



**LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT**



HEARING DATE: June 5, 2014

AGENDA ITEM #3

Project Description

APN: 0424-041-09
APPLICANT: Brubaker-Mann, Inc.
COMMUNITY: Barstow/1st. Supervisorial District

LOCATION: Hwy I-15 South Side; 5 Miles West of Meridian Rd.

PROJECT NO: AP20120010/Brubaker-Mann, Inc.

CONTRACT STAFF: REUBEN J. ARCEO

REP('S): WEBBER & WEBER MINING CONSULTANTS

PROPOSAL: Revision to mining and reclamation plan to expand the mining operation and reclamation boundaries from 47 to 47.2 acres, reconfigure the quarries to allow greater excavation depth, and combine the smaller quarries into one large quarry to allow access to the desired ore body.



7 Hearing Notices Sent On: May 22, 2014

Report Prepared By: Reuben J. Arceo
P.C. Field Inspection Date: May 30, 2014

SITE INFORMATION:

Parcel Size: 275 acres of which 47 acres is approved for mining and reclamation.
Terrain: Gently sloping Alluvial Fan composed of cobbles, sand, gravel and silt
Vegetation: Goldenbush, Yaqui Mammillaria, Cottontop Cactus, Desert Aster and Fagonia

SURROUNDING LAND DESCRIPTION:

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Existing Rock Quarries	RC- Resource Conservation
North	Vacant Undeveloped	RC – Resource Conservation
South	Vacant Undeveloped	RC-Resource Conservation
East	Vacant Undeveloped	RL-20 (Rural Living) (1-du/ 20 acres)
West	Vacant Undeveloped	RL-20 (Rural Living) (1-du/20 acres)

Gold, Brown, Lilac Quarries
 APN: 0424-041-09-0000/AP20120010
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	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	Barstow	N/A
Water Service:	Imported Water	Potable Water/Golden State Water Company
Sewer Service:	Portable Toilets	N/A

STAFF RECOMMENDATION: That the Planning Commission **ADOPT** a Mitigated Negative Declaration, **ADOPT** the proposed Findings, **APPROVE Revised** Mining/Reclamation Plan 90M-07 subject to the attached Conditions of Approval and incorporated Mitigation Measures, and **FILE** the Notice of Determination.

NOTE: In accordance with Section 86.08.010 of the Development Code, the action taken by the Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days after the Planning Commission hearing.

SUMMARY/BACKGROUND

On January 9, 2012, Webber & Webber Mining Consultants on behalf of Brubaker-Mann, Inc. (Brubaker-Mann) located at 36011 Soap Mine Road in Barstow, filed a revision application to amend the existing Mining/ Reclamation Plan 90M-07 (collectively “the Project”) to permit the expansion of its vested mining operation. The reclamation boundaries will increase from 47 to 47.2 acres, which will allow mining to a greater depth; and, combine smaller quarries into one larger quarry and facilitate greater access to marketable ore as shown in the plot plans included with the Gold, Brown, Lilac Quarries, Amended Mining and Reclamation Plan as noted on Figure 3. A full set of plans are attached with the Gold, Brown, Lilac Mining and Reclamation Plan, referenced as Exhibit A.

The Gold, Brown Lilac Quarries are located as indicated in Figure 1, approximately four miles east of Barstow and roughly 1.5 miles south of Interstate 15. Access to the mine is provided by Fort Irwin Road, south from Interstate 15. Fort Irwin Road is paved for a short distance south of I-15, then turns to a graded dirt road that courses through the Gold, Brown, Lilac Quarry site. The parcel owned by Brubaker-Mann encompasses approximately 275 acres as noted in Figure 2. The 275 acre land parcel is primarily undisturbed, excepting dirt roads and the small quarry areas. The areas adjacent to the site to the North, South and East is vacant open space privately owned by Brubaker-Mann. The western boundary of the site is shared with the Bureau of Land Management (BLM) and is predominately vacant open space.

As a matter of background, the Applicant initially obtained mining/reclamation approval in 1990 to establish an approved reclamation plan for an existing colored rock-mining operation as required by the State Mining and Reclamation Act of 1975 (SMARA). This site has been mined since the 1950's as noted in Figure 3. According to SMARA, an operator with an existing surface mining operation who has obtained a vested right to conduct surface mining prior to January 1, 1976, shall not be required to secure a permit. The continuation of surface mining, however, is prohibited until a reclamation plan is submitted to the lead agency.

The Gold, Brown Lilac Quarries are classified within California's Mineral Land Classification System (Southwestern San Bernardino County; The Barstow-Newberry Springs Area, California, DMG Open-File Report 97-16, 1997) as Mineral Resource Zone 2 (MRZ-2). SMARA was enacted to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board to designate lands containing mineral deposits of regional or statewide significance. Land included in the MRZ-2 classification category is of prime importance because it contains known economic mineral deposits. A typical MRZ-2 area would include an operating mine, or an area where extensive sampling indicates the presence of a significant mineral deposit.

The mining operation at Brubaker-Mann's site is unique in that it contains three distinctly colored rock formations; namely gold, brown and lilac. The raw material is crushed and screened at the Birdseye Granite Mill complex to produce a finished product ranging in size from 3/8 of an inch to two inches and larger for projects such as decorative borders. The majority of the material is used for roofing and decorative landscaping. The former approval adopted by the Planning Commission permits mining until December 31, 2020, on 47 acres at the rate of 9,500 tons per year. The County limited the initial approval to 30 years so that the approved reclamation plan did not become obsolete should technical and/or environmental conditions need to be addressed through more current mitigation standards.

The proposed mine expansion and modified reclamation plan is intended to reflect current and future operations until December 31, 2037, and allow the Applicant to consolidate three existing quarries (Lilac, Gold Quarry #2, and Gold Quarry #3) into one large quarry, with Quarry #1 mined as a small independent quarry and the withdrawal of the Brown Quarry area from the Project. The reconfigured quarries will slightly increase the area under the mining operations from 47 to 47.2 acres.

In accordance with the State Mining and Geology Board Regulations (California Code of Regulations, Section 3502(h)(1)), where a surface mining operation has an approved Reclamation Plan and financial assurances covering the entire surface mining operation, and the mining operator proposes to disturb new lands that are not included in the approved Reclamation Plan, the operator may amend the existing Reclamation Plan to encompass new areas with any other changes necessary to amend the Reclamation Plan to conform to current SMARA standards. The Applicant's Reclamation Plan has been reviewed by County staff as well as the California Department of Conservation, Office of Mining Reclamation (OMR), and found to be in compliance with Public Resources Code (PRC) Section 2770 of SMARA.

The Applicant's Reclamation Plan details the methods and procedures; specifically the phasing sequences to be employed to reclaim existing and proposed disturbance areas and establish a monitoring program and financial assurances as required by SMARA to ensure that reclamation is completed in accordance with the approved Reclamation Plan.

Figure 1
Regional Location Map
Gold, Brown, Lilac Quarry Site

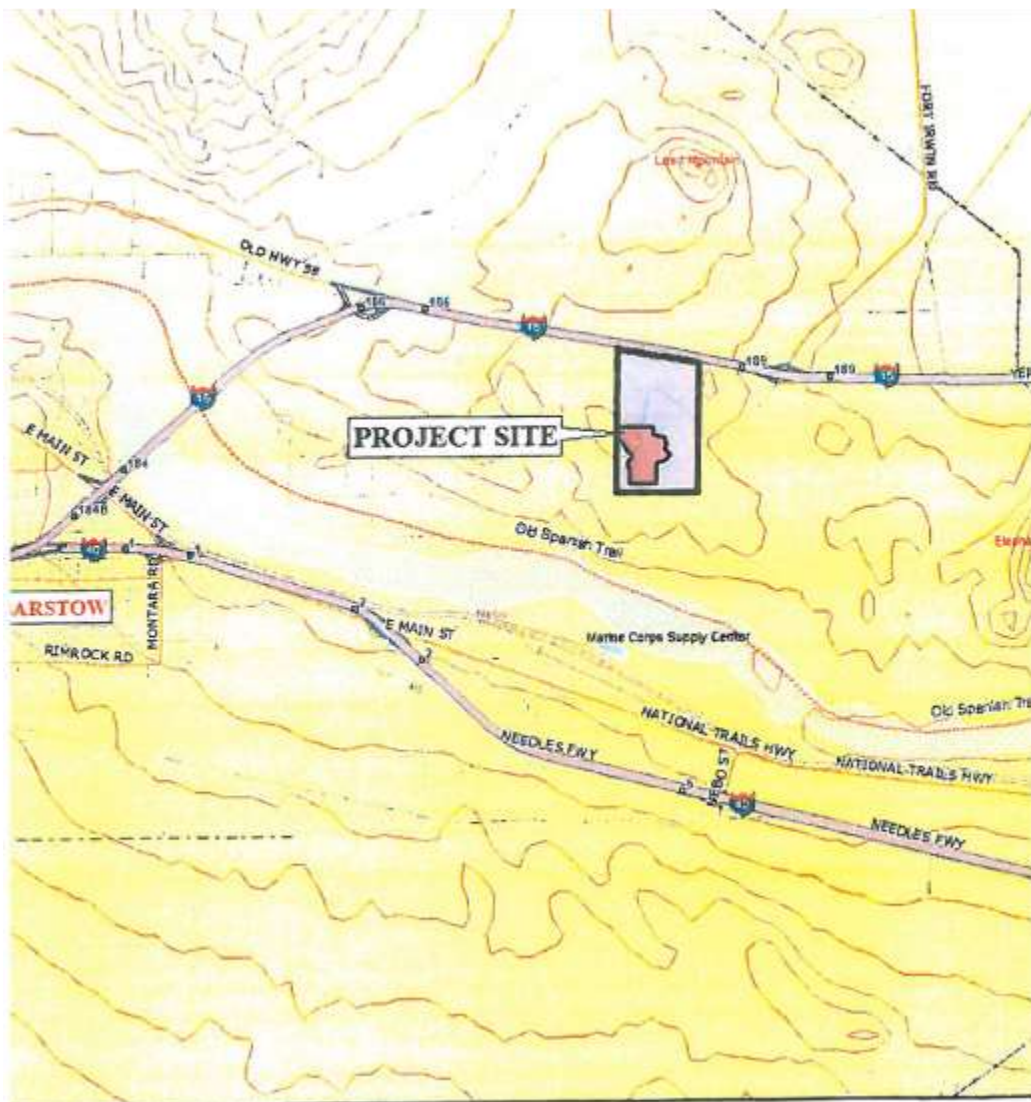


Figure 2
 Gold, Brown, Lilac Mines
 Mining Plan

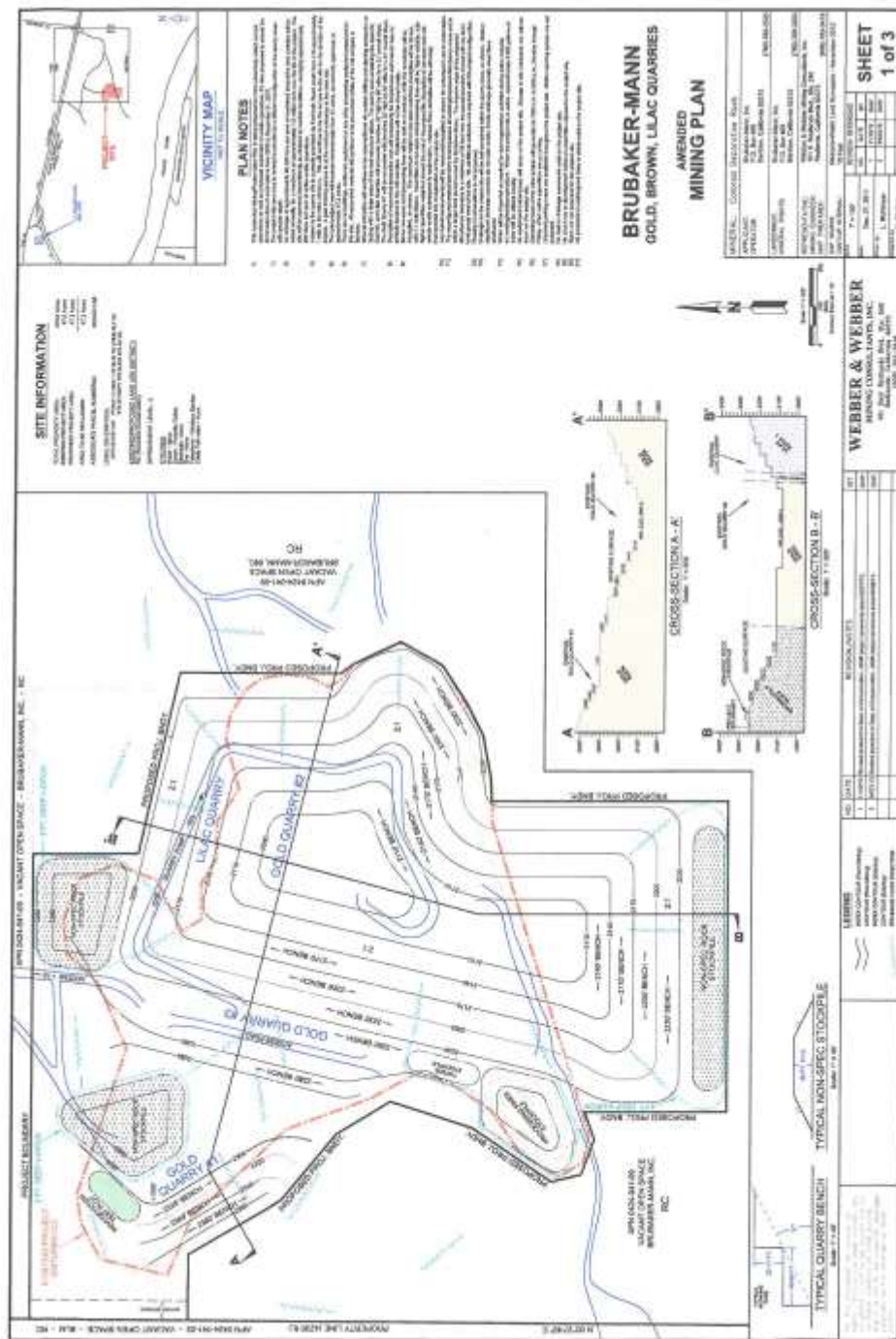


Figure 2 (Continued)
Gold, Brown, Lilac Mines
Reclamation Plan

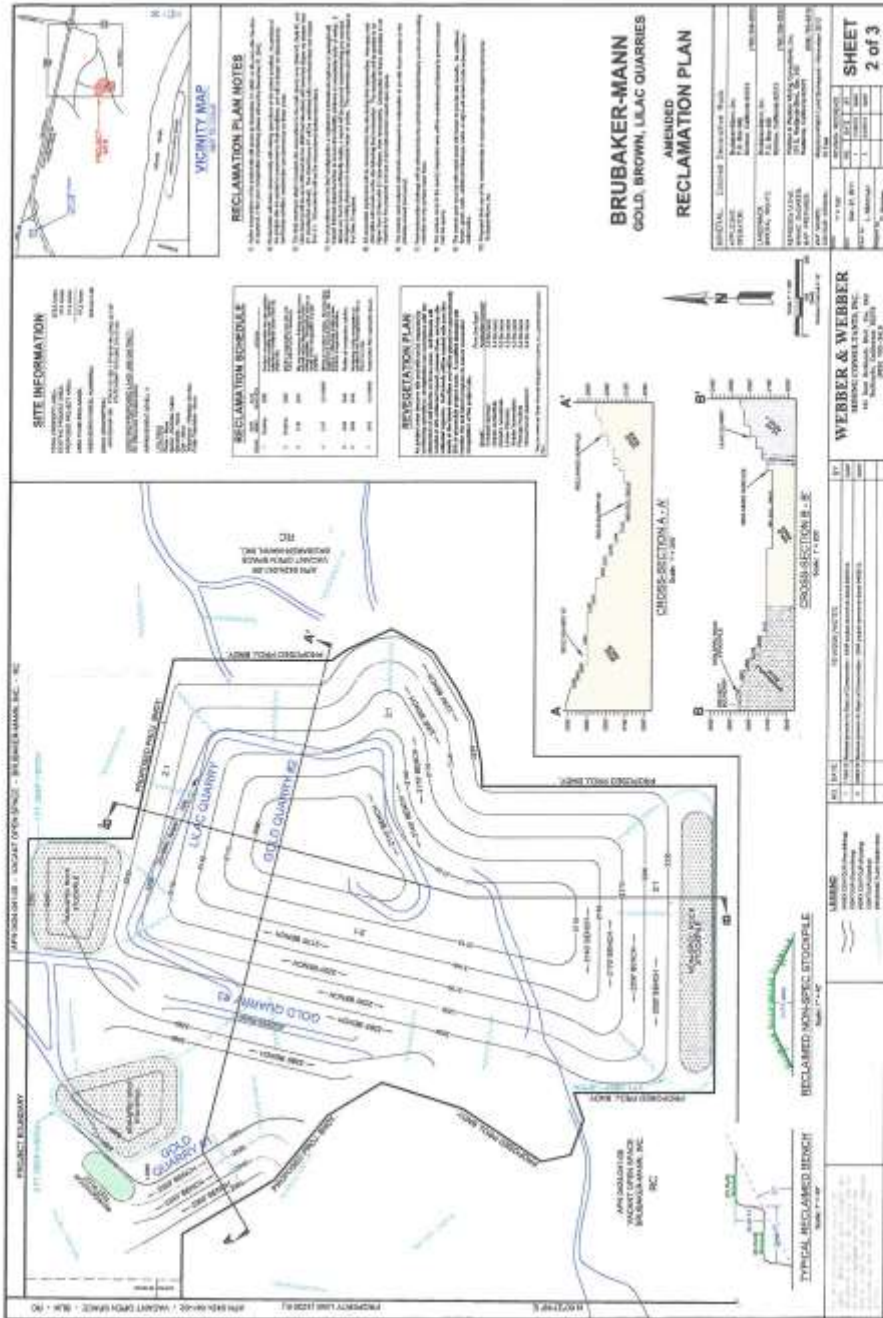
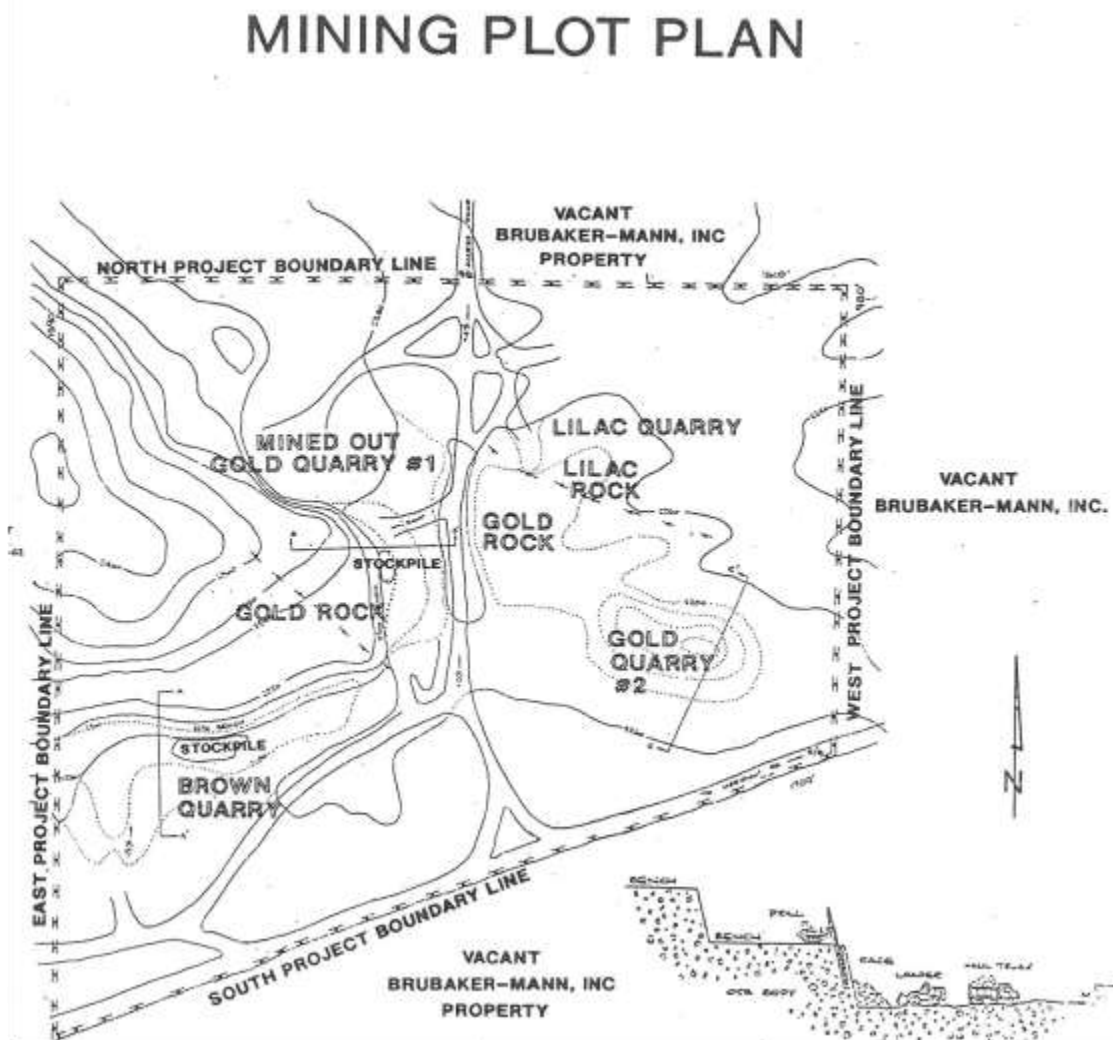


Figure 3
1990 Mine Approval
Mining Plot Plan



On April 14, 2014, the County was informed by the State Department of Conservation, Office of Mine Reclamation (OMR) of its review of the Initial Study, Mitigated Negative Declaration and amended Reclamation Plan for the Gold, Brown, Lilac Quarries, which was circulated for review and comment from March 21, 2014, to April 21, 2014. OMR informed the County that the revised April 23, 2013, Reclamation Plan did not adequately address the bench-scale stability of cut slopes and did not provide a design for proposed storm water ditches. On April 29, 2014, the Engineering Geologist with Geopacifica Inc. completed a review of the slope stability report submitted by the Applicant on August 30, 2013, pursuant to the comments raised by OMR in their March 7, 2012, and April 8, 2013, responses. The letter prepared by Geopacifica, attached as Exhibit D, cites that the report addressed the comments raised by OMR regarding slope stability. The approved Reclamation Plan as conditioned shall be required to adhere to the August 23, 2013, slope stability report requirements, including the conditions from the findings from the Field investigations and review of existing site conditions undertaken by engineers with Massaro and Welsh in November 2012. In their letter dated September 17, 2013, the engineers determined that two (2) foot deep ditches servicing the four non-spec rock stockpiles denoted on the Mining Plan (Sheet 1 of 3) and Reclamation Plan (Sheet 2 of 3) are adequate to handle the surface runoff and erosion for a 20-year one hour intensity storm event. It was concluded that once the small surface runoff leaves the two foot deep ditch it will travel along and dissipate in the constructed Quarry Bench areas and any surface runoff that leaves the Quarry Bench areas will be contained on site. The Project site in essence functions as a large Retention Basin.

In accordance with the PRC Section 2774(d)(2), the County provided OMR thirty (30) days advance notice of its intent to recommend approval of the Applicant's amended Mining/Reclamation Plan to the Planning Commission at the June 5, 2014, public hearing, attached as Exhibit H.

PROJECT PROPOSAL

Mining

The Applicant's mining and reclamation revisions will permit Brubaker-Mann to consolidate three existing small quarries (Lilac, Gold Quarry #2, and Gold Quarry #3) into one larger quarry and allow mining to a depth of 200 feet. The existing quarries contain decorative colored rock that increasingly substitutes as a low-maintenance landscaping alternative. The Gold Quarry #1 will continue to be mined as a small independent quarry area, while mining at the Brown Quarry area is being withdrawn from the Project. The Brown Quarry area has never been disturbed and therefore no reclamation is required for the site. The minor quarry area consolidation will expand the existing mining area from 47 acres to 47.2 acres as shown in Exhibit A. Up to 60,000 tons of marketable product will be produced annually from the combined quarry areas over the next 25 years or until December 31, 2037, for a total of 1.5 million tons over the life of the Project.

Mining will proceed in basically the same manner as during past operations with mining equipment mobilized to the site as dictated by the market. For dust suppression, fresh water will be trucked by using a 4,000-gallon water truck. During active onsite operations, up to approximately 1,600 gallons per day of fresh water will be applied as necessary to the haul roads and active quarry areas, or up to approximately 320,000 gallons per year. Freshwater is acquired from Golden State Water Company which services the Barstow area.

Mining is anticipated to occur between 50-200 days per year between the operating hours of 7:00 am to 5:00 pm. The material will be stockpiled on-site and periodically transported to the mill complex as needed. Quarry areas will be mined utilizing drilling and blasting, or via surface ripping with a large dozer if the rock structure allows, creating a basic open pit and a side hill quarry. Photos in Figure 4 reveal the extensive mining activities that have shaped the quarries. Elevations within the the Project range from approximately 2,400 feet above mean sea level (amsl) to 2,260 feet amsl. Utilities or permanent structures are not located on site.

The consolidated quarries will only have non-spec rock (overburden) and processing fines as mine waste. Non-spec rock consists of off-color material and primarily exists in the southern portion of the larger quarry area. The material will be removed to gain access to the desired colored rock. All non-spec rock will be stockpiled separately from the premium material in areas that are not subject to direct water flows during precipitation events. It is projected that 20 percent of material excavated near the end of the Project life will be non-spec rock, ramping up gradually to this ratio through the Project life. This material will be excavated and stockpiled for subsequent sales to the public or incorporated into site reclamation.

Table 1 below cites the mine operations.

Table 1: Mine Operations

Quantity	Proposed
Acreage	47.2
Production Rate	60,000 tons
No. of Employees	Approximately 8 -10
Days of Operation	5-Days per week as the market demands.
Hours of Operation	7:00 AM to 5:00 PM
Truck Trips	10 to 20 - trips
Operational Mining Period	December 2037

Reclamation

The objective of the Applicant's Reclamation Plan is to return the site to privately-owned vacant open space consistent with the County's Resource Conservation Land Use District. Per the Applicant's Reclamation Plan, reclamation of the site will include:

- Final grading of the Project areas to reduce slope ratios.
- Mitigation of any potential hazards
- Revegetation with indigenous species
- Monitoring and Maintenance and Public Safety

Reclamation will occur concurrently with ongoing mining operations to the extent practical. Final reclamation will occur within five (5) years of the termination of the excavation activities. Final reclamation of the Project site will consist of one small quarry area with four or five benches and one larger benched quarry area up to 200 feet in depth. All disturbed Project areas (i.e., slopes, accessible quarry benches, etc.) will be revegetated with site-indigenous plants to blend with the surrounding undisturbed areas. Processing fines remaining at the end of mining will be incorporated into revegetation activities. Any remaining non-spec rock stockpiles not sold will be graded down to a maximum height of 20 feet with 2:1 slopes, revegetated and stabilized to prevent landslides, rock falls and erosion. Erosion occurring within the quarry areas during and after

reclamation will be retained within the quarry floors. The water retained within the quarries will not impact local roads or adjacent properties as waters will not be discharged from the Project site.

The private road network will remain for future access to the privately owned parcel. All final excavated benches and Project area slopes will remain after cessation of mining activities as noted in the Reclamation Plan Map, attached as Exhibit A. The following is the disposition of the quarries upon completion of reclamation.

- Gold Quarry #1 area will be finished as a hillside quarry with four or five benches 20 feet high by 40 feet wide (2:1 horizontal:vertical overall slope).
- Gold Quarry #2, Quarry #3 and Lilac Quarry will remain with enclosed quarry benches (30 feet high by 60 feet wide) up to 200 feet in depth with a 2:1 overall slope ratio.

If steeper overall slope ratios are considered in the future, a quarry highwall analysis (Slope Stability Analysis) will require approval by the County and OMR and in accordance with SMARA reclamation standards.

Figure 4
Project Site
Overview of Existing Quarry
View toward South



Overview of Quarry
View Toward West-Southwest



Project Site
Overview of Quarry Pit
Northward View



Project Site
Overview of Gold #1 Quarry



In compliance with PRC Sections 2770 and 2773.1, Brubaker-Mann currently maintains a letter of credit with the County and the State Department of Conservation to assure successful reclamation in the unlikely event Brubaker-Mann cannot fulfill its reclamation responsibilities in accordance with the existing approved Reclamation Plan. SMARA requires that Financial assurances be annually reviewed and adjusted commensurate to current and proposed disturbances.

ANALYSIS:

Land Use Compatibility. The site is located in Central San Bernardino County approximately four miles east of Barstow and is zoned Resource Conservation (RC) land use zoning district. The RC Zone allows a limited number of uses, including mining operations subject to County approval of a conditional use permit. The properties surrounding the site are similarly zoned Resource Conservation. The proposed Project would not physically divide an established community, and is consistent with all applicable land use policies and regulations of the County's General Plan and Development Code.

The Project area is located in the Northern and Eastern Mojave planning area of the California Desert Conservation Area (CDCA). Compliance with the Mitigation Measures for biological resources contained within the Initial Study ensures that the Project would not conflict with an adopted Habitat, Conservation Plan, Natural Community Conservation Plan or any other approved local, regional or state habitat conservation plan.

Initial Study. In compliance with the California Environmental Quality Act (CEQA), an Initial Study, attached as Exhibit E, was completed and routed to the State Clearinghouse for circulation (SCH# 2014031066). The 30-day comment period terminated on April 21, 2014. Comments were received from the State of California Department of Fish and Wildlife (CDFW) and the Lahontan Waterboard. Staff has reviewed the comments and determined that concerns raised in the comment letters have been adequately addressed in the Initial Study (Ref. Section IV Biological Resources and Section V Cultural Resources) and as incorporated in the Conditions of Approval. Please refer to Exhibit F to review the comment letters received from the CDFW, Department of Transportation (CALTRANS) and April 21, 2014, email transmittal from the Lahontan Water Board.

The comments did not trigger the need for substantial revisions or re-circulation of the Initial Study given the mitigation incorporated in the project as indicated below. Consequently, in accordance with Public Resources Code Section 2774(d)(2), on May 1, 2014, the County served a 30 day notice, attached as Exhibit G to the Office of Mining and Reclamation of the County's intent to recommend approval of the Project to the Planning Commission at the June 5, 2014 hearing.

Mitigated Environmental Factors. Of the environmental factors potentially affected, mitigation measures are being recommended for Biological Resources and Cultural Resources.

1. Biological Resources: Based on a Focused Survey and Resurvey for Agassiz's desert tortoise, Habitat Assessments for Burrowing Owl, and Mohave ground squirrel, and General Biological Resource Assessment for the Brubaker-Mann prepared by Circle Mountain Biological Consultants in May 2012 and focused Survey report update
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prepared on February 11, 2014, by the same consultants, attached as appendices in Exhibit A, it was determined that with mitigation, impacts to the desert tortoise, Mohave ground squirrel, and burrowing owl would be less than significant. Although California Fish & Game in their April 22, 2014, letter recommends mitigation for the American Badger and desert kit fox, the biological study reported that no digs by the American Badger were detected in the expansion area and consequently the consultant concluded that the species should not be adversely affected by the mine expansion. To mitigate riparian habitat/wetlands impacts, prior to commencing mining activities the Project applicant shall obtain a Section 404 Permit from the United States Army Corps of Engineers, a Section 1602 Streambed Alteration Agreement from CDFW and a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

2. Cultural Resources: Although the County did not receive responses from the Native American Heritage Commission concerning matters involving archaeological sites and historic resources concerning findings of Native American objects and remains, mitigation measure have been incorporated requiring that if at any time potential evidence of human remains are found, all work is to cease and a certified archaeologist and a culturally affiliated Native American with knowledge in cultural resources should be contacted. With regard to archaeological or historic findings on state lands, all work shall cease and the County shall consult with the Commission prior to permitting mining operations are allowed to commence.

Concerning drainage and erosion controls, erosion occurring within the Project area during and after reclamation will be retained within the Project boundary. Although the mine expansion is not anticipated to impact CDFW regulated streambed and banks, a Streambed Alteration Agreement may also be required prior to Project implementation. A report of waste discharge must also be filed with the RWQCB to obtain Waste Discharge Requirements for actions that may affect surface or groundwater in a diffused manner (e.g., erosion from soil disturbance or waste discharges to land). A Permit Registration Documents package must be submitted to the RWQCB to obtain a General Permit for discharges of storm water associated with mining activity.

In conclusion, the Initial Study and corresponding studies determined that the proposed use, with the implementation of mitigation measures, will not have a significant effect on the environment, and a Mitigated Negative Declaration is recommended. This proposed determination represents the independent judgment of the County. All mitigation measures are included in the Conditions of Approval and are implemented through the post approval review.

RECOMMENDATION: That the Planning Commission:

- 1) **ADOPT** the Mitigated Negative Declaration based on a finding that the Initial Study was completed in compliance with CEQA, that it has been reviewed and considered prior to approval of the Project, and that the Initial Study/Mitigated Negative Declaration and supporting documents reflects the independent judgment of the County of San Bernardino;
- 2) **ADOPT** the Findings as attached with this Staff Report (Exhibit B);
- 3) **ADOPT** the Project's Conditions of Approval attached with this Staff Report (Exhibit C);
- 4) **APPROVE** a Reclamation Plan 90M-07 for the proposed 47.2 acre mining expansion; and
- 5) **FILE** a Notice of Determination.

FIGURES:

1. Vicinity Map
2. Site Plans
3. 1990 Mining Approval Plot Plan
4. Photos

ATTACHMENTS:

- Exhibit A: Gold, Brown, Lilac Quarries Amended Mining & Reclamation Plan/Attached Plans and Appendices (Biological Resource Assessment, Baseline Vegetation Analysis & Revegetation Plan)
- Exhibit B: Findings
- Exhibit C: Conditions of Approval
- Exhibit D: Geopacifica Slope Stability Approval Letter dated April 29, 2014
- Exhibit E: Initial Study/Mitigated Negative Declaration
- Exhibit F: Comment Letters California Dept. of Fish and Wildlife, California Department of Transportation (CALTRANS) and April 21, 2014 email transmittal from the Lahontan Water Board
- Exhibit G: County 30 Day Advance Notice to OMR, dated May 1, 2014
-

	<u>AGENCY</u>	<u>COMMENT</u>
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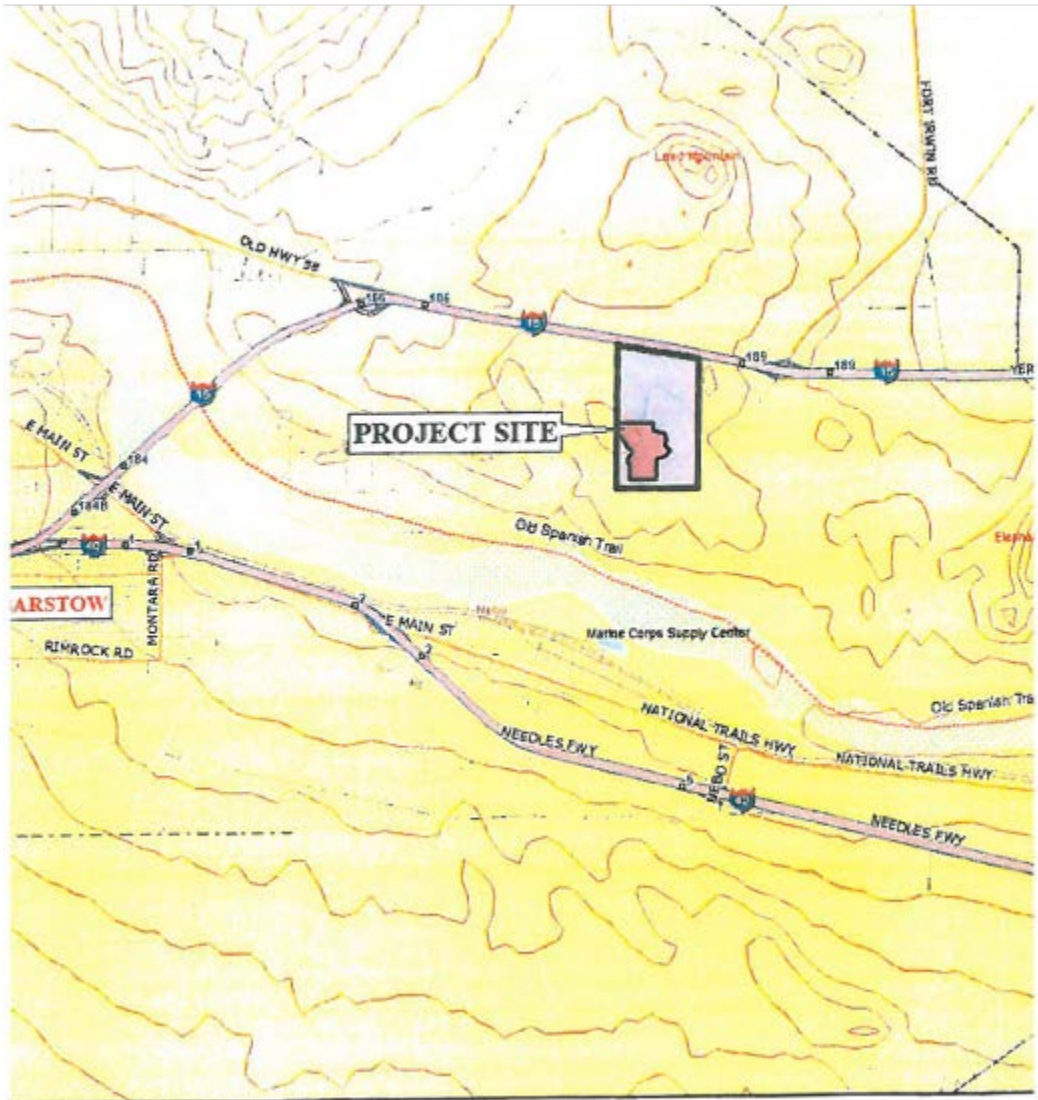
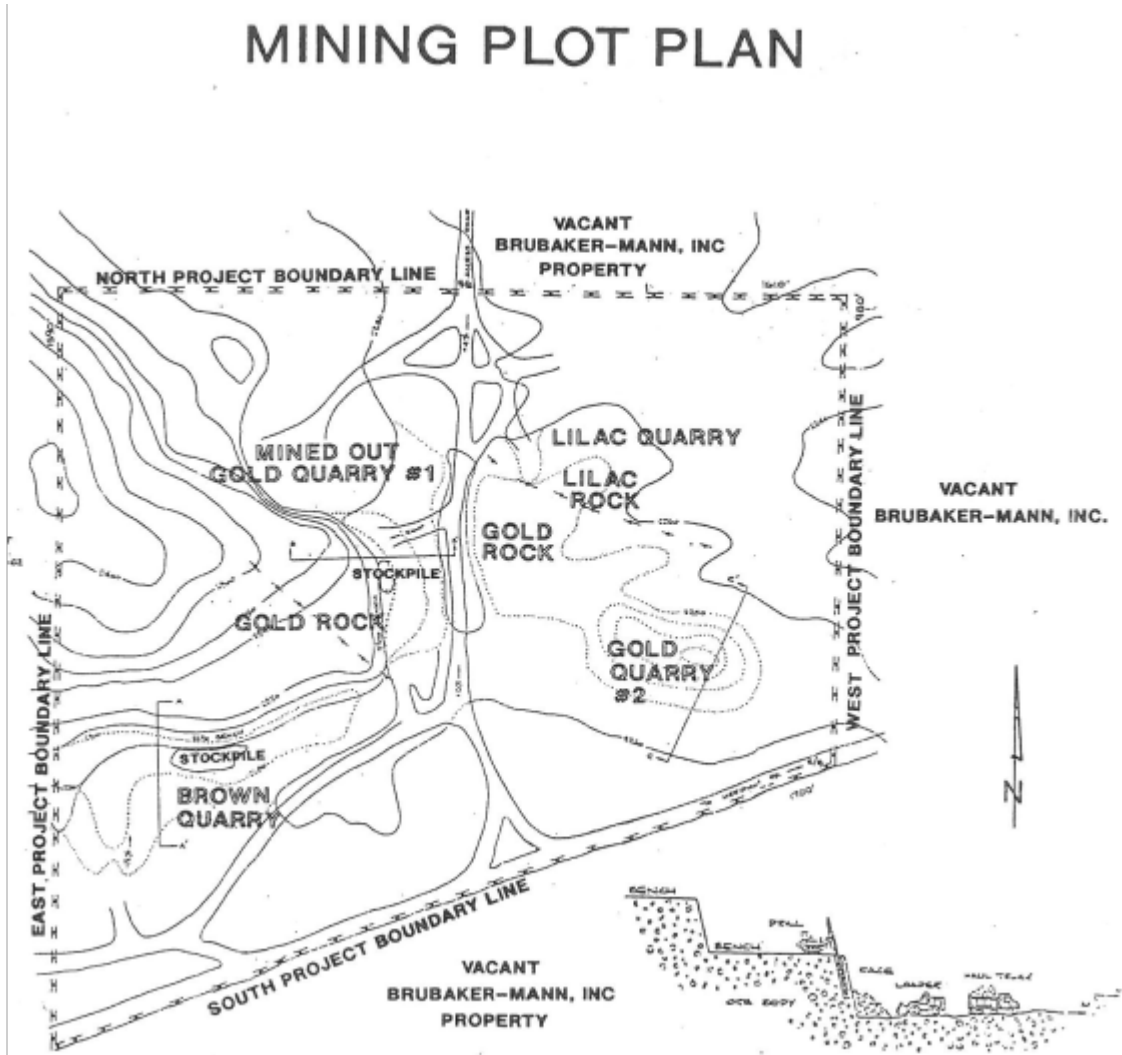


Figure 3
1990 Mine Approval
Mining Plot Plan



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Mining

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Mining will proceed in basically the same manner as during past operations with mining equipment mobilized to the site as dictated by the market. For dust suppression, fresh water will be trucked by using a 4,000-gallon water truck. During active onsite operations, up to approximately 1,600 gallons per day of fresh water will be applied as necessary to the haul roads and active quarry areas, or up to approximately 320,000 gallons per year. Freshwater is acquired from Golden State Water Company which services the Barstow area.

Mining is anticipated to occur between 50-200 days per year between the operating hours of 7:00 am to 5:00 pm. The material will be stockpiled on-site and periodically transported to the mill complex as needed. Quarry areas will be mined utilizing drilling and blasting, or via surface ripping with a large dozer if the rock structure allows, creating a basic open pit and a side hill quarry. Photos in Figure 4 reveal the extensive mining activities that have shaped the quarries. Elevations within the the Project range from approximately 2,400 feet above mean sea level (amsl) to 2,260 feet amsl. Utilities or permanent structures are not located on site.

The consolidated quarries will only have non-spec rock (overburden) and processing fines as mine waste. Non-spec rock consists of off-color material and primarily exists in the southern portion of the larger quarry area. The material will be removed to gain access to the desired colored rock. All non-spec rock will be stockpiled separately from the premium material in areas that are not subject to direct water flows during precipitation events. It is projected that 20 percent of material excavated near the end of the Project life will be non-spec rock, ramping up gradually to this ratio through the Project life. This material will be excavated and stockpiled for subsequent sales to the public or incorporated into site reclamation.

Table 1 below cites the mine operations.

Table 1: Mine Operations

Quantity	Proposed
Acreage	47.2
Production Rate	60,000 tons
No. of Employees	Approximately 8 -10
Days of Operation	5-Days per week as the market demands.
Hours of Operation	7:00 AM to 5:00 PM
Truck Trips	10 to 20 - trips
Operational Mining Period	December 2037

Reclamation

The objective of the Applicant's Reclamation Plan is to return the site to privately-owned vacant open space consistent with the County's Resource Conservation Land Use District. Per the Applicant's Reclamation Plan, reclamation of the site will include:

- Final grading of the Project areas to reduce slope ratios.
- Mitigation of any potential hazards
- Revegetation with indigenous species
- Monitoring and Maintenance and Public Safety

Reclamation will occur concurrently with ongoing mining operations to the extent practical. Final reclamation will occur within five (5) years of the termination of the excavation activities. Final reclamation of the Project site will consist of one small quarry area with four or five benches and one larger benched quarry area up to 200 feet in depth. All disturbed Project areas (i.e., slopes, accessible quarry benches, etc.) will be revegetated with site-indigenous plants to blend with the surrounding undisturbed areas. Processing fines remaining at the end of mining will be incorporated into revegetation activities. Any remaining non-spec rock stockpiles not sold will be graded down to a maximum height of 20 feet with 2:1 slopes, revegetated and stabilized to prevent landslides, rock falls and erosion. Erosion occurring within the quarry areas during and after

reclamation will be retained within the quarry floors. The water retained within the quarries will not impact local roads or adjacent properties as waters will not be discharged from the Project site.

The private road network will remain for future access to the privately owned parcel. All final excavated benches and Project area slopes will remain after cessation of mining activities as noted in the Reclamation Plan Map, attached as Exhibit A. The following is the disposition of the quarries upon completion of reclamation.

- Gold Quarry #1 area will be finished as a hillside quarry with four or five benches 20 feet high by 40 feet wide (2:1 horizontal:vertical overall slope).
- Gold Quarry #2, Quarry #3 and Lilac Quarry will remain with enclosed quarry benches (30 feet high by 60 feet wide) up to 200 feet in depth with a 2:1 overall slope ratio.

If steeper overall slope ratios are considered in the future, a quarry highwall analysis (Slope Stability Analysis) will require approval by the County and OMR and in accordance with SMARA reclamation standards.

Figure 4
Project Site
Overview of Existing Quarry
View toward South



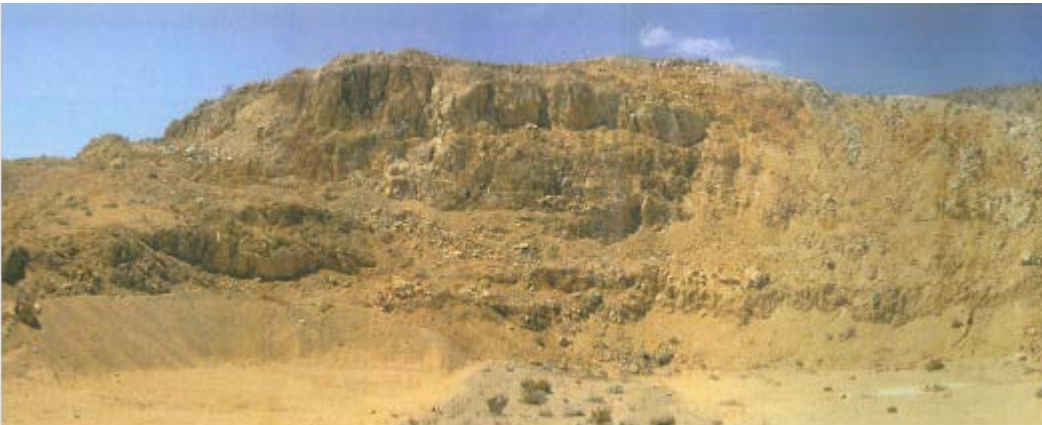
Overview of Quarry
View Toward West-Southwest



Project Site
Overview of Quarry Pit
Northward View



Project Site
Overview of Gold #1 Quarry



In compliance with PRC Sections 2770 and 2773.1, Brubaker-Mann currently maintains a letter of credit with the County and the State Department of Conservation to assure successful reclamation in the unlikely event Brubaker-Mann cannot fulfill its reclamation responsibilities in accordance with the existing approved Reclamation Plan. SMARA requires that Financial assurances be annually reviewed and adjusted commensurate to current and proposed disturbances.

ANALYSIS:

Land Use Compatibility. The site is located in Central San Bernardino County approximately four miles east of Barstow and is zoned Resource Conservation (RC) land use zoning district. The RC Zone allows a limited number of uses, including mining operations subject to County approval of a conditional use permit. The properties surrounding the site are similarly zoned Resource Conservation. The proposed Project would not physically divide an established community, and is consistent with all applicable land use policies and regulations of the County's General Plan and Development Code.

The Project area is located in the Northern and Eastern Mojave planning area of the California Desert Conservation Area (CDCA). Compliance with the Mitigation Measures for biological resources contained within the Initial Study ensures that the Project would not conflict with an adopted Habitat, Conservation Plan, Natural Community Conservation Plan or any other approved local, regional or state habitat conservation plan.

Initial Study. In compliance with the California Environmental Quality Act (CEQA), an Initial Study, attached as Exhibit E, was completed and routed to the State Clearinghouse for circulation (SCH# 2014031066). The 30-day comment period terminated on April 21, 2014. Comments were received from the State of California Department of Fish and Wildlife (CDFW) and the Lahontan Waterboard. Staff has reviewed the comments and determined that concerns raised in the comment letters have been adequately addressed in the Initial Study (Ref. Section IV Biological Resources and Section V Cultural Resources) and as incorporated in the Conditions of Approval. Please refer to Exhibit F to review the comment letters received from the CDFW, Department of Transportation (CALTRANS) and April 21, 2014, email transmittal from the Lahontan Water Board.

The comments did not trigger the need for substantial revisions or re-circulation of the Initial Study given the mitigation incorporated in the project as indicated below. Consequently, in accordance with Public Resources Code Section 2774(d)(2), on May 1, 2014, the County served a 30 day notice, attached as Exhibit G to the Office of Mining and Reclamation of the County's intent to recommend approval of the Project to the Planning Commission at the June 5, 2014 hearing.

Mitigated Environmental Factors. Of the environmental factors potentially affected, mitigation measures are being recommended for Biological Resources and Cultural Resources.

1. **Biological Resources:** Based on a Focused Survey and Resurvey for Agassiz's desert tortoise, Habitat Assessments for Burrowing Owl, and Mohave ground squirrel, and General Biological Resource Assessment for the Brubaker-Mann prepared by Circle Mountain Biological Consultants in May 2012 and focused Survey report update

prepared on February 11, 2014, by the same consultants, attached as appendices in Exhibit A, it was determined that with mitigation, impacts to the desert tortoise, Mohave ground squirrel, and burrowing owl would be less than significant. Although California Fish & Game in their April 22, 2014, letter recommends mitigation for the American Badger and desert kit fox, the biological study reported that no digs by the American Badger were detected in the expansion area and consequently the consultant concluded that the species should not be adversely affected by the mine expansion. To mitigate riparian habitat/wetlands impacts, prior to commencing mining activities the Project applicant shall obtain a Section 404 Permit from the United States Army Corps of Engineers, a Section 1602 Streambed Alteration Agreement from CDFW and a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWCQB).

2. Cultural Resources: Although the County did not receive responses from the Native American Heritage Commission concerning matters involving archaeological sites and historic resources concerning findings of Native American objects and remains, mitigation measure have been incorporated requiring that if at any time potential evidence of human remains are found, all work is to cease and a certified archaeologist and a culturally affiliated Native American with knowledge in cultural resources should be contacted. With regard to archaeological or historic findings on state lands, all work shall cease and the County shall consult with the Commission prior to permitting mining operations are allowed to commence.

Concerning drainage and erosion controls, erosion occurring within the Project area during and after reclamation will be retained within the Project boundary. Although the mine expansion is not anticipated to impact CDFW regulated streambed and banks, a Streambed Alteration Agreement may also be required prior to Project implementation. A report of waste discharge must also be filed with the RWQCB to obtain Waste Discharge Requirements for actions that may affect surface or groundwater in a diffused manner (e.g., erosion from soil disturbance or waste discharges to land). A Permit Registration Documents package must be submitted to the RWQCB to obtain a General Permit for discharges of storm water associated with mining activity.

In conclusion, the Initial Study and corresponding studies determined that the proposed use, with the implementation of mitigation measures, will not have a significant effect on the environment, and a Mitigated Negative Declaration is recommended. This proposed determination represents the independent judgment of the County. All mitigation measures are included in the Conditions of Approval and are implemented through the post approval review.

RECOMMENDATION: That the Planning Commission:

- 1) **ADOPT** the Mitigated Negative Declaration based on a finding that the Initial Study was completed in compliance with CEQA, that it has been reviewed and considered prior to approval of the Project, and that the Initial Study/Mitigated Negative Declaration and supporting documents reflects the independent judgment of the County of San Bernardino;
- 2) **ADOPT** the Findings as attached with this Staff Report (Exhibit B);
- 3) **ADOPT** the Project's Conditions of Approval attached with this Staff Report (Exhibit C);
- 4) **APPROVE** a Reclamation Plan 90M-07 for the proposed 47.2 acre mining expansion; and
- 5) **FILE** a Notice of Determination.

FIGURES:

1. Vicinity Map
2. Site Plans
3. 1990 Mining Approval Plot Plan
4. Photos

ATTACHMENTS:

- Exhibit A: Gold, Brown, Lilac Quarries Amended Mining & Reclamation Plan/Attached Plans and Appendices (Biological Resource Assessment, Baseline Vegetation Analysis & Revegetation Plan) (Provided on a CD)
- Exhibit B: Findings
- Exhibit C: Conditions of Approval
- Exhibit D: Geopacifica Slope Stability Approval Letter dated April 29, 2014
- Exhibit E: Initial Study/Mitigated Negative Declaration
- Exhibit F: Comment Letters California Dept. of Fish and Wildlife, California Department of Transportation (CALTRANS) and April 21, 2014 email transmittal from the Lahontan Water Board
- Exhibit G: County 30 Day Advance Notice to OMR, dated May 1, 2014