

**CALENDAR ITEM
C51**

A 33
S 18

08/09/16
PRC 8831.2
V. Perez

**CONSIDER AN APPLICATION FOR A SEVEN-YEAR RENEWAL
AND AMENDMENT OF A MINERAL EXTRACTION LEASE FOR MINERALS
OTHER THAN OIL, GAS, OR GEOTHERMAL RESOURCES, ASSESSOR'S PARCEL
NUMBERS 449-111-23 AND 449-111-26, ADMINISTERED BY THE COMMISSION AS
TRUSTEE, CONTAINING APPROXIMATELY 116 ACRES OF STATE FEE-OWNED
SCHOOL LANDS, WITHIN SECTION 30, TOWNSHIP 4 NORTH, RANGE 1 EAST,
SBBM, EAST OF VICTORVILLE, SAN BERNARDINO COUNTY**

APPLICANT:

Hi-Grade Materials Co.

AREA, TYPE LAND AND LOCATION:

Approximately 116 acres of State fee-owned school lands (Assessor's Parcel Numbers 449-111-23 and 449-111-26) located in lots 10, 11, and 12, containing 38.14 acres, 37.64 acres and 40.06 acres, respectively, all within section 30, T4N, R1E, SBBM, San Bernardino County. This State parcel is situated east of Victorville in a remote area of Lucerne Valley in the Mojave Desert (see Exhibits A and B, attached).

AUTHORIZED USE:

Extraction of rock, sand, and gravel, and any other mineral deposits except oil, gas, other hydrocarbons and geothermal resources.

LEASE TERM:

Seven years beginning July 1, 2016, with a preferential right to renew for one successive term not to exceed seven years upon such reasonable terms and conditions as may be prescribed by the Commission.

CONSIDERATION:

Six percent of the gross sales price for all rock, sand, and gravel, extracted and sold from the leased land with a minimum annual royalty of \$10,000 per annum. Annual rental payment of \$1.00 per each acre or \$116.

INSURANCE:

Not less than \$1,000,000.

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BOND:

\$50,000.

BACKGROUND:

Hi-Grade Materials Co. (Hi-Grade or Lessee) is a sand and gravel company operating a mine on private lands, supplying aggregate materials and concrete to the building industry since the 1960s. This operation is contiguous to, and north of, a State school land parcel (State's parcel or leased land).

In 2001, Hi-Grade applied to the San Bernardino County Planning Department (County) to renew and expand their mining permit. During this process, the County advised that several of Hi-Grade's existing pit walls were too steep and not in compliance with the current ordinances.

In order to address concerns for human safety and slope stability, Hi-Grade was required to reduce the slope of their pit walls to 27 degrees. Since one of their steep pit walls is adjacent to the State's parcel, Hi-Grade was required to lay back the slope, which required mining on the State's parcel. The aggregate material on the State's parcel is of superior quality and results in a lower percentage of waste rock than on Hi-Grade's private lands, and therefore is commercially more valuable.

On June 1, 2009, the Commission issued State Mineral Extraction Lease No. PRC 8831.2 (Lease) to Hi-Grade beginning July 1, 2009, for a seven-year term with the right to renew for two successive terms, not to exceed seven years each. On March 30, 2015, the Lessee submitted an application for a renewal and amendment of the Lease. The initial Lease expired on June 20, 2016.

PROPOSED LEASE AMENDMENT:

Since July 1, 2009, the effective date of the Lease, Hi-Grade has mined adjacent to and near the State's parcel causing the resources to be commingled. The Lease contemplates the commingling of both the State and Hi-Grade's resources and establishes a procedure for objectively determining the party's appropriate share. Under Section 3 of the Lease, Hi-Grade is to submit a map and volumetric calculation of the amount of material available for mining on the State's property. Annual resurveys are required by Hi-Grade in order to calculate the volume of the State's tonnage removed during the previous year. The Lease is silent as to the method for allocating the value of comingled production amongst the State and Hi-Grade.

Soon after the Lease was executed, Hi-Grade sought to amend its Mining and

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Reclamation Plan, issued by San Bernardino County, to permit the mining of the entire 116 acres of the State's parcel. This amendment was approved by the County in February 2014. Amending the Mining and Reclamation Plan required Hi-Grade to develop a detailed mine map reflecting the anticipated mine development and plan for future reclamation. Staff and Hi-Grade agreed that an objective method for determining the total amount of commingled material on the properties would be to compare the level of mine development at the time of the Lease against the final, County approved mine development plan (depicting the mine post-development; the map was finalized in May, 2016). This approach would allow Staff to calculate the total material expected to be removed during the life of the mine and extrapolate to determine the portion, along the property boundary, that is commingled between the State and Hi-Grade. This method was viewed as preferable over conducting annual surveys because it could calculate, and allow the parties to resolve conclusively, the apportionment of commingled production sufficient to memorialize as an amendment to the Lease. In order to properly credit Hi-Grade with its expected share of commingled mined material, Commission staff agreed that Hi-Grade would temporarily pay a royalty payment on only 50 percent of the gross aggregate mined each quarter. The volume of royalty free production was tracked, in quarterly reports submitted to the Commission, with the expectation that the volume would be deducted against Hi-Grade's total share of commingled production, once that final total was determined based on the approved mine plan. As of July 1, 2016, the effective date of the proposed Lease amendment, based on the 2014 amended Mining and Reclamation Plan and analysis performed by staff and a geologist retained by Hi-Grade, staff recommends that Hi-Grade is due a credit of 1,285,259 gross tons of material mined since July 1, 2009. As of March 31, 2016, the Lessee has been credited for 692,823.50 gross tons of production since July 1, 2009. This means that under the proposed lease amendment, Hi-Grade will pay the State royalty on only 50% of the product sold until such time that Hi-Grade has been credited with a total of 1,285,259 gross tons of commingled material mined from the site.

Pursuant to the proposed lease amendment, once Hi-Grade has been credited a total of 1,285,259 gross tons of commingled mined material, the production adjacent to, and on the leased land, shall no longer be considered commingled, and Hi-Grade shall pay royalty on 100 percent of subsequent production. Hi-Grade will provide the date of when its share of commingled production reaches a total of 1,285,259 gross tons of mined material for the quarter during which that gross tonnage is reached. Pursuant to the approved Mine Plan, mining during this seven-year renewal period will be located primarily, but not exclusively, on the State's lands.

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At Hi-Grade's option, not less than 120 days before the expiration of the renewed Lease, the Lessee may provide a survey, accompanying engineering report, and any other applicable information to the State, to support a claim that Hi-Grade may be due an additional credit for its share of commingled mined material that was mined from Hi-Grade's private lands. Nothing in the subject recommendation or proposed lease amendment commits the Commission to agreeing to any additional credit that Hi-Grade may claim beyond that which is provided for in the lease.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code sections 6895 and 6898
- B. California Code of Regulations, title 14, section 15096
- C. California Code of Regulations, title 2, section 2200 et seq.

OTHER PERTINENT INFORMATION:

1. The Lease provides for a seven-year term with two successive rights of renewal for periods of seven years, not to exceed a maximum lease term of 21 years. The term of this Lease renewal will be retroactive from July 1, 2016, through June 30, 2023. This renewal is the first renewal allowed under the Lease.
2. Pursuant to the California Surface Mining and Reclamation Act of 1975 (SMARA), counties or cities are the lead agency for a Conditional Use Permit/Mining and Reclamation Plan that provides for how mining is to occur and how and when the land will be returned to a usable form. Under the SMARA, annual inspections are required to be performed by the lead agency to determine the progress of mining and reclamation and to ensure that the permittee complies with all terms and conditions of the Conditional Use Permit.
3. Lessee has a financial security device with the County, as the SMARA lead agency, for approximately \$1,000,000 to ensure proper reclamation.
4. Commission staff conducted an inspection of the Lease operations on March 15, 2016, and found these operations to be in compliance with the terms of the Lease.
5. Lessee has furnished and maintained a continuous financial security with the Commission in an amount of \$50,000 to guarantee faithful performance by Lessee of the lease terms and conditions.

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6. Lessee's obligations shall survive the expiration or earlier termination of the Lease until such time that all royalties on minerals held for future sale (extracted but not sold) at the time of the expiration or earlier termination of the Lease have been paid and the Lease Premises have been restored in accordance with Paragraph 24 of the Lease.
7. A Mitigated Negative Declaration, State Clearinghouse No. 2013121017, was prepared by the County pursuant to the California Environmental Quality Act (CEQA) and adopted on March 4, 2014, for this project. Commission staff has reviewed such document. Mitigation measures were adopted by the County.
8. This activity involves land which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370 et seq.; however, the Commission has declared that all land is "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370 et seq., use classifications for such land has not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.
9. This action is consistent with Strategy 2.1 of the Commission's Strategic Plan to optimize returns for the responsible development and use of State land and resources, both onshore and offshore; and Strategy 2.2, to ensure timely receipt of revenues and royalties from the use and development of State land and minerals.

EXHIBITS:

- A. Land Description
- B. Site Map
- C. Lease Renewal and Amendment
- D. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

1. Find that a Mitigated Negative Declaration, State Clearinghouse

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No. 2013121017, and mitigation measures were prepared by San Bernardino County and adopted on March 4, 2014, for this project and that the Commission has reviewed and considered the information contained therein.

2. Adopt the Mitigation Monitoring Program, as contained in Exhibit D, attached hereto.

AUTHORIZATION:

Consent to the renewal and authorize amendment of the existing State Mineral Extraction Lease No. PRC 8831.2 to Hi-Grade Materials Co., commencing on July 1, 2016, and ending June 30, 2023, pursuant to the terms substantially in the form of Exhibit C, attached hereto. All other terms and conditions of the Lease originally issued on July 1, 2009, shall remain in full force and effect.

EXHIBIT A

PRC 8831.2

LAND DESCRIPTION

That certain parcel of State owned Lieu Lands (School Lands) situate in San Bernardino Co., State of California, more particularly described as follows:

Lots 10, 11, and 12 of Section 30, T 4 N, R 1 E, SBM, as shown on the official U.S. Government Township Plat approved August 1, 1916 and acquired from the U.S. on 11/5/1963, clear list No. 339 and 340, Riverside Land District.

EXCEPTING THEREFROM t the west 40 feet of Lots 10 & 11 as conveyed to the County of San Bernardino by deeds recorded January 25, 1962 in Book 5636 Page 527, Book 5636 Page 533 and Book 5636 Page 536 of Official Records of said county.

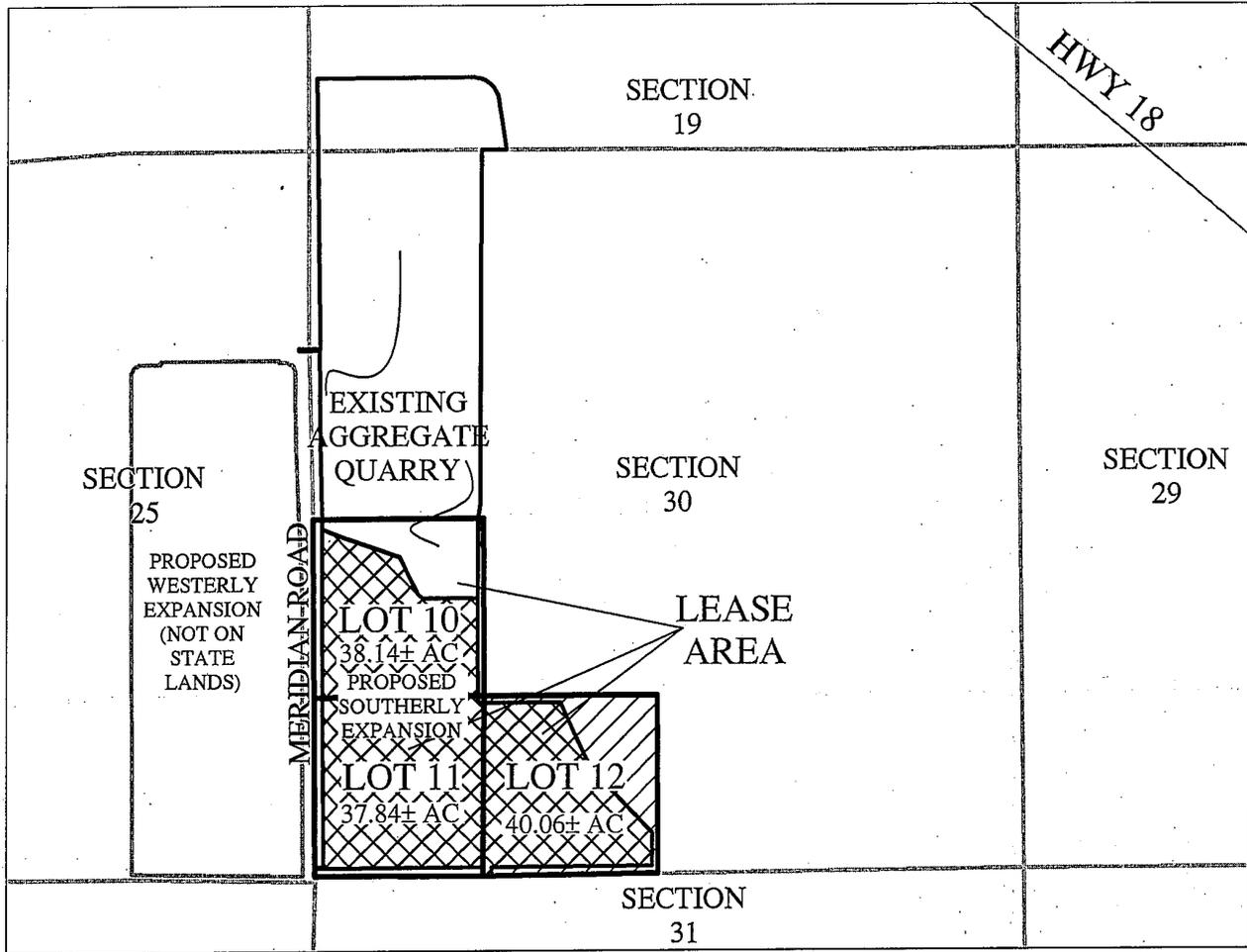
END OF DESCRIPTION

PREPARED 4/28/16 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

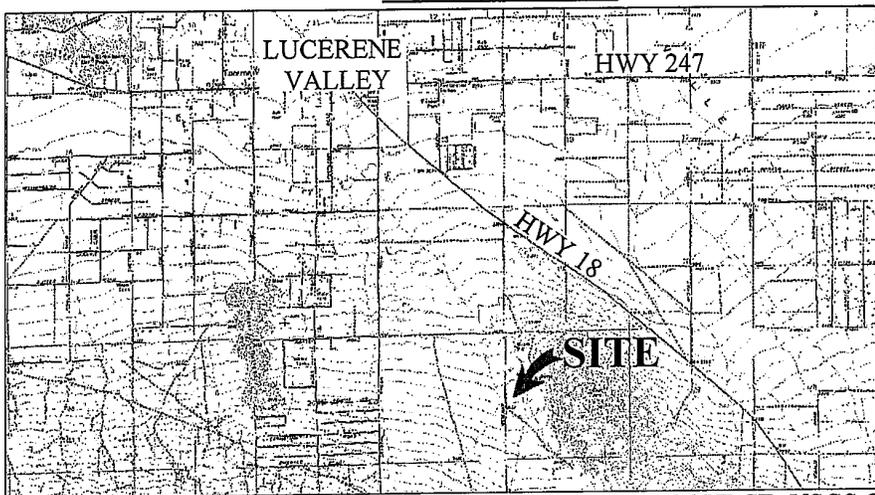
SITE MAP



Meridian Road, G.L.O. Lots 10,11,12 Section 30, T4N, R1E, SBBM SCHOOL LANDS

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8831.2
 APN 449-111-23&26
 HI-GRADE MATERIALS CO.
 SOLID MINERAL
 EXTRACTION LEASE
 SAN BERNARDINO COUNTY



4/28/16 MJF

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C

PRC 8831.2

STATE MINERAL EXTRACTION LEASE PRC 8831.2 LEASE RENEWAL AND AMENDMENT

This Lease Renewal and Amendment is entered into by the State of California, acting by and through the California State Lands Commission, as Lessor ("State" or "Lessor"), and Hi-Grade Materials Co., as Lessee ("Lessee").

Whereas, on July 1, 2009, the State authorized issuance of State Mineral Extraction Lease PRC 8831.2 ("Lease") to Lessee, for approximately 116 acres, more or less, of State fee owned school land, located in lots 10, 11 and 12 containing 38.14 acres, 37.64 acres and 40.06 acres, respectively, all within section 30, T4N, R1E, SBBM, San Bernardino County;

Whereas, the Lease was issued for an initial term of seven (7) years, commencing July 1, 2009 through June 30, 2016, with the right of the Lessee to renew the Lease for two (2) successive periods of seven (7) years each upon such reasonable terms and conditions as the State may prescribe. The Lessee has elected to exercise its first right of renewal for a period of seven (7) years commencing retroactively on July 1, 2016. The Lessor and Lessee have agreed to continue with the terms of the original Lease with the addition of the amendments set forth below; and

Whereas, on August 9, 2016, the State authorized the renewal of the Lease for an additional period of seven (7) years, effective July 1, 2016 through June 30, 2023.

Therefore, effective July 1, 2016, Lessor and Lessee agree as follows:

1. Grant of Non-Exclusive Lease and Term: Section 1, Paragraph 2 of the Lease is deleted in its entirety and replaced with the following new Section 1, Paragraph 2:

This Lease, originally commencing on July 1, 2009, through June 30, 2016, is renewed and extended for a period of seven (7) years, beginning July 1, 2016 and ending June 30, 2023, unless sooner terminated as provided in this Lease. Lessee shall have a preferential right to renew this Lease for one (1) additional period not to exceed seven (7) years upon such reasonable terms and conditions as may be prescribed by Lessor, including, but not limited to, modification of the royalty or any other provision in a manner which, in the opinion of Lessor, will adequately protect the interests of Lessor. Lessee

shall notify the Lessor of its intent to exercise this right of renewal no less than one (1) year prior to the expiration of the renewal period. If the Lessee fails to provide such timely notice, the right of renewal shall lapse and become void.

2. Definitions: A new subparagraph (f) is added to Section 2, paragraph 1, and shall read as follows:

f. Gross Mined Tonnage: the total gross tonnage of rock, sand and gravel and other material excavated on or near the state owned leased lands, whether sold or unsold, used as waste product, used for grading or sloping of the mine pit, or used any other purpose.

3. Royalty: A new subparagraph (c) is added to Section 2, paragraph 2, and shall read as follows:

c. Commingled Production: Since commencement of the Lease on July 1, 2009, the Lessee has concurrently mined Lessee's and Lessor's lands and commingled production while mining southward onto the Leased Lands. In February 2014, the Lessee amended their Mining and Reclamation Plan to permit the mining of the entire 116 acres of the Leased Lands, which was approved by San Bernardino County. During the interim, Lessor accepted royalty payment on 50% of the gross mined tonnage until such time that Lessor and Lessee mutually determined what allocation Lessee is due for its share of commingled production on its private lands. Based on the 2014 amended Mining and Reclamation Plan, Lessor and Lessee have agreed that the Lessee's total share of commingled royalty-free gross mined tonnage (50% of total gross mined tonnage) as of July 1, 2009 is 1,285,259 gross tons. As of March 31, 2016, the Lessee has been credited for 692,823.50 gross tons of commingled, royalty-free gross mined tonnage. Lessee shall continue to pay the state royalties on 50% of the gross mined tonnage until such time as that portion of non-royalty gross mined tonnage reaches an aggregate amount of 1,285,259 gross tons since July 1, 2009. After Lessee has been credited a total of 1,285,259 gross tons of royalty-free gross mined tonnage, the Lessor and Lessee agree that all subsequent gross mined tonnage adjacent to and on the Leased Lands shall no longer be considered commingled and the Lessee shall pay Lessor royalty on 100% of future gross mined tonnage. The Lessee shall provide the date that its share of commingled production reaches a total of 1,285,259 gross tons of gross mined tonnage on its quarterly reporting form for the quarter in which that gross tonnage is reached.

4. Statement of Reconciliation – Production and Royalty Adjustment: Section 2, Paragraph 3, and subparagraphs (a), (b) and (c) are deleted in their entirety and replaced with the following new Section 2, Paragraph 3:

The Leased Lands are adjacent to private lands owned or controlled by the Lessee. Mining during this seven year renewal period shall be located primarily but not exclusively on Lessor's lands. Not less than one-hundred twenty days (120) days before the expiration of this Lease and at the option of Lessee, Lessee may provide a survey, accompanying engineering report, and other sufficient information to the satisfaction of Lessor, to demonstrate that Lessee is due an additional credit for its share of commingled mined material as a result of that material being on Lessee's private lands but not yet credited as provided for in Paragraph 2, subparagraph (b)(vi). Any credit for commingled production due to the Lessee, as agreed upon by the Lessor under this paragraph, shall be deducted against subsequent monthly production by crediting 50% of the monthly gross tonnage of production as royalty-free production until the credit owed to Lessee is extinguished.

5. Environmental Impact: Section 2, Paragraph 7 of the Lease is deleted in its entirety and replaced with the following new Section 2, Paragraph 7:

Lessee shall abide by the regulations, restrictions and all other conditions specified in or resulting from Negative Declaration (ND) SCH# 2013121017, approved on March 4, 2014, by the County of San Bernardino (County) for expansion of an existing open pit quarry southward into adjacent land owned and managed by the State. Lessee shall furnish the State, within 30 days of their receipt, with copies of any reports prepared by or on behalf of the County pursuant to its adopted Mitigation Monitoring Program for Lessee's operations authorized under this Lease.

6. Plan of Development: Section 2, Paragraph 8, subparagraph (a) of the Lease is deleted in its entirety and replaced with the following:

Lessee shall develop the Leased Lands in accordance with Mining Conditional Use Permit and Reclamation Plan (CUP/RP) No. 10507 SM1/06M-001 submitted to and approved by the County Planning Commission on March 1, 2006 and updated March 4, 2014, which is incorporated by reference and is made part of this Lease and is on file in the Long Beach office of the California State Lands Commission. Any modifications to the Mining CUP/RP after March 4, 2014, not subject to environmental documentation prepared and circulated by the County through the State Clearinghouse, shall be submitted to the State for approval prior to implementation. Failure to develop the Leased Lands

according to the Mining CUP/RP, or any approved modifications of the Mining CUP/RP, shall be cause for forfeiture of this Lease.

7. Survival of Lease Obligations: A new paragraph 36 is added to the Lease to read:

Lessee's obligations under this Lease shall survive the expiration or earlier termination of the Lease until such time that all royalties on minerals held for future sale (extracted but not sold) at the time of the expiration or earlier termination of the Lease have been paid and the Lease Premises have been restored in accordance with Paragraph 24.

8. All other terms and conditions of the Lease remain unchanged and in full force and effect.

IN WITNESS THEREOF, the parties hereto have executed this Amendment of State Lease PRC 8831.2.

LESSOR: CALIFORNIA STATE LANDS COMMISSION:

Dated: _____

By: _____

Marina Voskanian, P.E.,
Division Chief,
Mineral Resources Management Division

LESSEE: HI-GRADE MATERIALS CO.

Dated: _____

By: _____

Title: _____

CORPORATE SEAL

Approved as to form:
Kamala D. Harris
Attorney General, State of California

Dated: _____

By: _____

Andrew Vogel
Deputy Attorney General

EXHIBIT D

PRC 8831.2

**CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
LUCERNE VALLEY PIT
(PRC 8831; State Clearinghouse No. 2013121017)**

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Lucerne Valley Pit (Project). The CEQA lead agency for the Project is the County of San Bernardino.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted a MND (State Clearinghouse No. 2013121017), and mitigation measures (for the whole of the Project (see Exhibit D, Attachment D-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table D-1 below. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and
- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, section 15000 et seq.

Table D-1. Project Impacts and Applicable Mitigation Measures.

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
Air Quality - Dust	AQ-1	None.
Air Quality - Dust	AQ-2	None.
Air Quality – Soil Disturbance	AQ-3	None.
Air Quality – Soil Disturbance	AQ-4	None.
Air Quality - Soil Disturbance	AQ-5	None.
Air Quality - Emissions	AQ-6	None.
Air Quality - Emissions	AQ-7	None.
Air Quality - Emissions	AQ-8	None.
Air Quality - Emissions	AQ-9	None.
Air Quality - Odors	AQ-10	None.
Air Quality - Emissions	AQ-11	None.
Biological Resources – Desert Tortoise	BIO-1	None.
Biological Resources – Burrowing Owl	BIO-2	None.
Biological Resources – Riparian Habitat/Wetlands	BIO-3	None.
Biological Resources – Joshua Trees	BIO-4	None.
Cultural Resources	CR-1	See additions below.

CR-1. Cultural Resources: The developer/property owner shall submit a letter to County Planning and State Lands Commission staff agreeing to adhere to the following requirements and shall include a note on the grading plans and in all construction contracts/subcontracts a provision that the project contractors shall also adhere to the following requirements:

- In the event archaeological, paleontological and/or historical resources, including pottery, middens or human remains, are uncovered during earthmoving activities, all work in that area shall cease immediately and a qualified archeologist shall be retained to access the findings, and if necessary provide appropriate disposition of the resources. Earthmoving shall be diverted temporarily around the deposits until they have been evaluated, recorded, excavated, and/or recovered as necessary. Earthmoving shall be allowed to proceed on the site when the archaeologist, in consultation with the appropriate Native American Tribe(s) and the County of San Bernardino Museum, determines the resources are recovered to their satisfaction.
- If possible human remains are encountered during any earthmoving activities, all work shall stop in the area in which the find(s) are present, and the San Bernardino County Coroner must be notified. State law dictates that the Native American Heritage Commission (NAHC) shall be notified in the event that

² See Attachment D-1 for the full text of each MM taken from the MND prepared by the CEQA lead agency.

remains are determined to be human and of Native American descent, in accordance with California Public Resources Code Section 5097.98.

- The final disposition of archaeological and historical resources recovered on State lands under the jurisdiction of the State Lands Commission must be approved by the Commission.

ATTACHMENT D-1

**Mitigation Measures Adopted by the
County of San Bernardino**

Emissions, Hazards and Hazardous Materials, Land Use and Planning, Population and Housing, or Transportation/Traffic hazards. These impacts were identified to have no impact or a less than significant impact.

The implementation of the Mitigation Measures identified in this Initial Study Checklist would result in a less than significant impact and there would be no substantial adverse effects on human beings, either directly or indirectly

XVIII MITIGATION MEASURES. Include mitigation measures here.

(Any mitigation measures which are not 'self-monitoring' shall have a Mitigation Monitoring and Reporting Program prepared and adopted at the time of project approval)

AQ-1: The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities.

AQ-2: Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading and mining activity on the site. Portions of the site that are actively being mined shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday.

AQ-3: The Project proponent shall ensure that all disturbed areas are treated to prevent erosion,

AQ-4: The Project proponent shall ensure that all mining and processing activities are suspended when winds exceed 25 miles per hour.

AQ-5: During operation, street sweeping will be conducted at least daily, and as needed, along site access roadways to remove dirt dropped by vehicles. Site access driveways and adjacent streets will be washed if there are visible signs of any dirt track-out at the conclusion of any work day.

AQ-6: All equipment used for mining and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel.

AQ-7: The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.

AQ-8: AQ-8: The operator shall comply with all existing and future GARB and MDAQMD regulations related for diesel-fueled trucks, which may include among others: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment

AQ-9: The aggregate crusher must obtain permits to construct and annually renew permits to operate from the MDAQMD and be In compliance with such permits.

AQ-10: This facility must handle all material (raw, byproducts, and finish materials) so as not to cause a Nuisance (odors) per District Rule 402.

AQ-11: A Blue Smoke Control filter cartridge will be used in this project to mitigate for the blue smoke.

B10-1 Desert Tortoise: *The following measures shall be implemented:*

- g. The Applicant shall provide an information sheet to all persons who will work on-site during mining activities. The program shall consist of a brief presentation from a person knowledgeable about the biology of the Desert Tortoise, Federal Endangered Species Act (FESA), and California Endangered Species Act (CESA).*
- h. A fitter control program shall be instituted, The program includes the direction to all workers to eliminate food scraps, paper wrappers, food containers, cans, bottles, and other trash from the project area and to maintain covered trash containers that are regularly removed from the project site. All trash and food items should be promptly enclosed in raven proof containers (i.e. metal or solid plastic trash cans) and disposed of in a licensed disposal facility on a regular basis.*
- i. Any desert tortoises observed during any phase of the project should be left to move out of the way on its own. Handling of desert tortoises is not authorized.*
- j. Workers should inspect for desert tortoises under vehicles and equipment prior to moving them. If a desert tortoise is present, the worker should carefully move the vehicle or equipment only when necessary or should wait for the desert tortoise to move out from under the vehicle or equipment.*
- k. Only an Authorized Biologist(s) shall be allowed to handle tortoises. The Authorized Biologist(s) shall have a Memorandum of Understanding (MOU) with the CDFW for handling tortoises,*

Upon discovery of a Desert Tortoise in a work area, all work in that area shall stop until the Desert Tortoise is relocated. An Authorized Biologist shall be on site or on call to relocate any desert tortoise found during work activities. The desert tortoise shall be monitored until the Authorized Biologist arrives.

BIO-2 Burrowing Owl: *Utilizing accepted protocols, within 30 days prior to initiating mining activities, a pre-construction survey must be conducted for the Burrowing Owl by a qualified biologist.*

BIO-3 Riparian Habitat/Wetlands: *Prior to commencing mining activities or earth disturbing activities within the area depicted in Figure 5 of the Jurisdictional Delineation for the Lucerne Valley Pit dated December 11, 2011 prepared by Agcon Inc., the project applicant shall obtain a Section 404 Permit from the USACE, a Section 1602 Streambed Alteration Agreement from the CDFW, and a Section 401 Water Quality Certification from the RWQCB for permanent impacts 21.5 acres of jurisdictional area that are regulated by the USACE, CDFW, and the RWQCB. Impacts shall be mitigated at a 2:1 ratio through an off-site mitigation bank or the contribution of in-lieu fee program acceptable to the County of San Bernardino and the USACE, CDFW, and RWQCB.*

BIO- 4 Joshua Trees: *Plant species protected by state law and County ordinance; yucca, agave (Joshua tree) and cactus, will be transplanted during growth media salvage to areas which remain undisturbed until they are used in revegetation of the site.*

CR-1 Cultural Resources: *The developer/property owner shall submit a letter to County Planning agreeing to adhere to the following requirements and shall include a note on the grading plans and in all construction contracts/subcontracts a provision that the project contractors shall also adhere to the following requirements:*

- In the event archaeological, paleontological and/or historical resources, including pottery, middens or human remains, are uncovered during earthmoving activities, all work in that area shall cease immediately and a qualified archeologist shall be retained to access the findings, and if necessary provide appropriate disposition of the resources. Earthmoving shall be diverted temporarily around the deposits until they have*

been evaluated, recorded, excavated, and/or recovered as necessary. Earthmoving shall be allowed to proceed on the site when the archaeologist, in consultation with the appropriate Native American Tribe(s) and the County of San Bernardino Museum, determines the resources are recovered to their satisfaction.

- *If possible human remains are encountered during any earthmoving activities, all work shall stop in the area in which the find(s) are present, and the San Bernardino County Coroner must be notified. State law dictates that the Native American Heritage Commission (NAHC) shall be notified in the event that remains are determined to be human and of Native American decent, in accordance with California Public Resources Code Section 5097.98.*

GENERAL REFERENCES

CEQA Guidelines, Appendix G.

County of San Bernardino General Plan, 2007

County of san Bernardino Development Code, 2007

County of San Bernardino Greenhouse Gas Emissions Reduction Plan, September 2011

Mojave Desert Air Quality Management District California Environmental Quality Act (CEQA) and Federal Conformity Guidelines, August 2011.

PROJECT SPECIFIC REFERENCES

- C. *General Biological Resources Assessment — Lucerne Valley Pit, May 24, 2012 by RCA Associates, LLC*
- D. *Jurisdictional Waters Delineation for Lucerne Valley Pit, December 15, 2011 by Agcon Inc.*