APPENDIX L

Responses to Comments

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APPENDIX L COMMENT LETTERS AND RESPONSES TO COMMENTS

This section includes the letters received during the public and agency review period on the Draft EIR/EIS, which began on December 19, 2016 and ended on February 13, 2017. A list of public agencies, organizations, and individuals that provided comments on the Draft EIR/EIS during the public comment period is provided in Table L-1. Four comment letters were received after the public comment period had closed; these letters are listed in Table L-2. Responses to the comments provided in the letters received during the public comment period are provided in this section.

Table L-1
List of Comment Letters Received During the Comment Period

Letter Number	Sender	Date of Letter
1	Teresa Pickard	12/21/2016
2	Johnny Kaczmarek	01/05/2017
3	Ronald Chapman	01/06/2017
4	Kaiser Retirees Benefit Trust/Cushenbury Mine Trust	01/09/2017
5	Center for Biological Diversity	01/10/2017
6	Department of Conservation/Division of Mine Reclamation	01/12/2017
7	Department of Toxic Substances Control	01/26/2017
8	Tim Gledich	01/28/2017
9	Golden State Environmental Justice Alliance	01/30/2017
10	CALFIRE	01/31/2017
11	Governor's Office of Planning and Research	01/31/2017
12	City of Big Bear Lake	02/01/2017
13	San Bernardino County Department of Public Works	02/01/2017
14	Mojave Desert Air Quality Management District	02/03/2017
15	Lucerne Valley Economic Development Association (LVEDA)	02/07/2017
16	Center for Biological Diversity/California Native Plant Society	02/13/2017
17	United States Environmental Protection Agency	02/13/2017
18	California Department of Fish and Wildlife	02/13/2017
19	Sandice Alaska	02/13/2017

Table L-2
List of Comment Letters Received After the Close of the Comment Period

Letter Number	Sender	Date of Letter
20	Sandice Alaska	02/14/2017
21	Col. Paul Cook	02/14/2017
22	Jay Obernolte	02/16/2017
23	Caltrans District 8	03/08/2017

L.1 Master Responses To Common Comments

A number of the comments received on the Draft EIR/EIS discussed the same issues or environmental concerns. Rather than repeat responses, master responses to common issues were prepared. These master responses are provided below.

L.1.1 Master Response 1: Recirculation of the Draft EIR/EIS

Summary of Issues Raised. Several comment letters stated that the Draft EIR/EIS should be recirculated for additional comment.

Response. Under CEQA, a lead agency must recirculate an EIR when significant new information is added to the EIR after the Draft EIR has become available for public review, but before certification (CEQA Guidelines Section 15088.5). New information is defined under the CEQA Guidelines as "significant" if the EIR is "changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement" (CEQA Guidelines Section 15088.5). Significant new information that would require recirculation, as defined by the CEQA Guidelines, includes: (1) a new significant environmental impact that would result from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact that would result from the project unless mitigation measures were adopted to reduce the impact to a level below significance; (3) a feasible project alternative or mitigation measure that is considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents have declined to adopt it; or (4) the draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (CEQA Guidelines Section 15088.5). Recirculation is not required when new information added to an EIR "merely clarifies or amplifies or makes insignificant modifications in an adequate EIR" (CEQA Guidelines Section 15088.5).

Under NEPA, a supplement to the draft or final environmental impact statement must be prepared if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 C.F.R. § 1502.9 (c)).

Recirculation of the Draft EIR/EIS or a supplement to the Draft EIR/EIS is not required, as the new information added to the EIR/EIS and in the responses to comments is not "significant new information" as defined under CEQA. The discussion below summarizes each criterion and the reasons why the Draft EIR/EIS does not need to be recirculated under CEQA or a supplement published under NEPA.

In addition, the Forest Service and County also note that the California Natural Resources Agency adopted revisions to the CEQA Guidelines that became effective on December 28, 2018. The revisions to the Guidelines included revisions to the Guidelines' Appendix G – Environmental Checklist Form. The revisions to the CEQA Guidelines were adopted largely to create efficiencies and to align the Guidelines with California appellate court and Supreme Court decisions. The revised Guidelines, including the revised Appendix G Environmental Checklist, apply prospectively and only to steps in the CEQA process not yet undertaken by the effective date of the revisions. (CEQA Guidelines Section 15007(b).) The revised

Guidelines do not apply to CEQA documents that were published for public review before the effective date of the revised Guidelines. (CEQA Guidelines Section 15007(c).) The Draft EIR/EIS was published for public comment on December 19, 2016. Therefore, the requirements in the revisions to the Guidelines and to Appendix G do not apply to the Forest Service and County's analysis in the Draft EIR/EIS.

CEQA Recirculation Criteria (CEQA Guidelines 15088.5)

A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

None of the comments identified a new significant environmental impact resulting from the Project. Although some of the Design Features/Mitigation Measures were modified and new Design Features/Mitigation Measures were added, these modifications and additions were clarifications to the Design Features/Mitigation Measures originally proposed in the Draft EIR/EIS. Therefore, no significant new environmental impacts have been identified.

A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of significance.

None of the comments identified a more severe environmental impact than what had been identified in the Draft EIR/EIS. Although some of the Design Features/Mitigation Measures have been modified and new Design Features/Mitigation Measures were added, these modifications were clarifications and not in response to a substantial increase in the severity of an environmental impact.

A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

None of the comments identified a feasible project alternative or mitigation measure that was considerably different from the alternatives analyzed in the Draft EIR/EIS that would clearly lessen the environmental impacts of the project. "Feasible" means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors" (CEQA Guidelines Section 15088.5).

The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The Draft EIR/EIS considered a "reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation" (CEQA Guidelines Section 15126.6(a)). The selection of the range of alternatives is described in Section L.1.2, below. Initially, a total of ten alternatives to the proposed Project were considered, including an alternative design for the South Quarry, two alternative mining methods, two alternative haul road routes, two alternative reclamation methods, a Congressional withdrawal, a full restoration alternative, and an off-site alternative. After alternatives were selected, a rigorous evaluation of environmental impacts by technical experts was conducted, which is summarized in the body of the Draft EIR/EIS and detailed in the appendices to the Draft EIR/EIS. Therefore, the Draft EIR/EIS was not fundamentally and basically inadequate and conclusory in nature, and meaningful public review and comment were not precluded.

NEPA Supplement EIS Criteria (40 C.F.R. § 1502.9 (c))

The agency makes substantial changes in the proposed action that are relevant to environmental concerns.

None of the comments resulted in a substantial change to the proposed action. Although some of the Design Features/Mitigation Measures have been modified and some new Design Features/Mitigation Measures were added, these modifications and additions were clarifications and supplemental protections that do not represent substantial changes that are relevant to environmental concerns.

There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

There were no significant new circumstances or information provided in the comments on the Draft EIR/EIS. The responses to comments and minor changes in the Final EIR/EIS represent clarifications to the analysis and do not warrant publication of a supplemental EIR/EIS.

L.1.2 Master Response 2: Range of Alternatives

Summary of Issues Raised. Several comment letters stated that the range of alternatives examined in the Draft EIR/EIS was too limited, and that additional alternatives should be evaluated.

Response. Under CEQA, a lead agency preparing an EIR must consider a "reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation" (CEQA Guidelines Section 15126.6(a)). An alternative is defined as "feasible" if it is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors" (CEQA Guidelines Section 15364; CEQA Section 21061.1). An EIR must consider a "no project" alternative to compare the impacts of approving a project with the impacts of not approving the project (CEQA Guidelines Section 15126.6(e)). An EIR "need not consider every conceivable alternative to a project" but must consider a "reasonable range of potentially feasible alternatives" (CEQA Guidelines Section 15126.6(a)). The key concern related to the range of alternatives is whether the range discussed fosters informed decisionmaking and public participation (*Cherry Valley Pass Acres and Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 354). If an EIR discusses a reasonable range of alternatives that fosters informed decisionmaking, the EIR is not required to discuss additional alternatives that are substantially similar to those already evaluated (*Cherry Valley Pass Acres and Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 355).

Under NEPA, a federal agency must "[r]igorously explore and objectively evaluate alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." (40 CFR 1502.14(a); see also 42 U.S. 4332(1)(C)(iii)). The alternatives considered must include an alternative of no action (40 CFR 1502.14(d)). The federal agency must also "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." (40 CFR 1502.13). The federal agency's review of alternatives must be guided by the rule of reason, and the agency need not review remote and speculative alternatives (*Protect Our Communities Foundation v. Jewell* (9th Cir. 2016) 825 F.3d 571, 580-81).

The County and the Forest Service considered an adequate range of alternatives under CEQA's and NEPA's requirements, respectively. As described in Section 2.6 of the Draft EIR/EIS, an extensive evaluation of alternatives was conducted after the initial scoping period for the Project. Initially, a total of ten alternatives to the proposed Project were considered, including an alternative design for the South Quarry, two alternative mining methods, two alternative haul road routes, two alternative reclamation methods, a Congressional withdrawal, a full restoration alternative, and an off-site alternative.

After closer review of those alternatives, the County and Forest Service determined all of these alternatives were not feasible or would not avoid or substantially lessen any of the significant effects of the Project. More specifically, the County and Forest Service considered and concluded the following alternatives were not feasible:

- Alternative Design: This alternative would have allowed continued mining south from the East Pit to reach the high-grade ore in the South Quarry area. This alternative would not construct a new haul road, but the overall footprint of the mine would be increased. Impacts related to ground disturbance and removal of public access to the property (such as air emissions, impacts to biological resources from removal of vegetation, erosion impacts, recreation impacts, and visual impacts) would be greater than with Alternative 1 – Proposed Action. Impacts to other environmental resources would be similar to Alternative 1 – Proposed Action. Therefore, this alternative design was not selected for further detailed environmental review.
- Alternative Mining Methods: Two alternative mining methods were considered to reduce the footprint of disturbance at the South Quarry site, including (i) the use of a conveyor to move the rock down to the cement plant instead of using haul trucks and (ii) the use of the shaft and tunnel method of transporting the mined rock down the mountain (in which most of the excavation would take place under the ground, minimizing disturbance at the surface associated with road building). Site conditions make these alternatives infeasible to implement. The conveyor alternative would require a primary crusher in the quarry at the conveyor and associated power lines and cables, but the Project site's steep terrain would make the installation and maintenance of such a system infeasible. The limestone at the Project site also does not have sufficient strength or integrity to safely implement the shaft and tunnel method. Therefore, these alternative mining methods were rejected as infeasible.
- Alternative Haul Road Routes: Two alternative haul road routes were considered. A haul road route along the east side of the proposed South Quarry was considered. The terrain in that location is steeper than the terrain for the haul road proposed for Alternative 1 – Proposed Action and Alternative 2 – Partial Implementation, which would result in a longer road with more switchbacks. Construction of such a long road in steep terrain would substantially increase ground-disturbing impacts and would lead to greater air emissions during both construction and operation. The longer road would also be more visible to the Lucerne Valley community, and impacts to biological resources from habitat removal, noise, and roadway conflicts would also be increased. The second alternative haul road route considered would access the South Quarry from the west, through Marble Canyon. This route would be approximately 700 linear feet longer than the haul road route proposed for Alternative 1 – Proposed action and Alternative 2 – Partial Implementation, and the total distance from the South Quarry to the crusher would be approximately 1.25 miles longer. Because this alternative would construct the haul road in Marble Canyon, it was initially thought that this alternative would have a less severe impact to scenery resources. A slope

stability analysis, scenery analysis, and air emissions analysis were conducted for this alternative, and the results were summarized in the Draft EIR/EIS (pp. 2-60 to 2-62). Due to the steep terrain in Marble Canyon, those analyses concluded that a haul road in the canyon would be costly and difficult to construct and maintain for significant lengths of the road, and there would be risk of erosion and road failure during operations due to the angle of the dip slopes. Scenery impacts associated with the Marble Canyon haul road route would be slightly less but would remain adverse and significant from key viewpoints in the SBNF. Lastly, air emission impacts would be greater under this alternative for some pollutants and greenhouse gases. The Marble Canyon haul road would also disturb a larger surface area of the ground than the haul road proposed for Alternative 1 – Proposed Action or Alternative 2 – Partial Implementation. To maintain safe grades, the road or overburden would be in the bottom of Marble Canyon drainage, which would result in substantial impacts to occupied and suitable habitat for rare plants. Given the greater environmental impacts for some impact areas, the only slight reduction in scenic impacts under the Marble Canyon haul road alternative, and the technical difficulties in constructing the alternative designs, both haul road alternatives were considered infeasible and were not examined further in the Draft EIR/EIS.

- Alternative Reclamation Methods: Two alternative reclamation methods were considered. An alternative bench construction method, microbenching, was rejected as infeasible because this type of construction would require a larger mine footprint to result in the same amount of ore. This method would also depend on thick vegetation to cover the microbenching, which would not work well in the harsh climate and sparse habitat at the Project site. Therefore, this method would not significantly reduce the scenery effects and was not considered as a feasible alternative. Phasing the mining based on reclamation goals was also rejected, because all of the build alternatives require reclamation concurrent with mining as mining in each section of the mine is completed. The reclamation requirements also have performance criteria backed with a monetary bond to ensure success of reclamation.
- Congressional Withdrawal Instead of Administrative Withdrawal: The Project includes a mineral withdrawal of National Forest System lands from mineral location and entry under the General Mining Laws of the U.S. A withdrawal is a formal action that sets aside the federal land for certain public purposes, precluding future mining claims. There are two ways to achieve a withdrawal. An administrative withdrawal is an action by the President, the Secretary of the Interior, or other authorized officers of the executive branch. A congressional withdrawal is a legislative action by Congress in the form of a public law. While the Project includes an administrative withdrawal of land for conservation of biological resources, an alternative using a Congressional withdrawal was considered. Since there is no procedural mechanism for getting Congress to act on a withdrawal request in this instance, this alternative would be highly speculative and of uncertain success, and so was rejected as infeasible. The administrative withdrawal is feasible because there is an established process for pursuing an administrative withdrawal from the Bureau of Land Management (which has been delegated authority to process all administrative withdrawal actions from the Secretary of the Interior).
- Full Restoration Alternative: A full restoration alternative was considered that would include filling in the mine with rock to recreate the pre-Project conditions at the Project site. This alternative was not considered feasible for this type of mining, since limestone mining for cement production results in very little overburden or waste rock. An estimated 10 percent of waste rock is produced as compared to the ore volume that will be removed. This alternative

would require purchasing rock from other areas to have sufficient rock to backfill the South Quarry which would lead to environmental effects at the off-site location and associated with hauling the rock to the Project site, in addition to the environmental effects at the Project site itself.

- Off-site Alternative: Three off-site alternatives for high-grade limestone in the region were evaluated in Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project, two in southern California and one in Nevada (see Figure 2.3-12 and Table 2.3-A in Section 2.4). Additional off-site alternative locations would have similar environmental effects from increased vehicle trips and associated air quality and greenhouse gas emissions. Therefore, additional alternative high-grade limestone resources beyond the three analyzed for Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project were not carried forward for detailed analysis. A scenario under which MCC would acquire the necessary high-grade limestone from the existing mines in the Desert Rim Place (mines operated by Specialty Minerals, Inc. (SMI) and Omya) was also not selected for evaluation. Given the shared geology, topography, and meteorology, similar habitat, sensitive receptors, and environmental setting of those existing mining operations as compared to those of the South Quarry site, the potential environmental impacts of further developing the adjacent SMI and Omya limestone resources would largely be the same as the impacts resulting from the Alternative 1 – Proposed Action, for all of the environmental resource areas except traffic, air quality, greenhouse gases, and noise. Impacts to traffic, air quality, greenhouse gases, and noise would be greater than Alternative 1 – Proposed Action. Therefore, these sites would not "avoid or substantially lessen any of the significant effects of the project" (CEQA Guidelines Section 15126.6). Additional information on the offsite locations considered for Alternatives 2 and 3 is provided in Master Response 3.

Because the alternatives described above would be infeasible due to technical challenges or would cause greater or comparable environmental impacts, the County and Forest Service determined the above alternatives need not be carried forward for further review. The County and Forest Service determined that only Alternative 2 - Partial Implementation could feasibly attain most of the Project objectives and avoid or substantially lessen one or more of the significant effects of the Project. Accordingly, Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project were carried forward for review.

L.1.3 Master Response 3: Offsite Limestone Sources for Alternatives 2 and 3

Summary of Issues Raised. Several comments stated that the Draft EIR/EIS should have provided additional information concerning the offsite limestone sources that could be developed under Alternatives 2 and 3.

Response. In all scenarios, MCC would continue to need high-grade limestone to blend with the predominantly low-grade limestone in the West Pit to feed the existing Cushenbury Cement Plant; therefore, Alternative 2 - Partial Implementation and Alternative 3-No Action/No Project both assume MCC would import approximately 1.3 million tons per year of high-grade limestone using 25-ton on-road trucks with approximately 52,000 haul truck trips per year (approximately 150 truck trips per day assuming deliveries 350 days per year). This annual requirement would be for the periods of time that the South Quarry is not available, which is after year 40 for Alternative 2 – Partial Implementation and for the entire life of the West Pit (120 years) for Alternative 3 – No Action/No Project.

To develop these alternatives, potential off-site sources of high-grade limestone were reviewed. Two potential high-grade limestone sources in southern California and one potential source in Nevada were identified. These locations were selected based on the estimated quality and quantity of limestone reserves and the potential to obtain approvals to further develop those resources. The three identified locations are shown in Figure 2.3-12 through 2.3-15, which have been added to Section 2.3-4 of the Final EIR/EIS and are further described in Table L-3 below.

Table L-3
Summary of Potential Off-site Sources of High Grade Limestone

Mine/Deposit Location	Land Ownership Status	Resource Estimate	Distance to Cushenbury Cement Plant/Route[1]	Potential Constraints
Moapa Band of Paiutes (owner) Moapa Limestone Deposit	700 acres of land owned by Tribe	160 million tons – Average grade: 90% $CaCO_3$	248 miles, via I-15 and Hwy 247	No current permit for the resource
Omya Amboy Limestone Quarry (6 miles NE of Amboy)	48 acres owned in fee by Omya plus 2 acres of federal land managed by BLM	Current permit for 55 years covers 50 acres (300-foot thick, 1,500-foot surface exposure of high purity, high brightness limestone)	128 miles, via Route 66, I-40, and Hwy 247	Omya is currently developing this resource of high purity limestone deposit for pharmaceutical and food grade limestone
Big Maria Mountains Limestone Deposits (former Pfizer and Levy Quarries)	720 acres of 18 active placer mining claims held by the Levy family, adjacent to Big Maria Mountains Wilderness on land managed by BLM.	120-foot thick white limestone exposed over approximately 4,500 feet, CaO_3 – 55%	210 miles via Midland Rd., I-10, Hwy 62, and Hwy 247	No current permit

Notes:
[1]Distances calculated using Google Maps.
$CaCO_3$ = calcium carbonate. $CaCO_3$ is the primary component of limestone.
Sources:
Brown 2003, BIA n.d., California Geological Survey 1994

MCC does not own or otherwise have control over these resources. Nevertheless, these sites represent the most realistic potential off-site sources of high-grade limestone under Alternatives 2 and 3. Figures 2.3-13 through 2.3-15, included in the Final EIR/EIS show the most likely routes between these off-site sources and the Cushenbury cement plant. Further analysis of the potential air emissions and greenhouse gas emissions associated with the shipment of the necessary quantity of high-grade limestone from each of those three potential locations is provided below and has been added to the Final EIR/EIS. Criteria pollutant and GHG emissions would vary depending upon the distance to the offsite source (see Table L-3 for distances from potential sources and the Cushenbury cement plant). The estimated criteria pollutant and GHGs

emissions are summarized in Table L-4 below, and this information has been added to the Final EIR/EIS. For Alternative 2, these emissions would commence at the conclusion of Phase 2, approximately 41 years after Project approval.

Table L-4
Criteria Pollutant and GHG Emissions Associated with Transportation of High-Grade Limestone from Off-Site Sources

	Omya Amboy		Big Maria Mountains		Moapa		Daily	Annual
	128 miles one way		173 miles one way		248 miles one way		Threshold	Threshold
Pollutant	lb/day	ton/yr	lb/day	ton/yr	lb/day	ton/yr	(lbs)	(tons)
NOx	30.63	5.36	41.40	7.24	59.35	10.39	137	25
TOG	2.94	0.52	3.98	0.70	5.70	1.00	137	25
CO	14.90	2.61	20.14	3.52	28.86	5.05	548	100
SOx	1.09	0.19	1.47	0.26	2.11	0.37	137	25
PM_{10}	61.05	10.68	386.11	67.57	35.63	6.24	82	15
$PM_{2.5}$	16.16	2.83	96.36	16.86	11.02	1.93	54	10
Pollutant	**ton/day**	**ton/yr**	**ton/day**	**ton/yr**	**ton/day**	**ton/yr**	**Daily Threshold**	**Annual Threshold (Mton)**
CO_2e*	449.58	20,078.89	607.63	27,137.87	871.05	38,902.84	none	10,000

Note: * The lowest CH_4 GWP of 25, which is the value in current EPA GHG reporting regulatory documents, is reported here to be consistent with the analysis provided for Alternative 1 – Proposed Action. CO_2e was also calculated using the values of 34 and 86 from the IPCC Assessment Report 5 for 100-year and 20-year GWP, respectively (see Appendix B-2, Table 4). For the calculations of GHGs from offsite trucking, the contributions to CO_2e from CH_4 and N_2O are relatively small, so the effect of changing the CH_4 GWP on total CO_2e is small. The use of the alternate GWPs would result in slightly larger CO_2e total numbers, but the impact conclusion would remain the same.

As shown in Table L-4, and in Appendix B-2 to the Final EIR/EIS, emissions would be greater than with Alternative 1 – Proposed Action but would still be below emissions thresholds with the exception of the Big Maria Mountains high-grade limestone source. Both daily and annual PM_{10} and $PM_{2.5}$ emissions from trucking from Big Maria Mountains would be above thresholds.

As shown in Table L-4, for all three potential sources, emissions of PM_{10} would be below the federal *de minimis* threshold of 100 tons per year, and emissions of O_3 precursors (NOx and VOCs) would be below the federal *de minimis* thresholds of 25 tons per year for those pollutants. Therefore, Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project would not be required to prepare a Conformity Determination and no further analysis is required.

Alternative 2-Partial Implementation and Alternative 3 – No Action/No Project would have emissions below the screening thresholds for potential effects to Class I areas with the exception of the Big Maria quarry location. Additional analysis for the road segment that passes near Joshua Tree National Park concluded that there were no visual, O_3, or acid deposition impacts. No adverse effects to Class I areas are anticipated with these alternatives.

The potential for mining to expose sensitive receptors to substantial pollutant concentrations through year 40 would be the same as discussed for Alternative 1 – Proposed Action. After year 40, high-grade limestone would be mined from offsite sources and trucked to the Cushenbury cement plant. The potential for mining at the alternative sites after year 40 to expose sensitive receptors to substantial pollutant concentrations was evaluated. The modeling showed that cancer

risk, non-cancer chronic hazard, and acute hazard would be less than significant for mining at all three sites (Yorke Engineering 2019; Appendix B-3). For potential impacts near roadways from trucking, a representative roadway segment along the route from the Big Maria quarry near Joshua Tree National Park was selected. Health risk assessment calculations were modeled to be below applicable risk threshold. Less than significant impacts are anticipated (Yorke Engineering 2019; Appendix B-3).

Truck transport of high-grade limestone from offsite sources would increase vehicle trips on public roadways. Such transport would increase vehicle trips on public roadways; thereby resulting in GHG emissions from truck traffic of 20,078.89 MT per year CO_2e for the Omya site, 27,137.87 MT/year for the Big Maria Mines site CO_2e, and 38,902.84 MT per year CO_2e for the Moapa site. The selection of any of these sites would result in GHG emissions that would be greater than Alternative 1 – Proposed Action and would also be greater than the GHG emissions threshold of 10,000 MT per year of CO_2e. Impacts would be significant for all three offsite locations. The EIR/EIS does not evaluate a scenario under which MCC would acquire the necessary high-grade limestone from the existing mines in the Desert Rim Place (mines operated by SMI and Omya). Although these mines are located closer to the proposed South Quarry site and the MCC Cement Plant, given the shared geology, topography, and meteorology, similar habitat, sensitive receptors, and environmental setting of those existing mining operations as compared to those of the South Quarry site, the potential environmental impacts of further developing the adjacent SMI and Omya resources would largely be the same as the impacts resulting from the proposed Project, for the same quantity of rock. Therefore, these sites would not "avoid or substantially lessen any of the significant effects of the project" (CEQA Guidelines Section 15126.6). For those reasons, further analysis of the potential impacts related to the potential development of high-grade limestone resources from existing mines in the Desert Rim Place was not pursued.

L.1.4 Master Response 4: Calculation of Total Limestone Production

Summary of Issues Raised. Several comment letters stated that the Draft EIR/EIS's project description is inadequate because it is based on a portion of production from the West Pit shifting to the South Quarry, rather than an increase in combined limestone production from MCC's Cushenbury properties and claims. Therefore, the EIR/EIS's analysis is based on incorrect information.

Response. The Draft EIR/EIS does not evaluate potential impacts from increasing overall limestone production because no such increase is proposed or expected with any alternative. The existing and proposed limestone quarries support MCC's existing cement manufacturing operation at the Cushenbury Cement Plant. The East Pit has been in operation since approximately 1947 and, during the 1960s and 1970s, the quarry produced limestone for the on-site Cushenbury Cement Plant, as well as for Kaiser Steel's Fontana plant, for then-owner Kaiser Cement (County of San Bernardino 2003 – *Draft EIR for West Pit Expansion,* p. 3-7.) MCC purchased the Cushenbury facilities in 1988. MCC has no affiliation with steel production in Fontana and has only produced limestone for the on-site Cushenbury Cement Plant since 1988.

MCC blends low and mid grades of limestone with high-grade limestone at a ratio of approximately 50/50 to achieve the properties required for feed to the Cushenbury Cement Plant. Historically, MCC has produced a balance of low-grade and high-grade limestone from the existing East Pit. As explained in Section 1.4 of the Draft EIR/EIS, the County approved MCC's

West Pit project and associated CEQA review in 2004. The West Pit project was intended to replace MCC's diminishing limestone reserves in the East Pit, with no change in cement production at the Cushenbury Cement Plant. MCC's initial geologic evaluation of the West Pit area suggested that sufficient quantities of both grades were present. Further testing conducted subsequent to the 2004 approval confirmed that while the West Pit area contains substantial amounts of limestone, the limestone in the West Pit area is predominantly low-grade limestone and contains insufficient amounts of high-grade limestone to blend with the lower grades to meet the feed requirements for the existing Cushenbury Cement Plant. Geological investigation has shown that the South Quarry area has sufficient reserves of high-grade limestone. Accordingly, MCC submitted applications to the Forest Service and the County for the South Quarry Project, which would develop the quantity of high-grade limestone needed to blend with the low- and mid-grade limestone present in the West Pit.

MCC's Cushenbury Cement Plant requires a limestone feed of approximately 2.6 million tons per year (MTPY). Both Alternative 1 – Proposed Action and Alternative 2 – Partial Implementation proposes to mine the South Quarry together with the West Pit[1], mining predominantly lower grade limestone from the West Pit and high-grade limestone from the South Quarry, and blending the ore to achieve the requisite 50/50 ratio. The South Quarry would be mined at an average production rate of 1.3 MTPY of ore and 150,000 tons per year of waste rock for up to 120 years for Alternative 1 – Proposed Action and 40 years for Alternative 2 – Partial Implementation. Because approximately 50 percent of the limestone that was initially expected to be mined from the West Pit would be mined instead from the South Quarry, production from the West Pit would be reduced to an average of approximately 1.3 MTPY of ore and 150,000 tons per year of waste rock. The total combined average limestone production of 2.6 MTPY and 300,000 tons per year of waste rock at the mining complex would not change.

The South Quarry Project does not propose any changes to the physical equipment or operations of the existing Cushenbury Cement Plant. The South Quarry Project would not cause an increase in capacity of the cement kiln or related cement manufacturing or handling equipment. Likewise, the South Quarry Project does not add any equipment for exporting raw limestone rock. Accordingly, as production from the South Quarry begins, limestone ore from the South Quarry would naturally displace an equivalent amount of limestone that would otherwise be produced from the West Pit.

The environmental impacts associated with mining 2.6 MTPY of limestone and 300,000 tons per year of waste rock from the West Pit were evaluated in the 2004 EIR, and mitigation was imposed to address significant adverse impacts identified in that document. Therefore, the fully approved West Pit operations are a reasonable starting point for the analysis in the South Quarry Draft EIR/EIS. This approach allows the lead agencies to remind the public and the decision makers of the impacts previously reviewed, clearly identify the ways in which environmental impacts may change if a portion of the limestone is mined from the South Quarry rather than from the West Pit, and fashion additional mitigation to address any new or more severe impacts from shifting production to the South Quarry.

[1] As envisioned in 2004, MCC intends to phase out mining in the East Pit as its approved reserves are consumed; for purposes of this discussion, the East Pit production is included with the West Pit production.

L.1.5 Master Response 5: Air Quality Analysis Baseline

Summary of Issues Raised. Several comment letters stated that the air quality analysis baseline was incorrect.

Response. An EIR must include a description of the physical environmental conditions in the vicinity of the Project as they exist at the time the notice of preparation is published, and this environmental setting will normally constitute the baseline physical conditions by which the lead agency will determine whether an impact is significant (CEQA Guidelines Section 15125). NEPA requires that an EIS "succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration" (40 CFR Section 1502.15). The Draft EIR/EIS explains how the air quality analysis was conducted and how that analysis complies with CEQA and NEPA requirements for baseline conditions. The Draft EIR/EIS satisfies CEQA and NEPA requirements in Section 3.2 and Appendix B (note that Appendix B has been renumbered as Appendix B-1 in this Final EIR/EIS) by describing climate and meteorology in the vicinity of the Project area, presenting several years of ambient air quality data from the closest air quality monitoring stations, and summarizing the classifications of the area with respect to federal and California ambient air quality standards. The analysis also describes how the existing and approved mining facilities and activities contribute to those physical environmental conditions. As explained in Section 1.4 of the Draft EIR/EIS, the County approved the West Pit project and certified its associated EIR review in 2004, and development began shortly thereafter.

CEQA Guidelines state that where an EIR has been completed for a project, no further environmental review is necessary, except under certain conditions that are not present for this project (CEQA Guidelines § 15162). Under NEPA, an approved project can be incorporated into the environmental baseline against which the incremental impact of a proposed project is measured (*See Cascadia Wildlands v. Bureau of Indian Affairs* (9th Cir. 2015) 801 F.3d 1105, 1112). To be consistent with CEQA and NEPA, the starting point for the analysis in the Draft EIR/EIS is the physical environmental conditions together with the mining development and activities that were reviewed in the 2004 EIR and approved by the County.

While the approved 2004 EIR provided information relating to West Pit operations that was important to the baseline, the Air Quality Study (Appendix B of the Draft EIR/EIS [renumbered as Appendix B-1 in this Final EIR/EIS] and summarized in Section 3.2) did not rely exclusively on the analysis in the EIR certified for the West Pit because air quality regulations have changed since the approval of the West Pit. Those new regulations will require MCC to upgrade its haul truck fleet over the next several years regardless of whether the South Quarry Project is approved. Given MCC's required compliance with those new regulations, if the 2004-approved West Pit project were used as the only starting point for the Project's analysis, it would appear that the South Quarry Project is responsible for emission reductions that will in fact result from MCC's compliance with those new regulations. To avoid inadvertently crediting the South Quarry Project with unrelated emission reductions, the Draft EIR/EIS and Air Quality Study also compared the South Quarry Project emissions to the estimated emissions likely to occur from MCC's mining operations over the next several years without the South Quarry Project. Emission estimates with and without the Project were compared for each year from 2017 to 2022 inclusive. Emissions estimates were compared for a succession of years because, during this period, the haul truck fleet will gradually change with or without the South Quarry Project, and -- if Alternative 1 – Proposed Action or Alternative 2 – Partial Implementation is approved -- during the same period a portion of the limestone production would gradually shift to the South

Quarry. Where appropriate, estimates were also compared with and without implementation of the Project Design Features/Mitigation Measures.

The full and detailed explanation of the assumptions behind the starting point for the air quality analysis and the South Quarry's potential air quality impacts can be found in Chapters 4 and 5 of the Air Quality Study, attached as Appendix B-1 to this Final EIR/EIS (Appendix B of the Draft EIR./EIS).

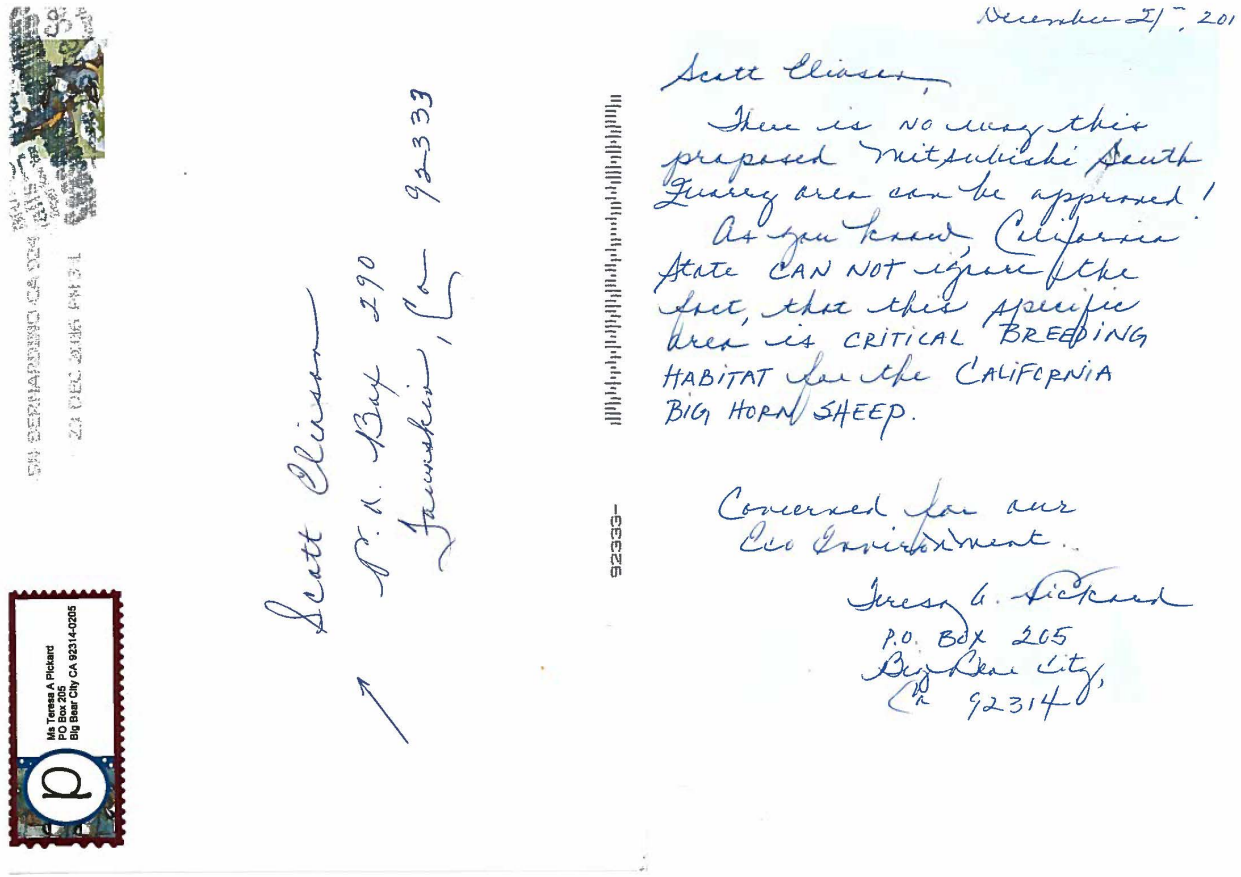
One comment mentioned *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal. 4th 310, 322. That decision did not discuss how an agency should analyze a proposed project when a related project has already been evaluated and mitigated through a previously certified EIR. The Supreme Court did not address that issue on appeal because the record did not contain any evidence of prior EIR environmental review. As explained by the Court of Appeal decision in the same matter, a line of cases holds that, "[w]here prior environmental review has occurred … the existing environmental setting may include what has been approved following CEQA review", but there was no record of prior environmental review in the case before the court (*See Communities for a Better Environment v. South Coast Air Quality Management District* (2007) 158 Cal.App.4th 1336, 1361, 1363). Similarly, *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, did not involve facilities or activities that had been reviewed in a previously certified EIR.

With respect to NEPA, a commenter mentioned *N.C. Wildlife Fed'n v. N.C. DOT* (4th Cir. 2012) 677 F.3d 596, 603. That case did not concern how to describe the baseline for a later project in light of completed environmental review for an earlier project that was under development at the time the later project was being evaluated. Instead, in *N.C. Wildlife Fed'n.*, the court found there was error in the NEPA analysis because the baseline used to analyze the "no-build" alternative relied on planning data that itself assumed the existence of the very transportation project that was undergoing review. The court concluded that the lead agency failed to disclose the assumptions underlying the data used in the "no-build" analysis, and in fact knowlingly provided the public with erroneous information. That is not the situation with the baseline analysis in the Draft EIR/EIS and Air Quality Study, which includes the development of the West Pit. There was no challenge to the accuracy of the West Pit's EIR at the time the West Pit was approved, and no basis to challenge that analysis now. Further, mitigation was provided and development began on the West Pit shortly after it was approved; therefore, it is relevant to include the West Pit in the baseline. All relevant information has been disclosed to the public.

L.1 RESPONSES TO INDIVIDUAL LETTERS

Responses have been provided to individual letters in the order that they were numbered in Table L-1. Responses to individual letters follow this page.

Letter 1 – Teresa A. Pickard



December 21, 201

Scott Eliason,

There is no way this proposed Mitsubishi South Quarry area can be approved! As you know California State CAN NOT ignore the fact, that this specific area is CRITICAL BREEDING HABITAT for the CALIFORNIA BIG HORN SHEEP. 1-1

Concerned for our Eco Environment.

Teresa A. Pickard
P.O. Box 205
Big Bear City,
Ca 92314

Scott Eliason
P.O. Box 190
Fawnskin, Ca 92333

92333-

Ms Teresa A Pickard
PO Box 205
Big Bear City CA 92314-0205

Response to Letter 1 – Teresa A. Pickard

Response to Comment 1-1:

The commenter is concerned that the Project would impact critical breeding habitat for bighorn sheep. The potential effects of habitat loss for the Cushenbury herd of bighorn sheep is discussed on page 3.3-62 and 3.3-63 of the Draft EIR/EIS. As the Draft EIR explains, the Project would not affect USFWS-designated critical habitat for bighorn sheep as defined under the U.S. Endangered Species Act (Draft EIR/EIS, pp. 3.3-1, 3.3-30). The Nelson's bighorn sheep is not a federally listed endangered species under the U.S. Endangered Species Act, nor is the Nelson's bighorn sheep listed as a threatened or endangered species under the state law. The Nelson's bighorn sheep is a fully protected species under the state law. As further discussed in the Draft EIR/EIS, the Project may contribute to viability concerns for the Cushenbury herd of Nelson's bighorn sheep. The Project's proposed haul road could impede movement of bighorn sheep on the North Slope. If approved, the Project would reduce the chance of death or injury of bighorn sheep through Design Features/Mitigation Measures BHS-1 through BHS-8. Potential impacts to the long-term viability of the population of bighorn sheep on the North Slope would be addressed through an adaptive management approach in the North Slope Bighorn Sheep Management Plan and by MCC's required participation in and funding for a North Slope Bighorn Sheep Conservation Strategy (Design Features/Mitigation Measures BHS-6 and BHS-7). With implementation of those Design Features/Mitigation Measures, the Project is not expected to affect the long-term viability of Nelson's bighorn sheep as a species in the SBNF.

While the Project is not expected to affect the long-term viability of Nelson's bighorn sheep as a species in the SBNF, the Project's effects to the Cushenbury herd are expected to remain significant. This impact will be taken into consideration by the Forest Service and County decision makers when determining whether or not to approve the Project.

Letter 2 – Johnny Kaczmarek

From: Eliason, Scott -FS
To: Anne Surdzial
Subject: FW: Mitsubishi expansion
Date: Thursday, January 05, 2017 10:55:10 AM

-----Original Message-----
From: Johnny Kaczmarek [mailto:shovelking1@hotmail.com]
Sent: Thursday, January 05, 2017 10:17 AM
To: Eliason, Scott -FS <seliason@fs.fed.us>
Subject: Mitsubishi expansion

I would like to see the companies plan for reclaiming the site once operations are done as well as what assurances are put in place by the county to make sure Mitsubishi follows thru. My concerns stem from seeing too many coal mines that close don't live up to their promises and obligations to clean up once they finish. Also, how many new jobs will be added? **2-1** **2-2**

Johnny Kaczmarek
138 E. Mountain view blvd
Big Bear City,Ca 92314
619-251-9892

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Response to Letter 2 – Johnny Kaczmarek

Response to Comment 2-1:

The commenter is concerned about the implementation of the Reclamation Plan and the methods by which the County and Forest Service will ensure compliance with the Reclamation Plan. As explained on pages 2-10 to 2-12 of the Draft EIR/EIS, the Project is required to implement a Reclamation Plan pursuant to the California Surface Mining and Reclamation Act (SMARA) (Cal. Pub. Resources Code §§ 2710 *et seq.*), SMARA's implementing regulations (14 CCR Section 3700), and the Forest Service's Minerals Regulations (36 CFR 228 Subpart A). Both of these regulations require the adoption of a Reclamation Plan as part of the approval phase of a mining project. California law requires the County, as the SMARA lead agency, to inspect the mining operation annually and empowers the County to issue notices of violation or orders in the event of noncompliance (Cal. Pub. Resources Code §§ 2774, 2774.1). For example, the annual inspection for the existing mining operation was conducted on May 25, 2017 and resulted in a Notice of Completion of Inspection that reflects the County's determination that the surface mining operation was in compliance with SMARA. If approved by the County and Forest Service, the Project will also require this annual reporting of mining and reclamation activity, which will be filed with the State Division of Mine Reclamation, the Forest Service, and the County.

As further explained in response to comment 16-44, the reclamation and revegetation activities would occur concurrently with the Project's different phases throughout the construction and operation of the Project. As a result of the concurrent efforts, some areas would have been reclaimed for 80 or more years by the time excavations cease altogether. Section 2.3.3.2 and Table 2.3-3 of the Draft EIR/EIS provide a summary of the planned reclamation and revegetation activities that would occur with each phase of the Project.

After excavations are complete, there would be five years of active reclamation and revegetation, followed by revegetation monitoring and remediation until the revegetation performance standards are achieved. Revegetated areas would be monitored over a five-year period, or until success criteria are achieved. Data on plant species diversity, cover, survival, and vigor would be collected on revegetation sites and compared to baseline data from undisturbed sites to evaluate revegetation success. As required by SMARA, to ensure the reclamation would be complete, MCC would post reclamation financial assurance in an amount sufficient to pay for the cost of reclamation. The County and Forest Service would annually review the cost estimate associated with the financial assurance and update it as needed. The reclamation assurance would also be reviewed and approved by the California Division of Mine Reclamation.

Response to Comment 2-2:

The commenter asks how many new jobs will be added with the Project. As explained on page 2-7 of the Draft EIR/EIS, approximately 11 employees would work at the new quarry under Alternative 1. Eight of those would be existing employees, and three would be new employees.

Letter 3 – Ronald Chapman

From: Ronald Chapman
To: Anne Surdzial
Subject: Mitsubishi Cement Company South Quaryy
Date: Friday, January 06, 2017 1:15:12 PM

Anne Surdzial, AICP
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374

Dear Ms. Surdzial,

Thank you for the opportunity to register my opposition to the proposed Mitsubishi Cement Company South Quarry project.

My objections are based on esthetic, economic, and social justice concerns. The proposal will add additional permanent degradation to the watershed and wildlife habitat of the San Bernardino National Forest. The expansion of the extraction of limestone will benefit a few at the expense millions and further degrade the scenic beauty of a region of the state that has become an all-too convenient source of financial opportunity to outside interests. The proposed expansion is a temporary source of wealth to a few and a permanent scar upon the commercial and environmental interests of residents and local business owners in the Lucerne Valley. **3-1**

Sincerely,

Ronald C. Chapman, PhD P.O. Box 152 37080 Comet Road Lucerne Valley, CA 92356-0152 (760)248-2338 (h) (818)822-8767 (c)

Response to Letter 3 – Ronald Chapman

Response to Comment 3-1:

The commenter is concerned that the Project would result in impacts to aesthetics, watershed, and wildlife habitat resources that would economically benefit only a few. The comment does not identify any deficiencies in the analysis in the Draft EIR/EIS. The purpose of the EIR/EIS is to disclose the environmental effects of the Project to the County and Forest Service decision makers and the public. Effects to biological resources, hydrology and water quality, and visual resources are discussed in Sections 3.3, 3.8, and 3.11, respectively. The potential effects to all environmental resources evaluated in the EIR/EIS is just one of the elements to be taken into consideration by the decision makers when deciding whether to approve or deny the Project; other considerations, such as economic, legal, technical, and social factors, would also be considered.

Letter 4 – Cushenbury Mine Trust/Kaiser Retirees Benefit Trust

Kaiser Retirees Benefit Trust
Cushenbury Mine Trust

17122 Slover Avenue
Suite K110
Fontana, CA 92337
Phone (909) 356-6867
Fax (909) 356-8649

January 9, 2017

Mr. Scott Eliason
Big Bear Ranger District
PO Box 290
41397 North Shore Dr. Hwy 38
Fawnskin, Ca. 92333

Dear Mr. Eliason:

I am writing today in support of the Mitsubishi expansion project. California and San Bernardino County will continue to grow and be in need of cement for roads, bridges and construction projects. Many benefits will accrue from this expansion, including jobs for employees and connected services, which provides growth within Lucerne Valley.

The plants and sheep are protected by the Carbonate Habitat Agreement, which provide 3 acres of mitigation for every acre disturbed and reclamation upon completion. The Cushenbury Mine Trust/Retiree Trust will benefit by an option agreement for Mitsubishi to purchase approximately 400 acres from CMT for mitigation purposes. Those funds would help extend the life of our trusts, which provide vision, dental and death benefits for approximately 1,200 Kaiser Steel retirees and their spouses and surviving spouses, many of whom live within San Bernardino County. **4-1**

We believe this is a vital project for future growth of San Bernardino County and urge your approval.

Tom Rabone
Tom Rabone
Chairman
Cushenbury Mine Trust/Kaiser Retirees Benefit Trust

Response to Letter 4 – Cushenbury Mine Trust/Kaiser Retirees Benefit Trust

Response to Comment 4-1:

This comment is in support of the Project and does not specifically address the environmental analysis in the Draft EIR/EIS. The comment does not require a response. Thank you for your participation in the CEQA and NEPA process. This comment will be considered by the Forest Service and County decision makers.

Letter 5 – Center for Biological Diversity

CENTER *for* BIOLOGICAL DIVERSITY *Because life is good.*

protecting and restoring natural ecosystems and imperiled species through science, education, policy, and environmental law

via email and USPS

1/10/2017

Anne Surdzial, AICP,
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

RE: Request for 40 day extension to comment deadline on the Draft Environmental Impact Report (EIR)/Environmental Impact Statement for the Mitsubishi Cement Corporation South Quarry Project (SCH#2012031009)

Dear Ms. Surdzial,

On behalf of the members of the Center for Biological Diversity and other members of the public, I am writing to request that an additional 40 days be added to the public comment period for the Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Mitsubishi Cement Corporation South Quarry Project (SCH#2012031009). The DEIR/EIS including appendices is well over 1,000 pages. The current 50-day comment period, which includes numerous year-end holidays, requires reading and cross-checking numerous pages, digesting them and ultimately formulating detailed comments. The complexity of the project site and its impact on endangered species and other rare wildlife, water, GHGs, traffic and other sensitive resources, as well as the need for a forest plan amendment makes this project controversial at best and likely very impactful to the unique and diverse ecosystem where the mountains meet the desert. Additional time for comments enables the public to bring forth scientific facts that will provide the decisionmakers with additional information upon which to base a decision. Therefore, we request that the comment period be extended for an additional 40 days for a full 90 days of public comment opportunity with the comment period ending on March 13, 2017. Please notify us of your decision at the earliest possible time. **5-1**

Respectfully submitted,

Ileene Anderson
Senior Scientist

cc:
Tasha Hernandez, SBNF Environmental Coordinator, thernandez@fs.fed.us
Reuben Arceo, San Bernardino County Land Use Services Division, reuben.arceo@lus.sbcounty.gov

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Washington • Illinois • Minnesota • Vermont • Washington, DC

Ileene Anderson, Senior Scientist
8033 Sunset Boulevard, #447 • Los Angeles, CA 90046-2401
tel: (323) 654.5943 *fax:* (323) 650.4620 *email:* ianderson@biologicaldiversity.org
www.BiologicalDiversity.org

Response to Letter 5 – Center for Biological Diversity

Response to Comment 5-1:

The commenter requests extending the comment period to 90 days. The Forest Service responded to this request on January 18, 2017 and determined that there were no issues that would prevent the interested public form submitting comments within the current comment period. The designated comment period was a reasonable period for review and comment and complied with CEQA's and NEPA's requirements. The review period was not extended.

Letter 6 – Department of Conservation, Division of Mines and Reclamation

State of California • Natural Resources Agency
Department of Conservation
Division of Mine Reclamation
801 K Street • MS 09-06
Sacramento, CA 95814
(916) 323-9198 • FAX (916) 445-6066

Edmund G. Brown Jr., *Governor*
Pat Perez, *Supervisor*

January 12, 2017

VIA EMAIL: reuben.arceo@lus.sbcounty.gov
ORIGINAL SENT BY MAIL

Mr. Reuben Arceo
San Bernardino County Land Use Services Division
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

MITSUBISHI CEMENT CORPORATION SOUTH QUARRY PROJECT
DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT
SCH #2012031009
SAN BERNARDINO COUNTY, CALIFORNIA

Dear Mr. Arceo:

The Division of Mine Reclamation (DMR) reviewed the Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS) for the South Quarry Project. The project proponent, Mitsubishi Cement Corporation (MCC), is proposing to expand the mining of high-grade limestone at the existing Cushenbury Mine by developing the South Quarry on a 153.6-acre project site located on federally managed land in the San Bernardino National Forest.

At this time, DMR has no specific comments on the DEIR/EIS. Previously, we reviewed the Plan of Operations and Reclamation Plan and submitted a comment letter, dated December 5, 2011, to San Bernardino County. We expect to have the opportunity to review the revised Plan of Operations and Reclamation Plan (Plan) prior to County approval. The revised Plan should address our previous comments, noted in the referenced letter above, as well as incorporate changes resulting from the environmental review process, including any mitigation measures which affect mining and reclamation. **6-1**

If you have any questions on these comments, please contact DMR staff at (916) 323-9198.

Sincerely,

Leah Gardner for

Beth Hendrickson, Manager
Environmental Services Unit

Paul Fry, Manager
Engineering Geology Unit

cc: Anne Surdzial, AICP, ECORP
asurdzial@ecorpconsulting.com

Crina Chan, OGER
Crina.Chan@conservation.ca.gov

Response to Letter 6 – Department of Conservation, Division of Mines and Reclamation

Response to Comment 6-1:

The Division of Mine Reclamation (DMR) has no specific comments on the Draft EIR/EIS, but requests review of the Plan of Operations and Reclamation Plan (Plan) prior to County approval. The Plan has been updated in response to DMR's letter of December 5, 2011 and will be provided to DMR for review prior to County approval, in accordance with SMARA.

Letter 7 – Department of Toxic Substances Control

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Barbara A. Lee, Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

January 26, 2017

Mr. Reuben Arceo
Land Use Services Department
County of San Bernardino
385 North Arrowhead Avenue, 1st floor
San Bernardino, California 92415-0187

DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR MITSUBISHI CEMENT CORPORATION SOUTH QUARRY PROJECT (SCH# 2012031009)

Dear Mr. Arceo:

The Department of Toxic Substances Control (DTSC) has reviewed the subject EIR/EIS. The following project description is stated in the EIR/EIS: "Mitsubishi Cement Corporation (MCC) is requesting approval of a Plan of Operations from the U.S. Forest Service, and a Reclamation Plan from the County of San Bernardino. The requested plan approvals would add a 153.6-acre South Quarry operation to an approximately 500-acre existing surface mining complex. The proposed South Quarry will consist of a 128-acre high-grade limestone quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and 0.7 acres for a temporary construction road. The South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the San Bernardino National Forest with approximately 6.6 acres of the haul road located on MCC fee land where it enters the existing East Pit."

Based on the review of the submitted document DTSC has the following comments:

1. The EIR/EIS should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. A Phase I Environmental Site Assessment may be appropriate to identify any recognized environmental conditions. **7-1**

2. If there are any recognized environmental conditions in the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction. **7-2**

Printed on Recycled Paper

Letter 7 – Continued

Mr. Reuben Arceo
January 26, 2017
Page 2

3. If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB). **7-3**

4. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR/EIS should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight. **7-4**

If you have any questions regarding this letter, please contact me at (714) 484-5476 or email at Johnson.Abraham@dtsc.ca.gov.

Sincerely,

Johnson P. Abraham
Project Manager
Brownfields Restoration and School Evaluation Branch
Brownfields and Environmental Restoration Program - Cypress

kl/sh/ja

cc: See next page.

Letter 7 – Continued

Mr. Reuben Arceo
January 26, 2017
Page 3

cc: Governor's Office of Planning and Research (via e-mail)
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
State.clearinghouse@opr.ca.gov

Ms. Anne Surdzial, AICP (via e-mail)
ECORP Consulting, Inc.
asurdzial@ecorpconsulting.com

Mr. Guenther W. Moskat, Chief (via e-mail)
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
Guenther.Moskat@dtsc.ca.gov

Mr. Dave Kereazis (via e-mail)
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Mr. Shahir Haddad, Chief (via e-mail)
Schools Evaluation and Brownfields Cleanup
Brownfields and Environmental Restoration Program - Cypress
Shahir.Haddad@dtsc.ca.gov

CEQA# 2012031009

Responses to Letter 7 – Department of Toxic Substances Control

Response to Comment 7-1:

The commenter states that the EIR/EIS should identify and determine whether current or historic uses at the site may have resulted in any release of hazardous wastes or substances. A Hazardous Materials Technical Study was completed for the site and was summarized in Section 3.7 of the Draft EIR/EIS and included as Appendix G. Based on a review of historical aerial photographs and hazardous waste databases, the site is undeveloped and there are no hazardous waste sites on or within 0.5 mile of the Project site. It was concluded that the Project would not result in the release of hazardous wastes or substances from current or historic uses.

Response to Comment 7-2:

The comment states that any recognized environmental conditions in the Project area should be properly investigated. A Hazardous Materials Technical Study was completed for the site and was summarized in Section 3.7 of the Draft EIR/EIS and included as Appendix G. There are no recognized environmental conditions on or within 0.5 mile of the Project site. The Project site is undeveloped. No additional investigation, sampling, or remedial action is recommended.

Response to Comment 7-3:

This comment states that a NPDES permit from the Regional Water Quality Control Board may be required if the Project would discharge wastewater into a storm drain. As described in Sections 2.3.2.9 of and 3.8.4.2 the Draft EIR/EIS, precipitation falling within the footprint of the quarry would be retained within the basin created by the quarry excavation. Erosion and sediment loss and transport would be controlled through the use of localized drainage and sediment control measures for other quarry development areas, including roads, stockpile areas, and other disturbed areas. Those measures would include construction of temporary diversion and collection ditches, berms, check dams or catchment basins, placement of erosion control materials, sediment fences, straw bales, or other appropriate measures individually or in combination. Accordingly, the Project would not lead to a discharge of wastewater into a storm drain.

Response to Comment 7-4:

The comment states that if it is determined that contaminated soil or groundwater is suspected during construction or demolition of the Project, the EIR/EIS should identify how any required investigation or remediation would be conducted and appropriate health and safety procedures should be implemented. A Hazardous Materials Technical Study was completed for the site and was summarized in Section 3.7 of the Draft EIR/EIS and included as Appendix G. There are no recognized environmental conditions on or within 0.5 mile of the Project site. It is not expected that soil and/or groundwater contamination would be encountered during construction of the Project, the Project does not involve demolition, and no additional investigation, sampling, or remedial action is recommended. Additionally, the Project would not increase the handling or storage of any hazardous materials. The Project would require trucks that contain fuel and the handling of explosives and detonators. Those materials would be transported, handled, and stored in accordance with all applicable federal, state, and local regulations. In light of the very

low risk of release of hazardous substances during the Project's construction and/or operation, and the existing programs that regulate these matters, there is no need for further mitigation measures concerning soil or groundwater contamination.

Letter 8 – Tim Gledich

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From: Eliason, Scott -FS
To: Anne Surdzial
Cc: Stamer, Marc -FS
Subject: FW: Mitsubishi proposal
Date: Monday, January 30, 2017 9:50:28 AM
Attachments: image001.png
image003.png
image004.png
image005.png

SQ comment, below.

Scott Eliason
Botanist
Forest Service
San Bernardino National Forest
Mountaintop District
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seliason@fs.fed.us
41374 North Shore Drive, PO Box 290
Fawnskin, CA 92333
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Caring for the land and serving people

From: beepbeep jeep [mailto:beepbeepjeep@gmail.com]
Sent: Saturday, January 28, 2017 8:19 PM
To: Eliason, Scott -FS <seliason@fs.fed.us>
Subject: Mitsubishi proposal

Scott,

I have read thourgh this proposal. I do not support it.

Why is our public land to be stripped into a mining operation?

I can figure lots of reasons why our forest service should be opposed to this project, yet struggle to reason why our forest service would support it. **8-1**

The San Bernadino Forest Service has already brought a blight to its reputation with what transpired in regards to nestle/arrowhead water rights. Please don't make another collosal screw up.

Do your job of preserving our wilderness- one of our greatest assets.

Tim Gledich
2085 7th Lane
Big Bear City

Letter 8 – Continued

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Response to Letter 8 – Tim Gledich

Response to Comment 8-1:

The commenter's opposition to the Project is noted. The comment expressed general opposition to the Project but does not comment on the environmental analysis in the Draft EIR/EIS. The environmental impacts of the Project and alternatives, including the No Action/No Project alternative, have been examined in the EIR/EIS and will be considered, along with the comments, by the Forest Service and County decision makers.

Letter 9 – Golden State Environmental Justice Alliance

Golden State Environmental Justice Alliance
Green Jobs & Clean Communities
P.O. Box 79222
Corona, CA 92877

January 30, 2017

VIA EMAIL

Anne Surdzial, AICP
ECORP Consulting, Inc.
215 N. 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

SUBJECT: COMMENTS ON MITSUBISHI CEMENT CORPORATION SOUTH QUARRY EXPANSION EIR

To whom it may concern:

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Mitsubishi Cement Corporation Quarry Expansion Project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance. Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877. **9-1**

Letter 9 – Continued

1.0 Summary

As we understand it, the EIR evaluates the proposed project as "Alternative 1", an alternative to the proposed project as "Alternative 2", and the no project/no build scenario as "Alternative 3". The proposed South Quarry is located approximately 6 miles south of the community of Lucerne Valley in San Bernardino County, California. The South Quarry proposes to develop and reclaim a new high-grade limestone quarry to the south of MCC's existing East Pit, its West Pit (under development), and MCC's existing Cushenbury Cement Plant. The Project as proposed in the Plan of Operations would total approximately 153.6 acres consisting of a 128-acre quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and a temporary construction road of 0.7 acre.

Alternative 1 – Proposed Action would provide high-grade limestone to blend with lower-grade limestone mined from the West Pit for the life of the West Pit's current estimated life of 120 years. The total disturbance area would be 153.6 acres in four phases. Reclamation would be completed five years after the completion of mining at the quarry. Alternative 2 – Partial Implementation would provide high-grade limestone to blend with lower-grade limestone mined from the West Pit for 40 years. Higher-grade limestone would be trucked to the cement plant from elsewhere in the region from approximately year 41 to year 120. Total disturbance area would be 133.6 acres and reclamation would be completed five years after the completion of mining at the quarry.

Alternatives 1 and 2 also include a project-specific Forest Plan amendment to reduce the Scenic Integrity Objectives (SIO) in the project area. The existing SIO designates the project site and surrounding area as "High" and Alternatives 1 and 2 both request the SIO be lowered to a designation of "Low" at the project site.

2.0 Description of Proposed Project and Project Alternatives

CEQA requires a "reasonable range" of alternatives be included in analysis. Since the No Project Alternative is required, the EIR analyzes only one. This is not a reasonable range of alternatives. **9-2**

Further, the EIR is misleading as an informational document by presenting the proposed project as "Alternative 1", the only alternative as "Alternative 2" and the No Project/No Build scenario as "Alternative 3". The EIR should be revised throughout to refer to each scenario accurately - as the Proposed Project, Sole Alternate to the Proposed Project, and the No Project/No Build Scenario. **9-3**

Letter 9 – Continued

2.6 Alternatives Not Carried Forward for Analysis

No alternative was considered where the project-specific Forest Plan Amendment is not required. The Forest Plan Amendment creates a significant and unavoidable impact to Scenery. A reasonable range of alternatives should identify at least one alternative in which this impact can be mitigated or the Amendment is not necessary. **9-4**

3.2 Air Quality

3.2.4.1 Impact Analysis Approach

The EIR states that "the air quality analysis (Yorke Engineering 2016) compares the impacts of the Project to the impacts previously evaluated for the West Pit in the 2004 EIR". However, the 2004 EIR or Air Quality Analysis for the West Pit project is not provided as an attachment to the EIR for the proposed project. This does not comply with CEQA Guidelines Section 15150(F), which states "Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background *but do not contribute directly to the analysis of the problem at hand"*. The 2004 Air Quality Analysis is utilized as the "baseline" of analysis for the the proposed project and therefore must be included for the public and decision makers to review. Further, CEQA Guidelines Section 15150(D) states that "Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c)". No portion of the EIR for the proposed project contains the state identification number of the 2004 EIR for the West Pit project. **9-5**

The Air Quality Analysis "concluded that neither action alternative would affect a substantial number of people under this threshold" with regard to odors. However, the reasoning behind this conclusion is not substantial. The Air Quality Analysis states that "odors are *expected* to be dissipated by the property line, which is *some* distance from the emission point". There is no distance specified from the emission point discussed in analysis. There is also no evidence given to support the *expectation* that the odors will be dissipated once they reach the property line. **9-6**

The Air Quality Analysis further states that "the nearest residences and businesses to MCC are located approximately one-half mile from the property line. The nearest sensitive receptors are over three miles from the property line". This statement provides conflicting information. Residential land uses are sensitive receptors. Therefore, the nearest sensitive receptors are **9-7**

Letter 9 – Continued

located approximately one-half mile from the property line. However, this conflicts with information disclosed in section 3.9.3.2 of the Noise Analysis, which found that "The sensitive reporters closest to the site are the single-family residential detached dwelling units along Camp Rock Road, approximately 2 miles to the north of the Project site, and the Immanuel Christian Center, approximately 2 miles north-northeast of the Project site (Kunzman Associates, Inc. 2012)". This conflicting information must be revised and the EIR must be fully internally accurate and consistent in order to comply with CEQA. The Air Quality Analysis must be revised to assess the impact to the nearest sensitive receptors - including but not limited to impacts regarding odors and the receptor locations used in air dispersion modeling. **9-7 Cont.**

The EIR and Air Quality Analysis do not include employee vehicle trips in the analysis for either the construction or operational phases. There is no mention of the number of employees currently employed or projected to be employed during the construction or operational phases. The VMT for employees must be included in the Air Quality Analysis and EIR. **9-8**

3.6 Greenhouse Gases

The EIR incorporates the San Bernardino County Regional Greenhouse Gas Reduction Plan but concludes that "specific requirements for mining projects to reduce emissions of GHGs have not been adopted and so Alternative 1 – Proposed Action would not conflict with the County's Greenhouse Gas Reduction Plan". There is no discussion of the Regional Greenhouse Gas Reduction Plan for Alternative 2 or Alternative 3. However, Chapter 4 - Reduction Measures of the GHG Reduction Plan includes reduction measures that any project can incorporate to reduce or offset GHG emissions[1]. This includes but is not limited to: utilizing electric powered construction equipment, complying with the Idling Ordinance, using electric landscaping equipment, implementing a tree planting program, and using recycled water. **9-9**

Further, the San Bernardino County Regional Greenhouse Gas Reduction Plan is included in the San Bernardino County General Plan as Policy CO 4.13 Reduce Greenhouse Gas (GHG) emissions within the County boundaries. **9-10**

Programs

1. Emission Inventories. The County will prepare GHG emissions inventories including emissions produced by: (1) the County's operational activities, services and facilities, over which

[1] San Bernardino County Regional Greenhouse Gas Reduction Plan http://www.sanbag.ca.gov/planning2/greenhousegas/Final_SBCRegionalGHGReduction.pdf

Letter 9 – Continued

the County has direct responsibility and control, and (2) private industry and development, that is located within the area subject to the County's discretionary land use authority.
a) Establish an inventory of existing GHG emissions.
b) Establish a projected inventory for year 2020.

2. GHG Emissions Reduction Plan. The County will adopt a GHG Emissions Reduction Plan that includes:
a) Measures to reduce GHG emissions attributable to the County's operational activities, services and facilities, over which the County has direct responsibility and control; and,
b) Measures to reduce GHG emissions produced by private industry and development that is located within the area subject to the County's discretionary land use authority and ministerial building permit authority; and,
c) Implementation and monitoring procedures to provide periodic review of the plan's progress and allow for adjustments over time to ensure fulfillment of the plan's objectives.

9-10 Cont.

The EIR does not provide a statement regarding compliance with relevant San Bernardino County General Plan goals, policies, or programs. The EIR must demonstrate compliance with the General Plan goals, policies, and program listed above.

3.8 Hydrology and Water Quality

3.8.2.3 Local

The EIR states that the proposed project is consistent with two Goals and two Policies from the San Bernardino County General Plan Safety Element that are tangentially related to hydrology and only discuss flooding/erosion. However, there is no discussion of the following Goals and Policies from the Circulation and Infrastructure Element that explicitly discuss stormwater and water quality[2]:

9-11

GOAL CI 13. The County will minimize impacts to stormwater quality in a manner that contributes to improvement of water quality and enhances environmental quality.

[2] San Bernardino County General Plan, Circulation and Infrastructure Element. Page III-41 http://www.sbcounty.gov/Uploads/lus/GeneralPlan/FINALGP.pdf

Letter 9 – Continued

POLICY CI 13.1 Utilize site-design, source-control, and treatment control best management practices (BMPs) on applicable projects, to achieve compliance with the County Municipal Stormwater NPDES Permit.

POLICY CI 13.2 Promote the implementation of low impact design principles to help control the quantity and improve the quality of urban runoff. These principles include:
a. Minimize changes in hydrology and pollutant loading; ensure that post development runoff rates and velocities from a site do not adversely impact downstream erosion, and stream habitat; minimize the quantity of stormwater directed to impermeable surfaces; and maximize percolation of stormwater into the ground where appropriate.
b. Limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes and channels;
c. Preserve wetlands, riparian corridors, and buffer zones; establish reasonable limits on the clearing of vegetation from the project site;
d. Establish development guidelines for areas particularly susceptible to erosion and sediment loss;
e. Require incorporation of structural and non-stuctural BMPs to mitigate projected increases in pollutant loads and flows.

9-11 Cont.

POLICY CI 13.3 Participate with regional stakeholders in the implementation of Total Maximum Daily Load requirements pursuant to Santa Ana Regional Water Quality Control Board standards.

The EIR is deficient as an informational document because it does not provide the public with all applicable San Bernardino County General Plan goals and policies as they relate to the proposed project. There is no statement in the EIR regarding the proposed project's compliance with these goals and policies of the General Plan.

3.8.3 Affected Environment

The EIR states that the project site is located "*almost* entirely on public lands within the SBNF, south of the unincorporated community of Lucerne Valley and north of Big Bear Lake". The EIR is not specific in stating exactly how much of the project site is located on public lands. The EIR is not specific in stating how much of the project site is not located on public lands, or exactly where they are located. The Jurisdictional Delineation Report (Appendix D to the EIR) states that the project site encompasses 2.39 acres of Regional Water Quality Board jurisdiction.

9-12

9-13

Letter 9 – Continued

The Jurisdictional Delineation Report indicates that of that 2.39 acres, "the proposed project will result in permanent impacts to 0.08 acres of Regional Water Quality Board jurisdiction and 1,231 linear feet of streambed will be permanently disturbed". Burying this information in Appendix D and not discussing the Regional Water Quality Board jurisdiction at all does not comply with the informational and public disclosure requirements of CEQA. **9-13 Cont.**

Further, the Geology and Soils/Hydrology and Water Quality Evaluation (Appendix F) states that an Industrial SWPPP has been developed "to manage storm water runoff and snow melt runoff from the haul road", but the SWPPP is not included for review by the public or decision-makers. Also, Appendix F states that "the project will meet all waste discharge required by the MWA and State Water Resources Control Board" when the Jurisdictional Report indicates that Regional Water Quality Board review is required. **9-14**

The proposed project must demonstrate compliance with the San Bernardino Regional Water Quality Board requirements for the San Bernardino County MS4 Permit (ORDER NO. R8-2010-0036). This includes compliance with XI(D)(6)(A) or XI(D)(6)(B), as follows[3]:

6. Treatment control BMPs shall be in accordance with the approved model WQMP and must be sized to comply with one of the following numeric sizing criteria:
a. VOLUME
Volume-based BMP design applies to BMPs where the primary mode of pollutant removal depends upon the Volumetric capacity, such as detention, retention, and infiltration basins. These criteria specify the capture and infiltration or treatment of a percentile of the average annual rainfall volume (also referred to as percent capture ratio). Volume-based BMPs shall be designed to infiltrate, harvest and use, filter, or treat either: **9-15**
i. The volume of runoff produced from a 24-hour, 85th percentile storm event, as determined from the County of San Bernardino's 85th Percentile Precipitation Isopluvial Map; or,
ii. The volume of annual runoff produced by the 85th percentile, 24-hour rainfall event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998); or,

[3] ORDER NO. R8-2010-0036: Area-wide Urban Storm Water Runoff Management Program- San Bernardino County MS4 Permit http://www.waterboards.ca.gov/rwqcb8/board_decisions/adopted_orders/orders/2010/10_036_SBC_MS4_Permit_01_29_10.pdf

Letter 9 – Continued

iii. The volume of annual runoff based on unit basin storage volume, to achieve 80 (or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook - Industrial/Commercial (1993); or,
iv. The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile, 24-hour runoff event;

OR

b. FLOW
Flow-based BMP design applies to BMPs where the primary mode of pollutant removal depends upon the rate of flow thru the BMP, such as swales, sand filters, screening devices, and proprietary devices such as storm drain inserts.
Flow-based BMPs shall be designed to infiltrate, harvest and use, filter, or treat either:
i. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or,
ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or,
iii. The maximum flow rate of runoff, as determined from the local historical rainfall record that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.

9-15 Cont.

3.8.4.2 Alternative 1 – Proposed Action
Direct and Indirect Impacts
Water Quality and Waste Discharge

The EIR states that "water runoff due to rainfall events and snow melt would occur at the site" but also that "offsite runoff from the quarry excavation would not be significant because the project has been designed to retain runoff within the excavation". There is no site plan or grading plan provided for the public and decision makers to review in conjunction with this statement regarding the project design. There is no reasoning or evidence presented to support these statements in the EIR. This does not meet CEQA's requirements for meaningful disclosure.

9-16

Conclusion

Letter 9 – Continued

For the foregoing reasons, GSEJA believes the EIR is flawed and an amended EIR must be prepared for the proposed project and recirculated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877. **9-17**

Sincerely,

Joe Bourgeois
Chairman of the Board
Golden State Environmental Justice Alliance

Responses to Letter 9 – Golden State Environmental Justice Alliance

Response to Comment 9-1:

This comment is a request to be added to the mailing list. Golden State Environmental Justice Alliance has been added to the Project mailing list.

Response to Comment 9-2:

This comment states the Draft EIR/EIS did not consider a reasonable range of alternatives under CEQA's requirements. This comment does not describe any specific alternative that should have been considered as part of the environmental analysis in the Draft EIR/EIS. Further discussion of the alternatives analysis can be found in Master Response No. 3, which summarizes the Draft EIR/EIS's analysis of an adequate range of alternatives under CEQA and NEPA. As described in Section 2.6 of the Draft EIR/EIS, an extensive evaluation of alternatives was conducted after scoping. These included two alternative designs for the quarry, two alternative mining methods, two alternative haul road routes, two alternative reclamation methods, a Congressional withdrawal, a full restoration alternative, and an off-site alternative. After review of all the alternatives, only Alternative 2 – Partial Implementation was determined to feasibly attain most of the Project objectives and would also avoid or substantially lessen any of the significant effects of the Project. Therefore, Alternative 2, along with Alternative 3 – No Action/No Project Alternative, was evaluated in the Draft EIR/EIS.

Response to Comment 9-3:

This comment asserts the labels for the alternatives considered in the Draft EIR/EIS are misleading. Under NEPA, the project proposal as well as all action and no-action alternatives evaluated in the EIS are referred to as "alternatives" to reflect that the agency has not yet reached a decision on the way to proceed. This terminology derives from Section 1502.14 of the NEPA regulations promulgated by the Council on Environmental Quality (40 CFR § 1502.14), which is entitled, "*Alternatives including the proposed action."* The discussion in the Draft EIR/EIS ensures that the terminology is not misleading. The Draft EIR/EIS clearly describes the alternatives in Section 2.3, providing a description of the features common to all alternatives and the unique elements of each alternative. Each chapter evaluating the potential environmental consequences of the Project also provides separate analysis for the potential environmental consequences of each alternative. The alternatives are identified as alternatives because a decision regarding the preferred alternative and the ultimate decision on approval of the Project has not yet been made. Renaming the alternatives in the Draft EIR/EIS would not foster more-informed decision making by the decision makers or the public.

Response to Comment 9-4:

This comment states that the Draft EIR/EIS should have considered an alternative that would not lead to an amendment of the scenic integrity objective (SIO) under the Forest Service Land Management Plan (LMP). Part of the Project area has an SIO of High under the LMP, which would drop by more than one SIO level for the first 10 years of the Project's implementation. The LMP Aesthetic Management Standards S10 state that temporary drops of more than one SIO are permitted following project implementation, but not for more than three years in duration.

Because the Project would deviate from the LMP Aesthetic Management Standards S10, the Forest Service is considering a project-specific Forest Plan Amendment to the SIO to change the SIO for the South Quarry Project Area to Low. As explained in Master Response No. 2, the County and Forest Service considered a wide and adequate range of alternatives. Those alternatives included the Marble Canyon Haul Road Route, which was initially thought to have a less severe impact to scenery resources. A viewshed analysis of the proposed haul road alignment determined that the effects to scenery resources of that alternative would be slightly less than for Alternative 1 but would remain adverse and significant. Alternative 3 – No Action/No Project considered off-site alternatives that would not require an amendment to the Forest Plan SIO, but those alternatives would create environmental impacts at those project-site locations and would create greater environmental impacts due to transporting limestone to the MCC Cushenbury Cement Plant. The Forest Service and County were unable to identify a reasonable, feasible build alternative that would avoid scenic impacts requiring amendment to the SIO, and none has been identified by the commenter. As the Draft EIR/EIS considered alternatives that could reduce Alternative 1 – Proposed Action's scenic impacts, further analysis of an additional alternative would not foster more-informed decisionmaking. Finally, to clarify the comment, the scenic impacts would be caused by Project construction and operation, not by the amendment to the Forest Plan, which would be an administrative action in response to the anticipated environmental impacts.

Response to Comment 9-5:

This comment states that the Draft EIR/EIS does not properly incorporate the 2004 EIR for MCC's West Pit project into the Draft EIR/EIS, and that the state clearinghouse identification number of the 2004 West Pit EIR is not provided in the Draft EIR/EIS. This comment incorrectly states that the Draft EIR/EIS incorporates the 2004 West Pit EIR by reference. Rather, the Draft EIR/EIS used the activities reviewed and impacts identified in the West Pit EIR as certified by the County in 2004 as the starting point for analysis of the South Quarry's potential air quality impacts because the West Pit EIR has already been certified and MCC will continue to develop and operate the West Pit. A further explanation of the assumptions behind the Draft EIR/EIS's air quality analysis is provided in Master Response No. 5.

The State Clearinghouse number for the 2004 West Pit EIR is provided in the Draft EIR/EIS's references in Section 6.0, under County of San Bernardino 2004 and 2003 (SCH 2001101044).

Response to Comment 9-6:

This comment states that the Draft EIR/EIS's air quality analysis does not address the proposed Project's potential impacts from odors because the air quality analysis does not provide the distance between the emission points and the property line and does not explain why the odors will dissipate by the time they reach the property line.

Odors are addressed in the Air Quality Study attached as Appendix B-1 to this Final EIR/EIS (note that Appendix B-1 was numbered as Appendix B in the Draft EIR/EIS). As Section 3.1 of the Air Quality Study explains, the Project would not generate any odors affecting a substantial number of people for several reasons. First, the only potential odor sources associated with the Project are the diesel emission sources, and the emissions from those sources would be controlled per CARB's off-road diesel control measures. For any residual odors that are not eliminated by the particulate matter control requirement implemented for compliance with the

CARB off-road diesel control measure and for accelerated haul truck retrofit that goes beyond the requirements of the CARB off-road diesel rule (pursuant to Project Design Feature AIR-1), these odors are expected to be dissipated by the time they reach the property line, which is some distance from the emission points in the South Quarry and the Project's haul road. The diesel emissions would come from mobile sources; therefore, the distance between the sources and the property line would constantly change. The residences and business nearest to MCC are located approximately 0.5 mile from MCC's property line, and the nearest sensitive receptors (other than residences) are over 0.5 mile from that property line. Given that the distance to the nearest sensitive receptor (see definition in Response to Comment 9-7, below) is at least three miles and given that diesel emissions would be controlled through haul truck emission controls, including accelerated turnover as described in Project Design Feature AIR-1, it is unlikely that there would be any odor impacts from this Project. There are currently diesel activities within MCC's property that are closer to the receptors identified in the Air Quality Study than would be the case for the proposed Project, and MCC reports that it has not received complaints about diesel odors from those existing activities. Given that the Project activities would be further away from those receptors and involve new vehicles with emission controls installed over time, it is unlikely that the Project would result in impacts associated with odors.

Response to Comment 9-7:

This comment states that the Draft EIR/EIS contains conflicting information on the location of the nearest sensitive receptors in the air quality analysis and noise impacts analysis. A number of factors affect the descriptions in the two reports. However, both reports clearly focus their analysis on the land uses in the approximate area where Camp Rock Road and El Vaquero Road intersect SR-18 from opposite sides.

This comment states that there is conflicting information within the Air Quality analysis itself. The Air Quality Study (Appendix B of the Draft EIR/EIS and Appendix B-1 of the Final EIR/EIS) states at page 23 that sensitive receptor land uses include "residences, schools, daycare centers, playgrounds and medical facilities." Later, at page 24, the Air Quality Study states: "The nearest residences and businesses to MCC are located approximately one-half mile from the property line. The nearest sensitive receptors are over three miles from the property line." The Air Quality Study followed the guidance under AB 2588 (the Air Toxics "Hot Spots" Information and Assessment Act). Under that guidance, the analyses may be run separately for residences and for other sensitive receptors. In keeping with this terminology, the statement on page 24 of the Air Quality Study simply means that the closest residences are located approximately one-half mile from the MCC property line, and all ***other*** receptors defined as sensitive for air quality purposes are more than three miles from the MCC property line.

With respect to the purported discrepancies between the air quality and noise analyses, it should first be noted that, as a general matter, different land uses may be considered "sensitive" for different types of impacts. For example, churches may be considered "sensitive" for noise impacts because noise may interfere greatly with communication or contemplation at such gathering places. The Noise Study (Appendix I to the Draft EIR/EIS) states at p. 20: "The State of California defines sensitive receptors as those land uses that require serenity or are otherwise adversely affected by noise events or conditions. Schools, libraries, churches, hospitals, and residential uses make up the majority of these areas. Noise sensitive land uses in the County of San Bernardino are described in the General Plan as residences of all types, hospitals, rest homes, convalescent hospitals, churches and schools." In contrast, in analyzing impacts from air

emissions, sensitive receptors are considered locations with high percentages of people who are particularly susceptible to pollutant exposure, such as the young, the elderly and the ill, or – for the health risk from exposure to carcinogenic chemicals – where the exposure may be sustained over a prolonged period. Unlike residences, where the health risk assessment assumes that an individual may remain at the same location constantly for a period of years, churches are not considered sensitive for exposure to carcinogenic chemicals because congregants are not constantly present for such a sustained period. The Air Quality Study states at p. 23 that – for purposes of the air quality analysis – sensitive receptor land uses include "residences, schools, daycare centers, playgrounds and medical facilities." Churches are not listed as sensitive receptors for purposes of the air quality analysis.

Second, the distance may be described differently in the two reports because different equipment or activities may have a greater influence on the outcome of the analysis. For example, blasting may make a different relative contribution to the total noise impact than it does to the total air quality impact.

Third, the two reports were prepared by two different experts. The Project site covers a considerable footprint with an irregular boundary, and the MCC-controlled property covers an even larger area. The two experts may simply have used a different point on the boundary from which to initiate their measurements. Note also that the MCC property line is not the same as the Project boundary. As shown in the Air Quality Study, Figure 1-1, MCC controls additional property between the proposed Project and the nearest receptors (worker, residential, and other sensitive). Therefore, the statement in the Air Quality Study that the nearest residence is "approximately one-half mile from the ***property line***" is not inconsistent with the statement at p. 3.9-11 of the Draft EIR/EIS describing the Immanuel Christian Center and the nearest residences as approximately 2 miles to the north of the ***Project site*** and 2 miles north-northeast of the ***Project site***. The ***property*** boundary is important for establishing the parameters for modeling impacts to ambient air quality because the project applicant can exclude the public from property that it controls, thus avoiding exposures to the public within these areas.

In any event, it is clear that both reports focused on residences near the confluence of Camp Rock Road, El Vaquero Road, and SR-18. The Noise Study states at p. 20: "The sensitive receptors closest to the site are the single-family detached residential dwelling units along Camp Rock Road, to the north of the project site." This location is further described on Table 12, p. 30 of the report as a residence at 7085 Camp Rock Road (11,500 feet N of the Project boundary). Noise measurements were taken in the vicinity of the residence, referred to as Noise Measurement Location M9, as depicted in the Noise Study, p. 8, Figure 3. (See, also, 9th Noise Measurement Data Sheet, pdf p. 54 of 125 of the Noise Study.) The Air Quality Study depicts the approximate location of the nearest residential receptor in the same vicinity but on the opposite side of the highway along El Vaquero Road (*See* Air Quality Study, Figure 1-1). As such, the Air Quality Study analyzed a residential receptor closer to the air emissions sources associated with the proposed Project. The analysis showed that there would be no significant impact at this receptor location, and the air quality impact to other residences or sensitive receptors farther downwind would be even less. Accordingly, contrary to the comment, there is no need to revise the air quality analysis to assess the impact to the nearest sensitive receptors, because there is no sensitive receptor closer to the Project than those already evaluated.

Likewise, no further noise analysis is required. As explained in the Noise Study, the South Quarry Project has the effect of moving existing noise-generating activities farther south (Noise Study, p. 21), which is ***away from*** the residences, the church, and any other sensitive noise

receptors north of the Project. Noise attenuates with distance, so the South Quarry Project would actually result in a ***reduction*** in noise at the sensitive noise uses, the residence and church evaluated in the Noise Study (*See* Noise Study, pp. 23-24). The same would be true of any other noise receptors located north of the Project site.

The Noise Study also characterizes the Immanuel Christian Center as a sensitive receptor for noise (see, e.g., p. 23). Noise measurements were taken in the vicinity of the church, referred to as Noise Measurement Location M8, as depicted in the Noise Study, p. 8, Figure 3. This location is described in Appendix A to the Noise Study as follows: 6801 El Vaquero Road, 100' NE of Vaquero near Imanuel (sic) Christian Center about 250' from SR-18 (*See* 8th Noise Measurement Data Sheet, pdf p. 53 of 125 of the Noise Study). But as noted above, the church is not a sensitive receptor for purposes of the Air Quality Study.

Response to Comment 9-8:

This comment states the air quality analysis should have addressed emissions from vehicle trips from employees during the construction and operation of the South Quarry. As explained in Section 4.1 of the Air Quality Study, attached as Appendix B to the Draft EIR/EIS and Appendix B-1 of the Final EIR/EIS, the construction phase of the Project would involve construction of the haul road. The Air Quality Study analyzed the Project's potential air emissions related to construction of that haul road, including the emissions related to the mobile equipment required for grading activities. As explained in Section 4.2 of the Air Quality Study, the analysis further considered the mobile source emission from operation of the Project, namely from the haul trucks that would transport the mined limestone to MCC's Cement Plant.

As also explained on pp. 2-7 of the Draft EIR/EIS, approximately 11 employees would work at the new quarry under Alternative 1. Eight of those would be existing employees and three would be new employees. The Draft EIR/EIS and its Appendix B (renumbered as Appendix B-1 in this Final EIR/EIS), the Air Quality Report, did not calculate the mobile emissions from the three new employees driving to the South Quarry for the Project's construction and operation phases, because these few additional vehicle trips would not contribute significantly to the Project's overall air emissions. In response to this comment, the emissions from the three additional employee commute trips has been quantified using CalEEMod software, which is the standard method in California for calculating worker commute emissions for purposes of CEQA. Assuming a trip length of 100 miles, the emissions associated with the three additional worker trips are shown in Table L-5.

Table L-5
CalEEMod Results Summary for Commuter Trips for Three Additional Employees

EMISSIONS TYPE	ROG	NOX	CO	SO_2	TOTAL PM_{10}	TOTAL $PM_{2.5}$	TOTAL CO_2	CH_4	N_2O	CO_2E
Annual Emissions (tons/year)	0.0052	0.0464	0.107	0.00039	0.0302	0.00835	35.809	0.00157	0.00	34.849
Maximum Daily Emissions (pounds/day)	0.0431	0.3469	0.964	0.0032	0.2364	0.0652	324.63	0.014	0.00	324.98

Note:
ROG = Reactive Organic Gases
NOx = nitrogen oxides
CO = carbon monoxide
SO_2 = sulfur dioxide
PM_{10} = particulate matter 10 microns or less in diameter
$PM_{2.5}$ = particulate matter 2.5 microns or less in diameter
CO_2 = carbon dioxide
CH_4 = methane
N_2O = nitrous oxide
CO_2e = carbon dioxide equivalents

Adding these minor emissions to the estimated construction and operations emissions from the Draft EIR/EIS would not cause exceedances of thresholds. Therefore, the clarification of these additional emissions does not change the significance conclusions reached in the Draft EIR/EIS.

Response to Comment 9-9:

This comment first states that the Draft EIR/EIS incorporates the San Bernardino County Regional Greenhouse Gas Reduction Plan ("Greenhouse Gas Reduction Plan"). The Draft EIR/EIS and accompanying Air Quality Study do not incorporate the County's Greenhouse Gas Reduction Plan, but instead explain why the Greenhouse Gas Reduction Plan's policies and pathways do not apply to the South Quarry Project. The County's Greenhouse Gas Reduction Plan is discussed in Section 3.6.4.2 of the Draft EIR/EIS, and at pages 25 through 29 of the Air Quality Study with respect to Alternative 1 (*See* also response to Comment No. 16-37). For clarity, the text following Table 3.6-3 in Section 3.6.4.2 of the Draft EIR/EIS has been revised in the Final EIR/EIS as follows:

> *"The County of San Bernardino has adopted a Greenhouse Gas Reduction Plan that is designed to reduce emissions of GHGs by 15 percent by 2020 to meet the requirements of AB 32. However, specific requirements for mining projects to reduce emissions of GHGs have not been adopted and so <u>were not included in the Plan. As explained further in Section 3.2.2 of the Air Quality Study (Appendix B-1), the pathways identified in the County's Greenhouse Gas Emission Reduction Plan to reduce GHG emissions are not relevant to a mining project like the South Quarry Project. As such, while</u> Alternative 1 – Proposed Action would not conflict with the County's Greenhouse Gas Reduction Plan <u>per se, the Plan does not provide a meaningful benchmark for determining the significance of Project impacts</u>. As noted above, Alternative 1 - Proposed Action emissions would be below the quantitative significance threshold of 10,000 MT of CO2e. Impacts would be less than significant."*

This comment further states that the Draft EIR/EIS provided no analysis of Alternative 2 or Alternative 3 with respect to the County's Greenhouse Gas Reduction Plan. The County's Greenhouse Gas Reduction Plan and Alternative 2 are discussed in Section 3.6.4.3 of the Draft EIR/EIS. The components of Alternative 2 that would occur at the Project site (Phases 1A, 1B, and 2 through year 40) would be the same as for Alternative 1 and would not conflict with the County's Greenhouse Gas Reduction Plan for the same reasons as explained for Alternative 1. With Alternative 3, the quarry would not be developed, and there would be no project to compare to the County's Greenhouse Gas Reduction Plan. However, Alternative 2 (approximately years 41 to 120) and Alternative 3 would lead to the importation of high-grade limestone to blend with the lower grade limestone from the West Pit. This would require approximately 52,000 truck trips per year, which would result in additional GHG emissions related to transportation. Additional information regarding criteria pollutant and GHG emissions from transporting high-grade limestone from offsite sources is provided in Master Response 3. Finally, this comment states that the GHG reduction measures in Chapter 4 of the County's Greenhouse Gas Reduction Plan could apply to any project and be incorporated to reduce or offset GHG emissions. As explained in the Draft EIR/EIS, comparison to the Greenhouse Gas Reduction Plan was not used to determine whether the Project would have a significant climate change impact because mining is not a land use reflected in the Plan's emission reduction strategies. Using the significance threshold selected by the lead agencies, the Draft EIR/EIS determined that the Project would have a less than significant impact. Therefore, mitigation measures are not required. Nonetheless, below is a response to the particular GHG reduction strategies this comment asserts could apply to "any project." The measures either are not relevant to or not feasible for the Project, or will be implemented through compliance with existing, independently enforced regulatory programs.

The comment mentions the use of electric-powered construction equipment. The list of measures in the County's Greenhouse Gas Reduction Plan includes encouraging the use of alternative fuels and transportation technologies (*See* GHG Goal TL 4). Project construction would be accomplished using the same types of equipment that is used in mining. As explained in response to Comment 16-41, the equipment is of such a size that it is not available in models that run on electricity or alternative sources of transportation fuel. However, since 2015, diesel fuel has been included in the Cap-and-Trade program implemented under AB 32 to reduce GHG emissions, thus ensuring that there would be no increase in statewide GHG emissions as a result of the diesel fuel used as part of this Project. (Final EIR/EIS Appendix B-1, Air Quality Study pp. 15-16.) Alternative technologies for transporting the rock from the quarry to the crusher were considered but rejected as infeasible. (Final EIR/EIS, Section 2.6.2, discussing a conveyor system or shaft and tunnel mining.) The comment has not suggested any other alternative transportation technologies that may be suitable to this Project.

The comment also mentions the use of electric-powered landscape equipment. The Project does not involve landscaping, although the site would be reclaimed and revegetated with native plants as appropriate. The Greenhouse Gas Reduction Plan describes a reduction strategy to encourage outdoor electrical outlets on buildings to support the use of electric lawn and garden equipment, or for other tools that would otherwise run with small gas engines or portable generators, when feasible and appropriate (*See* Objective GHG EE1.1-INT). This measure could not apply to the South Quarry's reclamation and revegetation efforts, because those activities would take place on the Project site, far from existing buildings or sources of electricity. The closest source of electrical power is 1.8 miles or more from the location of the revegetation activities. (The length of the main haul road is 1.8 miles, but the distance to the revegetation activities would in most

cases be farther, as the reclamation effort moves through the completed sections of the quarry.) Tools used for the reclamation and revegetation efforts, therefore, could not be feasibly powered by electricity.

The measures cited by this comment also include an objective to encourage an increase in energy efficiency and alternative energy use in new building construction (*See* Objective GHG EE 1.3). This measure is not relevant to the Project because the Project does not involve the construction of any buildings.

The comment suggests a tree planting program. The list of measures in the County's Greenhouse Gas Reduction Plan include carbon sequestration strategies, including a strategy for the County to maintain and increase its tree inventory (*See* Objective GHG CS1.6-INT). As explained in Section 2.3.2.11 of the Draft EIR/EIS, the Project would implement a Revegetation Plan that would establish coverage of native shrubs, pinyon pine, canyon oak, and salvaged yuccas on reclaimed areas. The Project, therefore, would be consistent with that strategy, as implemented and enforced through SMARA.

This comment also mentions compliance with the Idling Ordinance. The list of measures in the County's Greenhouse Gas Reduction Plan includes regulating the idling of diesel-fueled vehicles and equipment (*See* GHG Goal TL 4). One of the reduction strategies to achieve that goal is to require that diesel-fueled vehicles and off-road equipment not to be left idling for periods in excess of five minutes. CARB's off-road diesel rule (Title 13 Cal. Code of Regs. 2449(d)(2)) already requires MCC to comply with a five-minute idling limit for off-road vehicles. MCC has been required to comply with that idling ordinance since 2009. Therefore, MCC already complies with the measure in the County's Greenhouse Gas Reduction Plan and Idling Ordinance to limit the idling of diesel-fueled vehicles.

Finally, this comment refers to the reduction strategy under GHG Goal WC1 for the County to establish programs and policies that increase the use of recycled water. There is no source of reclaimed water available in the vicinity of the Project. Residences and businesses in the community of Lucerne Valley generally rely on septic systems for disposal of domestic wastewater. Also, although there is a sewage treatment facility in Big Bear, the treated water from that facility is being used for agricultural or other purposes.

Response to Comment 9-10:

This comment summarizes portions of the County Greenhouse Gas Reduction Plan that describes the responsibilities of the County to prepare emission inventories and reduction measures. These portions of the Plan are not directly applicable to the Project. For the Project's estimated contribution to the County's emission inventory, see Draft EIR/EIS, p. 3.6-8, Table 3.6-3, and p. 3.6-9, Section 3.6.4.3.

This comment also states that the Draft EIR/EIS must show the Project is consistent with relevant goals, policies, and programs in the County's General Plan. The Initial Study provided with the Notice of Preparation concluded the Project would be consistent with all applicable land use policies and regulations of the County of San Bernardino General Plan (Appendix A-2 of Draft EIR/EIS, p. 26), and the County received no comments on the Initial Study to the contrary; therefore, the Draft EIR/EIS does not specifically contain a Land Use section that evaluates the Project's consistency with the County's General Plan. However, applicable General Plan goals and policies are described in the "Local" subsection of the "Applicable Laws, Regulations, and

Standards" section and evaluated in the "Direct and Indirect Impacts" section of each technical discipline in the Draft EIR/EIS.

With respect to the County's GHG reduction goals and policies, those goals are captured in the County's Greenhouse Gas Reduction Plan. As explained further in response to Comments 9-9 and 16-37, the Greenhouse Gas Reduction Plan does not include strategies that are applicable to mining projects, and the Project would otherwise be consistent with the County's Greenhouse Gas Reduction Plan. The Draft EIR/EIS did not determine significance of climate change impacts by comparing the Project to the Plan because the Plan did not include analysis of, or reduction measures applicable to, a mining project such as the South Quarry. Even so, it should be noted that the Project would achieve the overall GHG reduction target of the Plan. As explained in the Air Quality Study, the objective of the Plan is to achieve a 15 percent reduction in GHG emissions from the 2007 emissions inventory by 2020, which the County determined corresponds to the AB 32 objective of reducing GHG emissions to 1990 emissions levels by 2020. (Appendix B-1 of the Final EIR/EIS, p. 26.) The Project-related GHG emissions originate from fuel consumption in mobile equipment. (Final EIR/EIS, Table 3.6-3.) Since 2015, transportation fuels have been included in the Cap-and-Trade Program adopted under AB 32 to reduce GHGs. CARB's website explains that the AB 32 Scoping Plan identifies Cap-and-Trade as one of the strategies California uses to reduce greenhouse gas emissions, helping "put California on the path to meet its goal of reducing GHG emissions to 1990 levels by the year 2020, and ultimately achieving an 80-percent reduction from 1990 levels by 2050." (*See* https://www.arb.ca.gov/cc/capandtrade/capandtrade.htm, accessed May 24, 2017). Inclusion in the Cap-and-Trade program assures that an increase in consumption of transportation fuels for the Project would not result in an increase in GHG emissions in the State because the fuel supplier would be required to surrender allowances consistent with the overall, declining cap applicable to the pool of sources and activities regulated by the Cap-and-Trade program. Including fuels under the cap "will require fuel suppliers to reduce greenhouse gas emissions by supplying low carbon fuels or purchasing pollution permits, called 'allowances,' to cover the greenhouse gases produced when the conventional petroleum-based fuel they supply is burned."(*See* https://www.arb.ca.gov/cc/capandtrade/guidance/facts_fuels_under_the_cap.pdf, accessed May 24, 2017). The overall cap for GHG emissions under the program was set in 2013 at about 2 percent below the emissions level forecast for 2012, declined about 2 percent in 2014, and declined about 3 percent annually from 2015 to 2020. (*See* https://www.arb.ca.gov/cc/capandtrade/guidance/cap_trade_overview.pdf, accessed August 22, 2017).

Response to Comment 9-11:

This comment states that the Draft EIR/EIS should have considered the Project's compliance with additional policies in the Circulation and Infrastructure Element of the County's General Plan. The Project's consistency with the policies in the County's General Plan was evaluated as part of the Initial Study for the Project. As summarized on p. 26 of the Initial Study, attached as Appendix A-2 to the Draft EIR/EIS, the Project would be consistent with all applicable land use policies and regulations of the County's General Plan. As summarized on p. 32 of the Initial Study, the Project would not result in an increase in traffic on public roads, would not involve any road development or design features that could increase hazards on public roads, and would not affect mass transit, freeways, pedestrian, or bike paths. Therefore, no further analysis was required in the Draft EIR/EIS.

The policies highlighted by this comment include policies related to minimizing impacts to stormwater (Goal CI 13), using best management practices to comply with the County's Municipal Stormwater NPDES Permit (Policy CI 13.1), implementing principles to control the quantity and improve the quality of urban runoff (Policy CI 13.2), and implementing Total Maximum Daily Load requirements pursuant to Santa Ana Regional Water Quality Control Board standards (Policy CI 13.3). Those highlighted policies are not applicable to the Project's potential impacts related to hydrology, because the Project would not lead to impacts to stormwater or urban runoff, and it is not located within the jurisdiction of the Santa Ana Regional Water Quality Control Board. As explained further in Responses to Comments 16-20 and 16-21, the Project would not lead to a discharge to "waters of the U.S." Additionally, the Colorado River Basin Regional Water Quality Control Board approved a Notice of Termination for MCC as of July 16, 2015, to terminate MCC's coverage under the General Permit for stormwater discharges associated with industrial activity (Industrial General Permit – Order No. 2014-0057-DWQ, NPDES No. CAS000001) because the site does not discharge stormwater into waters of the U.S.

The Project would not cause a change in conditions such that coverage under the Industrial General Permit would again be necessary. As described in Sections 2.3.2.9 and 3.8.4.2 of the Draft EIR/EIS, all drainage is expected to be retained on the site within the basin created by the quarry excavation. Erosion and sediment loss and transport would be controlled through the use of localized drainage and sediment control measures for other quarry development areas, including roads, stockpile areas, and other disturbed areas. Those measures would include construction of temporary diversion and collection ditches, berms, check dams or catchment basins, placement of erosion control materials, sediment fences, straw bales, or other appropriate measures individually or in combination. Moreover, as the Draft EIR/EIS explains at pages 3.8-11 to 3.8-12, Design Feature/Mitigation Measure GEN-1 would require the Project to implement standard erosion control measures commensurate with those typically required in an Industrial SWPPP for a limestone surface mining operation for all phases of construction and operation.

The Project would not result in stormwater or other discharges within the area subject to the County Municipal Stormwater NPDES Permit; therefore, Policy C1 13.1 is not relevant to the Project. The Project would not result in stormwater or other discharges to or affecting runoff in urban areas; therefore, Policy C1 13.2 is not relevant to the Project. The Project would not result in discharges within the area regulated by the Santa Ana Regional Water Quality Control Board; therefore, Policy C1 13.3 is not relevant to the Project.

Response to Comment 9-12:

This comment states that the Draft EIR/EIS does not disclose how much of the Project is on public lands. Chapter 1, Section 1.3 of the Draft EIR/EIS describes what portion of the Project is on public federal land in the San Bernardino National Forest and what portion is located on non-forest land. Figure 1-2 in the Draft EIR/EIS provides an illustration of the Project footprint in relationship to the SBNF boundary. The Project would total approximately 153.6 acres, consisting of a 128-acre quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8-miles in length, and a temporary construction road of 0.7 acres. The South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the SBNF, with approximately 6.6 acres of the haul road located on MCC's fee land where it enters the existing East Pit.

Response to Comment 9-13:

This comment states that the Draft EIR/EIS buries information addressing the Regional Water Quality Control Board's jurisdiction in the Jurisdictional Delineation Report (Appendix D to Draft EIR/EIS and Appendix D-1 in the Final EIR/EIS). That information is included in the 2012 Jurisdictional Delineation Report and the Draft EIR/EIS. In addition, a supplemental Jurisdictional Delineation was conducted for the Project in December 2018 (GLA 2018; Appendix D-2). In 2018, the CDFW requested a re-examination of the streambeds areas that could be affected by the Project as identified in in the 2012 Jurisdictional Delineation Report, to confirm the extent of CDFW jurisdiction associated with the Project. The supplemental Jurisdictional Delineation Report did not change any of Draft EIR/EIS's significance findings for the Project's potential impacts. Through the 2018 supplemental analysis, several CDFW guidance resources were taken into consideration to determine the limits of jurisdiction. Suspected jurisdictional areas were field checked for the presence of definable channels and/or riparian vegetation and hydrology. In areas lacking a well-defined bed, bank, and channel, the lateral extent of CDFW jurisdiction was expanded to the point in which fluvial processes were no longer distinguishable from terrestrial landscape. In these cases, jurisdiction was generally expanded to include the outermost bounds of reasonable flow sign as evidenced by physical and biological indicators, including, but not limited to, the presence of high water marks, sediment sorting, and canyon bottom.

As explained in Chapter 3.8 of the Draft EIR/EIS and the Jurisdictional Delineation Report, the Regional Water Quality Control Board (RWQCB), Colorado River Basin, has potential jurisdiction over 2.39 acres of the Project study area examined in the Jurisdictional Delineation Report. However, as stated in Section 3.8.4 (pages 3.8-9 and 3.8.12) of the Draft EIR/EIS, Alternative 1 would affect only 0.08 acre and 1,231 linear feet of streambed under the jurisdiction of CDFW. The supplemental jurisdictional delineation conducted in 2018, using the methodology described above, found that the Project would impact approximately 0.74 acre and 3,622 linear feet of streambed under the jurisdiction of CDFW. The supplemental jurisdictional delineation did not change any of the Draft EIR/EIS's significance findings for the Project's potential impacts. Alternative 2 – Partial Implementation would affect a similar number of acres under the RWQCB and CDFW jurisdiction.

There is an error on p. 3.8-9 of the Draft EIR/EIS in the description of RWQCB jurisdiction. The Jurisdictional Delineation Report identifies 2.39 acres of potential RWQCB jurisdiction in the study area identified in that report. However, as can be seen in the figures in Appendices D-1 and D-2, the study area examined in that report is larger than the footprint of disturbance of the mine, haul road and temporary road, and does not precisely track the claim boundaries. Thus, while the Jurisdictional Report identified 2.39 acres of potential RWQCB jurisdiction in total, the Project would impact only a small portion of the potential jurisdictional area. In addition, based on the 2018 supplemental jurisdictional delineation analysis, Section 3.8 of the Final EIR/EIS will be revised as follows:

> *"The jurisdictional delineation identified 2.39 acres of non-relatively permanent waters, none of which consisted of wetlands or riparian vegetation, and are not subject to Corps jurisdiction. Of the 2.39 acres, ~~Within the Project Area,~~ less than 0.74 acre of CDFW and potential RWQCB jurisdiction is present within the Project footprint and would be affected by the Project ~~is present~~. While the lower portions of the unnamed drainages*

> *are not in the Project Area, (see GLA 2012), the upper portions of the drainages are in the footprint of the quarry haul road or development."*

To mitigate the potential impacts to the streambed and drainages under CDFW's jurisdiction, the Project would implement mitigation measure GEN-1(k), which would require MCC to obtain a Streambed Alteration Agreement from CDFW in compliance with Section 1602 of the California Fish and Game Code and an application for waste discharge requirements (WDRs) or a waiver of WDRs in compliance with Section 13260 of the California Water Code, as applicable. Implementation of that mitigation measure would reduce the Project's impacts to the streambed and drainages under CDFW's jurisdiction to less than significant levels.

Response to Comment 9-14:

This comment states that Appendix F, Soils/Hydrology and Water Quality Evaluation, explains that a Storm Water Pollution Protection Plan (SWPPP) has been developed to manage storm water runoff and snow melt runoff from the haul road. This comment further states the SWPPP is not included as part of the Draft EIR/EIS for the decision makers' review. MCC previously operated under the Industrial General Permit and a SWPPP for the existing East and West Pits and the cement manufacturing plant. However, in 2015, MCC applied to the Regional Water Quality Control Board to terminate coverage under the General Permit. The technical report supporting the request demonstrated that the existing site is engineered and constructed to retain stormwater on site, and that the site does not discharge to waters of the U.S. The Regional Water Board approved the Notice of Termination. MCC is no longer required to comply with the Industrial General Permit or a SWPPP for the existing site. It is expected that the General Permit and SWPPP requirements would not apply to the South Quarry for the same reasons. The EIR/EIS will be corrected to reflect that there is currently no SWPPP in place and none will be required for the South Quarry Project. Appendix F to the Draft EIR/EIS confirms that offsite runoff from the South Quarry "will not be significant because runoff will be retained within the excavation" and would leave by evaporation or infiltration. Statements in Appendix F that stormwater runoff and snow melt runoff would be managed through an industrial SWPPP have been superseded by the confirmation of the RWQCB that no SWPPP is necessary, due to retention of stormwater and runoff onsite, and lack of discharge to waters of the U.S.

This comment further states that Appendix F to the Draft EIR/EIS states that the Project would meet all waste discharge required by the Mojave Water Agency and State Water Resources Control Board, but that the Jurisdictional Delineation Report (Appendix D to the Draft EIR/EIS and Appendix D-1 to the Final EIR/EIS) states that review would be required by the RWQCB. The reference to waste discharge requirements from the Mojave Water Agency is in error; the RWQCB for the Colorado River Basin has authority to issue waste discharge requirements at this site. The EIR/EIS has been revised to name the correct agency.

Response to Comment 9-15:

This comment states that the Draft EIR/EIS should have addressed the Project's compliance with the National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements under the California Regional Water Quality Control Board Order No. R8-2010-0036 (NPDES No. CAS618036). The permit cited by this comment applies to the California Regional Water Quality Control Board (RWQCB) Region 8 (Santa Ana region). The Project falls

within the jurisdiction of the RWQCB Region 7 (Colorado River Basin region). The permit cited in this comment, therefore, is not applicable to the Project.

With respect to the equivalent permit issued by Region 7, as explained further above in Response to Comment 9-11, the requirements of the stormwater permit program do not apply to the Project site. Additionally, the Project would not lead to a discharge into a conveyance system such as a storm sewer system or flood control facility.

Response to Comment 9-16:

This comment states that the Draft EIR/EIS does not contain a site plan or grading plan or otherwise present reasoning or evidence to support the statement that offsite runoff would not be significant because the Project has been designed to retain runoff within the quarry excavation. Draft EIR/EIS Figure 2.3-3 shows the design of the haul road. Figures 2.3-4 through 2.3-10 show design of the quarry plot plans for all phases of Alternative 1. Figure 2.3-11 shows design of the quarry at build-out for Alternative 2. These figures demonstrate that the bowl created by the quarry would be able to retain the precipitation falling within this area until it evaporates or percolates.

Draft EIR/EIS Section 2.3.2.9, starting at page 2-9, describes the drainage and erosion controls that have been incorporated into the design of the Project and how those drainage and erosion control measures would keep runoff within the excavation. Drainage structures would be located and constructed to control flow velocities, provide for stability during their planned operating life, and minimize additional contributions of sediment to runoff flows. Based on the topography of the South Quarry and the proposed development plans, it is anticipated that the need for diversions would be limited, because most runoff would be collected in active quarry areas. As also explained in Section 3.8.4.2 of the Draft EIR/EIS, a vegetated earthen berm would be constructed along the south side of the South Quarry to allow up-slope runoff occurring southwest of the Project site to continue the natural flow. Runoff occurring on the southwest side of the Project site would flow naturally into Marble Canyon Creek. The South Quarry would be excavated so that rainfall or snow occurring in the largest area of disturbance would be contained within the excavation. For runoff resulting from direct precipitation on active and unclaimed areas and uncontrolled runoff from up gradient undisturbed areas, drainage control would generally not be a significant concern because all disturbed area drainage is anticipated to be retained within the basin created by the quarry excavation. Quarry development areas, roads, stockpile areas, and other disturbed areas would be controlled through the use of localized drainage and sediment control measures. With respect to the haul road, a vegetated earthen berm would be constructed along the northern edge of the haul road to direct concentrated runoff from the road onto the adjacent descending natural slope. Stormwater catch basins would be constructed on the south side of the road. The catch basins would collect the concentrated flow on the roadway and intercept naturally occurring drainage flow. The water would pond in the catch basins and would leave the basins either by evaporation or infiltration. The Project would be required to implement those erosion control measures described above through implementation of Mitigation Measure GEN-1i.

Response to Comment 9-17:

This comment states that an amended EIR for the Project should be prepared and recirculated and that the commenter wishes to be added to the list for public notices on the Project. The commenter has been added to the mailing list for the Project. For a response to the remainder of this comment, requesting recirculation of the Draft EIR/EIS, see Master Response No. 1.

Letter 10 – CAL FIRE

From: Salgado, Nick@CALFIRE
To: Anne Surdzial
Cc: Herrera, Henry@CALFIRE
Subject: MCC
Date: Tuesday, January 31, 2017 5:03:46 PM

Forest Service and County of San Bernardino:

Good afternoon and thank you for the opportunity to comment on the **Mitsubishi Cement Corporation South Quarry Project.** CAL FIRE enjoys the working relation that it has, and looks forward to continuing it into the future. On behalf of CAL FIRE, we would like to request notification through our CAL FIRE San Bernardino Unit (BDU) Emergency Command Center (ECC) if blasting is going to occur at the site. With the Mitsubishi Cement Corporation being on the Forest Service boundaries and many residences viewing it from the valley floor, it would be for informational use only as calls come into the ECC. Thank you again for the opportunity to comment. **10-1**

Henry Herrera, Unit Forester

(909)253-6632

Henry.herrera@fire.ca.gov

3800 N. Sierra Way

San Bernardino, CA 92405

Response to Letter 10 – CAL FIRE

Response to Comment 10-1:

This comment does not address the analysis in the Draft EIR/EIS, but requests that MCC notify CAL FIRE through its CAL FIRE San Bernardino Unit Emergency Command Center if blasting is going to occur at the site. Blasting currently occurs at the East and West Pits. No new blasting would be associated with the Project. However, the location of some of the blasting would move southward, and there may be more frequent but smaller blasts during initial construction of the haul road. (Draft EIR/EIS, pp. 2-8, 3.9-13.) In response to CAL FIRE's request, notification has been added to MCC's pre-blast notification protocol.

Letter 11 – Governor's Office of Planning and Research

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

RECEIVED
ADMINISTRATION
'17 FEB -3 PM

January 31, 2017

Reuben Arceo
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st floor
San Bernardino, CA 92415-0187

Subject: Mitsubishi Cement Corporation South Quarry Project
SCH#: 2012031009

Dear Reuben Arceo:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 30, 2017, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. **11-1**

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter 11 – Continued

Document Details Report
State Clearinghouse Data Base

SCH# **2012031009**
Project Title Mitsubishi Cement Corporation South Quarry Project
Lead Agency San Bernardino County

Type **EIR** Draft EIR

Description Mitsubishi Cement Corporation (MCC) is requesting approval of a Plan of Operations from the U.S. Forest Service, and a Reclamation Plan from the County of San Bernardino. The requested plan approvals would add a 153.6-acre South Quarry operation to an approximately 500-acre existing surface mining complex. The proposed South Quarry will consist of a 128-acre high-grade limestone quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and 0.7 acres for a temporary construction road. The South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the San Bernardino National Forest with approximately 6.6 acres of the haul road located on MCC fee land where it enters the existing East Pit.

Lead Agency Contact

Name Reuben Arceo
Agency San Bernardino County Land Use Services Department
Phone 909-387-4374 ***Fax***
email
Address 385 N. Arrowhead Avenue, 1st floor
City San Bernardino ***State*** CA ***Zip*** 92415-0187

Project Location

County San Bernardino
City
Region
Lat / Long 34° 20' 14.9" N / 116° 51' 26.24" W
Cross Streets North Shore Drive (State Hwy 18) and Marble Canyon Road
Parcel No. 0447-091-03; 0447-041-02; 0447-031-11; 0447-101-02
Township 3N ***Range*** 1E ***Section*** 14/15 ***Base*** SBB&M

Proximity to:

Highways Hwy 18
Airports
Railways BNSF
Waterways
Schools
Land Use Present: Open Space (San Bernardino Nat'l Forest) / General Plan: Resource Conservation (RC) (non-County jurisdictional

Project Issues Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects; Other Issues; Aesthetic/Visual

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 6; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 8; Regional Water Quality Control Board, Region 7; Air Resources Board, Major Industrial Projects; Native American Heritage Commission; Department of Toxic Substances Control; Public Utilities Commission; State Lands Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter 11 – Continued

Document Details Report
State Clearinghouse Data Base

Date Received	12/16/2016	*Start of Review*	12/16/2016	*End of Review*	01/30/2017

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter 11 – Continued

CLEAR
1-30-17
E

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Barbara A. Lee, Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

January 26, 2017

Governor's Office of Planning & Research
JAN 26 2017
STATE CLEARINGHOUSE

Mr. Reuben Arceo
Land Use Services Department
County of San Bernardino
385 North Arrowhead Avenue, 1st floor
San Bernardino, California 92415-0187

DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR MITSUBISHI CEMENT CORPORATION SOUTH QUARRY PROJECT (SCH# 2012031009)

Dear Mr. Arceo:

The Department of Toxic Substances Control (DTSC) has reviewed the subject EIR/EIS. The following project description is stated in the EIR/EIS: "Mitsubishi Cement Corporation (MCC) is requesting approval of a Plan of Operations from the U.S. Forest Service, and a Reclamation Plan from the County of San Bernardino. The requested plan approvals would add a 153.6-acre South Quarry operation to an approximately 500-acre existing surface mining complex. The proposed South Quarry will consist of a 128-acre high-grade limestone quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and 0.7 acres for a temporary construction road. The South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the San Bernardino National Forest with approximately 6.6 acres of the haul road located on MCC fee land where it enters the existing East Pit."

Based on the review of the submitted document DTSC has the following comments:

1. The EIR/EIS should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. A Phase I Environmental Site Assessment may be appropriate to identify any recognized environmental conditions.

2. If there are any recognized environmental conditions in the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.

11-2

Printed on Recycled Paper

Letter 11 – Continued

Mr. Reuben Arceo
January 26, 2017
Page 2

3. If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).

4. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR/EIS should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight. **11-2**

If you have any questions regarding this letter, please contact me at (714) 484-5476 or email at Johnson.Abraham@dtsc.ca.gov.

Sincerely,

Johnson P. Abraham
Project Manager
Brownfields Restoration and School Evaluation Branch
Brownfields and Environmental Restoration Program - Cypress

kl/sh/ja

cc: See next page.

Letter 11 – Continued

Mr. Reuben Arceo
January 26, 2017
Page 3

cc: Governor's Office of Planning and Research (via e-mail)
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
State.clearinghouse@opr.ca.gov

Ms. Anne Surdzial, AICP (via e-mail)
ECORP Consulting, Inc.
asurdzial@ecorpconsulting.com

Mr. Guenther W. Moskat, Chief (via e-mail)
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
Guenther.Moskat@dtsc.ca.gov

Mr. Dave Kereazis (via e-mail)
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Mr. Shahir Haddad, Chief (via e-mail)
Schools Evaluation and Brownfields Cleanup
Brownfields and Environmental Restoration Program - Cypress
Shahir.Haddad@dtsc.ca.gov

CEQA# 2012031009

Responses to Letter 11 – Governor's Office of Planning and Research

Response to Comment 11-1:

This letter acknowledges that the County of San Bernardino has complied with the State Clearinghouse review requirements for draft environmental documents pursuant to CEQA. This comment is noted for the record. No response is required.

Response to Comment 11-2:

A comment letter from DTSC is attached to the State Clearinghouse letter. This is the same comment letter as Letter 7, and the reader is referred to the responses to Letter 7.

Letter 12 – City of Big Bear Lake

City of Big Bear Lake

February 1, 2017

Anne Surdzial, AICP
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374

Re: Comments on Draft Joint EIR/EIS for the Mitsubishi Cement Corporation's South Quarry Project

Dear Ms. Surdzial:

Thank you for the opportunity to review a copy of the Joint Draft EIR/EIS for the Mitsubishi Cement Corporation's (MCC) South Quarry Project. As staff understands the project, Mitsubishi is proposing to develop and reclaim the South Quarry which is approximately 128-acres in area. The project also includes a 2.7-acre landscape berm, 22.2-acre internal haul road that is 1.8 miles in length and a temporary construction road of 0.7 acre. The project area would disturb a total of approximately 153.6 acres and is located within 440 acres of unpatented claims owned by MCC within the San Bernardino National Forest, and adjacent to MCC's existing facilities.

The City of Big Bear Lake is a four season resort mountain community and weekends can generate up to over 100,000 people who come here to enjoy the mountain environment and recreational amenities, as well as, the many special events that occur here throughout the year. Thus, traffic along the limited routes to and from the mountain resort area are already congested, including Highway 18 from the Lucerne Valley. Given this, the City of Big Bear Lake's concerns would focus on any additional traffic and congestion impacts that would cumulatively and adversely affect access to the mountain area. **12-1**

In reviewing the environmental document, it appears that the project will not impact traffic issues based on the construction of an internal haul road that would avoid truck traffic from using public thoroughfares, and that mining the South Quarry would in effect decrease mining rates of the existing East and West Quarries and not result in an overall increase in Limestone production at the mining complex. Given this, the City of Big Bear Lake suggests that the Joint EIR/EIS should recommend the project or project alternative that has the least traffic impact on Highway 18 and surrounding roadway network, and is the least growth inducing.

If you have any questions concerning the City's comments, please contact me at (909) 866-5831, Ext. 141, or at rdalquest@citybigbearlake.com. In addition, the City requests that any future public notices on the project be sent to myself, as well as, a copy of the Final Joint EIR/EIS. **12-2**

Best Regards,

Robert D. Dalquest, AICP
Planning Director

Cc: Jim Miller, Community Development Director

City of Big Bear Lake Civic Center and Performing Arts Center
39707 Big Bear **Boulevard**, P.O. Box 10000, Big Bear Lake, CA 92315-8900 909/866-5831 Fax 909/866-6766
bblplan@citybigbearlake.com

Responses to Letter 12 – City of Big Bear Lake

Response to Comment 12-1:

This comment states that the City of Big Bear Lake is a resort mountain community with concerns about traffic congestion and recommends that the County and Forest Service choose the alternative with the least traffic impacts and the least growth inducing impacts. The City of Big Bear Lake acknowledges that the majority of Project traffic would be on an internal haul road. This comment is noted for the record.

As the Draft EIR/EIS states in Sections 3.2.4.3 and 3.2.4.4, Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project would result in truck and air quality impacts related to truck traffic that would be greater than Alternative 1 - Proposed Action. Because the existing Cushenbury Cement Plant would continue to operate for 120 years, the plant would require trucking in higher-grade limestone from elsewhere in the region during that 120-year period under Alternatives 2 and 3. Such transport would likely increase vehicle trips on public roadways by approximately 52,000 trips per year (or 150 trips per day for 350 days each year). As shown in Figure 2.3-12, which has been added to the Final EIR/EIS and explained further in Master Response No. 3 and Final EIR/EIS Section 2.4, two of the alternative sources of limestone (Amboy Limestone Quarry and Big Maria Mountains Limestone Deposits) would lead to truck trips that travel through or near mountain communities.

The Draft EIR/EIS further explains in Section 4.2.1 that neither Alternative 1 nor Alternative 2 would result in long-term population growth in the community or change area demographics. With both alternatives, approximately eleven employees would be assigned to the South Quarry, but eight of those employees would be reassigned from existing operations. Only three new employees would be required, which would not result in direct population growth or demand for additional housing or a significant increase in traffic.

Response to Comment 12-2:

This comment is a request to be added to the mailing list. The City of Big Bear Lake has been added to the mailing list.

Letter 13 – San Bernardino County Department of Public Works

825 East Third Street, San Bernardino, CA 92415-0835 | Phone: 909.387.8109 Fax: 909.387.7876
www.SBCounty.gov

SAN BERNARDINO COUNTY

Department of Public Works
- Flood Control
- Operations
- Solid Waste Management
- Surveyor
- Transportation

Gerry Newcombe
Director

February 1, 2017

ECORP Consulting
Anne Surdzial, AICP
215 N. 5th Street
Redlands, CA. 92374
asurdzial@ecorpconsulting.com

File: 10(ENV)-4.01

RE: NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT/DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE MITSUBISHI CEMENT CORPORATION SOUTH QUARRY PROJECT FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, AND COUNTY OF SAN BERNARDINO LAND USE SERVICES DEPARTMENT

Dear Ms. Surdzial,

Thank you for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. **We received this request on December 16, 2016** and pursuant to our review, the following comments are provided:

General Comment

1. The County Traffic Division has the following comments:
   a. Option 1, no comment.
   b. Options 2 and 3 propose additional vehicular trips to the Project site through the adjacent parcels, especially APN 0447-11-04, which serves as both access to the project and the surrounding Public road infrastructure. This parcel is within the County Lucerne Valley Local Area Transportation Fee Plan (Plan). Based on the intent and methodology of the Plan, additional trips to this site will be subjected to the corresponding fees. The Plan is available at http://cms.sbcounty.gov/Portals/50/transportation/traffic/LUCERNEVALLEY.pdf. For more information, please call Jeremy Johnson in the Traffic Division at 909-387-8186. **13-1**

We respectfully request to be included on the circulation list for all project notices and reviews. In closing, I would like to thank you again for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. Should you have any questions or need additional clarification, please contact the individuals who provided the specific comment, as listed above. **13-2**

Sincerely,

Michael R. Perry
Supervising Planner
Environmental Management

MRP:PE:sr

BOARD OF SUPERVISORS
Robert A. Lovingood, Vice Chairman, First District | Janice Rutherford, Second District | James Ramos, Chairman, Third District | Curt Hagman, Fourth District | Josie Gonzales, Fifth District
Gregory C. Devereaux, Chief Executive Officer

Responses to Letter 13 – San Bernardino County Department of Public Works

Response to Comment 13-1:

This comment states that the San Bernardino Department of Public Works has no comments on Alternative 1. This comment further states that any additional vehicular trips to the Project site under Alternatives 2 and 3 would be subject to the appropriate fees under the County's Lucerne Valley Local Area Transportation Fee Plan. The County's Lucerne Valley Local Area Transportation Fee Plan applies only to new development projects. Because Alternative 3 to the Project is No Action/No Project Alternative that would not require any further approval by the County, Alternative 3 would not trigger any fees under the County's transportation fee plan. Vehicle trips under Alternatives 2 would be subject to the same fees that would otherwise apply to the Project.

Response to Comment 13-2:

This comment requests that the San Bernardino Department of Public Works be included on the public mailing list. Department of Public Works has been and will remain on the mailing list for the Project.

Letter 14 – Mojave Desert Air Quality Management District

Mojave Desert Air Quality Management District
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • fax 760.245.2699
Visit our web site: http://www.mdaqmd.ca.gov
Brad Poiriez, Executive Director

February 3, 2017

Anne Surdzial, AICP
ECORP Consulting, Inc
215 N. 5th Street
Redlands, CA 92374

Project: Mitsubishi Cement Company South Quarry

Dear Ms. Surdzial:

The Mojave Desert Air Quality Management District (District) has reviewed the Draft Environmental Impact Report (DEIR)/Environmental Impact Statement (EIS) for the Mitsubishi Cement Corporation (MCC) South Quarry Project. MCC is proposing to develop and reclaim a new high-grade limestone quarry to the south of its existing East Pit, its West Pit (under development), and the existing Cushenbury Cement Plant. The Project as proposed in the Plan of Operations would total approximately 153.6 acres consisting of a 128-acre quarry, a 2.7- acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and a temporary construction road of 0.7 acre. The South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the San Bernardino National Forest (SBNF) with approximately 6.6 acres of the haul road located on MCC fee land where it enters the existing East Pit. The South Quarry development will not change the capacity or operation of the Cushenbury Cement Plant, but shifts a portion of the production from the West Pit to the South Quarry.

The District has reviewed the Draft EIR/EIS and the incorporated air quality analysis contained in the Technical Appendix and concurs with the analysis of "Less than Significant" and "No Impact" for Air Quality, and associated design features and mitigation measures (AIR-1 and AIR-2). **14-1**

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Tracy Walters at extension 6122.

Sincerely,

Alan J. De Salvio
Deputy Director, Mojave Desert Operations

AJD/tw MCC DEIR EIS

City of Adelanto | Town of Apple Valley | City of Barstow | City of Blythe | City of Hesperia | City of Needles | County of Riverside | County of San Bernardino | City of Twentynine Palms | City of Victorville | Town of Yucca Valley

Response to Letter 14 – Mojave Desert Air Quality Management District

Response to Comment 14-1:

This comment states the Mojave Desert Air Quality Management District has reviewed the air quality analysis in the Draft EIR/EIS and technical appendix and concurs with the conclusion of Less Than Significant and No Impact with Design Features/Mitigation Measures AIR-1 and AIR-2. This comment is noted for the record, and no further response is necessary.

Letter 15 – Lucerne Valley Economic Development Association (LVEDA)

LUCERNE VALLEY ECONOMIC DEVELOPMENT ASSOCIATION
(LVEDA)

February 7, 2017

Anne Surdzial, AICP
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

Re: Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Mitsubishi Cement Corporation South Quarry Project
State Clearinghouse Number 2012031009

Dear Ms. Surdzial:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for Mitsubishi Cement's proposed South Quarry Project. The Lucerne Valley Economic Development Association (LVEDA) follows projects and policies that will have an economic impact on Lucerne Valley and the surrounding areas.

LVEDA strongly supports the South Quarry Project. Mitsubishi Cement is an important employer in the region and a huge benefactor to the community. The South Quarry Project will help Mitsubishi realize the economic value from its investment in its existing Cushenbury mine and cement plant and the surrounding limestone resources. The proposal for Mitsubishi to continue its mining operations for 120 years shows Mitsubishi's commitment to invest its resources in the area for the long-term. If Mitsubishi does not receive approval for the project for that duration, it may have to ship limestone in from other sources to its cement plant. That would lead to undesirable impacts from the large trucks that would pass through Lucerne Valley to deliver limestone to Mitsubishi's cement plant. This project does not increase the amount of cement produced or truck traffic through our community on a daily basis, only extending the long-term availability of its limestone resource which is critical for Mitsubishi Cement and Lucerne Valley. **15-1**

The project's long-term commitment will also allow Mitsubishi Cement to remain an important employer in the region far into the future. Additionally, the South Quarry Project will help Mitsubishi Cement supply cement for years to come, which will be critical for future construction in general and for our nation's infrastructure.

Based on our review of the Draft EIR/EIS and our experience with Mitsubishi Cement in the past, we know the company will pursue the South Quarry Project in the most environmentally sound manner possible. Given the great economic benefits of the project and Mitsubishi Cement's commitment to the community and the environment, LVEDA urges the County of San Bernardino and the National Forest Service to approve the environmental review and approve the South Quarry Project. Water sources provided by Mitsubishi in its quarry and reclamation areas have resulted in greater bighorn sheep populations than the existing, local environment could provide without said water sources.

Sincerely, Chuck Bell, LVEDA President

Response to Letter 15 – Lucerne Valley Economic Development Association (LVEDA)

Response to Comment 15-1:

This comment states that the Lucerne Valley Economic Development Association supports Alternative 1 - Proposed Action because MCC is an important employer in the region and because the Project would allow MCC to supply cement for construction and infrastructure projects. This comment further supports the selection of Alternative 1, because Alternatives 2 and 3 would lead to undesirable truck traffic through the Lucerne Valley community. This comment is noted for the record, and no further response is necessary.

Letter 16 – Center for Biological Diversity and California Native Plant Society

February 13, 2017

Via Electronic Mail and USPS (w/attachments)

Ms. Anne Surdzial
ECORP Consulting, Inc.
215 N. 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

Re: Mitsubishi Cement Corporation South Quarry Project

Dear Ms. Surdzial:

These comments are submitted on behalf of the Center for Biological Diversity and the California Native Plant Society (collectively, "Conservation Groups") regarding the Joint Draft Environmental Impact Report/Environmental Impact Statement (the "DEIR"[1]) for the proposed Mitsubishi Cement Corporation South Quarry Project (the "Project" or the "South Quarry Project"). The Project is anticipated to result in many significant environmental impacts that will degrade the current ecosystems on the Project site and also reduce the health and quality of life in the surrounding community. Yet, the CEQA and NEPA mandated environmental review for the Project is wholly inadequate and fails to comply with the requirements of the statute. For the reasons detailed below, we urge approval of the Project be denied, or at the very least substantial revisions to the DEIR to better analyze, mitigate or avoid the Project's significant environmental impacts. **16-1**

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over one million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in San Bernardino County.

California Native Plant Society ("CNPS") is a non-profit environmental organization with 10,000 members in 35 Chapters across California and Baja California, MX. CNPS' mission

[1] For the sake of simplicity, the DEIR/DEIS will be referred to as the "DEIR."

Letter 16 – Continued

is to protect California's native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices.

I. The Current Project Description Does Not Represent The True Scope Of The Project And Is Misleading.

Under CEQA a "project" is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . . ." (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222 (citing CEQA Guidelines § 15378, subd. (a).) An "accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Cnty. of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655 (project description held unstable and misleading) [hereinafter "*San Joaquin Raptor*"].) "However, a curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.).

An inaccurate or truncated project description is prejudicial error because it fails to "adequately apprise all interested parties of the true scope of the project." (*See City of Santee v. Cnty. of San Diego* (1989) 214 Cal.App.3d 1438, 1454-55 [hereinafter "*City of Santee*"].) "Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.) **16-2**

The current Project Description violates the CEQA requirement to provide an "accurate, stable, and finite" description of the true project. On the one hand, the DEIR characterizes the South Quarry Project as a new and independent project, given that the DEIR is titled and purports to analyze solely the impacts of the South Quarry Project. On the other hand, the DEIR claims that the South Quarry Project would merely be transferring ore production from the East and West Pits to the South Quarry, such that overall average limestone production between the "mining complex" would not exceed 2.6 million tons per year ("MTPY") of limestone and 300,000 tons per year of waste rock. (DEIR at 2-4.) The DEIR further claims that production at the East and West Pits would be reduced by 1.3 MTPY of ore and 150,000 tons of waste rock per year while the South Quarry Project would increase production by 1.3 MTPY of ore and 150,000 tons of waste rock per year. However, nothing in the DEIR (such as a mitigation measure or condition of approval) prevents Mitsubishi from continuing to mine the East and West Pits at current levels. As such, the DEIR cannot rely upon purported reductions in mining activities in the East and West Pits to conclude that impacts will remain at current levels.

The DEIR also claims that "based upon subsequent limestone testing," the West Pit does not contain enough high-grade limestone "to be adequate for the life of the mine." (DEIR at 1-8.) The DEIR does not appear to include any documentation supporting this "subsequent limestone testing" – instead, the DEIR essentially asks the public to trust Mitsubishi's claim that the West Pit does in fact lack enough high-grade limestone, despite the implication in the **16-3**

Letter 16 – Continued

Cushenberry Mine Expansion EIR certified by the County in 2004 that the West Pit did contain adequate limestone.

This lack of clarity renders the Project description unstable under both CEQA and NEPA, such that the DEIR fails to inform decision-makers and the public of the true scope of the Project from which all interested parties could assess the direct and indirect environmental effects of the Project. (*City of Santee*, 214 Cal.App.3d, at 1454-55; *San Joaquin Raptor*, 149 Cal.App.4th, at 655; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 83-86.) **16-3 Cont.**

II. The DEIR's Alternatives Analysis is Inadequate and Fails to Comply with CEQA or NEPA.

CEQA mandates that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code § 21002; Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d).) Moreover, although "an EIR need not consider every conceivable alternative to a project . . . it must consider a reasonable range of potentially feasible alternatives that will foster informed decision decision-making and public participation." (Guidelines § 15126.6(a).) Additionally, the "key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts." (*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal. App. 4th 1059, 1089.) Accordingly, a rigorous analysis of reasonable alternatives to the Project must be provided to comply with this strict mandate. Unfortunately, the DEIR fails to meet this requirement on two levels: the DEIR analysis of the alternatives proposed is inadequate and the DEIR fails to include a reasonable range of alternatives.

The DEIR also employs an improperly narrow objective in order to reject environmentally superior alternatives. Under either CEQA or NEPA, the objectives for a project cannot be so narrowly defined so that they essentially preordain the selection of the agency's proposed alternative. California courts agree that "NEPA cases continue to play an important role in adjudication of CEQA cases, especially when a concept developed in NEPA decisions has not yet been applied to CEQA cases." (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 732.) *Simmons v. U.S. Army Corps of Eng'rs* (7th Cir. 1997) 120 F.3d 664, 669 provides: **16-4**

> The "purpose" of a project is a slippery concept, susceptible of no hard-and-fast definitions. One obvious way for an agency to slip past the strictures of NEPA is to contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration (and even out of existence). The federal courts cannot condone an agency's frustration of Congressional will.

The DEIR states that the first project objective is "[t]o develop a high-grade limestone resource to blend with the existing East and approved West Pits' limestone to supply the required feed specifications for the adjacent existing Cushenbury Cement Plant for an extended period…" (DEIR at 1-13.) The DEIR further states that a project objective is to realize the economic value "from the investment made in the existing Cushenbury mine and cement plant and the limestone resource at the Project site…." (DEIR at 1-13.) These objectives are impermissibly vague under

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CEQA and NEPA because they do not define the "required feed specifications" or what constitutes an "extended period." **16-4 Cont.**

The severity of these defects in the project objectives is illustrated in the alternatives analysis for Alternative 3 – the No Action/No Project Alternative. The DEIR states that if high grade ore is blended with ore reserves in the existing West Pit, then this limestone supply would be sufficient to "feed the cement plant for approximately 120 years." (DEIR at 2-57) The DEIR concludes that if the No Action/No Project Alternative is adopted, then "it is assumed that higher-grade limestone for blending would be trucked to the plant from elsewhere in the region during that 120-year period." Over 120 years, approximately 52,000 haul truck trips would be required to import 1.3 million tons per year of high-grade limestone, such that many more truck trips would be required than under Alternative 1 – Proposed Action. (DEIR at 2-57.) Based upon these truck trips and the purported increase in air quality and greenhouse gas impacts, the DEIR determined that the No Action Alternative is not the environmentally superior alternative.

However, the DEIR's conclusions regarding the No Action/No Project Alternative expressly rest upon the assumption that the Mitsubishi Cushenberry Cement Plant ("MCC Plant") would continue operating for another 120 years. This is extremely unlikely, if not impossible. The lifetime of a cement plant is usually only 30 to 50 years.[2] The MCC Plant was built 60 years ago in 1957, and was modernized in 1982.[3] Even if the 1982 date is considered the date the MCC Plant was constructed, then the MCC Plant's 50-year lifetime will end in 17 years in 2032. Accordingly, the DEIR's claim that impacts would be greater with the No Action/No Project Alternative is flawed. **16-5**

If the South Quarry Project is dependent upon the MCC Plant being rebuilt or modernized, then the DEIR should state that and analyze the impacts of those activities and the continued operation of the MCC Plant. The DEIR suggests but does not state that the South Quarry Project is dependent upon the continued use of the MCC Plant – as noted above, a project objective is to "continue to realize the economic value from the investment made in the existing Cushenbury mine and cement plant and the limestone resource at the Project…" Obviously if the MCC Plant is no longer in operation, then the South Quarry Mine will not achieve this objective.

The analysis of the No Action/No Project Alternative also rests upon an implicit requirement that the project produce 1.3 million tons per year of high-grade limestone. However, the 1.3 million tons per year threshold is not included in the NEPA Purpose, NEPA Need, or Project Objectives. (*See* DEIR at 1-11 through 1-13.) Instead, the Project Objectives vaguely state that the project objective is to "feed" the MCC Cement Plant for 120 years. (DEIR at 2-57.)

Furthermore, in analyzing the No Action/No Project Alternative, the DEIR should have discussed the need for the Project and whether the uses that would potentially utilize the Project can be accommodated in existing areas. The DEIR should analyze whether existing limestone **16-6**

[2] Cement Sustainability Initiative, Development of State of the Art Techniques in Cement Manufacturing: Trying to Look Ahead (June 4, 2009), available at http://www.wbcsdcement.org/pdf/technology/Technology%20papers.pdf
[3] Mitsubishi Cement Corporation, "Cushenberry History," http://mitsubishicement.com/history/cushenbury-history/

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mining operations in the area could supply sufficient limestone to the MCC Plant, or whether the MCC Plant can continue to operate by processing less limestone.

The DEIR dismisses an "offsite" alternative for the same flawed reasons as it dismissed the No Action/No Project Alternative. In particular, the DEIR cites an alleged potential for increased air quality and traffic impacts associated with transporting limestone to the MCC Cement Plant. (DEIR at 2-63.) Again, the DEIR assumes that the MCC Plant will continue to process cement over 100 years into the future even though it is already over 50 years old.

The DEIR's analysis of Alternative 2 is similarly flawed. Alternative 2 is identical to the Preferred Alternative except that mining would only occur for 40 years instead of 120 years. The DEIR claims that after the 40-year period, "52,000 truck trips" would be required per year to transport limestone to the MCC Plant. (DEIR at 2-51.) As with the No Action/No Project Action, the DEIR does not specify the length of these truck trips or make any meaningful attempt at determining the trip routes of these trucks. Likewise, Alternative 2 improperly assumes that the MCC Plant will continue operating for 120 years. **16-6 Cont.**

The DEIR's flawed analysis of alternatives is compounded because – prior to preparation of the DEIR – the U.S. Environmental Protection Agency ("EPA") urged the Forest Service to "rigorously explore and objectively evaluate all reasonable alternatives, including reasonable alternatives not within the jurisdiction" of the Forest Service. (DEIR, Appx. A at 175.) The EPA further noted that reasonable alternatives could include alternative quarry sites, a smaller project, or different timelines. (*Id.*) Unfortunately, the DEIR fails to take into account the EPA's recommendations, and does not include an alternative that considers alternative quarry sites or a smaller project.

Because the DEIR's range of alternatives is unreasonably narrow, the DEIR violates CEQA and NEPA. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456-57 ["*Save Round Valley*"].) The DEIR must consider a reasonable range of alternatives including, but not limited to, the following: scaling down the amount of limestone processing operations at the MCC Plant or using existing mines owned by other operators to feed the MCC Plant. As courts have made clear, "[a] potential alternative should not be excluded from consideration merely because it would impede to some degree the attainment of the project objectives, or would be more costly." (*Save Round Valley*, 157 Cal.App.4th at 1456-57 (quotations omitted).) **16-7**

The DEIR also should have included quantitative and meaningful comparisons between the Project's impacts and proposed alternatives' likely impacts, including analysis of estimated GHG emissions, quantified impacts to biological resources, water resources including water quality and water availability, and traffic resulting from each proposed alternative.
Under CEQA, "the public agency bears the burden of affirmatively demonstrating that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures." (*Mountain Lion Foundation v. Fish & Game Com.* (1997), 16 Cal. 4th 105, 134.) As noted above, NEPA also requires meaningful consideration of alternatives. The DEIR fails to meet this burden.

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III. The DEIR's Analysis Of The Project's Air Quality Impacts Is Incomplete and Inadequate.

The DEIR's air quality impacts analysis is flawed because it fails to take into account all sources of air quality impacts resulting from the Project and fails to adopt all feasible measures to reduce the Project's significant air quality impacts. Californians experience the worst air quality in the nation, with annual health and economic impacts estimated at 8,800 deaths and $71 billion per year. (Cayan 2006.) The Project will further degrade the region's air quality by generating considerable emissions from the construction phase, ongoing operations, and the many miles of vehicle trips generated by the Project.

In light of these major air quality impacts, "the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified." (*Napa Citizens for Honest Gov't v. Napa County Bd. Of Supervisors* (2001) 91 Cal.App.4th 342, 360.) CEQA requires that agencies "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code § 21002.1(b).) Mitigation of a project's significant impacts is one of the "most important" functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) Only when the mitigation measures are "truly infeasible" can the lead agency reject mitigation measures for significant impacts. (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal. 4th 341, 369.) NEPA similarly requires that the agency take a hard look at the environmental consequences of proposed actions and inform the public of these consequences. (40 C.F.R. § 1502.1; *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.* (9th Cir. 2004) 387 F.3d 989, 993 ["*Klamath-Siskiyou*"].) **16-8**

A. The DEIR applies a flawed baseline.

The air quality analysis is flawed because it uses an improper baseline. The baseline must be analyzed using ***existing*** physical conditions in the project area. (CEQA Guidelines § 15125(a) [existing physical conditions "normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant"].) Moreover, the California Supreme Court held that a project's impacts should be compared to actual, existing pre-project conditions rather than to a hypothetical conditions when determining the significance of a Projects impacts, and the current environmental baseline level of emissions must be disclosed in the DEIR. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322 [*CBE*].) NEPA similarly requires that a lead agency properly disclose the true no build conditions. (*See N.C. Wildlife Fed'n v. N.C. DOT* (4th Cir. 2012) 677 F.3d 596, 603 ("[C]ourts not infrequently find NEPA violations when an agency miscalculates the 'no build' baseline or when the baseline assumes the existence of a proposed project.").) **16-9**

Instead of complying with these mandates, the DEIR compares the South Quarry Project to hypothetical conditions that were purportedly analyzed in the Cushenberry Mine Expansion EIR, which was certified by the County in 2004 (the "2004 EIR"):

> Because the impacts of construction and operation of the West Pit were fully analyzed in the EIR certified in 2004 (County of San Bernardino 2004), the Air Quality Study (Yorke 2016) compares the impacts of Alternative 1 – Proposed Action to the impacts previously

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evaluated for the West Pit in the 2004 EIR, except as otherwise indicated, and as summarized below. (DEIR at 3.2-14)

The DEIR later explicitly acknowledges it is using the 2004 EIR as a "baseline": "The baseline mining activities were defined based on the 2004 Environmental Impact Report, and the analysis of operational impacts is based on the operational change due to the proposed South Quarry." (DEIR at 3.2-16; *see also* DEIR at Table 3.2-7 & Appx. G (Air Quality Study) at Table 4-3 (comparing the figures in the 2004 EIR to the South Quarry Project).) Likewise, the Air Quality study provides, "The Project emissions (difference between baseline and post-Project emissions) for the construction phase consist of the construction emissions associated with the South Quarry." (Appx. G (Air Quality Study) at 30.) **16-9 Cont.**

This approach violates the CEQA Guidelines, *CBE*, and NEPA case law. Without current information on actual environmental conditions, the DEIR prevents informed decisionmaking and fails to ensure that actual, meaningful reductions of air pollution will occur through Project mitigation. (*See Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 121 ("the impacts of the project must be measured against the 'real conditions on the ground.'").)

B. The DEIR misrepresents the actual emissions of the South Quarry Project.

The DEIR uses the improper baseline discussed above to misleadingly claim that the South Quarry Project will not reach the threshold of significance for dangerous air pollutants. More specifically, Table 3.2-4 notes that the annual significance thresholds in the Mojave Desert Air Quality Management District ("MDAQMD") is 10 tons per year for PM2.5 and 15 tons per year for PM10. In Table 3.2-8, the DEIR claims that the "2022 Baseline" is 192.5 tons of PM10 emissions per year and 19.7 tons of PM2.5 emissions per year. These numbers are ***higher*** than the MDAQMD thresholds of significance for PM2.5 and PM10. Nonetheless, Tale 3.2-8 claims that emissions for PM2.5 and PM10 are ***below*** the MDAQMD significance thresholds because the"2022 With-Project" emissions numbers are only 14.2 tons of PM10 emissions per year and 0.78 of PM2.5 emissions per year. This comparison is misleading because the "2022 Baseline" represents emissions that will be generated by the South Quarry Project. It is irrelevant whether similar emissions were analyzed for a different mining project in 2004. In any event, it is not clear that such emissions were analyzed in the 2004 EIR, as the 2004 EIR similarly "bootstrapped" upon emissions counted towards other projects in claiming that that project would not have significant emissions. (*See* 2004 EIR at 4-90 – 4-92.) **16-10**

These figures are further misleading because they credit a ***reduction*** in mobile emissions of .91 tons of PM10 and .78 tons of PM2.5 because of potential effects of CARB regulations on off-road diesel trucks. (*See* DEIR, Appx. G (Air Quality Study) at 30.) The reality is that the project will ***increase*** mining construction and operations in the Project Area, which will result in additional truck trips. As a practical reality, it is impossible for mobile emissions for a project to be a ***negative*** amount; nonetheless, this is what the DEIR is claiming. **16-11**

The reason for the DEIR's mathematical gymnastics is simple – without them, the South Quarry Project would exceed the MDAQMD thresholds of significance and require the Forest Service and Mitsubishi to actually adopt and implement meaningful mitigation measures to

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reduce significant air pollution impacts of the South Quarry Project. The DEIR's failure to accurately disclose these impacts also violates the requirement that agencies take a hard look at the environmental consequences of proposed actions and inform the public of these consequences. (40 C.F.R. § 1502.1; *Klamath-Siskiyou*, 387 F.3d at 993.) **16-11 Cont.**

Moreover, the DEIR underestimates its emissions in order to avoid a Conformity Analysis pursuant to the State Implementation Plan ("SIP") under the Clean Air Act. The General Conformity Rule requires such a Conformity Analysis if PM10 emissions are above 100 tons per year, and emissions NOx and VOCs are above 25 tons per year. Tables 3.2-8 and 3.2-9 show that these thresholds are exceeded unless estimated emissions amounts for the 2004 EIR are included. **16-12**

The DEIR's failure to include a Conformity Analysis is particularly egregious because the EPA requested during the scoping process that the Forest Service to prepare a Draft General Conformity Determination for the Project and to "identify additional measures that would be necessary." (*See* DEIR, Appx. A at PDF 178.)

C. The DEIR's air quality mitigation measures are inadequate.

Mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (*Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) Potential harmful environmental impacts from the mitigation measures, effectiveness of the mitigation measures and important specifics on implementation of the mitigation measures are all missing from the DEIR. Without the incorporation of all feasible mitigation measures through permit conditions, agreements, or other measures, the DEIR mitigation measures are insufficient and inadequate. **16-13**

The DEIR only includes two air quality mitigation measures, both of which provide few specific details and lack adequate enforcement mechanisms. (DEIR at 3.2-24.) AIR-1 requires Mitsubishi to add a few Tier 4 trucks to its fleet, but only when "whenever the total quarry haul truck operating horsepower-hours/year reach 6 million per year…" (DEIR at 3.2-24.) The DEIR provides no mechanism to monitor how or when horsepower hours per year will reach 6 million per year, thus providing no clear trigger for when this condition will actually be required.

AIR-2 requires Mitsubishi to spray "water or chemical dust suppressants" on unpaved roads and disturbed mine areas. In the "alternative," Mitsubishi will spray the chemical dust suppressants "accordance with manufacturer specifications." (DEIR at 3.2-25.) In other words, AIR-2 does not even require Mitsubishi to apply suppressants on disturbed mine areas; it just requires Mitsubishi to follow the directions on the container.

The DEIR does not adequately mitigate the risk of harm to wildlife caused by spraying chemicals in wildlife habitat. Indeed, the DEIR all but admits that such spraying activities will be detrimental wildlife. BHS-1 states that when water is sprayed on roads to control dust, "those watered areas sometimes support vegetation that bighorn sheep consume." (DEIR at 2-20.) The DEIR then promises that Mitsubishi "will make an effort to eliminate the overspray." (DEIR at 2-20.) The implication is that the bighorn sheep will be eating vegetation sprayed with either **16-14**

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water or chemical dust suppressants. And all Mitsubishi is required to do is "make an effort" to avoid spraying such areas. Such vague and toothless promises have no place in an EIR.

16-14 Cont.

The DEIR also fails to provide any detail on the types of chemical dust suppressants used. The omission is improper because the Forest Service has already published materials stating that dust suppressants can be dangerous for people and wildlife and that potential toxicity must be considered when applying such suppressants.[4] The DEIR should analyze whether these chemical dust suppressants will have impacts on wildlife and plants surrounding the Project Area.

16-15

Moreover, the DEIR fails to specify whether AIR-1 and AIR-2 are merely a restatement of existing policies and regulations with which Mitsubishi must comply. MDAQMD Rules 403, 403.2, and 404 already require that entities take precautions to prevent the spread of fugitive dust and particulate matter. And the U.S. EPA has already issued Tier 4 Emissions Standards. AIR-1 and AIR-2 do not even demonstrate that they would comply with these existing regulations, and further fail to show how they are more stringent than existing regulations. Even if AIR-1 and AIR-2 would comply with existing regulations, that is not sufficient to mitigate the significant impacts of the Project. (*See Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17 (compliance with existing environmental laws or regulations is not sufficient to support a finding that a project will not have significant environmental impacts).)

16-16

Despite these deficiencies, the DEIR wrongful concludes that "[r]esidual impacts after mitigation would be less than significant." (DEIR at 3.2-25.) Again, the DEIR fails to explain how these minimal mitigation measures will render air quality impacts less than significant.

16-17

The DEIR's failure to include adequate mitigation measures is especially unfortunate because the EPA has already counseled the Forest Service to include meaningful mitigation measures. During the scoping process, the EPA wrote:

> The EIS should thoroughly identify and describe appropriate mitigation measures associated with the project, specifying which ones are committed to by the mine operator and required by the Forest Service. The discussion should address how each measure would specifically mitigate the targeted impact, provide substantial detail on the means of implementing each mitigation measure, identify who would be responsible for implementing it, indicate whether it is enforceable, and describe its anticipated effectiveness. For some impacts, there may be several appropriate and effective measures. Conversely, some measures may turn out to be less effective than anticipated; therefore, implementation and effectiveness monitoring should be conducted and contingency measures should be considered. We recommend the EIS describe the implementation and effectiveness monitoring that would be conducted and contingency

[4] Williams, B.K, et al., "Environmental Effects of Dust Suppressant Chemicals on Roadside Plant and Animal Communities in National Wildlife Refuges," (June 2009), available at https://www.fws.gov/southeast/refuges/roads/pdf/DustSuppressEnvEffectsJune2009Update.pdf. *See also* U.S. Geological Survey, "USGS Columbia Environmental Research Center Project: Environmental Effects of Dust Suppressant Chemicals on Roadside Plant and Animal Communities," (Sept. 16, 2016), available at https://www.cerc.usgs.gov/Projects.aspx?ProjectId=77.

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> measures that would be applied if initial mitigation measures fail. (DEIR, Appx. A at 175.)

Despite the EPA's recommendations, the DEIR does not indicate who is responsible for carrying out mitigation, provide adequate detail regarding how the measures would be implemented, or describe their anticipated effectiveness.

16-17 Cont.

In addition, the EPA specifically recommended the use of particle traps to reduce diesel particulate matter ("DPM") emissions. (DEIR, Appx. A at 179.) The EPA noted that such traps are effective in controlling approximately 80 percent of DPM. (*Id.*) Yet, neither AIR-1 nor AIR-2 require the use of particle traps. And despite the EPA's recommendation, the DEIR also fails to "discuss whether and how air quality monitoring would be implemented to ensure project compliance with all applicable .air quality standards and permits." (DEIR, Appx. A at 179.)

D. The DEIR does not disclose the cumulative air quality impacts of the Project combined with existing and planned mining operations.

Because the DEIR's air quality impacts analysis is inadequate, the associated cumulative impacts analysis also is inadequate. The cumulative impacts analysis is further inadequate because it wrongly equates a lack of significance impacts with a lack of cumulative impacts:

> Furthermore, because Alternative 1 – Proposed Action does not result in an increase in overall mine throughput, and because the Proposed Action's air quality emissions would be below MDAQMD significance thresholds, Alternative 1 – Proposed Action would not significantly contribute to cumulative air quality impacts. (DEIR 3.2-24.)

16-18

Even if the South Quarry Project standing alone did not have significant impacts (which it does, as set forth above), it still could contribute to cumulative impacts. The DEIR fails to even consider this possibility. Moreover, although the DEIR lists six mining projects in the immediate vicinity of the South Quarry Project, the DEIR neglects to determine whether these projects along with the South Quarry Project would cause significant cumulative air quality impacts. This omission is especially unacceptable because two of the projects listed are further expansions of existing projects (Omya Butterfield/Sentinel Quarries and Omya White Knob/White Ridge Quarries). Under the DEIR's improper framework, none of these extensive mining activities can contribute to significant cumulative impacts because they "would be required to be consistent with the MDAQMD's Attainment Plans. (DEIR 3.2-24.)

E. The DEIR does not disclose the cumulative air quality impacts of the Project combined with the MCC Plant.

The DEIR completely ignores the significant cumulative impacts arising from the MCC Plant. These are reasonably foreseeable because one of the key objectives of the Project is to supply limestone to the MCC Plant for 120 years. The DEIR states that the MCC Plant "requires a limestone feed" of approximately 2.6 million tons per year (DEIR at 1-8) and that the South Quarry Project will produce approximately 1.3 million tons per year. This means that cement mining operations at the MCC Plant will largely depend upon the South Quarry Project. As such, the impacts of continuing to operate the MCC Plant for 120 years must be considered and

16-19

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analyzed. The DEIR's failure to conduct such analysis – and analyze the all future impacts of the MCC Plant – may also constitute impermissible piecemealing and/or segmentation under CEQA and NEPA. Such analysis is critical because cement plants are outsized contributors to air pollution and GHG emissions. Indeed, the DEIR acknowledges that the County's *Greenhouse Gas Emissions Reduction Plan* identifies "cement production plants as ***the primary source of stationary GHG emissions*** within the County's jurisdiction." (DEIR at 3.6-3.)[5] Nonetheless, the DEIR neither acknowledges nor analyzes the South Quarry Project's role in contributing to GHG emissions and air pollution generated by the MCC Plant. **16-19 Cont.**

IV. The DEIR's Analysis Of The Project's Impacts On Water Quality and Hydrology Is Flawed.

The DEIR does not include sufficient data regarding existing water quality conditions to provide adequate baseline information from which to assess Project impacts on local and regional water quality. For example, the DEIR concedes there are six drainages in the Project Area, but claims these drainages are "ephemeral or non-relatively permanent waters." (DEIR at 3.8-4.) The DEIR does not specify how these determinations were made and instead merely cites to the Ninyo and Moore study in Appendix F. In turn, the Ninyo and Moore study makes the same statement, and cites to another study by Glen Lukos Associates. But the Glen Lukos Associates study does not appear to have been included as part of the DEIR. **16-20**

In addition, to the extent surveys were conducted over the past few years to assess the qualities of these drainages, such surveys may not accurately depict typical flow rates given the historic drought conditions in Southern California over the past few years.

The implication that these drainages are "ephemeral" also may conflict with the DEIR's description of Marble Canyon Creek, which the DEIR states has a high water mark that varies from 1 to 20 feet. Given the high water mark, Marble Canyon Creek could qualify as waters of the United States under the Clean Water Act. **16-21**

The DEIR also fails to provide any water quality data for Marble Canyon Creek or any of the other drainages in the area. Without updated data regarding water quality for any portion of the site, the DEIR fails to provide sufficient baseline information that would allow the public to evaluate significant adverse impacts the Plan will have on the environment. (CEQA Guidelines § 15125(a); *CBE*, 48 Cal.App.4th at 315.) **16-22**

The DEIR's mitigation measures relating to drainages are similarly deficient. The DEIR does not specify which streams – if any – will be impacted by the South Quarry Project. Instead, it contains mitigation measure GEN-1m, which vaguely states that "for drainages that cannot be avoided," Mitsubishi will obtain Streambed Alteration Agreements. (DEIR at 2-18.) The DEIR does not provide any information as to what standard will be used to determine whether or not a drainage or stream can be avoided. **16-23**

[5] *See also* San Bernardino Associated Governments, "San Bernardino County Regional Greenhouse Gas Reduction Plan," (Mar. 2014) at 2-17, available at http://www.sanbag.ca.gov/planning2/greenhousegas/Final_SBCRegionalGHGReduction.pdf.

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The DEIR further fails to provide up-to-date information on the groundwater resources. The DEIR claims that groundwater elevation varies from approximately 4,107 feet msl to 4,141 feet msl. (DEIR at 3.8-9.) However, this is misleading because this information was taken from a data in Fall 2011/Spring 2012. (*See* Appx. F at 14.) Nonetheless, the DEIR uses this outdated information to conclude that "Groundwater level data indicates that ***over the past several years*** there has been a relative balance between replenishment and discharge." (3.8-10.) 2011 was six years ago. This is unacceptable especially at a time when the County continues to experience drought. As the DEIR's Revegetation Plan concedes, year to year variances in precipitation are "high," (DEIR, Appx. L at 3) such that the information in the DEIR may not represent typical conditions. **16-24**

In addition, the DEIR fails to support its claim that the South Quarry Project will use 105.3 acre feet of water per year. (*See* DEIR at 3.8-12.) Although it cites the Ninyo and Moore study for this claim, the Ninyo and Moore Study does not offer any explanation as to how this figure was generated. (*See* Appx. F at 14.) The DEIR must set forth facts, evidence, and analysis supporting this figure. **16-25**

The DEIR also claims that groundwater resource impacts will not be significant because Mitsubishi estimates that it will not exceed its allotted Free Production Allowance ("FPA") under the Mojave Basin Judgment. As a preliminary matter, it is difficult to verify whether extracting an additional 105.3 acre feet of water per year complies with the Mojave Basin Judgment because the DEIR did not include a copy of the Judgment with the DEIR. The DEIR should be updated to include a copy of the Judgement. More importantly, the Mojave Basin Judgment is not a CEQA compliance tool, nor does it provide thresholds of significance for whether an impact is significant. As such, the DEIR is mistaken in concluding that groundwater resource impacts will not be significant simply because Mitsubishi expects to comply with its FPA. **16-26**

The DEIR's mitigation measure for adverse changes to water quality (GEN-14) is vague, deferred, and unenforceable. GEN-14 provides that Mitsubishi "will respond to minimize these effects" if there are adverse changes in water quality. (DEIR at 2-20.) The DEIR states that these efforts could include "water conservation programs and shifts in the usage of various available water sources." (DEIR at 2-20.) However, GEN-14 does not require specific water conservation programs nor does it specify what constitutes an "adverse" impact to water that would trigger some sort of corrective action by Mitsubishi. Such vague promises to "minimize" undefined adverse effects are not enforceable mitigation measures under CEQA or NEPA. **16-27**

The DEIR also fails to provide any information as to what types of chemicals or substances will be used as part of the South Quarry Project, or whether these substances will have impacts on plants and wildlife. At a minimum, the DEIR must provide this information so the decisionmakers and the public are adequately informed as to the components of the South Quarry Project and its environmental costs. **16-28**

Because the DEIR fails to describe the South Quarry Project or the substances that will be used, the DEIR also fails to require adequate mitigation measures. The only water quality mitigation measure is GEN-1, which vaguely states that Mitsubishi will "minimize…toxic **16-29**

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substances" by following standard erosion control practices. (DEIR at 3.8-13.) It is impossible to ascertain whether such standard practices will be adequate when the DEIR provides no information as to which toxic substances the Project will involve and in what manner they will be used. **16-29 Cont.**

Finally, the DEIR does not discuss the applicability of the California's Industrial Activities Stormwater General Permit to the South Quarry Project. This is inappropriate, given that the EPA specifically requested that the DEIR address this issue. (DEIR, Appx. A at 176.) EPA also recommended that the DEIR describe all surface water discharges from the site. (*Id.*) Despite this recommendation, the DEIR does not describe the substances that will be discharged from the site, and instead only generally promises that "best management practices" will be used to address "runoff." (DEIR at 3.8-11.) **16-30**

V. The DEIR Fails To Adequately Analyze The Scenery Impacts Of The Project.

The South Quarry Project will have significant impacts on scenery resources. The DEIR concedes that even after full reclamation in over 120 years, the scenic integrity of the Project Area will still be "low." (DEIR at 3.11-13.)

The DEIR improperly defines the scope of the scenic resources analysis in order to conclude that the impacts are not significant on a cumulative level. The DEIR claims there are "16,000 acres of viewshed" within the area for cumulative effects analysis. (DEIR at 3.11-14.) Using this unduly large viewshed area, the DEIR then asserts that disturbances to 153 acres will not be significant on a cumulative level and will amount to "less than one percent of the area of analysis." (3.11-14.)

This "less than one percent" assertion is belied by the photos contained in Appendix J. The photos in figures 7 and 10 through 14 demonstrate that a substantial portion of the viewshed will be impacted by the South Quarry Project. After all, the Project will literally be slicing the top level of the mountains off in order to expose the lightly colored limestone beneath it. These scenic impacts of limestone mining are already an ever-present scar upon the San Bernardino mountains, which can easily be seen from the Lucerne Valley as well as from space. The South Quarry Project will enlarge these scars. **16-31**

Perhaps in recognition of the severe visual impacts caused by the South Quarry Project, the DEIR concedes that the South Quarry Project "would be major and adverse to the site's level of scenic integrity resulting in a potentially significant impact to a scenic vista and the existing visual character of the site and its surroundings." (DEIR at 3.11-13.) Confusingly, the DEIR states a few pages later that with mitigation measures, the South Quarry Project would have a "minor to neutral effect on the overall scenic integrity of the area." (DEIR at 3.11-16 & 3.11-17.) In the next sentence, the DEIR states "this represents a significant, unmitigable Project-level impact but a less-than-significant cumulative impact to scenery and visual resources." (DEIR at 3.11-17.) The impacts cannot be both "minor" but "significant." In addition, it belies common sense to claim that the cumulative impacts are not significant when the cumulative impacts of limestone mining in the area can be seen from space.

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The mitigation measures proposed to alleviate the impacts to scenery resources are vague, deferred, and inadequate. (*See* 3.11-15 & 3.11-16.) In addition, some of the proposed mitigation measures could be harmful to wildlife. For example, SCEN-2 states that "approved" color-straining products will be used to darken roads and slopes. (DEIR at 3.11-15.) The DEIR fails to specify which types of substances or chemicals these products will contain, or whether they have been proven to be safe for wildlife. The DEIR does not even state who will be "approving" the use of these products. **16-32**

The DEIR also fails to provide any analysis regarding the impacts to scenic resources from viewpoints along the Pacific Crest Trail ("PCT"). As the DEIR concedes, the PCT is only two miles from the Project Area (3.10-5) and is likely located in an upland area which looks down at the Project Area. The PCT is designated as a National Scenic Trail which the Forest Service characterizes as "some of the most outstanding scenic terrain in the United States."[6] **16-33**

VI. The DEIR's Analysis Of The Irreversible Commitment of Resources Is Flawed.

In the section on the Irreversible Commitment of Resources, the DEIR states that the loss of habitat would be "temporary" but "long-term." (DEIR at 4-2.) The DEIR promises "that the site would be reclaimed after mining," such that "this gap would result in a short term irretrievable commitment of resources." These sentences are inconsistent because a loss of resources cannot be both "long-term" and "short-term." More importantly, these sentences are misleading and inconsistent with the remainder of the DEIR, which promises to only reclaim 30 percent of Project Area. (DEIR at 2-12.) In addition, the DEIR is not even clear as to whether 30 percent of the Project Area will be reclaimed – at one point, the DEIR states, "The Revegetation Plan would . . . Establish islands of native shrubs and perennial grasses covering at least 30 percent of the site ***where access allows***…" (DEIR at 2-12.) This sentence suggests that the Revegetation Plan only applies to 30 percent of the site, and within that 30 percent, establishment of native vegetation would only occur "where access allows." The DEIR needs to accurately disclose the impacts of the Project and accurately describe any reclamation or mitigation efforts. **16-34**

VII. The DEIR Fails To Adequately Analyze the Greenhouse Gas Impacts of the Project.

There are a number of flaws in the DEIR's analysis of greenhouse gas ("GHG") emission impacts. These include the failure to adequately describe the current regulatory landscape; inaccurate description of current climate science; and failure to analyze the consistency of the project with plans, policies and regulations that are aimed at reducing GHG emissions.

A. The DEIR Omits Important Policies and Legislation Related to GHG Emissions

In its description of "Applicable Laws, Regulations and Standards" the DEIR entirely omits two important sources of relevant state climate policy and reduction requirements: Executive Order B-30-15 and Senate Bill 32, which was passed into law in 2016. Together, SB 32 and EO B-30-15 establish the GHG reduction trajectory scientists agree must occur after year **16-35**

[6] *See* Forest Service, "Pacific Crest National Scenic Trail," available at https://www.fs.usda.gov/pct/.

Letter 16 – Continued

2020 in order to preserve a decent chance of avoiding the very worst impacts of climate change. SB 32 and EO B-30-15 reflect not only established state policy, but also the physical science of climate change, and thus must be included in the DEIR's description of the legal landscape.

Executive Order B-30-15 establishes mid- and long-term goals under which California's GHG emissions are to be reduced to 40 percent below 1990 levels in 2030 and 80 percent below 1990 levels in 2050.[7] Senate Bill 32, which was passed into law in 2016, codifies the mid-term goal by requiring California to reduce its GHG emissions to 40 percent below 1990 levels by 2030.[8] SB 32's mid-term goal is predicated on, and entirely consistent with, achieving the long-term goal established in EO B-30-15. Assembly Bill 197,[9] which was passed at the same time as SB 32, prioritizes direct GHG reductions in disadvantaged communities.

16-35 Cont.

The DEIR must include these California laws and policies in its description of the legal landscape regarding GHG reductions because they make clear that post-2020 emission cuts must be significantly deeper than those required to reach 2020 goals. As the California Air Resources Board's First Update to the Climate Change Scoping Plan indicates, current emission reductions must average about one percent per year to reach 2020 goals (as contained in AB 32), but must average over *five percent* per year to reach the state's 2030 and 2050 goals.[10]

Furthermore, the DEIR fails to acknowledge our national commitment to reduce GHG emissions under the Paris Accord.[11] Under the Accord, signatory nations agreed to limit global temperature rise to below 2 degrees Celsius, with an emphasis on keeping warming below 1.5 degrees Celsius. The US target is to reduce economy-wide GHG emissions by 26-28 percent below its 2005 level in 2025 and to make best efforts to reduce emissions by 28 percent.[12]

The DEIR must include these important laws and requirements for GHG emission reductions in its description of applicable laws because they inform the analysis of this project's GHG emissions and the way in which they impact state goals.

B. The DEIR Inaccurately Characterizes Current Climate Science

16-36

The DEIR seriously mischaracterizes the state of climate science. For instance, it states that the "extent to which GHGs contribute to [global climate change] remains a source of debate." (DEIR at 3.6-4.) This statement is simply wrong. The scientific consensus is unequivocal: human sources of greenhouses gases are responsible for the current unprecedented and dangerous levels of global warming and associated climate change.

[7] Executive Order B-30-15 (Apr. 29, 2015), available at https://www.gov.ca.gov/news.php?id=18938.
[8] Cal. Health and Saf. Code § 38566.
[9] See full text at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB197.
[10] California Air Resources Board ("CARB"), *First Update to the Climate Change Scoping Plan* at 33 (May 2014), available at https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf.
[11] See full text at http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf.
[12] See full text at http://www4.unfccc.int/submissions/INDC/Published%20Documents/United%20States%20of%20America/1/U.S.%20Cover%20Note%20INDC%20and%20Accompanying%20Information.pdf.

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Human-caused climate change is already causing widespread damage from intensifying food and water insecurity, the increasing frequency of heat waves and other extreme weather events, inundation of coastal regions by sea level rise and increasing storm surge, the rapid loss of Arctic sea ice, harms to human health, increasing species extinction risk, and the worldwide collapse of coral reefs.[13] The Third National Climate Assessment makes clear that "reduc[ing] the risks of some of the worst impacts of climate change" will require "aggressive and sustained greenhouse gas emission reductions" over the course of this century.[14]

Global temperatures have continued to soar, and 2016 was recently confirmed as the hottest year on record—the third year in a row in which all previous records have been broken.[15] As a result of climate change, the United States and many other parts of the world are experiencing increasing heavy precipitation, which heightens the risk of flooding.[16] Rising sea levels due to global warming have also significantly increased the risk of damaging floods. Nuisance flooding of coastal areas, often called "sunny-day flooding," has increased substantially on all three US coasts, between 300 and 925 percent since the 1960s, due primarily to sea level rise.[17] In 2100, approximately 13.1 million people in coastal areas of the U.S. are projected to be at risk of flooding due to sea level rise.[18]

The Arctic, including the Alaskan Arctic, has continued to warm at twice the rate of the planet as a whole, and in 2016, Arctic air temperatures soared to record highs.[19] In 2016, Arctic winter sea-ice extent in March hit a record low and the summer minimum sea-ice extent tied for the second lowest on record, followed by record low sea-ice extent in October and November 2016.[20] Researchers have estimated that each metric ton of CO_2 emission results in a sustained loss of about 3 square meters of September Arctic sea-ice area, meaning that each American is responsible, on average, for a loss of almost 50 square meters of sea ice per year, equivalent to about 527 square feet of ice per person per year.[21] Limiting warming to 2 degrees Celsius is not

16-36 Cont.

[13] Melillo, Jerry M., *Climate Change Impacts in the United States: The Third National Climate Assessment*, Terese (T.C.) Richmond and Gary W. Yohe, Eds., U.S. Global Change Research Program, doi:10.7930/J0Z31WJ2 (2014); Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, *Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*,Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.), IPCC, Geneva, Switzerland (2014).
[14] Melillo (2014), at 13, 14, and 649.
[15] Schmidt, G, et al., *NASA/NOAA Annual Global Analysis for 2016: 2016 was third successive record-warm year* (Jan. 18, 2017), *available at* https://go.nasa.gov/2016climate; National Aeronautics and Space Administration, *NASA, NOAA Data Show 2016 Warmest Year on Record Globally* (Jan. 18, 2017), *available at* https://www.nasa.gov/press-release/nasa-noaa-data-show-2016-warmest-year-on-record-globally.
[16] Fischer, E.M. and R. Knutti, *Observed Heavy Precipitation Increase Confirms Theory and Early Models*, 6 NATURE Climate Change 986 (2016).
[17] Sweet, William V. and Joseph Park, *From the Extreme to the Mean: Acceleration and Tipping Points of Coastal Inundation from Sea Level Rise*, 2 EARTH'S FUTURE 579 (2014); National Oceanic and Atmospheric Administration, *What is Nuisance Flooding* (2016), *available at* http://oceanservice.noaa.gov/facts/nuisance-flooding.html.
[18] Hauer, Mathew E. et al., *Millions Projected to be at Risk from Sea-Level Rise in the Continental United States*, 6 NATURE CLIMATE CHANGE 691 (2016).
[19] Richter-Menge, J., J.E. Overland, and J.T. Mathis, Eds. *Arctic Report Card 2016* (2016) *available at* http://arctic.noaa.gov/Report-Card/Report-Card-2016.
[20] *Id.*
[21] The average American emits 16.4 metric tons of CO_2 per year, which equate to 49 m^2 of sea ice melt each year, equivalent to 527 square feet, *see* http://data.worldbank.org/indicator/EN.ATM.CO2E.PC.

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sufficient to allow Arctic summer sea ice to survive; only a rapid reduction in emissions that limits warming to 1.5 degrees Celsius gives Arctic summer sea ice "a chance of long-term survival at least in some parts of the Arctic Ocean."[22]

Anthropogenic climate change is having very serious consequences for life on the planet at all scales from genes to entire ecosystems. A recent study found that climate change is already impacting 82 percent of key ecological processes that form the foundation of healthy ecosystems and which humans depend on for basic needs.[23] Genes are changing, species' physiology and physical features such as body size are changing, species are rapidly moving to keep track of suitable climate space, and entire ecosystems are under stress.[24] A separate study found that climate-related local extinctions are already widespread and have occurred in hundreds of species, including almost half of the 976 species surveyed, across climatic zones, clades, and habitats.[25]

Climate change-driven impacts to human health are already occurring in the United States, particularly due to morbidity and mortality from extreme weather events which are increasing in frequency and intensity.[26] The harms to health from climate change come from increasing heat stress and other extreme weather events, increases in air pollution, the spread of vector-borne diseases, food insecurity and under-nutrition, changing exposure to toxic chemicals, displacement, and stress to mental health and well-being.[27] Although everyone is vulnerable to health impacts from climate change, certain groups are particularly vulnerable such as children, the elderly, low-income communities, some communities of color, immigrant groups, and persons with disabilities and pre-existing medical conditions.[28] The 2015 Lancet Commission on Health and Climate Change highlighted that climate change is causing a global medical emergency, concluding that "the implications of climate change for a global population of 9 billion people threatens to undermine the last half century of gains in development and global health."[29]

16-36 Cont.

The severe impacts of global warming from the nearly one degree Celsius warming that the planet has already experienced highlight the urgency for stronger climate action to avoid truly catastrophic impacts to people and planet. Further warming risks crossing multiple

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[22] Notz, Dirk and Julienne Stroeve, *Observed Arctic Sea Ice Loss Directly Follows Anthropogenic CO_2 Emission*, SCIENCE 10.1126/science.aag2345 (2016) at 3-4.
[23] Scheffers, Brett R. et al., *The Broad Footprint of Climate Change from Genes to Biomes to People,* 354 SCIENCE 719 (2016).
[24] *Id.*
[25] Wiens, John J., *Climate-Related Local Extinctions are Already Widespread among Plant and Animal Species*, 14 PLOS BIOL e2001104 (2016).
[26] Luber, George et al., *Ch. 9: Human Health. Climate Change Impacts in the United States: The Third National Climate Assessment;* Melillo, Jerry M. et al., *U.S. Global Change Research Program*, 220-256 (2014); Watts, Nick et al., *Health and Climate Change: Policy Responses to Protect Public Health*,386 THE LANCET 1861 (2015); US Global Change Research Program, *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment,* A. Crimmins et al., Eds. *U.S. Global Change Research Program*, Washington, DC, at 312 (2016).
[27] *Id. Luber et al.*
[28] *Id. US Global Change Research Program*
[29] Watts, Nick et al., *Health and Climate Change: Policy Responses to Protect Public Health*, 386 THE LANCET 1861 (2015).

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interacting tipping points.[30] As reflected in the international Paris Agreement commitment to keep global temperature rise "well below 2°C,"[31] two degree Celsius of warming is no longer considered a safe guardrail for avoiding catastrophic climate impacts and runaway climate change.[32]

In addition, the DEIR employs an outdated and inaccurate estimate for the global warming potential (GWP) of methane. Table 3.6-2 of the DEIR (DEIR at 3.6-5) indicates the GWP for methane is 25 when the 100-year GWP is actually 34; furthermore, the EIR should employ a 20-year GWP of 86 in addition to the 100-year GWP.[33] These are the GWP values from the Intergovernmental Panel on Climate Change ("IPCC") Fifth Assessment Report ("AR5"). One of the IPCC AR5's breakthrough insights is the discovery of a fundamental flaw in previous calculations of GWP: the climate effect of CO_2 intrinsically includes carbon cycle feedbacks, but the GWPs of other greenhouse gases do not.[34] Thus, to compare "apples to apples," it is necessary to include these feedbacks in the estimates of all greenhouse gas emissions. Furthermore, it is essential to consider the 20-year GWP because it is the most accurate measure of methane's influence on tipping points and near-term climate impacts. **16-36 Cont.**

The DEIR's utter failure to meaningfully consider current climate science has reverberating effects throughout the impacts analysis because GHG emissions from the project are not adequately placed in the context of current and future climate change. Without this context, the DEIR fails as an informational document because the reader is unable to understand how this project may exacerbate global warming and consequent climate change.

C. The DEIR Must Fully Analyze the Project's Potential Conflict with Plans, Policies and Regulations Adopted to Reduce GHG Emissions

The CEQA Guidelines indicate that and EIR "shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans."[35] As noted above, there are a variety of state and local laws and plans that set GHG reductions goals. These include but are not limited to AB 32 reduction goals, Executive Order B-30-15 reduction goals, and SB 32 reduction goals. In addition, the DEIR notes San Bernardino County's Greenhouse **16-37**

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[30] Cai, Yongyang et al., *Risk of Multiple Interacting Tipping Points should Encourage Rapid CO_2 Emission Reduction*, 6 NATURE CLIMATE CHANGE 520 (2016).
[31] United Nations Framework Convention on Climate Change, Conference of the Parties Nov. 30-Dec. 11, 2015, *Adoption of the Paris Agreement* Art. 2, U.N. Doc. FCCC/CP/2015/L.9 (Dec. 12, 2015), *available at* http://unfccc.int/resource/docs/2015/cop21/eng/l09.pdf .
[32] *See* the comprehensive scientific review under the United Nations Framework Convention on Climate Change (UNFCCC) of the global impacts of 1.5 degree Celsius versus 2 degree Celsius warming: U.N. Subsidiary Body for Scientific and Technological Advice, *Report on the Structured Expert Dialogue on the 2013-2015 review* (2015), FCCC/SB/2015/1NF.1 (2014), http://unfccc.int/resource/docs/2015/sb/eng/inf01.pdf; Schleussner, Carl-Friedrich et al., *Differential Climate Impacts for Policy-Relevant Limits to Global Warming: the Case of 1.5C and 2C*, 7 EARTH SYSTEMS DYNAMICS 327 (2016); Schleussner, Carl-Friedrich et al., *Science and Policy Characteristics of the Paris Agreement Temperature Goal*, 6 NATURE CLIMATE CHANGE 827 (2016).
[33] Myhre, G., et al., *Anthropogenic and Natural Radiative Forcing*, in CLIMATE CHANGE 2013: THE PHYSICAL SCIENCE BASIS. CONTRIBUTION OF WORKING GROUP I TO THE FIFTH ASSESSMENT REPORT OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE IPCC 714 (Cambridge Univ. Press 2013).
[34] *Id.* at 713.
[35] CEQA Guidelines § 15125(b).

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Gas Reduction Plan. (DEIR at 3.6-3.) Yet, the DEIR does not sufficiently analyze how the GHG emissions from the project could conflict with these laws and policies.

With regard to County's Greenhouse Gas Reduction Plan, the DEIR dismisses any meaningful analysis because "specific requirements for mining projects to reduce GHGs have not been adopted." (DEIR at 3.6-8.) This reasoning is erroneous. Whether specific requirements exist or not, the County's Plan creates a requirement for GHG reductions – 15 percent by 2020 – for all projects in the County that must be considered in an EIR. The DEIR should have discussed how its emissions could be minimized to avoid conflict with the County's Plan.

16-37 Cont.

As noted above, the DEIR also fails to disclose the cumulative impacts of the South Quarry Project on GHG emissions, particularly arising from the operation of the MCC Plant. The DEIR claims that the continued operations of the MCC Plant is dependent upon the South Quarry Project, but ignores the cumulative and foreseeable impacts of continuing to operate the MCC Plant for an additional 120 years. This omission is significant because the County's Greenhouse Gas Emissions Reduction Plan identifies "cement production plants as ***the primary source of stationary GHG emissions*** within the County's jurisdiction." (DEIR at 3.6-3.)[36] The DEIR thus fails to disclose a primary source of GHG emissions in the County that depends upon the South Quarry Project for its continued operation.

Finally, the DEIR contains no consideration whatsoever of the Project's potential conflict with state reduction goals. This omission must be addressed. Regardless of whether the Project's yearly amortized GHG emissions reach the SCAQMD's significance threshold of 10,000 metric tons/year (DEIR, Appx. B at 26), the DEIR must still consider the separate question of whether the project has the potential to undermine achievement of the GHG reductions required by state law. This is especially important considering the long lifespan of the project. After year 2020, much steeper GHG reductions will be necessary.[37] This means that even if a project's GHG emissions do not currently appear significant by the Air Quality Management District standards, they are likely to become significant in future years.

16-38

D. The DEIR Fails To Analyze The GHG Impacts Of The Destruction Of Trees.

The DEIR further fails to acknowledge the GHG impacts of destroying hundreds or thousands of trees. Trees act as "carbon sinks" that remove carbon dioxide from the atmosphere, and therefore are critical in combating climate change. As such, destruction of trees is a key driver of anthropogenic climate change. The County's *Greenhouse Gas Reduction Plan* explains:

16-39

> The primary sources of anthropogenic CO2 in the atmosphere include the burning of fossil fuels (including motor vehicles), gas flaring, cement production, ***and land use***

[36] *See also* San Bernardino Associated Governments, "San Bernardino County Regional Greenhouse Gas Reduction Plan," (Mar. 2014) at 2-17, available at http://www.sanbag.ca.gov/planning2/greenhousegas/Final_SBCRegionalGHGReduction.pdf.
[37] CARB, First Updated Scoping Plan, *supra* at note 10.

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> ***changes (e.g., deforestation***, oxidation of elemental carbon). CO2 can be removed from the atmosphere by photosynthetic organisms (e.g., plants and certain bacteria).[38]

Here, the South Quarry Project would undoubtedly result in the destruction of many large trees. The DEIR provides that the majority of the Project Area is pinyon-juniper woodlands. (DEIR at 3.3-14.) The Revegetation Plan further states that "Project area is covered by pinyon pine woodland. The entire survey area supports woodlands dominated by singleleaf pinyon (Pinus monophylla)." (DEIR, Appx. L at 4.) However, the DEIR fails to provide any estimate of the number of trees that would be destroyed. More egregiously, the DEIR fails to account for the GHG impacts of destroying these trees. **16-39 Cont.**

Similarly, the DEIR does not consider whether the South Quarry Project is consistent with CARB's Scoping Plan and the California Department of Forestry and Fire Protection's ("CDFF") *2008 Strategic Plan and Report to the California Air Resources Board on Meeting AB 32's Forestry Sector Targets* (the "Strategic Plan").[39] The Strategic Plan sets forth CARB's "No Net Loss" target for the forest sector, and provides that the CDFF will develop a plan to "maintain current sequestration levels in a forest environment that is at risk of losses from land-use change . . . ."[40] (*Id.* at 1.) The DEIR does not explain how the destruction of hundreds or thousands of trees is consistent with the state policy of maintaining current sequestration levels in forests that are at risk to losses from land use changes. The DEIR further fails to demonstrate that the destruction of thousands of trees complies with CARB's Compliance Protocol for U.S. Forest Projects (the "CARB Protocol"). **16-40**

In sum, CEQA and NEPA require a complete analysis of the project's consistency with plans, policies and regulations for GHG reductions. These plans and policies reflect the current climate science indicating that these reduction levels – and more – are necessary to avoid dangerous climate impacts. Meaningful analysis of these impacts requires a comparison between scientifically required reduction goals and the project's contribution toward meeting these reductions.

E. The DEIR Fails to adopt any meaningful mitigation measures to reduce the Project's GHG emissions.

Mitigation of a project's environmental impacts is one of the "most important" functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) NEPA similarly requires the lead agency to consider adopting adequate mitigation measures. Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (Pub. Res. Code § 21002.) **16-41**

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[38] *Id.* at 2-17.
[39] *See* California Department of Forestry and Fire Protection, "2008 Strategic Plan and Report to the California Air Resources Board on Meeting AB 32's Forestry Sector Targets," (Oct. 17, 2008) (available at http://www.climatechange.ca.gov/climate_action_team/forestry/documents/AB32_BOF_Report_1.5.pdf) [hereinafter "Strategic Plan"].
[40] Strategic Plan at 1.

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Despite the South Quarry Project's GHG impacts, the DEIR proposes absolutely no mitigation measures. This is unacceptable and clearly violates CEQA and NEPA. The DEIR's failure to include such measures is especially unfortunate because the EPA has already recommended that the Forest Service include (a) alternative energy components such as distributed solar; (b) incorporate recovery and reuse devices in equipment; (c) include use of electric or alternative transportation fuels during construction and operations; and (d) commit to using high efficiency diesel particulate filters on new and existing diesel engines to provide 99.9 percent reduction in black carbon emissions. (DEIR, Appx. A at 179.) The DEIR did not even consider these measures recommended by the EPA. **16-41 Cont.**

F. The DEIR Fails to Analyze the Energy Conservation Mitigation Measures in the CEQA Guidelines.

The DEIR should analyze whether the energy conservation mitigation measures in Appendix F of the CEQA Guidelines could be adopted as part of the Project. (*See California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 209 (an EIR is defective when it fails to include a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy in accordance with Appendix F of the CEQA Guidelines) [hereinafter "*CCEC*"].) The DEIR also fails to adequately describe the transportation energy impacts of the Project. (*See Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal. App. 4th 256, 264 (EIR invalid because it failed to disclose the transportation energy impacts of vehicle trips generated by the project).) **16-42**

Perhaps most importantly, Appendix F of the CEQA Guidelines requires the EIR to analyze the viability of adding renewable energy systems to the Project in order to mitigate its impacts and "increase[e] reliance on renewable energy sources…" Yet, the DEIR contains no discussion of the appropriateness of renewable energy options for the Project or for the MCC Plant which the DEIR states will continue operating as a result of the Project.

VIII. The DEIR Fails To Contain Any Analysis Of Traffic Impacts.

Despite the fact that the Project will result in substantial traffic impacts from hauling millions of tons of limestone out of the Project Area, the DEIR fails to include a section analyzing traffic impacts. The DEIR similarly fails to offer any mitigation of such impacts. This is improper under both CEQA and NEPA. **16-43**

IX. Mitsubishi Has Failed To Demonstrate That It Will Adequately Reclaim The Land It Is Impacting.

As discussed above, Mitsubishi has only agreed to reclaim a scant 30 percent of the land it will be irreversibly impacting. And such reclamation efforts will not occur for 120 years, which will not be in any of our lifetimes or necessarily while Mitsubishi remains an active and solvent business. Even assuming that reclamation does occur, the remaining 70 percent of the land – public lands that belong to us all – will remain degraded forever. Nonetheless, Mitsubishi has failed to demonstrate that it will even follow through on the limited reclamation efforts promised in the DEIR. For example, one resident of the area noted in a comment letter that a Sierra Club representative asked a Mitsubishi representative about an area near the Project Area **16-44**

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that was covered in a lawyer of cement-like substance. Mitsubishi representatives stated that "Mitsubishi did not intend to do any reclamation of that area because the current owners did not cause the problem." If land owners can avoid reclamation by selling the land, then how can the public be assured that Mitsubishi will follow through and reclaim the Project Area? Given the legacy of toxic sites left by mining companies (many of whom are now longer in business) in California and throughout the country, it is unreasonable for the public to trust Mitsubishi to follow through on promises set to be realized in 120 years. **16-44 Cont.**

X. The DEIR Fails To Adequately Analyze The Impacts of the Project On Biological Resources.

A. The DEIR relies upon the CHMS for Carbonate Endemic Plants, but the CHMS has not yet been initiated.

Generally we support the Carbonate Habitat Management Strategy (CHMS) for the long-term conservation of the carbonate endemic plants. The San Bernardino National Forest adopted the CHMS as part of its Land Management Plan and relied on the CHMS to provide the needed safeguards for its Biological Opinion from U.S. Fish and Wildlife Service for the four federally listed carbonate-endemic plants - Cushenbury buckwheat (*Eriogonum ovalifolium* var. *vineum*), Cushenbury milk-vetch (*Astragalus albens*), Cushenbury oxytheca or puncturebract (*Acanthoscyphus (formerly Oxytheca) parishii* var. *goodmaniana*) and Parish's daisy (*Erigeron parishii*). We note the following problems with the CHMS implementation in general and with the proposed project specifically:

The CHMS was never initiated. It was to commence with "A series of transactions for the addition of the Furnace Unit Stage 1 Priority Areas to the Reserve (the "Initial Furnace Transactions")" (CHMS at pg. 25). To our knowledge these initial transactions never occurred and the Furnace Unit Stage 1 Priority Units are not part of the Habitat Reserve. The CHMS clearly states (at pg. 12): **16-45**

> "Stage 1 Priority Areas. No loss of habitat for Carbonate Plants may occur under the CHMS within any Administrative Unit until most of the valuable Carbonate Plant habitat in the "Stage 1 Priority Areas" within such Unit (see Map 3 in Appendix I) has been
>
> added to the Habitat Reserve (see Section 9(b)(i)). Such habitat in the Stage 1 Priority Areas plus the portion of the Initial Habitat Reserve within each Unit provide a solid base of conservation within each Administrative Unit *that must be part of the Reserve before any loss of Carbonate Plants can occur within that Unit under the CHMS.*" [emphasis original]

The DEIR fails to identify how much of the Stage 1 Priority Areas have been secured in the Habitat Reserve, although it does acknowledge that the Stage 1 Priority Areas "have not yet been sufficiently added to the Habitat Reserve" (DEIR at 3.3-77). Without meeting this initial requirement, the proposal is in violation of the CHMS. Then the DEIR/S disregards the CHMS and proposes an alternate mitigation scenario that is based on "acres of occupied and critical habitat to be lost and conserved are evaluated by species" (DEIR at 3.3-77) but uses the **16-46**

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conservation value determination process in the CHMS, which are based on the Initial Furnace Transactions being completed – which they are not.

The DEIR states that "the Furnace Unit of the Carbonate Habitat Management Area is not fully activated (i.e., the Stage 1 Priority Lands have not yet been sufficiently added to the Habitat Reserve)" (at pg.3.3-77) which is misleading. The CHMS never contemplated a "partial" activation of a unit. The CHMS states (DEIR at 23):

> "Within any Administrative Unit, the following must be added to the Habitat Reserve before <u>any loss of habitat may be authorized</u> under the CHMS within that Unit: *(A)* 100% of the Occupied Habitat that occurs in the Stage 1 Priority Areas; *(B)* 85% of the Suitable Habitat that occurs within the Stage 1 Priority Areas; and *(C)* sufficient additional land to preserve such Occupied and Suitable Habitat in one contiguous patch ("Connective Land")… Upon the addition of <u>all such lands</u> to the Habitat Reserve, ESA Compliance may be obtained in the Unit, and the Unit is deemed to be "Activated." [emphasis added]

16-46 Cont.

Therefore, the proposed approximate 3:1 mitigation is inadequate. In order for the CHMS to be appropriately implemented, the Stage 1 Priority Areas must be added to the Habitat Reserve. This most basic requirement of the CHMS should be implemented by a higher mitigation commitment and aligns with a more robust 5:1 mitigation ratio that is typical mitigation for impacts to occupied habitat and federally designated critical habitat.

Furthermore, because the CHMS was not initiated, any action involving a listed species requires section 7 consultation with FWS, including the preparation of a biological opinion.

16-47

The DEIR further states "The habitat reserve contributions are mostly within the Furnace Unit of the Carbonate Habitat Management Area, and mostly within defined Stage 1 Priority Areas for establishment of habitat reserve" (DEIR at 3.3-77). "Mostly" is a very unclear term and the DEIR/S needs to clearly identify where proposed mitigation lands are the acreage in each Unit. The DEIR proposes two "modifications" which qualify as amendments to the CHMS. First, the proposed project wants to develop inside one of the Stage 1 Priority Habitat Areas in the Furnace Unit. We oppose this proposed amendment because it threatens the very integrity of the CHMS. While the CHMS does allow amendments, the conditions for amendment are addressed on pg. 39 and state:

> "***(b) Amendments.*** Any modification to the CHMS that does not qualify as an administrative change under subsection *(a)* above shall be regarded as an "Amendment." Amendments shall require *(i)* the approval of all MOU Parties that could be adversely affected by the proposed Amendment and *(ii)* the concurrence of the USFWS."

16-48

The proposed 16-acre encroachment also would eliminate 15.4 acres of federally designated habitat for the Cushenbury buckwheat and 0.02 acre of designated critical habitat for Parish's daisy (DEIR at 3.3-77), which is unacceptable.

The second amendment is re-aligning the boundaries between the Helendale and Furnace Units. We could not locate a map of this re-alignment in the DEIR and therefore it is difficult to evaluate the proposal.

\Letter 16 – Continued

In addition, there have been attempts to restore some of the listed plants that are more horticultural experiments than fully functional restoration actions and outcomes. Please identify, reference and supply successful mine disturbance habitat restoration efforts in the local region, where the listed plants have actually been successfully established as well as the habitat upon which they depend which would include numerous other plants and animals. **16-49**

B. Mitigation based upon claim relinquishment must occur prior to approval of the Project.

Part of the proposed mitigation includes segregation and withdrawal of mining claims and relinquishment of those claims by MCC (at pg. 3.3-47) as per CARB-2 which states:

> CARB-2*: MCC shall, upon BLM's withdrawal of approximately 540.4 acres of land from mineral entry, quit-claim specified unpatented mining claims held within the SBNF, and convey specified patented lands, which have been verified by the Forest Service to contain occupied endangered species habitat on an approximately 3 to 1 ratio (species-acres and CHMS conservation value) as mitigation for impacts of the South Quarry project on Cushenbury buckwheat, Cushenbury puncturebract (formerly oxytheca), and Parish's daisy pursuant to the guidance provided by the CHMS as follows: MCC shall determine total project disturbance acreage, to include the South Quarry and haul road as well as rock and debris roll-down areas below them. MCC shall evaluate the Conservation Value of the acreage proposed for disturbance according to the CHMS. (CHMS at 3.3-95 to 96) **16-50**

While we generally support claim relinquishment as part of the larger Habitat Reserve assembly in the CHMS, we note that BLM segregation and withdrawal, which requires its own NEPA process, has failed to be implemented to date by the BLM for conservation obligations for another rare plant, the federally endangered Lane Mountain milkvetch on BLM lands in the west Mojave. The West Mojave Plan Record of Decision was signed in 2006, and required over 10,000 acres of land to be withdrawn from mining as one measure of protection for the milkvetch, which grows no place else on earth. The process was finally initiated in August 2014[41], through segregation, and to date the withdrawal has not been finalized. BLM's delay of eight years to start the process and the failure to complete the process two and a half years later, is not encouraging to us that the segregation and withdrawal proposed here will occur in a timely manner – or at all. The permanent withdrawal, quit-claim and all land transfers must be completed prior to any expansion if the proposed project moves forward.

C. The DEIR does not does not adequately address or mitigate impacts to other rare plants.

Other non-listed but sensitive plant species are identified to occur in the Project Area (at Table 3.3-3). While Coville's dwarf abronia (*Abronia nana* var. *covillei)* is noted to be found on the Project Area as well as habitat reserve lands, the other two species Shockley's rockcress (*Boechera shockleyi*) and San Bernardino Mountains dudleya (*Dudleya abramsii* ssp. *affinis*) are only noted to occur within the proposed quarry area (DEIR at Table 3.3-3). While PLANT-2* **16-51**

[41] https://www.fws.gov/policy/library/2014/2014-20485.pdf

Letter 16 – Continued

states: "MCC will solicit input from the Forest Service and will provide for salvage of rare native plants within the Project Area to be propagated and/or transplanted to protected habitat reserve areas at the discretion of the Forest Service" (DEIR at 3.3-95) a seed collection and transplantation plan needs to be developed. Seed collection and deposition of the seed at a seed bank[42] would insure that seed stock would be available in the future. The effectiveness of salvage and propagation/transplantion would need to be monitored and adaptive management put in place to address successful transplantation into the habitat reserve lands. **16-51 Cont.**

D. The DEIR does not does not adequately address or mitigate impacts to Nelson's Bighorn Sheep (California Fully Protected Species)

The Cushenbury bighorn sheep herd is isolated and declining. The DEIR states "The Cushenbury bighorn sheep herd is currently believed to be about 15 individual animals, down from an estimated 40 to 50 in the 1990s." (at pg. 3.3-30). The incredibly small number of animals in the Cushenbury herd threatens the very existence of the herd absent any additional threats. Data indicates that bighorn sheep herds with fewer than 50 sheep are in danger of extinction within 50 years.[43] Clearly the Cushenbury herd is critically endangered. The DEIR also points to an additional concerning issue as follows:

> Researchers have not validated lambing areas for the Cushenbury herd. CDFW's tracking studies of the Cushenbury herd have found high use of the area between the proposed South Quarry and the existing East Pit, and between the lower and upper slopes of Marble Canyon. The proposed haul road location bisects these two high-use areas. (DEIR at 3.3-30)

16-52

The DEIR also notes that CDFW tracking found that "They [sheep] avoided active mine quarries." At 3.3-30. The proposed project therefore would eliminate a key area that may be a lambing area for the Cushenbury herd - a herd that is already on an extinction trajectory.

The proposed project site appears to be a key area for the Cushenbury herd, which the DEIR recognizes, stating:

> "Some of the area, particularly the rugged area at the north margin of the proposed South Quarry is likely to provide lambing habitat; most of this area would become part of the South Quarry with Alternative 1 – Proposed Action." (DEIR at 3.3-62.)

If either of the proposed alternatives moves forward, the impacts to the Cushenbury herd of Nelson's bighorn sheep would be significant and likely result in "take" because the lambing area would be directly and/or indirectly impacted by active mining and movement corridors would be significantly impacted by the proposed haul road – factors that will hasten the herd towards

[42] The local credentialed seed bank is Rancho Santa Ana Botanic garden http://www.rsabg.org/seed-conservation
[43] Berger, J., "Persistence of Different-sized Populations: An Empirical Assessment of Rapid Extinctions in Bighorn Sheep," 4 Conservation Biology 1 (Mar. 1990), available at http://gallatinwildlifeassociation.org/documents/Berger%20J%201990%20Persistence%20of%20different%20sized%20populations%20-%20an%20empirical%20assessment%20of%20rapid%20extinctions%20in%20bighorn%20sheep%204%2091-98..pdf

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extinction. While the DEIR references the Bighorn Sheep Management Plan, that plan is being written and is not publicly available (personal communication w/CDFW staff).

Despite the mitigation measures BHS1-8, the DEIR concludes and we agree that significant, unmitigable impacts will occur to the Cushenbury herd of Nelson's bighorn sheep. If avoidance of vehicle related mortality/injury is to be effective, BHS-5 needs to include a wildlife bridge over Highway 18. When properly sited wildlife bridges provide unimpeded and safe access across highways[44] and reduce vehicle related mortality and injury for numerous wildlife species including bighorn. **16-52 Cont.**

While we support the creation of the North Slope Bighorn Sheep Conservation Strategy, it is likely that if this Project moves forward, that Conservation Strategy may be a moot point, because the habitat necessary to support the Cushenbury herd of bighorn will be developed and fragmented. Even substantial financial endowments may be inadequate to prevent further declines which are caused by decreasing habitat. While BHS-6 discusses triggers for augmentation of the Cushenbury herd as part of the North Slope Bighorn Sheep Conservation Strategy, without adequate habitat including lambing habitat which both of the proposed alternatives would impact to the degree of making it unusable for bighorn, augmentation of the population would not ensure sustainability of the herd. This herd is already in serious trouble both population size wise and genetically (DEIR at 3.3-30). Eliminating or reducing key functional landscapes – lambing area(s), adequate foraging areas and connectivity for the bighorn – puts the recovery of the herd to sustainable levels further out of reach and makes it much more expensive without any assurances of success. Therefore we oppose the expansion based on this significant, unmitigable impact. **16-53**

In addition, the DEIR's mitigation measure regarding wildlife fencing is vague and unenforceable. GEN-3 states that fencing will be designed to preclude entanglement by bighorn sheep and other wildlife. However, the DEIR states if such wildlife fencing "conflicts" with Mine Safety and Health Administration guidelines, then such fencing will not be used. (DEIR at 2-18.) **16-54**

Draft Raptor Conservation Strategy

The idea of addressing raptor conservation on the north slope of the San Bernardino mountains is a forward thinking and important step in addressing the ongoing declines of these special birds. We note that the Raptor Conservation Strategy is draft and therefore offer the following comments on it.

(1) The strategy includes at least two fully protected raptors under California law, therefore we recommend revising the strategy into a Natural Communities Conservation Plan to provide flexibility in case lethal take occurs in this area of the National Forest. **16-55**

(2) While we support DF-6 which states "No recreational target shooting will occur on NFS lands." (DEIR, Appx. C at 31) additional language needs to be added regarding allowing the **16-56**

[44] Arizona Game and Fish Department, "US Highway 93 Wildlife Overpasses," available at http://www.azgfd.gov/w_c/research_maintain_sheep.shtml.

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use of only non-lead ammunition. California legislation is phasing out the use of lead ammunition to reduce impacts to the environment.[45] Introducing this sensible requirement into the Raptor Conservation Strategy will not only align it with the requirements of the State but will benefit all carrion scavengers. **16-56 Cont.**

As with the other species that will be impacted by the propose project, the diminishing available habitat is of over-arching concern. While we recognize that reclamation of abandoned mining areas is important, the reclaimed lands will never achieve the ability to support species that undisturbed habitat does, particularly on the arid north slope. **16-57**

Even if the draft Raptor Conservation Strategy is improved, finalized and adopted into the LMP for the National Forest, if it is implemented as the CHMS has been – or in that case - not implemented and now proposed for amendments – we do questions the usefulness of the effort. These strategies will only prove their merit through successful implementation. **16-58**

XI. The DEIR Does Not Accurately Analyze The Noise Impacts Of The Project.

The DEIR contains a number of unsubstantiated claims regarding the noise impacts of the Project. For example, in determining the noise impacts of the Project, the DEIR expressly "assumed" that certain activities were occurring for certain amounts of time (e.g., blast alarm operating for 3 percent of the hour). (DEIR at 3.9-12.) The Noise Study also expressly contains these assumptions, but neither the Noise Study nor the DEIR provide evidence supporting these assumptions. (DEIR, Appx. I at 20.) If these assumptions are understated, then the noise impacts of the Project will actually be much greater. **16-59**

The DEIR also expressly ignored noise impacts coming from existing operations in the area – the DEIR states "existing ambient noise levels were not factored into Project operational noise because they are substantially less than Project . . . ." (DEIR at 3.9-12.) Given that there are other mining operations in the vicinity of the Project Area, this claim is probably inaccurate. The DEIR even later states in the Noise section that reasonably foreseeable actions in the area include four other mining projects. (DEIR at 3.9-19.) The DEIR then wrongly concludes that (a) the Project would result in "no impacts" to sensitive receptors, such that (b) the Project would not contribute to significant cumulative impacts. Even if the Project would not result in impacts to "sensitive receptors," that is not dispositive as to whether the Project would cause other noise impacts or contribute to cumulative impacts. And in any event, the DEIR fails to even define the phrase "sensitive receptor," rendering its conclusions vague and/or meaningless. **16-60**

The DEIR further does not support the claim that "when two noise levels are 10 dB or more apart, the lower value does not contribute significantly (less than 0.5 dB) to the total noise level." (*Id.*) Even if this claim is accurate, there is still the possibility that significant noise sources from other operations taken with the Project will cause very significant noise impacts. The DEIR does not adequately analyze that possibility. **16-61**

The DEIR also misleadingly states that "The Project does not propose any new noise sources." The Project may involve noises in a ***similar category*** as existing mining operations, **16-62**

[45] https://www.wildlife.ca.gov/hunting/nonlead-ammunition

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but the sources of noise under the Project will be different location and thus will impact different sensitive receptors, such as Nelson's Bighorn Sheep. As discussed above, the project may impact areas used by Nelson's Bighorn Sheep for lambing. Obviously noise impacts could significantly disrupt these activities. **16-62 Cont.**

XII. The DEIR Does Not Accurately Disclose The Cumulative Impacts Of The Project.

CEQA defines "cumulative impacts" as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines § 15355.) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project "when added to other closely related past, present, and reasonably foreseeable probable future projects." (CEQA Guidelines § 15355(b).) And while an agency is not expected to foresee the unforeseeable, it is expected to use its "best efforts to find out and disclose all that it reasonably can." (CEQA Guidelines § 15144; see also *City of Richmond*, *supra*, 184 Cal.App.4th at 96; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 428 [hereinafter "*Vineyard*"].) NEPA similarly requires the analysis of cumulative impacts. **16-63**

The purpose of analyzing cumulative environmental impacts is to assess adverse environmental change "as a whole greater than the sum of its parts." (*Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 625.) Absent meaningful cumulative analysis there would be no control of development and "piecemeal development would inevitably cause havoc in virtually every aspect of the [] environment." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721.)

As a preliminary matter, the DEIR does not even include a separate section on cumulative impacts. Instead, any discussion of cumulative impacts is included in a piecemeal manner in the DEIR. For example, in the biological resources section, the DEIR refers to a list of projects that may contribute to cumulative biological impacts, but the DEIR does not actually discuss the potential impacts these projects would bring to various resources anywhere else in the cumulative analysis section. (*See* DEIR at 3.3-78.) The DEIR also fails to conduct any analysis regarding the foreseeable cumulative impacts associated with these projects. To the extent the other sections of the DEIR mention cumulative impacts, these sections suffer from the same defect. Moreover, as noted above, the DEIR nowhere considers the cumulative impacts of operating the MCC Plant for another 120 years. The DEIR must be re-circulated to include an adequate analysis of additional cumulative impacts resulting from the Project, as well as from the foreseeable projects identified. **16-64**

The DEIR's cumulative impacts discussion also is deficient because it does not properly "define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic area," which the CEQA Guidelines clearly require. (*See* Guidelines § 15130(b)(3)). **16-65**

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XIII. The DEIR Does Not Adequately Analyze The Growth-Inducing Impacts Of The Project.

EIRs are required to provide a detailed discussion regarding the growth-inducing impacts of a project. (Guidelines §§ 21100(b)(5); 21156.) *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 369 sets forth three factors to determine the level of detail required in a growth-inducing impacts analysis: (a) the nature of the project; (b) the directness or indirectness of the contemplated impact; and (c) the ability to forecast the actual effects the project will have on the physical environment. (*Id.*) NEPA requires a similar analysis. Applying these factors here, the DEIR should have contained a detailed analysis regarding growth-inducing impacts because (a) the Project at issue is quite large, is sited in an area with no existing development, and includes the development of mining infrastructure that may act as a catalyst for future development and/or mining operations in the area; and (b) the Project will result in direct impacts in the area by paving the way for future development or mining operations through infrastructure. Despite these requirements, the DEIR spends only half of a page considering the growth-inducing impacts of the Project. This is plainly inadequate under *Napa Citizens.* **16-66**

Furthermore, in the growth inducing impacts analysis, the DEIR does not acknowledge that the Project is an extension of an existing mining project (as analyzed in the 2004 EIR). In turn, the project described in the 2004 EIR is an expansion of an earlier project. One mining project has led to another and then to another. The DEIR should have realistically assessed whether the Project will lead to yet another mining project or an extension of an existing mining project. Likewise, the DEIR should have considered the extent to which the Project will result in further modernization or expansion of the MCC Plant. **16-67**

The DEIR's growth inducing impacts analysis also is deficient because "growth inducing impacts" are narrowly defined as "the amount of population or employment growth projected to occur as a result of the project would exceed planned levels." (DEIR at 4-3.) Growth inducing impacts can involve more than just population or employment growth. In addition, the DEIR does not define what is meant by "planned levels." The DEIR should clarify what "planned levels" are referred to here. **16-68**

XIV. Conclusion.

Given the possibility that the Conservation Groups will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA and NEPA, the Conservation Groups would like to remind the Forest Service and the County of their duties to maintain and preserve all documents and communications that may constitute part of the "administrative record." As you may know, the administrative record encompasses any and all documents and communications which relate to any and all actions taken by the Forest Service and/or the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) NEPA contains similar requirements. The administrative record further contains all correspondence, emails, and text messages sent to or received by the Forest Service's or the County's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the Forest **16-69**

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Service's or the County's representatives or employees and the Project Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the Forest Service and the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

16-69 Cont.

Thank you for the opportunity to submit comments on the Project. We look forward to working to assure that the Project and environmental review conforms to the requirements of state law and to assure that all significant impacts to the environment are fully analyzed, mitigated or avoided. In light of many significant, unavoidable environmental impacts that will result from the Project, we strongly urge the Project not be approved in its current form. Please do not hesitate to contact the Center with any questions at the number listed below. We look forward to reviewing the Forest Service's and the County's responses to these comments in the Final EIR for this Project once it has been completed.

Sincerely,

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Responses to Letter 16 – Center for Biological Diversity and California Native Plant Society

Response to Comment 16-1:

This comment generally asserts that the Project would have significant environmental impacts, that the Draft EIR/EIS is inadequate, and that the Project analyzed in the Draft EIR/EIS should not be approved. This comment also provides information on the Center for Biological Diversity (CBD) and the California Native Plant Society (CNPS). To the extent this comment addresses the Draft EIR/EIS's environmental analysis, more detailed responses to CBD/CNPS's comments are provided below. This comment is otherwise noted for the record.

Response to Comment 16-2:

This comment states that the Draft EIR/EIS does not contain an accurate, stable, or finite project description because the analysis is premised on the Project merely shifting a portion of the existing limestone production from the East and West Pits to the South Quarry, but nothing in the Draft EIR/EIS requires production from the East and West Pits to be reduced by an amount equal to South Quarry production.

The South Quarry is an independent Project and is accurately described in Section 2.3 of the Draft EIR/EIS using text, tables, and exhibits. Operation of the onsite cement plant (the Cushenbury Cement Plant) and mining in the East and West Pits will continue regardless whether the South Quarry Project is approved (*See* Alternative 3 – No Action/No Project). Additionally, none of the components of the South Quarry Project would increase the capacity of the existing Cushenbury Cement Plant; the capacity of the existing Cushenbury Cement Plant would remain the same with or without the Project (*See* Alternative 3 – No Action/No Project). Therefore, production from the South Quarry would naturally displace an equivalent amount of production from the East and West Pits.

MCC mines limestone to support its existing cement manufacturing operation at the Cushenbury Cement Plant. The East Pit has been in operation since approximately 1947 and, during the 1960s and 1970s, the quarry produced limestone for then-owner Kaiser Cement for use at the Cushenbury Cement Plant, as well as for Kaiser Steel's Fontana plant. (County of San Bernardino 2003 – *Draft EIR for West Pit Expansion,* p. 3-7.) However, MCC purchased the Cushenbury facilities in 1988, and MCC has no affiliation with steel production in Fontana. Thus, when MCC developed the West Pit expansion project, it was to ensure a continuing stream of limestone feed to sustain cement production at the Cushenbury Cement Plant in anticipation of declining reserves in the East Pit. The West Pit was reviewed under CEQA and approved in 2004, and development commenced shortly thereafter. Just as with the West Pit project, the South Quarry Project is proposed to ensure a continuing stream of limestone feeds – blending various grades in the right proportions – to sustain cement production at the existing Cushenbury Cement Plant. No change in capacity of the Cushenbury Cement Plant is proposed for any alternative, including Alternative 3 - No Action/No Project.

None of the alternatives propose to add any equipment for exporting raw limestone rock. Similarly, none of the alternatives increases the capacity of the existing cement kiln or related cement manufacturing equipment. Therefore, as limestone ore is produced in the South Quarry, it would naturally take the place of rock that would otherwise be produced from the East and

West Pits. In other words, the rate of production from the East and West Pits would be reduced as rock from the South Quarry is blended with rock from the East and West Pits to achieve the necessary characteristics for cement production. Slower production from the East and West Pits would be a natural consequence of mining the South Quarry. The Draft EIR/EIS evaluates the potential environmental impacts of shifting a portion of the limestone production from the East and West Pits to the South Quarry (Alternative 1 – Proposed Action), offsite sources (Alternative 3 – No Action/No Project), or a combination of the South Quarry and offsite sources (Alternative 2 – Partial Implementation). For a further explanation of the transfer of limestone production from the East and West Pits to the South Quarry, see Master Response No. 4.

Note also that the operation of the Cushenbury Cement Plant must comply with the requirements established in the facility's Title V Operating Permit, issued by the Mojave Desert Air Quality Management District (MDAQMD) pursuant to federal law, California law, and the rules and regulations of the MDAQMD. The current version of the permit limits emissions from the cement kiln to 2.8 or 3.4 pounds of NOx per ton of clinker produced (depending upon the fuel burned), and a total of 2,640 tons of NOx per year (*See* Federal Operating Permit # 011800001, revised January 23, 2018, Part III § A.36 Condition 5). These limits are based on recent historical data relating to the tons of cement clinker produced in the kiln and the associated NOx emissions, together with the information on the types of fuels allowed to be burned in the kiln. As stated above, none of the proposed alternatives would increase the capacity of the cement kiln. Additionally, none of the proposed alternatives would increase the annual NOx limit. Accordingly, it would not be possible for the kiln to process an additional 1.3 million tons of limestone ore per year into cement without violating the permit limit on annual NOx emissions. No further limiting condition is needed.

Response to Comment 16-3:

This comment states that the project description in the Draft EIR/EIS is insufficient because the 2003/2004 EIR for the West Pit Expansion Project assumed that the West Pit included the necessary grades of limestone to blend for cement plant feed, and the South Quarry Draft EIR/EIS does not provide documentation for the statement that the West Pit does not contain enough high-grade limestone to supply MCC's Cushenbury Cement Plant for the life of the plant.

As explained at p. 1-8 of the Draft EIR/EIS, the West Pit expansion was approved for 191 acres to the west of the existing East Pit, with approximately 217 million tons of limestone reserves in 2004. Before that approval in 2004, geological surface sampling in the West Pit suggested that the West Pit contained the varying grades of limestone required to blend as feed to MCC's existing Cushenbury Cement Plant. Subsequent to approval of the West Pit, additional information was developed through exploratory core drilling in 2008. The core drilling included five drill holes and a cumulative 3,950 feet drilled. The results showed that the West Pit primarily contains low-grade limestone, meaning the West Pit does not contain the amount of high-grade limestone needed to blend with the lower grades of limestone to meet the feed specifications for the existing Cushenbury Cement Plant. Those test results were the basis for the need for MCC to pursue the South Quarry Project.

Before pursuing the South Quarry Project, MCC sought and obtained approval from the Forest Service to evaluate the South Quarry site using a drill rig brought in by helicopter. In 2010, MCC drilled ten holes to better define the subsurface geology of the South Quarry site.

Cumulatively, approximately 4,860 feet were drilled, with the deepest hole being 850 feet. Those tests showed the South Quarry has sufficient high-grade limestone to blend with the lower-grade limestone that would be extracted from the West Pit to feed the existing Cushenbury Cement Plant.

The specific results of the testing conducted at the West Pit and South Quarry are not subject to public disclosure because they constitute proprietary information of competitive value. Neither CEQA nor NEPA requires disclosure of proprietary information relating to the drilling program. However, as noted above, drilling in the South Quarry area was subject to prior Forest Service review and approval, and the Forest Service and County staff reviewed the geological information that resulted from MCC's drilling program.

CEQA requires a project description to include: (a) the precise location and boundaries of the proposed project on a detailed map; (b) a statement of the project's objectives; (c) a general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities; and (d) a statement briefly describing the intended uses of the EIR. (CEQA Guidelines, § 15124.) NEPA requires an environmental impact statement to describe the purpose and need for a proposed action and the alternatives to the proposed action that were evaluated (40 C.F.R. §§ 1502.13, 1502.14). Chapters 1 and 2 of the Draft EIR/EIS satisfy those requirements.

Response to Comment 16-4:

This comment summarizes the requirements for an alternatives analysis, and then states that the Draft EIR/EIS's alternatives analysis is inadequate, and the Draft EIR/EIS fails to include a reasonable range of alternatives. As explained further in Master Response No. 2, the Draft EIR/EIS evaluated an adequate range of alternatives.

This comment states that the Draft EIR/EIS's alternatives analysis is inadequate under CEQA and NEPA because the Project's purpose, need, and stated objectives are impermissibly vague. Under the CEQA Guidelines, a project description in an EIR must include a "statement of the objectives sought by the proposed project" (CEQA Guidelines § 15124(b)). The CEQA Guidelines further state that "[a] clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project." (CEQA Guidelines § 15124(b)). NEPA similarly requires an environmental analysis to include a statement of purpose and need, which shall "briefly specify the underlying purpose and need to which an agency is responding in proposing the alternatives including the proposed action." (40 C.F.R. § 1502.13.) A project's purpose and need under NEPA also helps dictate the range of reasonable alternatives that an agency must evaluate (*See Westlands Water Dist. v. U.S. Dept. of Interior* (9th Cir. 2004) 376 F.3d 853, 865). The Draft EIR/EIS's description of the Project's purpose, the need for the environmental review, and the specific project objectives is reasonable. It is sufficiently targeted to give the decision makers an understanding of the purpose underlying the Project and to aid the agencies in developing a reasonable range of alternatives to analyze.

The Project's purpose and need and project objectives are stated in Section 1.5 of the EIR/EIS. As described in Section 1.5.1.1 the purpose of the action (NEPA) is to respond to MCC's Plan of Operations and Reclamation Plan in a manner that is compliant with federal law, including meeting the requirements of the regulations for environmental protection in 36 CFR 228.8 and

other laws listed in Section 1.5.1.1. The Project's purpose also includes minimizing adverse impacts and compliance with environmental regulations as listed in Section 1.5.1.1. As stated in 1.5.1.2, the Forest Service's need for action is the regulatory obligation under the mining laws of the United States to respond to a proposed Plan of Operations.

The Project objectives under CEQA are provided in Section 1.5.2 (Draft EIR/EIS, p. 1-13). Those objectives include (i) developing a high-grade limestone resources to blend with the existing East and West Pits' limestone to supply the required feed specifications for the adjacent existing Cushenbury Cement Plant for an extended period; (ii) supplying cement for construction and other uses in an efficient and environmentally sound manner; (iii) continuing to realize the economic value from the investment made in the existing Cushenbury mine and cement plant and limestone resources at the Project site; (iv) avoiding logistical and environmental costs associated with non-contiguous operations; (v) meeting the Forest Service regulations to cause no undue and unnecessary degradation; (vi) meeting the State and County Surface Mining and Reclamation Act requirements; (vii) being consistent with the intent of the SBNF's Carbonate Habitat Management Strategy to provide long-term protection for the rare carbonate endemic plants through contribution of lands to the Carbonate Habitat Reserve; (viii) minimizing impacts to rare plants and wildlife through quarry design and offsite mitigation; (ix) reclaiming the site for post-mining uses that would include open space and wildlife habitat; (x) contouring mining features and revegetating disturbed areas to minimize aesthetic and erosion impacts; and (xi) reclaiming and maintaining the site as necessary to eliminate hazards to public safety.

The comment states that the Project objective cannot be narrowly contrived for the purpose of excluding competing "reasonable alternatives." In this case, MCC's ownership of the existing Cushenbury Cement Plant and its need to obtain the necessary balance of raw materials to continue to produce cement at the plant comprise the underlying factual context and motivation for the South Quarry Project and submittal of the Plan of Operations and Reclamation Plan. The approval or denial of the Plan of Operations and Reclamation Plan is the discretionary action that triggers both CEQA and NEPA. The project proponent's ownership or control of the proposed Project site is relevant in defining the range of alternatives evaluated in the EIR/EIS, because lack of ownership or control over alternative sites may have "a strong bearing on the likelihood of a project's ultimate cost and the chances for an expeditious and successful accomplishment'" of the project, and thus the feasibility of those alternative sites (*See Citizens of Goleta Valley v. Supervisors of Santa Barbara County* (1990) 52 Cal. 3d 553, 574). In the same vein, where the project proponent owns and operates existing facilities or infrastructure that will be served by the proposed project, the location and nature of those existing facilities, and the extent to which alternative locations can effectively and efficiently serve those existing facilities, is relevant in assessing the feasibility of the alternatives. Nevertheless, Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project evaluate the impacts of obtaining high-grade limestone from three possible off-site sources that are not owned or controlled by MCC (*See* Master Response No. 3 for additional information).

When reviewed as a whole, the Project objectives address the underlying purpose of the Project and assist the decision makers in developing and evaluating a reasonable range of alternatives. As explained further in Master Response No. 2, the Draft EIR/EIS explored a range of alternatives that might achieve the project objectives, including alternatives with varying mine designs and geographic scope, projects with a shorter duration/smaller footprint (Alternative 2 – Partial Implementation), and an alternative that would obtain high-grade limestone from an off-site source (Alternative 3 – No Action/No Project) to address the potential environmental

impacts of the Proposed Action. Given the broad range of project objectives, which includes both objectives specific to developing the resources at the Project site and broader economic and environmental protection goals, the objectives provide the decision makers with a frame of reference to compare and evaluate the potential alternatives to the Project. The described purpose and project objectives, therefore, are reasonable and not impermissibly narrow or vague.

This comment describes the following specific project objectives as impermissibly vague: realizing the economic value from the investment made in the existing Cushenbury mine and cement plant and limestone resources at the Project site; and developing high-grade limestone resources to blend with the existing East and approved West Pits' limestone to supply the required feed specifications for the adjacent existing Cushenbury Cement Plant for an extended time.

With respect to realizing the economic value from the investment made in the existing Cushenbury Cement Plant and limestone resources at the Project site, MCC has been operating the Cushenbury Cement Plant and developing the limestone resources in the vicinity since 1988. Developing limestone resources under MCC's control in proximity to the Cushenbury Cement Plant is the basis of the Plan of Operations and Reclamation Plan that are under consideration by the Forest Service and the County; therefore, this objective is relevant. Further, this objective has not been used to artificially restrict the range of alternatives considered, or as the basis for rejecting any alternative as infeasible, and the comment does not identify any alternative improperly excluded from consideration on this basis. In fact, two of the three alternatives (Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project) would result in the use of offsite mines that are not under MCC's control to supply the Cushenbury Cement Plant with high-grade limestone. Rather, this objective has avoided analysis of mining projects that might be conceived to feed some different cement manufacturing plant. Therefore, mining projects aimed at supporting other cement plants are not within a reasonable range of alternatives for the proposed Project. Likewise, and as further discussed below, this objective has avoided analysis of mining projects that would not produce the high-grade limestone needed to blend with the ore from the East and West Pits, because the Cushenbury Cement Plant has sufficient access to lower grades of rock in the East and West Pits.

With regards to the Project objective describing the "required feed specifications," historically, it has taken a blend of approximately 50 percent low and medium grade limestone and 50 percent high-grade limestone to produce cement at the Cushenbury Cement Plant. If low and medium grade ores alone were sufficient to feed the Cushenbury Cement Plant, there would be no reason for MCC to propose the Project because low and medium grades are present in large quantities in the West Pit. The chemistry of the excavated rock is constantly assessed, and the precise blend of rock is adjusted based on grade and other factors, including the amount of magnesium and other undesirable compounds present in places in the ore body. The ore blending also takes into account the type of cement being manufactured, which determines suitability for different end uses. The Portland Cement Association explains the many different types of cement, including references to the standards and specifications published by the American Society for Testing and Materials (ASTM) and different nomenclature used by some state agencies (*See* http://www.cement.org/cement-concrete-applications/concrete-materials/cement-types). The Cushenbury Cement Plant has historically produced, and currently produces, the following types of cement: Portland cements, including Type II, Type III, Type V, premium, hydraulic and masonry cements; plastic cement; and block cement. The South Quarry Project would not alter the Cushenbury Cement Plant or change the types of cement produced at the Cushenbury

Cement Plant. Most important, again, this Project objective (i.e., feed specifications) has not been used to artificially constrain consideration of alternatives or as the basis for rejecting suggested alternatives or alternative sites as infeasible, and the comment does not identify any alternative improperly excluded from consideration or rejected as infeasible due to this project objective.

With regards to the Project's duration, Section 2.3.1.1 of the Draft EIR/EIS notes that the amount of lower-grade limestone in the East and West Pits is sufficient to supply the existing cement plant for approximately 120 years, when blended with high-grade limestone. The extent of mining proposed by MCC in the South Quarry was designed to ensure that the amount of high-grade limestone evaluated for development would be sufficient to blend with the low and medium grades of limestone ore present in the East and West Pits. However, again, the consideration of alternatives has not been limited to Project alternatives that would provide rock for 120 years. Alternative 2 would provide high-grade limestone for only approximately 40 years, and Alternative 3 would not provide high-grade limestone on the South Quarry site at all.

Finally, this comment states that the project objectives do not explicitly state that the Project must produce 1.3 million tons of limestone ore per year. Refer to the response to comment 16-3 and previously in this comment response for an explanation of the need for a source of high-grade ore to blend with the low- and medium-grade ores available in the East and West Pits. The existing Cushenbury Cement Plant has a capacity of 2.6 million tons per year of limestone feed. At a 50/50 blend of high-grade and lower-grade ores, this means that 1.3 million tons per year of high-grade is needed to sustain production. That said, neither the Draft EIR/EIS nor the comment identifies an alternative source of high-grade limestone that was rejected because it would not produce precisely 1.3 million tons per year of high-grade limestone. As such, this project objective has not impermissibly constrained consideration of alternatives.

Response to Comment 16-5:

This comment states that the Draft EIR/EIS's conclusions addressing the potential environmental impacts of the No Action/No Project Alternative is impermissibly based on the assumption that MCC's Cushenbury Cement Plant will continue to operate for 120 years. As stated on page 2-2 of the Draft EIR/EIS and SB 6 of the proposed Plan of Operations and Reclamation Plan for the Project, the proposed South Quarry would be mined for up to 120 years because the amount of lower-grade limestone in MCC's existing East and West Pits is sufficient to feed the existing Cushenbury plant for approximately 120 years when blended with an equal amount of high-grade limestone. (The proposed Plan of Operations and Reclamation Plan is available on the SBNF website at https://www.fs.usda.gov/project/?project=36511.) Cement plants are capital-intensive, are usually constructed close to the source of limestone that will feed the plant, and, where feasible, close to major markets for that cement. Because the Cushenbury Cement Plant already exists and operates close to the existing sources of limestone in the East and West Pits, the No Action/No Project Alternative reasonably assumes MCC will not abandon that capital investment and will continue to operate the existing quarries and Cushenbury Cement Plant as long as a supply of limestone exists to feed the plant. Based on the existing supplies in the East and West Pits, it is expected that the Cushenbury Cement Plant will continue to operate for 120 years no matter which alternative is selected to obtain the high-grade limestone.

This comment does not provide any data or substantial evidence to support the conclusion that the Cushenbury Cement Plant will not or could not operate for 120 years. This comment states

that the "lifetime of a cement plant is usually only 30 to 50 years," citing a report published in 2009 from the Cement Sustainability Initiative (a member-led program of the World Business Council for Sustainable Development) ("CSI Report"). That report, entitled "Development of State of the Art-Techniques in Cement Manufacturing: Trying to Look Ahead" (available at http://www.wbcsdcement.org/pdf/technology/Technology%20papers.pdf), sought to describe and evaluate technologies that might increase energy efficiency and reduce greenhouse gas emissions from global cement production. The report provides background on the status of cement manufacturing (as of 2006) and states, "[a]s cement manufacturing is highly capital intensive, the lifetime of cement kilns is usually 30 to 50 years." (CSI Report, p. 8.) However, in light of the magnitude of the initial capital investment, cement plants typically experience on-going upgrades and re-investment, as confirmed by the CSI Report: "On the other hand, the technical equipment of cement kilns is modernized continuously, meaning that often after 20 or 30 years most of the original equipment has been replaced (e.g., preheater cyclones, clinker cooler, burner, etc.)." This has been the case with the Cushenbury Cement Plant in the past, and it is expected that the equipment will continued to be modernized as necessary on an on-going basis so long as the limestone reserves are available. As the CSI Report confirms, the components of a cement plant are typically modernized as technology advances. Therefore, the EIR/EIS's assumption that the Cushenbury Cement Plant will continue to operate so long as the limestone reserves are present in the approved East Pit and West Pit is a reasonable assumption.

This comment further states that the Draft EIR/EIS should analyze the impacts of modernization of the existing Cushenbury Cement Plant, if the South Quarry Project is dependent on the cement plant being rebuilt or modernized. As further explained in response to Comment 16-37, operation of the Cushenbury Cement Plant needs not be included in the evaluation of the South Quarry Project, since operation of the Cushenbury Cement Plant is part of the baseline and is not dependent on this Project. The existing Cushenbury Cement Plant and East and West Pits will continue to operate regardless whether the South Quarry Project is approved, as reflected in the analysis of Alternative 3 – No Action/No Project Alternative. This comment provides no information showing that MCC would abandon the existing Cushenbury Cement Plant and existing quarries if the South Quarry Project is not approved. In light of the existing approvals for the Cushenbury Cement Plant and East and West Pits, that would remain in place for all alternatives, it is more reasonable to assume that operation of the existing Cushenbury Cement Plant and East and West Pits would continue, with high-grade limestone coming from a source farther away, such as those considered under Alternatives 2 and 3. As such, continued operation of the existing Cushenbury Cement Plant is not dependent on the South Quarry Project.

Likewise, the Draft EIR/EIS need not evaluate the environmental impacts associated with a speculative future rebuild of components of the Cushenbury Cement Plant or unspecified future modernization efforts. MCC has not proposed to modify the existing Cushenbury Cement Plant. The CSI Report explained that modifications often incorporate new technologies as they develop. As such, the nature of future modifications, if any, and their potential impacts are currently unknown, making it impossible to conduct meaningful environmental review at this time. Also, it should not be assumed that all modernizations and upgrades would trigger review because incorporation of new technologies as they develop may allow the Cushenbury Cement Plant to operate with less environmental impact (See, e.g., *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d. 827 [County properly applied CEQA exemption to proposed modernization of cement plant, including replacement of kilns and upgrade of air pollution controls.]). Applicability and appropriate scope of environmental review will be determined by the County or another lead agency at the time – if any – that modifications are proposed.

Response to Comment 16-6:

This comment states that the Draft EIR/EIS should have considered the purpose of the Project and whether uses that would potentially use the Project could be accommodated in existing areas as part of the analysis for Alternative 3 – No Action/No Project. It is not clear what the comment means by accommodating potential Project uses in the existing area. To the extent the comment refers to sources of high-grade limestone, the Draft EIR/EIS describes the types of resources in the existing West Pit, including that high-grade resources are not present in the West Pit in sufficient quantities. The Draft EIR/EIS also discusses efforts to locate high-grade limestone on its other claims in the San Bernardino Mountains. In addition, the discussion of Alternatives 2 and 3, including the information in these responses to comments, identifies potential sources of limestone outside of MCC's claims. The comment does not mention any other potential high-grade limestone source that might be considered.

The Draft EIR/EIS's discussion of Alternative 3 No Action/No Project includes discussion of the purpose of and need for the proposed Project. (Draft EIR/EIS, pp. 2-53 to 2-57.) Without the Project, it is expected that the existing Cushenbury Cement Plant would continue to operate and would need an alternative source of high-grade limestone to blend with the ore reserves in the approved West Pit to meet the feed specifications of the existing Cushenbury Cement Plant. Without the Project, MCC would continue to operate the Cushenbury Cement Plant for approximately 120 years, based on the ore reserves present in the approved West Pit.

CEQA Guidelines Section 15126.6 requires a lead agency to evaluate a "no project alternative" to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. NEPA also requires a lead agency to evaluate the "alternative of no action" to a proposed project. (40 C.F.R. § 1502.14(d).) For a proposed project, the no action alternative means that the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward. (Council on Environmental Quality's ("CEQ") Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, Question 3, 46 Fed. Reg. 18026, 10827 (1981).) When no action by the agency would result in predictable actions by others, those consequences should be included in the analysis. As explained further in the Draft EIR/EIS, without the South Quarry Project, the Cushenbury Cement Plant would continue to operate, but would not have a supply of high-grade limestone onsite to blend with the lower quality limestone from the West Pit to feed the Cushenbury Cement Plant. Accordingly, the No Action/No Project alternative accounted for the environmental consequences of the predictable actions of trucking in high-grade limestone from elsewhere in the region.

This comment further states that the Draft EIR/EIS should have analyzed whether existing mining operations in the area could supply sufficient limestone to the Cushenbury Cement Plant, or whether the Cushenbury Cement Plant could continue to operate by processing less limestone. The Draft EIR/EIS includes Alternatives 2 and 3, both of which evaluate using offsite mining operations to provide high-grade limestone for all or part of the life of the West Pit. Limestone sources immediately adjacent to the Project site in the Desert Rim Place (e.g., from other large-scale mines owned by SMI and Omya) would lead to significant environmental impacts related to biological resources and scenic impacts similar to those from Alternative 1, the proposed South Quarry Project. As explained further in Master Response No. 3, regional sources of high-grade limestone that potentially could feed the Cushenbury Cement Plant and result in different

environmental impacts are the Moapa limestone deposit in Nevada, and the Amboy Limestone Quarry and Big Maria Mountains Limestone Deposits in California. The impacts of using these alternative sources are evaluated as part of Alternatives 2 and 3. Trucking in high-grade limestone would result in greater air quality/climate change, noise, and traffic impacts than Alternative – Proposed Action.

With respect to whether the Cushenbury Cement Plant could operate by processing less limestone, one of the Project objectives is to help supply the required feed specifications for the adjacent existing Cushenbury Cement Plant. MCC owns and operates the existing Cushenbury Cement Plant – and has (in the East and West Pits) an immediately adjacent supply of lower-grade limestone capable of supplying the cement plant for 120 years, using the existing capacity of the Cushenbury Cement Plant. In this context, if the South Quarry Project is not approved (Alternative 3 – No Action/No Project) or is approved for a shorter period of time (Alternative 2 – Partial Implementation), it is reasonable to assume that MCC will seek a supply of high-grade limestone elsewhere in the region, rather than cease or reduce operation of the existing Cushenbury Cement Plant and West Pit. Therefore, the assumptions underpinning Alternatives 2 and 3 are reasonable, and the additional alternative suggested by the comment (i.e., a reduction in Cushenbury Cement Plant processing rates) is not reasonable.

This comment further states that the Draft EIR/EIS does not provide support to dismiss the offsite alternative because the offsite alternative assumed continued operations of the Cushenbury Cement Plant. As explained further above and in response to Comment No. 16-5, the County and Forest Service reasonably assumed the Cushenbury Cement Plant would continue to operate for as long as the onsite limestone resources can feed the cement plant. The West Pit has enough ore reserves to supply the Cushenbury Cement Plant with the low-grade limestone for 120 years. Also note that both Alternatives 2 and 3 incorporate using an alternative, off-site source of high-grade limestone for a portion or all of the period covered by the proposed Project.

This comment further states that the analysis of Alternative 2 is flawed because it assumes the MCC Plant will operate for 120 years and does not provide information on the distance for the limestone that would have to be trucked into the Project site. For a further response regarding forecasting future actions and environmental changes, see response to Comment No. 18-1. For a further response to the comment addressing alternative sources of limestone, see Master Response No. 3.

Response to Comment 16-7:

This comment states that the Draft EIR/EIS alternatives analysis is flawed because the Draft EIR/EIS did not analyze alternative quarry sites or a smaller project. As further explained in Master Response No. 2, the Draft EIR/EIS considered a reasonable range of alternatives, including off-site alternatives and a smaller project, both in project duration and footprint. Alternative 2 – Partial Implementation is both of shorter duration and smaller footprint than the proposed Project and was thoroughly analyzed in the Draft EIR/EIS. Alternative 2 has a smaller quarry area (108 acres compared to 128 acres for the proposed Project), has a smaller area for the total disturbed area (133.6 acres compared to 153.6 acres), would result in a smaller amount of excavated material (58.2 million tons compared to 174 million tons), and would have a shorter duration for operation (40 years compared to 120 years). The analyses of Alternative 2 (after approximately 40 years) and Alternative 3 also include the impacts of utilizing alternative, offsite

quarry sites to obtain high-grade limestone. The alternatives analysis was not limited to limestone resources controlled by MCC. None of the off-site sources considered under Alternatives 2 and 3 are under MCC's control.

With respect to the suggestion that the Draft EIR/EIS should have considered an alternative under which MCC reduces the processing rates at its existing Cushenbury Cement Plant, MCC has not sought a discretionary approval relating to the operation of the Cushenbury Cement Plant. Therefore, if the Project is not approved (Alternative 3), or is approved for a shorter life/smaller footprint (Alternative 2), it is reasonable to assume that MCC would use alternative sources of high-grade limestone to blend with the low-grade limestone in the West Pit, rather than ceasing operation of the existing Cushenbury Cement Plant. It is not reasonable to assume that MCC would voluntarily curtail its existing cement manufacturing capacity, and the comment does not provide any information to the contrary.

This comment further states that the Draft EIR/EIS should have included a quantitative comparison between the Project's impacts and the proposed alternatives' likely impacts. The Draft EIR/EIS includes extensive comparison of the impacts of the various alternatives, and the impacts are quantified where reasonable and feasible to do so. Additional information regarding the potential air quality and greenhouse gas impacts of Alternatives 2 and 3 is provided in Master Response 3 and has been added to the Final EIR/EIS.

With respect to traffic, as identified in the Draft EIR/EIS, Alternatives 2 and 3 would lead to approximately 52,000 additional haul truck trips on public roads per year (approximately 150 trips per day) from off-site mines to the Cushenbury Cement Plant. Given the locations of the alternative limestone sources identified for Alternatives 2 and 3, those truck trips would likely access the Cushenbury Cement Plant from State Highway 18 or State Highway 247. As identified in the Circulation and Infrastructure element of the Lucerne Valley General Plan, the segments of State Highways 18 and 247 near the Cushenbury Cement Plant generally operate at acceptable levels of service, so the addition of 150 trips per day would not likely degrade traffic on those road segments to an unacceptable level of service. It is possible, but also low likelihood, that the addition of 150 trips per day could lead to unacceptable traffic impacts on roads and highways outside the Project area and outside the jurisdiction of the County and the Forest Service, but given the distance of travel outside of the Project area (128 to 248 miles each way, depending on the source) and the various routes the haul trucks may take, quantitative analysis of the impacts of those truck trips on level of service for each roadway segment along each of the alternative routes was impractical.

It should also be noted that the approach regarding analysis of traffic impacts is evolving from level of service as the best measure of significance. Rather, agencies are beginning to look instead to vehicle miles travelled, because an increase in vehicle miles travelled can result in an increase in a range of environmental impacts including: emissions of GHGs, toxic pollutants and other air pollutants; vehicular collisions or collisions between vehicles and pedestrians and cyclists; and consumption of energy and water. (see, e.g., Technical Advisory on Evaluating Transportation Impacts in CEQA, Governor's Office of Planning and Research, December 2018.) Table L-6 below shows the estimated miles per day and miles per year associated with transportation of high-grade limestone from the three alternative locations considered under Alternatives 2 and 3.

Table L-6
On-Road Miles for Transportation of High Grade Limestone to Cushenbury Cement Plant

	South Quarry	Omya	Big Maria Mountains	Moapa
One-way Miles	0	128	173	248
Round Trip Miles	0	256	346	496
Truck Trips per Day	0	150	150	150
Miles per Day	**0**	**38,400**	**51,900**	**74,400**
Days per Year	0	350	350	350
Miles per Year	**0**	**13,440,000**	**18,165,000**	**26,040,000**

Response to Comment 16-8:

This comment generally states the air quality analysis in the Draft EIR/EIS is flawed because the analysis does not account for all sources of air quality impacts and does not adopt all feasible mitigation measures. The comment further states that the Project would lead to air quality impacts from construction, ongoing operations, and generated vehicle trips. The comment provides information regarding air quality in California as a whole, including health and economic impacts. While this information is generally of interest in presenting the existing environmental setting in California, it is not specifically relevant to assessing the contribution from the proposed South Quarry Project or whether the impact from that project would be significant, because the significance of air quality impacts is largely determined by analyzing a project's contribution in light of meteorology and air quality within the specific air basin, not the state as a whole. As explained in detail in Chapter 3.2 and Appendix B (renumbered as Appendix B-1 in the Final EIR/EIS) to the Draft EIR/EIS, the Project's air quality impacts for the construction phase would be less than significant, and air quality impacts from the on-site haul truck operations during the Project's operations would be less than significant with the implementation of mitigation measures. The Project would not generate significant off-site vehicle trips, as the Project would only result in three new employees to construct and operate the Project. Further responses to the commenters' specific comments on air quality are provided below.

Response to Comment 16-9:

This comment alleges the Draft EIR/EIS used an impermissible baseline to evaluate the Project's potential air quality impacts. See Master Response No. 5 for a response to this comment.

Response to Comment 16-10:

This comment states that the Draft EIR/EIS misrepresented the Project's potential operational emissions of PM_{10} and $PM_{2.5}$. This comment presents a misleading summary of the air quality analysis that was conducted and misapplies the significance thresholds. Additional response is provided below.

The comment first asserts that the baseline emissions are higher than the significance thresholds for $PM_{2.5}$ and PM_{10}. However, that is not how significance thresholds should be applied. The purpose of the environmental analysis is to evaluate the significance of changes resulting from the project. Therefore, the analysis must first calculate emissions with and without the project,

subtract the without-project (i.e., baseline) emissions from the with-project emissions, and compare the ***difference*** in these two numbers to the significance threshold.

According to the comment, Table 3.2-8 states that " '2022 With-Project' emissions numbers are only 14.2 tons of PM_{10} emissions per year and 0.78 of $PM_{2.5}$ emissions per year." This statement is not accurate. Table 3.2-8 states that with-project emissions are estimated to be 206.7 tons per year PM_{10} and 20.5 tons per year $PM_{2.5}$. The table then reflects the calculation described above, i.e., subtracting the without-project (i.e., baseline) emissions from the with-project emissions. The ***difference*** in these two sets of numbers equals 14.2 tons of PM_{10} and 0.78 tons of $PM_{2.5}$ emissions per year, and represents the emissions increase caused by the South Quarry Project. The significance conclusion was correctly based on comparing the emissions increases of 14.2 tons of PM_{10} and 0.78 tons of $PM_{2.5}$ to the significance thresholds.

The comment also criticizes the analysis "because the '2022 Baseline' represents emissions that will be generated by the South Quarry Project". This statement is not correct. The 2022 Baseline includes emissions from mining activities in the East and West Pits, which will continue even if the Project is not approved. As explained in the Draft EIR/EIS and the Air Quality Study (Appendix B to Draft EIR/EIS and Appendix B-1 of the Final EIR/EIS), a 2022 baseline was used instead of historical actual emissions because regulatory programs are requiring changes in mobile sources used at the mine in order to reduce emissions. Specifically, the composition of the haul truck fleet will be changing over the period from 2019 through 2022 to comply with regulatory requirements. If actual historical emissions had been used as the baseline, it would have the effect of giving the South Quarry Project credit for emissions reductions required by the regulatory programs, making the emissions increases resulting from the South Quarry Project look smaller. Table 3.2-8 compares the 2022 baseline conditions (the conditions on the ground that would exist without the Project, but with operation of the previously reviewed and approved 2004 West Pit and compliance with air quality regulations) to the 2022 conditions with the South Quarry Project. Contrary to the implication in this comment, it would not be correct to subtract the East or West Pit emissions from the 2022 Baseline. The East and West Pit emissions reflect approved, ongoing mining activity. If the South Quarry Project is approved, a portion of these emissions sources would move to the South Quarry, but the task for the EIR/EIS is to identify the extent to which approval of the South Quarry Project would ***increase*** emissions compared to the baseline.

The comment also appears to criticize the analytical approach in the 2004 EIR. The comment period for that Draft EIR expired in early 2004 and the West Pit project was approved later that year. No person filed a timely challenge to that project within the period allowed by CEQA. Therefore, it is inappropriate to challenge the analysis or conclusions of the 2004 EIR during the comment period for this EIR/EIS.

Response to Comment 16-11:

This comment states that the Draft EIR/EIS's emissions estimates for PM_{10} and $PM_{2.5}$ are misleading, asserting that the Draft EIR/EIS shows the Project would reduce emissions despite an increase in mining. The comment contains a number of erroneous statements.

The comment asserts that the Draft EIR/EIS credits the Project with a reduction in mobile source emissions of 0.91 tons of PM_{10} and 0.78 tons of $PM_{2.5}$ "because of potential effects of CARB regulations on off-road diesel trucks." The comment is correct in that implementation of CARB regulations will, over time, reduce emissions from off-road diesel trucks from requiring upgrades

in the truck fleet by replacing trucks on a certain schedule. But the comment is incorrect in stating that the emissions reduction from the CARB regulations was credited to the Project. To the contrary, the analysis reduced ***baseline*** emissions to reflect the implementation of the CARB rule over the coming years. A future (2022) baseline was used precisely to avoid crediting the Project with reductions that will occur as a result of the regulatory program. This is disclosed in the Draft EIR/EIS at page 3.2-2, and further explained in the Air Quality Study, Appendix B-1, pages 2 and 15:

The West Pit was reviewed in an Environmental Impact Report (EIR) certified by San Bernardino County (the County) in 2004 (SCH No. 2001101044). CEQA guidelines state that where an EIR has been completed for a project, no further environmental review is necessary, except under certain conditions that are not present here (CEQA Guidelines §15162). Therefore, to be consistent with the CEQA guidelines, the starting point for this analysis is the mining development and activities that were reviewed in the 2004 EIR and approved by the County. However, due to changing air quality regulations, this Air Quality Study does not rely exclusively on the 2004-approved West Pit project as the baseline for the South Quarry Project. As discussed in Section 2.0 of this report, California has adopted regulations that require MCC to upgrade its haul truck fleet, and some of the fleet changes will occur over the next several years regardless of whether or not the South Quarry Project is approved. If the 2004-approved West Pit project is used as the only baseline, then emission reductions caused by rule compliance would appear to result from the South Quarry Project. To avoid inadvertently crediting the South Quarry Project with unrelated emission reductions, this report also compares the South Quarry Project emissions to the estimated emissions likely to occur from MCC's mining operations over the next several years without the South Quarry Project. Emission estimates with and without the Project were compared for each year from 2017 to 2022 inclusive. Where appropriate, estimates were also compared with and without Project design features/mitigation measures.

Additionally, reduction of PM and criteria pollutant emissions from in-use off-road diesel-fueled vehicles [25 horsepower (hp) or greater] is regulated by CARB through California Code of Regulations (CCR) Title 13, Sections 2449 through 2449.3 (https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm), referred to as the off-road diesel rule. The purpose of this regulation is to reduce the PM and criteria pollutant emissions from in-use off-road diesel-fueled vehicles 25 hp or greater. All mine equipment must comply with the off-road diesel rule, which requires various fleet changes over a 15-year period, including ongoing vehicle retirements and replacements. We have evaluated the impact of the offroad diesel rule by calculating a baseline that includes the effect of the rule but not the effect of MCC's additional commitment to accelerated turnover of the fleet (as reflected in the post-Project scenario with mitigation).

The analysis was designed to avoid the concern voiced in the comment, i.e., inappropriately attributing an emissions reduction to the Project that will in fact result from future implementation of a regulatory program. This objective is achieved by adjusting (reducing) baseline emissions to levels expected with implementation of the CARB rule ***before*** comparing these baseline emissions to the levels that would occur with the project.

The comment also incorrectly asserts that the project will increase mining operations. As explained further in Master Response No. 4, the Project would not lead to an increase in overall limestone production but would shift production from the West Pit to the South Quarry. There would be no change in the overall quantity of rock excavated. There also would be no additional haul truck trips; in fact, the number of haul truck trips would decline slightly because the trucks

used to serve the South Quarry would have a greater capacity. However, the length of the haul route between the quarry and the crusher would increase as a result of the South Quarry Project, in turn increasing vehicle miles travelled. See Air Quality Study. Appendix B-1, Table 4-3 at pages 35-36. The Project's potential impacts to air emissions were calculated based on that premise.

The comment also implies that the Draft EIR/EIS concluded the South Quarry Project would result in a reduction in emissions of PM_{10} and $PM_{2.5}$. To the contrary, Table 3.2-8 in the Draft EIR/EIS discloses that the Project would result in an increase in PM_{10} emissions from a baseline of 192.5 tons per year to 206.7 tons per year, and an increase in $PM_{2.5}$ emissions from a baseline of 19.7 tons per year to 20.5 tons per year.

With respect to the portion of PM_{10} and $PM_{2.5}$ that is attributed to mobile sources, Table 3.2-8 in the Draft EIR/EIS shows that the Project would result in a decrease in PM_{10} emissions from a baseline of 2.38 tons per year to 1.49 tons per year, and a decrease in $PM_{2.5}$ emissions from a baseline of 2.38 tons per year to 1.49 tons per year. The comment asserts that "it is impossible for mobile emissions for a project to be a negative amount". However, the comment overlooks the effect of measure AIR-2. As explained in the Draft EIR/EIS at page 3.2-17, "The analysis also assumed that Design Features AIR-1 and AIR-2 would be implemented." AIR-1 requires the Project proponent to make even more changes to its haul truck fleet than required by CARB's off-road diesel rule. In AIR-1, MCC has committed to accelerating its compliance with the off-road diesel rule beyond the timeframe required by CARB. Based on that accelerated schedule, the truck fleet that would be used after implementation of the South Quarry Project is more advanced than the truck fleet used in the baseline. By retiring older trucks and upgrading the fleet with more low-emissions trucks, AIR-1 would reduce emissions from existing mining in the East and West Pits, as well as minimizing emissions increases from the South Quarry. As such, while the vehicle miles travelled would increase, the average emissions per mile travelled would decrease, with the overall effect of reducing total mobile source emissions compared to the baseline.

The comment suggests that the Draft EIR/EIS misrepresents the air emissions in order to avoid mitigation. However, as stated on page 3.2-24, Project Design Features AIR-1 and AIR-2 are considered to be mitigation measures under CEQA. These mitigation measures require accelerated compliance with CARB's off-road diesel rule and application of dust suppressants to unpaved roads and disturbed mine areas. As previously discussed, the air quality analysis made reasonable adjustments to the baseline in order to avoid improperly crediting the Project with reductions required by a regulatory program, and accurately estimated Project emissions.

Response to Comment 16-12:

This comment states that the Draft EIR/EIS underestimated emissions in order to avoid having to perform a conformity analysis pursuant to the State Implementation Plan under the Clean Air Act. The Draft EIR/EIS used reasonable and appropriate analytical methodologies and inputs for the emissions estimates, as discussed in the responses above. Based on those estimates, the Project is exempt from federal conformity analysis.

Federal actions are subject to a conformity analysis, unless exempted through one of the stated exemptions. As shown below in Table L-7 the Project is exempted from the federal conformity analysis because the Project emissions increase is below the conformity analysis thresholds set forth in the federal regulations (*See* 40 C.F.R. § 93.153(b)). The emissions increase, not the post-

project emission, are compared with the conformity analysis thresholds. Because the Project would not lead to emissions increases in excess of the federal thresholds, a conformity analysis pursuant to the State Implementation Plan under the Clean Air Act is not required.

Table L-7
Comparison of Project Emissions from Operational Phase[1] with Conformity Analysis Thresholds in 40 C.F.R. § 93.153(b)

Pollutant	Project Emissions Increase (tons/year)[2]	Conformity Analysis Thresholds (tons/year)[3]
NO_x	0.1	25
VOC	-0.2	25
CO	7.2	100
PM_{10}	14	100
$PM_{2.5}$	0.8	100
SO_2	0.02	100

Notes
1Calculations reflect emissions from mining in the South Quarry for Alternative 1 – Proposed Action and Alternative 2 – Partial Implementation
2Project emissions during the construction phase are less than emissions during the operational phase; therefore, the table presents the worst-case operational emissions.
3The MDAQMD is classified as severe non-attainment for ozone and moderate non-attainment for PM10.

This comment further states that the Draft EIR/EIS should have provided a conformity analysis because EPA requested that analysis during the Project's scoping period. EPA refers to the thresholds from 40 C.F.R. § 93.153(b) (presented in L-7 above) as "general conformity *de minimis* thresholds." See, e.g., https://www.epa.gov/general-conformity/de-minimis-emission-levels . EPA's scoping comment letter dated May 8, 2012 stated that the EIR should estimate project emissions, which was done in the Draft EIR/EIS. EPA's scoping comment letter then suggested ***both*** that the EIS consider "emissions in tons per year for purposes of demonstrating whether the project would exceed the general conformity *de minimis* thresholds", ***and*** that the Forest Service work with the MDAQMD in developing the Draft General Conformity Determination. EPA's comment describes a step-wise analysis, in which one would proceed with the conformity analysis only after comparing the emissions estimate to the *de minimis* thresholds, and only if the thresholds were exceeded. The emissions estimates presented in the Draft EIR/EIS, reviewed and confirmed by MDAQMD, demonstrate that the Project's emissions would remain below the *de minimis* thresholds; therefore, no conformity analysis is required. EPA's letter commenting on the Draft EIR/EIS did not question this conclusion or otherwise renew the request for a conformity analysis (*See* Comment Letter No. 17).

Response to Comment 16-13:

This comment states that Mitigation Measure AIR-1 is insufficient because it does not provide a mechanism to monitor when the total quarry haul truck operating horsepower hours will reach 6 million horsepower-hours/year. As required by CEQA, the County must adopt a mitigation monitoring and reporting program, attached as Appendix M to the Final EIR/EIS, which would provide a mechanism to ensure MCC complies with AIR-1.

Response to Comment 16-14:

This comment states that Mitigation Measure AIR-2 is insufficient to mitigate the Project's potential fugitive dust emissions because, if chemical suppressants are used, the measure requires only that they be applied in accordance with manufacturer specifications and does not specify that they must be applied to disturbed mine areas. Contrary to the comment, Design Feature/Mitigation Measure AIR-2 specifies that the material must be applied "to control dust emissions from unpaved roads and disturbed mine areas in active use." Design Feature/Mitigation Measure AIR-2 is an enforceable requirement that would reduce fugitive dust. However, the text will be revised as follows to improve clarity.

Every day of active mining, the Project proponent shall apply water ~~or chemical dust suppressants~~ to unpaved roads and disturbed mine areas that are in active use on that day~~. For days when water is used rather than chemical dust suppressants, water shall be applied~~ no less than once every 1.25 hours at a rate of no less than 0.11 gallons per square yard. Alternatively, ~~to control dust emissions from unpaved roads and disturbed mine areas in active use,~~ the Project proponent shall apply chemical dust suppressants <u>to unpaved roads and disturbed mine areas in active use at a frequency and application rate</u> in accordance with manufacturer specifications.

A range of materials can be used to suppress dust. Water is often used where readily available because water moisture helps bind small particles together; however, water must be applied numerous times per day to be effective in an arid environment. Another alternative is chemical dust suppressants. Some of these, such as magnesium chloride, are hygroscopic, meaning that they can draw moisture from the air. These materials need to be applied much less frequently than water, because their hygroscopic qualities continue to be effective for a prolonged period of months. The frequency of application of alternative dust suppressants would vary with the specific product used. The Mitigation Monitoring and Reporting Plan adopted with final project approval will require MCC to retain information on both the recommended frequency and rates of application, and the actual dates of application.

This comment also confuses the analysis of the watering and chemical dust suppressant methods to control fugitive dust emissions. The watering method can lead to overspray on road berms for a short distance beyond the roadbed, and the areas receiving overspray sometimes support vegetation that may be consumed by bighorn sheep. Because this vegetation may help support bighorn sheep, Mitigation Measure BHS-1 states that MCC will ***not*** make an effort to eliminate overspray when using water (the comment overlooked the word "not" in the mitigation measure). Conversely, as further described below, for the chemical dust suppressants, Mitigation Measure AIR-2 states that MCC shall apply the chemical dust suppressants in accordance with the manufacturer specifications. For these materials, precautions are taken to ensure that the chemical dust suppressants are not applied beyond the boundaries of the haul road or actively mined areas.

This comment further states that the EIR/EIS should provide details on the chemical dust suppressants that would be used and should address the potential impacts of those chemicals on people and wildlife. Several types of chemical dust suppressants are currently available.

Historically, MCC has used water or a magnesium chloride chemical dust suppressant product to control fugitive dust emissions. With respect to the potential impacts on humans, the material safety data sheet (SDS) for the magnesium chloride-based dust suppressant shows that the chemical would only lead to potential health effects if ingested in large amounts. Inhalation of

mist might cause slight nose irritation and contact on skin or in the eyes might cause minor irritation or inflammation. For reference, the SDS is attached to the Final EIR/EIS as Appendix N. With respect to the potential impacts to wildlife, MCC takes precautions not to spray the chemical beyond the boundaries of the haul road. To apply the chemical dust suppressant, MCC contracts with an independent company. MCC uses a mixture that contains only 50 percent of the magnesium chloride in the spring, and a mixture with 25 percent magnesium chloride in the fall. Before application of the chemical, the haul road is prepared by roughing up one to two inches of the road surface so that the product can percolate easier into the subsurface for better penetration. The product is then applied to the roadbed using a truck with sprayers attached at the bottom of the front and back, to minimize fugitive spray. Once the product is applied, MCC honors a four-hour wait period before driving over the road to help the product soak into the soil.

Footnote 4 of the comment references the research of Dr. Bethany Williams Kunz, a biologist with the Ecology Branch of the U.S. Geological Survey, who has – in collaboration with the U.S. Fish and Wildlife Service – examined the effectiveness and safety of chemical dust suppressants used in wildlife refuges. Dr. Kunz studied the toxicity of a number of dust control products commonly applied to roads managed by federal agencies, including testing the products on aquatic animals and terrestrial plants in the laboratory, and on-site biological observations to determine the potential impacts of those products on roadside organisms, soil chemistry and water chemistry. The paper identified in footnote 4 was a June 2009 update on an ongoing research project. Subsequent to the work described in the June 2009 paper, Dr. Kunz conducted field tests of three dust control products. Magnesium chloride was one of three products tested. Specifically, the field tests included Durablend™, a magnesium chloride with polymeric binder, Dust Stop™, a modified cellulose blend powder, and EnviroKleen®, a synthetic fluid plus binder. The SCSs for these three products are provided in Appendix N. These three products were applied in June 2012 to road sections in the Hagerman National Wildlife Refuge in Texas. Following 12 months of observation, the research concluded that all three products "improved the road surface and generally suppressed dust on [the treated road] relative to the untreated section", and, "No adverse environmental effects of application were observed for vegetation or aquatic organisms in the field." See, *Field tests of dust product performance and environmental safety at Hagerman National Wildlife Refuge, Texas,* Bethany K. Kunz and Edward E. Little, February 4, 2014,

https://www.cerc.usgs.gov/Assets/UploadedFiles/ExternalDocs/2014_Dust_Product_Field_Test_Update.pdf, accessed May 16, 2018. See also, https://trrjournalonline.trb.org/doi/pdf/10.3141/2472-08 , accessed May 16, 2018.

Following tests of two chemical dust suppressants, a polymer-enhanced calcium chloride and a synthetic fluid, at Squaw Creek National Wildlife Refuge, Dr. Kunz found that fugitive dust was reduced by 89 percent to 99 percent and found no harm to the environment. Specifically:

"Treatment with durablend-C™ or EnviroKleen® generally reduced dust production by >90% on treated road sections relative to the untreated section for 11 months after initial applications. Treatment reduced the need for routine road maintenance and may be a useful strategy for preserving aggregate. Leachates from treated and untreated aggregates did not negatively affect rainbow trout in short-term toxicity tests. Dust control treatments did not reduce the number of invertebrates captured in roadside traps the following summer, relative to the untreated section."

https://www.cerc.usgs.gov/Assets/UploadedFiles/ExternalDocs/2016%20TRB%20Kunz%20et%20al.%20Visual%20Aid%20Submission.pdf accessed May 16, 2018.

While no harmful effects are expected from use of chemical dust suppressants, GEN-1.f. provides additional oversight and assurance. GEN-1.f. provides: "Any soil bonding or wetting agents to be used for dust control on unpaved surfaces shall be non-toxic to wildlife and plants and non-attractants for wildlife. If wetting or soil bonding agents appear to be attracting wildlife to the roadways (e.g., by pooling or creating mineral licks), the mining operator will work with the Forest Service to develop remedies." In addition, Rule 403.2(B)(23) of the MDAQMD requires surface stabilization using chemical treatment "must be performed with a substance approved for such use by the applicable Regional Water Quality Control Board."

Response to Comment 16-15:

This comment states that the Draft EIR/EIS fails to state whether AIR-1 and AIR-2 are merely a restatement of existing policies and regulations. Under those proposed Design Features/Mitigation Measures, MCC has accelerated haul truck replacement with new trucks meeting the Tier 4 final standard (AIR-1) and will apply water no less than once every 1.25 hours for every day of active mining to reduce fugitive dust emissions (AIR-2). These measures go beyond the existing regulatory scheme.

With respect to the regulatory requirements related to the truck fleets, EPA's Tier 4 standards generally apply to new truck engines, not to existing engines, while the CARB rules over time require upgrades to the trucks in existing fleets. The Air Quality Study lays out the truck fleet changes required for MCC's existing mining operation to comply with CARB's off-road diesel rule, and the additional retirements that will be required by AIR-1 (*See* Table A-2-11 at page A-31 of the Air Quality Study). Compliance with the CARB rule is expected to require two truck retirements and one truck purchase in the period from 2019 to 2021. AIR-1 is expected to require two additional truck retirements (beyond the two required for CARB compliance) in the period from 2020 to 2022. The precise timing of the retirements required by AIR-1 would depend upon when the quarry haul truck operating hours exceed the trigger threshold stated in the condition.

With respect to the fugitive dust emissions, AIR-2 also exceeds regulatory requirements. As summarized in Section 3.2.2.3 of the Draft EIR/EIS, MDAQMD Rule 403 prohibits the emissions of fugitive dust from any transport, handling, construction, or storage activity that remains visible beyond the property line of the emission source. MDAQMD Rule 403.2 is similarly focused on visible emissions. Rule 403.2(C)(2) requires the owner of a construction/demolition source to "use periodic watering … to minimize visible fugitive dust emissions." Rule 403.2(C)(6) requires the owner of a limestone processing facility to stabilize (i.e., reduce dusting capability of) unpaved roads and to treat storage piles to prevent visible fugitive dust emissions. AIR-2 would require roads and active mining areas to be watered no less than once every 1.25 hours regardless whether fugitive dust is visible. This is important because particulate matter may exceed health-based ambient air quality thresholds even at concentrations that are not visible.

Additionally, CEQA requires the County to adopt a mitigation and monitoring reporting program (attached as Appendix M to the Final EIR/EIS), which will ensure that MCC will comply with all mitigation measures in the Final EIR/EIS.

The comment cites *Californians for Alternatives to Toxics v. Dept. of Food and Agriculture* (2005) 136 Cal.App.4th 1 for the assertion that compliance with existing laws is not sufficient to support a finding that a project will not have a significant impact. That case is not relevant here.

The Draft EIR/EIS does not simply assume that compliance with air quality rules will avoid all significant impacts. Rather, the Draft EIR/EIS quantifies the emissions from the project, conducted in compliance with the rules as well as the added restrictions of AIR-1 and AIR-2, and compares the estimated emissions to the significance thresholds.

Response to Comment 16-16:

This comment states that the Draft EIR/EIS does not explain how the mitigation measures will reduce the Project's potential air quality impacts to less than significant levels. The Air Quality Study (attached to the Draft EIR/EIS as Appendix B and to the Final EIR/EIS as Appendix B-1) provides a detailed analysis of how the mitigation measures will affect the Project's potential air quality impacts. The Air Quality study calculated the Project's potential air emissions both with and without the proposed mitigation. Section 4.3 of the Air Quality Study (Appendix B of the Draft EIR/EIS and Appendix B-1 of the Final EIR/EIS) describes the assumptions behind the mitigation measures, including the different haul trucks that would be used with and without Mitigation Measure AIR-1 and the watering frequency for fugitive dust emissions with and without Mitigation AIR-2. Section 5.3 of the Air Quality Study presents the operational emission calculations without Mitigation Measures AIR-1 and AIR-2 (*See* Tables 5-9, 5-10A, and 5-10B). A comparison of the air emission calculations for the operational scenario with and without mitigation measures shows how the mitigation measures will reduce the Project's potential air quality impacts (compare Tables 5-7, 5-8A, and 5-8B with tables 5-9, 5-10A, and 5-10B). Based on a comparison of the detailed operational air emission calculations with and without the proposed mitigation, the Draft EIR/EIS concluded the mitigation measures would reduce the Project's potential air emission to less than significant levels.

Response to Comment 16-17:

This comment states that the Draft EIR/EIS did not address comments made by the U.S. EPA addressing mitigation measures during the scoping process. The U.S. EPA's scoping letter was prepared before the Draft EIR/EIS was available for review. As explained throughout these responses to comments, the Draft EIR/EIS and the Air Quality Study conducted a thorough analysis of the Project's potential air quality impacts and, in the words of EPA, "appropriate mitigation measures associated with the project". The analysis demonstrates that with AIR-1 and AIR-2, air quality impacts from the Project would be less than significant; therefore, no additional mitigation is required.

Contrary to the comment, it is clear in AIR-1 and AIR-2 who is responsible for carrying out the measures. AIR-1 explicitly states that it is the responsibility of "the applicant", while AIR-2 requires action to be taken by "the Project proponent". Both of these phrases clearly mean MCC. The County will adopt a mitigation monitoring and reporting program, which will identify a monitoring and enforcement agency and a monitoring frequency to ensure that MCC implements AIR-1 and AIR-2, as well as all other mitigation measures adopted by the County.

This comment further states that the EPA recommended the use of particle traps to reduce diesel particulate matter emissions, but the proposed mitigation measures do not require the use of particle traps. The Tier 4 interim and Tier 4 final trucks (777G) that are proposed to be added to MCC's fleet in conjunction with the Project (including upgrades required by AIR-1) include PM_{10} emissions controls that are already built into the vehicles. Those controls meet the same or more stringent PM_{10} standards than those required for particle traps used in diesel particulate

filter retrofit installations. For example, as shown below in Table L-8 the initial PM_{10} emission factor for a 777G truck is less than the emission factor for an older truck (777B) that has a diesel particulate filter retrofit installation.

Table L-8
Diesel Engine Particulate Summary

Truck	Initial Emission Factor, PM_{10} Emission Factor (g/bhp-hr)*
777B With DPF (85% Controlled)	0.08
777G	0.03

*Initial emission factor is the base emission factor from OFFROAD 2011 based on model year and horsepower.

Therefore, the performance of the trucks proposed to be used in the Project is the same or better than trucks equipped with diesel particulate filters.

Response to Comment 16-18:

This comment states that the Draft EIR/EIS's cumulative impacts analysis for air quality impacts is inadequate because the air quality analysis for the Project itself is inadequate, and because the Draft EIR/EIS does not adequately consider other mining project expansions in its cumulative analysis. Please refer to the responses above that demonstrate the air quality analysis of the Project is reasonable and sufficient under CEQA and NEPA. This response addresses the Draft EIR/EIS's analysis of cumulative impacts. The comment asserts that the Draft EIR/EIS equates a lack of individual significance with a lack of cumulative impact. This is not accurate.

The MDAQMD's CEQA and Federal Conformity Guidelines (MDAQMD 2016) identify the following criteria pollutants as locally important, meaning that they are of concern near the sources where they are emitted: CO, lead, NO_2, SOx, and particulate matter. The Draft EIR/EIS explained that the proposed expansion of the Omya Butterfield and Sentinel Quarries would occur approximately five miles from the proposed South Quarry, the proposed expansion of the Omya White Knob/White Ridge Quarries would occur approximately nine miles from the South Quarry, and the Omya projects would use different haul routes and different processing plants than the proposed Project. At these distances, emissions of pollutants that are regulated for their potential to cause localized impacts (CO, lead, NO_2, SOx, and particulate matter) would disperse rather than aggregate with emissions from the other mines to cause a heightened cumulative impact.

The MDAQMD's CEQA and Federal Conformity Guidelines identify VOCs and NOx as regionally important due to their involvement in the photochemical reaction that produces ozone. As a regional phenomenon, ozone formation is a cumulative issue. It also is the focus of the MDAQMD's Ozone Attainment Plans. On February 27, 2017, the MDAQMD adopted the MDAQMD Federal 75 ppb Ozone Attainment Plan for the Western Mojave Desert Nonattainment Area (which includes the Project site). The 2017 Ozone Plan updates and supersedes the MDAQMD's 2010 Ozone Attainment Plan. The 2017 Ozone Attainment Plan is built around an emissions inventory from 2012, and emissions projections for 2018, 2020, 2023 and 2026, considering expected growth in population, industrial activity, and vehicle miles traveled. The 2017 Plan then discusses the emissions control measures in place to ensure that NOx and VOC emissions in the Western Mojave Desert will be steadily reduced each year to

reduce regional ozone despite expected increases in population and other contributors. Modeling confirmed the steady reductions in future ozone concentrations. Mining (mineral processing) and off-road equipment are specifically called out in the 2017 Ozone Attainment Plan as among the categories of activities and equipment included in the emissions inventories and the modeling. The Draft EIR explains that the cumulative projects will need to be carried out in compliance with the strategies and rules adopted by the MDAQMD and identified in its Ozone Attainment Plans to achieve steady reductions in ozone, thereby addressing this cumulative issue.

Particulate matter (including PM_{10} and $PM_{2.5}$) also are of regional concern. The 2017 Ozone Attainment Plan describes many adopted rules and strategies that regulate and reduce diesel particulate matter, which is predominantly $PM_{2.5}$. In addition, similar to the Ozone Attainment Plan, the PM_{10} Attainment Plan includes emission inventories, strategies and regulations for achieving emission reductions. The PM_{10} emissions inventories include detailed information on emissions from mining by MCC, Omya (under the name Pluess-Stauffer) and others in Lucerne Valley. Thus, as with NOx and VOCs, the cumulative impacts associated with particulate emissions are addressed on a regional and cumulative basis through adopted Attainment Plans and rules limiting emissions.

For these reasons, the Draft EIR/EIS concluded that the South Quarry Project together with cumulative projects would not cause a cumulatively significant impact.

Response to Comment 16-19:

This comment states that the Draft EIR/EIS should have analyzed the impacts of the South Quarry Project together with the effects of operating the existing Cushenbury Cement Plant, either as part of the cumulative impact analysis or as part of the same project. Neither NEPA or CEQA require analysis of the Cushenbury Cement Plant in this manner. The Cushenbury Cement Plant is part of the environmental setting and will continue to operate regardless whether the South Quarry Project is approved.

Limestone has been mined at Cushenbury since 1947. Then-owner Kaiser Cement built the first cement plant on the site in 1957, and then doubled the size of the plant in the 1960s. (County of San Bernardino 2003 – *Draft EIR for West Pit Expansion,* p. 3-7.) Thus, the Cushenbury Cement Plant pre-dates the adoption of NEPA and CEQA in 1970. To treat the Cushenbury Cement Plant as both part of the background and as a cumulative project would result in counting the same emissions twice.

Appropriately, the Draft EIR/EIS described the Cushenbury Cement Plant in the Project Background, and consistently considered the Cushenbury Cement Plant and its effects as part of the existing environmental setting or baseline. In this regard, it should be noted that the emissions from the existing Cushenbury Cement Plant contribute to the ambient air quality in the area. Background concentrations of relevant pollutants are presented in Table 3.2-3 of the Final EIR/EIS, and additional detail can be found in the Air Quality Study (Appendix B-1) at pages 8-13.

The comment's assertion that analysis of the Project may "constitute impermissible piecemealing and/or segmentation" is premised on the assumption that continued operation of the existing Cushenbury Cement Plant is dependent upon and therefore part of the South Quarry Project. This is not accurate. As discussed in response to Comments 16-4 and 16-5, it is reasonable to

assume that MCC will continue to operate the Cushenbury Cement Plant so long as the limestone reserves in the approved East and West Pits are present. If the South Quarry Project is not approved, it is reasonable to assume that operation of the existing Cushenbury Cement Plant and East and West Pits would continue, with MCC seeking high-grade limestone from alternative sources farther away, such as those considered under Alternatives 2 and 3. As such, continued operation of the Cushenbury Cement Plant is not dependent on the South Quarry Project.

Moreover, the South Quarry Project will not make any changes to the equipment or operations of the Cushenbury Cement Plant. Changes to the Cushenbury Cement Plant are not a reasonably foreseeable consequence of the South Quarry Project (*See Laurel Heights Improvements Assn. of San Francisco, Inc. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376). Future changes, if any, to the Cushenbury Cement Plant would require amendment of the cement plant's operational permits, and a determination of the appropriate level of environmental analysis at that time. MCC has not submitted applications for any changes to its existing permits for the Cushenbury Cement Plant, nor are there any known plans for such changes.

Response to Comment 16-20:

This comment states that the Draft EIR/EIS does not provide sufficient data to provide adequate baseline from which to assess Project impacts. This comment further states that the Ninyo and Moore Geology and Soils/Hydrology and Water Evaluations assessment, attached as Appendix F to the Draft EIR/EIS, references the Jurisdictional Delineation prepared by Glen Lukos Associates, but that the Glen Lukos Associates study is not included as part of the Draft EIR/EIS. The Glen Lukos Associates study was included as Appendix D to the Draft EIR/EIS (and renumbered as Appendix D-1 in the Final EIR/EIS) and is referenced in Section 3.8.1 of the Draft and Final EIR/EIS. In addition, as explained further in Response to Comment 9-13, a supplemental jurisdictional analysis was completed in 2018, and has been included as Appendix D-2 to the Final EIR/EIS. That supplemental analysis did not change any of the Draft EIR/EIS's significance conclusions for the Project's potential impacts.

The comment asserts that the Draft EIR/EIS does not explain how the six drainages in the Project Area were determined to be "ephemeral or non-relatively permanent waters." As Section 3.8.3 and Appendix D to the Draft EIR/EIS explain, the six drainages are isolated waters and do not exhibit a nexus to a traditional navigable water (note that Appendix D is now Appendix D-1 in the Final EIR/EIS). The supplemental jurisdictional analysis in Appendix D-2 of the Final EIR/EIS did not change that analysis. Under current Supreme Court doctrine, the drainages are not considered "waters of the U.S." Appendix D-1, pages 2 and 3, explains the methodology followed to come to this conclusion. This methodology included review of aerial photography, review of topographic maps, field surveys, evaluation using the methodology set forth in the U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual and its 2008 Arid West Supplement, and consultation of soil maps created by the Natural Resources Conservation Service. The evaluation was documented using photography, preparation of a jurisdictional map and a soils maps, and Corps-approved jurisdictional determination forms, all of which are included in Appendix D-1.

Response to Comment 16-21:

This comment states that surveys conducted over the past few years may not reflect typical flow rates given California's recent drought conditions. As explained on p.1 of the Glen Lukos

Associates study (Appendix D of the Draft EIR/EIS renumbered as Appendix D-1 of the Final EIR/EIS), Glen Lukos Associates evaluated the conditions on the Project site on December 2, 2009, and on January 14, 2010, before California's most recent drought began. According to the U.S. Geological Survey, California's most recent drought began in 2012 (*See* https://ca.water.usgs.gov/data/drought/). Based on the measurements before the start of the drought, there is no indication that the surveys did not reflect a typical, non-drought year, flow rate in the Project area. In addition, as explained further in Response to Comment 9-13, a supplemental jurisdictional analysis was completed in 2018, included as Appendix D-2 to the Final EIR/EIS. That supplemental analysis did not change any of the Draft EIR/EIS's significance conclusions for the Project's potential impacts.

This comment further states that Marble Canyon Creek could constitute a "waters of the U.S." As explained in the Jurisdictional Delineation Study, Marble Canyon Creek is an ephemeral drainage that originates within the Project Study Area and flows in a northwesterly direction for approximately 9,364 linear feet before discharging into a massive quarry pit. Marble Canyon Creek is an isolated non-relatively permanent water. Historically, Marble Canyon Creek flowed in a northerly direction for an additional 12 miles where it discharged into the Lucerne Dry Lake; therefore, even historically it had no surficial connection to any water regulated by the U.S. Army Corps of Engineers. Marble Canyon Creek does not fit within the definition for "waters of the U.S." under the current Supreme Court doctrine.

Response to Comment 16-22:

This comment states that the Draft EIR/EIS does not provide water quality data for Marble Canyon Creek or for any other drainages in the area. The Jurisdictional Delineation Study, attached as Appendix D to the Draft EIR/EIS (renumbered as Appendix D-1 in the Final EIR/EIS, provides detailed information on the existing conditions of Marble Canyon Creek and the five other drainages in the Project Study Area, including information on the size of each drainage and the vegetation within each drainage (*See* Appendix D-1 pages 13-16). Water quality data are not available for these drainages because they are ephemeral (meaning they contain water sporadically and for brief periods), and are located in remote areas of rugged terrain, making them difficult to access on short notice during those brief periods when water is present. Excavation of soil pits was not warranted, due to the lack of hydrophytic vegetation at each drainage. As explained in response to Comment No. 16-23, mitigation will reduce impacts to Marble Canyon Creek or any other drainage area to less than significant levels. Available data regarding groundwater quality in the vicinity are summarized in the Draft EIR/EIS at pp. 3.8-10.

Response to Comment 16-23:

This comment states that the mitigation measures related to drainages are insufficient because the Draft EIR/EIS does not specify which streams may be impacted by the Project. As described in Section 3.8.4 of the Draft EIR/EIS, the South Quarry Project would affect up to 0.74 acre and 3,622 linear feet of streambed under the jurisdiction of CDFW. The Jurisdictional Delineation Impact Map in Exhibit 3-4 to the 2018 Supplemental Jurisdictional Delineation Study (Appendix D-2 of the Final EIR/EIS) depicts the extent of impacts. The Project footprint as designed would ensure that the Project would avoid Drainages B, C, D and E altogether, but it would not be possible to avoid crossings of Drainage A by the access road, or to avoid a portion of a tributary to Marble Canyon Creek. Design Feature/Mitigation Measure GEN-1m requires a Streambed

Alteration Agreement for these impacts. With implementation of mitigation measure GEN-1k, together with other measures such as GEN-1k and GEN-1l, impacts to drainages would be less than significant.

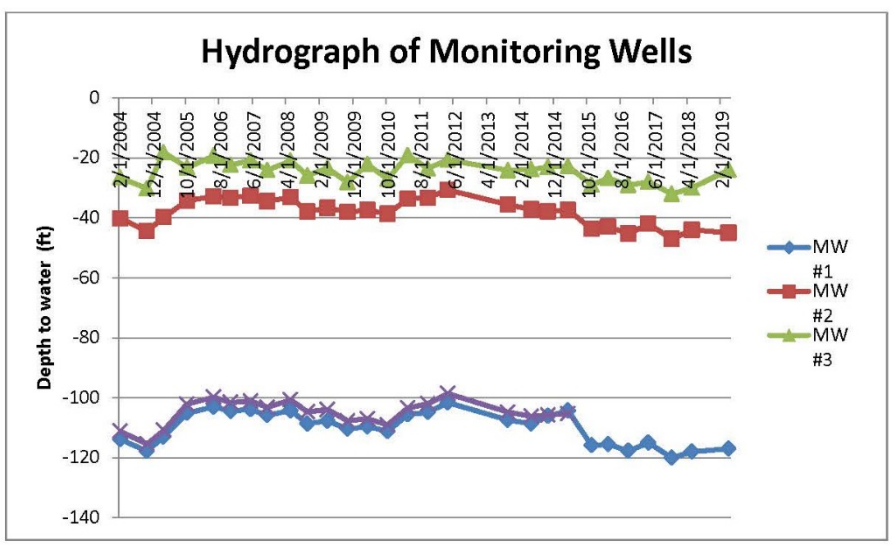
Response to Comment 16-24:

This comment states that the Draft EIR/EIS fails to provide current information on groundwater resources at the Project site because the Draft EIR/EIS relies on monitoring data from 2011 and 2012, which it describes as "outdated".

The analysis in Chapter 3.8 of the Draft EIR/EIS and Appendix F, Geology and Soils/Hydrology and Water Quality Evaluation, is based on groundwater monitoring data gathered periodically starting in 1992, and semiannually beginning in 1999. These data were presented in the reference cited by Appendix F as Ron Barto, 2012, Fall 2011/Spring 2012, Semi-annual Groundwater Monitoring Program for Cushenbury Mine, Lucerne Valley. Thus, the data underlying the analysis cover 20 years, not just a single season, and includes both wet and dry years.

The most recent groundwater monitoring report, covering Fall 2018 to Spring 2019 (Seaco Technologies, May 30, 2019), contains cumulative data since 2004 (14 years). The data show that the groundwater elevation subsequent to 2012 has remained within the band previously measured and summarized in the Draft EIR/EIS. During this time, the highest groundwater elevation was 4,137 feet MSL (Monitoring Well [MW]-1 in 2015) and the lowest groundwater elevation was 4,105 feet MSL (MW-3 in 2015). All of the wells showed a decline in water levels subsequent to 2012, but water levels in MW-1, MW-3, and MW-4 have started to rebound. Figure 5 from the May 30, 2019 groundwater monitoring report (below) is a hydrograph of the monitoring wells, reflecting measurements from 2004 to 2019. Detailed year-by-year data regarding depth to groundwater for each monitoring well are in Appendix A to that report. Groundwater elevations can then be calculated by subtracting the depth to groundwater for a well from the well elevation of that same well, which is also presented in the report.

FIGURE 5
Hydrograph of Monitoring Wells



The groundwater elevation data, both before and after 2012, support the conclusion in Appendix F that, "Groundwater is expected at an elevation approximately 1,000 feet below the lowest proposed grade of the quarry." Therefore, the quarry would not intercept groundwater or create standing water in the bottom of the pit.

The Water Supply Assessment (Appendix H of the Draft EIR/EIS) evaluated the adequacy of water supply in both single dry year and multiple dry year events. The assessment determined that water supply is adequate to support MCC's existing operations and the South Quarry Project, even under the multiple dry year scenario.

The state of groundwater resources in the vicinity of the South Quarry Project is also discussed in response to Comment 16-26. For example, the most recent annual report (dated May 1, 2019, covering water year 2017-2018) prepared by the court-appointed Watermaster states "Water levels in Este have remained stable for the past several years indicating a relative balance between recharge and outflow." The period described by the Watermaster covers a range of wet and dry years, including years affected by the most recent drought. The observations of the Watermaster suggest that groundwater levels in the vicinity exhibit less year-to-year variability than does precipitation.

Response to Comment 16-25:

This comment states the Draft EIR/EIS fails to support the estimate that the South Quarry Project will use 105.3 acre-feet of water per year. The water usage description is expanded below, along with clarification on the various comparisons in the Draft EIR/EIS. In summary, the water required for dust control on roads associated with the South Quarry is estimated to be 79.2 acre-feet per year (af/yr); the net increase in water usage after opening the South Quarry and closing the East Pit is estimated to be 58.6 af/yr; and the cumulative increase associated with the South Quarry and West Pit projects combined is estimated to be 101.3 af/yr.

The water demand for the South Quarry project is driven by the use of water for dust control. Measure AIR-2 requires water or chemical dust suppressants to be applied to unpaved roads. In a worst-case scenario, if only water is used for dust suppression, Mitigation Measure AIR-2 requires that it be applied no less than once every 1.25 hours on days of active mining, at a rate of no less than 0.11 gallons per square yard. The amount of water needed annually to meet this requirement is calculated based on the surface area of the road (length of road traveled times the width of the road), the watering intensity (frequency and rate), and the operating days per year.

The maximum length of travel for trucks bringing ore from the South Quarry is 4 miles one way. This is longer than the length of new road to be constructed because the haul trucks serving the South Quarry would also travel a portion of existing road to the crusher and may travel some distance within the new quarry itself (See Draft EIR/EIS Table 3.2-7, note 3). The average width of the route is 50 feet. One mile equals 5,280 feet. Therefore, the total surface area of the route is: 4 x 5280 ft. x 50 ft. = 1,056,000 ft^2. This is equivalent to 24.2 acres or 117,333 square yards. At a watering rate of 0.11 gallon per square yard, the watering truck would apply 12,907 gallons per pass (0.11 x 117,333). To satisfy the frequency requirement of once every 1.25 hours, the water truck would need to make 8 passes per day, for total water usage of 103,253 gallons per day (12,907 x 8). The mine would operate 250 days per year (*See* Draft EIR/EIS p. 2-7), so annual water usage for the South Quarry is estimated to be 25,813,333 gallons per year (103,253 x 250), or 79.2 af/yr.

Note that this calculation uses the maximum length of travel to the farthest portion of the quarry, 4 miles, although during many years of operation, the haul route would be shorter, and so the water used for dust control would be less. Note also that the annual calculation is based on an operating schedule of 250 days per year but, as described at page 2-7 of the Draft EIR/EIS, snow or other severe weather at the elevation of the South Quarry may make it unavailable for one or two months during the winter, in which case there would be fewer operating days and the water used for dust control would be less. Finally, if chemical dust suppressants are used, the water may not be needed or substantially less water would be used. Therefore, this calculation represents the worst-case scenario of the maximum amount of water potentially required by the Project.

AIR-2 also requires dust suppression be applied to disturbed mine areas that are in active use. However, the disturbed mine area is not used in calculating the increase in water usage caused by the South Quarry Project because the Project would not cause an increase in rock production or in the amount of mine area disturbed per day among the three quarries (*See* Draft EIR/EIS Table 3.2-7). Therefore, the South Quarry Project would not cause an increase in water usage associated with dust suppression for disturbed mine areas.

Consistent with the calculations above, Section 2.3.2.6 of the Draft EIR/EIS summarizes that the estimated water usage for dust control for the South Quarry "would be approximately 104,000 gallons per day, or approximately 79.2 acre-feet per year (af/yr)." This section then includes several additional calculations and comparisons. Section 2.3.2.6 explains that the East Pit is expected to be closed as the South Quarry is brought on line; therefore, the net increase in water usage would be 79.2 af/yr less the 20.6 af/yr used in the East Pit, or 58.6 af/yr. Section 2.3.2.6 also includes a comparison of the historical usage of 484 af/yr, consisting of the cement plant (463.3 af/yr) plus mining (20.6 af/yr, primarily in the East Pit) to the future use of 585.3 af/yr, consisting of cement plant (463.3 af/yr) plus mining in West Pit (42.7 af/yr) and in the South Quarry (79.2 af/yr). Using this comparison, future water use from the combined effect of the West Pit Project and the South Quarry Project together with the cement plant (585.3 af/yr) would be 101.3 af/yr greater than the historical average use of 484 af/yr. Thus, the cumulative change from the two projects combined is 101.3 af/yr (*See* p. 2 of the Water Supply Assessment, revised December 2012, Appendix H to the Draft EIR/EIS).

There was an inadvertent error in the Ninyo & Moore report, attached as Appendix F to the Draft EIR/EIS, and in Section 3.8.4.2 of the Draft EIR/EIS (at pages 3.8-12 and 3.8-13). Both the report and these two pages of the Draft EIR/EIS state that the Project would increase the total demand for groundwater by approximately 105.3 af/yr. A preliminary version of the Water Supply Assessment, dated November 2010 and attached to the original MCC application, stated that total water demand for plant operations and mining would increase 105.3 af/yr, comparing future operations to historical water production. However, the preliminary Water Supply Assessment was superseded by the final version, revised December 2012, which was included as Appendix H to the Draft EIR/EIS. Section 3.8.4.2 of the Final EIR/EIS will be corrected to reflect the correct numbers from Section 2.3.2.6 and Appendix H, specifically, that the South Quarry Project would result in a net increase in water demand of 58.6 af/yr, and that the net increase in water demand associated with the South Quarry Project, when combined with the West Pit water demand, would lead to a cumulative water demand of 101.3 af/yr. As explained further in Master Response No. 1, this clarification does not require recirculation of the Draft EIR/EIS, as it does not provide new information regarding a potential significant environmental impact that was not previously addressed. The Draft EIR/EIS concluded that even an increase in

water usage of 105.3 af/yr would not lead to a significant environmental impact. Therefore, a net increase of 58.6 af/yr for the South Quarry Project, or a cumulative increase of 101.3 af/yr for the combined South Quarry and West Pit Projects, would also not lead to a significant environmental impact.

Response to Comment 16-26:

This comment states the Draft EIR/EIS's analysis addressing the Project's potential impacts to groundwater resources is inadequate because the Draft EIR/EIS relies on MCC's compliance with its allotted Free Production Allowance under the Mojave Basin Judgement. The comment advances two reasons for its assertion that the EIR/EIS is inadequate.

First, the comment states that the Judgement should have been included as part of the Draft EIR/EIS. Documents relevant to the Mojave Basin Judgement are available on the web site of the Mojave Water Agency. The 1996 Final Judgement is located here: https://www.mojavewater.org/files/Judgement_twmm4jhn.pdf

Appendix A to the Judgement is located here: https://www.mojavewater.org/files/appendixa.pdf
The Watermaster's annual reports to the Superior Court can be found here: https://www.mojavewater.org/downloads.html.

The Watermaster's most recent report, for the 2017-2018 water year (dated May 1, 2019), is available here: http://www.mojavewater.org/files/25AR1718.pdf .

The 1996 Final Judgement and the 2016-2017 Annual Report are available in the Administrative Record.

Second, the comment asserts that the Mojave Basin Judgement is not a CEQA compliance tool and does not provide CEQA thresholds of significance. Although the Judgement itself does not discuss CEQA or NEPA, reliance on the Final Adjudication and its ongoing administration is consistent with the significance thresholds articulated in Section 3.8.4.1 of the Draft EIR/EIS. The relevant CEQA threshold queries: "Would the project … [s]ubstantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?" Under NEPA, a project's potential impact is determined by the context and intensity of the resulting change relative to the existing environment. As explained in Section 3.8.3 of the Draft EIR/EIS, the Mojave Basin was the subject of an adjudication to determine the water rights of various water producers. The purpose of the Final Judgement, entered in 1996, was to create incentives to conserve local water, guarantee that downstream producers will not be adversely affected by upstream producers, and assess producers to obtain funding for the purchase of imported water. The Final Judgement was designed to reduce groundwater withdrawals, allocate supply, and put in place systems to correct the overdraft condition of the Mojave Basin that lead to the litigation.

As described in greater detail in the Judgement, more than two years of technical studies were undertaken to assess the status of the aquifer, design an approach to regularly assess the in-flow and withdrawals to determine the annual safe yield that would correct the overdraft condition, and to equitably allocate the annual safe production among more than one thousand persons. Allocation of production allowances was grounded in verified historical data regarding the amount of water produced by the parties from 1986 to 1990. As an initial step to correct the overdraft condition, the Judgement mandated that water producers in the Este Subarea of the Mojave Basin (the subarea within which MCC's wells are located) reduce water production by 5

percent per year in the first five years, for an overall reduction of 20 percent. For MCC, Exhibit B, Table B-1 to the Judgement shows that the company was required to reduce its production from 1,299 af/yr to 1,039 af/yr during the initial five years. Moreover, the Judgement appointed a Watermaster with on-going responsibility to administer and enforce the Judgement, including annual assessment of the state of the aquifer, and to adjust the production allowances as needed. The Watermaster must report to the Superior Court annually.

The Watermaster's most recent annual report (dated May 1, 2019, covering water year 2017-2018) states: "Water levels in Este have remained stable for the past several years indicating a relative balance between recharge and outflow." Based on stable water groundwater conditions, the Watermaster recommended that free production allowances for producers in the Este Subarea remain at approximately 80 percent of the base (historical) annual production.

For MCC in particular, the annual report shows that the company had a free production allowance of 1,116 acre feet for 2017-2018, verified production of 357 acre feet in 2017-2018, and proposed free production allowance of 1,116 acre feet for 2018-2019. Because the Mojave Basin Judgement based the allotment of groundwater use on the goal of ensuring that downstream producers would not be adversely affected by upstream producers, the Judgement's allotments protect against usage that would substantially deplete groundwater supplies. The Project's water usage would fit within MCC's free production allowance under that Judgement. As such, MCC's compliance with the Final Judgement, together with the ongoing assessment and adjustment by the Watermaster assigned by the Superior Court, would assure that the South Quarry Project would not deplete groundwater supplies or interfere with groundwater recharge.

Response to Comment 16-27:

This comment states that GEN-14 is vague, deferred, and unenforceable as mitigation for adverse changes to water quality. GEN-14 is not intended as mitigation for water quality. Rather, the purpose of GEN-14 is to confirm the conclusion of the Draft EIR/EIS that the Project would not reduce water levels in nearby Cushenbury Springs and, if a reduction is identified at some point in the future, to put in place a mechanism to address it. The Project would require an increase in groundwater extraction to supply water for dust control. The water would be withdrawn from existing wells located near the Cement Plant and elsewhere in the vicinity. The Cushenbury Springs Hydrogeologic Evaluation, Appendix E to the Draft EIR/EIS, was undertaken to assess whether the increased groundwater withdrawals have the potential to affect water levels in the Springs. As summarized at page 3.3-52 of the Draft EIR/EIS, the report "did not identify a direct connection between the wells and Cushenbury Springs; the aquifers are separated by faulting... Thus, no changes to Cushenbury Springs and its associated habitat are expected from Alternative 1." Because there is no evidence of potential significant impact, no mitigation is required by CEQA or NEPA. However, a more cautious approach is reflected in Design Feature GEN-14, due to the long term of the Project (40 to 120 years, depending on the action alternative). The Draft EIR/EIS explains that by requiring continued tracking of groundwater levels, GEN-14 will allow any adverse changes to be identified and minimized. GEN-14 is not improperly deferred mitigation because no significant impact has been found, and this mitigation is in place to ensure any future changes to geologic conditions are addressed. Similarly, it is not possible to mandate specific responses in GEN-14 because no adverse impact is expected, and any response will need to be tailored to the circumstances – if any – that manifest in the future.

Response to Comment 16-28:

This comment states that the Draft EIR/EIS fails to provide information on the types of chemicals that would be used as part of the South Quarry Project. Only three categories of chemicals (dust suppressants; fuels and lubricants; and explosives) would be used as part of the Project, and these are disclosed in the Draft EIR/EIS. (Staining products may be used in the future, as discussed in response to Comment 16-32, but only after review and approval).

Design Feature/Mitigation Measure AIR-2 states that MCC may use chemical dust suppressants to minimize fugitive dust emissions on the haul road. Design Feature/Mitigation Measure GEN-1f. requires that chemical dust suppressants be non-toxic to wildlife and plants. Additional information on MCC's use of the chemical dust suppressants is provided in response to Comment No. 16-14.

The equipment used in mining would require fuels, lubricants, and other fluids typical of heavy equipment (*See*, Draft EIR/EIS at page 3.7-7). MCC would continue to comply with all applicable federal and state safety rules and regulations regarding hazardous materials, including those described in Section 3.7.2 of the Draft EIR/EIS. In addition, GEN-1g provides: "All vehicles and equipment shall be maintained in proper working condition to minimize the potential for spill of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. Spills would be cleaned up as quickly as possible." These requirements would avoid a significant adverse impact related to vehicles and other equipment.

Blasting operations would continue to involve drilling along the mining face, placement of charges, and detonation of the charges by a blaster licensed through the Bureau of Alcohol, Tobacco, Firearms and Explosives for handling explosives. Existing programs regulating explosives are listed in Section 3.7.2 of the Draft EIR/EIS, and the use of explosives is discussed in Section 3.7.4.2. All explosives and detonators must be transported, handled, and stored in accordance with all federal, state, and local regulations and permitted under the San Bernardino County Sheriff's Department and San Bernardino County Fire Department. Blasting materials must be secured in an appropriate magazine and location at the Cushenbury plant. To further protect wildlife from blasting events, GEN-11 requires visual inspections prior to detonation. After mitigation, potential impacts from the risk of exposure both on-site and off-site are considered less than significant.

Response to Comment 16-29:

This comment states that the Draft EIR/EIS does not sufficiently explain what toxic chemicals would be used for the Project, and contains only a single measure, GEN-1, to protect water quality. As explained further above in response to Comment No. 16-28, the Project would not lead to the use, storage, or transport of chemicals other than dust suppressants, fuels and lubricants, and blasting materials. Existing regulatory programs would avoid significant impacts associated with handling, transporting and using these materials. Additional protections for water quality are provided through GEN-1f and GEN-1g, as well as the erosion control measures required by GEO-1.

Response to Comment 16-30:

This comment states that the Draft EIR/EIS does not discuss the applicability of California's Industrial Activities Stormwater General Permit to the South Quarry Site. The South Quarry Project is not subject to California's Industrial Stormwater General Permit because the Project would not lead to a discharge into a water of the U.S. As explained in Section 3.8.4.2 of the Draft EIR/EIS, offsite runoff from the quarry excavation would not be significant because the Project has been designed to retain runoff within the excavation. Further, the Jurisdictional Delineation (Appendix D to the Draft EIR/EIS, renumbered as Appendix D-1 in the Final EIR/EIS) concludes that the Project would not impact any waters of the U.S., and that all the drainages in the study area are isolated waters, not jurisdictional waters of the U.S. EPA's scoping comment letter of May 8, 2012 does not suggest that the Draft EIR/EIS must evaluate the Industrial Activities Stormwater General Permit or the individual NPDES permit program if these programs do not by their terms apply to the Project.

The comment states that the Draft EIR/EIS does not describe all surface water discharges from the site. To the contrary, the potential discharges are described in Sections 2.3.2.9 and 3.8.4.2 and elsewhere throughout the Draft EIR/EIS. The discussion is not extensive because discharges from the site are limited by Project design. With respect to the quarry itself, p. 2-9 of the Draft EIR/EIS explains: "In active quarry areas, drainage control would generally not be a significant concern because all disturbed area drainage is anticipated to be retained within the basin created by the quarry excavation." Section 3.8.4.2 further explains: "The site is at a topographic high and construction of the quarry creates a low area for surface drainage. Water runoff due to rainfall events and snow melt would occur at the site. Offsite runoff from the quarry excavation would not be significant because the Project has been designed to retain runoff within the excavation. Runoff water collected using best management practices (BMPs) would leave by evaporation or infiltration." With respect to roads outside the quarry, Section 2.3.2.9 explains that erosion and sediment loss and transport would be controlled using localized drainage and sediment control measures, including catchment basins. Current road design includes more than 15 catchment basins along the new route. Based on Project design and operating measures, offsite runoff is not expected.

The comment states that rather than describing surface water discharges, the Draft EIR/EIS "only generally promises that 'best management practices' would be used to address 'runoff'." BMPs have been incorporated into Project design and operation and are described in the Draft EIR/EIS. First, as noted above, the quarry is designed so the disturbed area within the quarry footprint would drain into the quarry and not produce sediment-laden runoff. Second, the roads are designed with catchment basins for the same reason. Other measures are described in Section 2.3.2 of the Draft EIR/EIS. Excavation techniques would reduce the possibility of boulder roll down or material erosion off-site (Draft EIR/EIS p. 2-7). All waste rock would be retained in the pit (Draft EIR/EIS p. 2-9), thus containing any runoff from the waste rock stockpile. Other erosion control measures include "construction of temporary diversion and collection ditches, berms, check dams or catchment basins; [and] placement of erosion control materials, sediment fences, or straw bales" (Draft EIR/EIS p. 2-10). Quarry benches would be sloped inward toward the vertical wall to capture any precipitation and runoff (Draft EIR/EIS p. 2-11). Design Feature/Mitigation Measure GEN-1(k) would ensure that these design features, construction techniques and operating measures would be enforceable. Other relevant measures to reduce erosion, avoid contaminated runoff, and ensure enforceability include Measures GEN-1(i) regarding vehicle maintenance and vehicle fluids; GEN-1(h) regarding trash and waste; GEN-

1(l) regarding stabilization of disturbed soils and roads; GEO-1 regarding control of surface drainage, erosion and sedimentation; and SCEN-3 regarding erosion control features. Reclamation, including revegetation, also would reduce erosion risk in areas where mining has been concluded.

Note that there is a discrepancy in the numbering of subparts in Design Feature/Mitigation Measure GEN-1 between pages 2-17 to 2-18 of the Draft EIR/EIS due to a typographic error. This has been corrected in the Final EIR/EIS.

Response to Comment 16-31:

This comment states that the Draft EIR/EIS improperly defines the scope of scenic resources to evaluate the Project's potential cumulative impacts. Although the comment asserts that the scope is improper, it does not comment on or make any specific criticisms of the methodology used in the scenery analysis in the Draft EIR/EIS or offer any different methodology.

To avoid the inconsistent analyses that might result from an unrestrained subjective approach to scenery impacts, the Forest Service developed the Scenery Management System. The Forest Service Scenery Management System, which is the methodology followed in the Draft EIR/EIS and in the Scenery Report (Appendix K), reflects the input of hundreds of individuals, organizations and agencies. An earlier version of the management system was published in 1974 as *The Visual Management System*. As summarized in the superseding publication, *Landscape Aesthetics: A Handbook for Scenery Management* (Agriculture Handbook Number 701, USDA Forest Service, 1995), the management system was refined and improved through comments and critiques from within the Forest Service, other agencies, academic institutions, organizations, and private practitioners. "Dozens of researchers in the fields of landscape architecture, psychology, sociology, economics, ecology, and so on, have since added to the evolving knowledge and understanding of scenic quality, attributes, and values. Throughout the development of this handbook, there was a concerted effort to analyze and utilize new knowledge developed by researchers." *Landscape Aesthetics* goes on to describe contributions from specific individuals recognized for their expertise and research. The resulting handbook has clear definitions and extensive explanations of the important characteristics, qualities, values and capacities that come into play in evaluating scenery and potential impacts. This is the methodology used in the Draft EIR/EIS and the Scenery Report (Appendix K of the Draft EIR/EIS) to evaluate potential effects to scenery.

As noted in the comment, the application of this methodology to impacts of the proposed Project resulted in the conclusion that project-level impacts would be significant. The Draft EIR/EIS identifies feasible mitigation, but even after mitigation and completion of reclamation, concludes that the project-level impacts would remain significant. The comment does not question this conclusion; it takes issue only with the analysis of cumulative impacts.

The comment asserts that the Draft EIR/EIS used an "unusually large viewshed" in the analysis of cumulative impacts, but in fact the Draft EIR/EIS used a smaller area to evaluate potential cumulative impacts to scenic resources than was defined for cumulative impacts generally in Section 3.1.3. To evaluate cumulative impacts, an area of analysis is selected based on the resources that are found within the Project site, and encompasses an area with resources similar to those of the Project site to evaluate how a particular resource would be affected by the collective impacts of the Project and past, present, and foreseeable actions in the analysis area (Draft EIR/EIS, p. 3.1-4). The Draft EIR/EIS explains at p. 3.11-14 that a smaller area was

selected to evaluate cumulative impacts to scenic resources in order "to focus on and correspond with the sense of place and valued landscape character descriptions found in the [Forest Service's Land Management Plan] and the changes in these values from the key viewpoints in Lucerne Valley."

That said, the key viewpoint used for the cumulative analysis also needed to be of sufficient distance from the Project site so that a viewer could see all three adjacent limestone mining operations located on the northern slope of the San Bernardino Mountains that are the prime contributors to the cumulative impact. The Lucerne Valley High School was selected as a key viewpoint for the cumulative analysis because it is sufficiently distant from the Project site to allow a "cumulative" view of multiple mines along the north slope of the San Bernardino Mountains, because the view of the mines is not screened by intervening topography, because it is one of the few large gathering locations in the Lucerne Valley community, and because the view from this location represents views typical throughout Lucerne Valley southward toward the SBNF, the San Bernardino Mountain range, and the mine sites. Viewpoint 1, from the Lucerne Valley High School, was the basis for the cumulative impact analysis (*See* Appendix K, pages 45-48). The EIR/EIS provides a reasonable explanation for the geographic scope of the area affected by the cumulative effect, as required in CEQA Guidelines § 15130(b)(3).

The viewshed southward from the Lucerne Valley High School is estimated to extend about 12 miles (east to west) and include 16,000 acres. Past and present actions already impact approximately 1600 acres of the viewshed, with "extensive disturbances that are visible from Lucerne Valley" (Appendix K, p. 47). The South Quarry Project would add approximately 154 acres of disturbance. Although not all of the disturbed Project site would be visible from Viewpoint 1, the cumulative visual impacts analysis describes a total disturbance of 1,754 acres (1,600 + 154), and an increase in disturbed acreage of less than 1 percent of the viewshed. But more important than numbers of acres or percentage of viewshed is the overall effect of the change, as assessed using the Forest Service Scenery Management System.

The Scenery Management System analysis starts with a description of the landscape character of the affected environment, or baseline. Landscape character refers to the overall visual and cultural impression, including *both physical appearance and cultural context* that give a landscape a unique identity and sense of place. For the South Quarry Project, the landscape character includes both the scenic attributes of rugged ridgelines dropping steeply to the developed community on the desert floor and the history of mining that is imprinted on the landscape (Draft EIR/EIS pp. 3.11-2 to 3.11-3). Next, the analysis considers the public's visual expectations, which influence the relative importance and sensitivity of the perceived landscape. From Viewpoint 1 in the Lucerne Valley, the San Bernardino Mountains form a scenic backdrop to the Valley's developed industrial, residential and commercial areas (Draft EIR/EIS p. 3.11-3). Next, the analysis assesses scenic attractiveness, which refers to the scenic importance of the landscape based on human perceptions of the intrinsic beauty of landform, vegetation pattern, and cultural land use. The scenic attractiveness of the viewshed from Viewpoint 1 is rated B, on a scale where A is distinctive, B is common, and C is indistinctive (Draft EIR/EIS pp. 3.11-4, 3.11-7; Scenery Report, Appendix A, Viewpoint 1 – Lucerne Valley High School). The visibility of the scenery is judged based on the public importance (the "concern level") placed on the landscape from locations of concentrated public viewing, taking into account the distance between the viewer and the landscape. The landscape from Viewpoint 1 is rated of "moderate" concern, with the mountains appearing in the distant background (Draft EIR/EIS p. 3.11-7). The landscape is also assessed for scenic integrity, which measures the amount of valued appearance

in the landscape against the amount of visual disturbance that detracts from the landscape value. From Viewpoint 1, the Project site appears undisturbed but adjacent to an area of extensive surface disturbances, dominated by existing road cuts and mining excavations that cause the scenic integrity of the viewshed to be rated "Very Low, trending … towards No Integrity" for purposes of the cumulative analysis (Draft EIR/EIS pp. 3.11-11, 3.11-14; Scenery Report, Appendix K, pp. 47, 48). However, the existing disturbed area is surrounded by an even larger landscape, and the disturbance resulting from the South Quarry Project would be a relatively small addition to the larger landscape. Viewed in context, it also would be much less visually dominant than the existing disturbances (Draft EIR/EIS p. 3.11-14).

In sum, with respect to cumulative impacts, Viewpoint 1 presents a moderately scenic mountain backdrop to the industrial, residential and commercial development of the Lucerne Valley Community. The public expects the scenic backdrop to continue, but both the existing landscape character and the public expectations are tempered by the cultural context, i.e., more than 100 years of mining. The larger landscape values, while attractive, are not unique or distinctive, are already compromised adjacent to the proposed Project site, and are viewed by the public from a distance. Therefore, after implementation of Design Features/Mitigation Measures SCEN-1 through SCEN-14, the small amount of additional disturbance would not substantially change the landscape value from Viewpoint 1.

The comment asserts that the Project would affect much more than one percent of the cumulative impact study area, relying on "the photos in Figures 7 and 10 through 14" in Appendix J to the Draft EIR/EIS. This response assumes the commenter intended to cite to Figures 7 and 10 through 14 in the Scenery Report (Appendix K to Draft EIR/EIS), most of which are scenic simulations of what the Project area would look like during and after the Project is implemented. Figure 7 contains no photos and no simulations; it is merely the location map identifying the sites of the key viewpoints used in the analysis, and therefore does not support the assertion made in the comment. Figures 11 and 12 are photo simulations showing the progress of the Project from Viewpoints 2 and 3 during implementation and after reclamation. From these viewpoints, the benches of the South Quarry would be quite noticeable, and these viewpoints greatly influenced the conclusion that project-level impacts would be significant and remain so even after mitigation and reclamation. But these viewpoints are too close to the Project site to encompass all three of the major limestone mines that are the largest contributors to the cumulative impact. Figure 13 is a simulation from Viewpoint 5, inside the National Forest, and demonstrates that not even the South Quarry would be visible at the end of Phase 2. No other mining operation can be seen from this viewpoint, and so there would be no cumulative impact to scenery from this location. Therefore, Figure 13 does not support the assertion in the comment. Figure 14 is a photo from Viewpoint 5 along Highway 18, identified by the County as a scenic route. As the text describes and the figure shows, the South Quarry would be largely screened from view by foreground ridgelines, and no other mines are visible. Therefore, again, there would be no cumulative impact to the scenic resources along Highway 18, and Figure 14 does not support the assertion in the comment.

That leaves Figures 10 and 15. Figure 10 is the photo simulation from Viewpoint 1 at the Lucerne Valley High School, discussed in detail above. Figure 15 shows the Project area from Viewpoint 6 (from Northern Lucerne Valley), approximately 14 miles from the Project site, just below the ridgeline of the scenic backdrop as viewed from SR 247 from the northern edge of Lucerne Valley. From this viewpoint, the San Bernardino Mountains are a background to a view of the desert valley, as the natural atmospheric haze softens details of the distant slopes: "The

valued scenery appears unaltered from this distance, thus the existing scenic integrity for the area is considered Very High. Given the distance to the site and the natural air turbidity, even on a clear day, the Proposed Action would only appear slightly altered. Disturbances during Phases 1-4 … would be minor and visually subordinate to the valued scenery." The comment provides no different facts or analysis to support a conclusion that the cumulative impact to scenery resources as viewed from Viewpoint 6 would be significant.

This comment further asserts that the Draft EIR/EIS provides conflicting conclusions about the Project's potential impacts to scenic resources, since the Draft EIR/EIS concludes "the scenic integrity of the Project site would be Low," but "cumulatively, the Proposed Action would have a minor to neutral effect on the overall scenic integrity of the area." In fact, the Draft EIR/EIS's analyses of project-level and cumulative impacts are rigorous, consistent, and explained. In contrast, the comment merges the project-level and cumulative information and ignores context and other important factors affecting each analysis.

In evaluating ***project-level*** impacts, the historical and existing mining was not considered: "Direct and indirect effects … are analyzed specifically for the project area and do not refer to the current disturbances caused by existing mining activities west of the project area. Those disturbances are analyzed under cumulative effects." (Scenery Report, Appendix K, p. 27). Accordingly, for the project level analysis, the Scenery Report rated the existing scenic integrity to be High at Viewpoints 1 and 2, and Very High at Viewpoint 3 (Scenery Report, Appendix K, pp. 30, 34, and 38). But, again, this is essentially a description of the proposed footprint of the South Quarry, without regard to nearby mining activities that appear in the viewshed. For example, the existing scenic integrity from Viewpoint 3 is described as "natural or unaltered," resulting in a "Very High" rating even though SMI's mining activities are highly visible just to the right of the proposed Project area (See Scenery Report, Appendix K, pp. 38-39 and Figure 12A, photo 1). When viewed close-in for this project-level analysis, "views of the Project area itself show a natural appearing landscape. The Project area has not been disturbed and the valued scenery looks as if it is in a natural state." (Draft EIR/EIS p. 3.11-11). With this highly focused approach to baseline for the project-level analysis, the Draft EIR/EIS concludes that the project-level impacts on scenic resources would be major and adverse, resulting in a potentially significant impact to a scenic vista and the existing visual character of the site and its surroundings, even after mitigation (Draft EIR/EIS, pp. 3.11-13, 3.11-17).

The ***cumulative*** analysis is influenced in part by different factors, and so reaches a different conclusion. First, the baseline for the cumulative analysis takes into account the degradation in scenic value cause by the previous and ongoing mining on the North Slope. Therefore, while the existing scenic integrity of the viewshed from Viewpoint 1 is rated High for the project-level analysis, Viewpoint 1 is rated "Very Low, trending … towards No Integrity" for the cumulative analysis, in light of the alterations caused by prior and existing mining (Draft EIR/EIS p. 3.11-14; Scenery Report, Appendix K, p. 48). Second, distance affects physical properties. Unlike some impact topics, e.g., emissions of toxic air contaminants where the cumulative projects would produce overlapping impacts only if close together, the key viewpoints for assessing the cumulative scenery effects of multiple mining projects must be farther from the projects to encompass a wide enough view. But with distance comes a loss of detail and an increase in haze: "Relative to the large scale of the mountain ridgeline, the Project area comprises a small mass located east and south (upslope) of the other existing mining operations. Distant views … of the mountain backdrop tend to soften landscape details due to the natural prevalence of atmospheric haze from dust and moisture." (Draft EIR/EIS p. 3.11-4). "As distance between the

viewer and the landscape increases, the level of visible landscape detail decreases." (Draft EIR/EIS p. 3.11-7). Third, with distance, more of the surrounding landscape enters the viewshed, providing a different context, or backdrop, than for the project-level analysis. Thus, although the Project would add incrementally to the cumulative existing scenic impacts, the Project would disturb a very small area relative to the large scale of the landscape being viewed, and disturbances caused by the Project would be much less dominant than existing landscape disturbances (Draft EIR/EIS, p. 3.11-14). In other words, the South Quarry Project would expand the existing disturbed portion of the landscape to a relatively small degree, but not so much that it would change the overall visual experience from Viewpoint 1, given that the disturbed mining area is surround by a much larger natural-looking landscape. After implementation of Design Features/Mitigation Measures SCEN-1 through SCEN-14, the scenic integrity levels are expected to remain unchanged by cumulative effects.

The comment asserts that the cumulative impact conclusion in the Draft EIR/EIS defies common sense because the impacts from limestone mining can be seen from space. The comment provides no evidence the effects of mining in the vicinity of the proposed Project can be seen from space, or that the view from space would change in a meaningful way with the addition of the South Quarry Project. More importantly, as discussed in Sections 3.11.3.4 and 3.11.3.5, a key part of the scenery analysis is based on landscape visibility from key viewpoints representing the views from travelways (linear concentrations of public viewing, including roads and trails) and use areas (locations that receive concentrated public viewing). The view from space is not sufficiently representative to be selected as a key viewpoint for the scenery analysis.

The comment does not provide any evidence of scenery impacts in addition to the evidence disclosed and discussed in the Draft EIR/EIS. Rather, the comment expresses a different opinion regarding the significance of the cumulative impact to scenery, based on the information in the Draft EIR/EIS. That opinion is noted and will be considered by the decision makers.

Response to Comment 16-32:

This comment states that the Design Features/Mitigation Measures proposed to mitigate the Project's potential impacts to scenic resources are vague, deferred, and inadequate. There are fourteen separate measures set forth on Draft EIR/EIS pages 3.11-15 to 3.11-16, all of which will be enforced and monitored through the Mitigation Monitoring Plan that is required by CEQA to be adopted by the County. Some of the measures refer to or incorporate requirements that will be followed as part of the Reclamation Plan (required under California's Surface Mining and Reclamation Act) or pursuant to MDAQMD dust control regulations (SCEN-7, SCEN-13, SCEN-14). Reliance on the standards in those regulatory schemes is permissible under CEQA, which states "measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one way." (CEQA Guidelines, § 15126.4 (a)(1)(B))[2]. Other measures specify how the quarry and road must be designed, including SCEN-1, SCEN-3, SCEN-4 through SCEN-6, and SCEN-8. Others, such as

[2] After publication of the Draft EIR/EIS for public comment, the amendments to the CEQA Guidelines were adopted in December 2018. CEQA Guidelines Section 15126.4 was revised, but still permits lead agencies to rely on other regulatory schemes in implementing mitigation measures. The revised CEQA Guideline Section 15126.4 now states, "[c]ompliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards."

SCEN 7, and SCEN-9 through SCEN-12, mandate how the mining operations or reclamation must be carried out in order to minimize impacts. Aside from the general statement in the introductory sentence, this comment offers no explanation or insight into how these measures might be inadequate, and therefore no further response is warranted as to those measures.

Of the fourteen measures, the comment expresses specific criticism of only one, proposed Design Feature/Mitigation Measure SCEN-2, which requires approved color-staining products to be used to darken road cuts and visible quarry slopes, where such materials have been shown to be successful. The comment questions the content of these products, and whose approval will be required for their use. Currently, neither MCC nor the County or the Forest Service has identified a staining product that is durable and effective in blending with the color of the naturally weathered surrounding rock. Products currently available tend to result in a poor color match, or the value of the product is short-lived as the treated surface of the rock erodes. Accordingly, it is not possible at this time to state the chemical composition of any staining product to be used in the South Quarry. Accordingly, SCEN-2 requires an on-going effort over the life of the Project to investigate available products; the implementation of SCEN-2 has been described in the Mitigation Monitoring and Reporting Program (Appendix M). In addition, Measure GEN-1(d) will be revised as follows:

> Any <u>rock stain for scenic mitigation or</u> soil bonding or wetting agents to be used for dust control on unpaved surfaces shall be non-toxic to wildlife and plants and non-attractants for wildlife. If <u>staining,</u> wetting or soil bonding agents appear to be attracting wildlife to the roadways (e.g., by pooling or creating mineral licks), the mining operator will work with the Forest Service to develop remedies.

Response to Comment 16-33:

This comment states that the Draft EIR/EIS should have considered the Project's potential impacts from viewpoints along the Pacific Crest Trail. Section 3.10 of the Draft EIR/EIS, at page 3.10-5, states that recreational use at the recreation area nearest to the Project, at Burnt Flat, is expected to remain at a low level and would keep the setting consistent with a semi-primitive recreation opportunity spectrum. The Draft EIR/EIS further states that users in the remainder of the Desert Rim Place and Big Bear Backcountry are not expected to be adversely affected by the Project. Recreational values, settings, and activities associated with the Pacific Crest Trail (solitude, low levels of managerial control, evidence of humans, distance from roads, etc.) would not be affected by the Project due to the trail's distance from the Project (greater than two miles).

Additionally, as explained in Draft EIR/EIS Section 3.11, at page 3.11-4, the Project area is located within the northern boundaries of the SBNF in the Desert Rim Place. Draft EIR/EIS Figure 3.11-1 shows the potential viewshed of the Project area from areas within the SBNF based on USGS topographic mapping. The Project area is located in a relatively remote location with a generally low level of public use. It would be visible from a few low-volume roads and trails, but not visible from use areas, including vista points, trailheads, or campgrounds. Figure 3.11-1 in the Draft EIR/EIS was used as a tool to determine which areas could have the possibility to view the Project from any direction. As illustrated, due to the Project's location on the lower north-facing slope of the mountains, those areas within SBNF, including the Pacific Crest Trail, would be unable to see the Project even if the viewer was positioned along higher ridges or elevations. The proposed Project is generally only exposed to views from the north. In order to evaluate visual impacts from a location within the SBNF, View Point 4 (Forest Service

Road 3N02, 1 mile south of the site) was selected for analysis in the Scenery Report (attached as Appendix K to the Draft EIR/EIS). Even at this rather close distance, views of the site are generally screened by topography and trees. At a distance of two miles or greater, the Pacific Crest Trail would not be affected by views of the Project. The Pacific Coast Trail has been added to Figure 3.11-1 for clarity.

Response to Comment 16-34:

This comment states that the Draft EIR/EIS's discussion of the Project's potential irreversible and irretrievable commitments of resources is flawed. First, the comment asserts that the description of irretrievable commitments of resources is inconsistent. Second, the comment asserts that the conclusion regarding irretrievable commitments of resources is inconsistent with the analysis in the remainder of the Draft EIR/EIS.

As Section 4.1.3 of the Draft EIR/EIS explains, "irreversible" and "irretrievable" commitments of resources refer to different impacts. Irreversible commitments of resources are those that cannot be regained, such as the extinction of a species or the removal of mined ore. Irretrievable commitments of resources refer to resources that are lost for a period of time, such as the temporary loss of timber productivity in forested areas that are kept clear for use as a power line rights-of-way or road. With respect to the Project's proposed limestone extraction, the Project would lead to an irreversible commitment of resources. With respect to habitat resources, the Project would result in a temporary loss of resources, but habitat would be reestablished after mining. The Draft EIR/EIS describes that loss of habitat as temporary because the site would be reclaimed and revegetated after mining activities are complete. The Draft EIR/EIS describes the irretrievable commitment of resources as a long-term temporary loss because, although reclamation would begin in an area as soon as mining is completed in that area, the reclamation activities as a whole would not be complete until 120 years after the mining activities have begun, and additional time would be required for the last areas revegetated to mature.

Section 4.1.3 of the Draft EIR/EIS concludes: "There would be a temporary (but long term) loss of resources from removal of habitat. The site would be reclaimed after mining, but this gap would result in a short term irretrievable commitment of resources." As the comment observes, these two sentences appear to be inconsistent. The reference to "short term" in the second sentence is simply a typographical error that will be corrected in the Final EIR/EIS.

This comment further states that the habitat loss cannot be characterized as irretrievable, asserting that other parts of the Draft EIR/EIS say that MCC's reclamation activities would reclaim only 30 percent of the Project area. This comment confuses revegetation methodologies with the extent of site reclamation compared to the existing environment or baseline.

Currently, there is little topsoil on the site (Draft EIR/EIS, pp. 2-13, 3.3-51). Much of the Project site consists of steep mountainsides covered by rock outcrops without soil, and where soil is present, it is generally shallow and of poor quality (South Quarry Revegetation Plan, 2010, prepared by Aspen Environmental Group, Appendix L to MCC Plan of Operations and Reclamation Plan). Approximately 84 acres that would be impacted by Alternative 1 are classified as pinyon/juniper woodlands (Draft EIR/EIS p. 3.3-46). This vegetation community is "typically open-canopied with a sparse understory. In the Project Area, average overstory (tree canopy) cover is about 25 percent and average shrub cover is about 49 percent" (Draft EIR/EIS p. 3.3-17). Approximately 52 acres that would be impacted by Alternative 1 are classified as desert scrub (Draft EIR/EIS p. 3.3-46), which has a vegetation structure that is "generally open"

(Draft EIR/EIS p. 3.3-17). Approximately 13 acres that would be impacted by Alternative 1 are classified as mixed chaparral (Draft EIR/EIS p. 3.3-46), with a continuous and intermittent canopy (Draft EIR/EIS p. 3.3-17). The Project footprint for Alternative 1 contains less than one acre of montane hardwood-conifer forest (Draft EIR/EIS p. 3.3-46). Overall, the native shrub and tree cover is estimated at 74 percent for the areas classified as woodland (i.e., pinyon/juniper woodlands or montane hardwood-conifer forest) (Draft EIR/EIS p. 2-14). The acres of habitat loss for Alternative 2 would be similar, with the exception that fewer acres of pinyon-juniper woodland would be lost (Draft EIR/EIS p. 3.3-15, Figure 3.3-2). In sum, the existing vegetative cover of the site varies with the vegetation community and is currently less than 100-percent coverage across the site.

SMARA requires that the site be reclaimed at the conclusion of mining, and revegetation is a required component of reclamation. The Reclamation Plan submitted as part of the proposed Project and Plan of Operations describes the ways that revegetation would be approached in different parts of the site. To maximize the use of the site's limited topsoil, MCC would follow the technique of creating topsoil islands over approximately 30 percent of the benches and certain other disturbed areas. Revegetation of the islands follows a two-phased approach. First, pioneer shrub species such as rabbitbrush, Great Basin sagebrush, California fremontia, and cupleaf ceanothus are planted. These pioneer species assist in establishing the soil components necessary to allow the later dominant species to thrive and can serve as nurse plants that encourage growth of young pinyon pines and other tree seedlings. During this first stage, it is also expected that the islands would start to trap windblown seed and attract wildlife to aid in seed dispersal. The islands are maintained until monitoring shows that the island conditions are favorable for planting and seeding of climax trees, including pinyon pine, canyon live oak, and salvaged yucca. In time, it is expected that the islands would serve as source material for seed dispersal into the remainder of the disturbed areas, allowing vegetation to naturally spread beyond the islands. MCC has had success in revegetation efforts following this method. (Draft EIR/EIS p. 2-13; Reclamation Compliance Report 2009, prepared by JJ Restoration Service, Appendix I to MCC Plan of Operations and Reclamation Plan; South Quarry Revegetation Plan, 4 November 2010, prepared by Aspen Environmental Group, Appendix L to MCC Plan of Operations and Reclamation Plan.)

The Reclamation Plan also explains that elsewhere cover would be established on steeper slopes through hydroseeding with appropriate native seeds and mulch. Rabbitbrush and curl-leaf mountain mahogany would be planted on roll down and overburden sites (Draft EIR/EIS pp. 2-12, 2-13).

The Revegetation Plan includes detailed descriptions of the criteria to be used in measuring the success of the revegetation efforts. In addition to the requirement of 30 percent coverage by islands, the success criteria require that native tree and shrub cover be at least 50 percent of pre-disturbance cover levels, and that species richness be at least 50 percent of pre-disturbance levels. Cover and species richness also must be at least 50 percent of the levels in surrounding undisturbed reference vegetation. In woodland areas, seedling and sapling trees must achieve 50 percent of overstory tree density of the undisturbed levels. Yucca plants must be salvaged before land clearance, and at least 50 percent of the salvaged plants must survive or be replaced (Draft EIR/EIS p. 2-13 to 2-14).

Generally, it is expected that success would be evaluated – based on these criteria – at approximately ten years after completion of revegetation (Draft EIR/EIS p. 2-13), although further efforts and monitoring may be required if the success criteria have not been met by that

time. At the conclusion of monitoring, it is not expected that all pre-disturbance plants would be replaced; however, the extent of revegetation should "initiate biological productivity so that natural process can operate to more fully restore diversity and ecological function" (South Quarry Revegetation Plan, Appendix L to MCC Plan of Operations and Reclamation Plan, p. 6). The individual plants as well as the habitat overall would continue to mature even after the conclusion of the ten-year monitoring, although, as disclosed in the Draft EIR/EIS, "for many decades following completion of mining, the density and diversity of this vegetation is expected to be lower than that of the pre-project vegetation." (Draft EIR/EIS p. 3.3-47).

In sum, the 30-percent figure mentioned in the comment is simply a description of the footprint of the islands to be constructed in those areas where the "island" approach to revegetation is used. It is not a description of the extent of revegetation overall, nor is it the sole measure of success or a description of the final outcome of revegetation.

Due to the length of time between removal of vegetation and the return of mature habitat, the loss of plants and wildlife was conservatively treated as permanent for some purposes in the analysis of biological resources (*See*, e.g., Draft EIR/EIS p. 3.3-47). However, Section 3.3 acknowledges revegetation would occur following mining. Therefore, for purposes of Section 4.1.3, the loss fits better with the definition of an irretrievable commitments of resources rather than an irreplaceable commitment of resources. The loss is more akin to the example in the Draft EIR/EIS of loss of trees for a power line right of way. In that case, the right-of-way would remain clear for decades or longer, and once the right-of-way is abandoned and the power line removed, it may take several more decades before mature trees re-grow. Moreover, unlike the requirements imposed at the end of mining under SMARA, there often is no legal obligation to reclaim and revegetate a power line right-of-way at the end of use. Accordingly, the commitment of resources is appropriately classified as irretrievable.

Response to Comment 16-35:

This comment states that the Draft EIR/EIS's discussion of the applicable laws, regulations, and standards in the chapter on greenhouse gases and climate change should include a summary of Executive Order B-30-15, Senate Bill 32, and the U.S. commitment to reducing GHG emissions under the Paris Agreement. The Final EIR/EIS will add the following discussion of those policies and commitments.

Executive Order B-30-15

Executive Order B-30-15 was signed by Governor Brown on April 29, 2015. The Executive Order establishes a GHG reduction target of 40 percent below 1990 levels by the year 2030. Essentially, the Order mandates the following: 1) that a new interim statewide greenhouse gas emission reduction target to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030 be established to ensure that California meets its target of reducing GHG emission to 80 percent below 1990 levels by 2050; 2) that all state agencies with jurisdiction over sources of GHG emissions implement measures to achieve reductions of GHG emissions to meet the 2030 and 2050 GHG emissions reduction targets; 3) that CARB update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent; 4) that the California Natural Resources Agency update the state's climate adaption strategy (Safeguarding California) every three years, which will identify vulnerabilities to climate change by sectors and regions; that 5) each sector lead will be responsible to prepare an implementation plan by September 2015 to outline the actions that will be taken as identified in Safeguarding

California; 6) that state agencies take climate change into account in their planning and investment decisions and employ full life-cycle cost accounting to evaluate and compare infrastructure investments and alternatives; 7) that state agencies' planning and investment be guided by principles concerning reducing GHG emissions and preparing for uncertain climate impacts; 8) that the state's Five-Year Infrastructure Plan take current and future climate change impacts into account in all infrastructure projects; 9) that the Governor's Office of Planning and Research establish a technical advisory group to help state agencies incorporate climate change impacts into planning and investment decisions; and 10) that the state continue its rigorous climate change research program.

Senate Bill 32

Governor Brown signed Senate Bill 32 into law in September 2016. Senate Bill 32 expands on the mandate from the California Global Warming Solutions Act of 2006, requiring the state to reduce its GHG emissions to 40 percent below 1990 levels by 2030. Senate Bill 32 gives CARB authority to enact further regulations that will reduce GHG emissions.

Paris Agreement

The U.S. joined other countries to enter into the Paris Agreement in December 2015 under the United Nations Framework Convention on Climate Change. The Paris Agreement sets forth a global action plan to keep global temperature rise in this century to below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit temperature increase even further to 1.5 degrees Celsius. The U.S. and other signatories made commitments to reduce GHG emissions through nationally determined contributions. The agreement also aims to strengthen countries' ability to deal with the impacts of climate change, by appropriating financial flows and implementing new technology frameworks to support actions by development and vulnerable countries. President Obama ratified the Paris Agreement for the U.S. without Senate approval in September 2016. The Paris Agreement entered into force on November 4, 2016, after at least 55 of the parties to the United Nations Framework Convention on Climate Change accounting for an estimated 55 percent of the total GHG emissions ratified the agreement. On August 4, 2017, the United States advised the Secretary-General of the United Nations that, unless it identifies suitable terms for reengagement, the United States intends to exercise its right to withdraw from the Agreement as soon as it is eligible to do so. The United States gave official notice of its withdrawal on November 4, 2019. Withdrawal cannot be effective sooner than one year following official notice.

Response to Comment 16-36:

This comment states that the Draft EIR/EIS mischaracterizes the state of climate science when it states the extent to which GHGs contribute to global climate change is a source of debate. The Draft EIR/EIS does not question whether human sources of GHGs or other human activity contribute to climate change: "Emissions from human activities, such as electricity production and vehicle use, have elevated the concentration of [GHGs] in the atmosphere." (Draft EIR/EIS, p. 3.6-3). The Draft EIR/EIS analyzes the serious implications of GHG emissions on climate change and the Project's contribution to global GHG emissions. This comment further summarizes reports on GHGs and climate change. The remainder of this comment is noted for the record.

This comment further states that the Draft EIR/EIS used an inaccurate global warming potential to evaluate the impacts of methane. The Air Quality Study used the current U.S. EPA global warming potential values for a 100-year potential, which are the values required for this analysis under CARB's mandatory reporting rule requirements. The values referenced by the commenter are published in an international reference guide from the Intergovernmental Panel on Climate Change (IPCC). Table L-9 summarizes the GHG global warming potentials provided by U.S. EPA and the IPCC for methane and nitrous oxide. The global warming potentials provided by the IPCC have not yet been accepted by U.S. EPA. The Project's Air Quality Study, therefore, did not rely on those global warming potentials.

Table L-9
GHG Global Warming Potentials Summary

Source	CH_4	N_2O
EPA[1,2,4]	25	298
IPCC[3,4]	34	298

Notes:
[1]This value is currently in the South Quarry report.
[2]From EPA, 40 CFR 98 Table A-1 as of May 4, 2017
[3]From Intergovernmental Panel on Climate Change, Assessment Report 5
[4]The above are 100-year Global Warming Potentials. EPA does not use 20-year GWPs.

For informational purposes, additional analysis was prepared to evaluate the CO_2e GHG calculations, including CH_4 and N_2O emissions and CO_2 emissions, to show three scenarios under the different global warming potentials for CH_4. (Appendix B-2). The lowest CH_4 global warming potential of 25 is the value in current EPA GHG reporting regulatory documents, and the values of 34 and 86 are from the IPCC Assessment Report for 100-year and 20-year global warming potentials, respectively. In all three cases of CH_4 global warming potential value, the contributions to CO_2e from CH_4 and N_2O are relatively small, so the effect of changing the CH_4 global warming potential on total CO_2e is small. Therefore, using a different global warming potential would not change the significance conclusions related to the project's potential GHG impacts, and no further updates to the air quality study are required.

Response to Comment 16-37:

This comment first states that the Draft EIR/EIS generally does not discuss the Project's consistency with the state's GHG reduction policies and goals. As explained in the Air Quality Study (Appendix B to the Draft EIR/EIS and Appendix B-1 to the Final EIR/EIS), under AB 32, a series of GHG rules have been promulgated for industrial sources, including rules pertaining to GHG reporting and GHG reduction over the next few years. Various AB 32 rules applying to industrial sources affect both stationary sources and mobile sources, including: (1) AB 32's mandatory reporting requirements, which require annual reporting of GHG emissions; (2) The cap-and-trade facility requirements of regulations adopted to implement AB 32 which require facilities to purchase emission credits for GHG emissions beyond a diminishing allocation of credits; (3) The cap-and-trade fuel requirements of regulations adopted to implement AB 32, where fuel suppliers purchase credits from the same credit market; (4) SB 375, which regulates government planning efforts and promotes infill projects and other strategies to reduce vehicle use; (5) and other AB 32 Scoping Plan measures for smaller sources that are not subject to cap-and-trade.

For this Project, there are no stationary sources proposed that are subject to the AB 32 cap-and-trade facility regulations on a facility basis. The two main effects of the AB 32 requirements on

the Project is that fuel purchased must conform to the Low Carbon Fuel Standard (LCFS), and that fuel purchases for existing sources and for Project increases would be accounted for in the cap-and-trade program, ensuring that GHG emissions from fuel usage would be subject to a collective declining cap. The fuel suppliers are responsible for regulatory compliance of the fuels covered by the cap-and-trade program, and compliance would ensure that there is no increase in state-wide GHGs as a result of the fuel consumed in California by equipment associated with the South Quarry project. The EIR/EIS has been revised to include a discussion of the cap-and-trade program and inclusion of transportation fuels in the program as well as the LCFS.

SB 375 does not apply directly to the Project, although that law informed the County's development of its Greenhouse Gas Reduction Plan. Based on a detailed review of the 2017 AB 32 Scoping Plan Update, there are no new AB 32 Scoping Plan measures that have the potential to apply to the Project directly.

This comment further states that the Draft EIR/EIS's analysis of the County's Greenhouse Gas Reduction Plan is insufficient. The Air Quality Study (Appendix B to the Draft EIR/EIS, renumbered as Appendix B-1 for the Final EIR/EIS) discusses the applicability of the GHG Emissions Reduction Plan to the Project, and Plan consistency (*See* pp. 25 to 29 of Final EIR/EIS Appendix B-1). An important County objective in adopting the GHG Emissions Reduction Plan was to provide for streamlined CEQA review of future projects that are consistent with the GHG Emissions Reduction Plan. The GHG Emissions Reduction plan includes a 15 percent reduction target in GHG emissions from the 2007 emission inventory by 2020, which the County determined corresponds to the AB 32 objective of reducing GHG emissions to 1990 levels by 2020. The GHG Emissions Reduction Plan would also set the County on a path to achieve more substantial long-term reductions in the post-2020 period.

The County's GHG Emission Reduction Plan has several pathways for assessing CEQA significance. Under one pathway, projects that are exempt from CEQA and projects with emissions below the review threshold that comply with applicable provisions in the County Development Code and California law are considered consistent with the GHG Emission Reduction Plan and less than significant under CEQA. A second pathway states that when the SCAQMD or the MDAQMD adopt GHG performance standards, the County will consider such standards in assessing CEQA significance. A third pathway includes screening tables that identify GHG reduction measures and assign points to each measure based on its expected value in reducing emissions. A fourth pathway states that projects exceeding the 3,000 metric tons/year (MT/year) review threshold may be considered consistent with the GHG Emissions Reduction Plan and less than significant under CEQA if they achieve the equivalent level of GHG emissions efficiency as a 100-point project. A fifth pathway is specified for certain residential projects outside the city's sphere of influence.

Under CEQA, lead agencies have wide latitude in selecting a significance threshold for GHGs and climate change (CEQA Guidelines Section 15064.4). In this case, the County's Emission Reduction Plan does not provide the most appropriate significance threshold for the Project for the reasons further described below. It is not clear that industrial projects such as mining operations were contemplated in developing the GHG Emissions Reduction Plan's significance thresholds. Further, the plan does not provide any evidence of the appropriate or feasible GHG controls that could apply to a mining project.

With respect to the first pathway, because the Project's emission increase is estimated to be less than the review threshold of 3,000 MT/year CO_2e, the Project could be considered less than

significant under the County's GHG Emission Reduction Plan. Thus, under this pathway, no further GHG analysis would have been required to evaluate the Project's consistency with the plan.

The second pathway cannot be utilized because the SCAQMD and MDAQMD have not adopted GHG performance standards for the equipment or activities involved in the Project.

With respect to the third pathway that uses screening tables, industrial processes such as mining were not contemplated in the development of those tables. To the extent that the screening tables address industrial activities, they are premised on a model that consists of a stationary source with emitting equipment at a fixed location, to which employees and materials arrive by vehicle. The Project shares few attributes with this model.

The fourth pathway similarly does not apply. The 100-point equivalency pathway is not workable for a mining project because the 100-point benchmark used in the GHG Emission Reduction Plan is based on achieving an emission reduction of 0.691 MT CO_2e point per 1,000 square feet of gross commercial or industrial building area. There is no way to translate this into an equivalent level of emissions reduction for a mine that includes no buildings. Finally, the fifth pathway also does not apply, as it is intended for residential projects.

Given those potential pathways, the Draft EIR/EIS took a conservative approach in analyzing the Project's potential GHG emissions. Rather than stopping the analysis after determining the Project would not emit more than 3,000 MT/year CO_2e under the GHG Emissions Reduction Plan, the analysis considered the SCAQMD and MDAQMD significance thresholds under CEQA. In 2015, the California Supreme Court confirmed that a lead agency may use a quantitative threshold to determine whether a project has significant GHG emissions (*See Center for Biological Diversity v. Cal. Department of Fish and Wildlife* (2015) 62 Cal.4th 204).

The SCAQMD industrial CEQA significance threshold was adopted in December 2008 following nearly a year of study, analysis, and public input. Tier 3 of the SCAQMD's standard establishes a significance threshold of 10,000 MT/year CO_2e for industrial sources. The SCAQMD threshold was designed to ensure that projects representing at least 90 percent of GHG emissions would be considered potentially significant and require further analysis in a CEQA document, while allowing projects aggregating to approximately 10 percent of GHG emissions to proceed without detailed analysis. Unlike the County's GHG Emissions Reduction Plan, the SCAQMD's 90-percent capture thresholds were developed using a substantial database of industrial projects.

The current version of the MDAQMD's CEQA and Federal Conformity Guidelines establishes a CEQA significance threshold of 100,000 MT/year CO_2e. This is 10 times more GHG emissions than the SCAQMD threshold of significance. The County could have applied the MDAQMD CEQA significance threshold, but chose instead to continue applying the SCAQMD threshold, which had initially been applied to evaluate the Project when the Notice of Preparation was published. The SCAQMD CEQA significance threshold is the lowest numeric threshold adopted by any air district in the region. By comparison, the Antelope Valley Air Quality Management District adopted a CEQA significance threshold of 100,000 MT/year CO_2e, the Eastern Kern Air Pollution Control District has adopted a CEQA significance threshold of 25,000 MT/year CO_2e, and the Great Basin Unified Air Pollution Control District has applied a numeric CEQA significance threshold of 25,000 MT/year CO_2e in at least one EIR. Given the conservative approach taken by the SCAQMD, the County chose to continue applying that threshold to evaluate the Project's potential GHG impacts.

In sum, the Air Quality Study thoroughly explains why the GHG Emissions Reduction Plan does not provide an appropriate CEQA significance threshold and how the County arrived at its conservative approach to apply the SCAQMD's CEQA significance thresholds.

This comment next states that the Draft EIR/EIS did not adequately address the Project's potential cumulative impacts with respect to operation of the existing Cushenbury plant. This comment incorrectly states that the Cushenbury plant is dependent on the Project. The Cement Plant has operated since 1957. One objective of the South Quarry Project is to help MCC continue to realize the economic value from the investment made in the existing Cushenbury mine and cement plant and the limestone resource at the Project site (Draft EIR/EIS, p. 1-13), but operation of the Cushenbury plant is not dependent on approval of the South Quarry Project. In fact, the Draft EIR/EIS evaluates two alternatives that would require off-site sources of limestone. Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project assume that the Cushenbury Cement Plant will continue to operate but would have to truck high-grade limestone from an alternative source in lieu of obtaining the high-grade limestone from the South Quarry (Draft EIR/EIS, pp. 2-51 and 2-57). This approach is technically and legally feasible, and it is reasonable to assume that MCC would not cease to operate the existing Cushenbury Cement Plant and East and West Pits if the Proposed Action were not approved. Operation of the Cushenbury plant, therefore, is not dependent on the South Quarry Project. For further discussion, see Responses 16-4, 16-5, and 16-19.

Response to Comment 16-38:

This comment states the Draft EIR/EIS does not provide an analysis of the Project's consistency with statewide GHG reduction goals. This is not correct. The sole sources of GHG emissions associated with the Project are engines in the diesel-powered vehicles and equipment at the quarry, and a few personal vehicles used for employee commute (Draft EIR/EIS p. 3.6-7 to 3.6-8; response to Comment 9-8). As reflected in AB 32, AB 1493 and Executive Order S-01-07, discussed in the Draft EIS/EIR at page 3.6-3, and their implementing regulations, California has a several-pronged approach to reducing the GHG emissions from engines and vehicles, including: (1) increasingly stringent engine standards; (2) the low carbon fuel standard; and (3) inclusion of fossil fuels in the cap and trade program. By law, engines and fuels sold in California must meet the requirements of the first two strategies, ensuring that the emissions from quarry equipment engines and employee personal vehicles meet, or with fleet turnover will progressively decline to meet, California's goals. In addition, the inclusion of fuels in the Cap-and-Trade Program ensures that the Project cannot result in an increase in GHG emissions in the State of California, and indeed will progressively decline as the fuel manufacturers and suppliers must content with the declining cap. As discussed in the Draft EIR/EIS, Appendix B pp. 15-16 (renumbered as Appendix B-1 in the Final EIR/EIS), since 2015, diesel fuel has been included in the Cap-and-Trade Program implemented under AB 32 to reduce GHG emissions, thus ensuring that there would be no increase in statewide GHG emissions as a result of the diesel fuel used as part of this Project. Gasoline was also included in the Cap-and-Trade Program in 2015.

Response to Comment 16-39:

This comment states that the Draft EIR/EIS should have analyzed the potential GHG impacts that would result from removing trees from the Project site.

Generally, total forest ecosystem carbon stored in the USFS' Pacific Southwest Region, including in the SBNF, declined between 2005 and 2013, while the carbon density (carbon per acre) increased (Baseline Estimates of Carbon Stocks in Forests and Harvested Wood Products for National Forest System Units; Pacific Southwest Region (USDA 2015)). The ecosystem carbon stock of the SBNF is among the lowest of the 18 national forest units in the Pacific Southwest Region, on par with the Angeles National Forest and the Lake Tahoe Basin Management Unit, and slightly higher than the Cleveland National Forest (USDA 2015, Section 9, Appendix A). The SBNF falls in the lowest categories for total teragrams of aboveground carbon, belowground carbon, carbon in understory, carbon in standing dead trees, carbon in downed dead trees, forest floor carbon, and soil organic carbon, and is in the second to lowest category for carbon density (tonnes/acre) (USDA 2015, Section 10, Appendix B).

The carbon density varies across the National Forest. With respect to the Project site itself, as discussed in response to Comment 16-34, the site is steep and rocky, with vegetation cover generally described as open or even sparse. The Project site includes approximately 84 acres categorized as pinyon/juniper woodland, and less than one acre categorized as montane hardwood-conifer forest. Even these vegetation communities generally have open canopies. The technical documentation supporting USDA 2015 notes an average carbon density of 69.9 Mg C/hectare for pinyon/juniper forest in the Pacific Southwest Region, including the carbon aboveground, belowground, in dead trees, and in the litter and soil, which is approximately 28.2 tonnes of carbon per acre. (Data Sources and Estimation/Modeling Procedures for National Forest System Carbon Stocks and Stock Change Estimates Derived from the US National Greenhouse Gas Inventory (Woodall et al., 2013)). Applying this to the 84 acres of pinyon/juniper woodland that would be lost through the Project results in 2,371 tonnes carbon storage lost over the life of the project. Based on the average carbon density of California mixed conifer, loss of less than an acre of montane hardwood-conifer forest would result in loss of less than 103 additional tonnes of carbon in Phase 1B. Together, these two woodlands represent a lost carbon storage of approximately 2,474 tonnes over the life of the project. Assuming that vegetation clearing from the surface area of Phase 4 of the mine occurs within the first 20 years of that phase, the loss would be spread over approximately 100 years, or an average loss of 25 tonnes per year. This does not account for the carbon storage in the portions of the site classified as desert scrub or mixed chaparral, but carbon storage in those vegetation communities would be less per acre than for the woodland vegetation communities. The loss of this amount of carbon storage, when added to the GHG emissions from the Project, does not change the conclusion that Project impacts related to climate change would be less than significant.

The Revegetation Plan submitted as Appendix L to the proposed Plan of Operation and Reclamation Plan estimates that a total of 3,150 trees of 6 inches diameter at breast height (dbh) or greater would be lost as a result of the South Quarry Project. Again, the loss would be spread over the life of the Project. Assuming that vegetation clearing from the surface area of Phase 4 of the mine occurs within the first 20 years of that phase, the loss would be spread over approximately 100 years, or an average loss of 31.5 trees per year of 6 inches dbh or greater. Pursuant to Mitigation Measure GEN-12, woody vegetation and organic material less than 6 inches in diameter would be retained onsite and applied to inactive quarry benches, overburden piles, and on sidecast areas along roads and quarries. Wood larger than 6 inches also may be used in this manner. Wood retained onsite and used as cover or in reclamation would not be an immediate loss in carbon storage but would degrade (and release carbon) over a period of many years.

The estimates above do not take into account the effects of reclamation and revegetation in restoring carbon storage to the Project site. Response to Comment 16-34 describes the revegetation methodologies and success criteria for the Project. At the end of monitoring, native tree and shrub cover must be at least 50 percent of pre-disturbance cover levels and at least 50 percent of the levels in surrounding undisturbed reference vegetation. In woodland areas, seedling and sapling trees must achieve 50 percent of the overstory tree density of the undisturbed slopes. However, revegetation would commence at different times across the site, and the rate of regrowth would likely vary with vegetation type, making it difficult to estimate the amount of carbon storage restored to the site during the Project life or at the end of the 10-year monitoring period.

Response to Comment 16-40:

This comment states that the Draft EIR/EIS should have considered the Project's consistency with CARB's Scoping Plan and the California Department of Forestry and Fire Protection's 2008 Strategic Plan and Report to the California Air Resources Board on Meeting AB 32's Forestry Sector Targets.

The most recent update to the Scoping Plan, dated November 2017, states, "California's climate objective for natural and working lands [including forest lands] is to maintain them as a carbon sink (i.e., net zero or negative GHG emissions) and, where appropriate, minimize the net GHG and black carbon emissions associated with management biomass utilization, and wildfire events." It also notes that policy in this sector must balance GHG emission reductions and carbon sequestration with other factors, including strong economies. The Scoping Plan outlines an implementation framework including protection of land from conversion through increased use of conservation opportunities and local planning processes, enhancement of the potential for carbon sequestration through management and restoration, and innovative utilization of biomass, including for enhancement of soil health. The Scoping Plan further references the Forest Carbon Plan (subsequently issued in May 2018), which "places carbon sequestration and reducing black carbon and GHG emissions as one set of management objectives in the broader context of forest health and a range of other important forest co-benefits," including "wildlife habitat, watershed protection, recreational access, traditional tribal uses, public health and safety, forest products, and the local and regional economic development" (Scoping Plan, 2017 Update, pp. 81-88). Details of implementation are still in development, including both as described in the Forest Carbon Plan and as reflected in the California 2030 Natural and Working Lands Climate Change Implementation Plan, for which a concept paper was issued in May 2018.

Department of Forestry and Fire Protection's 2008 Strategic Plan likewise reflects broad policy statements: "The intent of this strategic plan is to establish an approach that establishes a framework for the action to maintain the 5MMT target within the context of the Board's California forest policy. Further analysis is saved for a more detailed implementation plan". As a starting point, the Strategic Plan explains that the Board of Fire and Forestry and Fire Protection "is mandated to maintain a vigorous, resilient and healthy forest land base in California, which supports the ecological needs of the forest ecosystem and its human dependencies. The Board recognizes the importance of the sequestration potential for forests and their benefits in achieving GHG emission reduction targets. At the same time the Board acknowledges that these needs must be considered in conjunction with the many other ecological and human benefits that forests provide …" Climate strategies and principles include

reforestation, fuels management, protection and conservation, restoration, and mitigation, among others (2008 Strategic Plan, pp. 1, 5-8).

While implementation details are still in development, it is clear that the objective of maintaining the net carbon sequestration on forest lands is to be accomplished across the state's forest resources. The plans assume that natural lands will continue to be utilized in productive ways. Thus, in addition to avoiding conversion of forest lands, the strategies discussed include protecting additional lands from conversion, improving the health of existing forests (e.g., resistance to pests and disease); revegetating forest lands previously impacted by natural events or human activity, and innovative use of biomass from the natural lands. The Project would be consistent with the broad objectives of the Scoping Plan and the Forest Carbon Plan by requiring revegetation of the site, commencing as soon as mining is completed in certain areas (Measure SCEN-3); minimizing the footprint of impact to the smallest area necessary to access the mineral resources (Measures GEN-1.d, GEN-1.e, and SCEN-7); offsetting the loss of habitat by withdrawal and quitclaim of 540.4 acres of habitat (Measures GEN-13; CARB-2), allowing those lands to be managed by the USFS free from potential future development; using biomass material as surface cover on inactive portions of the site (Measure GEN-12); plant salvage, propagation and replanting (Measures Plant-1, Plant-2 and CARB-1); and management to minimize non-native and/or invasive plant and animal species (Measures GEN-6, GEN-7 and NNS-1 through NNS-4).

As noted above, the Project would result in the loss of approximately 3,150 trees over 100 years (assuming surface clearance in Phase 4 is completed within the first 20 years of the phase), or an average of approximately 31.5 trees per year. Pinyon-juniper woodland in the Pacific Southwest Region has among the lowest average carbon densities documented in vegetation communities in National Forests by Woodall, et. al, and the desert scrub and mixed chaparral that make up the rest of the Project site likely have even lower carbon densities than the pinyon-juniper woodland. Reclamation during and following the life of the mine would include revegetation which, in time, would restore a substantial amount of the pre-disturbance vegetation cover and corresponding carbon storage. In addition, the quitclaim requirements in GEN 13 and CARB-2 would protect approximately 540.4 acres of land from mineral entry and associated land use changes that might result in the loss of trees or other carbon storage. The Project does not represent a significant deviation from the CARB Scoping Plan or Forest Sector targets.

Additionally, this comment generally states that the Draft EIR/EIS did not provide sufficient analysis of the Project's consistency with plans, policies and regulations for GHG reductions. As explained in this response, the Draft EIR/EIS and the Final EIR/EIS provide that analysis.

Response to Comment 16-41:

This comment states that the Draft EIR/EIS did not adequately evaluate mitigation measures to address the Project's potential impacts related to GHG emissions. CEQA requires lead agencies to consider feasible mitigation measures available that would substantially lessen the significant environmental effects of a project (CEQA § 21002). The NEPA Guidelines require that alternatives to a proposed project be evaluated that include appropriate mitigation measures that will mitigate adverse environmental impacts (40 C.F.R. §§ 1502.14(f), 1502.16(h)).

As explained in Section 3.6 of the Draft EIR/EIS, impacts related to GHG emissions for Alternative 1 – Proposed Action would be less than significant both for construction and operation activities (Draft EIR/EIS pp. 3.6-7 to 3.6-8). Therefore, mitigation measures were not

required as part of the Draft EIR/EIS's CEQA analysis. For the NEPA analysis, the Draft EIR/EIS evaluates two alternatives that could lessen the potential GHG emissions emitted by mining equipment and employee vehicles associated with mining in the proposed South Quarry: Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project. As the Draft EIR/EIS explains, both of those alternatives would lessen the GHGs directly emitted by mining equipment at the site. However, they would lead to greater indirect GHG emissions due to the transport of high-grade limestone from offsite sources. See Master Response 3 for the estimated indirect GHG emissions associated with Alternatives 2 and 3.

This comment further states that the Draft EIR/EIS did not address the mitigation measures recommended by the EPA during the scoping process. During the scoping process, the EPA recommended potential mitigation measures for the Forest Service to consider to reduce the Project's potential GHG emissions (pp. 174-183 of Appendix A-1 to Draft EIR/EIS). EPA did not recommend those measures in its comment submitted on the Draft EIR/EIS. Those mitigation measures would not apply or are not feasible to implement for the proposed Project for the following reasons.

First, the EPA recommended incorporating an alternative energy component into the Project, such as on-site distributed generation systems or solar thermal hot water heating. Yet the construction and operation of the Project would not increase utilization of electrical or thermal energy. The Project's haul road would be constructed by excavating and hauling limestone ore by off-road haul trucks to the existing primary crusher located at the north end of the existing East Pit. The excavation of the haul road and the mining activities would be accomplished by controlled blasting. The typical equipment that would be used for those activities includes 1 to 2 dozers (for removal of topsoil and waste rock, construction and maintenance of the haul road), 2 to 9 off road haul trucks (to transport material to the primary crusher and onsite waste rock stockpiles), 1 drill rig (to drill holes for placement of explosives), 1 to 2 water trucks (to water haul roads), and 2 to 3 front end loaders (to load materials into haul trucks at active mining areas) (Draft EIR/EIS, p. 2-7). This equipment does not use electricity, but runs on diesel fuel.

Second, the EPA recommended incorporating recovery and reuse, leak detection, pollution control devices, maintenance of equipment, product substitution, and reduction in quantity used or generated. It is not clear what EPA intended with the phrase "recovery and reuse." If it refers to the process of recovering and reusing resources excavated from the Project, where feasible, the Project would use waste rock in building the haul roads. The Project's production of limestone would only generate approximately 10 percent waste rock, or approximately 150,000 tons per year of rock unsuitable for cement processing (depending on the quality of the limestone). The percentage of waste rock may be higher for Alternative 2- Partial Implementation than for Alternative 1 – Proposed Action. Waste rock not used in road building would be stockpiled within the quarry footprint, instead of removing the waste rock from the site and creating separate waste stockpiles outside the rim of the quarry. Development of internal waste rock stockpiles would reduce the area of disturbance outside of the quarry rim, reduce potential visual impacts of the waste rock piles, and reduce internal slopes, thus aiding in revegetation.

Additionally, explained in the Section 2.0 of the Air Quality Study (Appendix B to the Draft EIR/EIS and Appendix B-1 of the Final EIR/EIS), the Project would comply with all federal, state, and local requirements that apply to equipment and maintenance programs. Mitigation Measure AIR-1 also requires MCC to accelerate the turnover of its fleet, accelerating its haul truck retrofit that goes beyond the requirements of CARB's off-road diesel rule. The Project has

incorporated this recommendation to the extent feasible, and this comment was not repeated in EPA's letter on the Draft EIR/EIS (Letter 17).

Third, the EPA recommended including use of alternative transportation fuel during the Project's construction and operation. The equipment that would be used during the Project's construction and operation (dozers, off road haul trucks, drill rigs, water trucks, front end loaders) are not readily available in designs that can run on electricity/batteries (Draft EIR/EIS, p. 2-7). The equipment is large; for example, the haul trucks in MCC's fleet currently have the capacity to haul 77 to 105 tons of rock in one haul (Draft EIR/EIS, p. 2-3). Given the size of the equipment and the steep terrain of the South Quarry, obtaining equipment that runs on batteries is not feasible at this time. Biodiesel has different challenges. Biodiesel may contain contaminants that affect engine performance, increase maintenance and shorten engine life, yet it is not expressly covered by the engine warranties. Also, there can be difficulties with fuel flow at temperatures approaching or below freezing, which would be a regular seasonal condition at the high elevation of the South Quarry. Additionally, with respect to other alternative sources of energy for the construction and operation equipment (e.g., electric vehicles), the Draft EIR/EIS considered an alternative to the Project that would have used a conveyer to move the rock down to the cement plant instead of using haul trucks (*See* Draft EIR/EIS, Section 2.6.2). The conveyor would have required a primary crusher in the quarry at the conveyor and associated power lines and cables. As the Draft EIR/EIS concluded, the steep terrain at the Project site would make the installation and maintenance of such a system infeasible. Similarly, the installation of power lines and cables that may be required to support construction and operation equipment that runs on electricity would be infeasible given the Project site's steep terrain.

Fourth, the EPA recommended committing to using high efficiency diesel particulate filters on new and existing diesel engines. As explained further in response to Comment 16-17, use of diesel particulate filters is not appropriate given the fleet of vehicles that would be used in the Project.

See response to Comment 9-9 for a discussion of measures in the County's Greenhouse Gas Reduction Plan, including why certain measures are not relevant to or feasible for the South Quarry Project, and how others have a corollary in the Project's design features and mitigation measures or would be met through compliance with existing regulatory programs.

Response to Comment 16-42:

This comment states that the EIR should have analyzed whether the energy conservation measures in Appendix F of the CEQA Guidelines could be adopted as part of the Project. CEQA requires that energy conservation measures "shall be discussed when relevant" in an EIR and when implementation of mitigation measures or design features described in CEQA Guidelines Appendix F could reduce GHG emissions (CEQA Guidelines § 15126.4 (a)(1)(C), (c)(2)). Appendix F further states that the "[p]otentially significant energy implications of a project shall be considered in an EIR to the extent relevant and applicable to the project." (CEQA, Appendix F, Part II.) The potential energy conservation measures listed in CEQA Guidelines Appendix F are not relevant to or feasible for the Project, or have been incorporated into Project design, as discussed below:

1. *Reducing wasteful, inefficient, or unnecessary consumption of energy:* As explained further above in response to Comment 16-41, the Project would not result in an increase in use of electrical or thermal energy. Unlike the project at issue in the case cited by this

comment (a new 234-regional shopping center on undeveloped agricultural land), the Project would not lead to a significant amount of energy consumption or to large volumes of traffic (*See Cal. Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173). The Project would increase the use of transportation fuels, but this increase would not be wasteful because use of diesel-powered equipment in the mine and haul trucks is the only feasible means of producing the limestone at the South Quarry site. Use of equipment with Tier 4 engines, including the accelerated fleet turnover required in Mitigation Measure AIR-1, would ensure that the equipment meets current efficiency standards. Section 2.6.2 of the Draft EIR/EIS considered several alternative designs for the Project that might have reduced the use of transportation fuel (e.g., not requiring the construction of a haul road). As explained further in Master Response No. 2, the Draft EIR/EIS determined those alternatives were infeasible or would lead to additional environmental impacts.

2. *The potential for siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation, and reduce solid waste:* Siting and orientation of the Project are constrained by the geology, i.e., the location of the target limestone ore. The Project design, specifically the haul road route, would minimize transportation energy compared to alternative routes, as discussed in Section 2.6.3 of the Draft EIR/EIS. The alternative routes would have been longer than the proposed route, increasing vehicle miles travelled and necessitating the use of more fuel. Wastewater conservation efforts are not relevant to the Project as it would not generate wastewater. The only use of water in the Project would be for watering the haul road to mitigate potential dust air emissions. As explained in Section 2.3.2.6 of the Draft EIR/EIS, this water would be supplied by existing MCC wells.
3. *The potential to reduce peak energy demand:* As noted above, the Project would not increase the use of electrical power; therefore, a discussion of peak versus off-peak energy usage would not be relevant to this EIR/EIS.
4. *The potential to incorporate alternative fuels or energy systems*: See response to Comment 16-41 regarding the feasibility of alternative fuels or energy systems for the mine vehicles.
5. *Energy conservation that could result from recycling efforts:* As described in the Initial Study (Appendix A-2 to the Draft EIR/EIS): "The Proposed Project would not require any additional solid waste services. Office operations would not increase over existing levels associated with operation of the East and West Pits and therefore solid waste generated on-site would not increase. Waste rock, defined as limestone and other rock not suitable for the manufacture of cement, would be stockpiled within the quarry footprint to eliminate the need for off-site waste rock stockpiles. No impacts would result, and so this impact will not need to be analyzed further in the EIR." Accordingly, a discussion of recycling would not be relevant in this EIR because the Project would not generate waste to be recycled. Waste ore would be recycled to construct the haul road or used to contour the quarry to aid in revegetation.

This comment further states that the Draft EIR/EIS does not adequately describe the transportation energy impacts of the Project. Unlike the project at issue cited by this comment (a new proposed Costco and gas station), the Project would not lead to significant transportation impacts (*See Ukiah Citizens for Safety First v. City of Ukiah* (2016) 238 Cal.App.4th 256). As

explained in Section 2.3.2.4 of the Draft EIR/EIS, the Project would require three additional employees that would travel to and from the Project site every day. The Project would not lead to an increase in MCC's overall ore production. The Draft EIR/EIS discloses that while the number of onsite vehicle trips would be reduced as a result of the Project (as MCC transitions to newer trucks with larger capacity), the overall vehicle miles travelled would increase (Draft EIR/EIS, Table 3.2-7). Detail regarding the energy associated with vehicle usage is presented by truck and as a total in the Air Quality Study (*See* Appendix B-1 to the Final EIR/EIS, Tables A-6-1 through A-6-2H for haul trucks, and Tables A-7-2A and A-7-2B for water trucks). For example, for haul trucks, the maximum energy usage resulting from the Project is the difference between the baseline of 3,988,392 horsepower hours per year (HP-hr/yr) (Table A-6-2D), and the maximum energy usage post-Project (including both the South Quarry and the West Pit) of 6,300,258 HP-hr/yr (Table A-6-2H), so the increase resulting from the Project would be 2,311,866 HP-hr/yr (A horsepower-hour is a unit of work or energy equivalent to 2.686×10^6 joules). As explained in response to Comment 16-41, the vehicle size and steep terrain of the Project site make it infeasible to incorporate the use of vehicles that operate on alternative fuels during the Project's construction or operation.

Finally, this comment states that the Draft EIR/EIS did not analyze adding renewable energy systems to the Project to mitigate the Project's impacts and increase reliance on renewable energy sources. As explained in response to Comment 16-41, the Project would not result in an increase in use in electrical energy; therefore, the addition of an alternative energy system would not be relevant to the Project. The Cushenbury Plant is an existing facility; it is not part of the proposed Project, and it would not be modified or change its operations as a result of the Project. The scope of the Draft EIR/EIS does not include examination of energy use by existing facilities that are not part of the Project.

Response to Comment 16-43:

This comment states that the Draft EIR/EIS did not adequately analyze the Project's potential traffic impacts and related mitigation measures. This comment incorrectly asserts that the Project would lead to traffic impacts from hauling the limestone out of the Project Area. As explained in Section 2.3.2.4 of the Draft EIR/EIS, the limestone excavated from the South Quarry as part of the Project would not be transported on external, public roads outside of the Project area. The excavated limestone would be transported to the existing primary crusher located at the north end of MCC's existing East Pit near the Cushenbury Cement Plant. Limestone that does not meet the cement quality specifications and other rock types excavated would be used for haul road construction or pushed or hauled directly to waste rock stockpiles located within the quarry boundary.

The Initial Study (Appendix A-2 to the Draft EIR/EIS) explains: "Ore from the South Quarry will be transported to the adjacent MCC cement plant without travel on public roads. In addition, when production commences from the South Quarry, typical mining rates will be decreased at the East and West Pits such that there will not be an overall increase in limestone production at the mining complex, or in cement production at the adjacent cement plant; therefore, the Project will not result in an increase in cement transported on public roads. In addition, the Proposed Project would not result in a substantial number of new jobs. No significant changes in the current levels of truck transportation on public roads would result, and the addition of three permanent jobs will not measurably impact area roads. The Project will not affect mass transit,

freeways, pedestrian and bike paths because there are none in the vicinity. Therefore, no impacts are anticipated, and these impacts will not need to be analyzed further in the EIR.

Response to Comment 16-44:

This comment first states that MCC has agreed to reclaim only 30 percent of the land that would be disturbed. The California Surface Mining and Reclamation Act obligates the operator of surface mining operations to reclaim disturbed areas pursuant to an approved Reclamation Plan to make the Project site suitable for use after reclamation. Pursuant to those requirements, the Plan of Operations and Reclamation Plan for the Project show that MCC would be required to reclaim all 153 acres of the proposed area of disturbance. As explained further in response to Comment 16-34, reference to 30 percent coverage simply describes the extent of revegetated soil "islands" in the areas where that technique would be used. Once vegetation becomes established on those islands, in time it would naturally spread to other areas. In addition, areas not amenable to the "island" approach would be hydroseeded. The Revegetation Plan specifies success criteria for the various types of vegetation techniques and species.

This comment further states that MCC's reclamation efforts would not occur until the mining operations are complete in 120 years. This statement is inaccurate. Measure SCEN-13 requires: "Reclamation and revegetation shall be implemented per the approved Reclamation Plan on completed benches concurrent with mining." Accordingly, some areas of the South Quarry would have been revegetated for several decades prior to cessation of mining. Section 2.3.3.2 and Table 2.3-3 of the Draft EIR/EIS provide a summary of the planned reclamation and revegetation activities that would occur with each phase of the Project. During Phase 1A (operational years 1-5), the planned activities include sloping, erosion control, revegetation of haul road cuts and fills and south and north slopes of Phase 1A excavations, and reclamation of the temporary access road of 0.7 acres. During Phase 1B (operational years 6-82), the planned activities include sloping, erosion control, revegetation of upper slopes and benches as they are completed in the southern area, construction and vegetation of the landscape berm, and stockpiling of waste rock to reduce slopes to occur throughout the phase. During Phase 2 (operational years 26-42), planned activities include erosion control and stockpiling of waste rock in Phase 1B area. The Phase 2 area would be mined to greater depth in Phases 3 and 4, so no additional reclamation is proposed during Phase 2. During Phase 3 (operational years 43-82), the planned activities include sloping, erosion control and revegetation of upper benches as completed on the southwest and northeast side of the site, stockpiling of waste rock in Phase 1B, and reclamation and revegetation of completed sections of Phase 1B waste rock stockpile. During Phase 4 (operational years 83-120), the planned activities include sloping, erosion control, revegetation of upper benches as completed in the central portion of the site, stockpiling of waste rock in the Phase 4 area, and reclamation of Phase 1B waste rock stockpiles. During the final reclamation period (operational years 121-126), planned activities include removal of equipment, stockpiles, and internal roads not needed for site access during revegetation and site monitoring, sloping, erosion control, and revegetation of any remaining unreclaimed benches and waste stockpiles in Phase 4 and the quarry floor. Figures illustrating the different phases and planned reclamation and revegetation activities are shown in Figures 2.3-6 through 2.3-9 in the Draft EIR/EIS.

This comment also states that MCC has not demonstrated that it would complete its reclamation obligations. As explained in Sections 2.3.2.10 and 2.3.2.11 of the Draft EIR/EIS, reclamation is required under SMARA. Some of MCC's reclamation efforts would be required as part of

Design Feature/Mitigation Measure SCEN-13, which would be monitored and enforced through a Mitigation Monitoring and Reporting Program. All of MCC's reclamation procedures would also be incorporated into the Plan of Operations and Reclamation Plan that would be approved by the Forest Service and the County. MCC would also provide financial assurance in an amount sufficient to pay the cost of the reclamation. The County and the Forest Service would annually review and update the cost estimate and adjust the amount of the financial assurance that must be provided by MCC, as required by SMARA. The reclamation assurance would be reviewed and approved by the California Division of Mine Reclamation (formerly Office of Mine Reclamation), as also required by SMARA. MCC currently provides a financial assurance mechanism in the form of a letter of credit payable to the County and the Division of Mine Reclamation for the approved amount to assure reclamation of MCC's existing operations. MCC would provide an additional letter of credit or other acceptable financial assurance mechanism for the South Quarry. That additional letter would include the Forest Service as a payable party.

Additionally, MCC is required to implement a Revegetation Plan as part of its Plan of Operations. The Revegetation Plan would help establish native vegetation on lands that have been disturbed. The Revegetation Plan includes success criteria, which are based on the revegetation guidelines and success criteria described in the Carbonate Habitat Management Strategy and other vegetation data. MCC would be responsible for providing annual monitoring reports describing the revegetation progress to the Forest Service and the County.

MCC is also required to implement other actions to mitigate its impacts on biological resources. Upon BLM's withdrawal of approximately 540.4 acres of land from mineral entry, MCC would quit-claim specified unpatented mining claims held within the SBNF, and convey specified unpatented lands, which have been verified by the Forest Services to contain occupied endangered species habitat on an approximately 3 to 1 ratio as mitigation for the impacts of the Project on Cushenbury buckwheat, Cushenbury puncturebract, and Parish's daisy. This action would also help mitigate for the loss of pinyon-juniper and desert transition habitats as wildlife habitat. This commitment would be monitored and enforced through Design Feature/Mitigation Measure GEN-13 and CARB-2.

Finally, this comment states that MCC cannot guarantee its reclamation commitments into the future if the company is sold or dissolved. MCC's reclamation obligation would be secured by a financial assurance mechanism. Pursuant to California Public Resources Code Section 2773.1(a)(2), the financial assurance "shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed." Public Resources Code Section 2773.1(c) provides: "If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency…" This process ensures there would be a source of funding to undertake reclamation of surface mining disturbance even if there is a transfer to another individual. MCC currently provides a financial assurance mechanism in the form of a letter of credit payable to the County and the California Division of Mine Reclamation for the approved amount to assure reclamation of its existing operations. An additional letter of credit or other acceptable financial assurance mechanism (e.g., certificate of deposit, bond) would be provided for the South Quarry, which would include the Forest Service as a payable party. Mechanisms under state law, therefore, would ensure required complete reclamation of the mine site.

Response to Comment 16-45:

This comment states that CBD supports the Carbonate Habitat Management Strategy (CHMS) for the long-term conservation of the carbonate endemic plants. This comment is noted for the record.

This comment further states that the CHMS was never properly initiated because the CHMS commences with a "series of transactions for the additional Furnace Unit Stage 1 Priority Areas to the Reserve," and that Stage 1 Priority Areas have not yet been secured in the habitat reserve. This comment is correct in that the CHMS Furnace Unit has not been "activated" because the required Initial Transactions conveying stage one Priority Areas to the Habitat Reserve have not been completed.

The purpose of the CHMS was to streamline permitting and environmental review for new mining operations, while creating a regulatory framework to assure adequate mitigation for impacts to the carbonate endemic plant species. The United States Department of Fish and Wildlife, in consultation with the United States Forest Service, issued a programmatic biological opinion for the CHMS, pursuant to Section 7 of the Federal Endangered Species Act, determining that activities that were in compliance with the CHMS would not result in jeopardy to the continued existence of the carbonate endemic plant species. The CHMS contemplated the use of Conservation Credits to mitigate impacts to carbonate plants. These Conservation Credits are derived from contributions to the Habitat Reserve regardless of individual species allocation on the contributed property. Once the Initial Transactions were completed, a project could mitigate impacts through use of such credits. The streamlined ESA compliance provided by the CHMS is reflected in the fungible nature of the Conservation Credits.

As noted, because the initial Habitat Reserve contributions have not been completed consistent with the terms of the CHMS, future mining projects, including the South Quarry Project, cannot avail themselves of the streamlined ESA compliance process and coverage under the prior Biological Opinion. Accordingly, the Draft EIR/EIS explains that because the Furnace Unit of the Carbonate Habitat Management Area has not yet been fully activated and the Stage 1 Priority Lands have not yet been sufficiently added to the Habitat Reserve, the Draft EIR/EIS for the South Quarry Project separately analyzed the Project's impacts to each of the four listed carbonate species and corresponding critical habitat. Additionally, the Forest Service conducted a project-level formal Section 7 ESA consultation with the USFWS for the carbonate plants under the Endangered Species Act. The USFWS issued its Biological Opinion for the Project on August 21, 2017.

The Forest Service developed a significant amount of biological data regarding the location and distribution of carbonate endemic plants and their critical habitat during the CHMS process, which serves as important data incorporated into the analysis of potential significant impacts. Based on the analysis using those data, the Project would be required to mitigate its impacts to each species by an approximate ratio of 3:1. As explained in Section 3.3.4.2 of the Draft EIR/EIS (at p. 3.3-77), the Project would add the following claims to the CHMS habitat reserve (monitored and enforced through Design Feature/Mitigation Measure CARB-2): Cushenbury 7p (93.7 acres), Cushenbury #9 (173.5 acres), Cushenbury #15 (128.0 acres), and Cushenbury #16A (145.2 acres). The Project has followed the CHMS provisions for calculating the conservation value of habitat that would be lost to proposed mining projects, and the habitat reserve contributions to offset those losses. The conservation value of the habitat that would be lost from

implementation of the Project is 97 conservation units, and the total conservation value of the proposed habitat reserve contributions is 359 conservation units.

The Project's habitat reserve contributions are mostly within the Furnace Unit of the Carbonate Habitat Management Area, and most within defined Stage 1 Priority Areas for the establishment of habitat reserve. The CHMS would be modified slightly so the contributions will be entirely within the Priority Habitat Reserve and the Furnace Unit. Those slight modifications are described further in the Draft EIR/EIS at pp. 3.3-77 to 3.3-78. The reserve contributions will be made through donation of the land in fee and relinquishment of unpatented mining claims. The contributions would also be made in conjunction with (and contingent upon) a withdrawal from mineral location and entry under U.S. mining laws. The Project will be consistent and in full compliance with the CHMS.

Response to Comment 16-46:

This comment states the Draft EIR/EIS does not use an adequate methodology under the CHMS to establish conservation values. Contrary to this comment, the Draft EIR/EIS does not disregard the CHMS, but instead uses it as a tool to guide the Project's potential impact analysis. The Draft EIR/EIS highlights that the Furnace Unit (where the Project is located) of the Carbonate Habitat Management Area is not fully activated, since the initial transaction has not yet been completed.

As explained in response to Comment 16-45, until those initial transactions are completed, mining projects in the area may not avail themselves of the streamlined compliance process under the Endangered Species Act that is discussed in the CHMS and approved by USFWS through issuance of the Section 7 Programmatic Biological Opinion. Instead of relying on compliance with the CHMS, which has not yet been activated, the Project proposes mitigation for impacts to each individual plant species and its corresponding critical habitat on a 3:1 basis. To further reinforce the analysis, and for informational purposes, the Draft EIR/EIS discusses the Project's compliance with the required mitigation ratios included in the CHMS. The mitigation incorporated into the Project is sufficient to independently comply with the Endangered Species Act but would also meet the mitigation requirements of the CHMS, if it were fully in effect.

The Project would mitigate its potential impacts to the carbonate endemic plant species by a ratio of 3:1, which is consistent with mitigation requirements for similar projects affecting the species, and therefore is appropriate (*See* Design Feature/Mitigation Measure CARB-2).

This comment states that a higher mitigation commitment should be implemented (by a 5:1 ratio), but this comment does not provide evidence that such a higher ratio of mitigation is typical or required by state or federal law. The Forest Service conducted a project-level formal Section 7 ESA consultation with the USFWS for the carbonate plants. The Forest Service initiated project-level consultation under the Endangered Species Act, and the USFWS issued its Biological Opinion for the Project on August 21, 2017.

Response to Comment 16-47:

This comment states that, because the CHMS was not initiated, any action involving a listed species requires Section 7 consultation with the Department of Fish and Wildlife. The Forest Service initiated project-level consultation under the Endangered Species Act, and U.S. Fish and Wildlife issued its Biological Opinion for the Project on August 21, 2017.

Response to Comment 16-48:

This comment states that the description in the Draft EIR/EIS that the Project's habitat reserve contributions are "mostly" within the Furnace Unit of the Carbonate Habitat Management Area and "mostly" within defined Stage 1 Priority Areas is vague. The boundary of the eastern area of the Furnace Unit in the Stage 1 Priority Area in the CHMS will be expanded to encompass all of the land included as mitigation for the Project.

This comment further states that CBD opposes the first proposed amendment to the CHMS because it "threatens the very integrity of the CHMS." Section 17(a) of the CHMS provides for administrative changes to the CHMS on an ongoing basis. Such adjustments are to be regarded as part of the normal operation of the CHMS, not as amendments, as long as they are consistent with other provisions of the CHMS and do not inhibit the overall ability to carry out the intent of the CHMS. Therefore, unlike a formal amendment to the CHMS, the proposed minor adjustments can be accomplished administratively by the resource agencies.

This comment further states that CBD cannot evaluate the second proposed amendment to the CHMS to realign the boundaries between the Helendale and Furnace units because there is no map of this proposed realignment. Figure 3.3-5 has been added to Section 3.3 to illustrate the realignment.

Response to Comment 16-49:

This comment asks for information addressing the success of past revegetation efforts on habitat disturbed by mining activities in the local region.

MCC has had success in revegetation on its existing Cushenbury mine sites, as reported annually to CDFW. The 2009 Reclamation Compliance Report for MCC's existing operations was included as Appendix I to the proposed Plan of Operations and Reclamation Plan. The most recent Reclamation Compliance Report was submitted to CDFW on December 26, 2018. The 2018 report documents approximately 26 acres under the revegetation process. This includes 18.7 acres in the active maintenance phase and 5.62 acres in the growth stage or awaiting revegetation. Revegetation has used seed collection, direct seeding from surrounding vegetation, salvaged cacti and yucca, and nursery stock. Revegetation began on the first demonstration area in 2004, and as of 2017 hosted "over 30 different species with a good mixture of climax, intermediate, and pioneer plants, as well as one of the endangered carbonate endemics, *Astragalus albens* (Cushenbury milkvetch)." The demonstration bench "is actively used by a variety of wildlife ranging from insects to song birds to Bighorn Sheep," as documented by observations, wildlife cameras and scat. The east side revegetation area now hosts Cushenbury buckwheat, California juniper, pinyon pine and numerous other plant species, and is heavily used by bighorn sheep, mule deer, ringtail cats, coyotes and birds. The 2018 Compliance Report presents similar information regarding the additional benches and other areas that have been revegetated. The revegetation effort has included partnerships with the Victor Valley College Agriculture Department, the Rancho Santa Ana Botanic Garden, Future Farmers of America, and the Lucerne Valley High School.

Response to Comment 16-50:

This comment states that CBD generally supports the mineral withdrawal and claim relinquishment as part of the larger Habitat Reserve assembly in the CHMS, but that the permanent withdrawal, quit-claim and all land transfers should be complete before the Project moves forward. The BLM is charged with approval of the administrative withdrawal related to the Project, and neither the County nor the Forest Service has control over the timing of BLM's approval. As explained further in Response to Comment 17-2, the Forest Service transmitted its application for the mineral withdrawal to the BLM on October 25, 2018, including a copy of the Environmental Assessment, Mineral Potential Report, and Land Description Review. If the County and Forest Service approve the required approvals and environmental review for the Proposed Project before the BLM approves the requested mineral withdrawal, the County will add a separate condition of approval requiring that the mineral withdrawal must be approved prior to commencement of mining activities that will lead to the biological impacts that would be mitigated by the mineral withdrawal and the Forest Service's Record of Decision will include a similar condition. In addition, MCC must comply with the Project Design Feature/Mitigation Measure CARB-2, which requires MCC to quitclaim specified unpatented mining claims and convey specified patented mining claims pursuant to the CHMS upon the BLM's approval of the mineral withdrawal.

Response to Comment 16-51:

This comment states that the Draft EIR/EIS does not analyze impacts to non-listed sensitive plants. The comment further suggests a seed collection and transplantation plan. Chapter 3.3 (Table 3.3-7) of the Draft EIS/EIR contains a summary effects to Forest Service Sensitive plants and CNPS ranked plants that are not listed as threatened or endangered. The full analysis of effects to these plants is contained within the BA/BE prepared for the Project (Appendix C).

This comment also refers to Design Feature/Mitigation Measure PLANT-2, stating that a seed collection and transplantation plan needs to be developed. The independent consultant that manages MCC's restoration efforts, J.J. Restoration, has developed an expertise in the habitat specific to the Project site. Previous revegetation efforts at the Cushenbury site have included seed collection, germination, and planting, as documented in the 2018 Compliance Report and summarized in response to Comment 16-49.

This comment further states that the salvage and propagation/transplantation of the plants needs to be monitored and an adaptive management plan implemented to address the successful transplantation into the habitat reserve lands. The County will adopt a Mitigation Monitoring and Reporting Program with the other Project approvals. That plan will include a monitoring schedule and designate an agency responsible for monitoring MCC's compliance with the adopted Design Features/Mitigation Measures. In addition, under SMARA, monitoring will be required until the success criteria in the Revegetation Plan have been met.

Response to Comment 16-52:

This comment summarizes the Draft EIR/EIS analysis of the Project's potential impacts to Nelson's bighorn sheep and the Draft EIR/EIS's conclusion that the Project could lead to significant and unavoidable impacts to the Nelson's bighorn sheep, even with implementation of Design Features/Mitigation measures BHS-1 through BHS-8. The EIR/EIS analysis concurs with

the conclusion of significant and unavoidable project-level and cumulative impacts to Nelson's bighorn sheep, even after implementation of mitigation measures, for Alternative 1 – Proposed Action and Alternative 2 – Partial Implementation as stated on Draft EIR/EIS pages xi, 3.3-96, and 3.3-100.

This comment first cites to a 1990 study by J. Berger to state that data indicates that bighorn sheep herds with fewer than 50 sheep are in danger of extinction within 50 years. It is generally agreed that small populations are often less likely to persist during stressful periods than are more robust or larger populations for a variety of reasons, including the potential demographic consequences of stochastic events, disease outbreaks, or a lack of genetic diversity. However, in 1999, J.D. Wehausen tested Berger's model using a complete data set from California.[3] Contrary to Berger's results, Wehausen found that for all size classes of population estimates, at least 61 percent of the population could persist for fifty years. Two predictions from Berger's model were also not consistent with Wehausen's data from California: (i) 10 populations have increased from estimates of 50 or fewer animals to over 100, whereas the Berger model predicted that these population would only decline to distension; and (ii) of 27 extant populations with adequate records, 85 percent were estimated at least 50 years ago to be 50 individuals or fewer, and should therefore be extinct under Berger's predictions. Additionally, the Cushenbury population is among the bighorn sheep populations that has persisted.

This comment further states suggests that Design Feature/Mitigation Measure BHS-5 should include a wildlife bridge over Highway 18 for avoidance of vehicle-related mortality/injury to be effective. CDFW's specialist on bighorn sheep has informed MCC that a bridge would not be effective to mitigate potential impacts of vehicles on the sheep, because the sheep will not likely use the bridge. Instead, CDFW requested that a sheep crossing highway warning sign be constructed to mitigate those potential impacts. Design Features/Mitigation Measure BHS-5 requires installation of those crossing signs on State Highway 18 to increase driver awareness and reduce the risk of collisions with wildlife.

Response to Comment 16-53:

This comment states that CBD opposes the Project based on the Project's potential impacts to the Nelson's bighorn sheep, stating that habitat necessary to support the Cushenbury herd of bighorn sheep will be developed and fragmented.

This comment assumes that the Project site contains the only lands occupied by bighorn sheep. That is not the case. Bighorn sheep range far beyond the footprint of the existing mines in the area.[4] There will be some loss of foraging habitat as a result of the Project's implementation, as discussed in the Draft EIR/EIS. However, the existing mines in the area have not eliminated habitat for bighorn sheep. Other factors may cause habitat fragmentation, including natural causes (e.g., absence of fire or long fire-return intervals) or existing anthropogenic features (e.g., Highway 18, Highway 247, the town of Lucerne Valley, existing mines). Those other factors have not resulted in the extirpation of the Nelson's bighorn sheep population. This is likely

[3] Wehausen, J.D. 1999. "Rapid extinction of mountain sheep populations revisited," Conservation Biology 13:378-384.

[4] Bleich, V.C., J.H. Davis, J.P. Marshal, S.G. Torres, and B.J. Gonzales. 2009. "Mining activity and habitat use by mountain sheep." European Journal of Wildlife Research 55:183-191.

because bighorn sheep use the best habitat that is available to them, even if not rated highly by habitat models.[5]

The Draft EIR/EIS discloses the Project impacts from potential fragmentation of the Nelson's bighorn sheep habitat. (Draft EIR/EIS, p. 3-3 to 3-53.) There would be some areas on which the amount of forage would be reduced, and female sheep do not select vertical walls as lambing habitat. However, the Draft EIR/EIS explains that the movement of dweller and passage species may be affected by development of the large-scale quarry and the haul road for the duration of the Project until reclamation is complete. Project Design Feature/Mitigation Measure GEN-5 is intended to mitigate impacts to movement of the sheep and other wildlife at the haul road by creating movement pathways on ramps.

Additionally, Design Feature/Mitigation Measure CARB-2 will result in approximately 540 acres of mitigation parcels that are withdrawn from further mineral extraction. Those 540 acres of mitigation parcels are not known movement corridors for Nelson's bighorn sheep. However, they likely provide movement corridors and are part of core habitat areas for other more common species in the region. The prohibition of future mining at those properties would prevent future fragmentation of the habitat in and across Cushenbury Canyon and will preserve important sections of undeveloped land that may serve as movement corridors for many species. With implementation of the above Project Design Features/Mitigation Measures, implementation of the project will ensure the persistence of what appears to be an insular bighorn sheep population.

This comment's opposition to the Project is otherwise noted for the record.

Response to Comment 16-54:

This comment states that the Design Feature/Mitigation Measure GEN-3 is vague. Design Feature/Mitigation Measure GEN-3 requires MCC to identify likely or potential wildlife movement routes across or around the site, and to avoid or minimize potential impediments to wildlife movement by fencing only those areas where access must be restricted for safety or security reasons. In the event that fencing is required for safety or security reasons during construction and/or extraction activities, GEN-3 requires MCC to ensure that any such fence meets existing specifications that have been developed to preclude accidental entanglement of bighorn sheep, deer, and other animals. Biologists from the USFS and CDFW will be consulted for appropriate fence guidelines. GEN-3 further states that if the fencing conflicts with U.S. Mine Safety and Health Administration guidelines, attempts will first be made to meet the intention of both those safety guidelines and GEN-3. If the conflict cannot be resolved, the Mine Safety and Health Administration guidelines will be applied.

Thus, while this comment characterizes GEN-3 as vague, the mitigation measure provides clear performance standards that MCC must follow. MCC must limit fencing to only areas where it is needed for safety and security reasons, and MCC must consult with biologists from USFS and CDFW to use fencing that meets any developed specifications that will preclude accidental entanglement of animals. CEQA permits mitigation measures that "specify performance standards which would mitigate the significant effect to the project and which may be accomplished in more than one way." (CEQA Guidelines, § 15126.4 (a)(1)(B)). Further, the Mine Safety and Health Administration governs safety standards for the protection of life and

[5] Andrew, N.G., V.C., Bleich, and P.V. August. 1999. "Habitat selection by mountain sheep in the Sonoran Desert: implications for conservation in the United States and Mexico." California Wildlife Conservation Bulletin 12:1-30.

prevention of injuries for mines across the country. MCC legally must comply with those safety regulations. Under CEQA, a mitigation measure is only feasible if it is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors." (CEQA Guidelines, § 15364). A mitigation measure that conflicts with federal safety requirements would not be legal, and therefore, not feasible under CEQA. Under NEPA, the CEQ's guidance states that the probability of mitigation measures being implemented should be evaluated. (CEQ's National Environmental Policy Act Regulations, Question 3, 46 Fed. Reg. 18026 (1981)). A mitigation measure that conflicts with federal safety requirements could not be implemented or enforced by the Forest Service. For those reasons, under GEN-3, MCC must make all efforts to resolve any conflicts between GEN-3's fencing policies and the Mine Safety and Health Administration guidelines. However, if any such conflict cannot be resolved, MCC must follow the safety requirements under the Mine Safety and Health Administration guidelines.

Response to Comment 16-55:

This comment states that CBD supports the idea of addressing raptor conservation on the north slope of the San Bernardino mountains and recommends that the draft Raptor Conservation Strategy revise the strategy into a Natural Communities Conservation Plan to provide flexibility for other take that occurs in this area of the SBNF. Both build alternatives include numerous mitigation measures, BMPs, Design Features (including the Bighorn Conservation Strategy and Raptor Conservation Strategy), monitoring, and adaptive management plans to ensure avoidance of take for state (and federal) protected species. With these robust measures in place, the assumption is that "take" of the state fully protected species as a result of the proposed Project would be completely avoided. The Forest Service, based on extensive coordination with CDFW and USFWS, is not expecting or requesting "take" from either CDFW or USFWS. An NCCP is a mechanism for the state to issue Incidental Take Permits to a private party where "take" cannot be avoided. For this Project, no Incidental Take Permit is expected to be necessary; thus, an NCCP would be an unnecessary process.

Response to Comment 16-56:

This comment states that CBD supports Design Feature/Mitigation Measure GEN-1.j (described by the comment as "DF-6"), which will prohibit recreational target shooting on Forest Service lands within the Project permit area. This comment further suggests that a requirement be added to restrict ammunition to non-lead ammunition, if used in the Project permit area. There are no legal target shooting sites on the North Slope on the SBNF. Legal hunting activities must follow state of California hunting regulations for non-lead ammunition. As the commenter noted, the State of California is in the process of phasing out the use of lead ammunition. Because the State of California is already in the process of requiring non-lead ammunition for hunting, and regulating hunting/ammunition is not in the Forest Service jurisdiction, to include it in the Raptor Conservation Strategy (RCS) would be redundant with state regulations. In 2013, Assembly Bill 711 was signed into law in California. It requires the use on non-lead ammunition when taking any wildlife in California. Two of the three phases of implementation have been completed, and the third phase will take effect July 1, 2019 which will complete the implementation. It is likely that all three phases would be complete prior to or early in implementation. Additionally, recreational target shooting would already be prohibited within the Project permit area by Measure GEN-1.i, which provides: "Only authorized agency or security personnel (including the

California Department of Fish and Wildlife [CDFW], USFWS, and Forest Service) shall bring firearms or weapons to the site."

Response to Comment 16-57:

This comment generally states that reclaimed lands will never achieve the ability to support species to the same extent as undisturbed habitat. As further described in response to Comment No. 16-49, MCC has had success in its reclamation and revegetation efforts for other mined areas, but the Draft EIR/EIS acknowledges at page 3.3-47 that the density and diversity of vegetation will remain lower than that of the pre-project vegetation for many decades. Also, "Some terrestrial animals may not return in pre-project numbers to some portions of the reclaimed Project Area due to steep terrain." With respect to raptors in particular, however, the Draft EIR/EIS explains that there are no known nests within the Analysis Area or the Project Area (Draft EIR/EIS pp. 3.3-29 to 3.3-30), and the 540 acres of mitigation lands include suitable foraging habitat as well as suitable and occupied nesting habitat (Draft EIR/EIS p. 3.3-61). Annual surveys over the past several years have confirmed that there are no nests in or adjacent to the Project area. For this reason, the Draft EIR/EIS concludes that impacts to raptors will be less than significant following mitigation, including RAPTOR-1, RAPTOR-2, RAPTOR-3, and CARB-2.

Response to Comment 16-58:

This comment states that CBD questions the usefulness of the RCS, if it is not implemented or implemented slowly. This comment does not provide a specific comment on the Draft EIR/EIS's analysis and will be noted for the record.

Response to Comment 16-59:

This comment states that the Draft EIR/EIS does not provide an explanation for the assumptions used in the analysis of the Project's potential noise impacts. The Noise Impact Analysis, attached to the Draft EIR/EIS as Appendix I, provides a full explanation of the methodology used to evaluate the Project's potential noise impacts. Noise measurements were first taken following the requirements outlined in Section 83.01.080(a) of the San Bernardino Development Code. A Larson Davis Model LxT sound level meter was used to take ten 15-minute noise measurements between 9:55 a.m. to 5:32 p.m. in 2012. Two of those measurements were taken near sensitive receptors to the north within the community of Lucerne Valley that may be affected by the Project, five measurements were recorded within the SBNF at selected distances from the Project site (as recommended by the Forest Service), and three were taken to document existing quarry noise sources.

As further explained in the Noise Impact Analysis (Draft EIR/EIS p. 21), the Project does not propose any new noise sources. The Project only proposes to move existing noise sources to the south. Yet to evaluate project impacts, the Noise Impact Analysis modeled a worst case operational noise scenario. Operational noise associated with mining activities was modeled using the Federal Highway Administration's Roadway Construction Noise Model and distance projection formulas. The worst-case scenario includes a blast alarm, a demolition blast, a rock crusher, the cement plant's operating hum, and an idling haul truck. The alarm, crusher, and cement plant hum were modeled using representative noise measurements taken at the existing

quarry and Cushenbury Cement Plant. The analysis conservatively assumed the blast alarm was assumed to be operating for 3 percent of the hour, the blast for 1 percent of the hour, the crusher for 90 percent of the hour, the idling haul truck for 75 percent of the hour, and the cement plant hum for 100 percent of the hour. These time periods are based on operations at the existing MCC mine and therefore are representative of potential noise associated with operation of the South Quarry, because the Project will not add new noise sources but rather relocate a portion of existing noise sources.

Response to Comment 16-60:

This comment states that the Draft EIR/EIS's noise analysis should have accounted for ambient noise levels. As explained in the Noise Impact Analysis, in the Draft EIR/EIS at p. 3.9-7, and in response to Comment 16-59, measurements were taken of ambient noise levels. Ambient noise levels are presented in Table 3.9-4 in the Draft EIR/EIS. Noise measurements were also taken at the existing quarry and Cushenbury plant as summarized in Table 3.9-5 of the Draft EIR/EIS. The ambient noise levels taken from seven different measurements ranged from 32.5 to 45.6 dBA Leq. The representative noise measurements from the existing quarry and Cushenbury Cement Plant ranged from 67.5 to 111.9 dBA Leq. As the Draft EIR/EIS (at p. 3.9-12) and the Noise Impact Analysis (at p. 20) explain, when two noise levels are 10dB or more apart, the lower value does not contribute significantly (less than 0.5 dB) to the total noise level. Given the large difference in noise levels between ambient noise and the existing noise at the quarry and Cushenbury Cement Plant, the existing ambient noise levels were not factored into the analysis of the Project's potential impacts. Ambient noise levels were not factored into analyzing Project operational noise because those levels are substantially less than Project-generated operational noise and would not contribute significantly to the overall noise level.

This comment next states that the Draft EIR/EIS's analysis of the Project's potential noise impacts to sensitive receptors is insufficient, alleging the Draft EIR/EIS concludes the Project would not result in impacts to sensitive receptors and so would not contribute to significant cumulative impacts. The Draft EIR/EIS conducted a thorough analysis of the Project's potential noise impacts on sensitive receptors that is distinct from the analysis of the Project's potential cumulative noise impacts. As explained in the Noise Impact Analysis (at p. 20) and the Draft EIR/EIS (at p. 3.9-11) and further in Response to Comment 9-7, the State of California defines sensitive receptors as those land uses that require serenity or are otherwise adversely affected by noise events or conditions. Schools, libraries, churches, hospitals, and residential uses make up the majority of those areas. Noise sensitive land uses in the County's General Plan are described as residences of all types, hospitals, rest homes, convalescent hospitals, churches, and schools. Under that definition, the sensitive receptors closest to the Project site are the single-family detached residential dwelling units along Camp Rock Road (approximately 2 miles to the north of the Project site) and the Immanuel Christian Center (approximately 2 miles north-northeast of the Project site). To evaluate the worst-case noise scenario for the Project, the locations of each portable noise sources were modeled as close to each individual sensitive receptor as would be practical under normal Project operations.

Worst-case scenario noise levels at the property line of the nearest sensitive receptors were modeled using representative noise measurements taken at MCC's existing facilities. As shown in Tables 3.9-14 and 3.9-15 of the Draft EIR/EIS, due to the shift in operation to the South Quarry (that is, moving some existing quarry operations farther away from the sensitive receptors as compared to MCC's East and West Pit operations), quarry operational noise is

expected to decrease 1 to 2 dBA at the Immanuel Christian Center and from 1 to 2.5 dBA at the nearest residence. The Project would also be consistent with the County's Noise Standard Development Code provisions addressing sensitive receptors in the vicinity of the Project site. Because most residences and the community center of Lucerne Valley are located north of the Project site, no noise impacts are expected to occur at those receptors from the Project. The Project would also not lead to on-site vehicle noise impacts, because noise from the haul trucks would not exceed the County's noise standards for adjacent mobile noise sources. (Draft EIR, pp. 3.9-17 to 3.9-18.)

This comment also states that the Draft EIR/EIS's analysis of the Project's potential cumulative impacts related to noise is insufficient. The Draft EIR/EIS explains that the reasonably foreseeable future actions considered as part of the cumulative impacts analysis (and listed in the Draft EIR/EIS Section 3.1.2) include four other mining projects (Draft EIR/EIS, p. 3.9-19). However, the Project would result in no adverse impact or an increase in noise and vibration to sensitive receptors because the closest sensitive receptors are to the north. The Project would shift mining operations to the south and would decrease the noise levels at nearby sensitive receptors by 1 to 2.5 dBA. The Project would lead to a beneficial impact or no impact to the nearby sensitive receptors. Therefore, when added to the other reasonably foreseeable future actions, the Project's noise impacts would not contribute to a significant cumulative impact.

Response to Comment 16-61:

This comment states that the Draft EIR/EIS does not support the statement that when two noise levels are 10 dB or more apart, the lower value does not contribute significantly (less than 0.5 dB) to the total noise level. The Draft EIR/EIS relied on the Noise Report prepared by the expert, Kunzman Associates, Inc., and included as Appendix I to the Draft EIR/EIS. Kunzman cites this principle at page 20 of the report. Kunzman in turn referenced the California Department of Transportation (Caltrans). The Technical Noise Supplement to the Caltrans Traffic Noise Analysis Protocol, A Guide for Measuring, Modeling, and Abating Highway Operation and Construction Noise Impacts, September 2013, contains extensive descriptions of the principles of sound. When adding sound pressure levels, the Guide states at pp. 2-14 to 2-15: "Two decibel-addition rules are important. First, when adding a noise level to an approximately equal noise level, the total noise level increases 3 dB. For example, doubling the traffic on a highway would result in an increase of 3 dB. Conversely, reducing traffic by one half would reduce the noise level by 3 dB. Second, when two noise levels are 10 dB or more apart, the lower value does not contribute significantly (less than 0.5 dB) to the total noise level. For example, 60 + 70 dB ≈ 70 dB." In large part, this is because the decibel scale is logarithmic, not linear, so the sound pressure levels (dB) of two separate sounds cannot be added and subtracted arithmetically.

This comment further states that there is a possibility that significant sources from other operations taken with the Project will cause significant noise impacts. As explained in responses to Comments 16-59 and 16-60, as well as in Chapter 3.9 of the Draft EIR/EIS, the Draft EIR/EIS conducted a thorough analysis of the Project's potential noise impacts as compared with existing noise levels (including the existing Cushenbury Cement Plant and mining operations) and cumulatively with reasonably foreseeable future actions. It is unclear to what other noise sources this comment refers.

Response to Comment 16-62:

This comment states that the Draft EIR/EIS is misleading when it states that the Project does not propose any new noise sources. The Project does not propose any new noise sources, as the Project will not lead to an increase in overall ore production. Instead, approximately 50 percent of the production would be shifted to the South Quarry. Based on that shift, the Noise Impact Analysis evaluated the noise impacts that will shift to the south (away from the sensitive receptors located to the north and northeast to the Project site).

This comment further states the Draft EIR/EIS should have analyzed the Project's noise impacts to the Nelson's bighorn sheep. The Project's potential impacts to the Nelson's bighorn sheep are evaluated in the Biological Resources section of the Draft EIR/EIS (*See* pp. 3.3-62 to 3.3-63) and the Biological Assessment/Biological Evaluation and Wildlife and Botany Reports (Appendix C to the Draft EIR/EIS, pp. 279-280). Bighorn sheep are influenced by consistency, predictability, and level of threat associated with any source of disturbance. Bighorn sheep near MCC's existing mining operations have been exposed to blasting activities for several decades. The blasting activities associated with the Project operations will not be a novel disturbance for the bighorn sheep, although the location of some of that activity would change as a result of the Project. The blasting for construction may be experienced as novel, in that it would be more frequent, albeit smaller, than historical blasting. In the event blast noise elicits a startle response, injury is possible, particularly to young lambs. Disturbance, including from noise, also may cause displacement. These effects are disclosed in the analysis and contribute to the conclusion that impacts will be significant, even after mitigation.

Response to Comment 16-63:

This comment states that the Draft EIR/EIS's cumulative impacts analysis is insufficient, first alleging the Draft EIR/EIS does not contain separate sections to discuss cumulative impacts. CEQA does not require that a draft EIR include a separate chapter to evaluate a project's cumulative impacts, and that analysis is frequently included within the discussion of each environmental topic. The topical subsections within Chapter 3 of the Draft EIR/EIS each contains a separate discussion of the cumulative impacts of each alternative considered. To the extent that NEPA requires a separate discussion of a project's potential cumulative effects, Section 4.1.4 of the Draft EIR/EIS at p. 4-2 explains that the Project's cumulative effects are discussed within the analysis of each environmental resource in Chapter 3.

This comment next states that the Draft EIR/EIS's discussion of cumulative impacts is included in piecemeal manner, citing to the biological resources section as an example. It is unclear precisely what this comment means by a "piecemeal manner." Section 3.1.3 of the Draft EIR/EIS provides a clear explanation of its approach to the cumulative impacts analysis.

To analyze the cumulative impacts of the Project and its alternatives, an area of analysis was selected based on the resources that are found within the Project site. The area of analysis encompasses an area with similar resources as the Project site to evaluate how particular resources would be affected by the collective impacts of the Project, its alternatives, and the past, present, and foreseeable actions in the analysis area. The area of analysis is composed of SBNF's Desert Rim Place and the non-urban areas of Lucerne Valley. The Draft EIR/EIS lists the relevant past, present, and reasonably foreseeable actions within the area of analysis in Table 3.1-1. The full analysis area is outlined, and the individual past, present, and foreseeable actions

are highlighted in Figure 3.1-1 of the Draft EIR/EIS. Although a separate Cumulative Impacts chapter was not provided, the Project's cumulative impacts with those past, present, and foreseeable actions in the analysis area were considered in the environmental consequences section of each resource/issue area.

Response to Comment 16-64:

This comment states that the Draft EIR/EIS should have evaluated the Project's impacts with the continued operation of the existing Cushenbury Cement Plant . As explained further above in response to Comment 16-37, cement manufacturing has occurred at the site since 1957. Accordingly, operations of the Cushenbury Cement Plant are part of the existing conditions, and are by default included in the past projects consideration for cumulative impacts.

Response to Comment 16-65:

This comment states that the Draft EIR/EIS does not define the geographic scope of the area of analysis for the Project's cumulative impacts. The geographic scope of the analysis area is described on page 3.1-4 and illustrated in Figure 3.1-1 of the Draft EIR/EIS. As described in the Draft EIR/EIS, the area of analysis encompasses an area with similar resources as the Project site to evaluate how particular resources would be affected by the collective impacts of the Project, its alternatives, and the past, present, and foreseeable actions in the analysis area. The area of analysis is composed of SBNF's Desert Rim Place and the non-urban areas of Lucerne Valley.

Response to Comment 16-66:

This comment states that the Draft EIR/EIS's discussion of the Project's potential growth-inducing impacts is insufficient. The comment specifically states that the Draft EIR/EIS should have included more analysis because the Project is large, is sited in an area with no existing development, and develops infrastructure that may act as a catalyst for future development or future mining operations.

Under CEQA, a lead agency must evaluate a Project's potential growth-inducing impacts. The CEQA Guidelines state that the growth-inducing impacts analysis should discuss "ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (CEQA Guidelines § 15126.2(d)). The growth-inducing impacts analysis should also discuss "the characteristics of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively." (CEQA Guidelines § 15126.2(d)). NEPA similarly requires agencies to consider a Project's indirect effects, defined in the NEPA guidelines as including "growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." (40 C.F.R. § 1508.8).

Section 4.2.1 of the Draft EIR/EIS describes the Project's growth inducing impacts. With respect economic or population growth, the Draft EIR/EIS explains that the Project is not likely to generate long-term population growth in the community or change area demographics. The Project involves only the construction and operation of a use that is consistent with the land use designations. The Project would lead to only three new employees working at MCC, which does

not create a major employment opportunity that could result in direct population growth or demand for additional housing.

With respect to any other project characteristics that might encourage or facilitate activities that may affect the environment, the Project has a limited purpose and scope. As described further in Master Response 2, the purpose of the Project is to allow MCC to blend higher-grade limestone from the South Quarry with lower-grade limestone from the East and West Pits at a ratio of approximately 50/50. Limestone testing showed that the South Quarry has estimated reserves of sufficient high-grade limestone to blend with the reserves of low-grade limestone from the East and West Pits to allow MCC to operate its Cushenbury Cement Plant for 120 years. The South Quarry Project will not increase MCC's overall ore production nor will it increase the production of cement. None of the Project's activities will induce or assist future development and/or mining operations in the area. The only roadway proposed as part of the Project will service only the South Quarry, and the public will not have access to this road. The new haul road will not connect to public roadways, nor will it be available for use by other individuals or entities. No aspect of the Project might be considered as public infrastructure.

Additionally, as summarized in Sections 2.3.2.10 and 2.3.2.11 of the Draft EIR/EIS, the Project will reclaim and revegetate the haul road and South Quarry, which would not allow it to be used following conclusion of mining at that site. Section 2.3.2.12 of the Draft EIR/EIS explains that the planned land use subsequent to mining, reclamation, and revegetation is open space and wildlife habitat managed by the Forest Service. The quarry excavation and reclamation would result in a series of revegetated benches 25 feet wide and 45 feet high. Portions of the quarry would be partially backfilled, aiding in the reclamation and revegetation of these quarry slopes.

In the case cited in this comment, the project at issue concerned the approval of a specific plan for the development of an unincorporated area surrounding the Napa County Airport (*See Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342). Evaluating the adequacy of an environmental impact report's analysis of the specific plan's impacts on housing, that court held "[t]he detail required in any particular case necessarily depends on a multitude of factors, including, but not limited to, the nature of the project, the directness or indirectness of the contemplated impact, and the ability to forecast the actual effect the project will have on the physical environment." (*Id.* at p. 369.) Applying those factors, the Draft EIR/EIS's level of analysis on growth-inducing impacts is adequate. The nature of the Project is such that the constructed haul road and South Quarry will be reclaimed and revegetated for use as open space and wildlife habitat and will not be in place for use by others during project implementation (i.e., the next 120 years) or thereafter. For the same reasons, the Project will not have a direct or indirect effect on future mining projects or other projects that would have an effect on the physical environment. Any future mining activities would require separate CEQA and NEPA review and analysis.

Response to Comment 16-67:

This comment states that the Project is an extension of an existing mining Project and that this Project could lead to future mining expansions or projects. This Project is not an extension of the West Pit project that was approved in 2004. The West Pit will continue to operate even if the South Quarry Project is not approved, as analyzed in Alternative 3. Moreover, the South Quarry Project will not lead to any increase in ore production. The South Quarry Project will merely shift a portion of MCC's ore production from the West Pit to the South Quarry. As discussed in

response to Comment 16-66, the analysis of a project's potential growth-inducing impacts examines ways in which the project could foster economic or population growth (including housing), or induce changes in land use, population density or growth rate. The increase in acreage mined in an area surrounded by mining – with no increase in production of ore or cement – is not growth as that term is described in CEQA and NEPA.

This comment further states that the Draft EIR/EIS should have considered whether the Project will result in further modernization or expansion of the existing Cushenbury Cement Plant . No physical or operations changes are proposed for the Cushenbury Cement Plant as part of the Project, and there is no information suggesting that the Project will lead to future expansions at the Cushenbury Cement Plant. See responses to Comments 16-1 and 16-5.

Response to Comment 16-68:

This comment states that the Draft EIR/EIS narrowly defines growth-inducing impacts addressing population or employment growth. As discussed in the Draft EIR/EIS and in response to Comment 16-66, the Project would not result in a growth in limestone ore production, or in cement production. Likewise, it will not result in new infrastructure such as public roads or other transit systems, water treatment or delivery systems, wastewater treatment systems, power generation or distribution, waste treatment or disposal facilities, communication networks, schools, hospitals, or any other infrastructure or enhanced public services that would support growth. The comment states that "growth" can refer to more than just population or employment growth but offers no specific examples and evidence of any type of "growth" that could be induced by the Project.

This comment further states that the Draft EIR/EIS does not explain what "planned levels" mean when it states that the Project would not lead to population or employment growth that would exceed planned levels. The Project would result in an increase of three employees at the site. This increase is expected to be met from the existing population in the vicinity of the Project, and so is not expected to result any in population growth. "Planned levels" refers to the population and employment projections used in regional planning, but a quantitative comparison to those projections is not necessary because the Project is not expected to result in any population growth.

Response to Comment 16-69:

This comment first summarizes the County and Forest Service's obligation to maintain documents and communications that may constitute part of the administrative record. The County and Forest Service understand and have complied with those obligations. This comment also states CBD's objections to the Project in its current form. This comment does not otherwise address the environmental analysis in the Draft EIR/EIS and will be noted for the record.

Comment 16 – References on USB Drive:

The CBD also submitted electronic copies of some of the documents cited in its footnotes throughout its comment letter. Those documents totaled over 1,900 pages of materials. The County and the Forest Service have reviewed those materials, to the extent that CBD provided a specific reference within each document to show how each document supported its specific comment on the Draft EIR/EIS's environmental analysis of the Project (*See Citizens for*

Responsible Equitable Environmental Development v. City of San Diego (2011) 196 Cal.App.4th 515, 528). Responses to specific comments on the environmental analysis contained in the Draft EIR/EIS are provided in Responses to Comments 16-1 through 16-69.

Letter 17 – United States Environmental Protection Agency Region 9

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

February 13, 2017

Ms. Jody Noiron
San Bernardino National Forest
602 S. Tippecanoe Avenue
San Bernardino, CA 92408

Subject: Draft Environmental Impact Statement/Report (DEIS/R) for the Mitsubishi Cement Corporation South Quarry Project, San Bernardino County, California [CEQ# 20160314]

Dear Ms. Noiron:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The DEIS evaluates the potential environmental impacts of expansion, operation, and closure of an existing limestone quarry into San Bernardino National Forest. According to the DEIS, expansion and operation of the proposed South Quarry pit would provide a source of high-quality limestone to mix with adjacent, lower-quality limestone for Mitsubishi Cement Corporation's existing Cushenbury Cement Plant for up to 120 years. The project also involves amending the San Bernardino National Forest Land Management Plan to reduce scenic integrity objectives in the Desert Rim Place.

The DEIS does not identify a preferred alternative under NEPA. When a DEIS does not identify the lead agency's preferred alternative, it is EPA's policy to rate each alternative individually. In this case, we have rated each alternative, including the No Action alternative, as *Environmental Concerns - Insufficient Information* (EC-2) (see the enclosed "Summary of EPA Rating Definitions"). This rating reflects our concern about the potentially temporary nature of mitigation for permanent impacts from the action alternatives and the need for additional information in the Final EIS on the effectiveness of that mitigation. In addition, for the No Action and Partial Implementation alternatives, we recommend that the Final EIS provide estimated air emissions and discuss other information to more sharply define the issues and provide a clearer basis for choice among the alternatives. Our detailed comments are enclosed. **17-1**

We appreciate the opportunity to review and comment on this Draft EIS. When the Final EIS is available, please send one hard copy and one CD to the address above (mail code: ENF-4-2). If you have any questions, please contact me at (415) 972-3521, or contact Hugo Hoffman, the lead reviewer for this project. Hugo can be reached at 415-972-3929 or hoffman.hugo@epa.gov.

Letter 17– Continued

Sincerely,

Kathleen Martyn Goforth, Manager
Environmental Review Section

Enclosure(s): (1) Summary of EPA Rating Definitions
(2) EPA's Detailed Comments

cc: Terri Rahhal, San Bernardino County
Scott Eliason, San Bernardino National Forest
Beth Ransel, Bureau of Land Management
John Taylor, U.S. Fish and Wildlife Service
Anne Surdzial, ECORP Consulting

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Letter 17- Continued

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment

Letter 17- Continued

EPA DETAILED COMMENTS ON THE MITSUBISHI CEMENT CORPORATION SOUTH QUARRY PROJECT DRAFT ENVIRONMENTAL IMPACT STATEMENT/REPORT (DEIS/R), CALIFORNIA - FEBRUARY 13, 2017

Mitigation Under the Carbonate Habitat Management Strategy

As explained in the Draft EIS, the project would affect critical, suitable, or otherwise occupied habitat for four federally-listed plants endemic to carbonate soils associated with limestone deposits in the region. Mitigation for direct effects to these species' habitat is proposed in accordance with the 2003 Carbonate Habitat Management Strategy (CHMS)[1], which provides a means for forming a reserve system for the carbonate plants, and prescribes a way of calculating required mitigation acreage. Alternative 1 – Proposed Action would result in a permanent loss of 153.6 acres of habitat, while Alternative 2 – Partial Implementation would result in a permanent loss of 133.6 acres. For both of the action alternatives, 540 acres of adjacent lands are proposed for protection, including 446.7 acres of Forest Service land and 93.7 acres of private land that would be transferred as land in fee to San Bernardino National Forest. Forest Service lands would be withdrawn from future mineral entry through a BLM administrative mineral withdrawal, and existing claims would be transferred through a quit-claim or title conveyance.

EPA is concerned about the longevity of the proposed mitigation since an administrative withdrawal by BLM is subject to renewal every 20 years. For either of the action alternatives, the loss of habitat would be permanent but the proposed mechanism for protection may be temporary and its duration and effectiveness would be subject to subsequent decisions by BLM regarding whether to renew the withdrawal. If the withdrawal is not renewed, this would almost certainly lead to a net loss of carbonate habitat. **17-2**

As explained on page 1-14 of the Draft EIS, BLM's "minerals withdrawal is a separate regulatory process requiring its own NEPA document." EPA believes that the results of this analysis, and the final decision for the withdrawal, are important information for the Forest Service's decision on its proposed action because the results of the BLM decision are a critical factor in whether or not the proposed mitigation measures can be effective. EPA understands that it is the Forest Service's intention to wait for the BLM's NEPA process and decision on the mineral withdrawal (S. Eliason, personal communication, January 30, 2017); however, this is not discussed in the Draft EIS.

Recommendation: In the Final EIS,

- Discuss any options the Forest Service may have to support permanent protection of lands proposed as mitigation for the proposed action. For example, could the Forest Service designate mitigation lands as unsuitable for future exploration in its future planning for the area?
- Compare the relative likelihood of permanence for the currently proposed mitigation option and for any other appropriate legal instruments for protection that were not considered in the Draft EIS.
- Explain the legal instruments that need to be put in place by the Forest Service, BLM, the company, and another entity that may receive the mineral rights, to ensure that the mitigation parcels will be successfully protected. If a third-party will hold the mineral rights, identify the likely holder and how restrictions, if any, would be placed on the claims. Disclose any administrative fees or processes required to maintain the claims and how they would be funded.

[1] Available at http://www.dmg.gov/documents/WMP_Volumes/Appendix%20S%20-%20CHMS.pdf

1

Letter 17- Continued

- Include a commitment to wait for the results of BLM's decision regarding mineral withdrawal before finalizing the Forest Service's Record of Decision (ROD). Discuss, in the Final EIS, the likelihood of future renewal of the withdrawal, considering the historic use of BLM administrative withdrawals and any reasonably foreseeable scenarios that might result in non-renewal of the withdrawal, and what would happen in the event the withdrawal is not renewed, e.g.., whether Forest Service would pursue alternative mitigation measures at that time. **17-2 Cont.**

Evaluation of Reasonably Foreseeable Impacts from Activities Outside the Forest Service's Jurisdiction

For Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project, the Draft EIS presumes that high-grade limestone sufficient to manufacture cement for up to 120 years would be obtained from elsewhere in the region if the Forest Service does not authorize operations for the full 120 years proposed, but does not include a rigorous analysis of the potential impacts. It estimates that approximately 52,000 annual on-road trips (150 trips per day) would be necessary to import limestone under Alternatives 2 and 3, but does not estimate air emissions or other potential impacts except to state that "this would result in air emissions impacts related to truck traffic that would be greater than Alternative 1 – Proposed Action. Depending on the location of the offsite quarry, impacts could be significant" (Table S-2, Summary of Environmental Effects, pg. x). EPA believes that a range of potential air quality impacts can be estimated quantitatively by calculating emissions that would result from transporting high-grade limestone from another site within the air district and another outside the district. Such analysis would more sharply define the issues and provide a clearer basis for choice among alternatives by the decision maker and the public. **17-3**

> ***Recommendation***: In the Final EIS, provide quantitative estimates for criteria air pollutant emissions that could reasonably be expected from Alternatives 2 and 3. Evaluate the significance of impacts that could result and discuss potential mitigation.

Analysis of the Alternatives 2 and 3 would also benefit from further evaluation of potential impacts to special status species and other resources.

> ***Recommendation***: In the Final EIS:
> - Discuss the range of potential impacts to special status species by considering whether impacts at an alternative site that could be reasonably expected to provide high-grade limestone would be within carbonate habitat covered by the CHMS, or may affect other special status species.
> - Discuss in greater detail other likely impacts and potential mitigation for other resources, such as for traffic and scenic resources.

Greenhouse Gas Emissions

"The Draft EIS does not provide estimates of the GHG emissions that would be caused by the on-road truck traffic from Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project. NEPA requires disclosure and consideration of the reasonably foreseeable effects of proposed actions. GHG emission estimates are a useful proxy for assessing the effects of GHGs under NEPA. As agencies should do with any environmental impact, comparison of impacts (in this case GHG emissions) between a proposal and alternatives helps to inform the decision maker. This approach is described in CEQ's **17-4**

2

Letter 17- Continued

Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews.

17-4 Cont.

Recommendation: In the Final EIS, estimate the direct and indirect GHG emissions caused by the proposal and alternatives.

Potential Impacts to Cushenbury Springs

The Draft EIS acknowledges Cushenbury Springs for its importance as wetland habitat for a number of special status species in the area. It summarizes information from the 2013 Hydrogeologic Evaluation (Appendix E to the Draft EIS), which concludes that groundwater pumped for the cement plant does not appear to be in hydraulic connection with water at the Springs. This is, in part, supported by a comparison of the waters' total dissolved solids between on-site wells and wells at the Springs. It is not clear whether the annual or seasonal contribution of surface water has been evaluated for its relative importance in supporting habitat at Cushenbury Springs. From publically available aerial imagery, it appears that a number of drainages at the proposed project site lead to intermittent tributaries supporting riparian vegetation that eventually flow to Cushenbury Springs. If water quality monitoring for surface waters leading to Cushenbury Springs is available, those data could be compared with groundwater quality to aid in assessing connections between the project site and the Springs.

17-5

Recommendations:

- In the Final EIS, analyze the contribution of surface water to the seasonal and perennial habitat function at Cushenbury Springs. If appropriate, include specific monitoring and mitigation for potential indirect impacts to Cushenbury Springs habitat that would result from a change in surface hydrology under both of the action alternatives.
- Include monitoring and mitigation for potential effects to Cushenbury Springs as part of an adaptive management approach that includes explicit and measurable objectives, well-defined triggers, thresholds, and associated action commitments.

Cumulative Impacts

Reasonably foreseeable projects considered in the Draft EIS include the planned West pit on adjacent private land. It appears that the proposed project and the West pit could affect some of the same drainages in the area, including those already impacted by the existing East pit, which lead to Cushenbury Springs.

Recommendation: In the Final EIS, update the cumulative effects analyses in the sections on Hydrology & Water Quality and Biological Resources to include an assessment of potential cumulative effects to habitat from mining up-gradient of Cushenbury Springs.

Further Clarifications Needed

EPA recommends that the Final EIS include additional disclosures or clarifications, as appropriate, to address the following:

17-6

- Provide the CHMS calculations for habitat values at the proposed project site and explain how the proposed function and quality of mitigation lands, especially the portions of the currently private parcel that do not appear to contain identified carbonate habitat, would compensate for lost habitat. If explanation of the CHMS calculations are lengthy, including this explanation as an appendix may be appropriate.

Letter 17- Continued

- The DEIS explains that future decreases in availability of groundwater could result in MCC no longer selling excess water for which they have the rights. Who are the purchasers and what are the uses of the water that is currently sold? How would current users be affected? **17-7**
- According to California Department of Transportation's list of State Scenic Highways (http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html), Highway 18 between State Route 138 and 247 is an eligible State Scenic Highway. It appears that this is within the potential viewshed analysis area provided in the Draft EIS. We recommend disclosure and discussion of the potential impacts to the highway's eligibility in the Final EIS. **17-8**
- In our scoping comments, EPA recommended "that the EIS identify the bond amounts for closure and reclamation of proposed project facilities and discuss how the Forest Service can modify the bond during the course of operations if reclamation needs change during operations." No such information was provided in the DEIS. We recommend that this be addressed in the Final EIS, as the availability of adequate funding for closure and reclamation is important to the evaluation of the proposed project's impacts. **17-9**
- It appears that the creation of foraging habitat for bighorn sheep next to haul roads from mitigation item BHS-1 could result in impacts similar to those intended to be mitigated by BHS-5, i.e., vehicle-strike mortality of bighorn sheep on the highway. Please discuss the compatibility of these mitigation measures and evaluate the need for additional mitigation strategies, or enhancement of others, if BHS-1 or BHS-5 is found to be inappropriate or ineffective. **17-10**
- EPA supports efforts to reduce water use by the project. We encourage the Forest Service to coordinate with USFWS in selecting a non-toxic chemical dust suppressant that is suitable for the area and limits potential adverse effects to species in the area. If a chemical dust suppressant is used, please discuss in the Final EIS how this might affect the effectiveness of mitigation item BHS-1. **17-11**
- Include a discussion of the following mitigation measures for indirect impacts to CHMS species from mining dust, identified in the US Fish and Wildlife Service's (USFWS) 2009 "5-Year Review" for Cushenbury buckwheat,[2] which do not appear to have been considered: "1) maintain vegetation buffers around mining operations, 2) keep mining activities contained and contiguous, and 3) cover and replant mining areas no longer in use." **17-12**

[2] Available at https://www.fws.gov/carlsbad/SpeciesStatusList/5YR/20090813_5YR_EROVVI.pdf

4

Responses to Letter 17 – United States Environmental Protection Agency Region 9

Response to Comment 17-1:

This comment states that the EPA rated each alternative pursuant to EPA's policy when a draft EIS does not identify a lead agency's preferred alternative, and that the EPA rated each alternative as Environmental Concerns-Insufficient Information (EC-2). EPA based its rating on the need for additional information in the Final EIR/EIS on the effectiveness of mitigation and additional requested information for Alternative 2 – Partial Implementation and Alternative 3 – No Project/No Action alternatives. To the extent this comment addresses the environmental analysis in the Draft EIR/EIS, the responses to Comments 17-2 to 17-12 address EPA's specific comments. This comment is otherwise noted for the record.

Response to Comment 17-2:

This comment first discusses how portions of the identified mitigation for impacts to the federally-listed carbonate endemic plant species (administrative mineral withdrawal) could be temporary in nature. As the comment explains, an administrative mineral withdrawal may be limited in duration to 20 years and, in such a case, if the Secretary of the Interior, through the BLM, failed to renew or extend the mineral withdrawal after 20 years there could be a net loss in carbonate habitat. Initially, neither federal law nor implementing regulations strictly limit the duration of an administrative withdrawal to 20 years where the mineral withdrawal is for a "resource use" (43 CFR Section 2310.3-4(b)(1)). A resource use is defined as a "land use having as its primary objective the preservation, conservation, enhancement or development of any renewable or non-renewable natural resource indigenous to a particular land area, including, but not limited to, mineral, timber, forge, water, fish or wildlife resources" (43 CFR Section 2300.0-5). Where a mineral withdrawal is for a resource use, the duration may be for such time as the Secretary for the Department of the Interior determines desirable. Here, the proposed withdrawal is for a resource use because the withdrawal is for 3,055 acres, including 2,775 acres of Federal lands in the SBNF and 280 acres of non-federal lands, from location and entry under the United States Mining Laws to maintain and conserve habitat for listed, threatened and endangered species. Although the Secretary for the Department of the Interior has discretion to limit the duration of such withdrawal, the withdrawal ultimately could be for a duration that meets or exceeds the life of the Project and therefore constitutes permanent, definite mitigation.

Even if the duration of the withdrawal is for a period less than the life of the project, under BLM and Forest Service policy and practice, withdrawals such as the withdrawal for this project are routinely renewed and extended as long as the circumstances for which the withdrawals were initially approved have not changed at the time the withdrawal periods expire.

The BLM, with authority delegated by the Secretary for the Department of the Interior, is charged with administrative responsibility for the withdrawal of lands owned or controlled by the United States for public purposes and for the modification, extension or revocation of withdrawals (U.S. Department of the Interior Department Manual 603 DM 1). The BLM is further responsible for the systematic periodic review of withdrawals to ensure that the withdrawals continue to serve their original purpose. In doing so, the BLM coordinates with

applicants and other federal agencies, such as the Forest Service. The Forest Service policy with regard to withdrawals is included in Chapter 2760 of the Forest Service Manual. The Manual states that Forest officers should consider withdrawals for areas of "…[c]ritical habitat of endangered species having a very limited range and specific habitat requirements not found elsewhere, and botanical areas." (FS Manual 2761.03) With regard to mineral withdrawals that have a fixed duration, state BLM offices are required to review withdrawals nearing expiration to ensure that the withdrawn lands are the minimum acreage necessary to meet the demonstrated needs of the applicant. If, after consultation with the applicant, the mineral withdrawal continues to fulfill the purpose and need of the withdrawal, the BLM will work with the applicant to renew and extend the mineral withdrawal.

The stated need for the current withdrawal is the protection of federally-listed carbonate endemic plant species and habitat. The proposed withdrawal further implements components of the Carbonate Habitat Management Strategy (CHMS), which has been incorporated as a component of the San Bernardino National Forest Land and Resource Management Plan. Ultimately, the purpose of the mineral withdrawal is to permanently protect habitat for these very narrowly distributed species. Each of the species only occurs in the vicinity of the northeastern San Bernardino Mountains and each occurs almost exclusively on carbonate soils. Because the distribution of each species is naturally constrained by the location of suitable soils, the geographic dispersion of such species will not increase over time and it is unlikely that the species will ever be delisted. Therefore, the stated purpose and need of the withdrawal—to protect carbonate plant occurrences and habitat—will continue to exist well into the future, justifying future renewals and extensions of the withdrawal for the life of the project. As the circumstances for which the withdrawal was initially approved likely will not have changed at the time any initial withdrawal period expires, the withdrawal will likely be renewed for the duration of the Project's operations and in perpetuity.

This comment next states that the Draft EIR/EIS does not discuss the sequence of the NEPA review process for BLM's approval of the mineral withdrawal in relation to the Forest Service's approval of the Project. The Forest Service prepared a draft Environmental Assessment for the mineral withdrawal in August 2018. A notice for the mineral withdrawal's draft Environmental Assessment was published on August 8, 2018, providing for a 30-day public comment period. The Forest Service received two comment letters on the draft Environmental Assessment in support of the mineral withdrawal request from MCC and the Cushenbury Mine Trust. The Forest Service did not receive any other comments on the draft Environmental Assessment and published the final Environmental Assessment in September 2018. The Forest Service transmitted its application for the mineral withdrawal to the BLM on October 25, 2018, including a copy of the Environmental Assessment, Mineral Potential Report, and Land Description Review. If the County and Forest Service approve the required approvals and environmental review for the Proposed Project before the BLM approves the requested mineral withdrawal, the County will add a separate condition of approval requiring that the mineral withdrawal must be approved prior to commencement of mining activities that will lead to the biological impacts that would be mitigated by the mineral withdrawal and the Forest Service's Record of Decision will include a similar condition.

This comment next provides four recommendations for the Final EIR/EIS. A response for each recommendation is provided below.

1. EPA recommends discussing other options for the Forest Service to permanently protect lands as part of the Project's mitigation measures.

   The Forest Service has discussed the potential for a permanent withdrawal of mineral rights for the requested lands with the BLM. As explained further above, the purpose and need for the withdrawal to permanently protect habitat and species as set forth in the CHMS will likely continue to exist at the expiration of the initial term and in perpetuity.

   In addition, as explained in Section 2.6.5 of the EIR/EIS, the alternative of a Congressional legislative withdrawal to mitigate the potential impacts to habitat was rejected as infeasible (Draft EIR/EIS, pp. 2-62 to 2-63). As explained, a Congressional withdrawal is a legislative action made by Congress in the form of a public law, and could permanently withdraw lands from mineral location and entry under the general mining laws of the United States. Yet, there is no established procedural mechanism for securing Congressional action on a withdrawal in this instance. For that reason, an administrative withdrawal from the Secretary of the Interior was considered a preferable alternative to achieve the desired mitigation for the Project.

2. EPA recommends comparing the relative likelihood of performance of the mitigation options described above as compared to the administrative withdrawal considered in the Draft EIR/EIS.

   A permanent withdrawal provides more certainty for the mitigation for the Project than a withdrawal that has a more limited duration. Yet as explained above and in Section 2.6.5 of the EIR/EIS, the options of permanent withdrawals were considered, either through a request for a permanent administrative withdrawal from BLM or a permanent legislative withdrawal from Congress. For the reasons explained above, those options are not available at this time. As also explained further above, the administrative withdrawal will likely be renewed after the initial term, as the purpose and need for the withdrawal to permanently protect habitat and species will likely continue to exist at the expiration of the initial term and in perpetuity.

3. EPA recommends explaining the legal instruments that must be implemented by the Forest Service, BLM, MCC, and any other entity to ensure the mitigation parcels will be protected from future mining claims. If a third-party will hold the mineral rights, EPA asks the Final EIR/EIS to identify the likely holder and disclose any administrative fees or processes required to maintain the claims and how they would be funded.

   The project mitigation for impacts to the federally endangered carbonate endemic plant species consists of both the relinquishment of unpatented mining claims and the transfer of title to private property owned by MCC. Specifically, upon completion of the mineral withdrawal, MCC will formally relinquish any and all interest in approximately 540 acres of unpatented mining claims the surface of which contain occurrences of the endangered plant species as well as suitable habitat. The relinquishment of the claims will protect the plants in perpetuity. The major threat to the plants comes from mining activity. At the time the withdrawal is complete, MCC will be the exclusive owner of all mining rights within the boundaries of the area proposed for relinquishment. After the mineral withdrawal and claim relinquishment, no new valid mining claims may be located, thereby effectively precluding future mineral development and associated impacts to the plants. Thereafter, the lands will be managed consistent with the San Bernardino National Forest Land Management Plan which incorporates the CHMS. Pursuant to the CHMS,

after mining claim relinquishment (a Habitat Reserve Contribution) the Forest Service shall protect the Habitat Reserve from mining activity in perpetuity and any public uses that are incompatible with management of the lands as habitat for the carbonate plant species. With regard to the private property, MCC shall deed the property (Cushenbury 7P) to the federal government. Upon acceptance, the property becomes classified as "Acquired Lands". Acquired Lands are not open to location of new mining claims though the Forest Service has discretion to accept and approve applications for mineral development on Acquired Lands (36 CFR 228 Subpart C), subject to environmental review. Approval of such applications would be in conflict with the CHMS and therefore highly unlikely.

4. EPA recommends including a commitment that the Forest Service will not finalize the Record of Decision for the Project until the BLM finalizes the mineral withdrawal. EPA further recommends discussing the likelihood of the renewal of the mineral withdrawal and the implications if BLM does not renew the mineral withdrawal.

   EPA's recommendation concerning the order of the BLM mineral withdrawal approval and the Forest Service Record of Decision is noted for the record. The Forest Service's Record of Decision for the Project will state the term of the mineral withdrawal. For the reasons stated above, a withdrawal that has a limited duration will likely be renewed for the duration of the Project and in perpetuity.

   The BLM is charged with approval of the administrative withdrawal related to the Project, and neither the County nor the Forest Service has control over the timing of BLM's approval. If the County and Forest Service approve the required approvals and environmental review for the Proposed Project before the BLM approves the requested mineral withdrawal, the County will add a separate condition of approval requiring that the mineral withdrawal must be approved prior to commencement of mining activities that will lead to the biological impacts that would be mitigated by the mineral withdrawal and the Forest Services' Record of Decision will include a similar condition. In addition, MCC must comply with the Project Design Feature/Mitigation Measure CABR-2, which requires MCC to quitclaim specified unpatented mining claims and convey specified patented mining claims pursuant to the Carbonate Habitat Management Strategy (CHMS) upon the BLM's approval of the mineral withdrawal.

Response to Comment 17-3:

This comment recommends that the Final EIR/EIS provide quantitative estimates for criteria air pollutant emissions for the alternative sources of high-grade limestone that might be developed under Alternative 2 – Partial Implementation and Alternative 3 – No Action/No Project. Master Response 3 provides an explanation of the locations of potential alternative limestone sources and why those sources were selected. Estimates of the criteria air pollutant emissions that could reasonably be expected from Alternatives 2 and 3 are summarized in Master Response 3 and have been included in Section S.4 (Table S-2), Section 3.2 and Section 3.6 of the Final EIR/EIS.

This comment also recommends that the Final EIR/EIS describe the range of potential impacts to special status species that might result from developing the alternative sources of limestone under Alternatives 2 and 3. This comment also recommends that the Draft EIR/EIS address other potential impacts and mitigation that might occur from developing the alternative sources of limestone under Alternatives 2 and 3, including potential impacts to traffic and scenic

resources. As further described in Master Response to Comment 3 and response to Comment 16-7, the alternative limestone sources are not within MCC's control and MCC does not currently have access to those sites for further environmental analysis. One of the off-site sources is already permitted for mining (Omya's Amboy Limestone Quarry), and any impacts to special status species and scenic resources would occur at that site with or without Alternatives 2 or 3 (the limestone would simply be sold to other customers). Development of Omya's Amboy Limestone Quarry has already required its own environmental review, and development of the other two identified limestone sources (in Moapa and the Big Maria Mountains) would require environmental review for any required permits. Additional information on potential air quality impacts and traffic is provided in Master Response to Comment No. 3 and response to Comment 16-7.

Response to Comment 17-4:

This comment recommends that the Final EIR/EIS provide quantitative estimates for the greenhouse gas emissions that might result if the alternative sources of high-grade limestone are developed under Alternatives 2 or 3. Estimates of the greenhouse gas emissions that could reasonably be expected from Alternatives 2 and 3 are summarized in the response to Master Response 3 and have been included in the Final EIR/EIS, in Section 3.6.

Response to Comment 17-5:

This comment recommends that the Final EIR/EIS analyze the contribution of surface water to the seasonal and perennial habitat function at Cushenbury Springs, and that the Final EIR/EIS should include monitoring and mitigation for potential indirect impacts to Cushenbury Springs habitat that would result from a change in the surface hydrology under the Project and its alternatives.

As described in the Draft EIR/EIS, Alternative 1 – Proposed Action and Alternative 2 – Partial Implementation would not impact the habitat supported by Cushenbury Springs for several reasons. First, the hydrologic investigation documented in Appendix E to the Draft EIR/EIS, a hydrologic investigation showed that that future use of groundwater averaging 585 af/yr would not significantly impact Cushenbury Springs because the sources of groundwater for the Project do not have a hydraulic connection to the Cushenbury Springs. As explained in response to Comment 16-25, the figure of 585 af/yr represents the total water demand for operation of the existing Cushenbury Cement Plant, the West Pit, and the South Quarry together. This amount would be a net increase of 101.3 acre over the recent historical average of 484 af/yr.

MCC has four on-site wells (Wells #1, #2, #3, #4) and four on-site monitoring wells (Monitoring Wells #1, #2, #3, #4), as identified in Figure 2 of Appendix E. MCC operates Well #1 continually at approximately 150 gallons per minute (gpm). Well #4 automatically cycles on and off during the day based on water usage, and pumps at approximately 450 gpm and cycles on for about 20 minutes per cycle. Wells #2 and #3 are not currently operational. To analyze whether those wells have connectivity to the hydraulic zone of Cushenbury Springs, Golder Associates installed two temporary piezometers in Cushenbury Springs. Under Golder's direction, MCC implemented several pumping conditions under different operating scenarios (*See* Appendix E, pp. 3-4). Those scenarios were conducted to establish baseline groundwater elevations and data as the site operated under normal everyday working conditions.

During the worst-case scenario tested, which involved pumping all water from Well #4, no hydraulic response was observed in the temporary piezometers in Cushenbury Springs. A decrease in water elevations was found at the temporary piezometers, but those changes in elevation were found during both pumping and non-pumping conditions. Previous testing at the site also showed that that barriers to groundwater flow exist across the site. Several east-west trending frontal faults act as boundaries between different hydraulic zones and act as effective barriers to groundwater flow. In sum, the analysis conducted by Golder Associates supports the conclusion that the source of groundwater for the Project does not have a hydraulic connection to the Cushenbury Springs (*See* Appendix E of the Draft EIR/EIS).

Second, as explained above in response to Comments 9-11 and 9-17 and in Chapter 2 of the Draft EIR/EIS, all South Quarry drainage is expected to be retained on the site within the basin created by the quarry excavation. Erosion and sediment loss and transport would be controlled through the use of localized drainage and sediment control measures for other quarry development areas, including roads, stockpile areas, and other disturbed areas. Those measures would include construction of temporary diversion and collection ditches, berms, check dams or catchment basins, placement of erosion control materials, sediment fences, straw bales, or other appropriate measures individually or in combination. Water would be expected to percolate, continuing to recharge groundwater.

Finally, the Biological Assessment/Biological Evaluation (BA/BE) prepared for the Project (attached as Appendix C to the Draft EIR/EIS) confirms that the Project's surface drainages do not have a connection to Cushenbury Springs. As explained in the Jurisdictional Delineation Report (Appendix D-1 to the Final EIR/EIS, at pp. 13-16) and in the BA/BE (Appendix C at pp. 88-94), the Project area includes five on-site drainages, in addition to Marble Canyon, but those drainages do not drain into the Cushenbury Springs. Figures 21 through 24 in the BA/BE illustrate those drainages (labeled as Drainage A through E, and Marble Canyon). On the north side of the slope, the drainages drain into MCC's existing East Pit, which is self-contained. On the south side, the drainages drain to Marble Canyon, which carries run-off northwest of Cushenbury Springs. The BA/BE further analyzes the Project's potential effects to the Cushenbury Springs, describing the existing conditions and lack of connectivity of the Project's use of groundwater and drainages to the Springs. As the BA/BE explains, the Golder investigation did not detect a significant connection between either the production wells in current and proposed-continued usage in the Cushenbury Springs.

However, since the Golder investigation is of limited scope, and since hydrogeological systems can change over time in response to climate and fault movements, Project Design Feature/Mitigation Measure GEN-14 provides a safety net for possible future effects of South Quarry water use to water levels at Cushenbury Springs. GEN-14 requires MCC to continue its regular groundwater monitoring program through the life of the Project. MCC must submit a report regarding the monitoring at least annually. If the annual report indicates a change in groundwater levels, use or recharge rates that may pose a substantial threat to surface and wetland vegetation at Cushenbury Springs, or if unusual vegetation mortality is observed at the wetlands, a pump test will be performed for all wells supplying the Cushenbury Cement Plant and associated monitoring wells to determine if there has been a change in the groundwater basin between the subject wells and Cushenbury Springs. If there are future adverse changes to water quantity, seasonal duration of surface flow, or extent of wetland vegetation related to the Project, MCC will respond to minimize those effects with actions that include water conservation programs and shifts in the usage of various available water sources. In sum, neither the Project's

use of groundwater nor the Project's proposed drainages will affect the groundwater quality or habitat at Cushenbury Springs.

This comment next recommends that the Project's mitigation for Cushenbury Springs include an adaptive management approach that includes measurable objectives and thresholds. As explained further above, Project Design Feature/Mitigation Measure GEN-14 includes an adaptive mitigation program through which MCC must regularly monitor groundwater quality at Cushenbury Springs and report its findings to the Forest Service and the County annually. If changes to water quantity or quality are observed at Cushenbury Springs, MCC will respond to minimize those effects through water conservation programs. As discussed in response to Comment 16-27, it is not possible to mandate specific responses in GEN-14 because any response will need to be tailored to the circumstances – if any – that manifest in the future.

This comment finally recommends that the Final EIR/EIS address the potential cumulative effects of mining projects that are up-gradient of Cushenbury Springs. The Project is not expected to contribute to any cumulative impacts on the Cushenbury Springs, because the Project's use of groundwater and drainages will not affect Cushenbury Springs. Therefore, the Project would not contribute to a cumulative impact.

Response to Comment 17-6:

This comment recommends that the Draft EIR/EIS provide the CHMS calculations for habitat values at the Project Site and the proposed mitigation lands. The CHMS calculations were provided in the BA/BE (Draft EIR/EIS Appendix C), Table 10 and Section 3.1.5 and summarized in Section 3.3 of the Draft EIR/EIS. Pursuant to the CHMS, properties within the boundaries of the Carbonate Habitat Management Area are assigned a Conservation Value based upon the type and density of carbonate plant habitat present. As discussed on page 3.3-77 of the Draft EIR/EIS, the Project site has a Conservation Value of 97, while the total Conservation Value of the parcels for the proposed mitigation under Design Feature/Mitigation Measure CARB-2 is 359, which provides a mitigation ratio of 3.70:1 for impacts to carbonate species under the CHMS. The assignment of Conservation Value to property within the Carbonate Habitat Management Area is a result of multiple years of biological surveys mapping carbonate endemic plant occurrences, densities, and habitat, including surveys conducted in 2009, 2010, and 2011. Those surveys showed general stability of the location and densities of carbonate plant occurrences. Based on the extensive surveys and work done in preparation of the CHMS, the proposed mitigation measures are sufficient to mitigate the loss of carbonate plant habitat to lead to less than significant impacts.

Response to Comment 17-7:

This comment seeks further clarification on the possibility that use of groundwater for the Project may keep MCC from selling excess water for which they have the rights. As explained in Chapter 3.8 of the Draft EIR/EIS, the Project site is within the Mojave Water Basin. The Mojave Basin, including Este Subarea where the Project site is located, has been the subject of adjudication to determine the water rights of various producers. A Stipulated Judgement and a Final Judgement were entered binding all parties to the adjudication. The purpose of the Judgement was to create incentives to conserve local water, guarantee that downstream producers will not be adversely affected by upstream producers, and assess producers to obtain funding for the purpose of imported water. To carry out the Mojave Basin Judgement, the

Mojave Water Basin assigned Base Annual Production (BAP) amounts to each producer using 10-acre feet per year or more. MCC has a Free Production Allowance (FPA) of 1,116 acre-feet. Any groundwater that MCC or any other party pumps over and above the their respective FPA is subject to replacement either by paying the Watermaster to purchase supplemental water from the Mojave Water Agency or by acquiring/transferring unused production rights within the same area from another party.

Historically, MCC has had prior year carryover from unused FPA and has sold FPA to others for replacement water. The Project's increase in demand for groundwater by approximately 101.3 acre-feet/year for the Project is not expected to exceed the allotted FPA. However, as explained in the Water Supply Assessment (Appendix H of the Draft EIR/EIS), an analysis was completed for potential effects when groundwater conditions are drier than average. The Mojave Water Agency 2004 Regional Water Management Plan projects the single-dry year conditions based on the 1977 California drought conditions. In the event that water supplies become limited, MCC could maintain limitation on its water use to be equivalent or less than 50 percent of its FPA. Under current projections that limitation on water use would not require implementations of conservation measures but would limit the amount of water available for MCC to sell to others for annual replacement.

While this comment asks for information on which water purchases might be affected by MCC's foregoing water sales, the identity of those purchasers and the effects on the purchasers is not a matter that requires analysis under CEQA or NEPA. CEQA and NEPA require analysis of the Project's potential direct and indirect impacts on groundwater. Because the Project will not lead to MCC exceeding its allotted FPA under the Judgement, the Project will not affect the availability of groundwater. As explained further above, MCC has an allotted FPA under the Judgement, and the Judgement assigned FPAs to parties taking into account the potential impacts that upstream producers might have on downstream producers. The Project will not affect those allotted FPAs, and therefore will not affect downstream or upstream users.

Response to Comment 17-8:

This comment recommends that the Final EIR/EIS discuss the Project's potential impacts to State Highway 18's eligibility to become a State Scenic Highway. As explained in the Scenery Report (attached as Appendix K to the Draft EIR/EIS), the South Quarry site cannot be seen from Highway 18 due to the topography and proximity of steep ridges in the Project area. There would be no views of the Project area from State Highway 18 during any phase of the Project because the South Quarry will be screened by the foreground mountain ridgelines.

Figure 3.11-1 of the Draft EIR/EIS, on page 3.11-5, was a tool utilized to determine which areas could have the possibility to view the Project from any direction. As illustrated, due to the Project's location on the lower north slope of the mountains, viewers within the SBNF, including those traveling on State Highway 18, would be unable to see the Project site. The proposed site is generally only exposed to views from the north. In addition, State Highway 18 generally is within a canyon and views are limited by the steep terrain. Therefore, the Project would not affect the views from State Highway 18 that make it potentially eligible as a State Scenic Highway.

Response to Comment 17-9:

This comment recommends that the Final EIR/EIS provide the bond amounts required for closure and reclamation of the South Quarry. The reclamation bond is part of the regulatory scheme that is separate from CEQA and NEPA – the SMARA. Under SMARA, a reclamation financial assurance cost estimate in an amount sufficient to pay for the cost of reclamation must be prepared. MCC currently provides a financial assurance mechanism in the form of a letter credit payable to the County and the Division of Mine Reclamation for the approved amount to assure reclamation of its existing operations. If the Project is approved, an additional letter of credit or other acceptable financial assurance mechanism would be provided for the South Quarry, which would include the Forest Service as a payable party.

The financial assurances will remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed. State law requires that the amount of financial assurances shall be adjusted annually to account for new land distributed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan. The County and Forest Service must annually review and update the cost estimate, as needed, and MCC would be required to provide financial assurance in the adjusted amount. The reclamation assurance would also be reviewed and approved annually by the California Division of Mine Reclamation.

Because the Project's mining activity will take place incrementally over an approximately 120-year period, and because the amount of any financial assurance is based upon a number of independent factors (such as the amount of area disturbed, inflation, the cost of reclamation activities such as labor, revegetation, and machinery), there would be little informational value in trying to estimate the total cost of reclamation for the entire mine site and amount of required financial assurances. Nonetheless, a Financial Assurance Cost Estimate was submitted as Appendix K to the Project's application for the Reclamation Plan submitted to the County. The total cost of reclamation was calculated to be $376,532.00 based on the assumed disturbance levels. However as mentioned, this amount will be revised annually until reclamation is complete and the final cost will be much different. Both the County of San Bernardino and the Forest Service will be required to approve the form and amount of financial assurance in ensuring reclamation of the site and that amount will be adjusted on an annual basis pursuant to SMARA and Forest Service regulations.

Response to Comment 17-10:

This comment asks for further clarification addressing the compatibility of Project Design Feature/Mitigation Measure BHS-1 and BHS-5. BHS-1 is specific to internal haul roads on the Project site. BHS-5 is specific to public traffic on State Highway 18, which is not on the Project site.

BHS-1 recognizes that when trucks spray water on haul roads to control fugitive dust, overspray that occurs on the road berms for a short distance beyond the roadbed can sometimes support vegetation that bighorn sheep forage. The enhanced forage growth that results from watering the haul road provides a nutritional resource for the bighorn sheep; therefore, BHS-1 states that MCC will not make an effort to eliminate the overspray. Bighorn sheep may be attracted to the vegetation along the internal haul road on MCC's property. However, only MCC vehicles will have access to the haul road. Due to the terrain and the potential haul loads of MCC's vehicles,

those vehicles drive slowly. In addition, MCC personnel receive initial and refresher training regarding protection of wildlife on the site, and this practice will be enforceable through Design Features/Mitigation Measures GEN-2 and BHS-8. MCC employees document dozens of bighorn sheep sightings on the property each year (see, e.g., pages 62-65 of the 2009 Compliance Report discussed in response to Comment 16-49), and there has never had an instance of a vehicle striking or otherwise injuring a sheep on the property. Bighorn sheep readily adapt to sources of disturbance that are predicable, consistent, and benign. Traffic on the Project's haul road will meet those characteristics. Bighorn sheep have been foraging along MCC's existing haul roads for many years. The type of disturbance from the haul road will not be novel, it will just occur in a new location.

BHS-5 states that upon obtaining necessary approvals from Caltrans, MCC will fund, purchase, and install a highway warning signs on State Highway 18 to reduce risk of vehicle strike mortality or "take" of bighorn sheep crossing the highway. Unlike the private haul road, State Highway 18 is accessible to public vehicles that travel at faster speeds, and the drivers are usually unaware or inattentive to the possible presence of bighorn sheep. The risk of a vehicle strike is higher on Highway 18. Given those differences, BHS-1 and BHS-5 are compatible.

Response to Comment 17-11:

This comment states that EPA encourages the use of non-toxic chemical dust suppressants to reduce water usage to control fugitive dust. If a chemical dust suppressant is used, this comment asks that the Final EIR/EIS address the effectiveness of Project Design Feature/Mitigation Measure BHS-1. A description of MCC's application of chemical dust suppressants is included in response to Comment 16-14.

Water has been used at MCC's existing mining operations for the purposes of dust management. As explained further in response to Comment 17-10, the use of water provides secondary benefits by fostering plant growth that provides nutritional resources for bighorn sheep. Application of water on haul roads will not be required, or less water will be used, if chemical dust suppressants are used for dust control. However, other Design Features/Mitigation Measures are provided to support and monitor the water and nutritional needs of the bighorn sheep including BHS-2, BHS-4, BHS-6, and BHS-7. As documented in the 2017 Compliance Report discussed in response to Comment 16-49, the bighorn sheep regularly browse on the areas undergoing revegetation. The 2017 Compliance Report also shows the water developments ("guzzlers" or "wildlife drinkers") on the site. Measure BHS-2 would require MCC to maintain the existing water developments and to create additional water developments if one or more of the existing facilities is abandoned.

Response to Comment 17-12:

This comment states that the Final EIR/EIS should address potential mitigation measures for indirect impacts to CHMS species from mining dust, as identified in the U.S. Fish and Wildlife Service's 2009 "5-Year Review" for Cushenbury buckwheat, including: (i) maintaining vegetation buffers around mining operations; (ii) keeping mining activities contained and contiguous; and (iii) covering and replanting mining areas no longer in use. It should be noted that the three mitigation measures listed in this comment were not recommendations of the subject 5-year review. Five-year reviews do not include mitigation measures or other regulatory

requirements. These measures are from literature cited in the 5-Year Review (Padgett et al. 2007. Patterns of carbonate dust deposition: implications for four federally endangered plant species).

With respect to maintaining vegetation buffers around mining operations, the landscaped berm around the proposed South Quarry, described in several places in Chapter 2 of the Draft EIR/EIS, including Section 2.3.2.7 and required in Design Feature/Mitigation Measure SCEN-5, satisfies the first measure.

With respect to keeping mining activities contained and contiguous, the South Quarry mining activities will be contained in a contiguous area, as reflected in Figures 2.3-2 and 2.3-3 of the Draft EIR/EIS. The mining activities will be contained within the proposed limits of disturbance reflected in Figure 2.3-2, covering approximately 128 acres. Measures GEN-1.d and e will ensure compliance.

With respect to covering and replanting mining areas no longer in use, a reclamation and revegetation plan concurrently with each phase of the South Quarry's mining activities is included as part of both Alternative 1 and Alternative 2. As explained further in response to Comment 16-44, the Project's reclamation and revegetation activities will be implemented in phases, starting during the first five years of the Project's operation. Reclamation activities will treat the disturbed land to minimize water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from the surface mining operations. The revegetation plan will establish native vegetation on lands that have been disturbed. The Revegetation Plan prepared of the Project is part of the Plan of Operations that will be approved by the Forest Service. The Revegetation Plan is summarized in Section 2.3.2.11 of the Draft EIR/EIS. It is enforceable through Measure SCEN-13, in addition to SMARA. Measure GEN-12 requires that small-sized woody vegetation and organic material cleared from the surface be used as cover on inactive quarry benches, on overburden piles, and along roads.

Letter 18 – California Department of Fish and Wildlife

State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director

February 13, 2017
Sent via email

Ms. Anne Surdzial
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

Subject: Draft Environmental Impact Report
Mitsubishi Cement Corporation South Quarry Project
State Clearinghouse No. 2012031009

Dear Ms. Surdzial:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Mitsubishi Cement Corporation South Quarry Project (project) [State Clearinghouse No. 2012031009]. The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

Mitsubishi Cement Corporation (MCC) is proposing to develop and reclaim a new high-grade limestone quarry to the south of its existing East Pit, its West Pit (under development), and the existing Cushenbury Cement Plant, approximately six miles south of the community of Lucerne Valley, San Bernardino County. The proposed project would encompass approximately 153.6 acres consisting of a 128-acre quarry, a 2.7-acre landscape berm, a 22.2-acre haul road 1.8 miles in length, and a temporary construction road of 0.7 acre. The proposed South Quarry and haul road would be located almost entirely (147 acres) on 440 acres of unpatented claims owned by MCC on public federal land in the San Bernardino National Forest with approximately 6.6 acres of the haul road located on MCC fee land where it enters the existing East Pit.

Conserving California's Wildlife Since 1870

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COMMENTS AND RECOMMENDATIONS

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources); and administers the Natural Community Conservation Planning Program (NCCP Program). The Department offers the comments and recommendations presented below to assist the County of San Bernardino (County; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources.

Following review of the DEIR the Department has concerns related to the ability of the Lead Agency to adequately analyze the direct, indirect, and cumulative impacts of Alternative 1 (the proposed action); the project's direct, indirect, and cumulative impacts to Nelson's bighorn sheep; and the adequacy and enforceability of mitigation measures proposed by the County. The Department's comments and recommendations on the DEIR include:

Analysis of Alternative 1 (Proposed Action)

Alternative 1 proposes a project period of approximately 120 years. The Department is concerned with the ability of the Lead Agency to adequately analyze the direct, indirect, and cumulative impacts of the project over this time period. The Department requests that the County clarify how it was possible to predict impacts in the DEIR over a timescale of 120 years into the future, given that cumulative impacts such as those of a warming climate are unknowable and must be assessed in the context of activities on adjacent mine holdings, highways, etc. Given these concerns, the Department further queries the adequacy of the Lead Agency's assessment in determining that the "…only significant irreversible effects that cannot be mitigated are Project-level and cumulative effects to the Cushenbury herd of Nelson's bighorn sheep and Project-level effects to Scenery Resources…" (page 4-3). **18-1**

The Department is also concerned with the efficacy of the restoration plan given that final restoration activities will not occur until mining is completed, at which time changes in weather patterns may have resulted in conditions that are no longer suitable to support the local plant and habitat resources specified in the restoration plan. **18-2**

Given these concerns the Department recommends that the CEQA document contemplate the need for continued assessment and analysis throughout the life of the proposed 120 year project. The Department recommends that the Lead Agency condition MCC to complete an updated CEQA analysis every 40 years, until the completion of mining operations. A period of 40 years is being proposed because under Alternative 2, the project period is 40 years, and the Department **18-3**

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assumes that at the end of this period additional CEQA analysis would be completed. Without revising the DEIR to condition the project proponent to complete an updated assessment throughout the life of the 120 year project, the Department queries the adequacy of the Lead Agency's assessment of the significant irreversible effects of the project. **18-3 Cont.**

Nelson's Bighorn Sheep

The Department agrees with the DEIR's finding that "effects to the Cushenbury herd of Nelson's bighorn sheep are expected to be significant even after the implementation" (page 3.3-61 of the DEIR) of proposed Bighorn Sheep Mitigation Measures BHS-1 through BHS-8.

The measures include the future development of an adaptive management plan, the North Slope Bighorn Sheep Management Plan, as well as measures designed to reduce the likelihood of death or injury of bighorn sheep. The General (GEN) Mitigation Measures also include avoidance and minimization measures for bighorn sheep. The Department has reviewed the proposed mitigation measures for bighorn sheep and offers the following comments and recommendations:

Mitigation Measure (MM) GEN-4, *Reclamation*, stipulates that reclamation of the South Quarry shall include "the creation of angled pathways and interlacing reclaimed benches in order to facilitate the movement of bighorn sheep and other wildlife through the quarries. These benches will be created as the mining sequence is completed and prior to restoration." The Department appreciates that the movement of bighorn sheep are being considered in this measure, however as currently written, the measure lacks specificity in terms of slope angle and bench design features (i.e., ramps) that would allow animals to ascend and descend reclaimed benches. To ensure specificity and appropriateness of design, the Department recommends that MM GEN-4 be revised and conditioned to include coordination with Department and/or United States Forest Service (USFS) biologists.

18-4

Page 3.3-53 of the DEIR discusses that individual benches would be "approximately 45 feet high and 25 feet wide," and that ramps would be constructed every 500 feet to connect the benches. Although this specific language was not incorporated into MM GEN-4, the Department recommends that ramps be spaced more closely (e.g. at 250 to 300-foot intervals) wherever feasible, with a maximum allowable spacing between ramps of 500 feet.

The Department recommends that the County revise MM GEN-4 and condition the measure to include the following (edits are in **bold**):

> *Reclamation:* Reclamation of the South Quarry shall include the creation of angled pathways and interlacing reclaimed benches in order to facilitate

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> the movement of bighorn sheep and other wildlife through the quarries. These benches will be **designed and** created **in coordination with CDFW and/or USFS biologists** as the mining sequence is completed and prior to restoration.

18-4 Cont.

Mitigation Measure GEN-5 includes general information on the haul road crossings, but lacks specificity to ensure successful and continued use by resident mammal populations post construction. To minimize impacts to resident mammal populations it is essential that the haul road crossings are engineered and maintained so that bighorn sheep, deer, and small mammal species can and will traverse the crossings. To ensure appropriateness of design and engineering, the Department recommends that MM GEN-5 be revised and conditioned to include coordination with Department and/or USFS biologists during haul road design, engineering, and construction. The Department further recommends that Department and/or USFS biologists be consulted in the design of a study plan to analyze the efficacy of haul road design for long-term mammal usage.

The Department recommends that the County revise MM GEN-5 and condition the measure to include the following (edits are in **bold** and ~~strikethrough~~):

18-5

> *Haul Road Crossings:* The final design **and construction** of the haul road shall ensure movement pathways for wildlife, including bighorn sheep**,** ~~and~~ deer, **and small mammals,** between the existing East and West Pits and the proposed South Quarry. This will include**, but may not be limited to,** terracing or stair-stepping or micro-benches of steep and vertical cuts, especially at strategic crossing locations~~, as recommended by the~~ **Design and construction of the haul road shall be completed in coordination with** CDFW and Forest Service biologists. ~~This will not occur where slope and rock qualities will threaten haul road safety and stability.~~ **A study to analyze the efficacy of long-term mammal usage of the haul roads shall be designed in consultation with CDFW and USFS biologists, and shall be implemented by MCC within one year of construction of the haul road.**

Mitigation Measure (MM) GEN-11 states that mine employees will conduct a visual inspection using both naked eye and binoculars for a minimum of five minutes to ascertain the presence or absence of bighorn sheep and other species, prior to blasting activities. Given the limited information conveyed in MM GEN-2, Employee Training, the Department is concerned that the "mine employees" may not receive adequate training to readily detect bighorn sheep and other species within the blast areas. To ensure a minimum skill level in bighorn sheep detectability, the Department recommends that MCC designate 1-2 personnel to be specifically trained by CDFW's bighorn sheep Wildlife Biologist.

18-6

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The Department recommends that the County revise MM GEN-11 and condition the measure to include the following (edits are in ~~strikethrough~~ and **bold**):

> *Blasting:* Prior to blasting activities within the project area, **designated, CDFW-trained** mine employees shall conduct a visual inspection (both naked eye and with binoculars) for a minimum of five minutes to ascertain the presence or absence of bighorn sheep, deer, golden eagles, peregrine falcons, or other large animals. If animals are located within the blast area, mine employees shall wait until animals have moved from the area or may use sound, as from shouts, vehicle, or air horns, to move them out of the blast area prior to detonation of any blasting materials.

The Department recommends that the County condition the DEIR to include the following new mitigation measure describing the CDFW-trained mine employee(s) and their responsibilities: **18-6 Cont.**

MM **BHS-9:** ***CDFW-Trained Mine Employee*: Prior to blasting activities within the project area, 1-2 mine employees shall be trained by CDFW's bighorn sheep Wildlife Biologist to ensure a minimum skill level in bighorn sheep detectability. The CDFW-trained mine employee(s) will be responsible for the completion of visual inspections for bighorn sheep and other species specified in GEN-11, within the project area prior to the commencement of all blasting activities. The CDFW-trained mine employee(s) shall maintain a logbook detailing the location, date, time, and species observations of each visual inspection for each blasting activity. The log will be available upon request by CDFW personnel.**

Mitigation Measure BHS-7 includes information on a non-wasting endowment associated with future conservation and management of North Slope bighorn sheep. To ensure flexibility in fund administration, the Department requests that MM BHS-7 be revised and conditioned as follows (edits are in ~~strikethrough~~ and **bold**):

> *Future Conservation and Management:* Within one year after approval of the South Quarry Plan of Operations and the Reclamation Plan by the County and the Forest Service, MCC shall begin contributing to a non-wasting endowment, designated as the North Slope Bighorn Sheep Conservation Fund (Fund). The amount of MCC's contributions shall be determined by CDFW in coordination with MCC prior to final approval of the South Quarry project. The Fund shall be administered by **a CDFW-approved entity, such as** the National Fish and Wildlife Foundation **(**as a sub-account of the California Department of Fish and [Game] Master Mitigation Account**)**. ~~This sub-account~~**The fund** shall be managed as a

18-7

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> long-term endowment dedicated to activities that aid in conservation and monitoring of bighorn sheep both within the Cushenbury herd and on proximate habitats, occupied or unoccupied, including the Bighorn Mountains and San Gorgonio Wilderness where immigration and emigration may connect groups into a functional metapopulation.

18-7 Cont.

The Department is concerned with the potential transmission of disease to wild sheep, and recommends that the County include the following new mitigation measure in the Final EIR (FEIR):

> **MM BHS-10: *Work Boot Decontamination:* All quarry workers who have potential contact with domesticated sheep and/or goats (for example at farms, fairs, etc.) shall decontaminate work boots prior to entering the project area. Decontamination shall involve scrubbing the soles of work boots with a 10% bleach solution to remove all organic matter and kill pathogens. Alternatively, footwear may be changed to ensure that potentially contaminated footwear does not enter any quarry area.**

18-8

The Department also recommends that domestic sheep (*Ovis aries*) and domestic goat (*Capra hircus*) be classified as "Threat Level" 1 in Table 1 of Appendix C, for "serious documented threat" to populations of bighorn sheep through transmissions of respiratory diseases endemic to those domestic species.

<u>Nesting Birds</u>

Mitigation Measures (MM) BIRD-1 and BIRD-2 provide mitigation measures for impacts to nesting birds. Both measures stipulate that nesting bird surveys be completed no more than 10 days prior to the initiation of ground disturbing activities. The Department recommends that these measures be revised to require pre-construction surveys no more than three (3) days prior to ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner. The Department also requests clarification as to whether the County (or the San Bernardino National Forest; SBNF) will receive copies of the nesting bird survey reports to ensure enforceability of MM BIRD-1 and BIRD-2. The Department recommends that the County revise MM BIRD-1 and condition the measure to include the following (edits are in ~~strikethrough~~ and **bold**):

18-9

MM BIRD-1 *Migratory Bird Treaty Act Compliance:* During the development of the quarry, haul roads, and associated facilities, all initial ground clearing (vegetation removal, grading, etc.) shall occur outside the avian breeding season (i.e., do not remove potential nesting habitat from February 1 through August 31, or appropriate dates based on on-site nesting phenology determined by a qualified biologist). For

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initial ground clearing (vegetation removal, grading, etc.) that is not feasible to be conducted outside the nesting season, surveys will be conducted to locate active nests within ~~10~~**three (3)** days of the initiation of ground-disturbing activities. **If any areas are left fallow after initial ground clearing, these areas will be resurveyed for the presence of nesting birds within three days of any ground-disturbing activities.** Any active nest sites that are located will be buffered and no work will be conducted within those buffered areas until the nests are no longer active.

The buffer distances would be determined by a qualified **avian** biologist referencing current species-specific standards, and taking into account the conservation status of the species (e.g., larger buffers may be appropriate for Sensitive species, etc.), species-specific biology, and the nature of the planned disturbance (e.g., driving past a nest versus extensive grading).

MM BIRD-2 Nesting bird surveys for passerine birds, as outlined in BIRD-1, shall be conducted by a qualified **avian** biologist experienced and familiar with robust nest locating techniques or comparable to those described by Martin and Guepel (1993). Surveys shall be conducted in accordance with the following guidelines: **18-9 Cont.**

a. Surveys shall cover all potential nesting habitat to be disturbed and a 500 foot buffer surrounding areas to be disturbed;

b. At least two pre-construction surveys, separated by a minimum 10 day interval, shall be completed prior to initial grading or grubbing activity; the later survey shall be completed no more than ~~10~~**three (3)** days preceding initiation of initial grading or grubbing activity. Additional follow-up surveys shall be required if periods of construction inactivity exceed one week in any given area, in interval during which birds may establish a nesting territory and initiate egg laying and incubation. **Copies of nesting survey reports shall be submitted to the County to ensure compliance with MM BIRD-2.**

Jurisdictional Waters

The Department requires notification for work undertaken in or near any river, stream, or lake that flows at least episodically, including ephemeral streams, desert washes, and watercourses with a subsurface flow. Fish and Game Code section 1602 states, "An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other **18-10**

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material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur....” Upon receipt of a complete notification, the Department determines if the activities may substantially adversely affect existing fish and wildlife resources.

Page 3.3-7 of the DEIR and Page 11 of Appendix D states *CDFW defines a "stream" (including creeks and rivers) as "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation."* This text infers that the Department, and the Department’s Lake and Streambed Alteration Program, have adopted the definition of a stream defined in CCR, Title 14, Section 1.72. This is not the case. The Fish and Game Commission defines in CCR, Title 14, Section 1.72, Stream (includes Creeks and Rivers) and further describes in Title 14, Section 720, Designation of Waters of Department Interest for the purposes of implementing Section 1601 and 1603 of the Fish and Game Code. The Department recommends that the County cite Fish and Game Code section 1600 et seq. when describing the Department’s regulatory authority, which is inclusive of any river, stream, or lake.

18-10 Cont.

Based on the County’s use of CCR, Title 14, Section 1.72, the Department is concerned that the DEIR may not have appropriately mapped all areas subject to section 1602 of the Fish and Game Code. Note that the Department’s issuance of a Lake or Streambed Alteration (LSA) Agreement is a “project” subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments.

The Department also recommends that the County condition the applicant to notify the Department *prior* to issuance of any grading permit to ensure that the project is in compliance with section 1602 of the Fish and Game Code. Specifically, the Department requests the County revise Mitigation Measure GEN-1 (k) and condition the measure to include the following (edits are in **bold** and ~~strikethrough~~):

> **Prior to the issuance of any grading/mining permits by the County** ~~For drainages that cannot be avoided~~, MCC shall obtain a Streambed Alteration Agreement in compliance with Section 1602 of the California Fish and Game Code and an application for waste discharge requirements (WDRs) or a waiver of WDRs in compliance with Section 13260 of the California Water Code, as applicable.

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The Department also recommends that the County condition the applicant to mitigate impacts to waters of the State and that this recommendation be conditioned in a new mitigation measure:

Waters-1: The project shall mitigate impacts to waters of the State (pursuant to California Fish and Game Code section 1600 et seq.) by replacement on an in-kind basis. Compensatory mitigation will be commensurate with impacts and may consist of establishing, restoring, and preserving similar on-site habitat, and/or purchasing off-site credits from an approved mitigation bank. **18-10 Cont.**

Department Conclusions and Further Coordination

The Department appreciates the opportunity to comment on the DEIR for the Mitsubishi Cement South Quarry Project (SCH No. 2012031009). The Department is very concerned by the net loss of approximately 154 acres of suitable habitat for Nelson's bighorn sheep associated with this project, particularly given the cumulative impacts associated with the concurrent operation of MCC's East, West, and proposed South quarries, along with neighboring operations at SMI and Omya. Alternative 1, the proposed action, includes mitigation through the relinquishment of 540 acres of mining claims; however data indicate that these areas do not provide important movement or foraging habitat for Nelson's bighorn sheep. The Department recommends that MCC and the County ensure the rapid revegetation of mined areas to mitigate for the loss of bighorn sheep foraging habitat. The Department further recommends that the County address the Department's comments and concerns prior to adoption of the FEIR, and that the Department be consulted on haul road and restoration design plans to ensure the efficacy of these plans for use by bighorn sheep. **18-11**

Finally, we request that a copy of the Mitigation, Monitoring and Reporting Program be provided to the Department for review and comment prior to adoption of the FEIR.

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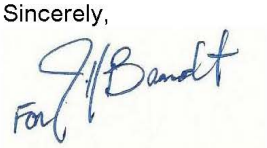
If you should have any questions pertaining to the comments provided in this letter, and to schedule a meeting, please contact Joanna Gibson at (909) 987-7449 or at Joanna.Gibson@wildlife.ca.gov.

Sincerely,



Leslie MacNair
Regional Manager

ec: Jeff Villepique, CDFW
State Clearinghouse

Responses to Letter 18 – California Department of Fish and Wildlife

Response to Comment 18-1:

This comment states that the Final EIR/EIS should provide clarification for the lead agencies' understanding of the potential Project impacts for the duration of the Project 120 years into the future. This comment further asks that the Final EIR/EIS confirm how the County and Forest Service may know that the only significant irreversible impact at the Project-level and cumulative impacts level will be to the Nelson's bighorn sheep and scenery resources.

NEPA and CEQA require agencies to make a good faith effort to analyze potential environmental impacts of a project, understanding that the future cannot be forecast with absolute certainty. CEQA requires lead agencies to consider the "direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." (CEQA Guidelines § 15064(d)). Further, under CEQA, an "indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable." (CEQA Guidelines § 15064(d)(3)). Under NEPA, an environmental impact statement must similarly analyze direct effects and indirect effects, which are those "caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable." (40 CFR § 1508.8(a)-(b)).

The Draft EIR/EIS evaluated the Project's known direct physical impacts and the reasonably foreseeable indirect environmental impacts to the best of the lead agencies' ability given information available at this time. MCC will be required to comply with all applicable federal, state, and local regulatory measures for the life of the proposed project, including legal requirements to avoid any "take" prohibited under the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*). Additionally, several of the Project's Design Features/Mitigation Measures impose reporting requirements and mechanisms for modified or enhanced mitigation in response to future changes to environmental conditions. Many of those mechanisms require CDFW's involvement and approval. Long-term conservation strategies that can accommodate changes in environmental conditions include the North Slope Bighorn Sheep Management Strategy, Raptor Conservation Strategy, and geotechnical program. For example:

- GEN-14 requires MCC to provide annual reports of its groundwater monitoring program to the County and the Forest Service. If the monitoring shows future adverse changes to water quantity, seasonal duration of surface flow, or extent of wetland vegetation related to the Project, MCC must respond to minimize those effects. Future minimization actions may include, but are not limited to, water conservation programs and shifts in the usage of various available water sources.
- BHS-2 states that if bighorn sheep abandon the use of one or more water developments as a result of disturbance associated with the development of the Project, MCC must create additional water developments after consulting with the appropriate agency personnel (Forest Service and CDFW) to select location(s) for additional water development(s), as well as any created as part of the Design Features/Mitigation Measures, are maintained in good operating condition for the duration of the Project.
- BHS-4 requires MCC to monitor bighorn sheep use in and near MCC's operations and at water sources in and adjacent to its operations. Monitoring shall consist of installation and

maintenance of cameras stationed at CDFW- and Forest Service-identified water sources and recording of data from cameras in a database developed by CDFW, as well as collection of observations by MCC employees. The North Slope Bighorn Sheep Management Strategy (described further below in BHS-6) may identify other monitoring methodologies to be developed over time. An annual monitoring report will be provided to the Forest Service and CDFW.

- BHS-6 states that a Draft North Slope Bighorn Sheep Conservation Strategy will be developed by CDFW and the Forest Service. The management plan will cover the North Slope of the San Bernardino Mountains, and will be an adaptive management strategy for Nelson's bighorn sheep.
- BHS-7 states that within one year after approval of the South Quarry Plan of Operations and Reclamation Plan by the County and the Forest Service, MCC shall begin contributing to a non-wasting endowment, designated as the North Slope Bighorn Sheep Conservation Fund (Fund). The amount of MCC's contributions shall be determined by CDFW in coordination with MCC prior to final approval of the South Quarry Project. The Fund shall be administered by the National Fish and Wildlife Foundation as a subaccount of the California Department of Fish and Game Master Mitigation Account. This sub-account shall be managed as a long-term endowment dedicated to activities that aid in conservation and monitoring of bighorn sheep both within the Cushenbury herd and on proximate habitats, occupied or unoccupied, including the Bighorn Mountains and San Gorgonio Wilderness where immigration and emigration may connect groups into a functional metapopulation.
- RAPTOR-1 states that a Raptor Conservation Strategy (RCS) will be developed in coordination with the Forest Service, USFWS, and CDFW. This measure requires MCC to follow the guidelines set forth in the Raptor Conservation Strategy. The RCS will be a dynamic document and will be updated as new data and scientific understanding of the raptors becomes available. It will include monitoring and information gathering, and measures to avoid, minimize, rectify, and reduce (or eliminate over time) effects to raptors nesting on the North Slope. The intent of the RCS is to use systemic monitoring of raptor nesting chronology and observed behavior to develop site- and activity-specific measures to ensure successful nesting and provide for adaptive management opportunities.
- NNS-1 requires MCC to monitor the occurrence of non-native invasive plants in the Project Area by visual inspection. If inspections reveal that weeds are becoming established in the Project Area, then removal would be initiated by MCC in coordination with the Forest Service botanist. Inspections will be made in conjunction with the revegetation monitoring.
- NNS-3 states that if any new, non-invasive plants, animals, or pathogens are identified as having a potential for establishment in the Project Area, MCC will consult with the Forest Service to develop measures for detection, control, and eradication as necessary. MCC will be responsible for funding, detection, control, and eradication efforts in the Project Area.
- GEO-2 requires a geotechnical program of ongoing field mapping, drilling, and geophysical surveys and laboratory testing to be established and implemented as the quarry is excavated. This type of site investigation during the mining operation will provide information for detailed slope stability assessment on a continual basis and stabilization of slopes in areas where poor rock and/or adverse geologic structures are present. An annual report discussing the geological program will be prepared for the Forest Service and the County.

However, after further discussions with CDFW, Design Feature/Mitigation Measure GEN-15 has been added that reads:

> Due to the long life of the proposed Project (40 or 120 years plus reclamation), monitoring of effects to wildlife, plants, and water resources, including at Cushenbury Springs, shall be conducted as described in Design Features/Mitigation Measures GEN-2, GEN-4, GEN-5, GEN-11, GEN-14, BHS-2, BHS-4, BHS-6, BIRD-1, BIRD-2, RAPTOR-1, RAPTOR-2, RAPTOR-3, DETO-1, NNS-1, NNS-3, CARB-1, and the Raptor Conservation Strategy, Carbonate Habitat Conservation Strategy, and Bighorn Sheep Conservation Strategy. At a minimum of every 10 years for the life of the project, the Forest Service and CDFW will review the monitoring efforts to address changes in the scale and scope of predicted effects. The objective is to use adaptive management to adjust Design Features/Mitigation Measures and strategy plans in the light of new information, new species of concern, and/or new mining technology. If effects to federal or state protected species are determined to be different than the predicted effects, appropriate steps shall be taken, which may include but are not limited to development of new or adjusted Design Features/Mitigation Measures or best management practices to ensure avoidance of "take".

Response to Comment 18-2:

This comment addresses the efficacy of the restoration plan, since final restoration activities will not occur until mining activities are complete. While the final reclamation and revegetation activities will not be complete until the Project completes its last phase of mining 120 years after approval, reclamation and revegetation will occur concurrently with each phase of the Project's operations. As further summarized in response to Comment 16-44, Table 2.3-3 of the Draft EIR/EIS provides a summary of the planned reclamation and revegetation activities. The reclamation and revegetation activities will begin in year one of the Project's operations, and the final reclamation activities will be complete approximately six years after the South Quarry stops operations but must continue until monitoring demonstrates that the success criteria have been met.

Response to Comment 18-3:

This comment states that based on the length of the Project, CDFW recommends that a CEQA analysis be completed every 40 years for the duration of the Project. Repetitive CEQA analysis is not required. As explained above in response to Comment 18-1, many of the Project's Design Features/Mitigation Measure include adaptive management mechanisms for reporting, monitoring, and modifying mitigation efforts to address any changes in environmental conditions, such as the RCS, Carbonate Habitat Conservation Strategy, and Bighorn Sheep Conservation Strategy plans. Unless there is a change in the Plan of Operations or Reclamation Plan that is not covered by this EIR/EIS or that requires a new discretionary approval, there is no reason to re-open the CEQA or NEPA analysis periodically during the life of the project.

Additionally, the Revegetation Plan that MCC will be required to implement includes success criteria, and MCC will bear the burden of showing that its revegetation efforts comply with those success criteria for the entire duration of the Project. The success criteria include guaranteeing that a certain percentage of the disturbed area remains revegetated. If environmental conditions

change such that the required percentages cannot be maintained, MCC will be responsible for modifying its vegetation efforts to ensure the success criteria are met.

With respect to MCC's reclamation efforts, MCC must comply with the State and County requirements under SMARA, which requires annual reporting of mining and reclamation activities. Monitoring and maintenance of reclamation will be an ongoing responsibility of MCC. If a change in environmental conditions prohibit MCC from complying with the reclamation requirements under SMARA, MCC will be responsible for modifying its reclamation efforts to comply with those requirements.

Because the mitigation and regulatory requirements will ensure that MCC modify mitigation, revegetation, and reclamation efforts to comply with the established success criteria and requirements even as environmental conditions may evolve, repetitive CEQA/NEPA review is not necessary.

Response to Comment 18-4:

This comment summarizes the Draft EIR/EIS's conclusions on the Project's potential impacts to Nelson's bighorn sheep. This comment further recommends that Design Feature/Mitigation Measure GEN-4 be revised to require coordination with CDFW and/or Forest Service biologists before creating angled pathways and interlacing reclaimed benches to facilitate the movement of bighorn sheep and other wildlife through the quarries.

As summarized on page 3.3-53 of the Draft EIR/EIS, the Reclamation Plan proposes constructing individual benches approximately 45 feet high and 25 feet wide. To allow wildlife movement within the quarry, a ramp would be constructed every 500 feet to connect the benches. In this comment, CDFW also recommends that the ramps be spaced more closely, perhaps in 250 to 300-foot intervals, wherever feasible, with a maximum allowable spacing between ramps of 500 feet. This recommendation has not been added to Design Feature/Mitigation Measure GEN-4 because it would remove the flexibility to base bench spacing or angle on site-specific engineering, operational, or geological constraints. The addition of CDFW and Forest Service biologist review of the bench design to Design Feature/Mitigation Measure GEN-4 will allow this flexibility bench spacing and angle.

Response to Comment 18-5:

This comment recommends that Design Feature/Mitigation Measure GEN-5 be revised to minimize impacts to resident mammal populations and to require coordination with CDFW and/or USFS biologists during the design, engineering, and construction of the haul road. GEN-5 will be revised as follows:

> Haul Road Crossings: The final design and construction of the haul road shall ensure movement pathways for wildlife, including bighorn sheep, ~~and~~ deer, and small mammals, between the existing East and West Pits and the proposed South Quarry. This will include, but may not be limited to, terracing or stair-stepping or micro-benches of steep and vertical cuts, especially at strategic crossing locations, ~~as recommended by the~~ Design and construction of the haul road shall be completed in coordination with CDFW and Forest Service biologists. ~~This will not occur where slope and rock qualities will threaten haul road safety and stability.~~ A study to analyze the efficacy of long-term mammal usage of the haul roads shall be designed in consultation with CDFW and Forest

Service biologists and shall be implemented by MCC within one year of construction of the haul road. The objective of the study will be to analyze the efficacy of the measures intended to prevent a movement barrier and address corrective measures through adaptive management, if needed.

Response to Comment 18-6:

This comment states that mine employees will not receive adequate training to detect bighorn sheep and other species within the blast areas under Design Feature/Mitigation Measure GEN-2, which addresses employee training. Accordingly, CDFW recommends that MCC designate one to two personnel to be specifically trained by CDFW's bighorn sheep Wildlife Biologist. CDFW recommends the following revision to Design Feature/Mitigation Measure GEN-11:

> GEN – 11 - Blasting: Prior to blasting activities within the Project area, designated mine employees trained by CDFW and/or Forest Service biologists shall conduct a visual inspection (both naked eye and with binoculars or spotting scope) for a minimum of five minutes to ascertain the presence or absence of bighorn sheep, deer, golden eagles, peregrine falcons, or other large animals. If animals are located within the blast area, mine employees shall wait until animals have moved from the area before initiating the blast procedures. The designated mine employee ~~or~~ may use noise deterrents ~~sound, as from~~ (e.g., shouts, vehicle, or air horns) to move them out of the blast area prior to detonation of any blasting materials. The blasting log will be available upon request by CDFW and Forest Service personnel.

The Final EIR/EIS will incorporate the above revision to GEN-11.

CDFW further recommends a new proposed Design Feature/Mitigation Measure to ensure that mine employees trained by CDFW are present during blasting operations and to clarify their responsibilities. Design Feature/Mitigation Measure BHS-9 has been added to the Final EIR/EIS to respond to this comment.

BHS-9: *Trained Mine Employee*: Prior to blasting activities within the Project area, one to two mine employees shall be trained by the CDFW's or the Forest Service's biologist to ensure a minimum skill level in detection of target animals (bighorn sheep, golden eagles, etc.). The trained mine employee(s) shall be responsible for the completion of visual inspections for bighorn sheep and other species specified in GEN-11, within the Project area prior to the commencement of all blasting activities. The trained mine employee(s) shall maintain a logbook detailing the location, date, time, and species observations of each visual inspection for each blasting activity. The logbook will be available upon request by CDFW or Forest Service personnel.

Response to Comment 18-7:

This comment recommends that Design Feature/Mitigation Measure BHS-7 be revised as follows to require that the North Slope Bighorn Sheep Conservation Fund be administered by a CDFW-approved entity. The following revision has been made to BHS-7:

> BHS-7 – Future Conservation and Management: Within one year after approval of the South Quarry Plan of Operations and the Reclamation Plan by the County and the Forest

Service, MCC shall begin contributing to a non-wasting endowment, designated as the North Slope Bighorn Sheep Conservation Fund (Fund). The amount of MCC's contributions shall be determined by CDFW in coordination with MCC prior to final approval of the South Quarry Project. The Fund shall be administered by an entity approved by the CDFW and the Forest Service, such as the National Fish and Wildlife Foundation as a sub-account of the California Department of Fish and [Game] Master Mitigation Account. ~~This sub-account~~ The Fund shall be managed as a long-term endowment dedicated to activities that aid in conservation and monitoring of bighorn sheep both within the Cushenbury herd and on proximate habitats, occupied or unoccupied, including the Bighorn Mountains and San Gorgonio Wilderness where immigration and emigration may connect groups into a functional metapopulation.

Response to Comment 18-8:

This comment raises an issue about the potential transmission of disease to wild sheep, and states CDFW recommends that the County add Measure BHS-10 regarding work boot decontamination. The measure as proposed would be difficult to enforce, and has been revised to place the emphasis on training.

BHS-10 - Work Boot Decontamination: As part of the worker training required under Design Feature/Mitigation Measure BHS-8 and BHS-9, all quarry workers will be trained on the importance of and procedures for decontaminating boots to prevent transmission of disease from domesticated sheep and goats to bighorn sheep. In addition, all quarry workers who have potential contact with domesticated sheep and/or goats (for example at farms, fairs, etc.) will be identified and directed to ~~shall~~ decontaminate work boots prior to entering the Project area. Decontamination shall involve scrubbing the soles of work boots with a 10-percent bleach solution to remove all organic matter and kill pathogens. Alternatively, footwear may be changed to ensure that potentially contaminated footwear does not enter any quarry area.

This comment further recommends that domestic sheep (*Ovis aries*) and domestic goat (*Capra hircus*) should be classified as Threat Level 1 in Table 1 of Appendix C to the Draft EIR/EIS (the Biological Assessment/Biological Evaluation) as a serious documented threat to populations of bighorn sheep through transmissions of respiratory diseases endemic to those domestic species. It is assumed that this comment intended to refer to Table 21 in the BA/BE, which includes information on non-native animals recorded in the surveyed areas, and provides a column to indicate the threat level of these non-native animals. The threat level for domestic sheep and domestic goat was inadvertently left blank due to a typographic error. A Threat Level 1 has been indicated in the Final EIR/EIS, Appendix C, Table 21.

Response to Comment 18-9:

This comment first recommends that Design Feature/Mitigation Measures BIRD-1 and BIRD-2 be revised to require pre-construction surveys be conducted no more than three days prior to ground disturbance activities, rather than the required 10 days before ground disturbance activities as written in the two measures. This suggestion has not been incorporated into the final Design Feature/Mitigation Measures BIRD-1 and BIRD-2, because a three-day survey window may be infeasible due to weather conditions or the lack of availability of survey personnel during that limited window.

This comment further recommends that Design Feature/Mitigation Measure BIRD-2 be revised to clarify that copies of the bird survey reports will be submitted to the County to ensure MCC's compliance with the Design Feature/Mitigation Measure. This Design Feature/Mitigation Measure has been revised in the Final EIR/EIS to require MCC to provide copies of the annual bird survey reports to the County and to the Forest Service.

Response to Comment 18-10:

This comment states that the CDFW jurisdiction includes not just streams, but also the waters listed in California Code of Regulations, title 14, Section 720 (Designation of Waters of Department Interest). This comment further states that the Draft EIR/EIS may not have mapped all areas subject to Section 1602 of the Fish and Game Code. While the Draft EIR/EIS includes the definition for "stream" (including creeks and rivers) under the California Code of Regulations, Title 14, Section 1.72, the Draft EIR/EIS's Biological Resources Chapter also describes CDFW's broader jurisdiction pursuant to Sections 1600 et seq. under the Fish and Game Code. (Draft EIR/EIS, Section 3.3.2.2). The Draft EIR/EIS explains that CDFW may require a Lake or Streambed Alteration Agreement prior to any activity that will substantially diver or obstruct the natural flow or substantially change the bed, channel, or bank of a river, stream or lake, or use of material from a streambed. The Draft EIR/EIS further explains that the CDFW jurisdiction extends to streams (including creeks and rivers), the bed and banks of a stream, and to riparian and wetland vegetation associated with a steam.

Appendix D to the Draft EIR/EIS (Jurisdictional Delineation Report, now Appendix D-1) and Appendix D-2 to the Final EIR/EIS (2018 Supplemental Jurisdictional Delineation Report) also specifically analyzed the applicability of CDFW's jurisdiction with respect to the Project. Those reports state, "[p]ursuant to Division 2, Chapter 6, Sections 1602 of the California Fish and Game Code, the CDF[W] regulates all diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife. Those reports further state that CDFW's jurisdiction includes "watercourses having surface or subsurface flow that supports or has supported riparian vegetation," and CDF[W]'s definition of "lake" "includes [natural lakes or man-made reservoirs." "CDF[W]'s jurisdiction within altered or artificial waterways is based upon the value of those waterways to fish and wildlife." (Appendix D-1, pp. 11-12 and Appendix D-2, p.3). The 2012 report concludes that CDF[W] jurisdictional limits "closely mirror those of the [Army] Corps. Exceptions are CDF[W]'s exclusion of isolated wetlands (those not associated with a river, stream, or lake), the addition of artificial stock ponds and irrigation ditches constructed on uplands, and the addition of riparian habitat supported by a river, stream, or lake regardless of the riparian area's federal wetland status."

Based on that description of CDFW's broad authority under Section 1602 of the Fish and Game Code, the Jurisdictional Delineation Report, Supplemental Delineation Report, and Draft EIR/EIS thoroughly evaluated all areas subject to Section 1602 of the Fish and Game Code and that might be affected by the Project. The Supplemental Jurisdictional Delineation Report and the Final EIR/EIS conclude that the Project would affect 0.74 acre and 3,622 linear feet of streambed under CDFW's jurisdiction, requiring notification to CDFW of the proposed modification to the streambed and likely requiring a Streambed Alteration Agreement from CDFW. This requirement is reflected in Design Feature/Mitigation Measure GEN-1(k).

This comment further states that CDFW recommends that the County require MCC to notify CDFW prior to issuances of any grading permit that the Project is compliance with Section 1602

of the Fish and Game Code. This comment specifically requests that the County revise Design Feature/Mitigation Measure GEN-1(k) to require that MCC obtain a Streambed Alteration Agreement prior to the issuance of any grading or mining permits by the County. Design Feature/Mitigation Measure GEN 1(k) has been modified in response to this comment to indicate that the permit must be obtained prior to the issuance of a grading permit by the County.

This comment further recommends that the County condition MCC to mitigate impacts to waters of the State and that the condition be incorporated into a new mitigation measure. The new proposed mitigation measure suggests requiring compensatory mitigation commensurate with impacts, which may consist of establishing, restoring, and preserving similar on-site habitat, and/or purchasing off-site credits from an approved mitigation bank. As explained in Sections 3.3 and 3.8 of the EIR/EIS, as well as in Appendices D-1 and D-2, the Project will affect 0.74 acre and 3,622 linear feet of waters of the State. With implementation of Design Feature/Mitigation Measure GEN-1k, MCC must obtain a Streambed Alteration Agreement and an application for waste discharge requirements (WDRs) or a waiver of WDRs in compliance with Section 1602 of the California Fish and Game Code and Section 13260 of the California Water Code. These permits may require mitigation as described in the comment letter. The description of potential mitigation has been added to Design Feature/Mitigation Measure GEN-1k. With implementation of GEN-1k, the Project would not have a significant impact to waters under CDFW's jurisdiction. Therefore, no further mitigation is required.

Response to Comment 18-11:

This comment states that CDFW is concerned about the Project's impact to suitable habitat for Nelson's bighorn sheep, and further recommends that MCC and the County ensure rapid revegetation of mined areas to mitigate for the loss of bighorn sheep foraging habitat. As explained further above in response to Comment 16-44, the reclamation and revegetation efforts would occur concurrently with the mining operations, beginning in the first year of operations. Revegetation of mined areas, therefore, would begin as soon as operations begin.

This comment further recommends that the County address the Department's comments and concerns prior to adoption of the Final EIR, and CDFW be consulted on haul road and restoration design plans to ensure the efficacy of those plans for use by bighorn sheep. CEQA requires that the Final EIR include responses to written comments submitted by responsible and trustee agencies as well as the public, and responses regarding haul road and restoration design are found in the preceding responses to comments. As described in the responses to previous comments for Letter 18, the Final EIR/EIS has modified Design Features/Mitigation Measures to respond to CDFW's concerns.

This comment also requests a copy of the Mitigation, Monitoring, and Reporting Program be provided to CDFW for review and comment prior to adoption of the Final EIR/EIS. The proposed MMRP is attached as Appendix M to the Final EIR/EIS and will be available for review before the County and Forest Service approve the project as required by CEQA and NEPA.

Letter 19 – Sandice Alaska

From:	Eliason, Scott -FS
To:	Anne Surdzial
Subject:	FW: Stop Mitsubishi plant
Date:	Tuesday, February 14, 2017 9:57:34 AM
Attachments:	stop-expansion-of-mitsubishi-plant-into-national-forest-lands_020417.pdf

From: Sandice Alaska [mailto:dripjoy@yahoo.com]
Sent: Monday, February 13, 2017 6:47 PM
To: Eliason, Scott -FS <seliason@fs.fed.us>
Subject: Stop Mitsubishi plant

Hi Scott,
As we had previously discussed, here are 367 people against the expansion for environmental reasons!
http://www.care2.com/servlets/download/31846/stop-expansion-of-mitsubishi-plant-into-national-forest-lands_020417.pdf

This petition was online for 3 weeks at: http://www.thepetitionsite.com/778/204/863/stop-expansion-of-mitsubishi-plant-into-national-forest-lands/?taf_id=33305695&cid=fb_na#bbfb=610530909

Please enter it into the record as opposition. When will the decision be made? Is there a meeting I can attend?

Thanks,
Sandice Alaska

Sent from my iPhone

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Letter 19 – Continued

Scott Eliason, National Forest Service

Dr Mr. Eliason, The following people are in opposition to the expansion of the Mitsubishi cement plant into national forest lands (south quarry project). The reasons cited for opposition are all very similar: we feel that national forests are the one place where the land can be protected from destruction of habitat, plants, and natural beauty. The limestone mining project has proven to be a huge blight on a large area of mountainside on the road to Big Bear. One of the opposers comments that it's like "a big wound" coming up the mountain. I've been watching this project for 30 years and wondering how far they would take it. Now it's trying to go too far. We demand that the project NOT be allowed to mine further into national forest land. Enough is enough. **19-1**

	Name	From	Comments	
1.	Sandice Alaska	Big Bear City, CA		
2.	Wayne Tidwell	Running Springs, CA	People before Profits	**19-2**
3.	Kjrsten Haaland	Big Bear Ciry, CA	I don't want the forest lands near my home destroyed.	**19-3**
4.	Emily Snyder	Sammamish, WA	As a Hiker and an environmentalist all our forests are important to me.	**19-4**
5.	Penny Patterson	Palm Springs, CA	They can go tear up a mountain that isn't the gateway to such a beautiful recreation area.	**19-5**
6.	Alex Segrest	Morongo Valley, CA		
7.	Leslie Follette	Yucca Valley, CA	BECAUSE I LIVE HER. YOU ARE RUINing our world	**19-6**
8.	Larry McDaniel	VINTON, IA		
9.	Dennis Hall	Toronto, Canada		
10.	Roberto MARINI	Bergamo, Italy		
11.	natasha salgado	Toronto, Canada		
12.	Janet Beck	Toronto, Canada		
13.	Mia Gabriel	Bari, Italy		
14.	Anas Syahmi	Ipoh, Malaysia		
15.	Isabel Araujo	Mexico, Mexico		
16.	Aaron Chia	SG, Singapore		
17.	Deborah Sullivan	BRIGHTON, MA		
18.	KimJ CareTwoPlsHelp	Peterboro, United Kingdom		
19.	Mark Stewart	Aberdeen, United Kingdom		

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Letter 19 – Continued

	Name	From	Comments	
20.	Melissa Green	Big Bear City, CA		
21.	Sue Harrington	MARTINEZ, CA	The National Forest belongs to the people, not a greedy corporation. Just say NO the the rape and plunder of OUR National Parks!	**19-7**
22.	E Hayes	Big Bear City, CA	Big Bear is already overly impacted by FS leased lands in the winter. Enough is enough.	**19-8**
23.	Sharon Trott	Big Bear City, CA		
24.	Felipe Flores	Lucerne valley, CA		
25.	Eric Geffon	Fawnskin, CA		
26.	Andy Kennedy	Big Bear Lake, CA	Forest recreation and conservation	**19-9**
27.	Corinne Flores	Lucerne Valley, CA	I'm against Foreign company utilizing USA resources to turn a profit.	**19-10**
28.	Francisco DeMoss	Hacienda Heights, CA	There is a lot of recreational area up there that should be left unmolested, keep access to as much national forest as possible!	**19-11**
29.	W. Clark	LYNCHBURG, VA		
30.	Danny Ross	Valencia, CA		
31.	Erika Czelenk	Balassagyarmat, Hungary		
32.	Jason Markowski	Los Angeles, CA		
33.	Christine Pinehill	Ähtäri, Finland		
34.	Adam Stanle	Corona, CA	Taking away more land for outdoor enjoyment.	**19-12**
35.	James Mulcare	CLARKSTON, WA		
36.	Keith Melton	Weston-super-Mare, United Kingdom		
37.	Val MT	melbourne, Australia		
38.	Alexandr Yantselovskiy	Vyshneve, Ukraine		
39.	Jesse Mena	Thousand oaks, CA		
40.	Mike Thompson	Whittier, CA		
41.	Joann Henderson	PALM COAST, FL		
42.	Seth Gold	Altadena, CA		
43.	Kim Thompson	Sugarloaf, CA	Do not foul our National forest lands!	**19-13**
44.	Cathy Botha	Johannesburg, South Africa		
45.	Joanna Kolebuk	Feltham, United Kingdom		
46.	Sandra Vito	Valencia, Spain		
47.	Devin Ragsdale	Big bear lake, CA	Keep the forrest and animals untouched in Big bear.	**19-14**

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Letter 19 – Continued

	Name	From	Comments	
48.	Dagmara Wolczynska	Gdansk, Poland		
49.	Anna Roga	Klagenfurt, Austria		
50.	Robert Goodding	KNOXVILLE, TN		
51.	Gretchen Ragsdale	Big bear lake, CA	Protect our national forrest and animals. Big bear is small and it will effect our city.	**19-15**
52.	Barbara Smit	Breda, Netherlands		
53.	Jennifer Sanchez	Big Bear City, CA	What about the animals? What about the plants? What about us??!!! This is terrible and should NOT continue. What happens when you run out of limestone there? You will just continue to eat away at our mountain!!	**19-16**
54.	Patrick Donovan	BROOKLYN, NY		
55.	esther Kemperle	st veit an der glan, Austria		
56.	Christelle Mckie	1148, Switzerland		
57.	Allen Olson	MINNEAPOLIS, MN		
58.	Beatriz Perez	Alicante, Spain		
59.	julie Hoffer	BROOKLYN, NY		
60.	PER INGEBRIGTSEN	BERGEN, Norway		
61.	Amanda Geiger	Big Bear City, CA		
62.	Mariska Catsman-Okkersen	Uithoorn, Netherlands		
63.	Anne Fuller	JUNEAU, AK		
64.	lee snyder	Apple Valley, CA	saving the forests is important to me	**19-17**
65.	Crystal Sitarek	Bullhead city, AZ		
66.	Gys Mignot	Vasselin, France		
67.	Gary Butler	Brisbane, Australia		
68.	Alison Jones	Gwynedd, United Kingdom		
69.	Paul Shorter	Huddersfield, United Kingdom		
70.	Adam McDonald	sugarloaf, CA		
71.	Laural Fitzgerald	big bear lake, CA		
72.	Beth McHenry	PARKSLEY, VA		
73.	Alexander Paulus	68168 Mannheim, Germany		
74.	laura adkins	sugarloaf, CA	I live in big bear and enjoy our forest as much as the animals. This is not something that is needed!	**19-18**

Page 3 - Signatures 48 - 74

Letter 19 – Continued

	Name	From	Comments	
75.	Samantha McGee	Gardnerville, NV	i might not live in Big Bear anymore but its still my home! They are distorting our forest!	**19-19**
76.	Shauna Crane	Big bear Lake, CA		
77.	Barb StarIssues Vieira	STATEN ISLAND, NY		
78.	Steph L	SCOTTSDALE, AZ		
79.	Judith Downey	CHELSEA, MA		
80.	Leslie Questel	Big bear city, CA	I live here...	**19-20**
81.	Mike Robertson	Toronto, Canada		
82.	M Baldwin	Big Bear City, CA		
83.	Tommi Sirignano	Big bear lake, CA		
84.	Carol Cook	SAN MATEO, CA		
85.	Jonathon Eccles	Big bear city, CA		
86.	Heather Gaskins	Big bear city, CA		
87.	EDWARD G. MRKVICKA	ARVADA, CO		
88.	gina de Minelli	blois Loire et cher, France		
89.	Ashni J. Akand Karan	PLEASANTON, CA		
90.	Teresa Wlosowicz	Sosnowiec, Poland		
91.	Hannah Kunik	Corvallis, OR	Because it does not agree with my beliefs	**19-21**
92.	laborgrupo armer teufel c reger	Nürnberg, Germany		
93.	Jen Valentino	COVENTRY, RI		
94.	Annette Contreras	Lucerne valley, CA	Way too many environmental habitats animals and plants will be impacted and. No way to return it to the natural state. I already drive by Mitsubishi 3 times a day and see its industrial look tucked up against the mountains that they have scared from the mining they will never be the same but when you start messing with living things to make a buck you cross the lines of morality and being a good corporate citezen	**19-22**
95.	Erin Roberts	Big Bear City, CA		
96.	Marcus Ruiz	Hesperia, CA	There killing the plant for cement and taking advantage of it	**19-23**
97.	Rhiannon Brunner-Hall	Sugarloaf, CA	Our forests are important to not only the community but to our wildlife. Our forests should be sacred	**19-24**
98.	Maryann Staron	EVERGREEN PARK, IL		
99.	Elana Levinson	FOREST HILLS, NY		

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Letter 19 – Continued

	Name	From	Comments	
100.	Nathan Degner	CHICAGO, IL		
101.	Gwendolyne Clouser	Big Bear city, CA	Do not want wildlife destroyed by destroying land as already has done inside their plant area.by oprn waste destroy g ha itsy .chemicals on water	**19-25**
102.	Nina Meli	MORRISTOWN, NJ		
103.	Brenda Norton	Big Bear City, CA	I want my grandchildren to have a forest to explore.	**19-26**
104.	Barbara Zonis	Sugarloaf, CA		
105.	Anna Neusuess	Berlin, Germany		
106.	Amy Cicero	Big bear lake, CA	I live in the mountains	**19-27**
107.	Tracy Felix	Big Bear Lake, CA		
108.	Cassandra Spr	Henderson, NV	I grew up in Big Bear and a lot of my family still live there as well as most of my friends. We go there to visit often and mostly what we like about the mountain is the wilderness and free animals that can roam. Big Bear and the desert was built on a mountain which already took over alot of free range wild life that are beautiful and harmless. We need to appreciate our mountain and animals that live there. It's not fair.	**19-28**
109.	Tiffany King	Big Bear City, CA	This is my home town.	**19-29**
110.	L Bayes-Ickes	Big Bear City, CA	I live near here and I'm concerned about our forest, our environment, the animals, nature, our water, noise and dust.	**19-30**
111.	Angeles Madrazo	Campeche, Mexico		
112.	Janet Aguila Krause	Big Bear lake, CA		
113.	Fran Wyman	Big Bear City, CA	Being stuck in Carmageddon this weekend in Big Bear opened my eyes to the abuse of all things National Forest. 120 years is to far reaching a timeline. The back side of these mountains is one big open wound. I would consider short term use, but only if restoration is part of the deal.	**19-31**
114.	Christina Reynolds	Big bear, CA		
115.	Marjie O'Brien	Palm Springs, CA		
117.	Ashley Caldwell	Big bear city, CA	Our mountains are more important them cement. #ourforests #savethetrees #savetheanimals	**19-32**
118.	Cris Mateski	Chino, CA	As an avid offroader and Forest Service volunteer I see up close and personal the permanent distruction that is done by the Mitsubishi plant. Allowing it to expand would only spread the damage	**19-33**
119.	Dagmar Grabsch	Berlin, Germany		
120.	Anthony Jones	Victorville, CA	Our forests should be liberated from this anarchy.	**19-34**
121.	Martha Hernandez	La Verne, CA		

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Letter 19 – Continued

	Name	From	Comments	
122.	Nan Newall	BrightsGrove, Canada		
123.	Daniel Partlow	ALLEN, TX		
124.	Brent Gagermeier	Crestline, CA		
125.	Nicola Greenhalgh	Orange, CA		
126.	Casey Reynolds	Yucca Valley, CA	This land is not for sale and needs to be set aside for future generations to enjoy. Stop selling our land	**19-35**
127.	Janis King	Reno, NV		
128.	Paula Vaccariello	Big Bear Lake, CA		
129.	Eileen Christiansen	Big bear city, CA	Because the keep taken no away the mountain, I think they are causing earthquakes	**19-36**
130.	Heather Smith	Cictorville, CA	I love the mountains and utilize the trails. I don't want to see any more of the mountains gone	**19-37**
131.	CONSTANCE W DUNN DUNN	Big Bear Lake, CA		
132.	Nicole Wheeler	Big Bear City, CA		
133.	Shady Davis	Big bear city, CA	As a home owner in the beautiful San Bernardino mountains I would hate for our beautiful forest to be ruined by the plant.	**19-38**
134.	Michelle Donahue	Big Bear Lake, CA		
135.	Duran Gaddy	Yucaipa, CA		
136.	Kaylene Hughes	Big bear city, CA	Stop the desecration of our earth. One day we will be out of resources and we will realize you cannot eat money	**19-39**
137.	Ceara Kornblum	DAVIS, CA		
138.	Brenna Fisher	Big Bear Lake, CA	Because I've lived here for 30 years and I've never seen it this bad! The trash,tragic.lack of gas or food and being cut off driving and being flipped off after letting one or two cars in the line , I'm just over it all and we have a couple of more months to go!	**19-40**
139.	Brandy Young	Hesperia, CA		
140.	Rahul kumar	hyderabad, India		
141.	Christine Rioux	Nipomo, CA	I love Big Bear and don't want it ruined. Also, public lands shouldn't be used this way.	**19-41**
142.	Ana MESNER	Ljubljana, Slovenia		
143.	Angel W.	Jersey, United Kingdom		
144.	Steve Dale	Frankston, Australia		
145.	adrian kopf	leiden, Netherlands		
146.	Amy Fisher	SANTA MONICA, CA		
147.	Sandra Ferri	Bäretswil, Switzerland		

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Letter 19 – Continued

	Name	From	Comments
148.	Amanda Johnson	Helensvale, Australia	I was born and raised in big bear. That national forest is protected for this exacted reason. So that big companies can't come and destroy the natural beauty just for more profit. We already lost a lot of the forest due to drought and bark beetles. Don't tear down my home! **19-42**
149.	N o	GRAND PRAIRIE, TX	
150.	Ted Williams	RALLS, TX	
151.	Matjaz Bratus	Ljubljana, Slovenia	
152.	martin luce	worcester, United Kingdom	
153.	ERIKA SOMLAI	BUDAPEST, Hungary	
154.	jill small	abertillery, United Kingdom	
155.	Terri Sam	PLANTATION, FL	
156.	Mary-Carol Gales	Guernsey, United Kingdom	
157.	Paola Scodellari	Roma, Italy	
158.	Hugh Smith	Barnsley, United Kingdom	
159.	Mafalda Fonseca	Vila Nova de Milfontes, Portugal	
160.	Hollye Hollenbeck	Big Bear City, CA	
161.	m smithurst	Morden, United Kingdom	
162.	Brenda Towers	Durham, United Kingdom	
163.	Monika Bachmann	Euskirchen, Germany	
164.	Sabine Möhler	Esselbach, Germany	
165.	yolanda schultes	Wittenbach, Switzerland	
166.	Danuta Watola	Kalety, Poland	
167.	Tiziana Dordoni	Corsico Mi, Italy	
168.	Regine LOEUIL	Hamoir, Belgium	
169.	djamila grouci	Nanteuil les meaux, France	
170.	m r	HAMDEN, CT	
171.	Anneke Andries	Raamsdonksveer, Netherlands	
172.	Petra Hegenscheidt	Essen, Germany	

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Letter 19 – Continued

	Name	From	Comments	
173.	Claudia Maas	Wallenhorst, Germany		
174.	Olga Troyan	Taraz, Kazakhstan		
175.	Siegrid Roedel	Herzogenaurach, Germany	SAVE THE NATIONAL FOREST LAND	**19-43**
176.	Heather Carroll	Gilbert, AZ		
177.	Petra Stadtmueller	Enkenbach, Germany		
178.	Robert wiehemeijer	Jemgum, Germany		
179.	jocelyne lapointe	terrebonne, OH		
180.	Silja Alter	Weßling, Germany		
181.	Karina Utech	Berlin, Germany		
182.	Sanand D	Louvain-la-Neuve, Belgium		
183.	Karin Friedrich	Braunschweig, Germany	Das darf nicht sein.	**19-44**
184.	Carl Rosenstock	BARABOO, WI		
185.	ROBERTO MERITONI	Asso, Italy		
186.	Ivonne Carlson	FORT MYERS, FL		
187.	Sigrid Müller	Illschwang, Germany		
188.	wendy smith	nelson, United Kingdom		
189.	Bartha Sjoerdsma	Leeuwarden, Netherlands		
190.	Lynn Carin	North Hills, CA		
191.	Cynthia Franke	Kassel, Germany		
192.	One Heart inc	BARABOO, WI		
193.	Nelleke S	D, Netherlands		
194.	cheneval catherine	chambery, France		
195.	Jim Ven	Bristol, United Kingdom		
196.	angelika zintel	guntersheim, Germany		
197.	sara milano	neunkirchen, Germany		
198.	Carol Jacklin	Barton, United Kingdom		
199.	Diana Price	Escondido, CA		

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Letter 19 – Continued

	Name	From	Comments	
200.	Nick We	MILLERSVILLE, MD		
201.	David Councilman	ST LOUIS PARK, MN		
202.	Tony Guzman	Doral, Dominican Republic		
203.	daniela plüschau	wedel, Germany		
204.	Rolf Mense	Puerto Lumbreras, Spain		
205.	Christa Lohrig	Korschenbroich, Germany		
206.	Kyle Bracken	MARINA DEL REY, CA		
207.	Devon Faseag	Carlsbad, CA	I'd Much rather have nature than a another car factory that we really do need china can have this one.	**19-45**
208.	Robert Neeson	Highgate, United Kingdom	Concrete, One of the biggest polluters to our very fragile climate, Yet again greed over human life.	**19-46**
209.	bellinda Rolf-jansen	Oosterbeek, Netherlands		
210.	Jennifer Batts	Big Bear Lake, CA	Near my home and not wanting to se the National Forest lands leased to Big Coporations for the sole purpose of greed.	**19-47**
211.	Pam Pipal	Billings, MT	I believe this area is important habitat to preserve, not only for native plants and animals, especially the migrant Bighorn Sheep, but for the people that habituate the area.	**19-48**
212.	Akiko Sakaguchi	setagayaku, Japan		
213.	A. O.Schaller	Leimbach, Germany		
214.	Teresa prentice	Kent, United Kingdom		
215.	cornelia heppner	Bremerhaven, Germany		
216.	Massimo Pappalardo	Palermo, Italy		
217.	Akemi Fukuyoshi	HongKong, Hong Kong		
218.	Nancy Kirk	Waterloo, Canada		
219.	Marianne Rehfeld	REDWOOD CITY, CA		
220.	Irene Nawo-Eichner	Hamburg, Germany		
221.	Shanta Ban	Durgapur, India		
222.	Baerbel Guengoer	Berlin, Germany		
223.	Marc van de Waarsenburg	Zierikzee, Netherlands		
224.	Chantal Buslot	Hasselt, Belgium		

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Letter 19 – Continued

	Name	From	Comments	
225.	J Roth	ALGONQUIN, IL	No Place for Plants.	**19-49**
226.	Angela Kohn	Cologne, Germany		
227.	Mark Lovell	Bristol, United Kingdom		
228.	cortnie hurtado	Big Bear Lake, CA		
229.	Anne Haarhoff	George, South Africa	Stop at once!	**19-50**
230.	Carolynn Gibbons	Big Bear City, CA		
231.	Alexandra Gundelfingen	Poprad, Slovakia		
232.	Athina Peter	22303 Hamburg, Germany		
233.	Ake Lindberg	Eskilstuna, Sweden		
234.	frieda lisens	merksem, Belgium		
235.	Erika Davis	Lopez Island, WA		
236.	Nicolette Ludolphi	oslebs, Germany		
237.	Penny Gerrard	London, Canada		
238.	Barry Raffel	RALEIGH, NC		
239.	Bobbi Jo Parsley	ATWOOD, IL		
240.	Kamla Tynda	Swidnica, Poland		
241.	angelika wegner	burscheid, Germany		
242.	Maria Tüchler	Kirchbach, Austria		
243.	Roswitha Hanowski	Wedel, Germany		
244.	GM seabra	Anadia, Portugal		
245.	Brian Snyder	Garden Grove, CA	I don't think i would like having more land taken from people who might enjoy it and given to a corporation who will destroy it. Besides that zero good for public, zero good for land, only benefits are monetarily motivated.	**19-51**
246.	Patricia Harris	THOMPSON, MO		
247.	Aurelie Farreyrol	Machtum, Luxembourg		
248.	Helen A no forwards please	Zirndorf, Germany		
249.	Eva-Maria Haak	Salzgitter, Germany		
250.	Angela Fricke	Bad Sachsa, Germany		
251.	Andras Tobler	Budapest, Hungary		
252.	Alexandria Thompson	Twentynine Palms, CA		
253.	Rudolf Mühl	Michelstadt, Germany		

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Letter 19 – Continued

	Name	From	Comments	
254.	lucy keith	swindon, United Kingdom		
255.	Ermes Bertolo	Almese, Italy		
256.	Morgan Dominguez	Redmond, OR	Big bear is my home town and they have took enough earth	**19-52**
257.	Lydia zink	Hannover, Germany		
258.	Marina Kotelnikova	Moscow, Russian Federation		
259.	manuela wolter	san.jose, Costa Rica		
260.	Angelflowers Dawkins	ALPINE, AR		
261.	Iris Reinhard	Friesenheim, Germany		
262.	myriam vanden abbeelen	St Katelijne waver, Belgium		
263.	Fernande Fournier	Luxemburg, Luxembourg	Wir haben die Pflicht die Natur zu respektieren und zu beschützen. Nehmen, Sie Ihre Verantwortung, bitte. Helfen und handeln Sie menschlich und zügig. Zivilisierte, Gesellschaft? Manche " Menschen " sind nicht über allem erhaben! Man erntert stets das was man sät. Vergessen, Sie dies nicht. Merci.	**19-53**
264.	Nona Muro	Big bear city, CA		
265.	NICK ROBLEY	MANCHESTER, United Kingdom		
266.	Nick Allen	Sugarloaf, CA	Because they already have a giant scar on the side of the mountain	**19-54**
267.	Richard Batts	Big Bear Lake, CA	Over those big trucks ! 24 hours a day seven days a week.	**19-55**
268.	Oliver Jordi	Rüedisbach, Switzerland		
269.	bos claudine	poligny, France		
270.	Estelle Mouron	Maubert fontaine, France		
271.	Annette Berghammer	München, Germany		
272.	Janet Clarke	Burgess Hill, United Kingdom		
273.	Wendy Leys	belgium, Belgium		
274.	Kathy Efthymiakopoulos	Montreal, Canada		
275.	Marion Schorr	Kelmis, Belgium		
276.	Nadia Casiraghi	Pozzuolo Martesana MI, Italy		

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Letter 19 – Continued

	Name	From	Comments	
277.	Lisa Abraham	Winnipeg, Canada		
278.	Christopher Powell	Colby, WI	This is important to me because this is my home town and evey time I come home I see more and more land stripped away	**19-56**
279.	Amanda Torresani	Santa Cruz, CA		
280.	Michelle Elliott	sydney, Australia		
281.	andreas piechnitzek	Siegen, Germany		
282.	Danielle Dersch	Pine Brook, NJ	Not enough wildlife left. And plenty of space already culled to do this.	**19-57**
283.	Madyleine Munson	Big Bear City, CA	This is important to me because the mountain was not given to those people. Is it the animals homes!!	**19-58**
284.	Glennis Whitney	Nth Rockhampton, Queensland, Australia		
285.	Stephanie McKane	Windsor, Canada		
286.	Becky Segrest	Morongo Valley, CA		
287.	Lesley Alltop	Santa Clarita, CA	I grew up in those mountains and don't want it to be destroyed	**19-59**
288.	Rachel Harp	Big bear, CA		
289.	Chloe Mazakas	Rimforest, CA		
290.	Connie Sexton	Big bear lake, CA	Live in big bear stop destroying our hillside	**19-60**
291.	Inge Stadler	Hilpoltstein, Germany		
292.	Mari Dominguez	LINDEN, CA		
293.	Patrice Carlisle	Big Bear City, CA	I have been watching this plant creep closer and closer to Big Bear. The blight on the northern side is visible from miles away. I am very concerned about flooding and our air quality.	**19-61**
294.	Marie Wakefield	NEWPORT, OR		
295.	Mahalia Guyon	Sugarloaf big bear, CA		
296.	Nicole Le Fay	WATERLOO, NY		
297.	Dana Johnson	Toronto, Canada		
298.	CTAC AKCЁHOB	Тюмень, Russian Federation		
299.	Judy Miller-Lyons	HIGHLAND MILLS, NY		
300.	Janina Grage	Herne, Germany		
301.	annie fernandez	marcillac st quentin, France		

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Letter 19 – Continued

	Name	From	Comments	
302.	maria isabel	madrid, Spain		
303.	Corrina Parker	Toowoomba, Australia		
304.	Jacqueline peter	schachen, Switzerland		
305.	Paulo Reeson	Toronto, Canada		
306.	Adele Urbanek	Mödling, Austria		
307.	Dustin Fisher	Big Bear lake, CA		
308.	Gerlinde Holzer	Guntersdorf, Austria		
309.	Nijn Esra	HI, Netherlands		
310.	Edward Laurson	DENVER, CO		
311.	Antonio Velasco	CORDOBA, Spain		
312.	danielle jacques	belgique, Belgium		
313.	Bolly Maus	Rum, Austria		
314.	Bine Regensburger	Innsbruck, Austria		
315.	Maria Klein	Innsbruck, Austria		
316.	Sabine Mayr	Innsbruck, Austria		
317.	Brigitte Hecht	Regensburg, Germany		
318.	Maria Kiukkola	Espoo, Finland		
319.	Marilyn Koff	N LAS VEGAS, NV		
320.	Maria Schulz	Timisoara, Romania		
321.	Teresa Melton	La Quinta, CA	Friends live there and I use to have property there	**19-62**
322.	Mary Burt	UTICA, MN		
323.	Rita Wolff	Hannover, Germany		
324.	Kathryn Irby	GULFPORT, MS		
325.	Meike Schmedt	Osnabrück, Germany		
326.	John Hickerson	Garden Grove, CA	It's a national forest. The peoples land is not for sale.	**19-63**
327.	Mary Nagle	Middletown, CT		
328.	Keith Jones	Lucerne valley, CA	I live at the bottom of the back side of the mountain i can see it threw my window and my front yard I go up there every day to work and they have destroyed the mountain already considering all the wild life and protected wild life that's up there and around there i vote no	**19-64**
329.	Tina Michelakis	Hasselt, Belgium		
330.	Madeleine Gläser	Pfreimd, Germany		
331.	Latasha Ferguson	Fontana, CA		
332.	Joseph Wenzel	LAKE ELMO, MN		

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Letter 19 – Continued

	Name	From	Comments	
333.	Margeaux LeVan	Bethlehem, PA		
334.	mauricio carvajal	santiago, Chile		
335.	angela kohnke	Tornesch, Germany		
336.	CRISTINA OLIVA	BUENOS AIRES, Argentina	Stop expansion of Mitsubishi plant into National Forest Lands	**19-65**
337.	Christine Patterson	LANCASTER, PA		
338.	Kelly Carlson	Big Bear city, CA	I have lived in this mountain for 33 years. Holcomb Valley is being taken over by industry, animals are being run out of their natural homes and our forest no longer belong to nature. Enough is enough. If we want to hear escalators, yaks and commercial industry we can go to the city. We want our forest back. Not every speck of land needs to be replaced with industry. Let nature thrive again and let the people of the San Bernardino To. Mountains...I.e.Bug Bear and ask its creatures ebony our forests without industy	**19-66**

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Responses to Letter 19 – Sandice Alaska

Responses to Comment 19-1 to 19-66:

These comments are in general opposition to the Project. Reasons provided for opposition include loss of recreational areas; potential impacts to biological resources, visual resources and water resources; and impacts from noise and dust. Potential effects to all of these resources were analyzed for three alternatives in the Draft EIR/EIS. None of the comments provide specific comments on the environmental analysis in the Draft EIR/EIS that can be addressed in the Final EIR/EIS. These comments are noted for the record.

L.2 Comment Letters Received After the End of the Comment Period

The following comment letters were received after the end of the comment period. Responses are not provided, but the letters are included for the record.

Letter 20 – Sandice Alaska

From:	Eliason, Scott -FS
To:	Anne Surdzial
Subject:	FW: Update signatures against Mitsubishi
Date:	Tuesday, February 14, 2017 9:57:59 AM
Attachments:	stop-expansion-of-mitsubishi-plant-into-national-forest-lands_021417.pdf

From: Sandice Alaska [mailto:dripjoy@yahoo.com]
Sent: Tuesday, February 14, 2017 6:50 AM
To: Eliason, Scott -FS <seliason@fs.fed.us>
Subject: Update signatures against Mitsubishi

Hi Scott,

I think I sent you the wrong PDF yesterday. This one has more signatures!
Thank you,
Sandice

http://www.care2.com/servlets/download/31989/stop-expansion-of-mitsubishi-plant-into-national-forest-lands_021417.pdf

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Letter 20 – Continued

Scott Eliason, National Forest Service

Dr Mr. Eliason, The following people are in opposition to the expansion of the Mitsubishi cement plant into national forest lands (south quarry project). The reasons cited for opposition are all very similar: we feel that national forests are the one place where the land can be protected from destruction of habitat, plants, and natural beauty. The limestone mining project has proven to be a huge blight on a large area of mountainside on the road to Big Bear. One of the opposers comments that it's like "a big wound" coming up the mountain. I've been watching this project for 30 years and wondering how far they would take it. Now it's trying to go too far. We demand that the project NOT be allowed to mine further into national forest land. Enough is enough.

	Name	From	Comments
1.	Sandice Alaska	Big Bear City, CA	
2.	Wayne Tidwell	Running Springs, CA	People before Profits
3.	Kjrsten Haaland	Big Bear Ciry, CA	I don't want the forest lands near my home destroyed.
4.	Emily Snyder	Sammamish, WA	As a Hiker and an environmentalist all our forests are important to me.
5.	Penny Patterson	Palm Springs, CA	They can go tear up a mountain that isn't the gateway to such a beautiful recreation area.
6.	Alex Segrest	Morongo Valley, CA	
7.	Leslie Follette	Yucca Valley, CA	BECAUSE I LIVE HER. YOU ARE RUINing our world
8.	Larry McDaniel	VINTON, IA	
9.	Dennis Hall	Toronto, Canada	
10.	Roberto MARINI	Bergamo, Italy	
11.	natasha salgado	Toronto, Canada	
12.	Janet Beck	Toronto, Canada	
13.	Mia Gabriel	Bari, Italy	
14.	Anas Syahmi	Ipoh, Malaysia	
15.	Isabel Araujo	Mexico, Mexico	
16.	Aaron Chia	SG, Singapore	
17.	Deborah Sullivan	BRIGHTON, MA	
18.	KimJ CareTwoPlsHelp	Peterboro, United Kingdom	
19.	Mark Stewart	Aberdeen, United Kingdom	

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Letter 20 – Continued

	Name	From	Comments
20.	Melissa Green	Big Bear City, CA	
21.	Sue Harrington	MARTINEZ, CA	The National Forest belongs to the people, not a greedy corporation. Just say NO the the rape and plunder of OUR National Parks!
22.	E Hayes	Big Bear City, CA	Big Bear is already overly impacted by FS leased lands in the winter. Enough is enough.
23.	Sharon Trott	Big Bear City, CA	
24.	Felipe Flores	Lucerne valley, CA	
25.	Eric Geffon	Fawnskin, CA	
26.	Andy Kennedy	Big Bear Lake, CA	Forest recreation and conservation
27.	Corinne Flores	Lucerne Valley, CA	I'm against Foreign company utilizing USA resources to turn a profit.
28.	Francisco DeMoss	Hacienda Heights, CA	There is a lot of recreational area up there that should be left unmolested, keep access to as much national forest as possible!
29.	W. Clark	LYNCHBURG, VA	
30.	Danny Ross	Valencia, CA	
31.	Erika Czelenk	Balassagyarmat, Hungary	
32.	Jason Markowski	Los Angeles, CA	
33.	Christine Pinehill	Ähtäri, Finland	
34.	Adam Stanle	Corona, CA	Taking away more land for outdoor enjoyment.
35.	James Mulcare	CLARKSTON, WA	
36.	Keith Melton	Weston-super-Mare, United Kingdom	
37.	Val MT	melbourne, Australia	
38.	Alexandr Yantselovskiy	Vyshneve, Ukraine	
39.	Jesse Mena	Thousand oaks, CA	
40.	Mike Thompson	Whittier, CA	
41.	Joann Henderson	PALM COAST, FL	
42.	Seth Gold	Altadena, CA	
43.	Kim Thompson	Sugarloaf, CA	Do not foul our National forest lands!
44.	Cathy Botha	Johannesburg, South Africa	
45.	Joanna Kolebuk	Feltham, United Kingdom	
46.	Sandra Vito	Valencia, Spain	
47.	Devin Ragsdale	Big bear lake, CA	Keep the forrest and animals untouched in Big bear.

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Letter 20 – Continued

	Name	From	Comments
48.	Dagmara Wolczynska	Gdansk, Poland	
49.	Anna Roga	Klagenfurt, Austria	
50.	Robert Goodding	KNOXVILLE, TN	
51.	Gretchen Ragsdale	Big bear lake, CA	Protect our national forrest and animals. Big bear is small and it will effect our city.
52.	Barbara Smit	Breda, Netherlands	
53.	Jennifer Sanchez	Big Bear City, CA	What about the animals? What about the plants? What about us??!!! This is terrible and should NOT continue. What happens when you run out of limestone there? You will just continue to eat away at our mountain!!
54.	Patrick Donovan	BROOKLYN, NY	
55.	esther Kemperle	st veit an der glan, Austria	
56.	Christelle Mckie	1148, Switzerland	
57.	Allen Olson	MINNEAPOLIS, MN	
58.	Beatriz Perez	Alicante, Spain	
59.	julie Hoffer	BROOKLYN, NY	
60.	PER INGEBRIGTSEN	BERGEN, Norway	
61.	Amanda Geiger	Big Bear City, CA	
62.	Mariska Catsman-Okkersen	Uithoorn, Netherlands	
63.	Anne Fuller	JUNEAU, AK	
64.	lee snyder	Apple Valley, CA	saving the forests is important to me
65.	Crystal Sitarek	Bullhead city, AZ	
66.	Gys Mignot	Vasselin, France	
67.	Gary Butler	Brisbane, Australia	
68.	Alison Jones	Gwynedd, United Kingdom	
69.	Paul Shorter	Huddersfield, United Kingdom	
70.	Adam McDonald	sugarloaf, CA	
71.	Laural Fitzgerald	big bear lake, CA	
72.	Beth McHenry	PARKSLEY, VA	
73.	Alexander Paulus	68168 Mannheim, Germany	
74.	laura adkins	sugarloaf, CA	I live in big bear and enjoy our forest as much as the animals. This is not something that is needed!

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Letter 20 – Continued

	Name	From	Comments
75.	Samantha McGee	Gardnerville, NV	i might not live in Big Bear anymore but its still my home! They are distorting our forest!
76.	Shauna Crane	Big bear Lake, CA	
77.	Barb StarIssues Vieira	STATEN ISLAND, NY	
78.	Steph L	SCOTTSDALE, AZ	
79.	Judith Downey	CHELSEA, MA	
80.	Leslie Questel	Big bear city, CA	I live here...
81.	Mike Robertson	Toronto, Canada	
82.	M Baldwin	Big Bear City, CA	
83.	Tommi Sirignano	Big bear lake, CA	
84.	Carol Cook	SAN MATEO, CA	
85.	Jonathon Eccles	Big bear city, CA	
86.	Heather Gaskins	Big bear city, CA	
87.	EDWARD G. MRKVICKA	ARVADA, CO	
88.	gina de Minelli	blois Loire et cher, France	
89.	Ashni J. Akand Karan	PLEASANTON, CA	
90.	Teresa Wlosowicz	Sosnowiec, Poland	
91.	Hannah Kunik	Corvallis, OR	Because it does not agree with my beliefs
92.	laborgrupo armer teufel c reger	Nürnberg, Germany	
93.	Jen Valentino	COVENTRY, RI	
94.	Annette Contreras	Lucerne valley, CA	Way too many environmental habitats animals and plants will be impacted and. No way to return it to the natural state. I already drive by Mitsubishi 3 times a day and see its industrial look tucked up against the mountains that they have scared from the mining they will never be the same but when you start messing with living things to make a buck you cross the lines of morality and being a good corporate citezen
95.	Erin Roberts	Big Bear City, CA	
96.	Marcus Ruiz	Hesperia, CA	There killing the plant for cement and taking advantage of it
97.	Rhiannon Brunner-Hall	Sugarloaf, CA	Our forests are important to not only the community but to our wildlife. Our forests should be sacred
98.	Maryann Staron	EVERGREEN PARK, IL	
99.	Elana Levinson	FOREST HILLS, NY	

Page 4 - Signatures 75 - 99

Letter 20 – Continued

	Name	From	Comments
100.	Nathan Degner	CHICAGO, IL	
101.	Gwendolyne Clouser	Big Bear city, CA	Do not want wildlife destroyed by destroying land as already has done inside their plant area.by oprn waste destroy g ha itsy .chemicals on water
102.	Nina Meli	MORRISTOWN, NJ	
103.	Brenda Norton	Big Bear City, CA	I want my grandchildren to have a forest to explore.
104.	Barbara Zonis	Sugarloaf, CA	
105.	Anna Neusuess	Berlin, Germany	
106.	Amy Cicero	Big bear lake, CA	I live in the mountains
107.	Tracy Felix	Big Bear Lake, CA	
108.	Cassandra Spr	Henderson, NV	I grew up in Big Bear and a lot of my family still live there as well as most of my friends. We go there to visit often and mostly what we like about the mountain is the wilderness and free animals that can roam. Big Bear and the desert was built on a mountain which already took over alot of free range wild life that are beautiful and harmless. We need to appreciate our mountain and animals that live there. It's not fair.
109.	Tiffany King	Big Bear City, CA	This is my home town.
110.	L Bayes-Ickes	Big Bear City, CA	I live near here and I'm concerned about our forest, our environment, the animals, nature, our water, noise and dust.
111.	Angeles Madrazo	Campeche, Mexico	
112.	Janet Aguila Krause	Big Bear lake, CA	
113.	Fran Wyman	Big Bear City, CA	Being stuck in Carmageddon this weekend in Big Bear opened my eyes to the abuse of all things National Forest. 120 years is to far reaching a timeline. The back side of these mountains is one big open wound. I would consider short term use, but only if restoration is part of the deal.
114.	Christina Reynolds	Big bear, CA	
115.	Marjie O'Brien	Palm Springs, CA	
117.	Ashley Caldwell	Big bear city, CA	Our mountains are more important them cement. #ourforests #savethetrees #savetheanimals
118.	Cris Mateski	Chino, CA	As an avid offroader and Forest Service volunteer I see up close and personal the permanent distruction that is done by the Mitsubishi plant. Allowing it to expand would only spread the damage
119.	Dagmar Grabsch	Berlin, Germany	
120.	Anthony Jones	Victorville, CA	Our forests should be liberated from this anarchy.
121.	Martha Hernandez	La Verne, CA	

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Letter 20 – Continued

	Name	From	Comments
122.	Nan Newall	BrightsGrove, Canada	
123.	Daniel Partlow	ALLEN, TX	
124.	Brent Gagermeier	Crestline, CA	
125.	Nicola Greenhalgh	Orange, CA	
126.	Casey Reynolds	Yucca Valley, CA	This land is not for sale and needs to be set aside for future generations to enjoy. Stop selling our land
127.	Janis King	Reno, NV	
128.	Paula Vaccariello	Big Bear Lake, CA	
129.	Eileen Christiansen	Big bear city, CA	Because the keep taken no away the mountain, I think they are causing earthquakes
130.	Heather Smith	Cictorville, CA	I love the mountains and utilize the trails. I don't want to see any more of the mountains gone
131.	CONSTANCE W DUNN DUNN	Big Bear Lake, CA	
132.	Nicole Wheeler	Big Bear City, CA	
133.	Shady Davis	Big bear city, CA	As a home owner in the beautiful San Bernardino mountains I would hate for our beautiful forest to be ruined by the plant.
134.	Michelle Donahue	Big Bear Lake, CA	
135.	Duran Gaddy	Yucaipa, CA	
136.	Kaylene Hughes	Big bear city, CA	Stop the desecration of our earth. One day we will be out of resources and we will realize you cannot eat money
137.	Ceara Kornblum	DAVIS, CA	
138.	Brenna Fisher	Big Bear Lake, CA	Because I've lived here for 30 years and I've never seen it this bad! The trash,tragic.lack of gas or food and being cut off driving and being flipped off after letting one or two cars in the line , I'm just over it all and we have a couple of more months to go!
139.	Brandy Young	Hesperia, CA	
140.	Rahul kumar	hyderabad, India	
141.	Christine Rioux	Nipomo, CA	I love Big Bear and don't want it ruined. Also, public lands shouldn't be used this way.
142.	Ana MESNER	Ljubljana, Slovenia	
143.	Angel W.	Jersey, United Kingdom	
144.	Steve Dale	Frankston, Australia	
145.	adrian kopf	leiden, Netherlands	
146.	Amy Fisher	SANTA MONICA, CA	
147.	Sandra Ferri	Bäretswil, Switzerland	

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Letter 20 – Continued

	Name	From	Comments
148.	Amanda Johnson	Helensvale, Australia	I was born and raised in big bear. That national forest is protected for this exacted reason. So that big companies can't come and destroy the natural beauty just for more profit. We already lost a lot of the forest due to drought and bark beetles. Don't tear down my home!
149.	N o	GRAND PRAIRIE, TX	
150.	Ted Williams	RALLS, TX	
151.	Matjaz Bratus	Ljubljana, Slovenia	
152.	martin luce	worcester, United Kingdom	
153.	ERIKA SOMLAI	BUDAPEST, Hungary	
154.	jill small	abertillery, United Kingdom	
155.	Terri Sam	PLANTATION, FL	
156.	Mary-Carol Gales	Guernsey, United Kingdom	
157.	Paola Scodellari	Roma, Italy	
158.	Hugh Smith	Barnsley, United Kingdom	
159.	Mafalda Fonseca	Vila Nova de Milfontes, Portugal	
160.	Hollye Hollenbeck	Big Bear City, CA	
161.	m smithurst	Morden, United Kingdom	
162.	Brenda Towers	Durham, United Kingdom	
163.	Monika Bachmann	Euskirchen, Germany	
164.	Sabine Möhler	Esselbach, Germany	
165.	yolanda schultes	Wittenbach, Switzerland	
166.	Danuta Watola	Kalety, Poland	
167.	Tiziana Dordoni	Corsico Mi, Italy	
168.	Regine LOEUIL	Hamoir, Belgium	
169.	djamila grouci	Nanteuil les meaux, France	
170.	m r	HAMDEN, CT	
171.	Anneke Andries	Raamsdonksveer, Netherlands	
172.	Petra Hegenscheidt	Essen, Germany	

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Letter 20 – Continued

	Name	From	Comments
173.	Claudia Maas	Wallenhorst, Germany	
174.	Olga Troyan	Taraz, Kazakhstan	
175.	Siegrid Roedel	Herzogenaurach, Germany	SAVE THE NATIONAL FOREST LAND
176.	Heather Carroll	Gilbert, AZ	
177.	Petra Stadtmueller	Enkenbach, Germany	
178.	Robert wiehemeijer	Jemgum, Germany	
179.	jocelyne lapointe	terrebonne, OH	
180.	Silja Alter	Weßling, Germany	
181.	Karina Utech	Berlin, Germany	
182.	Sanand D	Louvain-la-Neuve, Belgium	
183.	Karin Friedrich	Braunschweig, Germany	Das darf nicht sein.
184.	Carl Rosenstock	BARABOO, WI	
185.	ROBERTO MERITONI	Asso, Italy	
186.	Ivonne Carlson	FORT MYERS, FL	
187.	Sigrid Müller	Illschwang, Germany	
188.	wendy smith	nelson, United Kingdom	
189.	Bartha Sjoerdsma	Leeuwarden, Netherlands	
190.	Lynn Carin	North Hills, CA	
191.	Cynthia Franke	Kassel, Germany	
192.	One Heart inc	BARABOO, WI	
193.	Nelleke S	D, Netherlands	
194.	cheneval catherine	chambery, France	
195.	Jim Ven	Bristol, United Kingdom	
196.	angelika zintel	guntersheim, Germany	
197.	sara milano	neunkirchen, Germany	
198.	Carol Jacklin	Barton, United Kingdom	
199.	Diana Price	Escondido, CA	

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Letter 20 – Continued

	Name	From	Comments
200.	Nick We	MILLERSVILLE, MD	
201.	David Councilman	ST LOUIS PARK, MN	
202.	Tony Guzman	Doral, Dominican Republic	
203.	daniela plüschau	wedel, Germany	
204.	Rolf Mense	Puerto Lumbreras, Spain	
205.	Christa Lohrig	Korschenbroich, Germany	
206.	Kyle Bracken	MARINA DEL REY, CA	
207.	Devon Faseag	Carlsbad, CA	I'd Much rather have nature than a another car factory that we really do need china can have this one.
208.	Robert Neeson	Highgate, United Kingdom	Concrete, One of the biggest polluters to our very fragile climate, Yet again greed over human life.
209.	bellinda Rolf-jansen	Oosterbeek, Netherlands	
210.	Jennifer Batts	Big Bear Lake, CA	Near my home and not wanting to se the National Forest lands leased to Big Coporations for the sole purpose of greed.
211.	Pam Pipal	Billings, MT	I believe this area is important habitat to preserve, not only for native plants and animals, especially the migrant Bighorn Sheep, but for the people that habituate the area.
212.	Akiko Sakaguchi	setagayaku, Japan	
213.	A. O.Schaller	Leimbach, Germany	
214.	Teresa prentice	Kent, United Kingdom	
215.	cornelia heppner	Bremerhaven, Germany	
216.	Massimo Pappalardo	Palermo, Italy	
217.	Akemi Fukuyoshi	HongKong, Hong Kong	
218.	Nancy Kirk	Waterloo, Canada	
219.	Marianne Rehfeld	REDWOOD CITY, CA	
220.	Irene Nawo-Eichner	Hamburg, Germany	
221.	Shanta Ban	Durgapur, India	
222.	Baerbel Guengoer	Berlin, Germany	
223.	Marc van de Waarsenburg	Zierikzee, Netherlands	
224.	Chantal Buslot	Hasselt, Belgium	

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Letter 20 – Continued

	Name	From	Comments
225.	J Roth	ALGONQUIN, IL	No Place for Plants.
226.	Angela Kohn	Cologne, Germany	
227.	Mark Lovell	Bristol, United Kingdom	
228.	cortnie hurtado	Big Bear Lake, CA	
229.	Anne Haarhoff	George, South Africa	Stop at once!
230.	Carolynn Gibbons	Big Bear City, CA	
231.	Alexandra Gundelfingen	Poprad, Slovakia	
232.	Athina Peter	22303 Hamburg, Germany	
233.	Ake Lindberg	Eskilstuna, Sweden	
234.	frieda lisens	merksem, Belgium	
235.	Erika Davis	Lopez Island, WA	
236.	Nicolette Ludolphi	oslebs, Germany	
237.	Penny Gerrard	London, Canada	
238.	Barry Raffel	RALEIGH, NC	
239.	Bobbi Jo Parsley	ATWOOD, IL	
240.	Kamla Tynda	Swidnica, Poland	
241.	angelika wegner	burscheid, Germany	
242.	Maria Tüchler	Kirchbach, Austria	
243.	Roswitha Hanowski	Wedel, Germany	
244.	GM seabra	Anadia, Portugal	
245.	Brian Snyder	Garden Grove, CA	I don't think i would like having more land taken from people who might enjoy it and given to a corporation who will destroy it. Besides that zero good for public, zero good for land, only benefits are monetarily motivated.
246.	Patricia Harris	THOMPSON, MO	
247.	Aurelie Farreyrol	Machtum, Luxembourg	
248.	Helen A no forwards please	Zirndorf, Germany	
249.	Eva-Maria Haak	Salzgitter, Germany	
250.	Angela Fricke	Bad Sachsa, Germany	
251.	Andras Tobler	Budapest, Hungary	
252.	Alexandria Thompson	Twentynine Palms, CA	
253.	Rudolf Mühl	Michelstadt, Germany	

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Letter 20 – Continued

	Name	From	Comments
254.	lucy keith	swindon, United Kingdom	
255.	Ermes Bertolo	Almese, Italy	
256.	Morgan Dominguez	Redmond, OR	Big bear is my home town and they have took enough earth
257.	Lydia zink	Hannover, Germany	
258.	Marina Kotelnikova	Moscow, Russian Federation	
259.	manuela wolter	san.jose, Costa Rica	
260.	Angelflowers Dawkins	ALPINE, AR	
261.	Iris Reinhard	Friesenheim, Germany	
262.	myriam vanden abbeelen	St Katelijne waver, Belgium	
263.	Fernande Fournier	Luxemburg, Luxembourg	Wir haben die Pflicht die Natur zu respektieren und zu beschützen. Nehmen, Sie Ihre Verantwortung, bitte. Helfen und handeln Sie menschlich und zügig. Zivilisierte, Gesellschaft? Manche " Menschen " sind nicht über allem erhaben! Man erntert stets das was man sät. Vergessen, Sie dies nicht. Merci.
264.	Nona Muro	Big bear city, CA	
265.	NICK ROBLEY	MANCHESTER, United Kingdom	
266.	Nick Allen	Sugarloaf, CA	Because they already have a giant scar on the side of the mountain
267.	Richard Batts	Big Bear Lake, CA	Over those big trucks ! 24 hours a day seven days a week.
268.	Oliver Jordi	Rüedisbach, Switzerland	
269.	bos claudine	poligny, France	
270.	Estelle Mouron	Maubert fontaine, France	
271.	Annette Berghammer	München, Germany	
272.	Janet Clarke	Burgess Hill, United Kingdom	
273.	Wendy Leys	belgium, Belgium	
274.	Kathy Efthymiakopoulos	Montreal, Canada	
275.	Marion Schorr	Kelmis, Belgium	
276.	Nadia Casiraghi	Pozzuolo Martesana MI, Italy	

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Letter 20 – Continued

	Name	From	Comments
277.	Lisa Abraham	Winnipeg, Canada	
278.	Christopher Powell	Colby, WI	This is important to me because this is my home town and evey time I come home I see more and more land stripped away
279.	Amanda Torresani	Santa Cruz, CA	
280.	Michelle Elliott	sydney, Australia	
281.	andreas piechnitzek	Siegen, Germany	
282.	Danielle Dersch	Pine Brook, NJ	Not enough wildlife left. And plenty of space already culled to do this.
283.	Madyleine Munson	Big Bear City, CA	This is important to me because the mountain was not given to those people. Is it the animals homes!!
284.	Glennis Whitney	Nth Rockhampton, Queensland, Australia	
285.	Stephanie McKane	Windsor, Canada	
286.	Becky Segrest	Morongo Valley, CA	
287.	Lesley Alltop	Santa Clarita, CA	I grew up in those mountains and don't want it to be destroyed
288.	Rachel Harp	Big bear, CA	
289.	Chloe Mazakas	Rimforest, CA	
290.	Connie Sexton	Big bear lake, CA	Live in big bear stop destroying our hillside
291.	Inge Stadler	Hilpoltstein, Germany	
292.	Mari Dominguez	LINDEN, CA	
293.	Patrice Carlisle	Big Bear City, CA	I have been watching this plant creep closer and closer to Big Bear. The blight on the northern side is visible from miles away. I am very concerned about flooding and our air quality.
294.	Marie Wakefield	NEWPORT, OR	
295.	Mahalia Guyon	Sugarloaf big bear, CA	
296.	Nicole Le Fay	WATERLOO, NY	
297.	Dana Johnson	Toronto, Canada	
298.	CTAC АКСЁНОВ	Тюмень, Russian Federation	
299.	Judy Miller-Lyons	HIGHLAND MILLS, NY	
300.	Janina Grage	Herne, Germany	
301.	annie fernandez	marcillac st quentin, France	

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Letter 20 – Continued

	Name	From	Comments
302.	maria isabel	madrid, Spain	
303.	Corrina Parker	Toowoomba, Australia	
304.	Jacqueline peter	schachen, Switzerland	
305.	Paulo Reeson	Toronto, Canada	
306.	Adele Urbanek	Mödling, Austria	
307.	Dustin Fisher	Big Bear lake, CA	
308.	Gerlinde Holzer	Guntersdorf, Austria	
309.	Nijn Esra	HI, Netherlands	
310.	Edward Laurson	DENVER, CO	
311.	Antonio Velasco	CORDOBA, Spain	
312.	danielle jacques	belgique, Belgium	
313.	Bolly Maus	Rum, Austria	
314.	Bine Regensburger	Innsbruck, Austria	
315.	Maria Klein	Innsbruck, Austria	
316.	Sabine Mayr	Innsbruck, Austria	
317.	Brigitte Hecht	Regensburg, Germany	
318.	Maria Kiukkola	Espoo, Finland	
319.	Marilyn Koff	N LAS VEGAS, NV	
320.	Maria Schulz	Timisoara, Romania	
321.	Teresa Melton	La Quinta, CA	Friends live there and I use to have property there
322.	Mary Burt	UTICA, MN	
323.	Rita Wolff	Hannover, Germany	
324.	Kathryn Irby	GULFPORT, MS	
325.	Meike Schmedt	Osnabrück, Germany	
326.	John Hickerson	Garden Grove, CA	It's a national forest. The peoples land is not for sale.
327.	Mary Nagle	Middletown, CT	
328.	Keith Jones	Lucerne valley, CA	I live at the bottom of the back side of the mountain i can see it threw my window and my front yard I go up there every day to work and they have destroyed the mountain already considering all the wild life and protected wild life that's up there and around there i vote no
329.	Tina Michelakis	Hasselt, Belgium	
330.	Madeleine Gläser	Pfreimd, Germany	
331.	Latasha Ferguson	Fontana, CA	
332.	Joseph Wenzel	LAKE ELMO, MN	

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Letter 20 – Continued

	Name	From	Comments
333.	Margeaux LeVan	Bethlehem, PA	
334.	mauricio carvajal	santiago, Chile	
335.	angela kohnke	Tornesch, Germany	
336.	CRISTINA OLIVA	BUENOS AIRES, Argentina	Stop expansion of Mitsubishi plant into National Forest Lands
337.	Christine Patterson	LANCASTER, PA	
338.	Kelly Carlson	Big Bear city, CA	I have lived in this mountain for 33 years. Holcomb Valley is being taken over by industry, animals are being run out of their natural homes and our forest no longer belong to nature. Enough is enough. If we want to hear escalators, yaks and commercial industry we can go to the city. We want our forest back. Not every speck of land needs to be replaced with industry. Let nature thrive again and let the people of the San Bernardino To. Mountains...I.e.Bug Bear and ask its creatures ebony our forests without industy
339.	Michael Green	Big Bear Lake, CA	They are raping the mountains. It's ugly. Do not expand any further.
340.	Carol Pogroszewski	Big Bear City, CA	Our beautiful mountains are being chopped down little by little and the end result is stark barren land that does not look natural at all. All for a company to make lots of money!
341.	Sean McGowan	Wildomar, CA	
342.	Wendee Hawkins	Big bear city, CA	
343.	Karin Zimmermann	Hersbruck, Germany	
344.	Natalie Van Leekwijck	Deurne, Belgium	
345.	Teri Taylor	Big Bear City, CA	Live in Big Bear, and it's big enough, and too many big trucks transporting from there already!
346.	Jaime Sinner	Sugarloaf, CA	
347.	Mary Gomez	Indio, CA	
348.	linda detels	SAN FRANCISCO, CA	
349.	Petra Jakubzik	neuss, Germany	
350.	Darrian Terry	Palm Springs, CA	This is destruction of our public lands by a foreign corporation. I do not support the destruction of our public lands by any corporation, domestic or foreign. Please put a stop to this plan.
351.	Daniel Wabyick	San Francisco, CA	
352.	Suzanne Qualls	Las Vegas, NV	Save our National Forest. Stop Mitsubishi!
353.	Cheryl Pearce	Las Vegas, NV	Save our beautiful National Forests!
354.	Sven König	Büttelborn, Germany	

Page 14 - Signatures 333 - 354

Letter 20 – Continued

	Name	From	Comments
355.	Takako M	Chiba, Japan	
356.	Carmen König	Büttelborn, Germany	
357.	Karin Guenther	Cuxhaven, Germany	
358.	Irène Bouslama	Clamart, France	
359.	Elke Kloos	Staig, Germany	
360.	Theresa Sama	Desert Hot Springs, CA	There's plenty of land for industrial purposes without disturbing our protected national forest land.
361.	Joine Cuglietta	Desert Hot Springs, CA	
362.	Chris Kallgren	Yucca Valley, CA	
363.	Claudia Ferreira Da Silva	Johannesburg, South Africa	
364.	Vangie Weems	Cathedral City, CA	
365.	Mary DeCraemer	Clarkston, MI	
366.	J Roberts	Desert Hot Springs, CA	We need to preserve our lands! Not hand them over to big business without any regulation. (AND I mean NESTLE too.)
367.	Eric Snyder	Sammamish, WA	
368.	Ken Palagyi	Palm Springs, CA	
369.	Gero Wölfel	Amt Wachsenburg, Germany	
370.	liz casey	Pembroke, Canada	
371.	Kyle Sinatra	Norco, CA	Perserving nature and stoping corperate destruction of it

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Letter 21 – Col. Paul Cook

PAUL COOK
8TH DISTRICT, CALIFORNIA

1222 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5861

Congress of the United States
House of Representatives
Washington, DC 20515–0508

February 14, 2017

Anne Surdzial
AICP
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374

Re: Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Mitsubishi Cement Corporation South Quarry Project State Clearinghouse Number 2012031009

Dear Ms. Surdzial:

I submit this letter in strong support of the Mitsubishi Cement Corporation (Mitsubishi) South Quarry Project. This project will have a beneficial economic impact on the surrounding community. In addition, Mitsubishi has included mitigation measures to minimize potential environmental degradation associated with this proposal.

This project will extend the life of the Mitsubishi's mine near its cement plant in Lucerne Valley, California, thereby allowing the company to continue manufacturing cement for customers throughout southern California and Nevada. Mitsubishi is a major job creator in my district, and this project will ensure continued employment for hundreds of my constituents for years to come.

As a member of the Congressional Cement Caucus, I understand the importance of maintaining a reliable source of cement for our nation's infrastructure. Approving the project ensures local production of cement, which will result in reduced costs for construction projects throughout my district.

I urge the County of San Bernardino and U.S. Forest Service to approve the environmental review and any additional permits associated with the South Quarry Project. If you have any questions regarding this letter, please contact my District Office at (760) 247-1815.

Sincerely,

Col. Paul Cook (Ret.)
Representative, 8th District of California

PRINTED ON RECYCLED PAPER

Letter 22 – Jay Obernolte

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0033
(916) 319-2033
FAX (916) 319-2133

DISTRICT OFFICE
15900 SMOKE TREE STREET, SUITE 125
HESPERIA, CA 92345
(760) 244-5277
FAX (760) 244-5447

Assembly
California Legislature

JAY OBERNOLTE
ASSEMBLYMAN, THIRTY-THIRD DISTRICT

COMMITTEES
VICE CHAIR: BUDGET
VICE CHAIR: COMMUNICATIONS AND CONVEYANCE
APPROPRIATIONS
PRIVACY AND CONSUMER PROTECTION

JOINT COMMITTEE
JOINT LEGISLATIVE AUDIT

February 16, 2017

Anne Surdzial
AICP
ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374
asurdzial@ecorpconsulting.com

Re: Draft Environmental Impact Report (EIR)/
Environmental Impact Statement (EIS) for the
Mitsubishi Cement Corporation South Quarry Project
State Clearinghouse Number 2012031009

Dear Ms. Surdzial:

Thank you for the opportunity to review the Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) for Mitsubishi Cement's South Quarry Project in the 33rd Assembly District. The environmental document is thorough and provides detailed environmental review of the South Quarry Project.

Mitsubishi has been a dedicated member of the community for years, providing a good source of local employment and giving back through community outreach every year. Some of the many ways Mitsubishi has continued to support the local and regional community includes its sponsorship of programs through the Lucerne Valley High School, tours of the plant for local schools, and sponsorship of the annual Ride in the Rocks event, which raises money to enhance local education by funding college scholarships and field trips. The South Quarry Project will help Mitsubishi maintain its vitality and that of the surrounding community, allowing Mitsubishi to continue the life of its limestone mine in close proximity to its cement plant.

Mitsubishi Cement's proposal is carefully designed to minimize the South Quarry Project's potential impacts to plants and wildlife, such as the Cushenbury heard of Nelson's bighorn sheep, and the mitigation described in the Draft EIR/EIS will ensure additional environmental safeguards. For example, the proposed reclamation plan for the South Quarry Project includes plans to reclaim the site for post-mining uses, including for open space and wildlife habitat, and revegetating disturbed areas to minimize potential aesthetic and erosion impacts.

I support the South Quarry Project because the project will allow Mitsubishi to remain an important anchor and contributor to the community in the 33rd District.

Sincerely,

JAY OBERNOLTE

Assemblyman, 33rd District

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Letter 23 – Caltrans District 8

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 8
PLANNING (MS 722)
464 WEST 4th STREET, 6th FLOOR
SAN BERNARDINO, CA 92401-1400
PHONE (909) 383-4557
FAX (909) 383-5936
TTY 711
www.dot.ca.gov/dist8

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March 8, 2017 **File: 08-SBd-18-PM 63.5**

Terri Rahhal
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415

Subject: Mitsubishi Cement Corporation (MCC) South Expansion – EIR/EIS Chapter 2

Dear Ms. Rahhal:

The California Department of Transportation (Caltrans) has reviewed the Bighorn Sheep Warning Signs Location Maps for the Mitsubishi Cement Corporation South Expansion (Project), located south of the community of Lucerne Valley in San Bernardino County. The proposed South Quarry site consists of vacant public lands administered by the Forest Service and accessed from Highway 18 south of Lucerne Valley.

As the owner and operator of the State Highway System (SHS), it is our responsibility to coordinate and consult with local jurisdictions when proposed development may impact our facilities. As the responsible agency under the California Environmental Quality Act, it is also our responsibility to make recommendations to offset associated impacts with the proposed project. Although the project is under the jurisdiction of the County of San Bernardino, due to the project's potential impact to the State facilities, it is also subject to the policies and regulations that govern the SHS.

IGR has reviewed the proposed Bighorn Sheep Warning Sings Location Maps and at this time we have no further comments.

Issuance of a Caltrans Encroachment permit will be required for any work or construction performed within, under, or over the State Right-of-Way. For information regarding the Encroachment Permit application and submittal requirements, contact:

Caltrans Office of Encroachment Permits
464 West 4th Street, Basement, MS 619
San Bernardino, CA 92401-1400
(909) 383-4525
http://www.dot.ca.gov/hq/traffops/developserv/permits/

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to enhance California's economy and livability"

Letter 23 – Continued

Ms. Rahhal
March 8, 2017
Page 2

These recommendations are preliminary and summarize our review of materials provided for our evaluation. Please continue to keep us informed of this project and other future updates, which could potentially impact the SHS and interfacing transportation facilities. If you have any questions regarding this letter, please contact Jacob Mathew at (909) 806-3928 or myself at (909) 383-4557.

Sincerely,

MARK ROBERTS
Office Chief
Intergovernmental Review, Community and Regional Planning

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to enhance California's economy and livability"