BIO-1) was revised as part of the recirculated IS/MND. As such, no further alterations to the mitigation for MGS is required. Note that the Incidental Take Permit is provided on the list of approvals provided on Page 10 of the recirculated IS/MND.

**3-89
cont'd**

10 of the IS/MND. The proposed mitigation ratio for impacts to MGS for an unspecified number of acres in BIO-1 is 1:1. Based on input from the CDFW, the California Energy Commission (CEC) had indicated that a mitigation ratio of 5:1 for MGS would have been required for the proposed Ridgecrest Solar Power Project¹ within about 18 miles of this project site. Likewise, the Palmdale Hybrid Power Project² (PHPP) was required to provide MGS mitigation at a ratio of 2:1 for the power plant site and 3:1 for the transmission line, in spite of the fact that a prior MGS presence/absence survey of the power plant site had not found any MGS (note, costs for the purchase and administration of 665 acres of compensation lands for MGS mitigation for PHPP was estimated to be over ten million dollars in 2011). Due to these and other projects where more significant MGS mitigation was required, some evidence that CDFW agrees with the proposed 1:1 ratio for MGS in this area and/or that conducting of a protocol absence/presence survey would necessarily negate the need for mitigation, such as a letter from CDFW, should be provided in the IS/MND.

3-90**Hydrology and Water Quality Impacts**

Section X of the IS/MND indicates that the project will include a stormwater retention basin and a septic system. The list of approvals on page 10 of the IS/MND associated with these aspects should be more specific, e.g., rather than listing only the agency (Regional Water Quality Control Board, Region 6), this list should contain the specific permit or approval that is needed – i.e., the discussion indicates that a construction SWPPP/NPDES permit will be required. The list also indicates that permits will be needed from the County Environmental Health Service, which may include a septic system permit among others. For the stormwater retention basin, the list of approvals on page 10 indicates “This project will not require a WDR because zero discharge will leave the site.” In our experience, storm water detention ponds are somewhat controversial as to when they require Waste Discharge Requirements (WDRs). Some Regional Water Quality Control Boards (RWQCBs) tend to require any project with potential discharges of industrial pollutants to submit a Report of Waste Discharge, upon which they decide whether WDRs are required.

1 CEC, 2010. Staff Assessment and Draft Environmental Impact Statement and Draft Desert Conservation Area Plan Amendment for the Ridgecrest Solar Power Project. Condition of Certification BIO-12.

2 CEC, 2011. Commission Decision for the Palmdale Hybrid Power Project. Conditions of Certification BIO-19 and BIO-20.

- 3-90 The list of approvals provided on Page 10 was expanded to include additional details as part of the recirculated IS/MND. The list of approvals includes "Regional Water Quality Control Board, Region 6: WDRs for retention pond." Furthermore, the Lahonton Regional Water Quality Control Board (Region 6) was sent a copy of both the November 2019 IS/MND package and the recirculated IS/MND (the Comment Letter in response to the November 2019 document is attached to these responses to comments as Attachment 9). Their comment requested that the IS/MND address "that the landfill waste does not pose a threat to water quality with the proposed modifications to the parcel." This discussion was included as part of the recirculated IS/MND on page 55. No further action on this matter is required. Given that the Project is being processed by the County, septic tank permitting has been discussed internally as Conditions of Approval that the Applicant must complete prior to installation of any such systems.



**3-90
cont'd**

Additional information should be provided to confirm if anything more than only sediment would be contained in the storm water run-off. Has the Lahontan RWQCB approved the design of the retention basin and agreed that no WDRs are required? Some evidence that Lahontan RWQCB agrees, such as a letter from Lahontan RWQCB, should be provided in the IS/MND.

3-91

The IS/MND documentation is inadequate to make a finding of less than significant impact and hence the draft IS/MND is unacceptable in its current format and SVM requests that the county withdraw the draft IS/MND until it can be properly documented and re-issued .

3-92

If you have any questions regarding any of the documents submitted or the information contained therein, please do not hesitate to contact me at (760)-372-2547 or sukumara@svminerals.com.

Sincerely,

Anoop Sukumaran
Environmental Manager

Encl: August 12, 2019 SVM comments to SBC Land Use Conditional Use Permit.

Yorke Engineering technical expert comments on the PVL Initial Study/ Mitigated Negative Declaration (IS/MND) proposal AQ and GHG sections.

- 3-91 The County acknowledges that this is the opinion of SVM, and simply doesn't agree with this statement. The evidence and additional mitigation measures provided herein is sufficient to make a finding of a less than significant impact.
- 3-92 Thank you for your comments. The contact information provided in this comment will be retained in the Project file.

December 20, 2019

Mr. Anoop Sukumaran
Environmental Manager
Searles Valley Minerals
13200 Main Street
Trona, CA 93562
Work: (760) 372-2547
Fax: (760) 372-2130
E-mail: Sukumara@SVMinerals.com

Subject: Panamint Comment Letter on Air Quality and Greenhouse Gas

Dear Mr. Sukumaran:

3-93

Per your request, Yorke Engineering, LLC (Yorke) has reviewed the air quality (AQ) and greenhouse gas (GHG) sections, including an AQ Report provided as an attachment, for the Panamint Valley Limestone (Panamint) Draft Initial Study/Mitigated Negative Declaration (IS/MND). The purpose of this letter is to present technical comments on the adequacy of this information and analyses to determine the significance of the proposed project's impacts as required by the California Environmental Quality Act (CEQA). In order to qualify as an MND under CEQA, substantial evidence must be provided to fully demonstrate that these impacts will be mitigated to less than significant levels. If the project's impacts are not shown to be mitigated to less than significant levels, an Environmental Impact Report (EIR) must be prepared.

INTRODUCTION

3-94

Yorke is an environmental services firm that has extensive experience in AQ and GHG impact assessments. Yorke routinely prepares CEQA AQ and GHG studies for projects in California, including industrial and mining projects in multiple counties and Air Districts. Yorke has been contracted by SVM to review the AQ and GHG sections of the Panamint Draft IS/MND. Yorke staff who performed the review of these sections of the Draft IS/MND have over 20 years of experience in CEQA AQ and GHG studies.

3-95

As an initial note, the Draft IS/MND has insufficient documentation to reach any conclusion about the significance of the AQ and GHG impacts due to the proposed project. The AQ Report indicates that the design of the project is not complete, and that emission calculations will be provided in a future permit application. Some total emissions estimates are provided, but the document lacks the detailed information on what sources were included, how the emissions were calculated, and what construction activities or operations were assumed. Hence, it is not possible to conclude that the project AQ and GHG impacts are "less than significant with mitigation incorporated." The GHG findings also are not clearly substantiated, and it is unclear if the mitigation described will be sufficient in an MND context. The analyses clearly do not meet the standards for substantial evidence that have been established by recent court cases regarding the adequacy of AQ and GHG analyses and mitigation for CEQA documents.

3-96

If the project's impacts are not shown to be mitigated to less than significant, the project must proceed to an EIR and, if impacts are found to be significant after mitigation in the EIR, there must

- 3-93 The County understands Yorke Engineering, LLC's role as a secondary party reviewing the substance of the PVL Lime Plant IS/MND on behalf of Searles Valley Minerals (SVM). Furthermore, the County understands the CEQA process, and the distinction between making a finding of a less than significant impact under an MND versus making a finding of a significant impact in which an EIR must be prepared. The County believes that this Project should be processed as an MND.
- 3-94 The County understands the background of Yorke Engineering, LLC and its role as a secondary party reviewing the substance of the PVL Lime Plant IS/MND on behalf of SVM. Emissions were provided in recirculation.
- 3-95 Substantial evidence was provided herein and within the recirculated IS/MND to conclude that Air Quality and GHG impacts will not exceed significance thresholds. Yorke's comment regarding insufficient documentation of emissions calculations no longer applies as the CalEEMod Appendices were provided as part of Appendix 1 to the recirculated IS/MND. A refined set of models and calculations has been presented as part of these responses to comments (see Attachment 2), which confirm that the AQ and GHG impacts are less than significant with mitigation incorporated.
- 3-96 The County is familiar with the CEQA process, and understands the process for a Project to proceed to an EIR, and that, should one or more impact categories be found significant, an SOC would be required. The County has concluded that this Project, with mitigation, will not result in any significant impacts; therefore, this Project will be processed as an MND. Additional mitigation to minimize GHG and AQ emissions were provided as part of the recirculated IS/MND; this includes the following additional or revised mitigation measures: AIR-2 (additional), AIR-8 (additional), AIR-9 (additional), AIR-10 (additional), AIR-11 (additional provided herein), and AIR-12 (additional provided herein). The substantial evidence required to process a project such as this utilizing an MND has been provided as part of the public record, and has been made available to SVM and other interested parties prior to consideration of this Project before the County decision-makers.

**3-96
cont'd**

be a statement of overriding considerations (SOC). To meet the criteria for an MND, the applicant must demonstrate that the project impacts are less than significant with mitigation incorporated using detailed quantification, and qualitative arguments are not sufficient to fully inform the public or other agencies on the potential for impacts. In the SOC, it is possible to include qualitative factors and explanations that make the project benefits outweigh the significant impacts shown, but only after finding that the project has significant impacts that cannot feasibly be mitigated.

3-97

In this section of the technical comment letter, we start by listing required components of the AQ and GHG studies and then compare the Draft IS/MND to the required components for these sections.

MND AQ AND GHG STUDY REQUIRED COMPONENTS

To reach a finding of no significant impact with mitigation incorporated in an MND, the following steps are needed:

3-98

- A) Clear project description indicating the types, quantities, and operating characteristics of all emission sources and activities, addressing criteria pollutant, Toxic Air Contaminant (TAC), and GHG emissions, for both construction and operation of the project.
- B) Inclusion of all emission source categories and emission sources within each category, from both project stationary sources and project-related mobile source emissions.
- C) Use of valid emission calculation procedures for each source and activity.
- D) Selection of applicable emission significance thresholds and comparison of project emissions to these thresholds (for construction and operational phases).
- E) Evaluation of potential mitigation measures and quantification of their effect on the impacts.
- F) Calculation of all TAC emissions, including diesel particulate matter (DPM) from off-road mobile sources on the facility property, as well as off-site travel associated with the project.
- G) Identification of nearby residential, worker and sensitive receptors and determination of health risk impacts, and, if necessary, completion of a health risk assessment (HRA) addressing the impact of the project's TAC emissions.
- H) Sufficient information such that all analyses provided as part of the IS/MND can be verified to be accurate and complete.
- I) The operations listed in the MND must be complete to ensure all potential impacts have been analyzed and provide sufficient information such that it can be confirmed that future operations are consistent with the impact determinations.
- J) Identification of conditions that ensure the mitigation measures that are described in the MND will be implemented and are effective.

3-97 Your comment is noted and will be made to County decision-makers for consideration prior to a decision on the proposed Project.

3-98 As stated above, the County does not agree that all the components outlined in this comment are required to process this Project utilizing an MND under CEQA. A response to each letter component has been drafted as a good-faith effort to ensure that the maximum amount of substantiating data is provided to elucidate any confusion as to why an MND is the appropriate avenue in which to process this Project through CEQA.

A. Over the past 2 years the Applicant has developed and provided a comprehensive description of all processes within the Project boundaries, including the following: Authority to Construct Analysis (addressing NSR, NESHAPS, FOPs), BACT Analysis and continuing communications with MDAQMD reviewing equipment size, horsepower ratings, equipment location and detailed descriptions of the processes themselves. The Applicant has also continued to provide updates regarding any material refinements of the plan with respect to construction, operations, and equipment, as reflected in the recirculated IS/MND and these responses to comments.

B. The CalEEMod output reports were provided as part of Appendix 1. These reports fulfill the request made in this comment. Additionally, refer to the refined emissions model outputs provided in response to these comments as Attachment 2 to these responses to comments.

C. CalEEMod was utilized to calculate emissions for this Project. This is an acceptable means to determine Air Quality and GHG emissions within the MDAQMD.

D. The MDAQMD thresholds for industrial projects are shown in the following Table:

	Units	NOx	CO	SOx	PM10	PM2.5	VOC	GHG [CO2e]
Threshold	Daily [lbs]	137	548	137	82	65	137	548,000
	Annual [tons]	25	100	25	15	12	25	100,000

The analysis contained in the IS/MND, as well as the supporting discussion contained herein as further evidenced by the additional modeling and analysis performed and submitted in response to these comments, confirm that the Project does not exceed the thresholds listed above. This indicates that the Project would not have a significant impact on AQ or GHGs.

E. Mitigation measures AIR-1, AIR-3, AIR-4, AIR-6, and AIR-7 through 10 address Fugitive Dust. Fugitive dust contributes to particulate matter emissions. With the enhanced dust control mitigation measures listed above, construction and operational air pollution emissions are not expected to exceed MDAQMD CEQA thresholds for any pollutant even if the phases are under simultaneous construction. Regardless, the PM-10 non-attainment status of the Mojave Desert area requires that Best Available Control Measures (BACMs) be used as required by the Mojave AQMD Rule 403, which have been included as enforceable mitigation in the measures listed above. AIR-3 is intended to minimize diesel particulate matter; the technology is not currently available and financially feasible to commit to hydrogen/electric trucks and tractors; however, the Applicant is committed to minimizing emissions and as such will utilize clean air vehicles when it becomes financially feasible; we have seen this type of mitigation requested specifically by the AQMD on past projects. Mitigation measure AIR-5 also addresses truck-related emissions, and is intended to minimize diesel particulate matter. Mitigation measure AIR-11 enforces the MDAQMD's request that the Applicant prepare and submit a Dust Control Plan that will result in dust minimization during construction and operation. Mitigation measure AIR-12

ensures that low-emission, Tier-4 equipment will be used to minimize equipment-related air quality emissions.

F. All TAC emissions are addressed in the modeling and analysis provided with the recirculated IS/MND. These calculations are further addressed in the models and analysis that was re-run in response to these comments.

G. Please refer to responses to comments 3-5 and 3-26. The issue that is raised in this comment is fully addressed in this response, specifically related to the fact that an HRA—relating to construction and operations—is not required for this Project.

H. The CalEEMod output reports were provided as part of Appendix 1 and made available to SVM and Yorke as part of the recirculated IS/MND. As such, sufficient data has been provided such that the accuracy of these calculations can be verified. Yorke's recent Comment Letter suggests that the inputs that were utilized in the CalEEMod emissions calculations are incorrect, but this conclusion is based on assumptions from lime processing operations that have vast differences in operational scenarios when compared to the PVL Lime Plant Project as described herein. As such, the conclusions made by Yorke in this Comment Letter, as well as their April 2020 Comment Letter are inaccurate based on the discussions provided within these responses to comments. Moreover, the emissions models and calculations were re-run (see Attachment 2), further confirming the conclusions of the recirculated IS/MND.

I. Refer to response "**A**" above, which fully addresses the concerns raised in this comment.

J. The County will require the Applicant to adhere to the Mitigation Monitoring and Reporting Program (MMRP), which is provided as part of the Final IS/MND package. An implementation schedule and verification mechanism are provided for each mitigation measure, which includes all Air Quality and GHG measures.

MND AIR QUALITY STUDY – EVALUATION OF FINDINGS IN DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

Overview

The Draft IS/MND does not clearly demonstrate that the project has less than significant AQ impacts because there is insufficient documentation to quantify the emissions and impacts. The documentation is not transparent and is insufficient to allow a third party to reproduce the calculations.

3-99

1. Lack of clear project description.

- The project documentation does not include an adequate facility plot plan (plot plan is included but not legible and appears cursory), construction or operation equipment list, equipment specifications or control technology planned, or other items needed to understand the project.

3-100

2. Failure to include all emission source categories and sources within each category.

- The unpermitted emission sources, such as unpaved roads, storage piles, and similar sources have not been explicitly included.
- The on-site mobile sources appear to be underestimated.
- There is no equipment list and no clear picture of how all the site functions will be performed, including unloading, loading, bulldozing, and other functions.
- It is indicated that a solar array and battery storage facility may be included, but information is lacking on the size, grading, panel washing and maintenance activities, etc. that would be needed to determine impacts for this type of facility.

3-101

3. Emission calculation procedures not substantiated.

- There are no detailed emission calculations by source, including uncontrolled and controlled emission factors and assumptions used, and therefore emissions totals cannot be relied upon.
- Based on calculations derived from experience with similar projects at other sites (including a review of project documents for other projects on the County's website), the project operating emissions for NO_x and PM₁₀ appear to be underestimated by a factor of 1.5 to 2 or more (in each case). For PM₁₀, the factor is about 2-3, and Yorke reached this conclusion by looking at similar solid material handling facilities. For NO_x, Yorke looked at NO_x emissions from similar sources, and developed a specific example for this site (and concluded that the factor was 1.5 to 2). NO_x emissions from on-road vehicles, off-road vehicles, and the lime kiln were estimated to be in the range of 25 to 40 tons for the project. Emissions from on-road vehicles were estimated using the trip rates provided in the MND and EMFAC emission factors for on-road trucks. Emissions from off-road vehicles were estimated using the equipment in the MND and expected additional equipment that is likely to be needed (such as a dozer and water truck). Emissions were estimated using federal engine standards and 2,000 operating hours per year. Emissions from the lime kiln were estimated assuming the BTU rating and typical

- 3-99 Your comment is noted and will be made to County decision-makers for consideration prior to a decision on the proposed Project. Please review the response to Item 3-98 above. Upon review, the Plot Plan provided with the recirculated IS/MND appears legible. However, the Plot Plan and Site Plan Zones provided in the IS/MND as Figures 4 and 5 respectively are updated, as provided in these responses to clarify that a rock crusher is not required and will not be developed as part of this Project. The recirculated IS/MND includes a clear and detailed description of the Project, including details regarding the Site, construction and operation of the Project, equipment lists, construction and operation schedules, and other components of the proposed activity sufficient to allow a complete assessment of its environmental impacts. Modifications to the Project description have been in the nature of removing elements included and analyzing the Project.
- 3-100 Please review the response to Item 3-98 above. Additionally, since the initial receipt of this comment letter, additional information regarding the Project has been provided in the recirculated IS/MND that resolves the issue raised in this comment. With respect to the comment regarding a solar array, please review the response to Item 3-55 above, which addresses this issue.
- 3-101 Please review the response to Item 3-98 above, which addresses the majority of the concerns raised in this comment. Additionally, detailed calculations by source, including documentation of methods and assumptions, is included in the revised calculation sheets.

The emissions from plant operations were recalculated based on the plant Process Flow Diagrams, equipment specifications, and process rates prepared by ZAP Engineering—the plant design engineer. All emissions were calculated in accordance with MDAQMD methods, where available, or USEPA AP-42 methods when an MDAQMD method was not available.

Kiln emissions were recalculated based on the kiln manufacturer's data, and specifications provided by ZAP Engineering. Dust collector emissions were also calculated based on specifications provided by ZAP Engineering. On-road emissions were calculated using emissions factors for the actual truck fleet proposed by the project proponent, and the actual truck routes to be used in the operation of the facility. Emissions from off-road vehicles were calculated using the exact equipment fleet proposed by the project proponent.

The commenter cannot draw a valid inference about the appropriate design of this particular facility based on permits for a different facility with a different design located in a different state, nor do such comparisons create a valid shortcoming of the MND or calculations. All sources included in the proposed Project have been accounted for. Permitted stationary source emissions, fugitive dust emissions, operational mobile source emissions, and area source emissions have all been quantified using accepted practice. No water truck is to be used onsite, so no water truck was included in the emissions calculations. Emissions calculations were performed in consultation with MDAQMD, and with the same methods as were used for permitting calculations. With all emissions included, no criteria pollutants exceed applicable MDAQMD significance thresholds.

Additionally, EMFAC emission factors for on-road trucks were reviewed and approved by MDAQMD.

**3-101
cont'd**

NO_x emission factor. The range of emissions in this estimation depends on the tier level of off-road vehicles considered and other factors (which were estimated in the example).

3-102

4. Comparison to emission thresholds may have reached an incorrect conclusion.

- Based on potential missing emission sources and underestimated emissions by source, the comparison to emissions significance thresholds is likely not accurate to establish that the project has a less than significant impact.

3-103

5. Evaluation of mitigation measures incomplete.

- Six AQ mitigation measures are listed but the reductions achieved by these measures have not been quantified. In addition, mitigation measure benefits cannot be accurately estimated if emissions without mitigation are not correctly assessed.
- It is not clear how the proposed mitigation measures will be enforced.

3-104

6. TAC emission calculations or description/analysis of the potential for health risks are not provided.

- DPM from construction equipment and from trucks and emergency generators during operation can have a substantial health risk on nearby receptors, not to mention TACs from the calciner, other combustion sources, and fugitive dust.
- There was no screening HRA performed, and hence a conclusion cannot be reached about exposure to sensitive receptors.

3-105

7. Insufficient information is provided to be able to tell if future operations will be consistent with those analyzed.

- Because the project is not well defined and documented in the Draft IS/MND, it would be impossible to determine once built if project changes are within the envelope of the impact analysis.

MND GHG STUDY – EVALUATION OF FINDINGS IN THE DRAFT IS/MND RELATIVE TO THE ABOVE REQUIREMENTS

3-106

In addition to the issues noted above for the AQ study, the GHG mitigation measures presented are qualitative only and hence are insufficient to demonstrate that the project has been mitigated to less than significant impacts. Furthermore, it is unclear how unsubstantiated statements about California Air Resources Board (ARB) determinations provide actual GHG mitigation for the project.

8. GHG – Comments linked to AQ comments above.

- Given that the GHG emission calculations are directly tied to the project understanding and the operating characteristics used for the criteria pollutant emission calculations, the comments under #1, #2, and #3 above also apply to the GHG section.

3-107

9. GHG – Incorrect significance criteria value.

- 3-102 The CalEEMod output reports were provided as part of Appendix 1 and made available to SVM and Yorke as part of the recirculated IS/MND. As discussed in responses to comments above, the current calculations include all emissions sources, and emissions are calculated using MDAQMD guidance and accepted practice (see Attachment 2). All criteria pollutants are below significance thresholds, and GHG emissions are proposed to be mitigated to below significance thresholds.
- 3-103 This comment has been responded to under response 3-98 “E.” and “J.” Please refer back to this response for a complete discussion of the concerns raised in this comment.
- 3-104 Please refer to responses to comments 3-5 and 3-26. The issue that is raised in this comment is fully addressed in this response, specifically related to the fact that an HRA—relating to construction and operations—is not required for this Project.
- 3-105 Please refer back to response 3-98 “E.” and “J.”, which outline that sufficient data is provided to demonstrate consistency within the CalEEMod output reports and the Air Quality and GHG impact analyses. The Project analysis was performed at the maximum design capacity of the facility. No future increases are anticipated, as the facility cannot physically accommodate a higher production rate.
- 3-106 The current calculations include GHG emissions for all emissions sources, and emissions are calculated using MDAQMD guidance and accepted practice. GHG emissions are proposed to be mitigated to below significance thresholds
- 3-107 The GHG significance criteria value has been corrected as part of the recirculated IS/MND to tons per year. In response to bullet number 2, the County hereby corrects the record to reflect that the items “a)” and “b)” should be marked as “Less Than Significant With Mitigation Incorporated” on page 46. Under Environmental Factors Potentially Affected on page 11 of the recirculated IS/MND, the box for Greenhouse Gas Emissions is checked indicating that mitigation is required to reduce impacts below significance thresholds.

**3-107
cont'd**

- The GHG significance criteria value published by MDAQMD for direct and indirect emissions from projects is 100,000 tons/year of carbon dioxide equivalents (CO₂e), not 100,000 metric tons (MT)/year.
- The box for GHG emissions on page 12 should also be checked as a potentially significant impact requiring mitigation.

10. GHG – Not demonstrated to be sufficiently mitigated.

3-108

- The MND document indicates that the GHG emissions will exceed the significance threshold established by MDAQMD for projects.
- The GHG threshold exceedance may be exacerbated given the issues discussed above for AQ, such as ensuring a complete source inventory is included and emissions calculated correctly.
- Although some potential mitigation is discussed, quantification of these reductions is not provided, so it is impossible to know if the measures have adequately mitigated the GHG emissions. For instance, there is a discussion provided that by locating this facility closer to the end users of lime products, that GHG emissions related to transportation of these products from other locations will be reduced. While this reduction may be true, the amount of GHG emissions reduced must be quantified in order to demonstrate that the project GHG emissions have been sufficiently mitigated. We note that such a study would be extremely complex, involving economic and other analyses, to show where the lime comes from now and how that would change with and without the proposed project.
- The GHG section (including Exhibit 2 in the AQ Report) also indicates that there have been discussions with the ARB, but it is unclear how the ARB support of the project or proposed regulatory changes for lime plants is considered to be mitigation. No specifics on how GHG emissions are reduced is provided.
- There is also some indication that the project will receive some allocations in the Assembly Bill 32 Cap and Trade Program, but again, it is not clear how much of the project GHG emissions would be subject to this program, e.g., mobile sources would not be subject, and there is no substantial evidence provided to show that participation would sufficiently mitigate the project's GHG emissions to a level of less than significant.

CONCLUSION

3-109

As noted above, we did not find sufficient information to determine if all potential sources of AQ and GHG emissions have been included and could not replicate emissions calculations based on the information provided. No information was provided on TAC emissions and the potential health risks from TAC emissions. Emissions estimates provided appear lower than expected (based on experience with similar projects), and hence the significance of the emissions may not have been adequately characterized and mitigated. For both criteria pollutants and GHG, the benefits of the mitigation measures were not quantified, and not shown to mitigate the emissions to less than significant. The mitigation measures included for AQ impacts were vague and may not be enforceable. The mitigation measures included for GHG impacts were based on unsubstantiated

3-108 The majority of the concerns raised in this comment have been addressed as part of the recirculated IS/MND, and within these responses to comments.

- Response to bullet point 1: The discussion under Greenhouse Gas in the recirculated IS/MND (page 46 to 50) indicates that, through implementation of mitigation in the form of ERCs, the Project would not exceed MDAQMD thresholds. Furthermore, the MDAQMD has concurred with the use of this mitigation and with the analysis contained in the Air Quality and GHG impact discussions (Subsections III and VIII of the recirculated IS/MND) and the Air Quality and GHG Impact Analysis provided as Appendix 1 to the recirculated IS/MND.
- Response to bullet point 2: Project GHG emissions are calculated clearly in accordance with accepted models and practices. As previously stated, the CalEEMod output reports were provided as part of Appendix 1 to the recirculated IS/MND. Furthermore, the responses herein confirm that the emissions sources were calculated correctly for the Project, as evidenced by the revised models and calculations presented as part of these responses to comments (see Attachment 2).
- Response to bullet point 3: The use of the comparative emissions reduction based on trip generation has been included as part of the GHG discussion on pages 49-50 of the recirculated IS/MND; however, the recirculated IS/MND does not claim that the comparative reduction would offset GHG emissions. This discussion demonstrates the comparative benefit to overall GHG emissions through the reduction in trip length in getting lime products to the California marketplace from within California, as opposed to the current circumstances in which all lime manufacturers are located outside of California. This comparative analysis does not serve as mitigation to reduce overall GHG emissions below thresholds as this comment suggests.
- Response to bullet point 4: CARB revised Table 8-1 of the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to include Lime Manufacturing. As shown in the recirculated IS/MND, and as discussed in responses to comments above, GHG emissions will be mitigated to below significance levels by the purchase and retirement of SJVAPCD EPA-approved CO₂e Emissions Reductions Credits. This credit bank was established specifically for the purpose of providing offsets for CEQA mitigation purposes. Emissions credits are, as previously stated, an acceptable means of mitigation to MDAQMD.
- Response to bullet point 5: The Project does not intend to utilize the Cap and Trade Program as a means to mitigate GHG emissions, but is mentioned to demonstrate compliance with a statewide GHG reduction mandate.

3-109 The CalEEMod output reports were provided as part of Appendix 1 to the recirculated IS/MND, which has enabled Yorke to replicate the emissions calculations. As stated under response 3-5, an HRA is not believed to be necessary by the County or MDAQMD for a Project of this type in this area. Communication with the Air District (MDAQMD), confirms that the HRA will not require an HRA for this Project (See Attachment 2). Additionally, refer back to response 3-98, which indicates how mitigation will be enforced (refer to MMRP) and what purpose they will serve; as such the County staff disagreed with the suggestion that the mitigation measures are vague and not enforceable. Please refer to the response under 3-12, which addresses why this IS/MND has provided substantial evidence as required by CEQA. As previously stated, the County staff believe that the responses herein demonstrate that an EIR is not required for this Project, and that any perceived factual errors are either unsubstantiated or are demonstrated to be factual within these responses to comments.

Mr. Anoop Sukumaran

December 20, 2019

Page 6 of 6

**3-109
cont'd**

statements. The Draft IS/MND did not meet the burden of substantial evidence required by CEQA to claim that AQ and GHG impacts were mitigated, and that AQ and GHG impacts were less than significant with mitigation incorporated.

3-110

Should you have any questions or concerns, please contact me at (949) 248-8490 x244.

Sincerely,

A handwritten signature in black ink that reads "A McQueen". The signature is written in a cursive, flowing style.

Anne McQueen, Ph.D., P.E.

Principal Engineer

Yorke Engineering, LLC

AMcQueen@YorkeEngr.com

3-110 The contact information provided in this comment shall be retained in the Project file.



January 23, 2020

Mr. Jim Morrissey, Planner
Mr. Chris Warrick, Supervising Planner
San Bernardino County
Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187

Dear Mr. Morrissey and Mr. Warrick:

3-111

This letter is an addendum to the comments submitted by Searles Valley Minerals Inc. (SVM) in its letter dated December 20, 2019 in response to the SBC Land Services Draft Initial Study/Mitigated Negative Declaration (IS/MND) that identifies and evaluates the environmental impacts to a proposed Conditional Use Permit for Project Number: P201800477, a Lime Processing Plant. Upon further review of the IS/MND, SVM has identified additional material factual errors that should be corrected even though the comment period has expired.

Overstatement of SVM Water Deliveries to SDWC

3-112

1. On page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the document states that SVM pumps approximately 2,500 acre feet per year (AFY) from the Indian Wells Valley Groundwater Basin (IWVGB) and delivers "approximately 1,800 AFY to 1,900 AFY" of potable water to Searles Domestic Water Company (SDWC). This is a material, factual error. SVM does not deliver anything close to 1,800 AFY to 1,900 AFY of potable water to SDWC. While in recent years SVM has pumped about 2,650 AFY from the IWVGB, the actual quantity of water delivered in recent years by SVM to SDWC is about 197 AFY, one tenth of the amount stated in the IS/MND. The amount of water purchased by SDWC can be verified by a review of its annual reports filed with the CPUC and available on the CPUC's website.

<ftp://ftp.cpuc.ca.gov/waterannualreports/Water%20Division/Annual%20Reports/>

Potable Water Required by Project

3-113

2. Also, on page 47, in subparagraph b) of Substantiation of Section X. Hydrology and Water Quality, the report states that the "proposed project's 1.3 gpm consumption of potable water equates to approximately 2.1-acre feet per year." That volume is sharply inconsistent with the demand for potable water set forth in a formal complaint the project applicant, Panamint Valley Limestone ("PVL") filed with the California Public Utilities Commission (CPUC) on December 13, 2018. The complaint, docketed as Case No. 18-12-012, has been amended twice but all versions of it ask the CPUC to issue an order "(d)irecting SDWC to provide the requested water service to the Subject Property in an amount of approximately 26 gallons per minute [42AFY]."¹ Attached is a copy of a Declaration dated May 2019 by

¹ Second Amended Complaint (May 6, 2019), Part V.b. at p.10.

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M288/K330/288330397.PDF>

- 3-111 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The County understands SVM's purpose for the submission of this Comment Letter on the IS/MND circulated in 2019.
- 3-112 The statement in this comment regarding the amount of potable water SDWC delivers was corrected as part of the recirculated IS/MND stating on page 56 that "SDWC reports that in 2018, it purchased 197 AF from SVM. Between 2010 and 2014, SDWC reports it purchased an average of 226 AFY, as reported by SDWC in their annual report." The link provided in this comment shall be retained in the Project file.
- 3-113 As stated throughout these response to comments, the County understands the circumstances surrounding the water supply have changed. The discussion of potable and industrial process water required for this Project are discussed on pages 55-58 of the recirculated IS/MND, and are further clarified throughout these responses to comments. The County staff understand that the Applicant will utilize an onsite well to supply the industrial process water onsite (39.9 AFY), and will obtain domestic water from SDWC in the amount of 2.1 AFY. Furthermore, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, 3-24, 3-69, 3-70, and 3-79, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression.



**3-113
cont'd**

Shawn Barker, President of PVL, in which he states under penalty of perjury that his prior demand for potable water for the project of 40 gpm was in error and that “the actual water demand to operate the Subject Property would be approximately 26 gallons per minute”, twenty times the 1.3 gpm of potable water relied on in the IS/MND. The Complaint is available on the CPUC’s website.²

Inconsistencies Between PVL Projections of Potable Water Requirements for Project

3-114

3. On page 66, in subparagraph b) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether there are sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. The IS/MND does not, however discuss whether or not there are sufficient water supplies to sustain this project and reasonably foreseeable future development during normal, dry and multiple dry years. Instead (p.67), it relies on the discussion of Hydrology set forth at Section X of the IS/MND.

3-115

As asserted in sections 1 and 2 of this addendum, however, Section X relies on PVL’s factually inaccurate and seemingly contradictory water use information. PVL has presented different projections to two government agencies, the CPUC and the San Bernardino County Land Use Services Department/Planning Division (SBC). That is why the volume of potable water projected in Section X (2.1 AFY), is one-twentieth of the volume cited to the CPUC, 26 gpm (42 AFY). The IS/MND (p.48) indicates that PVL will drill a 26 gpm – 50 gpm³ well (pg. 24) to acquire brackish water which it will treat to meet its needs.

3-116

The 26 gpm (42 AFY) required for PVL’s project has been variously identified as potable water, non-potable water, industrial water, process water, treated brackish water and water. These are distinctions without a difference and are consequently misleading. The fact that PVL’s representation of its minimum potable water need of 26 gpm (42 AFY) has been represented differently to different government agencies is unfortunate but does not alter the fact that the project requires, at least, 26 gpm (42 AFY) of potable water and has provisioned for pumping 26 gpm – 50 gpm of water.

Effect of New Potable Water Service to Project on the Environment

3-117

4. On page 66, in subparagraph a) of Substantiation of Section XIX. Utilities and Service Systems, the IS/MND evaluates whether the construction of the project will require new water facilities the construction of which could cause significant environmental damage. As set forth in Section 2 and 3 *supra* above, Panamint Valley Limestone has previously stated that it will require (and has requested) 26 gpm (42 AFY) of potable water. Providing that volume of potable water will require at least a 20% increase in the potable water that SDWC will require from SVM. SVM has informed SDWC that SDWC cannot assume that SVM will be able to supply SDWC an additional 42 AFY for any purpose. The basis for SVM’s view is well known to anyone conversant with groundwater conditions in this region of California. According to the California Department of Water Resources (DWR), the IWVGB (Basin 6-54) the sole source of the potable water SVM delivers to SDWC, is one of twenty-one groundwater basins in California that are subject to “critical conditions of overdraft.” (DWR Bulletin 118, Interim Update 2016, p. 12, Table 1, page 8.) Groundwater pumping from the basin is over three times the volume of the

² See link at footnote 2 *supra*.

³ 26 gpm – 50 gpm is equal to roughly 42-80 AFY

- 3-114 The recirculated IS/MND discusses that the Project will obtain industrial process water from the Searles Valley Groundwater Basin (SVGB), which has a storage capacity of approximately 2,140,000 AF. The groundwater in the SVGB is generally not considered to be a potable water source because of the historical contamination from industrial activities that occur within the Basin area. However, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, 3-24, 3-69, 3-70, 3-79, 3-113, above, and response to comment 5-3 below, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression. Thus, the groundwater extracted from the onsite will not require treatment in order to be used in support of project operations. Ultimately, there is more than sufficient water available in the SVGB during normal, dry, and multiple dry years. A discussion of potable water requirements from SDWC, which obtains water from the IWVGB, is included on pages 55-58 of the recirculated IS/MND. Furthermore, mitigation measure HYD-1 would ensure that the Applicant will contribute to water conservation efforts through offering to provide funds to SDWC intended to replace domestic water equipment within its service area.
- 3-115 As stated in throughout these responses to comments, specifically in response to comments 3-14 and 3-22, etc., the recirculated IS/MND and these responses to comments have corrected the amount of water requested from SDWC and the amount of water that will be obtained from the well that has been developed to serve Project operations onsite.
- 3-116 Please refer to responses 3-113, 3-114, and 3-115 above. The recirculated IS/MND includes two scenarios regarding the source of the required water supply because, at the time it was published, the CPUC had not yet resolved the issues presented in the Complaint case brought by PVL against SDWC in relation to the request for water service. As such, the recirculated IS/MND contemplated obtaining all water required for operations from SDWC, and also contemplated a mixture of water sources. Since publication, the CPUC resolved the Complaint case and issued a decision ordering SDWC to provide water to meet the Project's domestic need and dismissed the action. As such, and as stated above under response 3-113, the Applicant will utilize an onsite well to supply the operational water onsite (anticipated to be far less than the projected demand of 39.9 AFY listed in the IS/MND), and will obtain domestic water from SDWC in the amount of 2.1 AFY.
- 3-117 The Indian Wells Valley Groundwater Authority (IWVGA) had not yet published their Groundwater Sustainability Plan (GSP) at the time the IS/MND was circulated in 2019. However, the recirculated IS/MND includes a robust discussion of the GSP on pages 59-60, and includes a copy of the draft GSP as an attachment. The County staff understands the state of the IWVGB, and concludes that the Project's demand of potable water will be less than significant with conservation mitigation measure HYD-1.



**3-117
cont'd**

basin's natural volume of recharge. Continued overdrafting of the basin will result in undesirable results as defined in the SGMA legislation section 10721, such as chronic lowering of groundwater levels, significant reduction of groundwater storage, degraded water quality, and localized land subsidence.

Future Substantial Reductions in the Volume of Potable Groundwater to the Project Location

3-118

5. As noted above, PVL's actual water requirement of, at least, 26 gpm (42 AFY) has the potential to increase the water demand on SDWC by over 20%. A demand on pumped groundwater of this magnitude would have a potentially significant environmental impact on the IWVGB which DWR has found to be in a state of "critical overdraft". This critical overdraft is likely well known to SBC since Mr. Robert Page, Registrar of Voters, San Bernardino County and Director, Indian Wells Valley Groundwater Authority (IWVGA), voted recently in favor of the IWVGA's Groundwater Sustainability Plan (GSP) that calls for drastic reductions in groundwater pumping from the IWVGB by agriculture, business, industry and various water districts. After the date for comments on the IS/MND, the IWVGA adopted the draft GSP and it is now operative.

3-119

The numbers showing the critical condition of overdraft in the IWVGB are dramatic. The GSP calls for a reduction in pumping from the IWVGB from the current total of 27,750 AFY (average from 2010-2015) to 7650 AFY (the current recharge volume) by 2040, a 72% reduction in pumping. According to the GSP, based upon California water rights, beneficial uses, and pumping history from 2010 to 2014 inclusive, entities that today pump water from the IWVGB will be eligible to receive an annual allocation of the safe yield of water (7650 AFY), if any. Those entities not granted an allocation will be granted access to a single-use, non-transferrable, one-time portion of a transient pool of no more than 51,000 acre-feet total for all pumpers. Once this water has been consumed, the pool will cease. PVL's demand for 26 gpm (42 AFY) from SDWC, in a matter now before the CPUC, is tantamount to a circumvention of the GSP just as it is being implemented. In fact, the 42 AFY of water that PVL is seeking from SDWC exceeds the current pumping of three agricultural entities that will be required to reduce or end pumping under the recently approved GSP.

3-120

With the exception of the US Navy Base, all current pumpers in the basin, including SVM, will be required to make drastic water pumping reductions to meet the greater than 70% pumping reductions required to eliminate the condition of critical overdraft no later than CY2040. This is factual and foreseeable, not conjectural, and is a result of the actions mandated by the Sustainable Groundwater Management Act (SGMA) and the resulting GSP and its mandated pumping allocations and conservation measures. All of this information is public and available online at <https://iwvga.org/gsp-chapters>.

CEQA Precludes a Modified Negative Declaration With Regard to The Project

3-121

6. Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act states that the Lead Agency, understood here to be SBC, "shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." PVL is demanding 42AFY from SDWC, in its case before the CPUC. The demand, if realized, would result in a reasonably foreseeable physical change to the environment. This physical change to the environment will result when SDWC attempts to serve PVL's demand for significant additional pumping from the IWVGB which is in a condition of critical overdraft and which the IWVGA now seeks to mitigate with a

- 3-118 This comment no longer applies given that the Applicant will not obtain industrial process water from SDWC. Please refer to response to comment 3-117 for a discussion of the IWWGA's GSP. Furthermore, as stated under responses to comments 3-6, 3-7, 3-14, 3-20, 3-24, 3-69, 3-70, 3-79, 3-113, and 3-114, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Applicant anticipates the use of the onsite well-water for a narrower range of applications, limited to: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation, which will each occur on impervious surfaces (concrete or asphalt); and (3) in storage for potential fire suppression.
- 3-119 Your comment is noted and will be made available to County decision-makers prior to a decision on the proposed project. As stated under response to comment 3-118, this comment no longer applies given that the Applicant will not obtain industrial process water from SDWC. Please refer to response to comment 3-117 for a discussion of the IWWGA's GSP.
- 3-120 Your comment is noted and will be made available to County decision-makers prior to a decision on the proposed project. As stated under response to comment 3-118, this comment no longer applies given that the Applicant will not obtain industrial process water from SDWC. Please refer to response to comment 3-117 for a discussion of the IWWGA's GSP.
- 3-121 Your comment is noted and will be made available to County decision-makers prior to a decision on the proposed project. As noted in this comment, the IS/MND was recirculated and a robust discussion of the implications of water required to serve the Project is included on pages 59-60. The Project will obtain potable water in the amount deemed allowable by SDWC, and will utilize treated water from the SVGB for the industrial processes required to operate the PVL Lime Plant.



**3-121
cont'd**

GSP that requires significant reductions in current pumping. Since the only source of water available to the SDWC today is water sourced from the IWVGB, it is foreseeable that additional pumping from a basin where pumping reductions are now being required by a newly adopted GSP will worsen, not mitigate, the critical condition of overdraft of the IWVGB. Consequently, SVM believes SBC erred when it issued PVL a Conditional Use Permit with a Proposed Mitigated Negative Declaration.

3-122

SVM understands that the lead agency, SBC Planning Division, can only make evaluations of projects based upon the information presented to it. Since preparation of an EIR is crucial to environmental protection under CEQA, SVM understands that if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. SVM has identified factual errors in the IS/MND issued by SBC November 20, 2019 as well as provided evidence of sworn testimony by PVL before the CPUC that PVL is seeking 26 gpm (42 AFY) of potable water from SDWC (attached). This potable water is sourced from the IWVGB which is in critical overdraft and now operating under a GSP that calls for drastic reductions in water pumping, and other conservation measures, to protect the basin from further environmental damage. With the information now made available to the SBC Planning Division, there is substantial evidence that this project may have a foreseeable significant effect on the environment. Consequently, it would be improper for the agency to dispense with preparation of an EIR, the preparation of which is foundational to environmental protection under CEQA.

Thank you for your consideration,

Sincerely,

Anoop Sukumaran
Environmental Manager

- 3-122 The County staff acknowledge that this is the opinion of SVM, but has reached a different conclusion. The evidence and additional mitigation measures provided herein and within the Attachments to these responses to comments is sufficient to make a finding of a less than significant impact. Furthermore, the recirculated IS/MND corrects the record to reflect the actual amount of water required in support of the Project, and to reflect the correct source in which water will be obtained in support of this Project. The preparation of an EIR is not a requirement of CEQA for projects that do not result in significant impacts under all impact categories. As evidenced through these expansive responses to comments, and through the recirculated IS/MND, this Project will not cause a significant impact on the environment with implementation of substantive mitigation. The County staff maintains that this Project should be processed as an MND.

DECLARATION OF SHAWN A. BARKER

I, Shawn A. Barker, declare:

1. I am the President of Complainant in this action, Panamint Valley Limestone, Inc. ("PVL"). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, could competently testify to all matters set forth herein.
2. I make this declaration in support of PVL's Opposition to the Motion to Dismiss the Second Amended Complaint filed by Defendant Searles Domestic Water Company, LLC ("SDWC").
3. In October 2014, Shawn Barker Construction Company, of which I am also the president, purchased from ACE Cogeneration Company ("ACE") a lime quarry located in the Panamint Valley Mountain Range, which is located in Inyo County.
4. Around that time, I started looking for industrial land on which to develop a lime production facility.
5. I discovered in past investigations that the all of the property zoned for industrial use available in or around Trona, California was owned by Searles Valley Minerals, Inc. with the exception of one parcel, the Subject Property, that was owned by ACE.
6. On April 4, 2018, PVL purchased the Subject Property from ACE.
7. Shortly thereafter, I contacted Audrey Schuyler, the manager of SDWC, to request water service for the Subject Property. During our initial conversation, I advised Ms. Schuyler that I believed I would need approximately 40 gallons of water per minute for the Subject Property. Ms. Schuyler advised me that before she could issue a will serve letter, she had to confirm with Greg Corrion, who I understood to be employed by Searles Valley Minerals, Inc., that the Subject Property was located in SDWC's service area.

8. About a week or two later, I followed up with Ms. Schuyler regarding the will serve letter. Ms. Schuyler advised me that she was preparing the letter and would get it to me in a couple of days. On May 28, 2018, Ms. Schuyler issued the will serve letter.

9. After further review, I discovered that my initial estimate of the water needed for the Subject Property was too high, and that the actual water demand to operate the Subject Property would be approximately 26 gallons per minute.

10. PVL's development of the Subject Property for use as a lime processing facility will compete with SVM and its related entities for water, potential employees, use of natural gas and electricity utility infrastructure, and for use of the roads that lead into and out of Trona.

11. Although PVL would prefer to obtain all of its water from SDWC, it is pursuing other sources of water for its process needs. PVL has drilled a well on the Subject Property and is exploring additional options for its process water, to mitigate its damages and to ensure it has sufficient water in the event it does not obtain the full relief sought in this action.

12. I have never made any indication that PVL would take water from SDWC in an amount greater than permitted through this action or otherwise.

13. I am familiar with Trona, and based on my knowledge of the area, I am aware that SVM owns the property located to the east of SVM's Lake Garage site is also owned by SVM, where it operates stations to wash vehicles.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of May 2019 in Trona, California.

Shawn Barker

Shawn A. Barker
President, Panamint Valley Limestone, Inc.



Comment Letter #4

April 24, 2020
Sent via email

Jim Morrissey
Planner
County of San Bernardino
Land Use Services Dept.
385 N. Arrowhead Ave.
San Bernardino, CA 92415

Panamint Valley Limestone - Conditional Use Permit (Project)
Mitigated Negative Declaration (MND)
SCH# 2019119083

Dear Mr. Morrissey:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the County of San Bernardino for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines¹. CDFW previously submitted comments in response to the originally circulated MND

4-1

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

4-2

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.

**RESPONSE TO COMMENT
LETTER #4
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

- 4-1 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The County acknowledges the role of the California Department of Fish and Wildlife's (CDFW) as a commenter on this Project.
- 4-2 The County acknowledges the CDFW's role as a Trustee Agency, and as Responsible Agency under CEQA for this Project, and understands that authorization as provided by the Fish and Game Code for several Project-related activities may be required.

4-2
cont'd

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: Panamint Valley Limestone, Inc.

4-3

Objective: The objective of the Project is to construct an industrial lime production plant on a 61.65-acre site that formerly served as an ash disposal landfill. Primary Project activities include the construction of on-site facilities (lime plant, office building, pellet plant, limestone powder plant, solar power generation array, loading bins, vertical kiln, conveyors, a water storage tank, paved internal roadways, a storm water basin, and other ancillary facilities) and laying a natural gas pipeline, a water distribution pipeline, and an electrical distribution line.

Location: Trona, San Bernardino County; approximately 0.87 miles west of the intersection of Trona Road and Athol Street; 35.769542°, -117.387171°

Timeframe: Unknown

COMMENTS AND RECOMMENDATIONS

4-4

CDFW offers the comments and recommendations below to assist the County of San Bernardino in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment 1, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Mitigation Measure and Related Impact Shortcoming

4-5

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 1: BIO-5, Desert Tortoise

Section IV, Page 33

Issue: CDFW appreciates the inclusion of BIO-5 to avoid, minimize, and mitigate potentially significant impacts to desert tortoise, a threatened species. CDFW would like to note that should presence be confirmed in the Project area, some of the actions within the measure would be considered forms of take (hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill) (Fish and Game Code, § 86).

Specific impact: Project activities and proposed mitigation measure have the potential to take desert tortoise, a CESA-listed species.

Why impact would occur: BIO-5 proposes the qualified biologist conducting the pre-construction survey will determine if any of the following actions are warranted for desert tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. CDFW would like to note that, installing exclusionary fencing in desert tortoise habitat may result in take if desert tortoise are present and in such circumstance CDFW's recommend a CESA Incidental Take Permit (ITP) be obtained. Additionally, if desert tortoise individuals are found within the Project site, handling or translocation would also be take and CDFW recommends an ITP is obtained..

Evidence impact would be significant: Take is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: 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 through obtaining an ITP. CDFW recommends BIO-5 be modified to the following measure:

MM BIO-5: A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area

4-5
cont'd

- 4-3 The Project location and Project Description outlined in this comment are accurate. However, the timeframe for the Project is noted on page 5 of the recirculated IS/MND: Groundbreaking for grading of the proposed project site is anticipated to occur within the second half of 2020. PVL plans to begin construction in the second half of 2020, which is expected to continue through the first half of 2022, after which PVL plans to begin the commercial operation.
- 4-4 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The County appreciates the feedback and will revise the mitigation as suggested in this comment. The County concurs with CDFW's concurrence that an MND is appropriate for the Project.
- 4-5 The County understands the shortcomings in the mitigation provided to avoid, minimize, and mitigate potentially significant impacts to desert tortoise, and understands the revisions necessary to minimize the error within mitigation measure BIO-5 to prevent take, which as noted is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085). As such, the following revision to mitigation measure BIO-5 is hereby incorporated by reference:

BIO-5 ~~*Although no desert tortoises were detected during the site surveys, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Following the pre-construction survey, the biologist will make a determination regarding tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area. A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.*~~

4-5
cont'd

and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.

II. Editorial Comments and/or Suggestions

4-6

To provide clarity to BIO-9, Sections 3503, 3503.5 and 3513 pursuant to Fish and Game Code prohibits the take of all birds and their nests or eggs, including raptors and other migratory non-game birds (as listed under the United States Migratory Bird Treaty Act). As such, CDFW recommends the first sentence of BIO-9 state, "The State of California prohibits the "take" of *nesting birds and their nests*." With this modification, it will clarify take of nesting bird individuals is also prohibited.

ENVIRONMENTAL DATA

4-7

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

4-8

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

4-9

CDFW appreciates the opportunity to comment on the MND to assist the County of San Bernardino in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ashley Rosales, Environmental Scientist at 760-219-9452 or Ashley.Rosales@Wildlife.ca.gov.

- 4-6 The County understands the requested clarification to the mitigation provided to minimize impacts to nesting birds and their nests. As such, the following revision to mitigation measure BIO-9 as requested in this comment is hereby incorporated by reference:

BIO-9 The State of California prohibits the “take” of ~~active bird~~ nesting birds and their nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.

- 4-7 The County will require the Applicant to report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The link to CNDDDB field survey form provided will be retained in the Project file, as will the email address that is provided in this comment. Additionally, the link pertaining to the types of information reported to CNDDDB will be retained in the Project file.
- 4-8 The County understands the assessment of CDFW filing fees, and understands that the Applicant will be responsible for the payment of a filing fee upon filing the Notice of Determination for this Project.
- 4-9 Thank you for your comments and your time. The contact information provided in this comment will be retained in the Project file.

Jim Morrissey, Planner
County of San Bernardino
Panamint Valley Limestone - Conditional Use Permit, SCH #2019119083
April 24, 2020
Page 5 of 6

Sincerely,

A handwritten signature in blue ink that reads "Scott Wilson". The signature is fluid and cursive, with the first name "Scott" and last name "Wilson" clearly distinguishable.

Scott Wilson
Environmental Program Manager

Attachment 1: Draft Mitigation Monitoring and Reporting Program for CDFW-proposed
Mitigation Measures.

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

HCPB CEQA Coordinator
Habitat Conservation Planning Branch

ATTACHMENT 1

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

4-10

Mitigation Measure	Implementation Schedule	Responsible Party
MM BIO-5: A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Project Proponent

- 4-10 Please refer to response to comment 4-5. The mitigation measure has been modified as requested. Additionally, the implementation schedule stating "Before commencing ground- or vegetation- disturbing activities/ Entire Project" and responsible party "Project Proponent" have been added to the MMRP as requested with equivalent language. The MMRP is provided as part of the Final IS/MND and will be made available to CDFW prior to the County's decision on the Project.

Lahontan Regional Water Quality Control Board

April 20, 2020

File: Environmental Doc Review
San Bernardino County

Jim Morrissey
County of San Bernardino
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0187
Jim.Morrissey@lus.sbcounty.gov

4/16/2020

Comments on the Revised Draft Initial Study and Mitigated Negative Declaration for Panamint Valley Limestone - Conditional Use Permit, San Bernardino County, State Clearinghouse Number 2019119083

5-1

Lahontan Regional Water Quality Control Board (Water Board) staff received an Initial Study and Mitigated Negative Declaration (IS/MND) for the above-referenced Project (Project) on November 25, 2019. The IS/MND was prepared by San Bernardino County (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). A subsequent revised IS/MND was prepared and issued for public comment and review on March 20, 2020. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. We thank the County for providing Water Board staff the opportunity to review and comment on the revised draft IS/MND and for taking the initiative to develop the IS/MND with considerations to potential effects on water quality and for integrating elements that promote watershed management and reduce the effects of hydromodification. Our comments on the proposed Project are outlined below.

WATER BOARD'S AUTHORITY

5-2

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of

PETER C. PUMPHREY, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

**RESPONSE TO COMMENT
LETTER #5
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

- 5-1 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed project. The County acknowledges the Lahontan Regional Water Quality Control Board (RWQCB) role as a Responsible Agency under CEQA.
- 5-2 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. The County acknowledges the laws applicable to regulation of waters of the State of California and/or the United States. The County also acknowledges the Water Quality Control Plan for the Lahontan Region (Basin Plan) and the link to the Basin Plan will be retained in the Project file.

5-2
cont'd

waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

COMMENTS ON THE ENVIRONMENTAL REVIEW

5-3

1. Panamint Valley Limestone (PVL) installed a well on the property to supply water for the process. The groundwater in Searles Valley is of brackish quality, therefore, PVL plans to install a treatment system to make the water potable to be able to use it in the process. The IS/MND does not describe the proposed treatment technology nor how the byproducts and/or waste generated by the treatment process will be disposed. Please revise the IS/MND to describe the proposed water treatment process and to describe how the waste generated will be handled and then disposed of. The IS/MND should include a list of mitigation measures that, when implemented, would reduce all potential impacts from all proposed water treatment processes to a less than significant level.

5-4

2. The revised IS/MND states that there will be two 10,000-ton stockpiles developed on the ground, and that "The limestone will be composited, sampled, and tested to confirm no existence of hazardous levels of toxic contaminants above the CCR Title 22-17 threshold limits." Please clarify what sampling frequency will be used to confirm there are no contaminants in the limestone and explain what other measures will be taken to ensure there is no direct discharge of contaminants to the ground. The IS/MND should include a list of mitigation measures that, when implemented, would reduce all potential impacts as a result of stockpiling materials on the ground to a less than significant level.

5-5

3. The original Project description stated that there would be "zero discharge" from the site. In the revised IS/MND, this statement was removed; it is unclear whether the lime process will generate any liquid or solid wastes and, if so, how those wastes will be handled and disposed of. Without this information in the IS/MND, Water Board staff cannot evaluate whether the Project poses a threat to water quality or whether additional mitigation measures need to be imposed to ensure the protection of water quality. Please revise the IS/MND to include all potential waste streams that may be generated on site, a description for how these wastes will be contained and managed on site, and a description for how these wastes will ultimately be disposed of.

5-6

4. For the record, Water Board staff original comments did not discuss "alteration" of the ash disposal site cap. Additionally, the Water Board determined that the former ash landfill contained inert wastes and on June 10, 2015 rescinded the Waste Discharge Requirements issued for the former landfill. The Water Board did not require formal closure of the site as part of that rescission.

- 5-3 The Applicant had a well drilled on the Project site as an anticipated supply of water for process/industrial uses. Following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Project will not require industrial/process water. The Project is anticipated to involve the following applications of water extracted from the onsite well: (1) during construction well water will be sprayed on the ground for dust mitigation; (2) during operation well water will be sprayed during truck off-loading and on the stock piles for dust mitigation; and (3) in storage for potential fire suppression. Off-loading will occur, and stockpiles will be kept on impervious surfaces (concrete or asphalt) and use of spray will be limited so as not to produce run-off. Any such water application shall be de minimis. The well water has been tested and the concentration levels of the constituents in the well water are not hazardous, subject to California Code of Regulations (CCR), Title 22, Division 4.5. The Applicant will obtain a waiver or WDRs if deemed necessary from the Lahontan Regional Water Board for such use.
- 5-4 The limestone will be sampled and analyzed at the quarry daily, prior to delivery to the Project site. Composite samples from the stockpiles located on the Project site will also be collected and analyzed weekly. Additionally, the stockpiles will be situated on an impervious paved surface to ensure there is no potential for discharge of contaminants to the ground.
- 5-5 Any solid waste produced by the Project will be contained in appropriate receptacles for disposal at the County landfill or transfer station. The Project itself will not produce any hazardous solid or liquid waste. The limited hazardous waste that may be on site (e.g., machine lubricants, common household cleaning products, etc.) will be held in a Title 22 prescribed hazardous waste station in containers labeled to identify the contents and dated. Disposal of the containers will be done by licensed hazardous waste disposal contractors.
- 5-6 The County understands and acknowledges the distinction made in this comment. The statement in the Initial Study made on Page 55 is henceforth clarified to reference that the ash landfill is, at present, not a threat to water quality. However, the County maintains that the proposed modifications to the ash landfill will not pose a threat to water quality because, as stated above under response to comment 3-16, the Applicant will adhere to the post-closure activities outlined on page 4-1 of the closure plan prepared by AECOM for the Project site, which will ensure that the proposed modifications to the ash landfill will not pose a threat to water quality. Additionally, as stated above under response to comment 5-5, stormwater onsite will be directed to the onsite lined evaporation pond, which will prevent onsite runoff from intercepting the groundwater table. Furthermore, accidental spills of hazardous materials, such as petroleum, are possible, but can be minimized through the HMBP and WQMP, which will also minimize potential impacts to water quality.

PERMITTING REQUIREMENTS FOR INDIVIDUAL PROJECTS

A number of activities have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include the following.

- 5-7
1. Land disturbance of more than one acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.
 2. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.
- 5-8
3. Discharge of waste to land may require Waste Discharge Requirements issued by the Lahontan Water Board in compliance with the California Code of Regulations, title 27, section 20005 et seq. If the Project includes wastes that can be characterized as either designated and/or non-hazardous, and a planned discharge to land would occur, a Report of Waste Discharge application, Form 200, will be required to be submitted to Water Board staff a minimum of 140 days prior to the proposed waste discharge.
- 5-9
4. Activities associated with containment and disposal of wastewater generated from water treatment processes may require coverage under Board Order No. R6T-2020-0017, General Waste Discharge Requirements for Small Industrial Wastewater Treatment Systems, issued by the Lahontan Water Board.

5-10

Water Board staff requests that the IS/MND recognize the potential permits that may be required for the Project, as outlined above. Information regarding these permits, including application forms, can be downloaded from our website at <http://www.waterboards.ca.gov/lahontan/>. Early consultation with Water Board staff regarding potential permitting is recommended.

5-11

Thank you for the opportunity to comment on the IS/MND. If you have any questions regarding this letter, please contact me at (760) 241-7373 amanda.lopez@waterboards.ca.gov or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 jan.zimmerman@waterboards.ca.gov. Please send all future correspondence regarding this Project to the Water Board's email address at Lahontan@waterboards.ca.gov and be sure to include the State Clearinghouse No. and Project name in the subject line.



Amanda Lopez
Engineering Geologist

- 5-7 Your comment is noted and will be made available to the County decision-makers for consideration prior to a decision on the proposed Project. The County agrees to amend the IS/MND to reflect that additional approvals from other agencies may include: a Clean Water Act (CWA), section 402(p) storm water permit from the State or Lahontan Regional Water Boards, CWA, section 401 water quality certification from the Lahontan Regional Water Board, and/or dredge and fill waste discharge requirements (WDR) from the Lahontan Regional Water Board.
- 5-8 Neither the Project operation nor construction include operations that involve discharge of waste to land. However, the County agrees to amend the IS/MND to reflect that additional approvals from other agencies may include WDRs from the Lahontan Regional Water Board, and the information provided shall be retained in the Project file.
- 5-9 The Project does not include any treatment of water that would be subject to Board Order No. R6T-2020-0017, General Waste Discharge Requirements for Small Industrial Wastewater Treatment Systems. As noted in the response to comment 5-3 above, following the recirculation of the IS/MND, the Applicant determined that the Project will only produce quicklime and will not produce hydrated lime. As such, the Project will not require industrial/process water. The Project will only use the well water for equipment dust mitigation. The well water has been tested and the concentration levels of the constituents in the well water are not hazardous and will not require treatment. To the extent that the Project is discharging water that exceeds drinking water standards, the Applicant will obtain a waiver or WDRs as deemed necessary from the Lahontan Regional Water Board. Domestic water disposal will be by an approved septic water system.
- 5-10 The County acknowledges the potential permits that may be required for the Project, as noted in your comment letter, and the link provided will be retained in the Project file.
- 5-11 Thank you for your comments. The contact information provided in this comment will be retained in the Project file.

cc: State Clearinghouse (SCH 2019119083) (state.clearinghouse@opr.ca.gov)
Anoop Sukumaran, Searles Valley Minerals, (sukumara@svminerals.com)

EXHIBIT H

Compiled Mitigation Measures

COMPILED MITIGATION MEASURES

Mitigation Measures have been proposed as part of the proposed Mitigated Negative Declaration. Based upon comments received some of the measures have been deleted or modified from those advertised as part of the public review of the Initial Study/Proposed Mitigated Negative Declaration. Those changes are noted with ~~strike-throughs~~ and **bold** and underlined. Some of the bolded items are new measures included as part of the responses to comments. In addition, subsequent modifications to these measures have been undertaken by Staff to ensure the timing of the activity is identified and the entity responsible for undertaking the action. This later component is noted in **red**.

Aesthetics

- AES-1 The Applicant shall paint structures exceeding the 75 feet height limit—~~as set forth in the San Bernardino County Regional Industrial Zoning Development Standards~~—a similar color to the surrounding mountains (specifically, the Argus Mountain Range to the general north of the PVL Lime Plant site). **Prior to painting the applicant shall provide Planning Staff with a color example for review and approval.**
- AES-2 Prior to **Issuance of a Building Permit** ~~approval of the Final Design~~, an analysis of potential glare from sunlight or exterior lighting that may impact vehicles traveling on adjacent roadways shall be submitted to **Planning Staff** ~~the City~~ for review and approval. This analysis shall demonstrate that due to building orientation or exterior treatment, no significant glare may be caused that could negatively impact drivers on the local roadways or impact adjacent land uses. If potential glare impacts are identified, the building orientation, use of non-glare reflective materials or other design solutions acceptable to the County of San Bernardino shall be implemented to eliminate glare impacts.

Air Quality

- AIR-1 Fugitive Dust Control. The following measures shall be incorporated into all **building and grading** ~~project~~ plans and specifications **prior to issuance of permits** for implementation during construction:
- Apply soil stabilizers as necessary to inactive areas.
 - Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 mph.
 - Stabilize previously disturbed areas if subsequent construction is delayed.
 - Apply water to disturbed surfaces and haul roads 3 times/day.
 - Replace ground cover in disturbed areas quickly.
 - Reduce speeds on unpaved roads to less than 15 mph.
 - Trenches shall be left exposed for as short a time as possible.
 - Identify proper compaction for backfilled soils in construction specifications.
- AIR-2 The following signage shall be erected no later than the commencement of **grading construction**: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum height text, black text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, identifying a responsible official for the site and local or toll free number that is accessible 24 hours per day:

"[Site Name] {four-inch text}
 [Project Name/Project Number] {four-inch text}
 IF YOU SEE DUST COMING FROM {four-inch text}
 THIS PROJECT CALL: {six-inch text}
 [Contact Name], PHONE NUMBER {six-inch text}
 If you do not receive a response, Please Call {three-inch text}
 The MDAQMD at 1-800-635-4617 {three-inch text}"

- AIR-3 During project operations a 4,000-gallon water truck shall be available on-site at all times for dust control.
- AIR-4 As they become available and financially feasible, the Applicant shall consider replacing bulk delivery trucks with hydrogen or electric trucks/tractors.
- AIR-5 **Prior to grading**, wind breaks and/or fencing shall be **installed** ~~developed~~ in areas that are susceptible to high wind induced dusting.
- AIR-6 Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes and shall ensure that all off-road equipment is compliant with the CARB in-use off-road diesel vehicle regulation.
- AIR-7 **During construction** all material transported off-site with dust blow off potential shall be sufficiently watered or securely covered to prevent excessive amounts of dust being generated.
- AIR-8 The Applicant shall use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. If the site contains exposed sand or fines deposits (and if the project would expose such soils through earthmoving), water application or chemical stabilization will be required to eliminate visible dust/sand from sand/fines deposits.
- AIR-9 The Applicant shall formulate **and provide to Planning Staff for acceptance prior to issuance of a grading permit** a high wind response plan that addresses enhanced dust control if winds are forecast to exceed 25-mph in any upcoming 24-hour period.
- AIR-10 Any operation or activity that might cause the emission of any smoke, fly ash, dust, fumes, vapors, gases, or other forms of air pollution, which can cause damage to human health, vegetation, or other forms of property, or can cause excessive soiling on any other parcel, shall conform to the requirements of the Mojave Desert Air Quality Management District.

AIR-11 Dust Control Plan. The Applicant shall prepare and submit a Dust Control Plan to **Planning Staff for review and approval prior to issuance of a grading permit and to the MDAQMD prior to commencement of construction, which shall outline dust control measures that will be implemented during construction and operation of the proposed Project. This Plan shall meet MDAQMD's requirements, including applicable provisions of MDAQMD Rules 403 and 403.1.**

AIR-12 The Applicant shall be required to utilize Tier 4 construction equipment for the duration of construction and, where applicable, during operation of the PVL Lime Plant.

Biological Resources

- BIO-1 Where avoidance of the adjacent habitat is not feasible, the following actions shall be implemented **prior to grading**. For the temporary loss of the presumed occupied MGS habitat, the Applicant shall provide compensation for temporary loss of habitat and individual MGS in the

following manner: (1) the Applicant shall obtain a 2081 Incidental Take Permit (ITP) from the CDFW; (2) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable MGS habitat at a 1:1 ratio; and (3) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the CDFW. No ground disturbance shall occur until the Applicant obtains an ITP. Note that the final compensation package contained in the permit may differ from the above compensation package, but the Applicant finds that this compensation package shall at a minimum meet the requirements of this measure. **Documentation shall be provided to Planning Staff confirming such actions have occurred.**

Alternatively, the Applicant may perform a protocol MGS presence/absence survey consistent with CDFW Guidelines prior to initiating construction and should it be determined that the adjacent habitat is not occupied by MGS, the above mitigation measure need not be implemented.

- BIO-2 Prior to **grading construction**, the Applicant shall conduct a plant survey for the Borrego milk-vetch (*Astragalus lentiginos* var. *borreganus*). This survey shall be conducted by a qualified professional biologist familiar with this species. If these plants are identified within the temporary project area of impact, the botanists shall relocate these plants to adjacent comparable habitat that will not be disturbed. **Planning Staff shall be provided a copy of the report prior to relocation of the plants.**
- BIO-3 In compliance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) the project proponent shall ensure that a pre-construction burrowing owl survey is conducted a maximum of 30 days prior to **grading construction** activities **and Planning Staff is provided with a copy of the report findings**. A qualified biologist shall conduct the survey to determine if there are any active burrowing owl burrows within or adjacent to (within 300 feet) the impact area. If an active burrow is observed outside the nesting season (September 1 to January 31) and the burrow is within the impact area, a Burrowing Owl Exclusion Plan shall be prepared and submitted to CDFW for approval, outlining procedures used to exclude burrowing owls (e.g., using passive relocation with one-way doors). The loss of any active burrowing owl burrow territory shall be mitigated through replacement of habitat and burrows at no less than a 1:1 ratio. If an active burrow is observed outside the nesting season (i.e., between September 1 and January 31) and the burrow is not within the impact area, construction work shall be restricted within 160 to 1,605 feet of the burrow (per CDFW 2012), depending on the time of year and level of disturbance near the site in accordance with guidelines specified by the CDFW.
- BIO-4 ~~Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required. Original Measure.~~
- BIO-4 Although no golden eagle nests were observed during the survey of the project footprint, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in the USFWS Interim Golden Eagle Inventory and Monitoring Protocols; and other Recommendations (Pagel et al. 2010). This requires two aerial flights of the project boundary within a 10-mile radius of the project site are required to occur between March and May, at least 30 days apart, to assess golden eagle presence. An eagle take permit is not required.**

Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for temporary loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS.

Should any habitat suitable for the golden eagle be impacted, the Applicant shall provide compensation for temporary loss of habitat in the following manner: (1) the Applicant shall offset the loss of the temporarily disturbed habitat by purchase of acceptable golden eagle habitat at a 1:1 ratio; and (2) conserved habitat shall be provided with an appropriate endowment to ensure permanent protection and the conserved habitat shall be managed by an agency or party considered acceptable to the USFWS. Documentation shall be provided to Planning Staff confirming such actions have occurred.

~~BIO-5 Although no desert tortoises were detected during the site surveys, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Following the pre-construction survey, the biologist will make a determination regarding tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area.~~

BIO-5 ~~Although no desert tortoises were detected during the site surveys, habitat along the pipeline alignments is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey within 30 days prior to initiating construction in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Following the pre-construction survey, the biologist will make a determination regarding tortoise mitigation: (1) if a biological monitor should be present at the site during all clearing and grubbing activities above grade; (2) if desert tortoise fencing needs to be installed around the perimeter of the construction work zone; or (3) if no further action is required. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area.~~ A qualified biologist shall conduct a protocol level survey to determine presence or absence of desert tortoise in the Project area in accordance with procedures described in Chapter 6 of the US Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP prior to the start of Project activities. If desert tortoise and their sign are not identified during the protocol level survey, the Project Proponent shall contact for CDFW for additional guidance.

BIO-6 Prior to **ground disturbance** the construction of the following phases of the Project—1. Construction of the Lime Plant and 2. Construction of the Natural Gas Pipeline—the entity responsible for the construction thereof (Phase 1. Panamint Valley Lime, Phase 2. PG&E) shall conduct a floristic based assessment of special status plants and natural communities that adheres to the CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If it is determined that special status plants and/or natural communities may be impacted from the Project specific avoidance, minimization, and mitigation measures will be developed and implemented. The Biological Resources Assessments generated shall be **provided to Planning Staff for review and acceptance** and deemed adequate for three years following the date of the field assessment(s). After this time period an updated biological field assessment(s) will be required.

- BIO-7 Prior to **ground disturbance** the construction of the proposed project, preconstruction surveys for desert kit fox and American badger pursuant to the corresponding approved CDFW protocols, as determined by a qualified biologist.
- Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460.
 - American badger is a Species of Special Concern.
 - Should either species be found on or adjacent to the Project area, the Applicant shall require the preparation of either/both a desert kit fox or/and American badger mitigation and monitoring plan.
 - Desert Kit fox breeding season is January to the end of May. If a natal burrow is located on the Project site, a qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat. No Project activities or vegetation removal may occur within the buffer or habitat connectivity zone.
- BIO-8 The Applicant and/or PG&E shall submit a Lake and Streambed Alteration Notification (SAA) to CDFW. If CDFW finds that the channel in the natural gas pipeline alignment is jurisdictional, the Applicant and/or PG&E shall process and obtain the SAA. No ground disturbance within potential jurisdictional areas shall occur until the Applicant and/or PG&E obtains an SAA. Note that the final compensation package contained in the permit shall be implemented by the Applicant and/or PG&E. **Planning Staff shall be provided a copy of the final determination and/or SAA.**
- ~~BIO-9 The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.~~
- BIO-9 *The State of California prohibits the “take” of active-bird nesting birds and their nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal should be conducted outside of the State identified nesting season (Raptor nesting season is February 15 through July 31; and migratory bird nesting season is March 15 through September 1). Alternatively, a qualified biologist shall be retained by the Applicant, and shall be on site during the nesting season period identified above to monitor all active nests, the efficacy of established buffers, and to document any new nesting occurrences. The qualified biologist shall also monitor the habitat within a 50-foot perimeter of the project footprint. Active bird nests MUST be avoided during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity shall occur within the 300-foot buffer until the young have fledged the nest.***
- BIO-10 The following operational controls shall be implemented: a) Bird Cannons – set to operate at given intervals during operating hours; and, b) Bird bombs and whistler pyrotechnics – used by site personnel as a supplemental control tool. These tools shall be supplemental, and shall not be intended to harm birds. The operational controls shall only be implemented during the presence of stormwater in the onsite basin. Planning Staff shall be provided a schedule of proposed actions at least 48 hours in advance.**

Cultural Resources

- CUL-1 Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the on-site archaeological professional, who is acceptable to the County and retained by the applicant. The archaeological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.

Geology and Soils

- GEO-1 Based upon the findings contained in the Geotechnical Investigation and Geotechnical Investigation Update (Appendix 4a and 4b of this document), all of the recommended design and construction measures identified in Appendix 4a (listed under "Conclusions and Recommendations," pages 5-16) and the site preparation summary identified in Appendix 4b (pages 3-7) shall be implemented by the Applicant. Implementation of these specific measures will address all of the identified geotechnical constraints identified at project site, including soil stability of future project-related structures.
- GEO-2 Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of stored backfill material. If covering is not feasible, then measures such as the use of straw bales or sand bags, shall be placed around the stored material and used to capture and hold eroded material on the project site for future cleanup. **Planning Staff shall be provided a letter identifying the measures that were instituted.**
- GEO-3 **The Applicant shall provide a letter of agreement that** all exposed, disturbed soil (trenches, stored backfill, etc.) shall be sprayed with water or soil binders twice a day, or more frequently if fugitive dust is observed migrating from the site within which the PVL Lime Plant is being constructed.
- GEO-4 **The Applicant shall provide a letter of agreement that** should any paleontological resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an on-site inspection shall be performed immediately by a qualified paleontologist. Responsibility for making this determination shall be with the on-site paleontological professional, who is acceptable to the County and retained by the applicant. The paleontological professional shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the CEQA Guidelines.

Greenhouse Gas

- GHG-1 The Applicant shall acquire 60,000 tons of permanent CO₂ emission reduction credits, or the equivalent thereof equal to an offset of 60,000 tons of CO₂ per year. The emission reduction credits shall be obtained from a trusted source that must be approved by the MDAQMD staff. A copy of the certification shall be provided to the MDAQMD and County **Planning Staff** upon receipt. The emission reduction credits must be purchased prior to operations of the PVL Lime Plant.

Hydrology and Water Quality

- HYD-1 **PVL shall offer to establish a fund in the amount of \$50,000 to provide Searles Domestic Water Company/Searles Valley Minerals, and/or Indian Wells Valley Water District funds to replace existing domestic water equipment (low flush toilets, repair of water leaks, high efficiency faucets, etc.) of its/their customers to offset 2.1-acre feet of existing potable water demand. Should SDWC, IWWVD, or their customers not accept or otherwise be able to put the total funds to use as provided herein within a period of one year, PVL will leave the remainder of the funds in a trust account dedicated for future use to reduce the water demand from the IWWGB. Information documenting the actions undertaken shall be provided to Planning Staff after each step of the process.**

- HYD-2 Should the Applicant obtain process water (39.9 AFY) from SDWC, and if recycled water becomes available at the project site, the Applicant shall connect to this system and utilize recycled water for landscape irrigation, and any other feasible uses of recycled water on the project site. **The Applicant shall inform the Planning Staff upon utilizing recycled water.**
- HYD-3 Should the Applicant obtain process water (39.9 AFY) from SDWC, once IWVGA has identified basin-wide conservation measures, the Applicant shall implement business practices that are consistent with these conservation measures and consistent with facility operational requirements, thereby ensuring that this project contributes to basin-wide water conservation. The applicant shall inform the County upon adoption of basin-wide measures and the actions they have undertaken to be consistent with these measures.

Noise

- NOI-1 All construction vehicles and fixed or mobile equipment shall be equipped with properly operating and maintained mufflers.
- NOI-2 All employees that will be exposed to noise levels greater than 75 dB over an 8-hour period shall be provided adequate hearing protection devices to ensure no hearing damage will result from construction activities.
- NOI-3 No construction activities shall occur during the hours of 7 PM through 7 AM, Monday through Friday, and 5 PM to 9 AM Saturdays; at no time shall construction activities occur on Sundays or holidays, unless a declared emergency exists.
- NOI-4 Equipment not in use for five minutes shall be shut off.
- NOI-5 Equipment shall be maintained and operated such that loads are secured from rattling or banging.
- NOI-6 Construction employees shall be trained in the proper operation and use of equipment consistent with these mitigation measures, including no unnecessary revving of equipment.
- NOI-7 The County will require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections by applicant personnel during construction activities with copies of the report filed with the County Planning Department. The Report shall be filed with the County within a 72 hour period.
- NOI-8 Construction staging areas shall be located as far from adjacent sensitive receptor locations as possible, for example near the north- or south-west corners of the project site.

Transportation

- TRAN-1 The construction contractor will provide adequate traffic management resources, as determined by San Bernardino County. The County shall require a construction traffic management plan for work in public roads that complies with the Work Area Traffic Control Handbook, or other applicable standards, to provide adequate traffic control and safety during excavation activities. At a minimum, this plan shall include the following:
- a) Methods to minimize the amount of time spent on construction activities;
 - b) Methods to minimize disruption of vehicle and alternative modes of transport traffic at all times, but particularly during periods of high traffic volumes;
 - c) Methods to maintain safe traffic flow on local streets affected by construction at all times, including through the use of adequate signage, protective devices, flag persons or police assistance to ensure adequate traffic flow;

- d) Identification of alternative routes, if necessary, that can meet the traffic flow requirements of a specific area, including communication (signs, webpages, etc.) with drivers and neighborhoods where construction activities will occur; and
- e) Identification of methods or procedures to ensure that at the end of each construction day roadways shall be prepared for continued utilization without any significant roadway hazards remaining.

TRAN-2 The County shall require that all disturbances to public roadways maintained by the County be repaired in a manner that complies with the Standard Specifications for Public Works Construction (green book) or other applicable Caltrans or County standard design requirements.