

**COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT**

**MEMORANDUM**

TO: County Planning Commission

FROM: Steve Rodriguez, AICP  
Zoraida Abresch, Deputy Director, Development Review North, 934-6585

DATE: June 25, 2007

HEARING  
DATE: July 11, 2007

RE: Additional hearing on the Diamond Rock Sand & Gravel Mine and Processing Facility; Conditional Use Permit 03CUP-00000-00037, and Reclamation Plan 03RPP-00000-00002. APN 149-220-002, -011 and -065, Fifth Supervisorial District.

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**1.0 INTRODUCTION**

The Planning Commission conducted a hearing for the Diamond Rock sand and gravel mine project on May 30, 2007. Extensive public testimony was provided and the Planning Commission voted to accept additional comment letters regarding the project. Although the 60-day public review period for the EIR prepared for the Diamond Rock project ended on January 31, 2007, many of the verbal comments and letters provided at the hearing were in regard to the environmental impact analysis provided by the EIR. Staff has reviewed the verbal testimony and letters to identify comments that have not been previously addressed by responses to comments in the Final EIR, or by the May 18, 2007 Planning Commission staff report. Additional responses to comments received at the May 30<sup>th</sup> hearing are provided below.

Also at the May 30 hearing, the Planning Commission asked staff several questions concerning the proposed project. Additional information regarding the Planning Commission's questions and comments is also provided in this memorandum.

**2.0 RECOMMENDATION AND PROCEDURES**

Follow the procedures outlined below and conditionally approve Case Nos. 03CUP-00000-00037 and 03RPP-00000-00002 marked "Officially Accepted, County of Santa Barbara (May 30, 2007) Planning Commission Attachments F through M", based upon the project's consistency with the Comprehensive Plan and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Conceptually approve 05EIR-00000-00001 as adequate to meet the environmental review requirements for this proposal, and adopt the mitigation monitoring program contained in the conditions of approval (Attachments C and E).
2. Conceptually adopt the required findings for the project specified in Attachment A of this staff report, including CEQA findings.
3. Conceptually approve Conditional Use Permit 03CUP-00000-00037 and Reclamation Plan 03RRP-00000-00002 subject to the Conditions of Approval included in Attachment B.
4. Continue final action on the Reclamation Plan and Conditional Use Permit to a future Planning Commission meeting to allow time for final State review of the conceptually approved Reclamation Plan.

Refer back to staff if the Planning Commission takes other than the recommended action for appropriate findings and conditions.

### **3.0 PUBLIC COMMENTS**

#### **1. Project Generated Truck Traffic Through the Ojai Area**

During the public testimony provided during the May 30 hearing, it was frequently mentioned that the proposed project would result in 138 truck trips a day through the Ojai area. Additional information is provided below to clarify the information provided in the EIR regarding the project's truck trip generation characteristics.

The EIR evaluated four scenarios related to the number of truck trips that could be generated by the Diamond Rock project. The four analysis scenarios were based on expected mine production rates and reasonable assumptions regarding the distribution of truck trips (mine product deliveries) throughout the project region. The four analysis scenarios are summarized below.

- **Average Mine Production – Production Dispersed to all Locations.** Under this scenario, the mine would generate an average of approximately 92 truck trips (46 product deliveries) per day, and approximately 20 percent of those trips would be destined for the Ventura area. This scenario would result in approximately 18 additional truck trips through the Ojai area per day. This scenario represents the truck trip generation scenario that would occur most frequently as a result of proposed mine operations.

- **Peak Mine Production – Production Dispersed to all Locations.** Under this scenario, the mine would generate approximately 138 truck trips (69 product deliveries) per day, and approximately 20 percent of those trips would be destined for the Ventura area. This scenario would result in approximately 28 additional truck trips through the Ojai area per day.
- **Average Mine Production – All Production to Ventura.** This scenario was included in the EIR to disclose “worst case” conditions that could result in the event that a construction project (i.e., road repair, infrastructure maintenance, etc.) in the Ventura area required the delivery of a large volume of aggregate material in a short period of time. This scenario was included in the EIR to satisfy the “full-disclosure” requirements of CEQA, not because it was anticipated that such a demand for aggregate material would occur on a regular basis. This scenario would result in approximately 92 truck trips through the Ojai area per day.
- **Peak Mine Production – All Production to Ventura.** This scenario combined several potential “worst-case” truck trip generation conditions to disclose the maximum traffic impact that could result from the proposed project. Under this scenario, the project would result in approximately 138 truck trips through the Ojai area per day.

Table 6.2-1 of the May 18, 2007, staff report summarized information used by the EIR to evaluate truck traffic conditions and impacts in the Ojai area. As indicated on the Table, the Average Mine Production – Production Dispersed to all Locations scenario would result in 18 additional truck trips through the Ojai area. This increase in truck trips would be a one percent increase over the number of existing truck trips (148) that occur on Highway 33 north of Ojai. For reference purposes, a copy of Table 6.2-1 is provided below.

**STAFF REPORT TABLE 6.2-1  
PERCENT INCREASE IN TRUCK TRAFFIC ON STATE ROUTE 33**

	ADT	Total Trucks	% Trucks	Additional Project-Related Truck Trips	New ADT	Total Trucks	% Trucks	Change
<b>EXISTING TRAFFIC VOLUMES (2004)</b>								
SR 33 Near Ventucopa	410	34	8%					
SR 33 at North End of Ojai (El Roblar Dr)	2,950	130	4%					
SR 33 South of Ojai	24,500	823	3%					
<b>INCREASE DUE TO PROJECT TRUCK TRAFFIC</b>								
<b>Average Mine Production Year (All Production to Ventura)</b>								
SR 33 Near Ventucopa	410	34	8%	92	502	126	25%	17%
SR 33 at North End of Ojai (El Roblar Dr)	2,950	130	4%	92	3,042	222	7%	3%
SR 33 South of Ojai	24,500	823	3%	92	24,592	915	4%	0%
<b>Peak Mine Production Year (All production to Ventura)</b>								
SR 33 Near Ventucopa	410	34	8%	138	548	172	31%	23%
SR 33 at North End of Ojai (El Roblar Dr)	2,950	130	4%	138	3,088	268	9%	4%
SR 33 South of Ojai	24,500	823	3%	138	24,638	961	4%	1%
<b>Average Mine Production Year (production dispersed to all locations)</b>								
SR 33 Near Ventucopa	410	34	8%	18	428	52	12%	4%
SR 33 at North End of Ojai (El Roblar Dr)	2,950	130	4%	18	2,968	148	5%	1%
SR 33 South of Ojai	24,500	823	3%	18	24,518	841	3%	0%
<b>Peak Mine Production Year (production dispersed to all locations)</b>								
SR 33 Near Ventucopa	410	34	8%	28	438	62	14%	6%
SR 33 at North End of Ojai (El Roblar Dr)	2,950	130	4%	28	2,978	158	5%	1%
SR 33 South of Ojai	24,500	823	3%	28	24,528	851	3%	0%

Traffic data from Caltrans (2004)

Source: May 18, 2007 Diamond Rock staff report

**Truck Trip Reduction Measures.** The EIR's analysis of truck trips that could be generated by the Diamond Rock project was based on the assumptions of truck traffic generation and distribution characteristics provided by the project applicant. Subsequent to the May 30<sup>th</sup> Planning Commission hearing, the applicant requested that the project description (condition No. 1 of 03CUP-00037) be clarified to indicate that the average number of project-generated truck trips traveling through the Ojai area each day will be limited such that the five pounds per day air quality significance threshold adopted by Ventura County for the Ojai Planning area will not be exceeded.

Condition of Approval No. 34. Proposed conditions of approval also limit the number of project-related truck trips that may be directed through the Ojai area. Condition of approval No. 34 requires that truck traffic to and from the Diamond Rock project site shall be prohibited through the Ojai area. However, should the County of Ventura approve additional mining-related truck trips into Santa Barbara County, a similar number of Diamond Rock-generated truck trips may be subsequently allowed through Ojai. Should this occur, proposed condition of approval No. 34c would limit the number of trucks to and from the Diamond Rock project site through the Ojai area so that the Ojai Planning Area five pounds per day air quality significance threshold would not be exceeded. Condition of approval 34d requires that a change in project-related truck volumes and distribution patterns through the Ojai area be considered by the Planning Commission at a noticed public hearing.

Based on the clarification of the Project Description and the requirements of condition 34c, the number of truck trips that may be subsequently allowed through the Ojai area consistent with the five pounds per day significance threshold may increase over time as future technology improvements reduce vehicle-related emissions. Estimates of the number of project-related truck trips that could occur through the Ojai valley airshed consistent with the five pounds air quality threshold were provided by West Coast Environmental (Attachment D). Based on the use of 2005 emission rates provided by EMFAC2002, a total of 11 truck trips per day could be allowed through the Ojai area consistent with the five pounds per day limitation on project-related truck emissions. Using emission rates for 2009 conditions, a range of approximately 9-17 truck trips per day could be allowed through the Ojai area consistent with the five pounds per day air quality threshold. The range in the number of daily truck trips results from changes in emission factors provided by different emission source references (EMFAC2002 and the updated EMFAC2007). However, and as indicated above, proposed condition of approval 34d requires a modification to the Diamond Rock mine Conditional Use Permit before any project-related truck trips may be allowed through the Ojai area. The number of truck trips that may be allowed would be determined at that time.

Environmental Effects of Condition No. 34. Condition 34 would preclude project-related truck traffic from traveling southbound on State Route 33 through the Ojai area. This condition could result in a reduction in the amount of sand and gravel produced by the Diamond Rock project, or could have the effect of increasing traffic from the Diamond

Rock project northward towards San Luis Obispo and Kern Counties. The potential traffic, noise, and air quality effects of this additional traffic distribution scenario were not evaluated in the EIR.

An evaluation of the potential environmental effects of implementing the requirements of condition No. 34 has been conducted. This analysis assumed that instead of 20% of the project-generated traffic traveling southbound on State Route 33 to Ventura, a similar amount of traffic would instead travel north on SR 33 towards SR 166. At the intersection of State Route 33 and State Route 166, the traffic would be split between destinations to the west (Santa Maria, San Luis Obispo County) and the east (Kern County). Under a worst case assumption for either destination, all of the redistributed traffic would go either to the west or to the east. The results of the supplemental evaluation of potential impacts of condition No. 34 are summarized below, and additional information regarding the additional analysis is provided in Attachment F of this staff report.

*Potential Traffic Volume Effects.* The analysis of potential traffic impacts to State Routes 33 and 166 resulting from the implementation of condition No. 34 concluded that the resulting additional traffic volumes on those highways would be less than the worst-case traffic volume assumptions used by the EIR to evaluate project-related traffic impacts. The EIR's analysis of potential worst case traffic impacts to State Routes 33 and 166 concluded that the Diamond Rock project would not result in significant impacts to the highways' level of service and would not result in a significant traffic impact. Therefore, the implementation of condition No. 34 would not result in significant traffic impacts to State Routes 33 or 166.

*Potential Traffic Noise Effects.* The potential for additional northbound project-related traffic on State Route 166 to result in significant traffic noise impacts was also evaluated. The analysis evaluated several mine production/truck distribution scenarios and concluded project-related traffic could increase ambient noise levels adjacent to the highway by a maximum of 0.6 dBA. This incremental increase would not be perceptible and would not result in a significant impact.

*Potential Air Quality Effects.* Shifting additional truck traffic into San Luis Obispo and Kern Counties would result in additional haul truck emissions of NO<sub>x</sub>, which would be the primary ozone precursor of concern. Potential NO<sub>x</sub> emission occurring in San Luis Obispo and Kern Counties as a result of implementing condition 34 are summarized as follows:

Average Production Year (with 18 trips/day shifted from Ventura County)

San Luis Obispo County	21.3 lb/day NO <sub>x</sub>
Kern County	13.8 lb/day NO <sub>x</sub>

Peak Production Year (with 28 trips/day shifted from Ventura County)

San Luis Obispo County	32.2 lb/day NOx
Kern County	20.8 lb/day NOx

The NOx emission impact significance threshold for San Luis Obispo County is 25 lbs/day, and the threshold for Kern County is 10 tons/year, or 55 lbs/day. Comparison of the estimated emissions with the adopted thresholds indicates that under the average year production scenario, no significant air quality impacts would occur in either jurisdiction. Under the peak production scenario, however, it is possible that the NOx threshold in San Luis Obispo County would be exceeded, but the threshold for Kern County would not. The potential impact in San Luis Obispo County is similar to the project-related emission impact previously identified by the EIR for Santa Barbara County if the peak production assumption is used. Proposed mitigation measure AQ-3 would limit project-related daily truck traffic to avoid exceeding the NOx threshold in Santa Barbara County, and the same mitigation measure would be equally effective in reducing potential impacts in San Luis Obispo County. Therefore, the conclusions of the EIR with respect to air quality would be the same with the implementation of condition No. 34.

**2. Traffic Safety on State Route 33**

Information was provided at the May 30<sup>th</sup> hearing detailing California Highway Patrol reports on truck accidents along State Route 33 between mile post 12 in Ventura County (south of Ojai) to Mile post 2.8 in San Luis Obispo County (south of the intersection with SR 166). The information provided at the hearing includes only data on accidents involving heavy trucks from 1996 through 2006, and lists 24 such accidents. Detailed accident reports are provided for 8 accidents.

The Diamond Rock EIR includes a summary of accident data for SR 33 (and for SR 166) in Table 3.5-17. The roughly comparable information in this table is that which is presented in the middle two rows, covering SR 33 from SR 166 to Lockwood Valley Road and then to SR 150 in Ojai. The EIR data covers only four years (2001 through 2004) and indicates that there were 10 heavy truck accidents on this portion of SR 33 during these four years. The accident data provided at the hearing covers 10 years (2.5 times longer) and indicates that there were 24 truck accidents. In terms of the truck accident rate, the two summaries are consistent with one another.

The EIR also includes data for all accidents from 2001 through 2004 on SR 33. Based on numbers of accidents, heavy trucks accounted for 6% of all accidents on SR 33 between SR 166 and Ojai. EIR Table 3.5-15 gives general traffic data showing that truck traffic accounts for 4-8% of the total ADT on SR 33. Thus, the fraction of all accidents represented by trucks is within the range of what would be expected based on their numbers compared to the total traffic volume.

Staff also contacted the California Highway Patrol, who provided recent data on accidents and fatalities along SR 33 from 2002 to the present. That data indicated that there have been a total of 38 truck accidents in the 5.5 years reviewed (including two axle and three axle trucks as well as tractor-trailer combinations, accounting for the higher number) along SR 33 in Ventura County, and none of these resulted in a fatality. The CHP response indicates that the accident frequency and severity for SR 33 is not abnormal.

With respect to other highway segments, the data in EIR Table 3.5-17 show that the accident rate—either by number of accidents or by accidents per mile per year—along the steep and winding segment of SR 33 from the project site to Ojai is about the same as the rates for SR 33 south of Ojai or for SR 166.

In summary, the available data, including the information provided at the Planning Commission hearing, indicates that the frequency of truck accidents along SR 33 is not disproportionately large when compared with all accidents or when this segment of SR 33 is compared with other highways.

### **3. Ventura County APCD Comments**

The Ventura County APCD provided comments regarding project-related air emissions in the Ojai Planning Area, the health risk assessment prepared for the Diamond Rock project, and project-related cumulative air quality impacts. The project applicants' agent (West Coast Environmental) has also prepared responses to the comments provided by the Ventura County APCD and those responses are provided as Attachment D.

**Ojai Planning Area Emissions.** The EIR for the Diamond Rock project concluded that project-related emissions in the Ojai Planning Area resulting from the operation of material-hauling trucks would not exceed the five pounds per day significance threshold adopted by Ventura County for the Ojai area. In their comment letter, the Ventura County APCD indicated that project-related air quality impacts in the Ojai area should have been based on an evaluation of the “worst-case day, rather than long-term annual average truck trips.”

The EIR for the Diamond Rock project evaluated air emission impacts based on typical project-related truck distribution patterns for average year and peak production year periods. The analysis methodology used by the EIR to evaluate air quality impacts is consistent with the assessment procedures incorporated into the URBEMIS air emission model, which is used to evaluate air quality impacts in California. As indicated in the response letter provided by West Coast Environmental (Attachment D), the EIR's analysis of truck emissions resulting from a maximum average day is also consistent with the analysis of haul-truck emissions that has been conducted for other mine projects located in Ventura County.



The Ventura County APCD also commented that “as there are no proposed limits on the number of truck trips through Ventura County” peak traffic conditions would exceed the Ojai Planning Area five pounds per day threshold. The conditions of approval for the proposed project do contain limitations on the number of truck trips that may occur through the Ojai area, as proposed condition of approval 34 indicates that no truck trips would be allowed through the Ojai area. Should project-related truck trips be allowed through the Ojai area in the future, proposed condition of approval 34c limits the number of trucks so that the five pounds per day air quality impact significance threshold would not be exceeded. Therefore, the truck-related air emissions resulting from the Diamond Rock project would not exceed the air quality significance threshold for the Ojai Planning Area in the near-term or in the future.

**Health Risk Analysis.** The Ventura County APCD commented that the health risk analysis provided by the EIR underestimated potential impacts from increased truck traffic in the Ojai area because the truck-related emissions were based on typical truck distribution patterns, and the number of truck trips through the Ojai area is not limited.

The health risk analysis provided in the EIR indicates that potential health risk impacts to residences adjacent to State Route 33 resulting from potential exposure to emissions from project-related trucks would be less than one in one million, which is substantially lower than the significance threshold of ten in one million. Comment responses provided by West Coast Environmental also indicate that the health risk assessment for on-road vehicles included 100% of the haul truck traffic (i.e., 138 average daily trips). Therefore, an adequate assessment of truck traffic-related health impacts resulting from the proposed project has been provided.

**Cumulative Air Emissions.** The Ventura County APCD commented that the EIR’s analysis of truck traffic emissions should have considered other existing mines located in the project region. The EIR’s analysis of the project-related transportation emission impacts was conducted consistent with procedures for evaluating air quality impacts and the requirements of adopted thresholds of significance, which indicate that a project would result in a significant project-specific and cumulative impact when the project’s mobile emissions exceed the threshold of 25 pounds per day.

#### **4. Project-Related Health Risk Impacts**

Comments have been provided that the health risk analysis for the proposed project did not disclose potential acute health impacts of certain toxic air contaminants associated with diesel emissions.

The health risk analysis prepared for the Diamond Rock project evaluated potential cancer and chronic health risk impacts resulting from project-related emissions of diesel particulate matter. This analysis was based on California Air Resources Board methodologies, the requirements of the Santa Barbara APCD, and exposure and risk

factors adopted by the California Office of Environmental Health Hazard Assessment. Potential cancer and chronic health risk impacts were determined to be less than significant.

The acute health effects of diesel particulate matter were evaluated to the extent possible by the health risk analysis based on health effect data available from the Air Resources Board. However, due to the absence of reliable health risk information for certain toxic air contaminants associated with diesel particulate matter, the Santa Barbara County APCD has previously determined that acute non-cancer risk analysis for diesel particulate matter is uncertain and acute health risk analysis is not required at this time. Additional information regarding the preparation of the health risk assessment for the Diamond Rock project is provided in the response letter provided by West Coast Environmental (Attachment D).

## **5. Potential Project-Related Impacts Regarding PM<sub>2.5</sub>**

Comments submitted indicated that one component of diesel exhaust is PM 2.5 (particulate matter 2.5 microns or less in diameter). Although the EIR states that there is not yet enough data to determine the County's attainment status for PM 2.5 under state or federal standards (FEIR 3.7-4), that does not excuse the EIR from disclosing the project's contribution of this serious pollutant to the airshed. Diesel engines, which the project would employ in substantial numbers, are a significant source of PM 2.5 pollutant. ( 68 Federal Register 28327 (May 23, 2003), p. 28343, 28339.) PM 2.5 contributes to a number of serious health problems and thus the extent of the pollutant and its likely impact must be disclosed. (*Id.*) The comment incorporated 68 Federal Register 28327 (May 23, 2003), pages 28327-28376 by reference; it is available on the Internet at <http://www.epa.gov/cgi-bin/epaprintonly.cgi>.

The EIR does not ignore the project-related emissions from diesel engines, both onsite and offsite. These are presented and discussed in Sections 3.7.2.3.3 (Off-Highway Mobile Equipment), 3.7.2.3.4 (Haul Truck Emissions), and in a special section dealing specifically with the potential health effects of emissions from diesel engines (Section 3.7.2.4, Potential Impacts-Diesel Emissions).

The referenced publication in the Federal Register is a Notice of Proposed Rulemaking prepared by the U.S. EPA to announce changes in the Code of Federal Regulations at 40 CFR Parts 69, 80, 89, 1039, 1065, and 1068. The title of the announcement is "Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel." The publication does present a thorough discussion of health effects of diesel exhaust, including that from primary fine particulate matter in exhaust and secondary fine particulate matter formed in the atmosphere from constituents in diesel exhaust. The growing awareness of adverse health effects posed by PM 2.5 and by other specific constituents in diesel exhaust is why U.S. EPA has acted to regulate fuel composition and emissions from diesel engines. It is also the reason why the California Air Resources Board has conducted research and

initiated regulation at the state level, as described in some detail in Section 3.7.2.4 of the EIR.

From the U.S. EPA rulemaking announcement cited by the commenter, Figure II-1 (page 28337) indicates that neither Santa Barbara County nor Ventura County were considered "Counties Exceeding PM 2.5 NAAQS," at the time of the publication. When the Revised Draft EIR for the Diamond Rock project was published in late 2006, the Santa Barbara County air basin was "unclassified" with respect to its attainment of the new federal PM 2.5 standards (15 micrograms/cubic meter and 35 micrograms/cubic meter for the annual arithmetic mean and the 24-hour average concentrations, respectively). An update of that determination by the Santa Barbara County Air Pollution Control District indicates that the County is considered U/A (still unclassified, but likely to be in attainment, see <http://www.sbcapcd.org/sbc/attainment.htm>).

No change is necessary in the discussions, results, or conclusions in the Final EIR.

## 6. Potential Special-Status Plant Impacts

A letter from Magney Environmental Consulting indicates that the EIR incorrectly states that there are no special status plant species present on the Diamond Rock project site. The comment then indicates that in survey work on the property, Magney specifically identified five such species:

*Astragalus macrodon* (CNPS List 4)  
*Eriogonum inerme* (locally rare)  
*Filago depressa* (locally rare)  
*Lessingia tenuis* (locally rare)  
*Romneya coulteri* (CNPS List 4)

Section 3.4.2.4 (page 3.4-7) of the Diamond Rock project EIR indicates that special status plant species occur in several different categories. In order of decreasing sensitivity from a regulatory perspective, these are:

- Federally listed endangered or threatened species, as designated by the U.S. Fish and Wildlife Service
- California listed endangered or threatened species, as designated by the California Department of Fish and Game
- Species listed by the California Native Plant Society, and placed in one of the following categories:
  - 1A Species presumed to be extinct in California
  - 1B Rare or endangered in California and elsewhere
  - 2 Rare or endangered in California, more common elsewhere
  - 3 Need more information.

#### 4 Limited distribution

Threat ranks are added to the CNPS categories: 0.1 – seriously threatened, 0.2 – fairly threatened, 0.3 – not very threatened.

- Species not found on the CNPS statewide list, but maintained on a checklist of locally rare plants that is kept by a local CNPS chapter

There is no specific guidance or definition used by the County of Santa Barbara to apply the above categories in identifying special status species for a given project. In some circumstances, “special status species” are defined to include only federal or state listed species and those on CNPS List 1B or List 2. In other cases, the County will consider species on CNPS List 3 and 4 as also having “special status.” And in some cases, the County will also consider species that are “locally rare” but not present on any statewide list as having “special status.” The exact use and categorization is determined by the project biologist, depending on the species and circumstances present in a given project.

For the Diamond Rock project, the biology survey report identified special status species as those species listed in the California Natural Diversity Database “Rarefind 2” report, or contained in the California Department of Fish and Game 2003 List of Special Plants, or on the CNPS List 1B or List 2, or considered sensitive by the Los Padres National Forest (Bumgardner 2003b:3). Thus, the Diamond Rock biology survey report did not include CNPS List 3 and 4 species, or those plants considered locally rare by the CNPS chapter, in its definition of “special status plants.”

The biology survey report also included information on locally rare but “non-special status” plant species, provided by Dr. Dieter Wilken at the Santa Barbara Botanic Garden through communication with David Magney. This information is included as Appendix B in the Bumgardner 2003b report. This Appendix B discusses nine “locally rare” plant species, all of which were observed on the property but none of which were considered “special status” plants in the biology survey report. None of these nine species are within the group that David Magney lists in his comment letter. The five plant species that are mentioned in David Magney’s comment letter are all included in the biology survey report as occurring on the property (Bumgardner 2003b:Appendix A), but none are mentioned in the Appendix B listing of “locally rare” species. All five of David Magney’s species are listed, however, as locally rare plant species by the Channel Island chapter of the CNPS,—a list also prepared by Dr. Wilken (2003. *Locally Rare Plants of Santa Barbara County*. Central Coast Center for Plant Conservation, Santa Barbara Botanical Garden, Santa Barbara, CA.).

Regardless of the distinctions or inclusion of “locally rare” plant species, the EIR was inconsistent in its definition and use of the term “special status plant species,” between the biological survey report and the text of the EIR.

The following revisions in the text of the EIR (Section 3.4.2.4, page 3.4-7) clarify this matter:

Special status plant species include the following categories of species that are considered rare, or endangered: 1) species officially designated as rare, threatened, endangered by the California Fish and Game Department (CDFG) or US Fish and Wildlife (USFWS); 2) species included in the California Native Plant Society (CNPS) Inventory of Rare and Endangered Species of California on List 1B or 2 (rare or endangered in California), The biology survey report also reviewed plant species considered sensitive by the Los Padres National Forest (Bumgardner 2003b:3).

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Based on the review of pertinent studies and records, seven rare or endangered plant species were identified that occur in the Cuyama Valley, including three federally listed species: California jewel-flower, Hoover's eriastrum, and San Joaquin woolly threads. The other four species are included on CNPS List 1B – plants considered rare and endangered in California. A summary of these species is provided in Table 3.4-2. The occurrence of these species and their habitat types at the project site was investigated during the 2002, 2003, and 2004 surveys by Bumgardner Biological Consulting and URS. No listed rare or endangered plant species were observed at the project site, nor are any expected to occur due to the absence of suitable habitat.

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Nine plant species, which are considered of interest due to their limited distribution or their rarity in Santa Barbara County, were observed on the project site. None of these species, however, is considered rare or endangered. These are described in the biological survey report (Bumgardner 2003b:Appendix B) and include

*Achnatherum hymenoides* (Indian ricegrass)

*Atriplex canescens* ssp. *Canescens* (Fourwing saltbush)

*Chrysothamnus nauseosus* ssp. *Bernardunus* (San Bernardino rubber rabbitbrush)

*Encelia farinose* (Brittlebush)

*Eriastrum filifolium* (Thread-leafed eriastrum)

*Loeseliastrum schottii* (Schott's loeseliastrum)

*Monardella breweri* (Brewer's coyote mint)

*Purshia tridentate* var. *glandulosa* (Antelope bush)

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A comment was also provided indicating that *Astragalus asymmetricus* is known only from one location in Santa Barbara County, and from only one location in Ventura County. By the definitions of rare plants listed in the EIR on page 3.4-7, this species should have been treated as a rare species.

As clarified by the response provided above, the definition of a rare plant in the biological survey report and in the analysis in the EIR was intended to be limited to species listed by the federal or state agencies, or by the CNPS in list 1B or 2. *Astragalus asymmetricus* is not on any such list. It is commonly found in the San Joaquin Valley, a range extending to within a few miles northeast of the project site. It is not listed by Wilken (2003) as being locally rare in Santa Barbara County, and was not addressed as such in Appendix B of the biology survey report. The biology survey report lists both *A. asymmetricus* and *A. macrodon* as being present on the project site.

## **7. Potential Blunt Nosed Leopard Lizard Impacts**

Several comments have been received related to the evaluation of blunt-nosed leopard lizard impacts and the proposed mitigation program. In general terms, these comments were related to two items:

1. The proposed fencing scheme is not adequate to prevent blunt-nosed leopard lizards from entering the excavation or traffic areas and, thus, cannot ensure that individuals will not be harmed by the project. Small animals are likely to burrow under the fence, providing pathways for the blunt-nosed leopard lizards to enter areas that will be disturbed by the project.
2. Construction of the fence itself will constitute harassment of the blunt-nosed leopard lizards and should, thus, be considered "take" under the terms of the endangered species act.

The project applicant, as part of his processing for a U.S. Army Corps of Engineers permit under Section 404 of the Clean Water Act, has completed the Section 7 consultation process with U.S. Fish and Wildlife Service, required by the federal Endangered Species Act. This process resulted in a letter from the USFWS concluding that issuance of the Army Corps permit and compliance with the conditions set forth by the USFWS will not jeopardize continuance of the listed species (blunt-nosed leopard lizard and San Joaquin kit fox). The letter specifically references the exclusionary fencing and temporary fencing designed to prevent blunt-nosed leopard lizards from entering the excavation area or other disturbance areas. Measures to avoid take of the species include a worker education program, the exclusionary fencing, preservation and restoration of appropriate habitat, pre-construction surveys and re-location of individuals if necessary, and monitoring and reporting to the USFWS. All biological work is to be conducted by a professional biologist approved by the USFWS.

The California Department of Fish and Game has also entered into a streambed alteration agreement with the applicant, which establishes appropriate conditions to preserve and restore habitat and to minimize the adverse effects of the project.

The EIR includes a description of the exclusionary fencing, explaining that it must extend underground for the purpose of discouraging burrowing animals, and must include metal flashing above ground to make it difficult to climb by blunt-nosed leopard lizards.

The USFWS Biological Opinion Letter is dated December 5, 2006. The letter specifically defines "harass" as follows (on page 11):

Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.

The letter proceeds to define incidental take, and to note that such incidental take "...is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this incidental take statement." Thus, implementation of the blunt-nosed lizard protection measures as described in the EIR and as incorporated into the U.S. Army Corps permit process, are considered adequate mitigation to avoid or minimize effects to this species.

## 8. Groundwater Conditions in the Project Vicinity

Comments were received indicating that information in the EIR about groundwater conditions in the Cuyama Valley was based on information contained in a 1992 study, and it was asked if more recent data regarding groundwater conditions was available. Comments also noted that a fault is located in the project area that affects groundwater conditions at the project site.

**Groundwater Studies.** The status of groundwater resources in the Cuyama Valley has been periodically reviewed and updated. These updates have included:

- California Department of Water Resources. 2003 (updated February 27, 2004). California's Groundwater. Prepared by the Division of Planning and Local Assistance, California Department of Water Resources, Sacramento, CA. Available at: <http://www.groundwater.water.ca.gov/bulletin118/update2003/index.cfm>
- County of Santa Barbara Department of Public Works. 2005 Santa Barbara County Groundwater Report (Last updated July 27, 2006). Prepared by the Water Resources Division of the Santa Barbara County Department of Public Works, Santa Barbara, CA. Available at: <http://www.countyofsb.org/pwd/water/downloads.htm>

The County of Santa Barbara report includes measurements of groundwater levels through 2006. In general, more recent information regarding groundwater use and the

overdraft conditions in the Cuyama Valley indicate that conditions have not changed substantially over the last 20 years.

**Project Area Fault.** This comment indicated that the EIR states that there are no faults in the area, however, the Cuyama Valley fault cuts across the project where it (the fault) crosses the river. The fault displaces the downstream bedrock upward, and is overlain by a bentonite (clay) layer. The impermeable clay over the bedrock forms a step or bowl over which groundwater must pass to flow into the downstream portion of the groundwater basin. Excavations of the mine could reach as deep as 90 feet and may interfere with this hydrologic barrier.

The discussion of faults on page 3.2-3 (Section 3.2.1.3.2) of the EIR is in the context of active faults capable of causing surface rupture. For clarification, the third sentence of this paragraph should read: “No active faults are mapped within one mile of the project site.”

The Cuyama Valley fault presumably crosses the Cuyama River at or just upstream from the Diamond Rock project site. It is one of several faults in the larger region that cross the groundwater basin. The California Department of Water Resources (2003, cited above) describes these as “restrictive structures,” which are defined as “small faults that cut through the basin fill act as barriers to groundwater movement.” Historically, flowing springs were found along the trace of faults that parallel Graveyard and Turkey Trap Ridges.:

Review of well logs for water production wells on the Diamond Rock project site indicate the presence of sand and “decomposed granite boulders” to a depth of 120 feet, and then a layer of “brown clay,” which may be the impermeable clay layer referenced by this comment. The mining depth proposed by the Diamond Rock project would not exceed 90 feet. In any event, mining would be halted if groundwater was intercepted (or if unsuitable material such as clay was intercepted). In this event, the mining operation would shift to a new area within the designated mining limits. Therefore, the project would not intercept or interact with the restrictive structure that may be created by the trace of the Cuyama Valley fault beneath the Cuyama River, and there would be no affect on the flow of groundwater.

## **9. Groundwater Impact Significance Threshold**

A comment was provided indicating the County’s threshold of significance for the Cuyama groundwater basin was adopted by the Board of Supervisors in 1992, and may no longer be an appropriate threshold for the basin.

The threshold of significance adopted by the Board was based on data related to the Cuyama groundwater basin, such as its storage capacity, recharge rates, safe yield and water demand. Based on analysis of that data, a groundwater use significance threshold



of 31 acre feet per year was adopted. In response to the comment regarding the validity of the adopted significance threshold, P&D consulted with the County Water Agency, which indicated:

*“The Board of Supervisors adopted the CEQA thresholds for groundwater use in 1992 based on land use and groundwater conditions. We have been monitoring land use and ground water levels in the Cuyama area since that time. While there has been some increase in planted acreage since 1992, we have noted no substantial change in land use during that time. We note that ground water levels rose slightly due to the above average precipitation in the 1990’s. Therefore we have no basis or suggesting a reconsideration of thresholds established in 1992.”*

Based on the results of long-term groundwater level monitoring, the general continuation of land use conditions in the Cuyama region that existed in 1992, and input from the Water Agency, staff has concluded that the adopted groundwater threshold of significance for the Cuyama groundwater basin is still applicable and appropriate.

#### **10. In-River Sediment Transport**

The U.S. Environmental Protection Agency submitted a letter indicating that together, the GPS (located downstream and adjacent to the proposed project site) and Diamond Rock mines propose to mine an average of 1,000,000 tons of sediment per year from the Cuyama River. The Revised Draft EIR for the proposed Diamond Rock facility included a sediment transport analysis that estimated the annual sediment inflow to the combined mine sites at about 314,000 tons per year, with an average outflow of 85,000 tons, resulting in an annual accumulation of 229,000 tons. The EIR concluded “...that the proposed mining projects would create a sediment deficit of approximately 771,000 tons per year which could affect river hydraulics, including possible channel degradation and possible upstream headcutting.” The EPA also indicated that although the Revised Draft EIR included information about the impacts of the proposed project, they do not feel that it adequately addresses the cumulative impacts that would result from permitting the proposed Diamond Rock mine in conjunction with the increased production rates at GPS. Together, these two projects have the potential to significantly impact the hydrology of the Cuyama River.

The hydrology and sediment transport analysis presented in the EIR was intended to identify and describe the potential for impacts associated with sand mining in river beds, and to provide a context for the mitigation measures suggesting minor design changes to the design of the mine (W-1, W-3 and W-4) and stream bed and bank monitoring requirements (W-2) for data to be referenced in annual inspections as part of the County’s monitoring and enforcement authority in the Conditional Use Permit. The sediment study was not intended to be used for engineering design purposes and should not be interpreted as establishing a specific engineering requirements related to the proposed Diamond Rock mine. The EIR contains a weighted annual average estimate of

sediment flow (the 314,000 tons per year cited in the US EPA comment), which is derived from estimates for sediment flow associated with specific storm events. The range in this estimate, however, is very large—from less than 100,000 tons for a single 2-year storm event to over 1,000,000 tons for a 20-year storm event, and nearly 4,000,000 tons for a 100-year storm.

The proposed mine is not intended to intercept and remove sediment as it is transported along the river. Rather, it is intended to excavate and remove a volume and quality of material that is known to exist beneath the current river bed. The relationship between the project and the sediment transport function of the Cuyama River is determined by how river flows are diverted around the excavation area or, in the case of higher flows, how the excavation pit collects water, fills up, and influences flow velocities. The potential for downstream scouring or upstream headcutting is discussed in the EIR (Section 3.1.2.2.3 on pages 3.1-16 through 3.1-9). On the basis of observations of the GPS operation, observations of the river bed upstream and downstream, and in conjunction with the analysis in the EIR, URS Corporation and the County have concluded that the probability for substantial erosion of either type is low and that the resulting effect is not likely to be significant. The EIR recognizes the uncertainties involved in this issue, however, and identifies mitigation measures that are intended to ensure that such erosion remains less than significant.

The analysis incorporated both the GPS and the proposed Diamond Rock properties. The US EPA comment is incorrect in characterizing the GPS proposal as increasing its production rate. The GPS proposal will shift the excavation area for that project, and will establish a permit rate that reflects the historical production rates at that mine.

#### **4.0 PLANNING COMMISSION QUESTIONS AND COMMENTS**

##### **1. Do the traffic counts for SR 33 distinguish between weekday traffic and weekend traffic volumes?**

Traffic count data presented in the EIR denotes the “annual average daily traffic.” This is the projected number of annual vehicle trips on a highway segment divided by 365. Data distinguishing between weekend and weekday traffic volumes is not typically considered by traffic impact evaluations, as the potential for traffic volume-related impacts is typically based on project-related changes to average daily traffic conditions.

##### **2. Please provide additional information on how truck traffic restrictions imposed on the Diamond Rock project would be enforced.**

Several conditions of approval have been proposed to monitor truck traffic generated by the Diamond Rock mine, as well as other existing and proposed mines in the project area. Condition of approval No. 35 would be the primary monitoring provision for truck traffic generated by the Diamond Rock mine, and this condition states:

**Project-Generated Truck Traffic Monitoring.** Daily weight receipt records for material hauling trucks leaving the project site shall be made available for inspection by the County. The weight receipts shall also indicate the origin location of the truck, destination of the truck, and the time it left the project site. The permittee shall keep at least the previous 365 days weight receipts on file at the project at all times.

This condition of approval would enable the County to determine the number of trucks entering and leaving the project site on a daily basis, and to determine the place of origin for the truck trip and the destination of the trip. The average number of daily truck trips over a specified period (i.e., the average number of truck trips to a particular destination over weekly or monthly period) could also be determined. Information regarding the time that trucks left the project site would enable the County to reasonably estimate if a particular truck trip occurred in the Ojai area during the morning or evening peak traffic hours.

Proposed condition of approval No. 21 excludes project-generated truck trips through the Ojai area during the AM and PM peak traffic periods. This condition of approval also requires that records be maintained indicating the time southbound trucks leave the project site.

Proposed conditions of approval Nos. 36 and 37 would facilitate the establishment of a regional mine-related traffic monitoring program with Ventura County. The purpose of these conditions is to facilitate the implementation of a uniform permit compliance monitoring program by both Counties for mine-related traffic. Condition No. 36 would enable the implementation of monitoring programs such as the installation of traffic monitoring devices at or near the mine entrance, and the use of County staff or consultants to monitor truck traffic. The cost of these monitoring provisions would be paid for by the mine operators. Condition of approval No. 37 would require product-hauling trucks to display an easily identifiable placard indicating that the truck is traveling to or leaving the Diamond Rock mine. This monitoring program would only become effective when other mines in the Cuyama area are required to comply with a similar condition.

**3. Please provide additional information about the project-related emergency use of State Route 33.**

LUDC Section 35.82.090 provides procedures for granting Emergency Permits, which are intended to modify the County's permitting requirements in the event of a verified emergency. This section describes procedures to be implemented by the Planning and Development Director prior to granting an Emergency Permit, including notification requirements. The section also requires the Director to report to the Board of Supervisors regarding the nature of the emergency for which the permit was issued. Depending on the characteristics and severity of the emergency, the Director would be

authorized to temporarily modify conditions of approval related to restrictions on the number of project-related truck trips and the times they occur in the Ojai area.

**4. Please provide additional information regarding the proposed project's cumulative groundwater use impacts.**

In summary, the EIR indicates that the Cuyama Valley Groundwater Basin is in a state of overdraft by approximately 25,000 to 30,000 acre feet per year. To evaluate the significance of impacts related to increased groundwater use, the Board of Supervisors has adopted a significance threshold of 31 acre feet per year. If a project would result in a net new consumptive use of groundwater in excess of 31 acre feet per year, that project would result in a significant project-specific ground water use impact. The threshold is also the point at which the project's use of groundwater would result in a substantial contribution to a cumulatively significant impact.

The EIR calculated that during average production years, the proposed project's net consumptive use of groundwater would be 6.25 acre feet per year more than historic water use rates at the project site. During peak production years, the proposed project would result in a 28.12 acre feet per year increase in groundwater use. Therefore, the proposed project's groundwater use would not exceed the 31 acre feet per year threshold and would not result in a significant project-specific or cumulative water use impact.

**5. Please provide additional information regarding the proposed mitigation measure provided for potential project-related lighting impacts.**

Proposed condition of approval No. 32 requires that lighting provided in the proposed Processing Area not exceed 0.5 foot candle at the project property boundary. The Processing Area would be located at least 100 feet west of State Route 33, and visual/lighting impacts to the highway would also be minimized by proposed earthen berms and landscaping to be provided between the processing area and the highway. To further reduce the potential for lighting-related impacts, condition of approval No. 32 has been revised to require that lighting in the Processing Area not exceed 0.5 foot candle at the perimeter of the Processing Area, rather than the property boundary.

**5.0 PROPOSED EIR AND CONDITION OF APPROVAL CHANGES**

**Clarifications to the Final EIR.** Based on comments received at the May 30, 2007 hearing, several minor changes have been made to the proposed Final EIR. These changes clarify information provided by the EIR and do not affect conclusions regarding the significance of any project-related environmental impacts. The proposed changes to the Final EIR are summarized on an Errata Sheet provided as Attachment E.

**Condition of Approval Changes.** In response to comments provided at the May 30, 2007 hearing, and the request of the project applicant to revise the project description for

the Diamond Rock project so that project-related average daily traffic that may occur in the Ojai area would not emit more than five pounds of NOx per day in the Ojai planning area, several changes to proposed conditions of approval have been made. These changes are summarized below and are also reflected in the proposed conditions of approval provided in Attachment B. All proposed condition of approval changes are noted in underline format.

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### Condition No. 1 (Project Description)

**Project Generated Traffic.** Truck traffic would vary with production. An estimate of the average daily truck trips associated with the proposed project is provided below based on information provided by the project applicant. Estimates based on average annual production (500,000 tons) and maximum annual production (750,000 tons) are provided below for year-round operations (365 days per year) and the use of 29½-ton capacity hauls trucks to deliver finished products to destinations:

- Average production year (500,000 tons) – 46 exit loads, which equates to 92 one-way truck trips
- Maximum production year (750,000 tons) – 69 exit loads, which equates to 138 one-way truck trips.

Truck trips would primarily occur during the daylight hours (5 a.m. to 6 p.m.) with up to 12 hours of loading. For certain orders, truck loading may occur through the night.

The applicant has indicated that project-related average daily truck trips through Ojai shall be limited so that the five pounds per day air quality threshold of significance adopted by Ventura County for the Ojai planning area shall not be exceeded.

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### Condition No. 32

**Project Area Lighting.** Lighting installed at the Processing Area shall have a low glare design, and shall be hooded to direct light downward onto specific areas of the Processing Area. Light fixtures shall be shielded so that neither the lamp nor the related reflective interior surface shall be directly visible outside the Processing Area, and light levels at the perimeter of the Processing Area shall not exceed 0.5 foot candle. **Plan Requirements and Timing:** The applicant shall submit a lighting plan to County Planning & Development for review and approval, specifying the height, location, and intensity of all site lighting. An arrow should be included for each light fixture which indicates the direction of light being cast by such fixture. The plan shall also include a time management component which calls for the reduction of lighting to minimal security levels when there are no nighttime operations. The plan shall be submitted to County Planning & Development for review and approval prior to issuance of a land use permit. **Monitoring:** Ensuring the proper installation and use

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of lighting fixtures shall be included in the annual SMARA mine inspections by the County.

#### Condition No. 34

**Limitations on Project Generated Truck Trips.** Truck traffic to and from the Diamond Rock project site shall be prohibited through Ojai, unless:

- a. New information is presented relative to operations and related truck traffic volumes which increases those volumes into Santa Barbara County from Ventura County.
- b. A multi-agency agreement or Memorandum of Understanding which can include Santa Barbara County, Ventura County, Kern County and San Luis Obispo County is established which sets forth equitable and mutually agreeable trip distribution patterns for mine-related truck traffic on State Route 33.

c. Should future southbound truck trips be allowed through Ojai, the average daily project-generated number of truck trips through the Ojai area shall be limited so that the five pounds per day air quality threshold for the Ojai Planning Area is not exceeded. The average number of project-related trucks allowed through the Ojai area per day shall be based on an applicant-prepared haul truck emissions assessment approved by P&D. The emissions assessment may be updated from time to time over the life of the mine project to reflect reasonable assumptions regarding current haul truck fleet age characteristics.

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d. Prior to allowing truck trips associated with the Diamond Rock mine to travel north or south on SR 33 through the Ojai area pursuant to the requirements of Condition No. 34, or to increase truck traffic in accordance with the requirements of Condition 34c, the project applicant shall file an application to modify the project's Conditional Use Permit. Planning & Development shall provide copies of the permit modification application to the Ventura County and City of Ojai Planning Departments. The application to modify 03CUP-00000-00037 shall be considered by the Santa Barbara County Planning Commission at a publicly noticed hearing. Notice of said hearing shall also be provided to the Ventura County and City of Ojai Planning Departments, and notices shall be provided in a newspaper of general distribution in the Ojai area in accordance with Santa Barbara County noticing procedures.

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## 6.0 APPEALS PROCEDURE

The action of the Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days of said action.

**ATTACHMENTS**

- A. Findings (Conditional Use Permit and Reclamation Plan)
- B. Conditions of Approval (Conditional Use Permit and Reclamation Plan)
- C. Final EIR (Previously provided to Planning Commissioners only)
- D. Response letter from West Coast Environmental
- E. Final EIR Errata Sheet
- F. Condition 34 Analysis

Conditional Use Permit Exhibits

- G. Project Location
- H. Site Plan
- I. Site Plan Detail
- J. Mining Plan – Phase 1
- K. Mining Plan – Phase 2
- L. Cross Sections
- M. Low Flow Control Berm Location

Reclamation Plan Exhibits

- N Bank Restoration Area