

Chapter 7

Response to Comments

SCH # 2019011010

Volume 3

JOHE RANCH MINING PROJECT
By Diatom, LLC

CUP 17, Map 117



Kern County
Planning and Natural Resources Department
Bakersfield, California

March 2021

This page intentionally left blank.

Lorelei H. Oviatt, AICP, Director
2700 "M" Street, Suite 100
Bakersfield, CA 93301-2323
Phone: (661) 862-8600
Fax: (661) 862-8601 TTY Relay 1-800-735-2929
Email: planning@kerncounty.com
Web Address: <http://kernplanning.com/>



**PLANNING AND NATURAL
RESOURCES DEPARTMENT**

Planning
Community Development
Administrative Operations

March 25, 2021

File: CUP 17, Map 117
S.D.: #4 - Couch

Addressee List (See Distribution List)

Re: Response to Comments for Draft Environmental Impact Report – Johe Ranch Mining Project by Diatom, LLC (PP12316)

Dear Interested Party:

Enclosed is a document entitled *Volume 3 – Chapter 7 – Response to Comments*, for the above referenced project. Section 15088 of the California Environmental Quality Act Guidelines requires the Lead Agency to evaluate comments on environmental issues received from persons who reviewed the Draft Environmental Impact Report (EIR) and prepare a written response addressing each comment. This document is Chapter 7 of the Final EIR.

A public hearing has been scheduled with the Kern County Planning Commission to consider this request on April 8, 2021, at 7:00 p.m.

Due to COVID-19 and subsequent local emergency declarations by the Kern County Board of Supervisors, Staff is evaluating the possibility of facilitating an alternative form of public participation during this hearing. If you have any questions about the format of the hearing and/or wish to get more information please contact the Staff Planner.

Thank you for your participation in the environmental process for this project. If you have any questions regarding this project, please do not hesitate to contact me at (661) 862-8612 or via email at catesr@kerncounty.com.

Sincerely,

A handwritten signature in blue ink that reads "Randall Cates".

Randall Cates, Planner III
Advanced Planning Division

COMMENTING AGENCIES AND INTERESTED PERSONS: County of Kern Public Health Services Department, Environmental Health Division; San Joaquin Valley Air Pollution Control District; Department of Transportation; County of Kern Public Works Department, Administration and Engineering Division; County of Kern Public Works Department, Floodplain Management Section; Kern County Water Agency; Southern California Gas Company, Transmission Technical Services Department

This page intentionally left blank.

California Department of Transportation
District 6
P.O. Box 12616
Fresno, CA 93778-2616

Kern County Public Health
Services Department/
Environmental Health Division

Kern County Public Works Department/
Building & Development/Floodplain

Kern County Public Works Department/
Administration and Engineering Division

Kern County Water Agency
3200 Rio Mirada Drive
Bakersfield, CA 93308

Southern California Gas Company
Transmission Technical Services Dept.
9400 Oakdale Ave
Chatsworth, CA 91311
SC9314

San Joaquin Valley
Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93726

This page intentionally left blank.

Chapter 7

Response to Comments

SCH # 2019011010

Volume 3

JOHE RANCH MINING PROJECT
By Diatom, LLC

CUP 17, Map 117



Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301-2370
(661) 862-8600

Technical Assistance by:

SWCA Environmental Consultants
1422 Monterey Street, Suite C200
San Luis Obispo, CA 93401
(805) 543-7095

March 2021

This page intentionally left blank.

Table of Contents

VOLUME 3

	Page
Chapter 7 Response to Comments	7-1
7.1 Introduction.....	7-1
Purpose	7-1
Environmental Review Process	7-1
7.2 Revisions to the Draft EIR.....	7-3
Chapter 1, Executive Summary, Page 1-15	7-3
Chapter 1, Executive Summary, Page 1-16	7-3
Chapter 1, Executive Summary, Page 1-18	7-3
Chapter 1, Executive Summary, Pages 1-25, 1-37, 1-42, 1-47, 1-49, 1-50	7-4
Chapter 3, Project Description, Page 3-16.....	7-27
Chapter 3, Project Description, Page 3-17.....	7-27
Chapter 3, Project Description, Page 3-22.....	7-27
Section 4.2, Agriculture and Forest Resources, Page 4.2-15	7-27
Section 4.3, Air Quality, Page 4.3-2	7-27
Section 4.3, Air Quality, Page 4.3-45	7-28
Section 4.3, Air Quality, Page 4.3-53	7-28
Section 4.3, Air Quality, Page 4.3-61	7-28
Section 4.4, Biological Resources, Page 4.4-31	7-28
Section 4.5, Cultural Resources, Page 4.5-20	7-32
Section 4.7, Geology and Soils, Page 4.7-32.....	7-33
Section 4.9, Hazards and Hazardous Materials, Pages 4.9-20, 4.9-21.....	7-34
Section 4.10, Hydrology and Water Quality, Page 4.10-6.....	7-35
Section 4.10, Hydrology and Water Quality, Page 4.10-28.....	7-36
Section 4.18, Utilities and Service Systems, Page 4.18-10.....	7-36
Section 4.19, Wildfire, Pages 4.19-7, 4.19-8	7-36
Chapter 5, Consequences, Page 5-1	7-36
Chapter 6, Alternatives, Page 6-6	7-37
Volume 2, Appendix B, Page 11	7-37
Volume 2, Appendix B, Page 14	7-37
Volume 2, Appendix B, Page 15	7-38
Volume 2, Appendix B, Page 16	7-38
Volume 2, Appendix B, Page 18	7-38

7.3	Response to Comments.....	7-39
	State Agencies.....	7-39
	Local Agencies	7-39
	Interested Parties.....	7-39
	Comment Letter 1: California Department of Transportation District 6 Office (February 1, 2021)	7-40
	Response to Comment Letter 1: California Department of Transportation District 6 Office (February 1, 2021).....	7-43
	Comment Letter 2: Kern County Public Health Services Department, Environmental Health Division (December 10, 2020).....	7-46
	Response to Comment Letter 2: Kern County Public Health Services Department, Environmental Health Division (December 10, 2020).....	7-47
	Comment Letter 3: Kern County Public Works Department, Floodplain Management Section (November 10, 2020).....	7-49
	Response to Comment Letter 3: Kern County Public Works Department, Floodplain Management Section (November 10, 2020).....	7-50
	Comment Letter 4: Kern County Public Works Department, Floodplain Management Section (December 18, 2020)	7-51
	Response to Comment Letter 4: Kern County Public Works Department, Floodplain Management Section (December 18, 2020)	7-52
	Comment Letter 5: Kern County Public Works Department, Administration and Engineering Division (January 7, 2021).....	7-53
	Response to Comment Letter 5: Kern County Public Works Department, Administration and Engineering Division (January 7, 2021)	7-54
	Comment Letter 6: Kern County Water Agency (December 21, 2020).....	7-55
	Response to Comment Letter 6: Kern County Water Agency (December 21, 2020).....	7-57
	Comment Letter 7: Southern California Gas Company Transmission Technical Services (December 2, 2020).....	7-59
	Response to Comment Letter 7: Southern California Gas Company Transmission Technical Services (December 2, 2020)	7-60
	Comment Letter 8: Southern California Gas Company Transmission Technical Services (January 6, 2021).....	7-61

Response to Comment Letter 8: Southern California Gas Company Transmission Technical Services (January 6, 2021)	7-62
Comment Letter 9: San Joaquin Valley Air Pollution Control District (February 23, 2021)	7-63
Response to Comment Letter 9: San Joaquin Valley Air Pollution Control District (February 23, 2021)	7-67

This page intentionally left blank.

7.1 Introduction

Purpose

As defined by Section 15050 of the California Environmental Quality Act (CEQA) *Guidelines*, the Kern County Planning and Natural Resources Department is serving as “Lead Agency” for the preparation of the Environmental Impact Report (EIR) for the Johe Ranch Mining Project (project or proposed project). The Final EIR presents the environmental information and analyses that have been prepared for the proposed project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments. In addition to the responses to comments, clarifications, corrections, or minor revisions have been made to the Draft EIR. The Final EIR, which includes the responses to comments, the Draft EIR, and the Mitigation Measure Monitoring Plan (MMMP), will be used by the Kern County Planning Commission and Board of Supervisors in the decision-making process for the proposed project.

Environmental Review Process

A Notice of Preparation/Initial Study (NOP/IS) (State Clearinghouse [SCH] No. 2019011010) was circulated for a 30-day public review period beginning on January 8, 2019, and ending on February 7, 2019. Twelve individual written comment letters were received and used in the preparation of the Draft EIR. The Draft EIR for the proposed project was circulated for a 45-day public review period beginning on November 6, 2020, and ending on December 21, 2020. A total of nine comment letters were received on the Draft EIR.

Section 15088 of the State CEQA *Guidelines* requires that the lead agency evaluate comments on environmental issues received from persons and agencies that reviewed the Draft EIR and prepare a written response addressing the comments received. The response to comments is contained in this document—Volume 3, Chapter 7 of the Draft EIR. Volumes 1, 2, and 3 together constitute the Final EIR.

This page intentionally left blank.

7.2 Revisions to the Draft EIR

The revisions that follow were made to the text of the Draft EIR. Amended text is identified by page number. Additions to the Draft EIR text are shown with underline and text removed from the Draft EIR is shown with ~~striketrough~~. The revisions, as outlined below, fall within the scope of the original project analysis included in the Draft EIR and do not result in an increase to any identified impacts or produce any new impacts. No new significant environmental impact would result from the changes or from a new mitigation measure proposed to be implemented. Therefore, no significant revisions have been made which would require recirculation of the Draft EIR pursuant to State CEQA *Guidelines* Section 15088.5 (Recirculation of an EIR Prior to Certification).

Chapter 1, Executive Summary, Page 1-15

Additionally, mined ~~aggregate~~material would be utilized for industrial purposes.

Chapter 1, Executive Summary, Page 1-16

Kern County considered several alternatives to reduce the project's environmental impacts. In identifying potential alternatives, Kern County reviewed its General Plan and the California Geological Survey's *Update of Mineral Land Classification: Aggregate Materials in the Bakersfield Production-Consumption Region, Kern County, California* (Special Report 210) (Busch 2009) for potential alternative project locations. The majority of the alternate project sites were considered and rejected due to their locations being potentially more environmentally sensitive, too small to feasibly meet project objectives, or not conducive to mining due to existing geologic conditions. Therefore, the alternative locations alternative (as described in further detail in Chapter 6.2.1 of the EIR) was eliminated from further consideration.

Kern County also considered a phased approach alternative to reduce potential adverse visual impacts. Specifically, the phased approach alternative would have required all mining and reclamation in Mining Area 2 to be completed prior to beginning work in Mining Areas 1 and 3; additionally, within each of the three mining areas, all work would begin at the northern end and proceed toward the south. This alternative would allow for the same availability to overall reserves of the project area. However, the phased approach was considered to not be a feasible option for implementation of proposed mining activities and an ineffective solution to address potential visual impacts. Therefore, the phased approach alternative was eliminated from further consideration.

The estimated reserves permitted, however, would still meet most of the project's objectives to provide a quality ~~aggregate~~mineral resource suitable to meet ~~construction~~ customer specifications for the life of the operation

Chapter 1, Executive Summary, Page 1-18

As described above, Alternative B would reduce environmental impacts related to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, noise, transportation and traffic, tribal cultural resources, and utilities and service systems, and wildfire compared to the proposed project.

Chapter 1, Executive Summary, Pages 1-25, 1-37, 1-42, 1-47, 1-49, 1-50

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
4.3 Air Quality			
Impact 4.3-2: The project would result in a cumulatively considerable net increase of a criteria pollutant for which the project region is nonattainment under an applicable Federal or State ambient air quality standard.	Potentially significant	<p>MM 4.3-2: The project proponent shall develop and implement a Fugitive Dust Control Plan in compliance with San Joaquin Valley Air Pollution Control District (SJVAPCD) fugitive dust suppression regulations to further reduce emissions, during operations, of particulate matter that is 10 microns or less in diameter (PM10) and 2.5 microns or less in diameter (PM2.5). The Fugitive Dust Control Plan shall include:</p> <ul style="list-style-type: none"> A. Name(s), address(es), and phone number(s) of person(s) responsible for the preparation, submission, and implementation of the plan. B. Description and location of operation(s). C. Listing of all fugitive dust emissions sources included in the operation. D. The following dust control measures shall be implemented: <ul style="list-style-type: none"> 1. All on-site unpaved roads shall be effectively stabilized using water or chemical soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board-approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation. 2. All material excavated or graded will be sufficiently watered to prevent excessive dust. Watering will occur as needed with complete coverage of disturbed areas. The excavated soil piles will be watered as needed to limit dust emissions to less than 20% opacity or covered with temporary coverings. 	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<ol style="list-style-type: none"> 3. Activities that occur on unpaved surfaces will be discontinued during windy conditions when winds exceed 25 miles per hour and those activities cause visible dust plumes. Such activities may continue if dust suppression measures are used to minimize visible dust plumes. 4. Track-out debris onto public paved roads shall not extend 50 feet or more from an active operation and track-out shall be removed or isolated such as behind a locked gate at the conclusion of each workday. 5. All hauling materials shall be moist while being loaded into dump trucks. 6. All material on haul trucks shall be effectively contained in accordance with SJVAPCD regulations. 7. Material loads on trucks shall maintain at least 6 inches of freeboard space below the top of the container. 8. Drop heights shall be minimized when loaders dump material into trucks. 9. Gate seals shall be tight on dump trucks. 10. Traffic speeds on unpaved roads shall be limited to 15 miles per hour. 11. All grading activities shall be suspended when visible dust emissions exceed 20%. 12. Other fugitive dust control measures as necessary to comply with SJVAPCD Rules and Regulations. 13. Disturbed areas shall be minimized. 14. Disturbed areas shall be revegetated as soon as possible after disturbance if area is no longer needed for mining activities. 	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>MM 4.3-3: Surface disturbance, with the exception of ongoing and permitted agricultural activities, shall be kept to a minimum in advance of mining. Where feasible, disturbed areas shall be seeded with an interim seed mix to minimize fugitive dust emissions from unvegetated areas. At such time as surface mining or associated activities have been completed on an area of disturbed land, reclamation efforts shall be initiated on those portions of the disturbed lands that will not be subject to further disturbance by the surface mining operation or its associated activities.</p> <p>MM 4.3-4: Fugitive dust (PM₁₀) emissions shall be minimized during the course of mining and reclamation utilizing the application of water or by presoaking. Haul roads shall be watered or have a palliative applied, depending on weather and road conditions, as necessary to adhere to the requirements of the San Joaquin Valley Air Pollution Control District.</p> <p>MM 4.3-5: Mined materials transported off-site shall be covered, effectively wetted to limit visible dust emissions, or employ at least 6 inches of freeboard space to separate material from the top of the container.</p> <p>MM 4.3-6: The fleet of diesel engines in off-road vehicles operating at the project site shall comply with the In-Use Off-Road Engine Air Toxic Control Measure (13 California Code of Regulations [CCR] Sections 2449 and 2449.1) and provide copies of annual compliance certification reports made to California Air Resources Board through the DOORS program to Kern County annually.</p> <p>A. All equipment shall be turned off when not in use. Engine idling of all equipment shall be limited to 5 minutes, except under exemptions specified in 13 CCR Section 2449(d)(2). In addition, the facility shall have a written idling policy and distribute it to vehicle operators as required by this regulation.</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>B. All equipment engines shall be maintained in good operating condition and in proper tune per manufacturers' specifications.</p> <p>MM 4.3-7: To further reduce emissions of nitrogen oxides from on-road heavy-duty diesel haul vehicles:</p> <p>A. 2007 engines or pre-2007 engines shall comply with California Air Resources Board retrofit requirements set forth in Title 13 California Code of Regulations (CCR) Section 2025.</p> <p>B. All on-road haul trucks, except those meeting the 2007/California Air Resources Board-certified Level 3 diesel emissions controls, shall meet all applicable California on-road emission standards and shall be licensed in the State of California. This does not apply to worker personal vehicles.</p> <p>C. All on-road haul trucks shall be properly tuned and maintained in accordance with the manufacturers' specifications.</p>	
Impact 4.3-3: The project would expose sensitive receptors to substantial pollutant concentrations.	Potentially significant	<p><u>Implement Mitigation Measure MM 4.3-2 and the following additional mitigation measures.</u></p> <p>MM 4.3-8: Prior to ground disturbance activities, the project proponent shall provide a "Valley Fever Training Information Packet" and conduct training sessions for all personnel. A copy of the handout and a schedule of education sessions shall be provided to the Kern County Planning and Natural Resources Department. All evidence of the training session(s) and handout(s) shall be submitted to the Kern County Planning and Natural Resources Department on a monthly basis. Multiple training sessions may be conducted if different work crews come to the site for different stages of work; however, all personnel shall be provided training prior to beginning work. The evidence submitted to the Kern County Planning and Natural Resources Department</p>	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>regarding the “Valley Fever Training Handout” and Session(s) shall include the following:</p> <ul style="list-style-type: none"> A. A sign-in sheet (to include the printed employee names, signature, and date) for all employees who attended the training session. B. Distribution of an information packet that includes educational information regarding the health effects of exposure to criteria pollutant emissions and Valley Fever, symptoms of exposure, and instruction for reporting cases of flu-like or respiratory illness symptoms to the Site Safety Officer. Those with persistent symptoms lasting more than 3 days shall be recommended to seek immediate medical advice. C. Training on methods that may help prevent Valley Fever infection. D. A demonstration to employees on how to use personal protective equipment (PPE), such as respiratory equipment (masks), to reduce exposure to pollutants and facilitate recognition of symptoms and earlier treatment of Valley Fever. Though use of the equipment is not mandatory during work, the equipment shall be readily available and shall be provided to employees for use during work, if requested by an employee. Proof that the demonstration is included in the training shall be submitted to Kern County. This proof can be via printed training materials/agenda, DVD, digital media files, or photographs. <p>MM 4.3-9: At the time of project implementation, a COVID-19 Health and Safety Plan should be prepared in accordance with the Kern County Public Health Services Department and Kern County Health Officer mandates. A copy of the COVID-19 Health and Safety Plan shall be submitted to the Kern County Planning Department for review and approval.</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
MM 4.3-10: Prior to commencement of operations as authorized by this approval, a one-time fee shall be paid to the Kern County Public Health Services Department in the amount of \$3,200 for public awareness programs.			
4.4 Biological Resources			
Impact 4.4-1: The project would 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.	Potentially significant	<p>MM 4.4-1: Prior to commencement of operations in any new disturbance area, the project proponent shall develop and submit to the Kern County Planning and Natural Resources Department for review and approval an employee awareness program on the Migratory Bird Treaty Act and the Federal and State endangered species laws and regulations. The program shall provide employees with sufficient information to identify sensitive or protected species that could exist on-site, methods to avoid these species, and protection measures to reduce the potential for incidental take of these species. The employee awareness program shall be implemented by a qualified biologist until such time as reclamation has been completed and the site deemed fully reclaimed by the Kern County Planning and Natural Resources Department.</p> <p>MM 4.4-2: The project proponent/operator shall implement the following measures to avoid and/or minimize potential impacts to special-status animal species.</p> <p>A. Within no more than 30 days before ground-disturbing activities within the project site, a pre-disturbance survey shall be performed by a qualified biologist within the project site to record existing conditions of the site, determine if conditions have changed since the most recent reconnaissance or botanical surveys were conducted (April 14, 2018), and to determine where sensitive species avoidance buffers will be established for special-status species considered to have the potential to occur within the project site, including but not limited to the following:</p>	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation																						
		<div><div><div>1. Tulare grasshopper mouse (<i>Onychomys torridus tularensis</i>);</div><div>2. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>);</div><div>3. nesting birds protected by the MBTA;</div><div>4. burrowing owl (<i>Athene cunicularia</i>);</div><div>5. American badger (<i>Taxidea taxus</i>); and</div><div>6. San Joaquin whipsnake (<i>Masticophis flagellum</i>).</div></div><div>This survey will include San Joaquin kit fox den evaluations. If ground-disturbing activities do not commence within 30 days of the initial survey date, surveys shall be repeated to refresh results.</div></div> <div>B. If any sensitive species are observed, the following buffers shall be established by the qualified biologist to prevent incidental take of any observed sensitive species.</div>																							
		<div>Buffers for Sensitive Biological Resources</div> <table><tr><th>Biological Resource</th><th>Buffer Zone from Disturbance (feet)</th></tr><tr><td>American badger: maternity den (pup rearing season: February 15 through July 1)</td><td>200</td></tr><tr><td>American badger: Non-maternity den</td><td>50</td></tr><tr><td>Burrowing owl burrow</td><td>Dependent on non-breeding or breeding, time of year, and project level impact</td></tr><tr><td>Active bird nest</td><td>50</td></tr><tr><td>San Joaquin coachwhip, silvery legless lizard, coast horned lizard</td><td>30</td></tr><tr><td>San Joaquin kit fox atypical den</td><td>50</td></tr><tr><td>San Joaquin kit fox potential den</td><td>50</td></tr><tr><td>San Joaquin kit fox known den</td><td>100</td></tr><tr><td>San Joaquin kit fox natal den</td><td>Contact California Department of Fish & Wildlife, United States Fish and Wildlife Service</td></tr><tr><td>Special-status plants</td><td>50</td></tr></table> <div>C. The project proponent/operator shall ensure that all employees working on the project site continuously implement the following measures:</div> <div><div>1. A qualified biological monitor shall be present on the project site during any initial vegetation removal/grubbing activities. A biological monitor is not a substitute for an incidental take permit. If any threatened, endangered, or</div></div>	Biological Resource	Buffer Zone from Disturbance (feet)	American badger: maternity den (pup rearing season: February 15 through July 1)	200	American badger: Non-maternity den	50	Burrowing owl burrow	Dependent on non-breeding or breeding, time of year, and project level impact	Active bird nest	50	San Joaquin coachwhip, silvery legless lizard, coast horned lizard	30	San Joaquin kit fox atypical den	50	San Joaquin kit fox potential den	50	San Joaquin kit fox known den	100	San Joaquin kit fox natal den	Contact California Department of Fish & Wildlife, United States Fish and Wildlife Service	Special-status plants	50	
Biological Resource	Buffer Zone from Disturbance (feet)																								
American badger: maternity den (pup rearing season: February 15 through July 1)	200																								
American badger: Non-maternity den	50																								
Burrowing owl burrow	Dependent on non-breeding or breeding, time of year, and project level impact																								
Active bird nest	50																								
San Joaquin coachwhip, silvery legless lizard, coast horned lizard	30																								
San Joaquin kit fox atypical den	50																								
San Joaquin kit fox potential den	50																								
San Joaquin kit fox known den	100																								
San Joaquin kit fox natal den	Contact California Department of Fish & Wildlife, United States Fish and Wildlife Service																								
Special-status plants	50																								

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>otherwise sensitive species are uncovered during project activities, work will be halted to determine the best course of action.</p> <ol style="list-style-type: none"> 2. Keep all trash and food items picked up and removed from the site daily including microtrash (e.g., wrappers, bottle tops, food scraps). 3. No pets (dogs) shall be allowed on-site. 4. Vehicle traffic shall use established roadways. Cross-country travel is prohibited. 5. Conduct a 360-degree vehicle check before moving vehicle from site. 6. Maintain a speed limit of 15 miles per hour or less on dirt roads. 7. To the extent practicable, previously disturbed areas are to be used to stockpile excavated materials, storage of equipment, locations of trailers, parking of vehicles, and other surface-disturbing actions. 8. Open excavations or trenches shall be covered at the end of each workday to prevent wildlife entrapment. If an excavation or trench is too large to cover, then a 45-degree escape ramp shall be installed. All excavations and trenches shall be inspected for wildlife prior to the commencement of work. 9. If perimeter fencing is used, then the fencing shall include a 4- to 8-inch (0.1- to 0.2-meter) opening between the fence mesh and the ground or the fence shall be raised 4 inches above the ground to enable San Joaquin kit fox and other wildlife to pass through the project site. 10. All vertical tubes and chain-link fencing piles shall be temporarily or permanently capped to 	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>avoid the entrapment and death of special-status wildlife and birds. All pipes 1.5 inches (0.038 meter) or greater in diameter stored overnight on a project location must have end caps or other physical barriers that prevent wildlife from entering the pipe.</p> <p>11. Any dead or injured special-status wildlife found on the project site shall be left in place and reported to the U.S. Fish and Wildlife Service/California Department of Fish and Wildlife within 48 hours of the discovery for rescue or salvage. Discovery of Federally or State-listed species that are injured or dead shall also be managed consistent with regulatory requirements, including being reported immediately via telephone and within 24 hours in writing, and a copy shall be furnished to the Kern County Planning and Natural Resources Department.</p> <p>12. All washing of trucks, equipment, or similar activities shall occur in areas where runoff is fully contained for collection and off-site disposal. Wash water may not be discharged from the site and shall be located at least 100 feet (30.48 meters) from any water body or sensitive biological resources. If ground disturbance is intended to be temporary and does not occur on cultivated land, topsoil segregation shall be performed to preserve the seed bank for restoration efforts. Segregated topsoil shall be stored separate from the subsoil and segregated topsoil shall be restored to its original location. This will decrease unwanted invasive plant species</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		(e.g., tumble weed, invasive grasses) from invading the area.	
		13. Contact a qualified biologist if any dens suitable for San Joaquin kit fox, burrowing owl, and/or American badger (4 inches or greater in diameter) are observed during project activities.	
		14. If any threatened, endangered, or otherwise sensitive species are encountered during project activities, all work that may harm that species shall stop immediately and a qualified biologist shall be contacted to determine the best course of action. Any threatened, endangered, or otherwise sensitive wildlife species shall be allowed to leave the site of their own accord.	
		<p>MM 4.4-3: The project proponent/operator shall implement the following measures to avoid and/or minimize potential impacts to special-status plant species.</p> <p>A. Within no more than 1 year prior to the commencement of operations as authorized by this approval, the project proponent shall retain a qualified botanist who shall conduct and document special-status plant surveys following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" or those established by the California Native Plant Society.</p> <p>B. If the surveys identify special-status plants, the following measures shall be implemented:</p> <p>1. A 50-foot buffer shall be established around any occurrences of a special-status plant species as designated by a qualified biologist, when feasible;</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<ol style="list-style-type: none"> 2. In areas where it is not feasible to set up buffers, soil conservation will be implemented for areas known to support sensitive plant species. The soil will be stockpiled using straw wattles and a cover to prevent loss of topsoil by wind and soil erosion. The topsoil will be used for areas that will be temporarily disturbed and later restored; 3. Dust control shall be implemented in areas that occur near the rare or listed plant to avoid disturbance to the natural photosynthetic process of the plant. The pooling of water shall be avoided as well; and 4. Large equipment shall be washed at an off-site facility away from native habitat prior to entering the project location to prevent the spread of invasive plant species that may be within the equipment. <p>C. If disturbance cannot be avoided, the project proponent shall consult with the California Department of Fish and Wildlife and other regulatory agencies to identify and implement approved measures to effectively mitigate any potential impacts to be less than significant, as appropriate.</p> <p>MM 4.4-4: The following measures are based on the recently updated 2012 California Department of Fish and Game [now California Department of Fish and Wildlife] Staff Report on Burrowing Owl Mitigation, and shall be implemented to ensure potential effects on burrowing owl resulting from project implementation will be avoided and minimized to less-than-significant levels:</p> <ol style="list-style-type: none"> A. A project Lead Biologist shall be on-site during all initial ground-disturbing activities as authorized by this approval, in potential burrowing owl habitat. A qualified 	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation																							
		<p>wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) shall conduct pre-disturbance surveys of the permanent and temporary impact areas, plus a 150-meter (approximately 492-foot) buffer, to locate active breeding or wintering burrowing owl burrows no less than 14 days prior to initial ground-disturbing activities. The survey methodology will be consistent with the methods outlined in the Staff Report and will consist of walking parallel transects 7 to 20 meters apart, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing. As each burrow is investigated, biologists will also look for signs of American badger and kit fox. Copies of the survey results shall be submitted to the California Department of Fish and Wildlife and the Kern County Planning and Natural Resources Department.</p> <p>B. If burrowing owls are detected, no ground-disturbing activities shall be permitted within the distances listed below in the table titled “Burrowing Owl Burrow Buffers,” unless otherwise authorized by California Department of Fish and Wildlife. Burrowing owls shall not be moved or excluded from burrows during the breeding season.</p> <p>Burrowing Owl Burrow Buffers</p> <table><tr><th rowspan="2">Location</th><th rowspan="2">Time of Year</th><th colspan="3">Level of Disturbance</th></tr><tr><th>Low</th><th>Medium</th><th>High</th></tr><tr><td>Nesting sites</td><td>April 1 – August 15</td><td>200 meters</td><td>500 meters</td><td>500 meters</td></tr><tr><td>Nesting sites</td><td>August 16 – October 15</td><td>200 meters</td><td>200 meters</td><td>500 meters</td></tr><tr><td>Any occupied burrow</td><td>October 16 – March 31</td><td>50 meters</td><td>100 meters</td><td>500 meters</td></tr></table> <p>California Department of Fish and Game 2012</p> <p>C. If avoidance of active burrows is infeasible, the owls can be passively displaced from their burrows according to recommendations made in the 2012 Staff Report on Burrowing Owl Mitigation. Burrowing owls shall not be</p>	Location	Time of Year	Level of Disturbance			Low	Medium	High	Nesting sites	April 1 – August 15	200 meters	500 meters	500 meters	Nesting sites	August 16 – October 15	200 meters	200 meters	500 meters	Any occupied burrow	October 16 – March 31	50 meters	100 meters	500 meters	
Location	Time of Year	Level of Disturbance																								
		Low	Medium	High																						
Nesting sites	April 1 – August 15	200 meters	500 meters	500 meters																						
Nesting sites	August 16 – October 15	200 meters	200 meters	500 meters																						
Any occupied burrow	October 16 – March 31	50 meters	100 meters	500 meters																						

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>excluded from burrows unless or until the following circumstances occur:</p> <ol style="list-style-type: none"> 1. Occupied burrows shall not be disturbed during the nesting season unless a qualified biologist meeting the Biologist Qualifications set forth in the 2012 Staff Report verifies through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Burrowing owls shall not be moved or excluded from burrows during the breeding season. 2. A Burrowing Owl Exclusion Plan shall be developed and approved by the applicable local California Department of Fish and Wildlife office and submitted to the Kern County Planning and Natural Resources Department. The plan shall include, at a minimum: <ol style="list-style-type: none"> a. confirmation by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping; b. the type of scope and appropriate timing of scoping to avoid impacts; c. occupancy factors to look for and what will guide determination of vacancy and excavation timing (one-way doors shall be left in place 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily, and monitored for evidence that owls are inside and can't escape; i.e., look for sign immediately inside the door); 	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<ul style="list-style-type: none"> d. how the burrow(s) will be excavated, including excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that no owls reside inside the burrow); e. removal of other potential owl burrow surrogates or refugia on-site; f. photographs of the excavation and closure of the burrow to demonstrate success and sufficiency; g. monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take; and h. how the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete. 	
		3. Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.	
		4. Temporary exclusion is mitigated in accordance with the measures described below.	
		5. Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>burrows sufficient to ensure take is avoided. Conduct daily monitoring for 1 week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.</p> <p>6. Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band resight).</p> <p>D. In accordance with the Burrowing Owl Exclusion Plan a qualified wildlife biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed. Alternatively, burrows can be filled to prevent reoccupation.</p> <p>E. During mining activities, monthly and final compliance reports shall be provided to California Department of Fish and Wildlife, the Kern County Planning and Natural Resources Department, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project.</p> <p>F. Should burrowing owls be found on-site, compensatory mitigation for lost breeding and/or wintering habitat shall be implemented on-site or off-site in accordance with Burrowing Owl Staff Report guidance and in consultation with the California Department of Fish and Wildlife. At a minimum, the following recommendations shall be implemented:</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<ol style="list-style-type: none"> 1. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions, including decompacting soil and revegetating. If restoration is not feasible, then the project proponent shall implement "b" below. 2. Permanent impacts to nesting, occupied, and satellite burrows and/or burrowing owl habitat will be mitigated such that the habitat acreage, number of burrows, and burrowing owls impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrub lands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals. Conservation shall occur in areas that support burrowing owl habitat and can be enhanced to support more burrowing owls 3. Permanently protect mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission. If the project is located within the service area of a California Department of Fish and Wildlife-approved burrowing owl conservation bank, the project proponent/operator may purchase available burrowing owl conservation bank credits. 4. Develop and implement a mitigation land management plan in accordance with Burrowing Owl Staff Report guidelines to 	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>address long-term ecological sustainability and maintenance of the site for burrowing owls.</p> <ol style="list-style-type: none"> 5. Fund the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. 6. Habitat shall not be altered or destroyed, and burrowing owls shall not be excluded from burrows, until mitigation lands have been legally secured, are managed for the benefit of burrowing owls according to California Department of Fish and Wildlife-approved management, monitoring, and reporting plans, and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed. 7. Mitigation lands shall be on, adjacent to, or in proximity to the impact site, where feasible, and where habitat is sufficient to support burrowing owls. 8. Consult with California Department of Fish and Wildlife when determining off-site mitigation acreages. <p>MM 4.4-5: Active pits with slopes steeper than 2:1 (horizontal:vertical) shall have a minimum of one escape ramp or shall otherwise be fenced or obstructed to prevent wildlife entrapment.</p> <p>MM 4.4-6: No more than 10 days prior to ground-disturbing activities, a pre-disturbance survey for active bird nests shall be conducted, if work occurs between February and September when nesting activity is most prevalent. If any active nests are observed, appropriate buffer areas (at least 50 feet) shall be established around each nest for avoidance as appropriate.</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>MM 4.4-7: If proposed mining activities are planned to occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the project proponent shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 500 feet outside project boundaries, where possible) the disturbance area no more than 30 days before mining activities and at the onset of each phase. These surveys shall be conducted during breeding seasons for any special-status birds potentially present in the disturbance areas.</p>	
		<p>MM 4.4-8: If active nests are located during pre-disturbance surveys, U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife shall be notified regarding the status of the nests. If an active golden eagle nest is located within 500 feet of ground-disturbing activities, or if any other active raptor nest is located within 100 feet of ground-disturbing activities, or if an active migratory bird nest is located within 50 feet of ground-disturbing activities protection measures will be applied and enforced. Protection measures would include delaying project activities until the end of the breeding season, or if, project activities must take place during the breeding season, establishing an appropriate avoidance area (buffer zone) around the nest as determined by a qualified biologist in consultation with the appropriate resource agency. A qualified wildlife biologist shall monitor the nest to determine when the young have fledged and submit bi-weekly reports to the Kern County Planning Department throughout the nesting season. The biological monitor shall have the authority to cease mining activities or other activities if sign of distress to the raptor or migratory bird occurs.</p>	
		<p>MM 4.4-9: Ground-disturbing activities shall be restricted as necessary to avoid disturbance of a nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		consultation with U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment) or alteration of the schedule for initiation of mining or other activities. No action is necessary if ground disturbance occurs during the raptor and migratory bird nonbreeding season (September 1 through February 28).	
4.5 Cultural Resources			
Impact 4.5-1: The proposed project would cause a substantial adverse change in the significance of a historical resource as defined in State CEQA <i>Guidelines</i> Section 15064.5.	Potentially significant	<p>MM 4.5-1: The project proponent/operator shall retain a Lead Archaeologist, defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology (U.S. Department of the Interior 2011), to carry out all mitigation measures related to archaeological and historical resources.</p> <p>A. Prior to the commencement of any ground-disturbing activities, the project proponent shall demonstrate that it has a Worker Environmental Awareness Program (WEAP) in place for all workers at the project site that includes cultural and paleontological resources training. The training shall be prepared and conducted, for all personnel working on the proposed project, by the qualified Lead Archeologist (as defined above) in consultation with the Native American monitor(s). A copy of the WEAP guide shall be submitted to the Kern County Planning and Natural Resources Department. The training guide may be presented in video form.</p> <p>B. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the Lead Archaeologist and Native American Monitor for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.</p>	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>C. The project proponent/operator shall ensure all new employees or on-site workers who have not participated in earlier Cultural Resources Sensitivity <u>WEAP</u> Trainings shall meet provisions specified above.</p> <p>D. The Cultural Resources Sensitivity Training <u>WEAP</u> guide shall be kept available for all personnel to review and be familiar with, as necessary.</p> <p>MM 4.5-2: In the event archaeological or paleontological (fossil) resources are encountered during ground-disturbing activities, the proposed project contractor shall cease any ground-disturbing activities within 50 feet of the find and notify the Kern County Planning and Natural Resources Department. The Lead Archaeologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. Per State CEQA <i>Guidelines</i> Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant historical resources. Consistent with State CEQA <i>Guidelines</i> Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead Archaeologist shall develop additional treatment measures in consultation with Kern County, which may include data recovery or other appropriate measures. Kern County shall consult with the project and appropriate Native American representatives in determining appropriate treatment for unearthened cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be conducted in advance of earth-disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any investigation shall be presented for curation at an accredited curation facility. The Lead Archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center.</p>	

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
4.7 Geology and Soils			
Impact 4.7-9: The project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	Potentially significant	<p>MM 4.7-4: The project proponent/operator shall retain a qualified paleontologist to carry out mitigation measures related to paleontological resources. A qualified paleontologist is defined as an individual with the appropriate education and experience to accomplish tasks in conjunction with the mitigation measures relating to paleontological resources.</p> <p>A. Prior to the start of any ground-disturbing activities, the qualified paleontologist shall conduct a Paleontological Resources Awareness Training program for all personnel working on the proposed project. A Paleontological Resources Awareness Training Guide approved by the qualified paleontologist shall be provided to all personnel. A copy of the Paleontological Resources Awareness Training guide shall be submitted to the Kern County Planning and Natural Resources Department. The training guide may be presented in video form. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with.</p> <p>B. Paleontological Resources Awareness Training may be conducted in conjunction with the required Cultural Resources Sensitivity Training Worker Environmental Awareness Program (WEAP).</p> <p>C. Paleontological Resources Awareness Training shall include an overview of potential paleontological resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified paleontologist for further evaluation and action, as appropriate, and penalties for unauthorized artifact collecting or intentional disturbance of paleontological resources.</p> <p>D. The project proponent/operator shall ensure new employees or on-site workers who have not participated</p>	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>in earlier Paleontological Resources Awareness Trainings shall:</p> <ol style="list-style-type: none"> 1. Participate in Paleontological Resources Awareness Training as described above, and 2. Shall be provided a Paleontological Resources Awareness Training guide for all personnel that is approved by the Lead archaeologist. 3. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with. <p>MM 4.7-5: If a paleontological resource is found, the project contractor shall cease ground-disturbing activities within 50 feet of the find. The qualified paleontologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. At each fossil locality, field data forms shall be used to record pertinent geologic data, stratigraphic sections shall be measured, and appropriate sediment samples shall be collected and submitted for analysis. Any fossils encountered and recovered shall be catalogued and presented for donation to a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County. Accompanying notes, maps, and photographs shall also be filed at the repository.</p>	
4.9 Hazards and Hazardous Materials			
Impact 4.9-1: The project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	Potentially significant	<p>MM 4.9-1: Prior to commencement of operations as authorized by this approval, the project proponent shall prepare and obtain approval of an Emergency Response Plan from the Kern County Fire Department.</p> <p>MM 4.9-2: During the life of the project, the project proponent/operator shall prepare and maintain a Hazardous Materials Business Plan (HMBP), as applicable, pursuant to Article 1 and Article 2 of California Health and Safety Code 6.95 and in accordance with Kern County Ordinance Code 8.04.030, by</p>	Less than significant

Table 7-1 Summary of Impacts, Mitigation Measures, and Level of Impacts after Mitigation

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance after Mitigation
		<p>submitting all the required information to the California Environmental Reporting System (CERS) at http://cers.calepa.ca.gov/ for review and approval<u>acceptance</u> by the Kern County Environmental Health Division/Hazardous Materials Section. The HMBP shall:</p> <ul style="list-style-type: none"> A. Delineate hazardous material and hazardous waste storage areas B. Describe proper handling, storage, transport, and disposal techniques C. Describe methods to be used to avoid spills and minimize impacts in the event of a spill D. Describe procedures for handling and disposing of unanticipated hazardous materials encountered E. Establish public and agency notification procedures for spills and other emergencies including fires F. Include procedures to avoid or minimize dust from existing residual pesticides and herbicides <u>use</u> that may be present on the site. G. <u>Describe federal, state, or local agency coordination, as applicable, and clean-up efforts that would occur in the event of an accidental release.</u> <p>The project proponent/operator shall ensure that all contractors working on the project are familiar with the facility's HMBP as well as ensure that one copy is available at the project site at all times. In addition, a copy of the approved<u>accepted</u> HMBP from CERS shall be submitted to the Kern County Planning and Natural Resources Department for inclusion in the projects permanent record.</p>	

Chapter 3, Project Description, Page 3-16

As proposed, ~~less than a minimum of three (3) inches but not more than six (6) inches of topsoil would be applied to reclamation areas.~~

Chapter 3, Project Description, Page 3-17

~~Less than A minimum of three (3) inches but not more than six (6) inches of topsoil would be applied to disturbed areas for revegetation.~~

Chapter 3, Project Description, Page 3-22

Table 3-2 Proposed Water Use

Water Source	Annual Water Usage (Gallons)	Total Water Usage (Gallons)
Produced Water from Adjacent Oil Field Operations	7,800,000	156,000,000 390,000,000 gallons (over the 50-year project lifespan) obtained from produced water from adjacent oil field operations.
West Kern Water District	325,780	6,515,600 16,289,000 gallons (over the 50-year project lifespan) obtained from West Kern Water District.
TOTAL	8,125,780	162,515,600406,289,000 gallons (over the 50-year project lifespan).

Table 3 of the NOP/IS stipulates an annual water usage of 8,125,780 gallons (7,800,000 from proposed water from adjacent oil field operations, and 325,780 gallons from the West Kern Water District) over a 20-year project lifespan, resulting in a total project water usage of 162,515,600 (156,000,000 gallons from produced water from adjacent oil field operations, and 6,515,600 gallons from West Kern Water District). Subsequent to circulation of the NOP/IS, the project proponent proposed to increase the project lifespan from 20 years to 50 years (as reflected in the DEIR). As such, Table 3-4 above reflects a revised total water usage from that referenced in the NOP/IS, however, annual water usage remains unchanged from that referenced in the NOP/IS.

Section 4.2, Agriculture and Forest Resources, Page 4.2-15

~~Approval of the CUP by the Kern County Board of Supervisors is required to determine compatibility of the proposed land use with existing zoning designations.~~

Section 4.3, Air Quality, Page 4.3-2

Although much of the area surrounding the project site is occupied by agricultural land uses, there are also a limited number of commercial and residential uses within approximately 8 miles of the site, with the closest residence being approximately ~~0.7 mile from~~200 feet south of the project site.

Section 4.3, Air Quality, Page 4.3-45

~~With the exception of the residence located immediately south of the project site and the residence located approximately 0.7 mile east of the project site, the proposed project is geographically isolated from sensitive uses with the exception of those identified as R-1 through R-7 on Figure 4.3-1, Air Quality Analysis Sensitive Receptor Locations;~~ as such, the project promotes compatibility with land uses that may be affected by mining operations while simultaneously ensuring economic strength and well-being of Kern County and its residents without detriment to its environmental quality.

Section 4.3, Air Quality, Page 4.3-53

- MM 4.3-7** To further reduce emissions of nitrogen oxides from on-road heavy-duty diesel haul vehicles:
- A. 2007 engines or pre-2007 engines shall comply with California Air Resources Board retrofit requirements set forth in Title 13 California Code of Regulations (CCR) Section 2025.
 - B. All on-road haul trucks, except those meeting the 2007/California Air Resources Board-certified Level 3 diesel emissions controls, shall meet all applicable California on-road emission standards and shall be licensed in the State of California. This does not apply to worker personal vehicles.
 - C. All on-road haul trucks shall be properly tuned and maintained in accordance with the manufacturers' specifications.

Section 4.3, Air Quality, Page 4.3-61

Mitigation Measures

Implement Mitigation Measure MM 4.3-2 and the following additional mitigation measures.

Section 4.4, Biological Resources, Page 4.4-31

- MM 4.4-4** The following measures are based on the recently updated 2012 California Department of Fish and Game [now California Department of Fish and Wildlife] Staff Report on Burrowing Owl Mitigation, and shall be implemented to ensure potential effects on burrowing owl resulting from project implementation will be avoided and minimized to less-than-significant levels:
- A. A project Lead Biologist shall be on-site during all initial ground-disturbing activities as authorized by this approval, in potential burrowing owl habitat. A qualified wildlife biologist (i.e., a wildlife

biologist with previous burrowing owl survey experience) shall conduct pre-disturbance surveys of the permanent and temporary impact areas, plus a 150-meter (approximately 492-foot) buffer, to locate active breeding or wintering burrowing owl burrows no less than 14 days prior to initial ground-disturbing activities. The survey methodology will be consistent with the methods outlined in the Staff Report and will consist of walking parallel transects 7 to 20 meters apart, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing. As each burrow is investigated, biologists will also look for signs of American badger and kit fox. Copies of the survey results shall be submitted to the California Department of Fish and Wildlife and the Kern County Planning and Natural Resources Department.

- B. If burrowing owls are detected, no ground-disturbing activities shall be permitted within the distances listed below in the table titled “Burrowing Owl Burrow Buffers,” unless otherwise authorized by California Department of Fish and Wildlife. Burrowing owls shall not be moved or excluded from burrows during the breeding season.

Burrowing Owl Burrow Buffers

Location	Time of Year	Level of Disturbance		
		Low	Medium	High
Nesting sites	April 1 – August 15	200 meters	500 meters	500 meters
Nesting sites	August 16 – October 15	200 meters	200 meters	500 meters
Any occupied burrow	October 16 – March 31	50 meters	100 meters	500 meters

California Department of Fish and Game 2012

- C. If avoidance of active burrows is infeasible, the owls can be passively displaced from their burrows according to recommendations made in the 2012 Staff Report on Burrowing Owl Mitigation. Burrowing owls shall not be excluded from burrows unless or until the following circumstances occur:
1. Occupied burrows shall not be disturbed during the nesting season unless a qualified biologist meeting the Biologist Qualifications set forth in the 2012 Staff Report verifies through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Burrowing owls shall not be moved or excluded from burrows during the breeding season.
 2. A Burrowing Owl Exclusion Plan shall be developed and approved by the applicable local California Department of Fish and Wildlife office and submitted to the Kern County Planning and Natural Resources Department. The plan shall include, at a minimum:

- a. confirmation by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping;
 - b. the type of scope and appropriate timing of scoping to avoid impacts;
 - c. occupancy factors to look for and what will guide determination of vacancy and excavation timing (one-way doors shall be left in place 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily, and monitored for evidence that owls are inside and can't escape; i.e., look for sign immediately inside the door);
 - d. how the burrow(s) will be excavated, including excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that no owls reside inside the burrow);
 - e. removal of other potential owl burrow surrogates or refugia on-site;
 - f. photographs of the excavation and closure of the burrow to demonstrate success and sufficiency;
 - g. monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take; and
 - h. how the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete.
3. Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.
4. Temporary exclusion is mitigated in accordance with the measures described below.
5. Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for 1 week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.

6. Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band resight).
- D. In accordance with the Burrowing Owl Exclusion Plan a qualified wildlife biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed. Alternatively, burrows can be filled to prevent reoccupation.
 - E. During mining activities, monthly and final compliance reports shall be provided to California Department of Fish and Wildlife, the Kern County Planning and Natural Resources Department, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project.
 - F. Should burrowing owls be found on-site, compensatory mitigation for lost breeding and/or wintering habitat shall be implemented on-site or off-site in accordance with Burrowing Owl Staff Report guidance and in consultation with the California Department of Fish and Wildlife. At a minimum, the following recommendations shall be implemented:
 1. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions, including decompacting soil and revegetating. ~~If restoration is not feasible, then the project proponent shall implement “b” below.~~
 2. Permanent impacts to nesting, occupied, and satellite burrows and/or burrowing owl habitat will be mitigated such that the habitat acreage, number of burrows, and burrowing owls impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrub lands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals. Conservation shall occur in areas that support burrowing owl habitat and can be enhanced to support more burrowing owls

3. Permanently protect mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission. If the project is located within the service area of a California Department of Fish and Wildlife-approved burrowing owl conservation bank, the project proponent/operator may purchase available burrowing owl conservation bank credits.
4. Develop and implement a mitigation land management plan in accordance with Burrowing Owl Staff Report guidelines to address long-term ecological sustainability and maintenance of the site for burrowing owls.
5. Fund the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.
6. Habitat shall not be altered or destroyed, and burrowing owls shall not be excluded from burrows, until mitigation lands have been legally secured, are managed for the benefit of burrowing owls according to California Department of Fish and Wildlife-approved management, monitoring, and reporting plans, and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed.
7. Mitigation lands shall be on, adjacent to, or in proximity to the impact site, where feasible, and where habitat is sufficient to support burrowing owls.
8. Consult with California Department of Fish and Wildlife when determining off-site mitigation acreages.

Section 4.5, Cultural Resources, Page 4.5-20

MM 4.5-1 The project proponent/operator shall retain a Lead Archaeologist, defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology (U.S. Department of the Interior 2011), to carry out all mitigation measures related to archaeological and historical resources.

- A. Prior to the commencement of any ground-disturbing activities, the project proponent shall demonstrate that it has a Worker Environmental Awareness Program (WEAP) in place for all workers at the project site that includes cultural and paleontological resources training. The training shall be prepared and conducted, for all personnel working on the proposed project, by the qualified Lead Archeologist (as defined above) in consultation with the Native

American monitor(s). A copy of the WEAP guide shall be submitted to the Kern County Planning and Natural Resources Department. The training guide may be presented in video form.

- B. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the Lead Archaeologist and Native American Monitor for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.
- C. The project proponent/operator shall ensure all new employees or on-site workers who have not participated in earlier ~~Cultural Resources Sensitivity~~ WEAP Trainings shall meet provisions specified above.
- D. The ~~Cultural Resources Sensitivity Training~~ WEAP guide shall be kept available for all personnel to review and be familiar with, as necessary.

Section 4.7, Geology and Soils, Page 4.7-32

MM 4.7-4 The project proponent/operator shall retain a qualified paleontologist to carry out mitigation measures related to paleontological resources. A qualified paleontologist is defined as an individual with the appropriate education and experience to accomplish tasks in conjunction with the mitigation measures relating to paleontological resources.

- A. Prior to the start of any ground-disturbing activities, the qualified paleontologist shall conduct a Paleontological Resources Awareness Training program for all personnel working on the proposed project. A Paleontological Resources Awareness Training Guide approved by the qualified paleontologist shall be provided to all personnel. A copy of the Paleontological Resources Awareness Training guide shall be submitted to the Kern County Planning and Natural Resources Department. The training guide may be presented in video form. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with.
- B. Paleontological Resources Awareness Training may be conducted in conjunction with the required ~~Cultural Resources Sensitivity Training~~ Worker Environmental Awareness Program (WEAP).
- C. Paleontological Resources Awareness Training shall include an overview of potential paleontological resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the

qualified paleontologist for further evaluation and action, as appropriate, and penalties for unauthorized artifact collecting or intentional disturbance of paleontological resources.

- D. The project proponent/operator shall ensure new employees or on-site workers who have not participated in earlier Paleontological Resources Awareness Trainings shall:
1. Participate in Paleontological Resources Awareness Training as described above, and
 2. Shall be provided a Paleontological Resources Awareness Training guide for all personnel that is approved by the Lead archaeologist.
 3. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with.

Section 4.9, Hazards and Hazardous Materials, Pages 4.9-20, 4.9-21

MM 4.9-2 During the life of the project, the project proponent/operator shall prepare and maintain a Hazardous Materials Business Plan (HMBP), as applicable, pursuant to Article 1 and Article 2 of California Health and Safety Code 6.95 and in accordance with Kern County Ordinance Code 8.04.030, by submitting all the required information to the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> for review and ~~approval~~ acceptance by the Kern County Environmental Health Division/Hazardous Materials Section. The HMBP shall:

- A. Delineate hazardous material and hazardous waste storage areas
- B. Describe proper handling, storage, transport, and disposal techniques
- C. Describe methods to be used to avoid spills and minimize impacts in the event of a spill
- D. Describe procedures for handling and disposing of unanticipated hazardous materials encountered
- E. Establish public and agency notification procedures for spills and other emergencies including fires
- F. Include procedures to avoid or minimize dust from existing residual pesticides and herbicides use that may be present on the site.

- G. Describe Federal, State, or local agency coordination, as applicable, and clean-up efforts that would occur in the event of an accidental release.

The project proponent/operator shall ensure that all contractors working on the project are familiar with the facility's HMBP as well as ensure that one copy is available at the project site at all times. In addition, a copy of the ~~approved~~accepted HMBP from CERS shall be submitted to the Kern County Planning and Natural Resources Department for inclusion in the projects permanent record.

Section 4.10, Hydrology and Water Quality, Page 4.10-6

~~Recharge projects in the KCWA service area include the Kern Water Bank, City of Bakersfield recharge area, Pioneer Project recharge and recovery facilities, and Rosedale Rio Bravo Water Storage District/Allen Road Complex well field. At this time, the following groundwater banking projects are considered to be active and ongoing in western Kern County:~~

- City of Bakersfield 2800-Acres Groundwater Recharge Facility
- Berrenda Mesa Water District Groundwater Recharge Extraction Project
- Pioneer Groundwater Banking Project
- Kern Water Bank
- Semitropic Water Storage District Groundwater Banking Project
- Arvin-Edison Water Storage District
- Buena Vista Water Storage District
- Palms Groundwater Banking Project
- Rosedale-Rio Bravo Water Storage District's Groundwater Storage, Banking, Recharge, Extraction and Conjunctive Use Program
- Stockdale Integrated Banking Project
- Strand Ranch Integrated Banking Project
- Kern Delta Water District Groundwater Banking In-Lieu Water Supply Project
- Cawelo Water District In-Lieu Water Banking Program
- West Kern Water District Groundwater Banking Project
- North Kern Groundwater Storage Project

~~KCWA has identified the need for long range groundwater supply planning for the urban Bakersfield area. Resolution No. 21-93, adopted by the KCWA Board on May 27, 1993, established a policy for meeting the future water supply requirements. The KCWA Water Supply Project was initiated to replace a portion of~~

~~the groundwater currently being pumped with surface water supplies and to use imported water as recharge to supply ongoing groundwater pumping.~~

Section 4.10, Hydrology and Water Quality, Page 4.10-28

Although the various agencies may have slightly different criteria for the design of stormwater facilities, all typically require any project to retain the differential in total stormwater runoff between developed conditions and pre-project or undeveloped conditions.

Section 4.18, Utilities and Service Systems, Page 4.18-10

Table 4.18-3 Proposed Water Use

Water Source	Annual Water Usage (Gallons)	Total Water Usage (Gallons)
Produced Water from Adjacent Oil Field Operations	7,800,000	456,000,000 390,000,000 total gallons (over the 50-year project lifespan) obtained from produced water from adjacent oil field operations.
West Kern Water District	325,780	6,515,600 16,289,000 total gallons (over the 50-year project lifespan) obtained from West Kern Water District.
TOTAL	8,125,780	162,515,600 406,289,000 total gallons (over the 50-year project lifespan)

Section 4.19, Wildfire, Pages 4.19-7, 4.19-8

There are ~~two~~four residences (~~both~~all of which are single-family residences) located in the project vicinity: ~~One is located approximately 200 feet south of the project site boundary and is owned by the property owner of the project site, and the other is located approximately 0.7 mile east of the project site. The other three single-family residences are located approximately 0.5 mile west, 0.7 mile east, and 1 mile south of the project site.~~

Chapter 5, Consequences, Page 5-1

Based on the findings of the NOP/IS and the results of scoping, ~~a determination was made that the EIR would contain a comprehensive analysis of all environmental issues identified in Appendix G of the State CEQA Guidelines.~~ it was determined that the project would have no impact with regard to the following impact thresholds:

- Recreation

The NOP/IS determined that the project area does not include any neighborhood or regional parks or other recreational facilities. Given the relatively small number of individuals to be employed through the project, and that some may already be a part of the local workforce, implementation of the project is not expected to result in a significant increase in the use of existing parks or recreational facilities such that adverse

impacts on the facilities would occur. Potential impacts are considered to be less than significant. The project does not include recreational facilities or propose the construction or expansion of recreational facilities, nor does it envision recreational uses onsite after reclamation has been completed. Potential impacts are considered to be less than significant. No impacts to recreation would occur and no further analysis is warranted.

For all other resource areas, this EIR contains a comprehensive analysis of potential environmental impacts.

Chapter 6, Alternatives, Page 6-6

This alternative would result in similar cumulative GHG emissions impacts; however, these impacts would cease approximately 5 years sooner than the project's identified impacts, as described above, due to reduction in permitted ~~aggregate~~mineral reserves.

Volume 2, Appendix B, Page 11

~~Maximum operational slopes will be 2:1 (horizontal:vertical). Maximum final reclaimed mining area slopes will be 3:1 (horizontal:vertical); maximum final reclaimed cut and fill slopes for access road improvements will be 2:1 (horizontal:vertical).~~

Volume 2, Appendix B, Page 14

Please see Figures 3 and 4, which show the 92.27-acre area encompassed by the reclamation plan. The 92.27 acres encompassed by the reclamation plan will be revegetated and monitored for performance success. Upon seed being applied per the approved revegetation seed mix in a given area, a qualified biologist shall submit a site plan to the lead agency showing such area in relationship to the 92.27-acre area encompassed by the reclamation plan. Within one year of application of the approved revegetation seed mix in a given area, and subsequently at intervals of no more than one year, a qualified biologist shall conduct revegetation monitoring. Monitoring shall be conducted in meandering pedestrian belt transects spaced no more than ten meters apart (which is consistent with the procedure conducted for botanical surveys, as described on page 8 of the 2015 Botanical Survey (April 2015 (Revised May 2019)) included in Appendix D.3, Volume 2 of the Draft Environmental Impact Report prepared for the proposed project).

c. Need for decompaction.

The 92.27 acres encompassing the reclamation plan will be decompacted as necessary by ripping to a depth of between 6 and 18 inches, each rip spaced no more than 18 inches apart, followed by the site being disked and left in a rough condition prior to seeding. ~~Less than~~A minimum of three (3) inches but not more than six (6) inches of topsoil (growth media) will be applied to all disturbed areas for revegetation.

Volume 2, Appendix B, Page 15

As proposed, a single dozer would tow all three of the following attachments simultaneously, to undertake reclamation work as follows: (a) ripping, via ripping blades, (b) disking, via disking blades, and (c) seeding, via an attachment containing a hopper which would apply seed via hopper seeding.

To protect the seed mix, it will be tacked into the growth media with a ~~sheep's foot or other implement~~ drum-shaped implement designed for such purpose, to help germination and prevent blowing/washing away.

Volume 2, Appendix B, Page 16

Monitoring of revegetation progress will also include the investigation and, if necessary, recommended abatement protocol of weeds. In particular, weeds of special concern include Russian thistle (Salsola L.), or any other noxious weeds, should they be found in the Project Area. Thresholds that trigger management actions will be based on an understanding of the biology of the specific weed(s) detected within the Project Area. The site will be monitored and when the presence of weeds exceeds 2520 percent of the vegetation cover, eradication measures, including mechanical (hand or power tools), chemical (herbicides), or a combination of both, will be utilized.

Monitoring for noxious weeds shall be conducted during biannual site visits scheduled during the late fall/early winter season (November through February) and during the optimal growing season (March through June) in the first and second year following completion of reclamation and revegetation activities, and continuing for subsequent years until such time as the subject area has been deemed reclaimed in accordance with the approved Reclamation Plan by both the lead agency and the DMR. During the fall/winter visits, monitoring shall include photo documentation of the reclamation/restoration sites, checking on the restoration progress, and determining if additional restoration measures (i.e., supplemental watering, erosion control, noxious weed control, etc.) will need to be implemented. On monitoring site visits occurring during the March through June season, data collection of qualitative and quantitative measures for plant cover and performance, along with determining if supplemental watering, and/or maintenance of erosion control devices, shall be implemented. If necessary, removal of target invasive/noxious weed species shall also occur upon completion of data collection at the reclamation/restoration sites.

Volume 2, Appendix B, Page 18

The proposed performance standards for noxious weed management (as described above in the response to Question 27.i.) are also proposed to apply to topsoil stockpiles. All topsoil piles will be placed separately from mining production stockpiles. During reclamation, topsoil contained in stockpiles will be distributed to disturbed areas as necessary; ~~less than a~~ minimum of three (3) inches but not more than six (6) inches of topsoil will be returned to all disturbed areas.

7.3 Response to Comments

A list of agencies and interested parties who have commented on the Draft EIR is provided below. A copy of each numbered comment letter and a lettered response to each comment are provided following this list.

State Agencies

Letter 1 – California Department of Transportation (Caltrans) District 6 Office (February 1, 2021)

Local Agencies

Letter 2 – Kern County Public Health Services Department, Environmental Health Division (December 10, 2020)

Letter 3 – Kern County Public Works Department, Floodplain Management Section (November 10, 2020)

Letter 4 – Kern County Public Works Department, Floodplain Management Section (December 18, 2020)

Letter 5 – Kern County Public Works Department, Administration and Engineering Division (January 7, 2021)

Letter 6 – Kern County Water Agency (December 21, 2020)

Interested Parties

Letter 7 – Southern California Gas Company (SoCalGas) Gas Transmission Technical Services (December 2, 2020)

Letter 8 – Southern California Gas Company (SoCalGas) Transmission Technical Services (January 6, 2021)

Letter 9 – San Joaquin Valley Air Pollution Control District (February 23, 2021)

Comment Letter 1: California Department of Transportation District 6 Office (February 1, 2021)

COMMENT LETTER #1

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 6 OFFICE

1352 WEST OLIVE AVENUE
P.O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-5421
FAX (559) 488-4088
TTY 711
www.dot.ca.gov



Making Conservation
a California Way of Life

February 1, 2021

06-KER-58-5.93
SCH #2019011010
JOHE RANCH PROJECT

Randall Cates
Planner III
Kern County Planning
2700 M Street, Suite 100
Bakersfield, CA 93301

Dear Mr. Cates:

Thank you for the opportunity to review Revised Notice for the Johe Ranch Mining Project's Draft Environmental Impact Report (DEIR) to allow a 93.67-acre surface mining operation and development of reclamation plan on approximate 331 acres of land. The project site is on the north- and south-sides of State Route (SR) 58 and approximately 8.5 miles west of the unincorporated city of McKittrick, in the County of Kern.

The California Department of Transportation (Caltrans) provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. Caltrans requests the Project proponent provide a driveway design, in conformance with Appendix J – Road Connections and Driveways in the Caltrans Encroachment Permits Manual, and Highway Design Manual.
2. The driveway plan need to reference the distance to the nearest known public road intersection or other landmark, as well as distances to nearby existing driveways.
3. There is a residential driveway on the east of this project. Based on design speed and minimum sight distance, the minimum distance requirement is 500-feet.

1-A

1-B

1-C

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Randall Cates
February 1, 2021
Page 2

- | | |
|---|-----|
| 4. The Project proponent should also show in their plans how they will mitigate traffic loading impacts to the asphalt pavement on SR 58, specifically adjacent to the entrance and exit driveways. | 1-D |
| 5. It is anticipated that the continuous loading from truck traffic will degrade the asphalt in the immediate area of the driveway. The driveway design will need to accommodate the repetitive truck traffic for the anticipated loading. | 1-E |
| 6. The design plans should also include the types of vehicles with load capacity anticipated to haul materials and access State right-of-way. | 1-F |
| 7. Caltrans concurs with the recommendations mentioned in the Traffic Impact Study's (TIS) Appendix K, which determined the Average Daily Volume for the road segment with Average Annual Growth Rate of 1.6% to be 227 by Year 2042, and Table 2 indicating that the project Average Daily Trips will equal 115 truck trips and 3 employee trips (118 trips total) with 26 trips for both morning and evening peak hours. | 1-G |
| 8. Caltrans also concurs with the TIS recommendation for an analysis of Sight Distance to determine speed reduction signage. | 1-H |
| 9. Based on Caltrans VMT-Focused Transportation Impact Study Guide, dated May 20, 2020 and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips, provide a safe transportation system, reduce per capita Vehicle Miles Traveled (VMT), increase accessibility to destinations via cycling, walking, carpooling, transit and reduce greenhouse gas (GHG) emissions. Caltrans recommends that the project proponent continue to work with the <u>County of Kern</u> to further implement improvements to reduce vehicles miles traveled and offer a variety of transportation modes for its employees. | 1-I |
| 10. Caltrans recommends the project provide charging stations for electric vehicles as part of the statewide efforts to reduce greenhouse emissions. | 1-J |

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Randall Cates
February 1, 2021
Page 3

If you have any further questions, contact Scott Lau at (559) 445-5763 or
scott.lau@dot.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Lorena Mendibles". The script is cursive and fluid.

LORENA MENDIBLES, Chief
Transportation Planning - South

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Response to Comment Letter 1: California Department of Transportation District 6 Office (February 1, 2021)

- 1-A:** Thank you for your comments. The participation of the California Department of Transportation (Caltrans) District 6 Office in the public review of this document is appreciated. The commenter requests the project proponent provide a driveway design in conformance with Appendix J – Road Connections and Driveways in the *Caltrans Encroachment Permits Manual* and *Highway Design Manual*. As discussed in Section 4.16, *Transportation and Traffic*, of the EIR, Mitigation Measure MM 4.16-2 would require the project proponent/operator to submit design plans for the proposed driveway serving mining and reclamation activities that conform to the sight distance requirements specified in Chapter 200 of the *Highway Design Manual* and other applicable standards necessary to receive an encroachment permit from Caltrans. These plans shall include a sight distance analysis prepared by an appropriately licensed design professional and signage warning of trucks entering the roadway consistent with the *California Manual on Uniform Traffic Control Devices*. Through implementation of Mitigation Measure MM 4.16-2, the design plans shall be required to conform with Appendix J – Road Connections and Driveways in the *Caltrans Encroachment Permits Manual* and *Highway Design Manual*.
- 1-B:** The commenter states that the driveway plan needs to reference the distance to the nearest known public road intersection or other landmark, as well as distances to nearby existing driveways. Refer to Response to Comment 1-A, above. Through implementation of Mitigation Measure MM 4.16-2, the design plans shall be required to reference the distance to the nearest known public road intersection or other landmark, as well as distances to nearby existing driveways.
- 1-C:** The commenter states that there is a residential driveway east of the project and, based on design speed and minimum site distance, the minimum site distance requirement is 500 feet. As discussed in Section 4.16, *Transportation and Traffic*, of the EIR, Mitigation Measure MM 4.16-2 would require the project proponent/operator to submit design plans for the proposed driveway serving mining and reclamation activities that conform to the sight distance requirements specified in Chapter 200 of the *Highway Design Manual* and other applicable standards necessary to receive an encroachment permit from Caltrans. These plans shall include a sight distance analysis prepared by an appropriately licensed design professional and signage warning of trucks entering the roadway consistent with the *California Manual on Uniform Traffic Control Devices*.
- 1-D:** The commenter states that the project proponent should show on their plans how they will mitigate traffic loading impacts to the asphalt pavement on State Route (SR) 58, specifically adjacent to the entrance and exit driveways. As discussed in Section 4.16, *Transportation and Traffic*, of the EIR, Mitigation Measure MM 4.16-1 would require the project proponent to submit verification that an encroachment permit(s) authorizing all proposed access point(s) to SR 58 to be utilized during the life of the permit has been granted from Caltrans to the current owner of the project site. Additionally, Mitigation Measure MM 4.16-2 would require the project proponent/operator to submit design plans for the proposed driveway serving mining and reclamation activities that conform to the sight distance requirements specified in Chapter 200 of the *Highway Design Manual* and other applicable standards necessary to receive an

encroachment permit from Caltrans. Through implementation of Mitigation Measures MM 4.16-1 and MM 4.16-2, the design plans shall be required to identify how traffic loading impacts to the asphalt pavement on SR 58 will be mitigated.

- 1-E:** The commenter states that is anticipated that the continuous loading from truck traffic will degrade the asphalt in the immediate area of the driveway and states that the driveway design will need to accommodate the repetitive truck traffic for the anticipated loading. Refer to Response to Comment 1-D, above. Through implementation of Mitigation Measures MM 4.16-1 and MM 4.16-2, the design plans shall be required to identify how repetitive truck traffic will be accommodated and will be required to conform to the requirements specified in Chapter 200 of the *Highway Design Manual* and other applicable standards necessary to receive an encroachment permit from Caltrans.
- 1-F:** The commenter states that the design plans should include the types of vehicles with load capacity anticipated to haul materials and access State right-of-way. Refer to Response to Comment 1-D, above. Through implementation of Mitigation Measures MM 4.16-1 and MM 4.16-2, the design plans shall be required to identify the types of vehicles with load capacity anticipated to haul materials and access SR 58. The design plans will be required to conform to the requirements specified in Chapter 200 of the *Highway Design Manual* and other applicable standards necessary to receive an encroachment permit from Caltrans.
- 1-G:** The commenter states that Caltrans concurs with the recommendations included in Traffic Impact Study (TIS) Appendix K, which determined the Average Daily Volume for the road segment with Average Annual Growth Rate of 1.6% to be 227 by Year 2042, and Table 2 indicating that the project Average Daily Trips (ADT) will equal 115 truck trips and three employee trips (118 trips total), with 26 additional trips for both morning and evening peak hours. This comment has been noted for the record.
- 1-H:** The commenter states that Caltrans concurs with the TIS recommendation for an analysis of site distance to determine speed reduction signage. This comment has been noted for the record.
- 1-I:** The commenter states that, based on the Caltrans VMT-Focused Transportation Impact Study Guide, dated May 20, 2020, and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips; provide a safe transportation system; reduce per capita Vehicle Miles Traveled (VMT); increase accessibility to destinations via cycling, walking, carpooling, and transit; and reduce greenhouse gas (GHG) emissions. Caltrans recommends that the project proponent continue to work with Kern County to further implement improvements to reduce VMT and offer a variety of transportation modes for its employees. As discussed in Impact Discussion 4.14-2 in Section 4.16, *Transportation and Traffic*, the project is estimated to generate 118 ADT, 26 evening peak hour trips, and 26 morning peak hour trips. These include the arrivals and departures of three employees, a water truck, and dump trucks that pick up and haul the mined product to various destinations. The *Technical Advisory on Evaluating Transportation Impacts in CEQA* (Governor's Office of Planning and Research 2018) provides the following guidance for evaluating projects that include heavy truck traffic:

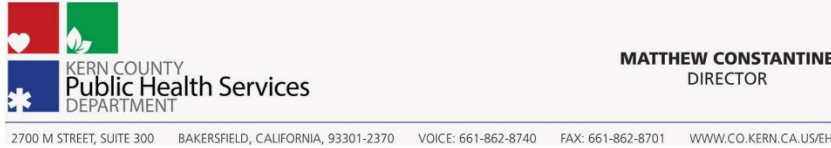
Vehicle Types. *Proposed Section 15064.3, subdivision (a), states, “For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” Here, the term “automobile” refers to on-road passenger vehicles, specifically cars and light trucks.*

The statements from the advisory indicate that heavy truck trips, such as those trips generated by the project, are not subject to VMT analysis, thresholds, or reduction requirements as part of the CEQA review process. Rather, VMT analysis for the purposes of identifying potentially significant impacts under CEQA are for use in evaluating office, residential, and retail projects. Therefore, the project trips, by definition, do not create a significant impact with regards to VMT. Additionally, upon completion of the project, the site would be reclaimed to an end use of grazing land for livestock; therefore, the proposed project would not generate long-term trips capable of contributing to regional VMT.

- 1-J:** The commenter states that Caltrans recommends the project provide charging stations for electric vehicles as part of the statewide efforts to reduce GHG emissions. Refer to Response to Comment 1-I, above. As discussed in Impact Discussion 4.14-2 in Section 4.16, *Transportation and Traffic*, the project is estimated to generate 118 ADT, 26 evening peak hour trips, and 26 morning peak hour trips. Based on the *Technical Advisory on Evaluating Transportation Impacts in CEQA* (Governor’s Office of Planning and Research 2018), the project trips, by definition, do not create a significant impact with regards to VMT. Additionally, upon completion of the project, the site would be reclaimed to an end use of grazing land for livestock; therefore, the proposed project would not generate long-term trips capable of contributing to regional VMT. Due to the limited number of ADT generated by employees (three) and the proposed end use of reclaimed grazing land for the site, installation of charging stations for electric vehicles is not practical for the proposed project or the project site. However, as discussed in Section 4.8, *Greenhouse Gas Emissions*, of the EIR, implementation of Mitigation Measure MM 4.8-1 would require the project proponent to achieve an emissions reduction or offset equal to a 16% reduction in GHG emissions from business as usual (BAU). Therefore, the project’s GHG emissions would be reduced through implementation of Mitigation Measure MM 4.8-1.

Comment Letter 2: Kern County Public Health Services Department, Environmental Health Division (December 10, 2020)

COMMENT LETTER #2



INTEROFFICE MEMORANDUM

To: Randall Cates
From: Evelyn Elizalde
Subject: Johe Ranch Mining Draft EIR

Date: December 10, 2020

The Kern County Environmental Health Division has reviewed the above referenced project. This Division has the local regulatory authority to enforce state regulations and local codes as they relate to waste discharge, water supply requirements, and other items that may affect the health and safety of the public or that may be detrimental to the environment.

The Environmental Health Division requests that the following conditions be placed on the subject project:

1. The application shall provide information on the potential uses of the open-pit mine after the material is removed and if solid waste will be considered as a backfilled. If so, the applicant shall consult with the Kern County Local Enforcement Agency (LEA) to discuss a potential Solid Waste Facility Permit. The applicant shall also meet all requirements under California Code of Regulations Title 14 and 27.
2. Please log in to the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> and create an account and facility.
3. The method of water supply and sewage disposal for the proposed project shall be approved by Kern County Environmental Health Division.
4. If any abandoned wells are found during the process, the applicant shall contact the Land and Water Division for permitting and destruction procedures.

2-A

2-B

Response to Comment Letter 2: Kern County Public Health Services Department, Environmental Health Division (December 10, 2020)

2-A: Thank you for your comments. The participation of the Kern County Public Health Services Department, Environmental Health Division in the public review of this document is appreciated. The commenter requests that the following condition be placed on the subject project:

1. The application shall provide information on the potential uses of the open-pit mine after the material is removed and if solid waste will be considered as a backfilled. If so, the applicant shall consult with the Kern County Local Enforcement Agency (LEA) to discuss a potential Solid Waste Facility Permit. The applicant shall also meet all requirements under California Code of Regulations Title 14 and 27.

This comment is noted. The proposed use of the open-pit mine after the material is removed is grazing land. In Appendix B, Volume 2 of the Draft EIR, specifically on page 12 of the Surface Mining and Reclamation Act (SMARA) Application (Form 520 (9/2013)), it is stipulated: “The reclaimed site will be revegetated with an approved seed mix. The project site will be reclaimed to its current use as grazing land.”

Additionally, Kern County staff notes that no backfill/backfilling is proposed. **Figure 3-3a, Site Plan**, and **Figure 3-7, Site Plan Cross Sections**, in Volume 1 of the Draft EIR, Chapter 3, *Project Description*, illustrate that final excavated contours will correspond to final reclaimed contours (i.e., not backfill material identified).

2-B: The commenter requests that the following conditions be placed on the subject project:

1. Please log in to the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> and create an account and facility.
2. The method of water supply and sewage disposal for the proposed project shall be approved by Kern County Environmental Health Division.
3. If any abandoned wells are found during the process, the applicant shall contact the Land and Water Division for permitting and destruction procedures.

These comments are noted. The Kern County Environmental Health Division’s recommended condition referencing CERS has been included as the following mitigation measure in the Final EIR. All adopted mitigation measures are also incorporated as conditions of approval:

MM 4.9-2 During the life of the project, the project proponent/operator shall prepare and maintain a Hazardous Materials Business Plan (HMBP), as applicable, pursuant to Article 1 and Article 2 of California Health and Safety Code 6.95 and in accordance with Kern County Ordinance Code 8.04.030, by submitting all the required information to the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> for review and ~~approval~~ acceptance by the Kern County Environmental Health Division/Hazardous Materials Section. The HMBP shall:

- A. Delineate hazardous material and hazardous waste storage areas
- B. Describe proper handling, storage, transport, and disposal techniques
- C. Describe methods to be used to avoid spills and minimize impacts in the event of a spill
- D. Describe procedures for handling and disposing of unanticipated hazardous materials encountered
- E. Establish public and agency notification procedures for spills and other emergencies including fires
- F. Include procedures to avoid or minimize dust from existing residual pesticides and herbicides use that may be present on the site.
- G. Describe Federal, State, or local agency coordination, as applicable, and clean-up efforts that would occur in the event of an accidental release.

The project proponent/operator shall ensure that all contractors working on the project are familiar with the facility's HMBP as well as ensure that one copy is available at the project site at all times. In addition, a copy of the ~~approved~~accepted HMBP from CERS shall be submitted to the Kern County Planning and Natural Resources Department for inclusion in the projects permanent record.

Additionally, Kern County staff is proposing to include the following two conditions of approval for the project in the Draft Resolution, which is being prepared for consideration by the Planning Commission:

- Prior to commencement of operations authorized by this permit, the method of water supply and sewage disposal shall be as required and approved by the Kern County Public Health Services Department/Environmental Health Division.
- If any abandoned wells are found during operations authorized by this permit, the applicant shall contact the Land and Water Division of the Kern County Public Health Services Department/Environmental Health Division for permitting and destruction procedures.

Comment Letter 3: Kern County Public Works Department, Floodplain Management Section (November 10, 2020)

COMMENT LETTER #3

Office Memorandum

KERN COUNTY

To: Planning and Natural Resources
Department
Randall Cates

Date: November 10, 2020

From: Public Works Department
Floodplain Management Section
Kevin Hamilton, by Brian Blase

Phone: (661) 862-5098
Email: BlaseB@kerncounty.com

Subject: Draft Environmental Impact Report
Johe Ranch Mining Project

From the information supplied, we have no comments or recommendations regarding the above project.

3-A

**Response to Comment Letter 3: Kern County Public Works Department,
Floodplain Management Section (November 10, 2020)**

- 3-A:** Thank you for your comments. The participation of the Kern County Public Works Department, Floodplain Management Section in the public review of this document is appreciated. The commenter states that the Kern County Public Work Department, Floodplain Management Section does not have any comments or recommendations regarding the project. This comment has been noted for the record.

Comment Letter 4: Kern County Public Works Department, Floodplain Management Section (December 18, 2020)

COMMENT LETTER #4

Office Memorandum

KERN COUNTY

To: Planning and Natural Resources
Department
Randall Cates

Date: December 18, 2020

From: Public Works Department
Floodplain Management Section
Kevin Hamilton, by Brian Blase

Phone: (661) 862-5098
Email: BlaseB@kerncounty.com

Subject: Revised Notice of Availability - Draft Environmental Impact Report
Johe Ranch Mining Project

From the information supplied, we have no comments or recommendations regarding the above project.

4-A

**Response to Comment Letter 4: Kern County Public Works Department,
Floodplain Management Section (December 18, 2020)**


- 4-A:** Thank you for your comments. The participation of the Kern County Public Works Department, Floodplain Management Section in the public review of this document is appreciated. The commenter states that the Kern County Public Work Department, Floodplain Management Section does not have any comments or recommendations regarding the project. This comment has been noted for the record.

Comment Letter 5: Kern County Public Works Department, Administration and Engineering Division (January 7, 2021)

COMMENT LETTER #5

**COUNTY OF KERN
PUBLIC WORKS DEPARTMENT**
Office Memorandum

To: Lorelei Oviatt, Director
Planning and Natural Resources Department
Attn: Randall P. Cates, Planner III
January 7, 2021

From: Joshua Champlin, Development Engineer 
Administration and Engineering Division

Subject: 7-5.3 Conditional Use Permit #17, Map #117
(North and South side of State Route 58, approximately 8.5 miles west of
the unincorporated community of McKittrick.)

This Department has reviewed the subject project and recommends the following:

1. Please contact the California Department of Transportation (Caltrans) for comment. State Route 58 is under their jurisdiction.

5-A

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Paul Candelaria of this Department.

**Response to Comment Letter 5: Kern County Public Works Department,
Administration and Engineering Division (January 7, 2021)**

- 5-A:** Thank you for your comments. The participation of the Kern County Public Works Department, Administration and Engineering Division in the public review of this document is appreciated. The commenter recommends contacting Caltrans for comment due to the presence and proximity of SR 58. The Lead Agency circulated the Draft EIR to Caltrans during the public review period and Caltrans submitted a comment letter, dated February 1, 2021 (refer to Comment Letter 1).

Comment Letter 6: Kern County Water Agency (December 21, 2020)

COMMENT LETTER #6



Directors:

Ted R. Page
Division 1

Bruce Hafenfeld
Division 2

Martin Milobar
Division 3

Philip Cerro
Division 4

Charles (Bill) W. Wulff, Jr.
Division 5

Royce Fast
President
Division 6

Gene A. Lundquist
Vice President
Division 7

Thomas D. McCarthy
General Manager

Amelia T. Minaberrigarai
General Counsel

December 21, 2020

50 - Environmental

Mr. Randall Cates
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301-2323

Re: Draft Environmental Impact Report for the Johe Ranch Mining Project

Dear Mr. Cates:

The Kern County Water Agency (Agency) would like to thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Johe Ranch Mining Project (Project) proposed by Diatom, LLC.

The Agency was created by the California State Legislature in 1961 to contract with the California Department of Water Resources for State Water Project (SWP) water. The Agency has contracts with water districts throughout Kern County to deliver SWP water. The Agency also manages and/or is a participant in multiple groundwater banking projects, including the Kern Water Bank (KWB), Pioneer Property and Berrenda Mesa banking projects. Additionally, the Agency maintains and operates the Cross Valley Canal (CVC). Therefore, the Agency is uniquely qualified to provide comments.

Comment 1: The DEIR should not include groundwater banking projects within Kern County.

The DEIR inappropriately specifies recharge projects in the Agency's service area as the "Kern Water Bank, City of Bakersfield recharge area, Pioneer recharge and recovery facilities, and Rosedale-Rio Bravo Water Storage District/Allen Road Complex well field" (pg. 4.10-6). These recharge projects are not in the vicinity of the Project area; therefore, the DEIR should be amended to exclude references to such recharge projects.

6-A

Phone No. (661) 634-1400

Mailing Address
3200 Rio Mirada Drive
Bakersfield, CA 93308

Mr. Randall Cates
Johe Ranch Mining Project Draft Environmental Impact Report
December 21, 2020
Page 2 of 2

Comment 2: The DEIR's characterization of the Agency's water supply planning policy is misleading.

The DEIR references the Agency's Resolution No. 21-93 for the planning for additional water supplies and demands for Urban Bakersfield adopted May 27, 1993 (pg. 4-10.6). The Agency's policy is to further procure surface water supplies when available to improve water supply availability within Kern County on behalf of its Improvement District No. 4 and its member districts. The policy is not a "Water Supply Project" as referenced in the DEIR and should not be interpreted as the Agency acting on behalf of the County of Kern or the City of Bakersfield. The proposed Project does not overlie the usable groundwater basin and should not rely upon the Agency's policy to acquire surface water supplies to replace groundwater overdraft; therefore, the DEIR should be amended to exclude reference to the Agency's Resolution No. 21-93.

6-B

Agency staff are available to work with the Project developer to ensure the Agency's concerns are adequately addressed. If you have any questions, please contact Monica Tennant of my staff at (661) 634-1419.

Sincerely,



Holly Melton
Water Resources Manager

Response to Comment Letter 6: Kern County Water Agency (December 21, 2020)

6-A: Thank you for your comments. The participation of the Kern County Water Agency (KCWA) in the public review of this document is appreciated. The commenter states that the Draft EIR should not include groundwater banking projects within Kern County. The Lead Agency included the list of recharge projects in Section 4.10, *Hydrology and Water Quality*, in the EIR to provide regional context for groundwater resources in western Kern County. The list of recharge projects included in Section 4.10, *Hydrology and Water Quality*, has been revised as follows to include the entire list of recharge projects within the KCWA service area.

~~Recharge projects in the KCWA service area include the Kern Water Bank, City of Bakersfield recharge area, Pioneer Project recharge and recovery facilities, and Rosedale Rio Bravo Water Storage District/Allen Road Complex well field. At this time, the following groundwater banking projects are considered to be active and ongoing in western Kern County:~~

- City of Bakersfield 2800-Acres Groundwater Recharge Facility
- Berrenda Mesa Water District Groundwater Recharge Extraction Project
- Pioneer Groundwater Banking Project
- Kern Water Bank
- Semitropic Water Storage District Groundwater Banking Project
- Arvin-Edison Water Storage District
- Buena Vista Water Storage District
- Palms Groundwater Banking Project
- Rosedale-Rio Bravo Water Storage District's Groundwater Storage, Banking, Recharge, Extraction and Conjunctive Use Program
- Stockdale Integrated Banking Project
- Strand Ranch Integrated Banking Project
- Kern Delta Water District Groundwater Banking In-Lieu Water Supply Project
- Cawelo Water District In-Lieu Water Banking Program
- West Kern Water District Groundwater Banking Project
- North Kern Groundwater Storage Project

6-B: The commenter states that the Draft EIR's characterization of the KCWA's water supply planning policy is misleading and that the purpose of KCWA Resolution No 21-93 is to further procure surface water supplies when available to improve water supply availability within Kern County on behalf of its Improvement District No. 4 and its member districts. The commenter recommends the Draft EIR should be amended to exclude reference to KCWA Resolution No. 21-93. Section 4.10, *Hydrology and Water Quality*, of the EIR has been revised to remove the following two sentences that refer to KCWA Resolution No. 21-93:

~~KCWA has identified the need for long range groundwater supply planning for the urban Bakersfield area. Resolution No. 21-93, adopted by the KCWA Board on May 27, 1993, established a policy for meeting the future water supply requirements. The KCWA Water Supply Project was initiated to replace a portion of the groundwater currently being pumped with surface water supplies and to use imported water as recharge to supply ongoing groundwater pumping.~~

Comment Letter 7: Southern California Gas Company Transmission Technical Services (December 2, 2020)

COMMENT LETTER #7



Transmission Technical
Services Department

9400 Oakdale Ave
Chatsworth, CA 91311
SC9314

December 2, 2020

Randall P. Cates
Kern County Planning & Natural Resources Dept
CatesR@kerncounty.com

Subject: EIR 09-17; Johe Ranch Mining Project by Diatom, EEC (PP12316); CUP 17, Map 117

DCF: 2043-20NC

The Transmission Department of SoCalGas does not operate any facilities within your proposed improvement. However, the Distribution Department of SoCalGas may maintain and operate facilities within your project scope.

To assure no conflict with the Distribution's pipeline system, please e-mail them at:

NorthwestDistributionUtilityRequest@semprautilities.com

7-A

Best Regards,

SoCalGas Transmission Technical Services
SoCalGasTransmissionUtilityRequest@semprautilities.com

Response to Comment Letter 7: Southern California Gas Company Transmission Technical Services (December 2, 2020)

- 7-A:** Thank you for your comments. The participation of the Southern California Gas Company (SoCalGas) Transmission Technical Services Department in the public review of this document is appreciated. The commenter states that the SoCalGas Transmission Department does not operate any facilities within the proposed improvement; however, the SoCalGas Distribution Department may maintain and operate facilities within the project scope. The commenter recommends contacting the SoCalGas Distribution Department via email to assure no conflict with the Distribution Department's pipeline system. The Lead Agency contacted the Distribution Department via email on December 7, 2020, to inquire about potential conflicts with the Distribution Department's pipeline system and has not received a response (as of publication of this Final EIR).

Comment Letter 8: Southern California Gas Company Transmission Technical Services (January 6, 2021)

COMMENT LETTER #8



Transmission Technical
Services Department

9400 Oakdale Ave
Chatsworth, CA 91311
SC9314

January 6, 2021

Randall P. Cates
Kern County Planning & Natural Resources Dept
CatesR@kerncounty.com

Subject: CUP 17, Map 117

DCF: 0007-21NC

The Transmission Department of SoCalGas does not operate any facilities within your proposed improvement. However, the Distribution Department of SoCalGas may maintain and operate facilities within your project scope.

To assure no conflict with the Distribution's pipeline system, please e-mail them at:

NorthwestDistributionUtilityRequest@semprautilities.com

8-A

Best Regards,

SoCalGas Transmission Technical Services
SoCalGasTransmissionUtilityRequest@semprautilities.com

Response to Comment Letter 8: Southern California Gas Company Transmission Technical Services (January 6, 2021)

- 8-A:** Thank you for your comments. The participation of the SoCalGas Transmission Technical Services Department in the public review of this document is appreciated. The commenter states that the SoCalGas Transmission Department does not operate any facilities within the proposed improvement; however, the SoCalGas Distribution Department may maintain and operate facilities within the project scope. The commenter recommends contacting the SoCalGas Distribution Department via email to assure no conflict with the Distribution Department's pipeline system. The Lead Agency contacted the Distribution Department via email on December 7, 2020, to inquire about potential conflicts with the Distribution Department's pipeline system and has not received a response (as of publication of this Final EIR).

Comment Letter 9: San Joaquin Valley Air Pollution Control District (February 23, 2021)

COMMENT LETTER #9



February 23, 2021

Randall Cates
County of Kern
Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

**Project: Draft Environmental Impact Report-EIR 09-17Johe Ranch Mining Project
by Diatom, LLC (PP12316)**

District CEQA Reference No: 20200940

Dear Mr. Cates:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the County of Kern (County). The project consists of a 93.67-acre surface mining operation and development of a reclamation plan (Project). The Project is located at the north and south sides of State Route 58, 8.5 miles west of McKittrick, CA (APN 156-070-01, 02, and 10) The District offers the following comments:

9-A

1) Emissions Methodology

The air quality analyses included in the DEIR were assessed in 2015 using CalEEMod version 2013.2.2. The District recognizes that a DEIR requires a great deal of work and can span over a long period of time before completion. The District would like to point out that there is an updated version, CalEEMod version 2016.3.2, that became available for use in 2017 and contains more up-to-date emission factors. The District recommends that the latest available CalEEMod version be used for future project analysis or should the Project's emissions be reanalyzed.

9-B

2) Recommended Feasible Mitigation for Operational Air Quality Impacts

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD Trucks, the single largest source of NOx emissions in the San Joaquin Valley. The District recently adopted the 2018 PM2.5 Plan, which includes significant new reductions from

9-C

Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

www.valleyair.org

www.healthyairliving.com

Printed on recycled paper. ♻️

HHD Trucks, including emissions reductions by 2023 through the implementation of the California Air Resources Board (CARB) Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 0.2 g/bhp-hr NO_x standard by 2023. Additionally, to meet the federal air quality standards by the 2020 to 2024 attainment deadlines, the District's Plan relies on a significant and immediate transition of heavy duty truck fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NO_x established by the California Air Resources Board.

The Project anticipates the addition of 50 truck trips per day with an average trip length of 93 miles. To reduce impacts from operational mobile source emissions, the District recommends that the following mitigation measures be considered for inclusion in the Final EIR:

- Require fleets associated with Project operational activities to utilize the cleanest available HHD truck technologies, including zero and near-zero (0.02 g/bhp-hr NO_x) technologies as feasible.
- Require all on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) to utilize zero-emissions technologies as feasible.
- Require fleets associated with future development projects to be subject to the best practices (i.e. eliminating unnecessary idling).

3) Reducing Air Quality Impacts from Construction Activities

To further reduce impacts from construction-related exhaust emissions and activities, the District recommends using the cleanest reasonably available off-road construction practices (i.e. eliminating unnecessary idling) and fleets, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations be used to reduce Project related impacts from construction related exhaust emissions.

4) Ambient Air Quality Analysis (AAQA)

The Ambient Air Quality Analysis does not incorporate background values for significance determination. The District recommends incorporating background values along with all emission associated with this Project's emissions to make a significance determination.

5) Health Risk Assessment

- 5a) The analysis does not utilize the latest risk version of HARP2 which significantly under predicts potential health risk. The District recommends utilizing the latest version of HARP2 to calculate health risk.

9-C

9-D

9-E

9-F

San Joaquin Valley Air Pollution Control District
District Reference No. 20200940
February 23, 2021

Page 3

5b) There are many separate AERMOD runs provided. Please provide a cross walk for each given scenario which provides a breakdown what the specific AERMOD run is for and how the inputs relate to emissions associated each modeled unit.

9-G

5c) Toxic emission for the HRA were input into the HARP program; however, the District recommends referencing the speciation of PM10 emission used in the analysis to help determine if they are appropriate.

9-H

6) District Rules and Regulation

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), New and Modified Stationary Source Review (Rule 2201), and implementation of Emission Reduction Credit Banking (Rule 2301).

9-I

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (661) 392-5665.

6a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

9-J

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits.

Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (661) 392-5665.

6b) District Rule 9510 (Indirect Source Review)

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation

9-K

San Joaquin Valley Air Pollution Control District
District Reference No. 20200940
February 23, 2021

Page 4

projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

Per District Rule 9510 (Indirect Source Review) section 4.4.3, a development project on a facility whose primary functions are subject to District Rule 2201 or District Rule 2010 are exempt from the requirements of the rule. The District has reviewed the information provided and has determined that the primary functions of this Project are subject to District Rule 2201 (New and Modified Stationary Source Review Rule) or District Rule 2010 (Permits Required). As a result, District Rule 9510 requirements and related fees do not apply to the Project referenced above.

Therefore, the project proponent is required to obtain a District Authority to Construct prior to installation of equipment that controls or may emit air contaminants, including but not limited to emergency internal combustion engines, boilers, and baghouses. For more information please contact the District's Small Business Assistance or visit <http://www.valleyair.org/busind/pto/ptoforms/1ptoformidx.htm>.

9-K

7) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

9-L

If you have any questions or require further information, please contact Cherie Clark by phone at (559) 230-5940 or by e-mail at Cherie.Clark@valleyair.org.

Sincerely,



For Brian Clements
Director of Permit Services

John Stagnaro
Program Manager

BC: cc

Response to Comment Letter 9: San Joaquin Valley Air Pollution Control District (February 23, 2021)

- 9-A:** Thank you for your comments. The participation of the San Joaquin Valley Unified Air Pollution Control District (District) in the public review of this document is appreciated.
- 9-B:** The District states that the air quality analyses included in the Draft EIR were assessed in 2015 using California Emissions Estimator Model (CalEEMod) version 2013.2.2, and states that an updated version, CalEEMod version 2016.3.2, is available and includes updated emission factors. The District recognizes that a Draft EIR requires a great deal of work and can span over a long period of time before completion and recommends that the latest available CalEEMod version be used for future project. This comment is noted and will be taken into consideration for air quality analyses prepared for future projects.
- 9-C:** The District's recommendation to require the project utilize equipment with zero and near-zero technologies is not feasible due to the nature and location of the project. The infrastructure investment cost to install electric charging stations for the recommended equipment would be a significant expense above the BAU model. As described in Section 4.3, *Air Quality*, of the EIR, implementation of Mitigation Measure MM 4.3-1 would require the project to comply with all applicable District requirements. Additionally, implementation of Mitigation Measure MM 4.3-6 would require the fleet of diesel engines in off-road vehicles operating at the project site comply with the In-Use Off-Road Engine Air Toxic Control Measure (13 California Code of Regulations [CCR] Sections 2449 and 2449.1) and require all equipment to be turned off when not in use, idling to be limited to 5 minutes or less, and all equipment engines to be maintained in good operating condition and in proper tune per manufacturers' specifications. These mitigation measures are in place to ensure emissions from project equipment are reduced to the extent possible.
- 9-D:** The District recommends using the cleanest reasonably available off-road construction practices (e.g., eliminating unnecessary idling) and fleets, as set forth in 13 CCR Section 2423, and 40 Code of Federal Regulations (CFR) Part 89, be used to reduce project-related impacts from construction-related exhaust emissions. Implementation of Mitigation Measure MM 4.3-1, included in Section 4.3, *Air Quality*, of the EIR, would require the project to comply with all applicable District requirements and would require any approvals, waivers, or permits issued by the District to be submitted to the Lead Agency and incorporated into the approved surface mining and reclamation plan in accordance with the provisions of SMARA. Additionally, implementation of Mitigation Measure MM 4.3-6, included in Section 4.3, *Air Quality*, of the EIR, would require the fleet of diesel engines in off-road vehicles operating at the project site to comply with the In-Use Off-Road Engine Air Toxic Control Measure (13 CCR Sections 2449 and 2449.1) and provide copies of annual compliance certification reports made to California Air Resources Board (CARB) through the DOORS program to Kern County annually. Mitigation Measure MM 4.3-6 would also require all equipment to be turned off when not in use, idling to be limited to 5 minutes or less, and all equipment engines to be maintained in good operating condition and in proper tune per manufacturers' specifications.

- 9-E:** The District states that the Ambient Air Quality Analysis does not incorporate background values for significance determination and recommends incorporating background values along with all emissions associated with the project's emissions to make a significance determination. As noted in footnotes 79, 80, and 81 in the Air Quality Impact Assessment (included as Appendix C.1, Volume 2 of the Draft EIR), background concentrations from the nearest monitoring station (Visalia, Church St.) were added to the modeled concentrations presented in the report. Background concentrations were incorporated for significance determination; therefore, revisions are not necessary.
- 9-F:** The District states that the analysis does not utilize the latest risk version of HARP 2, which significantly under predicts potential health risk, and recommends using the latest version of HARP 2 to calculate health risk. The model used to analyze health risk in the Air Quality Impact Assessment (included as Appendix C.1, Volume 2 of the Draft EIR) was prepared prior to the release of HARP 2. It is estimated that HARP 2 can increase cancer risk results by up to three times the values generated by HARP 1. However, when HARP 2 was released, the District also increased the threshold of significance for cancer risk from 10 in one million to 20 in one million. The cancer risk calculated by HARP 1 for this project is 2.86 in one million. Even if a recalculation by HARP 2 yielded triple the risk (8.58 in a million), it would still not exceed the 20 in one million threshold, and likely would still not exceed the old 10 in one million threshold. It is the Lead Agency's professional opinion that the risk values are low enough that a re-run of the model results in HARP 2 is not necessary; therefore, revisions are not necessary.
- 9-G:** The District states that there are many separate AERMOD runs provided and requests a cross walk be provided for each given scenario that provides a breakdown of what the specific AERMOD run is for and how the inputs relate to emissions associated with each modeled unit. The mining operation is divided into three productive areas that are typically mined one at a time. The following three different modeling scenarios were prepared and shown on **Figure 7-1, AERMOD Scenario 1: Mine Area #1, Figure 7-2, AERMOD Scenario 2: Mine Area #1 and #2, and Figure 7-3, AERMOD Scenario 3: Mine Area #2 and #3**. The worst-case scenario results were used for the reported values.
- Scenario 1: Mining area 1 active only (closest to road and sensitive receptors)
 - Scenario 2: Mining areas 1 and 2 simultaneously active (conservative scenario)
 - Scenario 3: Mining areas 2 and 3 simultaneously active (alternative conservative scenario)
- 9-H:** The District recommends referencing the speciation of particulate matter less than 10 microns in diameter (PM₁₀) emission used in the analysis to help determine if they are appropriate. The particulate matter toxics speciation was taken from the CARB toxics profile for soil. Speciation factors are listed below for convenience.

	Arsenic	Barium	Cadmium	Chromium	Cobalt	Copper	Lead	Mercury	Molybdenum (Mo)	Nickel	Vanadium	Zinc
Units	Emission Factors											
mg/kg	6.7	376	25.9	47.5	6.8	30.1	2.9	0.041	27.3	97.3	144	119
lb/ton	0.0134	0.7520	0.0518	0.0950	0.0136	0.0602	0.0058	0.0001	0.0516	0.1946	0.2880	0.2380

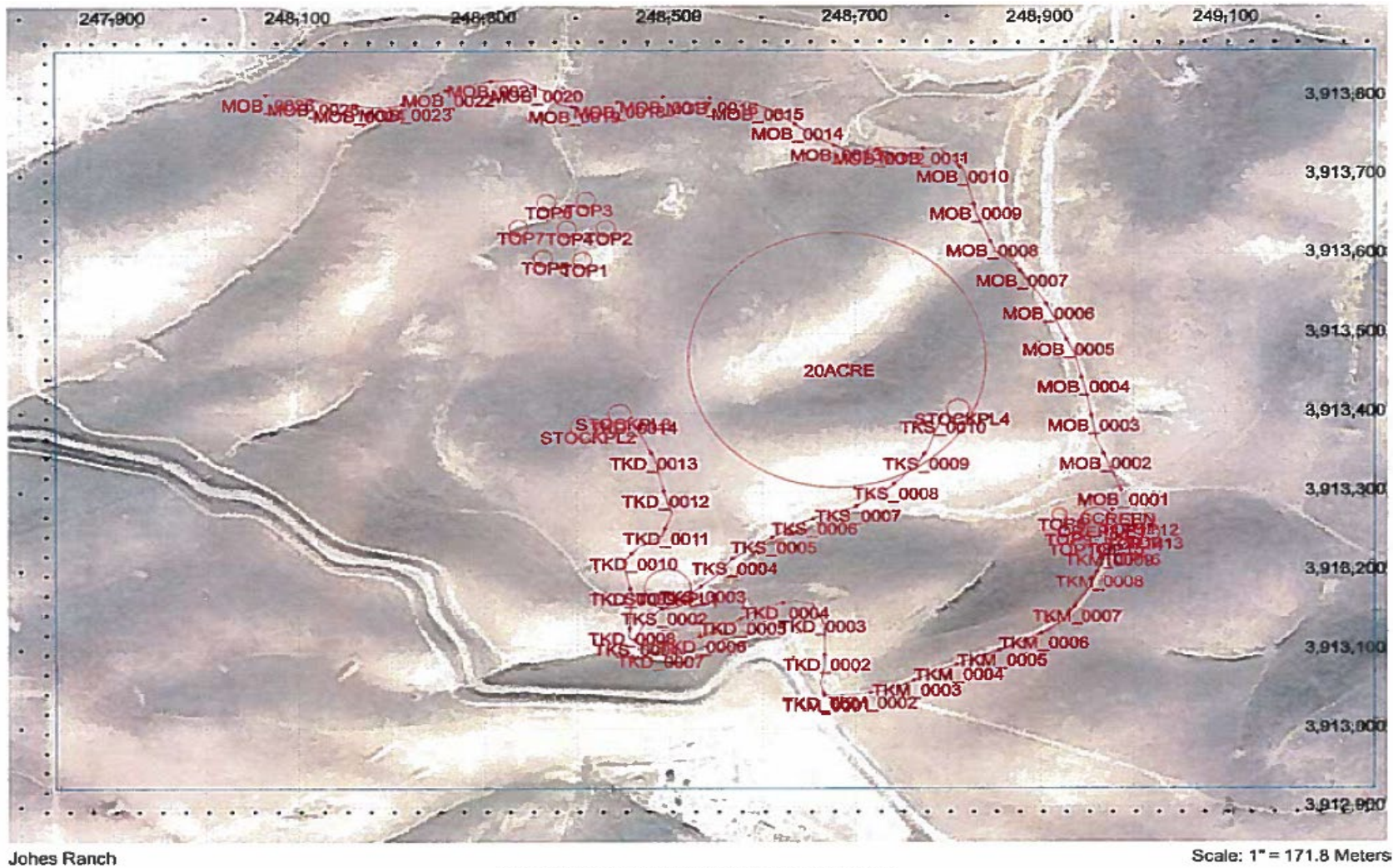


Figure 7-1
AERMOD Scenario 1: Mine Area #1



Figure 7-2
AERMOD Scenario 2: Mine Area #1 and #2



Figure 7-3
AERMOD Scenario 3: Mine Area #2 and #3

- 9-I:** The District states that a project subject to District rules and regulations would reduce its impacts on air quality through compliance with regulatory requirements and provides references to applicable rules and regulations. The District encourages the project proponent to contact the District's Small Business Assistance (SBA) Office at (661) 392-5665. Implementation of Mitigation Measure MM 4.3-1, included in Section 4.3, *Air Quality*, of the EIR, would require the project to comply with all applicable District requirements and would require any approvals, waivers, or permits issued by the District to be submitted to the Lead Agency and incorporated into the approved surface mining and reclamation plan in accordance with the provisions of SMARA.
- 9-J:** The District states that the project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. The District further states that prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the project proponent by the District. Implementation of Mitigation Measure MM 4.3-1, included in Section 4.3, *Air Quality*, of the EIR, would require the project to comply with all applicable District requirements and would require any approvals, waivers, or permits issued by the District to be submitted to the Lead Agency and incorporated into the approved surface mining and reclamation plan in accordance with the provisions of SMARA.
- 9-K:** The District states that the primary functions of the proposed project are subject to District Rule 2201 (New and Modified Stationary Source Review Rule) or District Rule 2010 (Permits Required); as a result, District Rule 9510 requirements and related fees do not apply to the project. The District states that the project proponent is required to obtain a District ATC prior to installation of equipment that controls or may emit air contaminants, including but not limited to emergency internal combustion engines, boilers, and baghouses. Implementation of Mitigation Measure MM 4.3-1, included in Section 4.3, *Air Quality*, of the EIR, would require the project to comply with all applicable District requirements and would require any approvals, waivers, or permits issued by the District to be submitted to the Lead Agency and incorporated into the approved surface mining and reclamation plan in accordance with the provisions of SMARA.
- 9-L:** The District recommends that a copy of the District's comments be provided to the project proponent. The Lead Agency has shared the District's comments with the project proponent for review and consideration.