

**United States Department of the Interior
Bureau of Land Management**

Decision Record

for
Environmental Assessment

DOI-BLM-CA-D050-2021-0019-EA

For
**Pumice Material Sale Contract CACA-58637
and
Right-of-Way CACA-56716**

Located approximately within:

NW¹/₄ of Section 22,
Township 21 South, Range 38 East
of the
Mount Diablo Meridian,
Inyo County, California

Applicant:
**Southwest Global Pumice, LLC
of
Apple Valley, California**

Office of Record:

Bureau of Land Management
Ridgecrest Field Office
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I. SUMMARY OF THE PROPOSED ACTION

Southwest Global Pumice, LLC requests authorization to mine approximately 25 acres and purchase 100,000 tons of pumice from BLM-managed public lands within the Coso Mountains of Inyo County, California, and a right-of-way authorizing road access to the same site. The proposed road right-of-way coincides with portions of BLM Routes SE-431 and SE-435 in order to provide access to the Inyo County's Coso Junction/Gill Station Road. No widening or rerouting of SE_435 is proposed. A segment of route SE-431 would be rerouted sufficiently to maintain safety and avoid conflict with the proposed 25-acre affected area. The proposed action is within Section 22 of Township 21 South, Range 38 East of the Mount Diablo Meridian and is described by Environmental Assessment DOI-BLM-CA-D050-2021-0019-EA.

PURPOSE AND NEED FOR THE PROPOSED ACTION

The purpose of the above environmental assessment and this Decision is to respond to an application to purchase mineral material from public lands, and the incident need for access to the site. The BLM's need to do so is established by the Federal Land Policy and Management Act of 1976 (FLPMA) and BLM policy set by federal regulation 43 CFR 3601.6. That regulation states it is BLM policy to make mineral materials available unless it is detrimental to the public interest to do so, and to protect public land resources and the environment during the removal of such minerals. BLM's need to respond to a road right-of-way application is established by Title V of the Federal Land Policy & Management Act of 1976 (43 USC 1761). BLM is required to respond to these applications while ensuring compliance with applicable land management plans, protection of resources, and compliance with Federal and State laws related to environmental protection.

II. DECISION

It is my decision to approve the proposed action subject to certain measures and stipulations designed to assure reclamation, protect environmental and wildlife resources and conform with California state law (see MITIGATION AND BLM-REQUIRED STIPULATIONS, below).

III. ALTERNATIVES CONSIDERED INCLUDING THE PROPOSED ACTION

A. PROPOSED ACTION

The Proposed Action concerns a sales contract authorizing Southwest Global Pumice to purchase 100,000 tons of pumice from a 25-acre site on public lands, along with a road right-of-way providing terms of access from the mine site(s) to the Gill Station /Coso Road, both with

stipulations as dictated by the applicable Conservation Management Actions (CMAs) from the Desert Renewable Energy Conservation Plan (DRECP) (Appendix E of the EA), which is an amendment of the California Desert Conservation Area management plan of 1981. The proposed minesite is at or above 4500 feet in elevation. The involved BLM route network already exists and is at or above 3900 feet in elevation. The Coso Junction/Gill Station Road is below 3900 in elevation and is a public county highway outside BLM's jurisdiction.

The action includes removal of overburden from the affected area, stockpiling and loading material on trucks for transport on certain parts of the BLM transportation network to the Coso Junction/Gill Station Inyo County Road and delivery to market. The proposal is stipulated to comply with California state law as a condition of sale, including but not limited to the California Surface Mining and Reclamation Act.

Applicant Design Features/Environmental Protection Measures/CMAs

- A biologist would be on-site during excavations and equipment movement as needed to Ensure avoidance and minimization measures are appropriately implemented (CMA LUPA-BIO-2, LUPA-BIO-13).
- Pre-construction surveys for special status wildlife species will be conducted prior to activities to establish resource avoidance areas such as.
- Resource setbacks would be identified to avoid and minimize adverse effects to specific biological resources such as suitable habitat for Focus and BLM special status species if present (LUPA-BIO-3).
- Seasonal restrictions would be implemented, or visual barriers installed for activities which may impact BLM special status species, if present (LUPA-BIO-4).
- Worker education would be implemented to cover topics including, but not limited to, biological resource identification and protections, avoidance, reporting, and protection measures; the described predator subsidy management standards would be implemented as part of the Project design including, but not limited to, controlling food subsidies, water subsidies, and breeding site (LUPA-BIO-6).
- Subsidized predator standards will be implemented-All trash and food items shall be promptly contained within closed, raven-proof containers or placed out of site in vehicles with closed windows (LUPA-BIO-6).
- Check under vehicles and equipment for tortoises before moving. If a tortoise is found underneath one, operator must wait until it leaves on its own accord (LUPA-BIO-IFS-8).
- Vehicular traffic will not exceed 15 miles per hour on BLM access roads (LUPA-BIO-IFS-9).

- Weed management practices would be implemented as part of the Proposed Action operations including but not limited to vehicle cleaning, use of weed-free materials, and monitoring for weeds;
- Proposed Action activities would be confined to the designated routes and mine site.
- CDFW shall be contacted, and any regulations or mitigations proposed by this agency shall be completed, including an incidental-take permit authorizing the take of the Mohave ground squirrels, Joshua trees, etc. Further mitigation to reduce the impacts to less than significant levels would be specified in the 2081 Incidental Take Permit issued by CDFW (LUPA-BIO-IFS-39, 41).
- The described closure and decommissioning measures would be covered by the site reclamation activities which will be approved by BLM.
- The operator will obtain and adhere to the required permits or authorizations from the Great Basin Unified Air Pollution Control District (GBUAPCD). The operator will adhere to the required GBUAPCD prohibitions including fugitive dust precautions such as road watering or chemical applications for dust control, particulate matter standards, and nitrous oxide emission standards. A fugitive dust control plan would be prepared before project initiation. Measures include covering loads and removing spilled materials from the loading area to maintain a lower dust driving surface.
- Up-to-date industry practices would be used to prevent toxic substances from leaching into the soils;
- An emergency response plan would be prepared for the control of spills prior to project initiation;
- The proponent will be required to follow all federal and state laws and regulations, including the Clean Air Act and the California Surface Mining and Reclamation Act, with site reclamation to be guaranteed by a reclamation bond mutually acceptable to the Bureau of Land Management, the County of Inyo and the State of California.
- No surface disturbance is authorized outside of the proposed operational areas.
- Rerouting of a small portion of BLM Route SE-431 will be done to mitigate conflict between heavy equipment usage within the Makayla 2 pit and recreational traffic on SE-431.

BLM-REQUIRED STIPULATIONS (in addition to ones above)

1. The operator shall have and maintain an authorized Reclamation Plan in conformance with the California Surface Mining and Reclamation Act and ordinances of the County of Inyo.

Before commencing any operations other than reclamation, the operator shall supply BLM with a copy of a County Use Permit authorized by the County of Inyo, and a copy of reclamation bond/performance guarantee complying with county, state & federal requirements. The operator named on the financial instrument (Surety bond, certificate of deposit or other financial instrument) shall conform with that of the authorized operator.

2. Air Quality Control Measures.

- a. The operator will employ reasonably available measures to control PM10 emissions including:

<i>Emission Source</i>	<i>Mitigation Measure</i>
Disturbed Surface Area	Apply water and/or dust suppressants as required. Re-vegetate finished areas using native seeds and/or stockpiles topsoil.
Open storage piles	Continuously apply water and/or dust suppressants to produce a surface crust.
Loading/Hauling	Apply water to all stockpiles before loading. Cover loads prior to transport. Remove spilled materials from the loading area to maintain a lower-dust driving surface.
Mobile Equipment	Operate equipment when wind speed is low (25mph or less), at a speed of 15mph or that which produces a maximum of 20% opacity.
Unpaved road(s)	Improve road surface. Control vehicular traffic speed. Continuously apply water and/or dust suppressants. Track out onto paved road Sweep the paved road to reduce entrainment dust.

Other air quality protection measures include:

- The permittee shall have and implement the correct state Air Pollution Control District (APCD) permits before excavating any material. The permittee is required to comply with Rules 400 and 401 of the Great Basin Unified Air Pollution Control District.
- Operations that generate fugitive dust emissions shall be curtailed when wind velocities exceed 25 MPH. Dust-suppressing procedures shall be used on unpaved roads (that is,

improving the road surface, applying dust suppressants or water, and/or limiting vehicle speeds to 15 MPH)

- Similar dust suppression measures will be used on open storage piles as needed; particularly if the silt content of such piles exceed 5%. The operation will be modified, or additional mitigation applied if fugitive dust emissions exceed APCD standards.

3. Biological Resources

- a)* All native breeding birds, (except game birds) regardless of their listing status, are protected under the Migratory Bird Treaty Act (MBTA). Potential impacts to nesting birds are significant. When mining occurs between February 1 to August 31, a survey (within three days prior to work in those areas) is required and must be conducted by a qualified biologist to determine presence/absence of active nests within or adjacent to the area to be mined. This stipulation prevents killing the young of federally and state protected migratory birds. If no nesting activities are detected within 200 feet of the proposed work area, mining activities may proceed. If nesting activity is confirmed, work activities within 200 feet of the active nest shall be delayed until the young birds have fledged and left the nest. Work shall proceed in another location that is at least 200 feet from the nest. A pre-mining survey will not be required if mining activities take place between February 1 to August 31 (LUPA-BIO-4).
- b)* DRECP Conservation Management Actions (Appendix E of EA) related to minimizing impacts to sensitive plant species, features, communities, or alliances will be implemented, including but not limited to the following:
 - LUPA-BIO-7 Salvage and relocate cactus, Nolina, and Yucca (e.g., Joshua tree) from the site prior to disturbance using BLM protocols. To the maximum extent practicable for short-term disturbed areas (see Glossary of Terms), the cactus and yucca will be re-planted back to the original site.
 - LUPA-BIO-VEG-5 All activities will follow applicable BLM state and national regulations and policies for salvage and transplant of cactus, yucca, other succulents, and BLM Sensitive plants (e.g., Booth's evening-primrose).

4. Lands and Access

- a.* Prior to hauling any material from the Makayla 2 project area, the operator will obtain a BLM-authorized road right-of-way for commercial access between the Makayla 2 minesite and the Gill Station/ Coso Junction (county) Road. This right-of-way will include necessary portions of already-existing BLM travel routes SE-431, SE-435 and (if BLM judges necessary) SE-430.
- b.* BLM route SE-435 presently averages approximately 30 feet from berm-to-berm. No widening, re-routing or expansion SE-435 is authorized.
- c.* The proposed action includes rerouting a small portion of BLM Route SE-431 in order to mitigate conflict between heavy equipment usage within the Makayla 2 pit

and recreational traffic on SE-431 (see above *Design Features/Environmental Protection Measures*). Such rerouting will be done in a way that retains visitor enjoyment and retains safe access.

5. Soils.

The operator will ensure compliance with the existing reclamation plan and California Surface Mining and Reclamation Act, including:

- a. Scraping topsoil from the top 6 inches of the area to be mined prior to mining operations;
- b. Stockpiling, labeling, and protecting removed soil during the operation;
- c. Spreading that soil over the re-contoured areas when reclaiming the site to a uniform depth of not less than 6 inches and then stabilized in a manner that retains the material in place and will insure maximum seed-bed preparation.
- d. Ensure that topsoil is not compacted or stabilized to the degree that the topsoil is not a viable growing medium. Upon completion of operations, reclaim the area to simulate natural contours and native vegetative cover.

6. Special Areas- ACEC and CDNCL

- a. For the portion of the proposed activity that is located on undisturbed land (12.8 acres), the required disturbance mitigation ratio is 3:1 (per DRECP), therefore 38.4 acres will need to be mitigated. It takes decades for arid environments such as this area to fully restored, but active rehab will assist with this process.

Following reclamation, the abundance and diversity of plants would be lower than prior to the operation. Pioneer species would colonize the sites. These plants, in turn, would be followed by short-lived shrubs and eventually long-lived shrubs. The site would not return to its pre- disturbance species mix and biomass for at least 50 years.

- b. Ground disturbance mitigation must occur within the management unit within which it occurs. Mitigation opportunities would be investigated and decided on in consultation with the BLM and other agencies or parties as required. Ground disturbance mitigation is required to be completed within 12 months of disturbance. Southwest Global Pumice would remain in communication with the BLM regarding project progress and actual disturbance of the chosen alternative to ensure the correct acreage of ground disturbance mitigation is completed within the required time frame. The BLM must approve any restoration and revegetation techniques.
- c. In addition, the Design Features and Environmental Protection Measures in Section 2.1 will minimize impacts to both the CDNCL and ACEC units. Some important measures include resource setbacks to avoid Focus and BLM special status species, no surface disturbance is authorized outside of the proposed operational areas, and

weed management including but not limited to monitoring of non-native invasives and cleaning vehicles, which would assist with re-vegetation of natives in the future.

B. NO ACTION ALTERNATIVE

In the No-Action Alternative, no sales contract or ROW would be issued. Southwest Global Pumice would be required to complete reclamation at the Makayla II site as required by CACA-47476 (i.e., the 2006 exploration project).

IV. RATIONALE FOR DECISION

The FONSI for this action determined that the proposed action will not affect the quality of the human environment and that preparation of an Environmental Impact Statement is not required. The proposed action conforms with BLM policy in 43 CFR 3601.6, which states that mineral materials will be made available unless it is against the public interest to do so. In my opinion the required stipulations and mitigation measures are sufficient to ensure protection of public land resources and the environment during the removal of these minerals.

V. COMPLIANCE WITH LAWS, REGULATIONS, POLICIES AND LAND USE PLANS

- BLM works cooperatively with lead agencies for the California Surface Mining and Reclamation (SMARA) to ensure that operators minimize adverse environmental impacts in conformance to applicable local, State and Federal regulations (October 1992). BLM shares a Memorandum of Understanding with the County of Inyo which outlines this cooperation. For that reason, BLM stipulates conformance with State and County requirements pertinent to mining, reclamation and bonding.
- This action complies with provisions of the Desert Renewable Energy Conservation Plan, which is an amendment of the California Desert Conservation Area Plan of 1980, as amended. Conservation Management Actions pertaining to this action are contained in Appendix E of Environmental Assessment DOI-BLM-CA-DOI-D050-2021-0019-EA.

VI. PUBLIC INVOLVEMENT

The EA for this action was placed on BLM's public ePlanning NEPA website at <https://eplanning.blm.gov/> June 8, 2021 for 15 days of public input and comment (BLM press. release 6/8/2021). The public comments received by the BLM and the agency's responses are included in APPENDIX A of this decision.

VII. APPEALS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1.

If an appeal is taken, your Notice of Appeal must be filed in this office at

Ridgecrest Field Manager
Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, California 93555

within 30 days from the receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993 or 43 CFR 2804.1) for a Stay of this decision during the time that your appeal is being reviewed by the Board, the Petition for Stay must accompany your Notice of Appeal. A Petition for Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for Stay must also be submitted to each party named in this decision, to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a Stay, you have the burden of proof to demonstrate that a Stay would be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law and other pertinent regulations, a Petition for a Stay of decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the Stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of the immediate and irreparable harm if the Stay is not granted; and
4. Whether the public interest favors granting a Stay.

Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours (7:30 am – 4:00 pm), Monday-Friday, except holidays, and maybe published as part of this environmental assessment. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public review in their entirety.

Attached:

Appendix A, Public Comments and Responses for DOI-BLM-CA-D050-2021-0019-EA

Appendix A: Public Comments and Responses

The Makayla 2 Pumice Mine Environmental Assessment (EA), DOI-BLM-CA-D050-2021-0019-EA¹, was posted for public review on the project ePlanning site for a 15-day period from June 8, 2021 through June 23, 2021. Comment letters were received from 1 individual, The Desert Tortoise Council, The Defenders of Wildlife, The Fort Independence Paiute Tribe, and the Great Basin Air Pollution Control District either by email or in ePlanning.

A federal agency, such as the BLM, may choose to respond to substantive and timely comments, although it is not required by regulation for an EA. Substantive comments-1) question, with reasonable basis, the accuracy of information in the EA; 2) question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis; 3) present new information relevant to the analysis; 4) present reasonable alternatives other than those analyzed in the EA; and/or 4) cause changes or revisions in one or more of the alternatives (BLM's National Environmental Policy Act Handbook H-1790-1, Section 6.9.2.)

¹ Available at <https://eplanning.blm.gov/eplanning-ui/project/2013862/510>

All comments submitted were reviewed; substantive comments were separated from non-substantive; and the BLM responses are below. Comments were summarized as multiple comments from different commenters were similar or identical. If a response resulted in the modifications to the EA, it is noted.

Scoping and Issues:

Comment 1: Commenter states that the source of the identified issues included in Table 1-1 should be disclosed so the public can assess the methodology used and the credibility of the source.

Response: Comment noted and added statement to Section 1.5: Scoping of Issues of EA pages 5. “An environmental resources analysis was conducted through coordination with the BLM Ridgecrest Interdisciplinary Team. Substantive issues discussed and potential impacts resulting from the Proposed Action and alternatives are summarized in Table 1.1 below.”

Alternatives

Comment 2: Commenter believes the range of alternatives is insufficient and that BLM should analyze an alternative that would confine authorized pumice mining and associated activities to existing disturbed areas. Here, the applicant can extract a smaller quantity of pumice commensurate with an approved, reduced acreage, and which would allow for more efficient restoration of the open mine pit and vertical sidewall slopes.

Response: The purpose of this EA is to consider is to consider the applicant’s request to purchase and remove 100,000 tons of pumice from certain public lands. It is BLM’s policy to make mineral materials available unless it is detrimental to the public interest to do so. BLM will not dispose of mineral materials if it is determined that the aggregate damage to public lands and resources will exceed the expected public benefits (see EA Section 1.2, *Purpose and Need*). The EA did not consider confining the proposal to previously-disturbed lands because it would not be responsive to the purpose and need for this EA. That is, the smaller size and irregular boundaries of that alternative would make it problematic that 100,000 tons could be disposed here. Decreasing the surface area would also mean increasing the pit depth in order to obtain the same volume, which risks making final reclamation of the site more problematic. See Section 2.3, *Alternatives Considered but not Analyzed in Detail*.

Biological Resources: Special Status Species

Comment 3: Commenters are concerned that BLM made an No Effect determination for tortoises. They state tortoises have been observed in nearby Rose Valley and although the EA indicates a tortoise survey of the project site was performed in May 2019, no documentation of the survey methods and findings are included in the EA. They are concerned it is over a year old. Also, commenter concerned that tortoises are along the route leading from Hwy 395 to the Mine site.

Response: In addition to focused surveys, two general biological surveys were conducted at the site which consisted of initial meandering transects throughout the site to collect data on the plant and wildlife communities and potential food sources for sensitive species. Following completion of the initial reconnaissance surveys, comprehensive (i.e., 100 percent coverage) pedestrian surveys were performed throughout the site and periphery to document the vegetation present on the property and the wildlife species that inhabit the area. The surveys were conducted as per the survey protocol requirements for NEPA/ESA compliance for BLM special status plant species, and as required by CDFW for special status plant and animal species. Zone of influence surveys were also performed in the surrounding area. No desert tortoise individuals, or sign, were observed on site, or within an observable radius, during these surveys. Based off of these initial habitat surveys and literature reviews (primarily CNDDDB, CALFLORA, and BIOS), focused surveys were then performed for species that had a moderate-to-high probability of site use or habitation. According to these sources, desert tortoises have a moderate probability of occurrence on site. Therefore, in accordance with USFWS protocol, a desert tortoise focused survey was conducted. No desert tortoise individuals, or sign, were observed on site, or within an observable radius, during these surveys.

Comment 4: Commenter points out that following statement appears on page 10: “CDFW shall be contacted, and any regulations or mitigations proposed by this agency shall be completed, including an incidental-take permit authorizing the take of the Mohave ground squirrels. Further mitigation to reduce the impacts to less than significant levels would be specified in the 2081 Incidental Take Permit issued by CDFW.” They recommend that the sentence should be amended to include Mojave desert tortoise, as it is state-listed as a Threatened species, which requires that any take of tortoises, including handling, must be authorized by CDFW.

Response: The proponent has submitted the application for CESA Section 2081 Incidental Take Permit (ITP) for the incidental take of Mojave desert tortoise, Mohave ground squirrel, and western Joshua tree.

Comment 5: Commenter reminds BLM that the development of the site will require acquisition of a 2081 incidental take permit for MGS prior to ground disturbance since the DRECP does not authorize take.

Response: See response to Comment 4.

Comment 6: Commenter concerned there is no mention of Golden Eagles in the EA. They recommend a survey be completed and conservation management actions be applied.

Response: In addition to focused surveys, two general biological surveys were conducted at the site which consisted of initial meandering transects throughout the site to collect data on the plant and wildlife communities and potential food sources for sensitive species. Following completion of the initial reconnaissance surveys, comprehensive (i.e., 100 percent coverage) pedestrian surveys were performed throughout the site and periphery to document the vegetation present on the property and the wildlife species that inhabit the area. Zone of influence surveys were also performed in the surrounding area. The surveys were conducted as per the survey protocol requirements for NEPA/ESA compliance for BLM special status plant species, and as required by CDFW for special status plant and animal species. No golden eagles were observed on site, or within an observable radius, during these surveys. Based off of these initial habitat surveys and literature reviews (primarily CNDDDB, CALFLORA, and BIOS), focused surveys

were then performed for species that had a moderate-to-high probability of site use or habitation. According to these sources, golden eagles have a low probability of occurrence on site.

Comment 7: Commenter concerned that nesting bird surveys will only be required for ground disturbance that occurs between April 15 and July 15, but there is no reference supporting this time period for surveys. It is the commenters understanding for years that the effective dates for nesting bird surveys should be between March 15 and September 15, therefore they ask that BLM ensure the effective dates for nesting bird surveys are also discussed with knowledgeable agency biologists.

Response: Nesting bird surveys will be required within the recognized nesting period of all birds inhabiting, or potentially inhabiting the project area. Appropriate surveys will be conducted as part of the required pre-project clearance surveys and will be performed by a credentialed, agency-approved biologist (and/or USFWS Authorized Biologist).

Comment 8: Commenter states that BLM should inform the pumice mining permit applicant that it will have to contact the California Department of Fish and Wildlife (CDFW), Inland Deserts Region, to apply for and obtain an Incidental Take Permit for western Joshua trees.

Response: The proponent has submitted the application for CESA Section 2081 Incidental Take Permit (ITP) for the incidental take of Mojave desert tortoise, Mohave ground squirrel, and western Joshua tree. As part of the ITP application process, focused surveys were conducted for western Joshua trees. Data was collected include the following: individual location, size (height & DBH), number of branches, health of the tree, and any apparent damage to the trunk and/or root system. There are eight western Joshua trees that occur within the mine footprint, and which are suitable for transplanting. If project is approved, these individuals will be relocated to an area along the southern and eastern boundaries of Makayla 2 Mine. The remaining four trees, which are not suitable for transplanting, will be discarded as directed by the County and CDFW.

Comment 9: Commenters are concerned about BLM sensitive plants and the plant surveys that were undertaken and mention that the Barstow Woolly Sunflower was located 9.5 miles to the northwest of the project.

Response: Barstow woolly sunflower is not known to occur in or near the project site. In addition to focused surveys, two general biological surveys were conducted at the site, which consisted of initial meandering transects throughout the site to collect data on the plant and wildlife communities and potential food sources for sensitive wildlife species. Following completion of the initial reconnaissance surveys, comprehensive (i.e., 100 percent coverage) pedestrian surveys were performed throughout the site and periphery to document the vegetation present on the property and the wildlife species that inhabit the area. The surveys were conducted as per the survey protocol requirements for NEPA/ESA compliance for BLM special status plant species, and as required by CDFW for special status plant and animal species. A total of 50 plant species were identified during the field investigation. No Barstow woolly sunflowers were observed.

Geology, Mineral Resources and Energy Production:

Comment 10: Commenter asks if this mining is going to be "strip" mining and where will the slag go?

Response: The proposed action involves removing surface material in order to reach underlying pumice, stockpiling/saving that surface material and replacing it as part of reclamation. "Slag" is the non-metallic waste left after metallurgical operations. This is not a metallic mine, and no metallurgical operations are involved.

Comment 11: Commenter states that the entry into Table 1-1 for geology, mineral resources and energy production indicates there are no issues to these features from the proposed pumice mining. The rationale given is that "The 4/21/2020 Record of Decision for the Haiwee Geothermal Leasing Area Environmental Impact Statements explicitly removes any No Surface Occupancy requirements for this area. This being so, the proposed action poses no conflict with current land use plans." This rationale is misplaced because the No Surface Occupancy requirement is applicable to mineral leasing (e.g., geothermal, oil and gas) to protect sensitive public land resources from potential land surface impacts associated with mineral extraction activities. It is not applicable to mineral material sales. Furthermore, the rationale given, although incorrect, implies that approving the pumice mining action does not conflict in any manner with the California Desert Conservation Area Plan (as amended), which is also an incorrect conclusion.

Response: Section 1.2 of the EA explains that it is BLM's policy to make mineral materials available unless it is detrimental to the public interest to do so (43 CFR 3601.6(a)). The prevailing land use plan does not prohibit mineral material disposal in this area. The Desert Renewable Energy Conservation Plan² (an amendment of the California Desert Conservation Area Plan) classifies this general area as part of the Mohave Ground Squirrel Area of Critical Environmental Concern (ACEC). Appendix B of the DRECP states it is an objective of the Mohave Ground Squirrel ACEC to support the national need for reliable and sustainable domestic minerals while protecting the sensitive resources in the area, with new proposals to be analyzed on a case-by-case basis to assess whether the proposal can be accommodated. Environmental Assessment DOI-BLM-CA-D050-2021-0019 -EA is part of that assessment process.

Cultural/Archaeological/Tribal

Comment 12: Commenters recommend that government-to-government consultation between the Bureau of Land Management (BLM) and Native American Tribe(s) whose ancestral homeland overlaps with the proposed pumice mine occur before BLM concludes that the only cultural resources needing to be addressed are "four lithic scatters that need formal National Register eligibility determination before permit approval." Consultation with Native American Tribes on federal undertakings or actions is required under the National Historic Preservation Act to identify cultural values, religious beliefs, traditional practices and the legal rights of affected Native American by BLM actions on public lands.

Response: The BLM Ridgecrest Field Office has been in continuous government to government consultation with many of the Tribes and Tribal communities within the region for the past

² Available at <https://eplanning.blm.gov/eplanning-ui/project/66459/510>

fifteen years (2006-2021). Significant consultations took place between the BLM and these Tribes, with the locations of important Tribal resources that occur within the greater Rose Valley-Coso Range locale being made know to the BLM, between 2006 and 2008 for the Hay Ranch water pipeline construction project that is located just two miles south of the Makayla-2 APE. Between 2009 and 2020 there were additional and frequent consultations between the BLM and the local Tribes regarding the Haiwee Geothermal Leasing Area (HGLA) initiative on how to address potential effects to important Tribal resources that could be caused by geothermal explorations within the Leasing Area. The APE of the proposed Makayla-2 mining undertaking occurs within the boundary of the HGLA. The BLM also conducted Tribal consultations during 2004-2005 for the original Makayla-1 pumice mine development, to the immediate west of the Makayla-2 APE; and also contacted the State of California, Native American Heritage Commission, (NAHC) during 2006 and again in 2020 as to whether the project area was associated with any entry in the NAHC Sacred Lands database. The NAHC replied both times that there were no entries in the Sacred Lands database near or associated with this project location. The cumulative result of these Tribal consultations is that of the important and significant Tribal resources, sites, locations, and features that have been made know to the BLM by the Tribes and their representatives, none occur within the Makayla-2 APE.

Comment 13: Commenter states that the area is also a historical corridor for Kawaiisu seasonal migration, and known sites exist through the area. It seems in conflict with the spirit of the area's cultural history to introduce any more destructive projects. Commenter asks if any "ethnographic interviews" are going to be conducted to determine the significance of the area to any tribes that may have used or continue to use to this area for cultural / spiritual purposes.

Response:- It is true that numerous prehistoric sites occur within the immediate vicinity of this proposed undertaking. The goal of the BLM Class III-level intensive field coverage by Duke Cultural Resource Management during the summer of 2020 of the proposed 25 acre Area of Potential Effects (APE), which is also the project area, was specifically conducted to ascertain what types of cultural resource occur within the APE so that their significances and importance could be identified and taken into consideration by the BLM prior to any project or permit approval. This field survey identified four prehistoric lithic scatter sites and the remanent of a 1950s era pumice mining quarry within the APE. Under the provisions of the BLM-SHPO Statewide Heritage Protocol Agreement, May 2019 edition, all five sites were evaluated for their eligibility potential for the National Register of Historic Places (NRHP). This evaluation examined whether the pumice mine had any association with events or persons important to American History or had any architectural or engineering contributions. The finding was Not Eligible on all three criteria. The pumice mine and the four prehistoric sites were then evaluated for their ability to contribute important scientific data to archeological research question, such as the use of the locale by the Kawaiisu peoples and limited archeological excavations of the four prehistoric sites failed to document any scientific data that would be a new significant contribution to the existing scientific data set already known for the Coso Range locale. The pumice mine did not contain any significant data either. Thus, all five sites were determined by the BLM as Not Eligible for the NRHP. Regarding ethnographic-ethnohistoric interviews or investigations, none are planned for this undertaking, primarily because of its relatively small size and project footprint. If a larger project should be proposed by the applicant, this request will indeed be given serious consideration.

Comment 14: Commenter asks if there is a treatment plan for artifacts and inadvertent discoveries? Is there an education plan for cultural awareness for the people conducting the work and which CRM firm has been hired to do the "pre-survey" work?

Response:

All artifacts collected, specifically from the Nation Register eligibility evaluation test excavations, are being curated at the Maturango Museum in Ridgecrest. Regarding inadvertent discoveries, the standard BLM requirements and those contained in the Federal regulation 36 CFR 800 for inadvertent discoveries will be followed and complied with. Regarding an education plan for the mine employees, this is indeed a requirement that the BLM can have included in the stipulations related to the approval of the applicant's plan of operation. Duke Cultural Resource Management of Irvine, CA, is the applicant retained heritage resource consultant.

Air Quality/Soil Erosion

Comment 15: Commenter concerned that these types of projects are degrading the area is through the light-colored dust.

Response: Comment noted. Fugitive dust emissions were included in the analysis of this project (See Section 3.1 of the Environment Assessment). The operator will be required to maintain appropriate permits of the Great Basin Unified Air Pollution Control District and to comply with dust control mitigation measures.

Comment 16: Commenter notes that Section 2.1 of the EA (page 11) states that "The operator would obtain and adhere to the required permits or authorizations from the Great Basin Unified Air Pollution Control District (GBUAPCD)". Commenter feels the assessment would be more complete if that statement were repeated in EA Section 3.1.

Response: BLM states in Environmental Assessment Section 3.1.3 that "The permittee shall have and implement the correct state Air Pollution Control District (APCD) permits before excavating any material." And states in Section 3.1.5 that "The Design Features and Environmental Protection Measures in Section 2.1 will minimize impacts to Air Quality and GHG Emissions." The above statements in Sections 2.0 and 3.1 convey the same meaning.

Comment 17: Commenter feels that EA Section 3.1 should state that all operations, whether requiring air permits or not, must comply with GBUAPCD rules, especially Rule 401 - Fugitive Dust.

Response: EA Section 2.1 (page 11) states that "the proponent will be required to follow all federal and state laws and regulations, including the Clean Air Act". Appendix E further states at LUPA-AIR-2 that "Because project authorizations are a federal undertaking, air quality standards for fugitive dust may not exceed local standards and requirements." These requirements to follow state laws & standards include compliance with GBUAPCD Rule 401. BLM's authorization for this action will stipulate the proponent's need to comply with state laws and requirements, including GBAPCD standards and requirements.

Comment 18: Commenter notes that on page 15, under "Mobile Equipment" the speed for mobile equipment is limited to 15 mph. However, on Page 17 (under section 3.1.3), a speed limit

of 20 mph is mentioned. The District recommends a consistent speed limit of 15 mph in the document.

Response: Thank you for this input. Mobile equipment will be limited to 15 mph in conformance with GBUAPCD standards and added to EA Section 3.1.1.

Comment 19: Commenter notes that the first bullet point on page 17 uses the term "state Air Pollution Control District", which is confusing. It seems like it should say either the "local Air Pollution Control District" or spell out the name of Great Basin Unified Air Pollution Control District. There may be other relevant state compliance measures, but these would be implemented by the California Air Resources Board (CARB).

Response: The State of California has 22 Air Pollution Control Districts, 12 Air Quality Management Districts and 1 Air Resources District for a total of 35 districts. The Great Basin Unified Air Pollution Control District covers Alpine, Mono and Inyo Counties and is included within the term "state Air Pollution Control District."

Comment 20: Commenter notes that the EA has no mention of Diesel Engines for power generation, but based on the operations at Makayla 1, it seems likely that diesel powered generators will be utilized at the site. Commenter feels that if diesel engines will be used, they should be included in the evaluation, and it should be mentioned that proper permits from GBUAPCD will need to be obtained.

Response: The EA states that the operator must comply with pertinent state & federal laws, including compliance with required permits and prohibitions of the Great Basin Unified Air Quality Control District (EA Section 2.1, page 11). Any BLM authorization will stipulate that compliance with State and Federal standards, including the GBUAPCD, is required as a condition of operation on public lands.

Visual Resources:

Comment 21: Commenter is concerned that an expansion over 25 acres would make more of the operation visible and leave more of a large scar on the surrounding hills.

Response: The EA notes that the project is located within a Class III visual resource management area with an objective of. EA p.22, 30. The visual resource classification was established in the DRECP. Visual resource class values are not however the sole determinant of how visual resources on public lands are managed, rather, public lands are managed for a variety of purposes. Most of the trail is on the back (east side) of the crest, but there is a short ¾ mile section that wraps around the west side.

Comment 22: Commenter concerned that other Project Proponents should be made to clean up the remainders of what is there from other mining endeavors, i.e., the pipes and other hardware from the former project crossing over into upper McCloud Flat.

Response: This comment is outside the scope of this EA. Furthermore, the other mining hardware that has been left does not belong to the Proponent of the proposed Makayla 2, Southwest Global Pumice, LLC.

Ground Disturbance Mitigation:

Comment 23: Commenter states that the project is within the Mohave Ground Squirrel ACEC and recommends that the specific ground disturbance mitigation selected for proposed pumice mining be included in the EA. If restoration of disturbed areas within the ACEC unit is selected, the exact location and condition of the selected areas to be restored should be documented and included in the EA, as well as adequately monitored to determine the degree of restoration success.

Response: Comment noted. The specific ground disturbance rehab site will be within the MGS ACEC as per DRECP CMA (ACEC-DIST-1, 2, etc.) and please see EA Section 3.6.4: *Mitigation* on page 29 for more details.

Land Status and Designations:

Comment 24: Commenter states that Variance Lands are a category of public lands associated with solar energy generation facilities and have no relationship to mineral material sales. “The rationale for this feature not being an issue is that it does not apply to mineral material sales... since it doesn’t apply, it can be eliminated from the EA.”

Response: Variance lands were not analyzed in depth in the EA: See Table 1.1 page 8.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE	RIDGECREST FIELD OFFICE 300 SOUTH RICHMOND ROAD RIDGECREST, CA 93555
NOTICE OF APPEAL.....	
WITH COPY TO SOLICITOR...	U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SOLICITOR, PACIFIC SOUTHWEST REGION 2800 COTTAGE WAY, ROOM E-2753 SACRAMENTO, CA 95825-1890
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SOLICITOR, PACIFIC SOUTHWEST REGION, 2800 COTTAGE WAY, ROOM E-2753 SACRAMENTO, CA 95825-1890
4. ADVERSE PARTIES.....	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
5. PROOF OF SERVICE.....	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY.....	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.