

**DECISION RECORD
FOR
ENVIRONMENTAL ASSESSMENT
DOI-BLM-CA-D050-2017-0037-EA**

INTRODUCTION AND BACKGROUND

Silver Standard U.S. Holdings Inc. (a holding company of SSR Mining Inc.) requests BLM authorization to drill & sample unpatented lode claims on public land at Conglomerate Mesa, in the southern Inyo Mountains within Inyo County, California. The proposed action includes authorizing a drilling rig to access seven specific locations identified by the proponent. Two of the seven locations are within the Cerro Gordo-Conglomerate Mesa Area of Critical Environmental Concern. All seven sites are within California Desert National Conservation Lands as described by the Desert Renewable Energy Conservation Plan¹ amendment of the California Desert Conservation Area Management Plan of 1980².

Bureau of Land Management Need for the Proposed Action.

The Federal Land Policy and Management Act of 1976 provides BLM with a variety of policy declarations, administration and management requirements for the California Desert Conservation Area (refer to Section 1.1 of environmental assessment DOI-BLM-CA-D050-2017-0037-EA). The portion of the Federal Land Policy and Management Act of 1976 (FLPMA) entitled “Management of use, occupancy and development of public lands” (43 USC 1732(b)) states that *“Except as provided in section 1744, section 1782, and subsection (f) of section 1781 of this title and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.”*³

That section of FLPMA creates a need for BLM to provide legal ingress and egress, separate from the right-of-way requirements of 43 USC 1761 and other sections of FLPMA, for claimants and their operators to enter the public lands for purposes authorized by the Mining Law of 1872,

¹ Available at [Final DRECP \(http://drecp.org/finaldrecp/\)](http://drecp.org/finaldrecp/)

² Available at [ePlanning \(https://eplanning.blm.gov/epl-front-office/projects/lup/66949/82080/96344/CDCA_Plan.pdf\)](https://eplanning.blm.gov/epl-front-office/projects/lup/66949/82080/96344/CDCA_Plan.pdf)

³ Available at [US Code \(http://uscode.house.gov/\)](http://uscode.house.gov/).

while at the same time creating a need for BLM to prevent unnecessary or undue degradation of public lands and resources. The BLM satisfies both these needs through Surface Management regulations 43 CFR 3809, together with BLM manuals and guidance (to the extent consistent with the mining laws) of pertinent land use management plans.

PROJECT AND ALTERNATIVES DESCRIPTION

Silver Standard US Holdings, Inc. has submitted a plan to explore for locatable minerals on certain lode mining claims owned by Messrs. Noel Cousins and Steven J. Van Ert of Chatsworth, CA. The claims are at Conglomerate Mesa, in the southern part of the Inyo Mountains within Inyo County, California. The intention is to transport a drill rig to seven specific locations, drill several hundred feet deep at each location, take samples, plug the hole(s) and reclaim the sites. All alternatives are described fully in [DOI-BLM-CA-D050-2017-0037-EA](#).

- The operator's proposed alternative involves accessing the area via public BLM route S2978⁴, grading a previously-reclaimed route to seven sites, driving a truck-mounted drill rig to each site, drilling and sampling, plugging each hole, and reclaiming all sites and access routes incident to the project. Estimated surface disturbance 7.75 acres.
- The second alternative involves access the area via public BLM route S2978 and constructing an alternative, less obtrusive route to the seven drill sites. This alternative also involves a truck-mounted drill rig to retrieve drilling samples, plugging each hole and reclaiming all construction & disturbance incident to the project. Estimated surface disturbance 7.28 acres.
- The BLM Preferred Helicopter Access Alternative, my choice in this Decision, avoids road construction and instead calls for a large helicopter to transport a drill rig, supplies and incident equipment. This alternative includes helicopter access drill pads, water storage tanks, hoses to transport water from tank to drilling pad(s), pumps, generator and a heli-portable drill rig. Estimated surface disturbance 0.2 acres.
- Under the No Action alternative, the BLM would not approve the plan of operation, and the Perdito Exploration Drilling Project would not occur.

DECISION

I have reviewed Environmental Assessment (EA) DOI-BLM-CA-D050-2017-0037-EA, and have issued a Finding of No Significant Impact (FONSI) for the Perdito Exploration Drilling Project, plan of operation CACA-56495. The BLM has determined that the operations under the

⁴ Public route terminates near Lat. 36.482°N, Long. 117.735°W

selected alternative will not cause unnecessary or undue degradation, as defined in the BLM's surface management regulations at 43 CFR Part 3809. It is my decision to approve the BLM Preferred Helicopter Access Alternative as described in Chapter Two of the Perdito Exploration Project Environmental Assessment, subject to the mitigation and conservation measures described in that EA and outlined below. The BLM has determined that the operations under the selected alternative will not cause unnecessary or undue degradation, as defined in the BLM's surface management regulations at 43 CFR Part 3809.

In accordance with 43 CFR 3809.803 and 3809.808, this Decision is in full force and effective immediately. The conditions of approval include:

MITIGATION MEASURES AND CONSERVATION MANAGEMENT ACTIONS

Reclamation

Silver Standard will, at the earliest feasible time, reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and offsite damage of the federal lands. Drill hole closure and reclamation will be carried out generally as described for the Silver Standard's Proposed Action Alternative, except that drill roads will not be constructed and thus will not require grading and reclamation.

Reclamation described in Silver Standard's Proposed Action, and carried forward to the chosen helicopter alternative includes:

- Pre-disturbance weed removal from the affected site(s) before construction begins, to be followed by post-Project weed monitoring and retreatment of newly disturbed and reclaimed areas for a period of up to three years. These measures would comply with LUPA-BIO-10 stipulations with respect to the Halogeton and Russian thistle already found on-site.
- Reclamation will be completed in compliance with Conservation Management Actions CMA-LUPA-BIO-7 and LUPA-BIO-8 by using site-specific habitat restoration actions, including, but not limited to: appropriate recontouring; revegetation using an appropriate seed mix and timing; reclamation contingency measures; and the establishment of success criteria and monitoring.
- Following completion of drilling, the sumps will be allowed to dry and then be backfilled. Only one exploration hole will be open at any given time. Drill holes will be abandoned in accordance with the appropriate state regulations for mineral exploration drilling and in accordance with CAM LUPA-SW-31.

- Upon completion of drilling, and when no further access to each drill site is required, disturbed areas and drill sites will be re-contoured to their original slope and seeded with an approved reclamation seed mix. There is very little to no top-soil in the proposed disturbance area. Where available growth media exists (which may consist of unconsolidated material and/or topsoil), it will be stored on the uphill side of the disturbed area and re-distributed over the site after recontouring has been completed.
- Seeding will commence during the first appropriate planting season. The seed mixture and application rate proposed for broadcast seeding will be guided by BLM requirements. A handheld seed broadcaster may be used.
- Refuse and debris generated by the exploration and reclamation activities will be hauled off site for appropriate disposal and/or recycling.
- Natural barriers to the access road at the base of the canyon will be replaced after reclamation. Barriers will be at least as durable as what currently exists and will consist of large boulders and fallen trees pulled into the route to protect the area from non-authorized motor vehicle entry and use.

Performance Standards

- The performance standards of 43 CFR 3809.420 apply to this operation and are attached to this decision as Appendix A. Failure to comply with these performance standards is a prohibited act (43 CFR 3809.605).

Best Management Practices & Applicant Committed Measures

Measures committed to by the applicant and incorporated into this decision include:

Operating Practices and Monitoring

- Silver Standard will oversee the entire project from construction to reclamation. Daily inspections by Silver Standard of drilling activities and drill pad sites will ensure activities remain within the permitted work area and are not create undue degradation to the environment. Hand-held global positioning system (GPS) units will be used to confirm the correct location of drill pads and supporting sites in order to ensure disturbance remains within the permitted locations. Flagging or stakes will be used as needed to assist visual delineations where boundaries are unclear, such as in previously undisturbed areas. Care and maintenance measures will be taken to ensure site stability.

Wildlife and Vegetation

- A qualified biological monitor will be present during construction of drill pads and

helicopter landing area establishments to advise methods to minimize overall impact to biological resources, including but not limited to, the direct disturbance of animals, burrows, eggs, or young or potential impacts to special status plant species or their supporting surroundings in accordance with CMA LUPA-BIO-2. Avoidance areas will be established by the biological monitor in accordance with CMAs LUPA-BIO-13, LUPA-BIO-16, LUPA-BIO-SVF-2, and LUPA-BIO-IFS-25. The bio monitor will ensure any nesting raptors are protected by seasonal buffer (February through August).

- Silver Standard will reduce predator subsidies, such as perching sites and water sources, in accordance with CMA LUPA-BIO-6. Compensatory mitigation contributions for ravens are not applicable for this short-term project.
- Non-native and invasive weeds will be controlled through pre-disturbance weed removal by hand, the cleaning of vehicles, use of weed-free materials, revegetation during reclamation, and post reclamation weed monitoring and retreatment in accordance with LUPA-BIO-10.
- Standard noise controls will be used on the exploration equipment in accordance with LUPA-BIO-12. Under the BLM Preferred Helicopter Access Alternative, the flying height will be set at a minimum of one-mile above land features. The area will be surveyed for sensitive resources, especially for nesting birds, by a biological monitor in accordance with LUPA-BIO-2.
- Other wildlife protection measures will include, but not be limited to, the containment of trash, non-harassment of wildlife, prohibition of domestic pets on-site, checking materials and equipment for wildlife presence prior to movement, and minimization of disturbance areas to only what is necessary and permitted for the Project in accordance with CMA LUPA-BIO-14 and LUPA-BIO-15.
- Cactus, yucca, and other succulents will be avoided in accordance with CMAs LUPA-BIO-VEG-1 and LUPA-BIO-VEG5.
- No holes will be left open and unattended for prolonged periods of time.

Worker Education

- Silver Standard employees and contractors will be educated about the topics stipulated in CMA LUPA-BIO-5 which include, but are not limited to biological resource identification, protections, avoidance, reporting, and protection measures.

Public Safety

- Signs will be posted at the water tank site location under the BLM Preferred Helicopter

Access Alternative, indicating that this is an active project and that no unauthorized personnel are allowed to enter the active exploration area.

Water

- Water will be enclosed in tanks and will be recirculated from the sumps for drilling whenever possible to reduce water use. Drilling mud and cuttings will be contained in the sumps. Water will be sourced from a permitted/authorized source. Water remaining in tanks or trucks will be drained onto the land surface in such a way as to prevent ponding, rilling, and erosion at the cessation of drilling. An emergency spill response plan will be prepared in accordance with CMA LUPA-SW-7 and materials and spills will be handled in accordance with CMA LUPA-SW-6.

Cultural Resources

- A Class III baseline cultural survey was completed for the Project in accordance with CMA LUPA-CUL-4. If, by chance, heritage resources are discovered that were not found in the cultural surveys, Silver Standard will abide by 43 CFR § 3809.420(b)(8), which states:

“(i) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on Federal lands.

(ii) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on Federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days after notification to the authorized officer of such discovery.

(iii) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.”

Air Quality

- The applicant has drafted a dust control plan for this proposal, and will implement those parts of the plan applicable to the selected alternative.

BLM Recommended Mitigation Measures

Measures in addition to the above Applicant Committed Measures include:

Cerro Gordo-Conglomerate Mesa ACEC

- Ground disturbance mitigation will need to be carried out in accordance with CMA ACEC-DIST-2. The mitigation ratio is 3:1. Given that the estimated surface disturbance within the ACEC is 0.06 acres (Appendix B of the EA), the amount of mitigation that must be carried out within this ACEC is 0.18 acres.

National Land Conservation System (NLCS)

- The mitigation ratio for ground disturbance within these National Land Conservation System lands is 3:1. Given the disturbance of lands outside the ACEC, and inside NLCS lands is estimated to be 0.14 acres, the involved mitigation acreage becomes 0.42 acres. That mitigation is to be within the Basin and Range Subarea of these NLCS lands.

Visual Resources

- Permeon, or a suitable alternative desert varnish product, will be applied in accordance with manufacturer's directions to disturbed soils during reclamation process.

Vegetation

- Water lines will be laid carefully with the assistance of the Biological Monitor to avoid special status plants.

AUTHORITIES

This decision is in conformance with the [California Desert Conservation Area Management Plan of 1980](#), as amended, and the [Desert Renewable Energy Conservation Plan](#) (Record of Decision September 2016). The approval of this action is consistent with Surface Management regulations 43 CFR 3809 and the Federal Land Policy and Management Act of 1976 ([FLPMA](#)).

DECISION RATIONALE

In the FONSI for this action, a determination was made that none of the alternatives will significantly affect the quality of the human environment and that preparation of an Environmental Impact Statement is not required. The selected helicopter alternative meets the BLM's need and is preferred over other alternatives because:

- That alternative provides ingress & egress necessary to drill the appropriate locations in compliance 43 USC 1732.

- That alternative minimizes acre of disturbance to the Cerro Gordo-Conglomerate Mesa Area of Critical Environmental Concern and to California Desert National Conservation Lands.
- That alternative minimizes the likelihood of conflict with Conservation Management Actions of the DRECP Land Use Plan Amendment ([LUPA](#)), including protection of special status plant species under Conservation Management Action LUPA-BIO-PLANT-2 (reference Section II.4.2.1 of the DRECP Land Use Plan Amendment).
- The BLM has determined that the operations under the selected alternative will not cause unnecessary or undue degradation, as defined in the BLM's surface management regulations at 43 CFR Part 3809.

PUBLIC INVOLVEMENT

The environmental assessment for this action was placed on BLM's public NEPA website at [ePlanning \(https://eplanning.blm.gov\)](https://eplanning.blm.gov) October 12, 2017. A press release was issued October 20, 2017 and provided for public comments to be received by close of business November 20, 2017.⁵

Over six thousand (6,005) comments were received, the great majority in the form of 5290 identical comments forwarded from the Center for Biological Diversity, Incorporated or from emails from [California Wilderness Coalition \(https://www.calwild.org/action-alert-conglomerate-mesa/\)](https://www.calwild.org/action-alert-conglomerate-mesa/).

Of these, the single most common topic was concern that this project may lead to commercial mining at Conglomerate Mesa, and opposition to any mining. Mining was and is outside the scope of consideration for this present assessment. I am aware that prospectors conduct exploration in the hope they may discover economic mineral deposits. However, analysis under the National Environmental Policy Act is based on reasonably foreseeable impacts, rather than speculation. No mining plan has been provided to or discussed with the BLM. It is unknown whether the exploratory drilling will reveal mineral deposits that would be economical to mine. If a mine is proposed in this location in the future, it will be subject to additional review under NEPA prior to any authorization from the BLM. Without a proposed mine to evaluate, any analysis of impacts from mining would be purely speculative at this stage.

The public comments to BLM are summarized and responded to in APPENDIX B of this decision and the Biological Reports are in APPENDIX C of this report.

⁵ BLM press release at [Press Release \(https://www.blm.gov/press-release/blm-seeks-public-comment-environmental-assessment-perdito-exploration-project\)](https://www.blm.gov/press-release/blm-seeks-public-comment-environmental-assessment-perdito-exploration-project)

CONSULTATION AND COORDINATION

This analysis included consultation and coordination with the Ridgecrest Field Office staff with assistance from SRK Consulting, Inc.

APPEALS

A party adversely affected by this decision may ask the State Director of the appropriate BLM State Office to review the decision under 43 CFR 3809.800. An adversely affected party may also bypass the State Director and directly appeal to the Office of Hearings and Appeals (OHA) in accordance with the regulations contained within Part 4 Title 43 of the Code of Federal Regulations.

A request for State Director Review must be received within 30 days of the time you receive or are informed of the BLM decision. The address is:

Director
California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825

Your request for State Director review must be a single package that includes a brief written statement explaining why BLM should change its decision and any documents that support your written statement. Mark your envelope "State Director Review." You must also provide a telephone or fax number for the State Director to contact you. Once the State Director issues a decision, it replaces the original BLM decision, which is no longer in effect, and you may appeal only the State Director's decision. If the State Director does not make a decision within 21 days on whether to accept your request for review, you should consider your request for State Director review declined, and you may appeal the original BLM decision to OHA. The State Director's decision will be effective immediately and remain in effect, unless a stay is granted by OHA.

An adversely affected party may appeal the State Director's decision to OHA under part 4 of this title. An adversely affected party may also bypass State Director review and directly appeal a BLM decision to the Office of Hearings and Appeals (OHA).

In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made. Your written appeal must contain: your name and address and the BLM serial number of the notice or plan of operations that is the subject of the appeal. You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within 30 calendar days after filing your appeal. All decisions go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay.

In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made (the Ridgecrest Field Office). That address is:

Ridgecrest Field Office
300 S. Richmond Road
Ridgecrest, CA 93555

Your written appeal must contain: your name and address and the BLM serial number of the notice or plan of operations concerning the subject of the appeal (CACA-56495). You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within 30 calendar days after filing your appeal. All decisions go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay of decision under 43 CFR 4.21. The burden is on the appellant to make the request for such a stay. The petition for a stay of decision must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied.
- The likelihood of the appellant's success on the merits.
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Signed

Carl B. Symons

Carl B. Symons
Ridgecrest Field Manager

5/16/2018

Date

APPENDIX A

Performance Standards

The following performance standards of Title 43, Subpart 3809.420 of the Code of Federal Regulations apply to all surface management operations on public lands above the level of casual use.

§3809.420 What performance standards apply to my notice or plan of operations?

The following performance standards apply to your notice or plan of operations:

(a) General performance standards—

- (1) Technology and practices.* You must use equipment, devices, and practices that will meet the performance standards of this subpart.
- (2) Sequence of operations.* You must avoid unnecessary impacts and facilitate reclamation by following a reasonable and customary mineral exploration, development, mining and reclamation sequence.
- (3) Land-use plans.* Consistent with the mining laws, your operations and post-mining land use must comply with the applicable BLM land-use plans and activity plans, and with coastal zone management plans under 16 U.S.C. 1451, as appropriate.
- (4) Mitigation.* You must take mitigation measures specified by BLM to protect public lands.
- (5) Concurrent reclamation.* You must initiate and complete reclamation at the earliest economically and technically feasible time on those portions of the disturbed area that you will not disturb further.
- (6) Compliance with other laws.* You must conduct all operations in a manner that complies with all pertinent Federal and state laws.

(b) Specific standards—

- (1) Access routes.* Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable to minimize cut and fill. When the construction of access routes involves slopes that require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations. An operator is entitled to access to his operations consistent with provisions of the mining laws. Where a notice or a plan of operations is required, it shall specify the location of

access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

(2) *Mining wastes.* All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation and in accordance with applicable Federal and state Laws.

(3) *Reclamation.*

(i) At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the Federal lands.

(ii) Reclamation shall include, but shall not be limited to:

(A) Saving of topsoil for final application after reshaping of disturbed areas have been completed;

(B) Measures to control erosion, landslides, and water runoff;

(C) Measures to isolate, remove, or control toxic materials;

(D) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and

(E) Rehabilitation of fisheries and wildlife habitat.

(iii) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(4) *Air quality.* All operators shall comply with applicable Federal and state air quality standards, including the Clean Air Act (42 U.S.C. 1857 *et seq.*).

(5) *Water quality.* All operators shall comply with applicable Federal and state water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 *et seq.*).

(6) *Solid wastes.* All operators shall comply with applicable Federal and state standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid

Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*). All garbage, refuse or waste shall either be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the lands.

(7) *Fisheries, wildlife and plant habitat.* The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(8) *Cultural and paleontological resources.* (i) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on Federal lands.

(ii) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on Federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days after notification to the authorized officer of such discovery.

(iii) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

(9) *Protection of survey monuments.* To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated, or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

(10) *Fire.* The operator shall comply with all applicable Federal and state fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

(11) *Acid-forming, toxic, or other deleterious materials.* You must incorporate identification, handling, and placement of potentially acid-forming, toxic or other deleterious materials into your operations, facility design, reclamation, and environmental monitoring programs to minimize the formation and impacts of acidic, alkaline, metal-bearing, or other deleterious leachate, including the following:

(i) You must handle, place, or treat potentially acid-forming, toxic, or other deleterious materials in a manner that minimizes the likelihood of acid formation and toxic and other deleterious leachate generation (source control);

(ii) If you cannot prevent the formation of acid, toxic, or other deleterious drainage, you must minimize uncontrolled migration of leachate; and

(iii) You must capture and treat acid drainage, or other undesirable effluent, to the applicable standard if source controls and migration controls do not prove effective. You are responsible for any costs associated with water treatment or facility maintenance after project closure. Long-term, or post-mining, effluent capture and treatment are not acceptable substitutes for source and migration control, and you may rely on them only after all reasonable source and migration control methods have been employed.

(12) *Leaching operations and impoundments.*

(i) You must design, construct, and operate all leach pads, tailings impoundments, ponds, and solution-holding facilities according to standard engineering practices to achieve and maintain stability and facilitate reclamation.

(ii) You must construct a low-permeability liner or containment system that will minimize the release of leaching solutions to the environment. You must monitor to detect potential releases of contaminants from heaps, process ponds, tailings impoundments, and other structures and remediate environmental impacts if leakage occurs.

(iii) You must design, construct, and operate cyanide or other leaching facilities and impoundments to contain precipitation from the local 100-year, 24-hour storm event in addition to the maximum process solution inventory. Your design must also include allowances for snowmelt events and draindown from heaps during power outages in the design.

(iv) You must construct a secondary containment system around vats, tanks, or recovery circuits adequate to prevent the release of toxic solutions to the environment in the event of primary containment failure.

(v) You must exclude access by the public, wildlife, or livestock to solution containment and transfer structures that contain lethal levels of cyanide or other solutions.

(vi) During closure and at final reclamation, you must detoxify leaching solutions and heaps and manage tailings or other process waste to minimize impacts to the environment from contact with toxic materials or leachate. Acceptable practices to detoxify solutions and materials include natural degradation, rinsing, chemical treatment, or equally

successful alternative methods. Upon completion of reclamation, all materials and discharges must meet applicable standards.

(vii) In cases of temporary or seasonal closure, you must provide adequate maintenance, monitoring, security, and financial guarantee, and BLM may require you to detoxify process solutions.

(13) *Maintenance and public safety.* During all operations, the operator shall maintain his or her structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and state laws and regulations.

APPENDIX B

Perdito EA Public Comment

Summary and Responses

1. The exploration project is in an area subject to an active mining segregation per 81 Fed. Reg. 95738-95755 (Dec. 28, 2016) (segregating public lands including those in this area pending withdrawal decision). The BLM prepared a Physical Exposure Report (“PER”) but did not take any additional steps to consider the validity of the claims including a Validity Examination Report (“VER”).

Response: The proposed withdrawal has been cancelled. See Federal Register Notice 83 FR 5459.

2. Access roads and conveyances across segregated and non-segregated lands are not covered under Part 3809 regulations. The applicant must be granted a right-of-way (ROW). In addition, all impacts to wildlife, plants, visual, noise, water air, etc. that would occur from equipment and other vehicle traffic on all the access routes must be fully considered. Helicopter landing areas and non-mining features such as the water pipeline would also require a ROW or other Special Use permit.

Response: BLM rights-of-way derive from Title V of the FLPMA (43 USC 1761-1771). Access routes incident to mining are governed by 43 USC 1732(b) of FLPMA, which states: "Except as provided in section 1744, section 1782, and subsection (f) of section 1781 of this title and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress."

Congress made no provision for FLPMA rights-of-ways to apply for actions authorized by FLPMA section 43 USC 1732(b). Access to mining claims is therefore governed by surface management regulation 43 CFR 3809.420(b) (1) rather than right-of-way regulations 43 CFR 2800.

3. The EA and project fail to conform to the applicable land management plans. Of specific concern are the DRECP disturbance caps for the Cerro Gordo-Conglomerate Mesa ACEC and the Basin and Range NLCS.

a. The EA fails to implement DRECP NLCS-DIST-2 and ACEC-DIST-2

Response:

Conformance to the prevailing land-management plan(s), including applicable disturbance caps are discussed in Chapter 1 of the environmental assessment. See Table 1 of that chapter for the mitigation acreages involved.

4. Specific concerns involving plants:

- a. The EA does not mention certain BLM sensitive plant species with the potential to occur in the area: *Hesperidanthus jaegeri*; *Erigeron uncialis* var. *uncialis*; *Eriogonum eremicola*; and *Eriogonum meniscola*.

Response: The project area was surveyed for sensitive plants (See Decision Record Appendix C Bio Reports). These species were not observed during the surveys. The closest known occurrences are 3 miles to the north of the project area, outside of the area of potential disturbance. Therefore, these species are not anticipated to be affected by the proposed action or any alternatives. The closest known occurrences are 3 miles to the north of the project area and this is outside the area of potential disturbance.

- b. *Cuniculotinus gramineus* has been documented along the access road north of the Mesa, according to the letter from Michele Slaton.

Response: Comment noted. This is not a BLM Special status species.

- c. It would be important to note that the area is at the southern distribution of the Inyo rock daisy range.

Response: The EA has been updated to include the species description.

- d. Little information was given as to how plant surveys were performed. It is customary to include the plant survey reports as an appendix.

Response: The Biological Reports are attached to this Decision Record as Appendix C.

- e. Little information was given regarding the actual unique plant assemblages of the area. There is not map of the plant communities or references to other documents containing such maps such as the DRECP.

Response: The plant assemblages for the area are shown on Natural Vegetation Communities Map for the DRECP FEIS, available at drecp.databasin.org. These maps are hereby incorporated by reference. Decision Record Appendix C provides additional detail on the species found in the project vicinity during the biological surveys

- f. Survey protocols for rare plants were not taken per CMA LUPA-BIO-PLANT-1

Response: Protocol level surveys were conducted at the correct season. See Decision Record Appendix C.

g. Incomplete implementation of CMAs LUPA-BIO-PLANT-2, LUPA-BIO-PLANT-3, LUPA-BIO-SVF-1 and LUPA-BIO-SVF-5.

i.LUPA-BIO-PLANT-2 involves the 0.25-mile setback for sensitive species, which is not applied for the Inyo Rock Daisy.

Response: See explanation in Section 4.14 of EA.

ii.LUPA-BIO-PLANT-3 involves a habitat suitability model and that impacts be capped at 1% of their suitable habitat. This modelling has not been included in the EA.

Response: Based on the currently available model, there exists approximately 55,846 acres of modeled suitable habitat on BLM lands for Inyo rock daisy. The alternatives were anticipated to impact between .2 and 7.75 Acres of BLM lands.

iii.LUPA-BIO-SVF-1 requires the mapping of Joshua tree woodlands and a habitat assessment, which have not been included in the EA.

Response: The project area does not include any Joshua tree woodlands, as they are defined by the glossary in the DRECP LUPA: ‘

iv.The EA sets a troubling precedent for short-circuiting the DRECP LUPA CMAs, with particular concern for CMA LUPA-BIO-PLANT-2

Response: See explanation in Section 4.14 of EA

h. The EA needs to require that the water lines be laid carefully to avoid the sensitive plants and refrain from impacting the ecological processes that sustain them. The lines must also be secured so that they do not inadvertently move on the landscape, as they are pressurized and depressurized.

Response: This requirement has been added to the Decision Record, Imposed Mitigation Measures.

i. The EA does not adequately address avoidance, minimization, or mitigation for impacts for plants.

Response: Avoidance, minimization, and mitigation measures are identified in of the Decision Record. The BLM has determined these are sufficient to reduce the potential impacts of the project to a less than significant level and comply with the BLM land use plan and existing policy.

j. The EA does not state that the State Director has approved impacting sensitive status plants.

Response: That is correct, any take of BLM special status plants would require State Director Approval. The Alternative chosen in this Decision Record does not anticipate impacts to special status plants.

k. The area is an important nursery zone for the Joshua tree. This has not been noted or considered in the EA.

Response: Comment Noted. No Joshua trees will be affected by the project, as they will be avoided.

l. Additional information should be provided for the Joshua trees such as basal measurements, density metrics, age/class distribution, etc.

Response: See 4-k.

m. The California Native Plant Society would like access to the botanical survey reports

Response: The Biological Reports are attached to this Decision Record as Appendix C.

n. Add beaver-tail, prickly pear, and barrel cacti to the plant list

Response: Cacti found onsite were included in the EA page 25.

o. The EA should consider Santa Rosa Flat as part of the area impacted by the project because dust from the road could impact Joshua trees in this area.

Response: No roads will be built with the chosen Alternative and Santa Rosa Flat is more than 3 miles away from the proposed project.

p. Incomplete description of special status plant species that could occur in the area. No explanation of who would decide and under what circumstances they would be allowed to be impacted by a mining proposal.

Response: Species descriptions were sufficient to analyze and reduce the potential impacts of the proposed project, given its relatively small footprint and less than significant impacts. The BLM is not currently considering approval of mining operations beyond the exploratory drilling proposed in the EA. If the BLM receives a proposal for a commercial mine, that proposal will be subject to analysis under NEPA. However, without such a proposal, any analysis of a mine would be speculative at this time.

5. Specific concerns involving wildlife:

- a. An entry of “sparrows, unidentified” prompts concern that impacts to these sparrows could not be adequately addressed because they were not clearly identified.

Response: There are no known special status sparrows in the vicinity of the proposed project; additional surveys were not warranted, as general impacts for passerines sufficiently covers potential impacts of the project to wildlife.

- b. The EA does not evaluate the potential impacts to wildlife that may be attracted to the drill sites by water used for the drilling. In this very arid region, even small amounts of water are attractive to wildlife and may attract them into harm’s way.

Response: There will be no open water sources, verbiage added to Decision Record, Imposed Mitigation Measures.

- c. It is unclear if the actual boreholes will be “open” at any time, where animals could encounter them and potentially fall in.

Response: No holes will be left open for prolonged periods, verbiage added to Decision Record, Imposed Mitigation Measures.

- d. Impacts are not considered on a species-by-species basis.

Response: Under NEPA, an issue should be analyzed if it is necessary to make a reasoned choice between the alternatives or analysis is necessary to determine the significance of impacts (BLM NEPA Handbook H-1790-1, page 41). The BLM is not required to evaluate potential impacts for every single species that may be within a project area if such evaluation is not necessary to compare alternatives or determine whether impacts are significant. Instead, the agency must address potential impacts to general wildlife and plant concerns, highlighting species that represent the given location. The analysis in the EA is sufficient to disclose the impacts of the proposed action and alternatives on wildlife, and to determine whether the impacts are significant,

- e. The EA does not adequately address avoidance, minimization, or mitigation for impacts to wildlife.

Response: Avoidance, minimization, and mitigation measures identified are sufficient to reduce the potential impacts of the project to a less than significant level.

- f. The EA does not address how noise impacts from drilling and helicopters may address wildlife.

Response: The BLM has updated section 4.13.3 of the EA to address this impact.

g. Breeding bird survey dates should be disclosed, and a complete list of all species detected should be provided. Avian survey dates should correspond with the peak of the breeding season and ideally, additional surveys should occur for wintering avian species.

Response: See Attached Appendix C: Biological Report for dates, no active nests found.

h. The EA does not mention the area being known as a wintering range for mule deer. The herd information should be included with consultation with CDFW.

Response: The proposed action would not alter Wintering range habitat to the extent that it needed to be included in this analysis to determine the effects of the project and assist in the selection of an alternative.

See attached Appendix C: Biological Reports page 9 for mule deer information.

i. Mule deer as prey for mountain lion also need to be addressed.

Response: The proposed action would not alter the predator-prey relation between the mule deer and mountain lion. Including this in the analysis is beyond what is needed to determine the effects of the project and assist in the selection of an alternative.

j. The EA lacks adequate surveys for reptiles and small mammals including nocturnal surveys.

Response: An action agency is not required to evaluate potential impacts for every single species that may be within a project area. The agency must address potential impacts to general wildlife and plant concerns, highlighting species that represent the given location.

k. Include that the bobcat is a species in the area. Observed by Tom Budlong and Jora Fogg.

Response: Comment noted. An action agency is not required to list every single species that could occur within a project area. Impacts to bobcat would be captured by the description of potential impacts to general wildlife concerns.

l. The BLM should consider restricted operational hours (dawn to dusk) to reduce impacts to wildlife.

Response: Comment noted. This restriction would most likely increase the number of helicopter flights because once they fly the drill rig in, they would work until completed. Additional trips could be of greater impact to wildlife soundwise, then night operations with minimal worker lighting would be.

m. The area should be noted and assessed as a Townsend's big-eared bat maternity area.

Response: While Townsend's big-eared bats are listed as a species that could be affected by this project, there are no known Townsend's maternity roosts in the vicinity of the project. The potential effect would be to general foraging areas for the bat. The work is not anticipated to have an effect on insects, thus no effect is anticipated for this species.

n. The EA does not address the risk of transporting the invasive fungus *Batrachochytrium dendrobatidis* (Bd) in water or on equipment; such transport would increase the risk that Chytridiomycosis, a cutaneous fungal infection of amphibians caused by the Bd, will reach and devastate populations of Inyo Mountain slender salamanders, a species whose status is under review for listing as a Threatened or Endangered species.

Response: There is no Inyo slender salamander habitat in the vicinity of the project

o. The EA does not address habitat fragmentation.

Response: Habitat connectivity is addressed on page 47 and 49 of the EA.

p. The EA does not specifically address potential impacts to red-tail hawks from helicopter use.

Response: See section 4.13.3 of EA. The bio monitor will ensure any nesting raptors are protected by seasonal buffer (February through August). Additional verbiage added to Decision Record, Best Management Practices & Applicant Committed Measures

q. The EA does not specifically address potential impacts to coyote, a keystone species, from helicopters.

Response: There is no reported data of helicopter use impacting coyote behavior in a manner that meaningfully affects breeding, feeding, or sheltering of coyotes. There is substantive published data that coyotes adapt well to human activity.

r. The EA does not specifically address potential impacts to bighorn sheep from helicopters.

Response: While bighorn sheep have been documented to move away from low flying helicopters, potential effects of this project are not significant because of the lack of water sources and the area is not used for lambing. The timing, scale and scope of this project might disrupt some foraging behavior (as was noted for all general wildlife).

s. The EA does not address impacts to wild horses.

Response: While the project is located in the Lee Flat Herd Management Area (CA0652), the animal population is estimated at zero horses and 15 burros. Because of the small size of the

proposed disturbance and the proposed protection measures for vegetation and wildlife, the wild horse and burros would not be affected to a degree needed additional impact analysis.

- t. Clarify what is meant by nuisance animals. Wildlife in its natural habitat should not be considered a nuisance. Rodenticides or M-44 should not be used.

Response: The selected alternative does not authorize the use of rodenticides or M-44. LUPA-BIO-10 was added and discussed to address potential of removal of invasive weeds.

- u. Rebuilding roads would destroy the homes of rodents living in their banks, reducing prey species. There should be an assessment of burrows in the area.

Response: Comment noted. The loss of burrowing rodents would be minimal, and based on population dynamics, populations would recover from the potential loss within the next year. The range of predators is large, the portion of this project is comparatively small, and therefore the potential for reduced prey would not be measurable.

- v. Fresh jackrabbit pellets have been observed.

Response: Comment noted. See attached Appendix C: Biological Report, 2016, page 8.

- w. Catch and release surveys should be done for rodents and mice.

Response: Additional surveys were not warranted, see response to 5 u. above.

- x. Badgers may be present in the area.

Response: See attached Appendix C: Biological Report, 2016, page 12.

6. Specific concerns involving reclamation and mitigation:

- a. Success criteria for reclamation efforts as required by LUPA-BIO-7 were not provided.
- b. Success criteria for mitigation as required under CMA ACED-DIST-2 and NLCS-DIST-2 were not provided.

Response: a-b. Noted. Implementation of LUPA-BIO-7 and ACEC/NLCS-DIST-2 require restoration of project-related disturbance and mitigation because the units exceed the disturbance cap. ACEC/NLCS-DIST-2 stipulates general mitigation acceptance criteria however; site-specific success criteria have not been established. Site-specific success criteria will be established in a project-specific reclamation plan developed for the alternative selected. The criteria will be based upon best available technology and research and will include the design of a sequential approach mimicking natural successional processes.

c. The EA needs to identify mechanisms to offset the mitigation requirements; would it be met through reclamation, acquisition, etc...

Response: Mechanism contemplated to offset mitigation requirements depends upon the alternative selected. Preference would be given to reclamation of disturbed areas within the same ACEC and NLCS units. BLM would consider acquisition of undisturbed lands within these units or elsewhere only if adequate reclamation opportunities (acreages) did not exist within these units.

d. The EA either fails to adequately discuss detailed mitigation for some resources including for the ACEC impacts, visual resource impacts, and for other resources. Where mitigation is noted the EA fails to analyze the effectiveness of each mitigation measure.

Responses: Noted. CMAs will need to be addressed in the specific reclamation plan devised for the alternative selected. A sequential approach mimicking natural successional processes can be considered in the reclamation design. Chapter 4 of the DRECP Proposed LUPA and Final EIS (BLM 2015) includes a programmatic analysis of the efficacy of the CMAs.

e. The EA discusses the reclamation plan and proposals but does not provide a bond requirement estimate. The BLM must provide an adequate bond requirement and provide all of the supporting information relied upon by BLM in its bond calculation.

Response: BLM must receive an adequate financial guarantee or reclamation bond prior to commencement of operations (43 CFR 3809.500 et al). The time for operators to submit a reclamation cost estimate is after BLM decides what requirements to place on the plan authorization.

f. Mitigation for the Helicopter Access Alternative should occur within the management unit within which it occurs. Suggest that mitigation be in-kind with through either land acquisition or elevating protective designations on BLM land.

Response: Comment Noted. The DRECP CMAs for mitigation will be adhered to including where the mitigation will occur within the same unit.

g. How will the 12-month ground disturbance mitigation requirements be enforced and what would the consequences be for failure?

Response: The mechanisms for inspection and enforcement of authorized plans of operation are publicly disclosed at Surface Management regulations 43 CFR 3809.600 et al. At any time, BLM may inspect an approved operation for conformance with the conditions of authorization, mitigation measures and reclamation success.

Mitigation will differ by alternative. A plan will be drawn up after a decision is made and an alternative is selected. Several mitigation measures have been proposed and incorporated into the proposed action and alternatives. Others have been proposed by resource and depending upon the alternative selected, may or may not be relevant and applied.

- h.* Seed mixture needs to match surrounding vegetation and work would need to be closely monitored.

Response: Comment noted. Seed mix will be native to the sight.

- i.* BLM should hold the proponent to a shorter reclamation time (as compared to three years of previous operator).

Response: Comment noted. All reclamation must be completed per DRECP, within 12 months of completion of the drilling project. In addition, for weeds, BLM will require 2 subsequent years (3 years total) of monitoring and re-treatment of disturbed sites.

BLM anticipates that it will take 3-5 years after seeding for vegetation to start to recover.

- j.* Reclamation should be done outside of limited operating periods for wildlife species.

Response: Comments Noted. The BLM will consider this when the reclamation plan is developed.

- k.* Specific measures should be described in the EA to ensure no impacts occur from the proposed hose installation, movement, and decommissioning.

Response: Minimal impacts will occur from hose lying and manipulating, see Ch.4 of EA for description.

The EA should more thoroughly address potential increases in unauthorized 4WD and ATV traffic in regards to unauthorized use of the project routes during operations and after reclamation.

- l.* On page 49, the EA states that although some “initial sections” of project routes would need to be “re-strewn with large boulders and debris to block further vehicle access and use,” “Otherwise, the overland routes would be expected to spring back rather quickly on their own without additional intervention.” How quickly do plant species of special concern spring back to abandoned routes without additional intervention? Previously disturbed soils are fairly obvious in photos provided in the EA.

Response: (l) The selected Helicopter alternative does not authorize any new or old routes that would need to be blocked.

m. The reclamation plan should be included as part of the EA.

Response: An adequate mitigation plan cannot be developed until a decision is made and an alternative is selected.

n. Do not use Crested wheatgrass (*Agropyron cristatum*) in reseeding

Response: Crested Wheatgrass will not be used.

7. The EA fails to fully ascertain the baseline conditions of all potentially affected resources. Baseline information and analysis must be part of the EA and be subject to public review and comments under NEPA. This is especially critical for all potentially affected resources, such as air quality, surface and ground waters, recreation, rare plants, wildlife, wilderness, and the other resources, which supported the segregation decision and/or may be potentially affected by the Project.

Response:

Pre-project baseline conditions are adequate for the exploration project and alternatives proposed. See Chapter 3, “Affected Environment” and Appendix A, “Interdisciplinary Team Checklist” for baseline conditions of pertinent resources.

8. The proposed project reviewed in the EA includes only access for exploratory drilling and the sampling itself. The EA completely fails to identify or analyze the likely effects (reasonably foreseeable) of a large-scale mining operation (open pit with cyanide heap leach facilities) that may be contemplated for this site. The impacts such a project will have to the environmental resources of this area should be examined now in a detailed Environmental Impact Statement (EIS), before exploratory sampling is allowed.

Response:

The purpose of the project and BLM’s need to respond are both disclosed in section 1.1 of the EA. That is, to gather samples and direct evidence of mineral deposits at depth under certain lode mining claims. A future action (such as a commercial mining operation) becomes reasonably foreseeable once it is proposed, but until then is merely speculative and need not be considered in a cumulative impacts analysis. A reasonably foreseeable analysis considers actions that are likely and can be meaningfully evaluated, rather than merely possible. It is unreasonable for BLM to speculate on mineral values at this time. If a mine is proposed in this area, it will be subject to analysis under NEPA prior to any authorization.

9. The EA fails to conduct the required “hard look” at the Project’s impacts, including both the drilling areas and the access route(s) and the project as a whole. Moreover, the EA is inadequate even for the exploratory sampling and road access or helicopter access

alone. Under NEPA, BLM must consider all direct, indirect, and cumulative environmental impacts of the proposed action. The EA must mention the possibility of an open pit cyanide heap-leach mine, and its potential for environmental impact (see response to comment 8).

Response:

See Chapter 4 for the Cumulative Impacts Analysis, which includes consideration of reasonably foreseeable future actions, but not speculation. An open-pit cyanide heap-leach mine is outside the scope of this analysis. Although prospectors conduct exploration in the hope that they may discover economic mineral deposits, finding such deposits is not a foregone conclusion, or reasonably foreseeable result, of this exploration project. The proponent is asking to explore, not to mine. If a mine is proposed in this location in the future, it will be subject to additional review under NEPA prior to any authorization from the BLM. Without a proposed mine to evaluate, any analysis of impacts from mining would be purely speculative at this stage.

10. Specific concerns related to soils:

a. In this arid region, impacts to the thin layer of topsoil, which contains mycorrhizal elements, seeds and nutrients, must be carefully avoided and if removed along with other earthmoving activities, must be stockpiled separately and re-spread last, after other recontouring and reclamation efforts have been implemented.

Response:

The area is described as shallow rocky soils/loose-unconsolidated material and sparse vegetation (See sections under Affected Environment 3.7 Soils and 3.10 Vegetation). The soils would not be a significant source and sink for greenhouse gases (GHG) such as carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O). Further, the substrate includes outcrops of Permian geomarine sedimentary rocks, dominated by limestone with some sandstone near ridgetops (USGS, 2016) and these substrates are not typical reservoirs for CH₄. The sparse vegetation impacted would not be significant in the reduction of carbon dioxide (CO₂) through the capture CO₂ by taking it into their cells through photosynthesis. Upon completion of drilling, exploration roads and drill sites would be re-contoured to their original slope and seeded with an approved reclamation seed mix.

Microorganisms within the topsoil would be stored on the uphill side of the disturbed area and re-distributed over the site after re-contouring has been completed, so the microorganisms do not leave the site and are placed back to where they were removed during the operations.

11. BLM must also fully review the impacts from all “past, present, and reasonably foreseeable future actions.” These are the “cumulative effect/impacts” under NEPA. A cumulative impact analysis must provide a “useful analysis” that includes a detailed and quantified evaluation of cumulative impacts to allow for informed decision-making and public disclosure. At a minimum, this requires the agency to fully review, and subject such review to public comment in a revised draft EA, the cumulative impacts from all other mining, grazing, recreation, energy development, traffic, roads, ORV use, etc., in the region.

Response: See Figure 9 for the Cumulative Effects Study Area. See Chapter Four for the Cumulative Impacts Analysis. The review is sufficient for a proposed exploratory drilling project.

12. The EA fails to adequately assess disturbance acreages:

a. The disturbance for the Helicopter alternative does not take into account surface disturbance from construction and placement of the water pipelines nor the helicopter lands sites needed for that alternative.

Response: The acreage calculations for this action included the landing areas and are found in Environmental Assessment Appendix B. There will be no construction related to the placement of the pipelines above ground.

b. The EA does not explain where soils excavated from the sumps would be placed or include the surface disturbance from placing excavated soils on other intact lands. Description of sump size is inconsistent.

c. Calculations for disturbance acreage for the alternatives do not include surface disturbance from “storing” disturbed soil and rock materials “on the uphill side” during drilling, before reclamation.

d. The EA did not calculate the amount of side-cast material or the amount of other soils or vegetation it would disturb.

Response: b-d. This information is disclosed in Chapter 2 of the EA.

e. Notably absent from the EA is any discussion of the need to comply with the California Surface Mining and Reclamation Act (SMARA) which is triggered by any mining project related disturbance over one acre.

Response: The lead agency for SMARA is the County of Inyo, not the Bureau of Land Management. Environmental Assessment Section 1.1 discloses that all operations must comply

with pertinent state law and it is stated again in the Decision Record, Appendix A: Performance Standards.

- f.* Reclamation plans would be subject to the California Environmental Quality Act.

Responses: This is incorporated into the Decision Record, Appendix A (Performance Standards).

13. Specific concerns involving water resource:

- a.* A reference to general conditions to protect water resources is not sufficient for this area within an ACEC and NCL unit such as this. BLM has not shown that these measures are sufficient to protect the surface or groundwater resources of these public lands.
- b.* The EA should provide an estimate of how much water may be drained from the tanks onto the land.
- c.* Include a discussion of water needs for dust control.
- d.* A list of hazardous substances to be used onsite is lacking.
- e.* The BLM needs to identify the source of the water. If obtained from public land, the impacts need to be analyzed and disclosed.
- f.* EA needs to address impacts to the Owen's Valley watershed.

Response: Appendix A of the EA discloses that water resources are/were considered present in the area, but not affected to a degree that detailed analysis is required.

14. Specific concerns regarding air quality:

- a.* The EA's conclusions regarding air quality are not supported in the documents. See EA at five ("LUPA-AIR-2 – the alternatives would not result in the exceedance of local air quality standards or requirements as indicated in Appendix A"). The EA and Appendices fail to adequately address these impacts providing only 1) that the operator obtain needed permits from the air control district and 2) a general fugitive dust plan that is not specific to any of the alternatives. This does not meet NEPA's requirement that impacts be identified and analyzed by the agency before project approval.

Response: The project area is within the Great Basin Valleys Air Basin regulated through the Great Basin Unified Air Pollution Control District (GBUAPCD). The Great Basin Valleys is in non-attainment for state air quality standards for ozone and PM10 at Owen's Valley lakebed. The Owens Valley State Implementation Plan (SIP), regulated by the GBUAPCD, is chiefly concerned with emissions, including dust, from the Owens Dry Lake bed and playa.

A State Implementation Plan (SIP) is a United States plan for complying with the federal Clean Air Act, administered by the Environmental Protection Agency (EPA).

Under the Clean Air Act (176(c)) and 40 CFR part 51 subpart W, a federal agency must make a determination that a federal action affecting such air sheds conforms to the applicable state implementation plan (reference NEMO management plan, Section 4.12.15).

The Great Basin Unified Air Pollution Control District (GBUAPCD) purpose is to enforce Federal, State and local air quality regulations and to ensure that the federal and state air quality standards are met in their district. To meet these standards, the GBUAPCD enforces the specific federal laws delegated to them; state laws on stationary sources of pollution, and pass and enforce their own regulations as they become necessary. Conforming to the GBUAPCD requirements under the fugitive dust plan/permit issued by the GBUAPCD would adhere to the requirements under LUPA-AIR-2 and conform to federal EPA requirements.

- b. The EA's only somewhat more detailed discussion of air quality impacts is in the context of GHG emissions, which fail to address the project as a whole, and looks only at the emissions associated with the narrow exploration project (see response to comment 8).

Response: See response to above and response to #8.

15. Specific concerns regarding cultural resources:

- a. The EA states that cultural resources impacts will be avoided but provides little detail on the extent of the resources or how impacts will be avoided.
- b. The EA also fails to show that BLM considered DRECP CMA LUPA-CUL-7, which states "Coordinate with visual resources staff to ensure VRM Classes consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (TCPs, trails, etc.)."
- c. A revised environmental review must fully consider the impacts to cultural resources and other resources from the heavy equipment use of roads, other traffic and other Project operations, and protect all cultural resources from those impacts.

Response: a-c. ASM Affiliates, as described in Section 3.3 Cultural Resources, conducted two separate field investigations during 2016 to obtain data that would help the BLM make determinations as to whether the administrative approval of the proposed drilling could cause an Adverse Effect upon Historic Properties or cultural resources that could be considered as being eligible for the National Register of Historic Places. The April 2016 field survey covered the proposed access alignment submitted by the Applicant as part of their initial application. The October 2016 field survey covered a proposed alternative alignment that would preclude the need to establish the Applicant's original requested access route. About 200 acres were

inspected by these two field efforts. Only one prehistoric site, CA-INY-10085, P-14-013408 (identified in the EA by its temporary designation of PM-PC-1) was evident and discernible. This site is classified as a Lithic Scatter, with about 50 flakes evident on the surface within the site's boundary. These observed flakes and debitage are either obsidian or cryptocrystalline silicate rock materials. A copy of the two cultural resources reports by ASM Affiliates are included in the Appendix for further elucidation of the prehistoric and historic cultural context for this site. Regarding compliance with DRECP CMA LUPA-CUL-7, the inclusion of important and significant Native American cultural landscapes into the criteria, definitions, and parameters of the Visual Resource Management (VRM) Classes is a function of the BLM California State Office, rather than being within the administrative management control of individual Field Offices.

- d. Charcoal pits along Conglomerate Mesa which may be eligible for listing were not analyzed in the EA.

Response: None of the identified charcoal pits, nor any of their associated cultural resource features, that have been identified by members of the public that occur to the north upon the main plateau of the Conglomerate Mesa occur within the Area of Potential Effects (APE) for either the Applicants Proposed Action Alternative, the Minimum Road Construction Alternative, or the BLM Preferred Helicopter Access Alternative, and as such none will not be adversely affected by any of the three proposed action alternatives. Prehistoric Site CA-INY-10085 is also outside of the APE for the BLM Preferred Helicopter Access Alternative and will not be adversely affected by the approval of that Alternative.

16. Specific concerns regarding geological and paleontological resources:

- a. The EA fails to adequately address the significant and unique geological and paleontological resources at Conglomerate Mesa. The BLM should have reviewed Stone et al. Geologic Map of the Southern Inyo Mountains and Vicinity, Inyo County, California, US Geological Survey, 2009 as well as Stevens and Stone, New Permian Fusulinids from Conglomerate Mesa, Southeastern Inyo Mountains, East-Central California, Journal of Paleontology 83(1):9-29 (2009) as well as references from Calvin Stevens.

Response: Environmental Assessment Appendix A discloses that paleontological resources may be present, but not affected to a degree that detailed analysis is required.

- b. Paul Stone of the USGS should be invited to comment because of the USS research in this area. Comments were forwarded from Tom Budlong from Paul Stone (Tom Budlong, second letter from 11/20/2017) with some details on paleontological resources in the area.

Response: Comment noted.

17. Specific concerns regarding the proposed projects' impacts to and proximity to Death Valley National Park and other sensitive and protected lands (ACEC, NLCS, and wilderness).

- a. The EA does not address how noise impacts from drilling and helicopters may affect the Death Valley National Park.

Response: Noise impacts from drilling and helicopters will be largely if not entirely confined to Conglomerate Mesa area. Flight paths will not cross adjacent wilderness areas or lands within Death Valley National Park.

- b. The road access alternatives would utilize Saline Valley Road which is one of the primary access routes into Death Valley National Park. The EA does not address the impacts of the proposed project on these areas and the resources they protect due to traffic and noise. The NPs specifically noted visual impacts, visitor experience impacts related to truck traffic, noise, and dust, and impacts to natural resources from construction traffic.

Response: This could be an issue under both road alternatives, as project vehicles would use the Saline Valley/Santa Rosa Flat road along the Malpais Mesa Wilderness boundary to reach Conglomerate Mesa. However, BLM does not believe the additional traffic from the drilling project will impact wilderness much as the road would not be improved and the road is already in regular and continuous use by the motoring public.

- c. The EA does not accurately assess the impacts of the alternatives on the conservation and wilderness values of adjacent areas.

Response: The analysis of impacts is sufficient for an exploration project and alternatives proposed. See Chapter 4 for analysis of impacts to pertinent resources.

- d. The area is not suitable for exploration or future mining due to its unroaded, undeveloped, wild and rugged landscape protected by a variety of special designations and in proximity to other protected areas.

Response: Development of a full-scale mine is beyond the scope of the current drilling exploration project. See response to comment 8.

- e. ACEC management goals are addressed under each resource rather than all together.

Response: Comment Noted.

- f. The BLM admits in EA Section 4.18.1.1 that the applicant's Proposed Alternative will cause "severe" impacts to wilderness characteristics, but then claims that the incremental effects will be "limited in scope." This conclusion defies logic and does not address how the

resource will be protected. The BLM claims in EA Section 4.18.2.1 that the impacts to wilderness characteristics would be “moderate and mitigatable” under the Minimum Road Alternative but fails to provide evidence to support this claim or how the resource would be protected under this alternative. Finally, BLM states in EA Section 4.18.3.1 that the Preferred Alternative would have relatively “light, limited and short term” impacts on wilderness characteristics, but again fails to provide evidence to support this claim or how the resource would be protected.

Response: BLM has a mandate under FLPMA to update its inventory of resources, including wilderness resources, and to prevent “unnecessary and undue degradation” of public lands. The project would occur within a large natural area that has been found to have wilderness character but for which a decision has not been made to manage it for wilderness character. A finding of wilderness character does not preclude mining exploration and/or development. The Minimum Construction and BLM Preferred Helicopter Alternatives were developed to address BLM’s responsibilities under FLPMA for preventing “unnecessary and undue degradation,” i.e., for protecting wilderness characteristics and other resources found in the area, to the extent possible. Some short-term impacts to wilderness character (to solitude, to primitive and unconfined recreational opportunities, and to visual resources) will be unavoidable, certainly anywhere within the project area, and under the helicopter alternative, across the mesa itself. Still, the impacts under the various alternatives can be assessed relative to one another. Under the vehicle access alternatives, there will be heavy equipment noise from road construction and eventual deconstruction, as well as noise from vehicles driving in and out of the area, and noise from personnel and the drilling machinery and equipment at the drill sites. The visual impacts of constructed roads and overland travel routes will be pervasive and inescapable whether the routes are in-use at the time or not.

- g. Recommendation that the land be set aside for wilderness given its proximity to other protected areas.

Response: This is beyond the scope of this EA, and would not respond to the BLM’s purpose and need.

18. Specific concerns regarding visual resources:

- a. The road access alternatives would utilize Saline Valley Road, which is one of the primary access routes into Death Valley National Park. The EA does not address the impacts of the proposed project on these areas and the resources they protect due visual impacts.
- b. The mine site would be visible from areas within Death Valley National Park, nearby wilderness areas including Malpais Mesa, access roads, and even Mt. Whitney. As a result, the project is likely to impair the visual resources of the National Park, wilderness areas and other iconic scenic vistas including from Mt. Whitney.

c. The EA incorrectly applies BLM Manual 8431 when it determines that in the context of the greater landscape and number of visitors, the visual contrasts would be low. The visual contrasts of the proposed activity cannot both be strong to moderate and low. Although the length of time that a project is in view is a criterion in the contrast rating, the EA arbitrarily declares that the context of the greater landscape is a mitigating factor, even though such a factor is not a standard part of BLM's visual resource management.

The EA states that some viewers may only see the disturbance involved in some of the action alternatives for a short period; it also acknowledges that other viewers would be impacted for longer periods, citing the example of a hiker stopping to have lunch. I would add that backcountry campers, artists, photographers and other public lands users would also find the project to be more than just a passing inconvenience. The project would eliminate the sense of remote, primitive escape that requires the stark absence of visual contrasts on the natural landscape.

The EAs visual resources analysis should also revisit how it incorporates sensitivity level analysis for this area. As noted above, the EA wrongly applies the numbers of visitors (Page 69, Section 4.16.1.1) to the contrast rating. The EA probably incorrectly draws this metric from sensitivity level analysis where the number of visitors is a relevant factor, according to BLM policy on determining visual resource values. However, as outlined in BLM Manual H-8410, other considerations include public interest and special area designation. It is clear from the recent designation of the lands in question as National Conservation Lands under the DRECP that both of these criteria should weigh heavily in how the BLM determines whether a project is compatible with the visual resource management objectives.

d. The visual analysis did not consider long-distance views from Death Valley NP.

Response:

a-d. Agreed. Visual Contrast Rating findings for the road alternatives do not support the analysis and do not meet VRM Class II objectives. The EA Chapter 4 Visual Resources section has been rewritten.

The Minimum Construction and BLM Preferred Helicopter Alternatives were developed to minimize impact to visual resources.

The eligible affected unit (WIU #124-1) does have superlative wilderness character. It is probably the largest intact, completely roadless area left in the Ridgecrest Field Office outside of designated wilderness. However, BLM has not made a decision to manage this unit for wilderness character. Consequently, BLM can only consider its wilderness character as a resource in conjunction with other sensitive resources found in the area that need to be preserved and protected to the extent possible, in the context of accommodating other authorized uses.

BLM has attempted to do this by providing two impact-minimizing alternatives to the proponent's alternative: the minimum road construction alternative that relies more heavily on natural overland routes of travel (washes and ridgelines) than constructed road segments and the helicopter access alternative that requires no road construction or overland routes of travel by vehicle at all.

It is reasonable to suppose that the scale and intensity of the project will determine the scale and longevity of the impacts. On this basis, one can say with certainty that BLM's Preferred Helicopter Access Alternative will have relatively "light, limited and short term" impacts compared to either one of the vehicle travel alternatives; and that the "Minimum Road Construction Alternative" is likely to have less of an impact than an alternative relying more heavily on continuous new road construction, involving long segments of cut-and-fill construction across mountain slopes.

In addition, BLM has specified that all constructed road segments will have to be thoroughly reclaimed, de-constructed, re-contoured, re-texturized, re-seeded with an appropriate seed mix, and monitored and retreated for weeds by the proponent for up to 3 years.

Any overland travel routes will have to be re-texturized, re-strewn with rocks, boulders, and large woody debris, and effectively blocked from further vehicle use at the conclusion of the project.

Drill holes will be abandoned per CA State regulations, sumps will be dried and backfilled, drill pads would be re-contoured and re-texturized, topsoil where stockpiled and available would be redistributed over the site, and sites would be re-seeded with an approved native seed mix.

Drill sites would be worked one at a time and reclamation would commence at the conclusion of drilling.

Under the helicopter alternative, there will be noise from personnel, drilling machinery and equipment at the drill sites, and possibly, from a water pump. In addition, there will be noise from helicopter overflights (up to 6 trips per day) and this noise will extend beyond the project area to the mesa itself. However, the visual disturbances to the project area will be significantly less, restricted to a few, discrete, widely dispersed locations. Sites will be drilled one at a time. It may be possible to hike within the project area and not be aware of the drilling project at all until almost immediately upon one of these sites.

19. The EA fails to fully review all reasonable alternatives. The BLM should only allow the applicant to search the site for exposed minerals on the surface and, using hand tools only to obtain additional samples, with far less surface disturbance.

Response: The proponent has already searched the site with hand tools for exposed minerals on the surface. Drilling is the only means to get direct samples of mineral deposits at depth. The surface exposure alternative is not eligible for consideration because it does not respond to the purpose and need of the action.

20. The proposed project would cause unnecessary or undue degradation to public land resources. The EA does not impose sufficient mitigation measures that will eliminate or substantially reduce all of the potential impacts from the Project. Further, the failure to first ensure a valid claim should preclude any approval of a POO on this site. Moreover, the BLM's failure to obtain baseline data for critical resources that may be impacted, as noted above renders any finding that these resources will not be adversely affected unsupportable.

Response: Pre-project baseline conditions are adequate for the exploration project and alternatives proposed. Refer to response for comments #1 and #8. The Minimum Construction and BLM Preferred Helicopter Alternatives were developed to address BLM's responsibilities under FLPMA for preventing "unnecessary and undue degradation" to public lands.

21. FLPMA's multiple-use mandate does not permit the prioritization of mineral development over other uses of public lands.

- a. Concern that moneyed interests take precedence over the concerns of normal citizens and local residents.

Response: Comment noted. It is federal policy to manage public lands in a manner that protects the quality of natural values while at the same time providing for human occupancy & use. The surface management regulations of 43 CFR 3809 respond to the twin congressional mandates of preventing unnecessary or undue degradation of public lands while at the same time recognizing the rights of locators under the Mining Law of 1872. Refer to FLPMA sections 43 USC 1701a and 43 USC 1732b).

22. Economic impacts related to impacts to tourism and the outdoor recreation industry:

- a. Inyo County relies on outdoor recreation and tourism as a major economic component as opposed to mining, which is a limited and short-term contributor.
- b. This area is used for deer hunting

Response: Comment noted. The proposed project is exploration, not mining. Impacts to recreation are analyzed in Section 4 of the EA. Those impacts will be localized and the BLM does not anticipate broader effects on the local economy.

23. The EA does not state what minerals are being explored for.

Response: Section 1.4 of the EA discloses that the operation is for locatable minerals.

24. Specific concerns related to Native American Tribal concerns:

- a. The Native American Tribal consultation and assessment was inadequate. The consultation and resolution process must be complete before the project starts.
- b. The site has scenic, biological, and cultural resources worthy of protection and serves as a seasonal gathering area for Tribes.
- c. Big horned sheep and mule deer are in the area and are valued as cultural resources for Tribes.
- d. No consideration has been given for Tribal opposition. Note that Mono Lake Kutzadika Tribe is also opposed to the project.
- e. The Bishop Paiute Tribe has not been notified of this project.

Response: a-e. Tribal consultation for this particular drilling proposal began in 2008. The proposal to drill several holes to ascertain the sub-surface rock characteristics and to construct an access road to the drill sites has not changed, but the specific applicant has changed three times since the start of this review. However, Tribal comments, position statements, concerns, and those locations of important Tribal Cultural Resources that have been conveyed to the BLM by the Tribes have not changed; and all communications provided to the BLM over the course of the past 10 years of consultation regarding this proposal are acknowledged, carried forward, and considered relevant to the present review and analysis of this proposal.

The Bishop Paiute Tribe, along with ten other Tribes and Tribal communities in the area, received an introductory letter from the BLM during May 2014, USPS Certified receipt no. 7012-3460-0002-5432-8601 that informed the Tribe of the latest attempt by an applicant to conduct mineral drilling activities within the project area. This particular letter was just one of several consultation letters provided to the Bishop Paiute Tribe since 2008 that asked for their assistance identifying possible impacts to Tribal Cultural Resources that this particular drilling proposal might cause. Tribal consultation at the government to government level with the five Tribes of the Owens Valley regarding this drilling proposal are on-going and will continue beyond the current review and analysis associated with this EA, beyond any possible approved of the undertaking, and during any implementation of the drilling activities, if so approved.

Throughout the review and analysis of this particular proposal, the BLM has been knowledgeable of the concerns and opposition to this proposal by all of the Tribes and Tribal communities in the region because of probable impacts, damages, and adverse effects that could be deemed important to Tribal Cultural Resources, sacred areas, and Traditional Gathering Areas. This knowledge by the BLM of the Tribal opposition to the proposal because of possible damages to important resources and areas was an important contributing issue that lead the BLM to offer the Preferred Helicopter Access Alternative as a possible compromise that would allow the applicant to proceed with the proposal, but yet still protect the physical and visual integrity of the locale. The EA references to the opposition of the Tribes to the proposal because of damage to an unmodified landscape is an attempt by the BLM to provide a degree of confidentiality to the location of areas identified by the Tribes and Tribal individuals as being important, or sensitive, or sacred, so that these Tribal communities could continue to practice their faith without interference from curiosity seekers.

- f. When the BLM and Tribes visited Conglomerate Mesa a few years ago, it was determined that the area should not be disturbed because of the impact on cultural resources and an environment that is trying to heal itself from the past (Kathy Bancroft, Lone Pine Paiute-Shoshone)

Response: The BLM Preferred Helicopter Access Alternative has no potential to limit or degrade Native American access to traditional gathering sites because there will be no access road construction. The proposed road construction aspects of the other two project alternatives also do not have the potential to limit or degrade Native American access to traditional gathering sites. In fact, the construction of an access road as part of the either of these two alternatives could actually facilitate and make easier the access to Native American traditional gathering sites. However, based upon Tribal data contributions provided to the BLM over the course of the past ten years of interactive consultation regarding this particular drilling proposal, no traditional gathering sites have been specifically identified that occur within any of the APE for these three proposed action alternatives. Thus, none of the known Traditional Gathering sites within the Inyo Mountains would be affected by any of the proposed project alternative.

25. Previously disturbed and reclaimed areas are still evident as easy-to-follow “roads” due to the species composition. This indicates that despite the promise to reclaim the activities would leave long-lasting scars on the landscape.

Response: Comment noted. Visible disturbances still exist along the reclaimed BHP roads due to plant species being used that are not found in the surrounding area. The seed mix that will be used to rehab the site will not include non-natives (see EA

26. General concerns regarding Inyo County:

- a. Inyo County has not been consulted for the preparation of this EA. BLM should have coordinated with Inyo County during this process

Response: The Inyo County Board of Supervisors was notified of the draft EA and they sent a comment letter in response on November 14, 2017.

- b. Inyo County General Plan was not included in the list of other plans and documents in the EA.

Response: Comment noted. The County of Inyo commented that disturbances greater than one acre require compliance with the California Surface Mining and Reclamation Act. All operations must comply with pertinent state law and it is stated again in the Decision Record, Appendix A: Performance Standards.

27. Concerns regarding greenhouse gases:

- a. Cumulative contributions for emissions generated by SSR worldwide should be calculated for the cumulative impact analysis.

Response: Sources, sinks, and reservoirs (SSRs) for estimating greenhouse gas emissions are addressed in Appendix D of the EA. The expected greenhouse gas emissions range from 393.72 tons CO₂-equivalent (helicopter alternative) to 404.43 tons CO₂-equivalent (road access alternatives). Given that federal regulation 40 CFR 98 has a de minimis emission threshold of 25,000 tons of CO₂/year for reporting, this operation is less than 1/60th of the threshold required for reporting to the Environmental Protection Agency. Section 3.5 of the EA describes climate change at a global scale. For a site-specific action such as this, 'significance' generally depends on effects in the locale rather than in the world as a whole. A quantified planetary-scale cumulative impact analysis is outside the context of this assessment (40 CFR 1508.27), and would not assist the decision maker in choosing between alternatives, or determining whether the impacts of the proposed action or alternatives are significant.

- b. Emissions related to soil disturbance and vegetation loss should be calculated for the project and if soil microorganisms can be expected to recover after reclamation and how long that may take.

Response: See above response: 27a. The expected emissions range from 393.72 tons CO₂-equivalent (helicopter alternative) to 404.43 tons. Given that federal regulation 40 CFR 98 has a de minimis emission threshold of 25,000 tons of CO₂/year for reporting, this operation is less than 1/60th of the threshold required for reporting to the Environmental Protection Agency.

28. On pages 18 and 29, the EA incorrectly states, “The Cerro Gordo-Conglomerate Mesa ACEC also includes unique plant assemblages, since it lies at the eastern edge of the Mojave Desert and the western edge of the Great Basin.” The ACEC lies at the northern edge of the Mojave and the southern edge of the Great Basin; this should be corrected in the EA. The distinction is important because the ACEC and the project area may serve as a northern refuge for Joshua trees, other Mojave Desert vegetation, and associated wildlife as temperatures increase and southern portions of the Mojave become inhospitable due to climate change.

Response: This has been corrected in EA.

29. No public scoping opportunities were provided prior to the preparation of this EA.

Response: NEPA requires some form of public involvement during the preparation of EAs. This requirement was met through the public comment period on the EA. Public scoping is not required.

30. EA does not analyze impacts to the dark sky. NPS noted that Death Valley NP is the third and largest International Dark Sky Park.

Response: Under NEPA, an issue should be analyzed if it is necessary to make a reasoned choice between the alternatives or analysis is necessary to determine the significance of impacts (BLM NEPA Handbook H-1790-1, page 41). The impact a drill rig has upon the night sky was not analyzed because the BLM determined it would be so minimal that it did not meet the definition of “issue,” and instead would represent an accumulation of extraneous background data, and to concentrate effort, rather than attention on important issues (see federal regulations 40 CFR 1500.2, 40 CFR 1502.1 and 40 CFR 1502.15 and 40 CFR 1508.9).

31. The Helicopter Access Alternative is not technically feasible, has a high-cost burden, and involves additional safety concerns.

Response: The current proposal is to drill seven holes in seven widely dispersed and discrete locations. The proponent has agreed the helicopter alternative is feasible.

32. There are deficiencies in the Invitation to Review which discourage commenting. The deficiencies must be corrected, and the notice reissued. Specific deficiencies described include the lack of clear instructions through ePlanning to find the project through either a text search or map search.

Response: The ePlanning website is outside the scope of this assessment. Please send your ePlanning website suggestions to [Contact Information \(https://www.blm.gov/contact\)](https://www.blm.gov/contact).

33. The figures and appendices are difficult to find:

- a. The EA does not state where the figures are located, and the figure numbers are small. There is confusion about their placement on ePlanning.
- b. There is no table of contents for the figures or appendices.

Response: Comment noted. Please refer to the table of contents placed behind the front cover of the environmental assessment.

34. The EA's description of the control for noxious weeds is deficient. How was the three-year limit determined? What is the goal for weed control and what is the formula for monitoring and retreatment?

Response: Weed control measures will be specified in detail in the subsequent reclamation plan for the project. In our experience, three consecutive years of treatment is the minimum required to successfully launch control efforts. In reality, these weed sites and other sites in the area not linked to the project, will become BLM weed sites that will need to be regularly monitored and re-treated well into the foreseeable future. Weed removal would consist of hand-pulling and bagging weeds and disposing of them at landfills.

35. The speed limit of 25 mph is too fast, independent of dust. It should be 15 mph.

Response: Comment noted. This speed limit is set by the Great Basin Unified Air Pollution Control District (GBUAPCD). GBUAPCD's purpose is to enforce Federal, State and local air quality regulations and to ensure that the federal and state air quality standards are met in their district. To meet these standards, the GBUAPCD enforces the specific federal laws delegated to them; state laws on stationary sources of pollution, and pass and enforce their own regulations as they become necessary.

36. The EA states in Section 4.4.2 "there are no major Death Valley National Park tourist destinations within the area." The Death Valley NP states that in Lee Flat, the largest specimens of Joshua Tree can be found and it is a popular camping area known for light traffic and lack of development.

Response: Comment noted. Lee Flat is approximately 4 miles to the east.

37. Add Industrial Mineral Developments, Inc. to the mailing list. PO Box 790111. Virgin, Utah, 84779

Response: Will be added to mailing list.

38. Support BLM Preferred Helicopter Access Alternative if No Action Alternative is not selected.

- a. Helicopter Alternative would substantially reduce footprint of the project and that will reduce impacts to biological resources as well as visual resources.
- b. 0.6 acres must occur within affected management unit.
- c. Disturbance mitigation must be completed within 12 months of disturbance. How will it be enforced and what will be the consequences if deadline is not met?
- d. In addition, proponent must reclaim areas disturbed by exploration activities. BLM must closely monitor all reclamation and revegetation work.
- e. Recommend follow BFO work using only native, locally sourced seed.

Response: a-e. Comments noted. These issues will be addressed in the specific reclamation plan developed for the project based on the alternative selected.

39. Historic Keeler-Death Valley Trail circa late 1800's needs to be protected and preserved.

Response: The historic Keeler-Death Valley Trail is located outside of the proposed drilling area. The flight path from Lone Pine Airport to the drill sites in Conglomerate Mesa will pass overhead and will affect users of the trail for the period during which the drilling occurs. However, there will be no physical impacts to the trail itself.

40. New DRECP provisions are responsible for onerous Limited Use designations and reclamation requirements.

Response: The requirement that a Plan of Operations be submitted in 'limited' use areas in the CDCA is established in 43 CFR 3809.11. This regulation was in place before the DRECP LUPA amended the CDCA Plan. The DRECP LUPA includes NLCS-MIN-2 states, "For the purposes of locatable minerals, California Desert National Conservation Lands are treated as 'controlled' or 'limited' use areas in the CDCA, requiring a Plan of Operations for greater than casual use under 43 CFR 3809.11." Changes to the CDCA Plan, as amended by the DRECP, and to regulation, are outside the scope of this EA.

Reclamation requirements are mandated by the Surface Mining Management regulations (43 CFR 3809.11).

41. The Conglomerate Mesa Area is located in the Cerro Gordo Mining District, which has a successful history of mineral extraction. The Project is proposing to open up existing drill roads and test mineralization with low impact equipment. There will be no additional disturbance beyond what has already previously occurred.

Response: Comment noted, however, the Conglomerate Mesa area has never been mined or opened for mineral extraction and development, despite its proximity to Cerro Gordo. Previous exploration projects have not resulted in a mine.

Exploration project will generate local employment and revenues for local hotels, gas stations, restaurants, supply stores, and tax revenues for the state.

42. If drilling is successful, the mine will become one of the leading employers in the area, offering hundreds of high paying jobs, funneling money into the local economy and providing a steady source of tax income for Inyo Co. and the State of California.

If drilling is successful, the mine will become one of the leading employers in the area, offering hundreds of high paying jobs, funneling money into the local economy and providing a steady source of tax income for Inyo Co. and the State of California.

Response: Employment figures for the exploration project are estimated to be the same for the same period of time under all alternatives. See Chapter 2 Description of Alternatives.

BLM has no means to know, and cannot speculate on, whether this exploration may reveal a commercially valuable mineral deposit. Economic impacts of a mine are not reasonably foreseeable, and are outside the scope for this analysis. See response to comment 8.

43. Mine profits would fall mostly to the mining company. A mine would provide only limited local revenue and employment. The damage to the land and to Inyo County as a scenic outdoor recreation destination would remain.

Response: Employment figures for the exploration project are estimated to be the same for the same period of time under all alternatives. See Chapter 2 Description of Alternatives.

BLM has no means to know, and cannot speculate on, whether this exploration may reveal a commercially valuable mineral deposit. Economic impacts of a mine are not reasonably foreseeable, and are outside the scope of this analysis. See response to comment 8.