

**MINUTE ITEM**

This Calendar Item No. 63  
was approved as Minute Item  
No. 63 by the State Lands  
Commission by a vote of 3  
to 0 at its 6/11/90  
meeting.

**CALENDAR ITEM**

**63**

A 34

S 16

06/11/90  
PRC 7132  
Dugal

**ASSIGNMENT OF A GENERAL LEASE - INDUSTRIAL USE**

ASSIGNOR: Billiton Exploration U.S.A., Inc.  
P. O. Box 2906  
Houston, Texas 77252

ASSIGNEE: Shell Oil Company  
P. O. Box 2906  
Houston, Texas 77252

AREA, TYPE LAND AND LOCATION:  
A 25.60-acre parcel of State lieu land three  
miles south of Mojave, Kern County.

EXISTING LAND USE: Water pipeline, monitoring well, and a dry,  
overflow containment pond.

TERMS OF ORIGINAL LEASE:  
Initial period: Ten years beginning August 1,  
1987.  
Surety bond: \$5,000.  
Public liability insurance: Combined single  
limit coverage of \$2,000,000.  
Consideration: \$2,304 per annum; five-year  
rent review.

BASIS FOR CONSIDERATION:  
Pursuant to 2 Cal. Code Regs. 2003.

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PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Processing costs in the amount of \$300 have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3;  
Title 14, Div. 6.

AB 884: N/A.

BACKGROUND:

This lease was originally issued on October 17, 1987, to Billiton Exploration, a gold ore extraction company, which is mining under permit from the Bureau of Land Management on federal property. A portion of the mine is also located on private property. A portion of the mining facilities are located on State lieu land. These facilities include a water pipeline, monitoring well, and a portion of a dry overflow containment pond.

During mining operations, hazardous substances are used to process the gold ore; therefore, this lease is subject to all State and federal statutes and regulations regarding the use, storage and disposal of toxic and hazardous substances. The State parcel is only used for monitoring facilities and a water pipeline. No water is taken from the State parcel to be used for gold mining production. However, a dry overflow pond has also been constructed (which is required under State law) to capture any overflow that may escape from adjacent processing ponds during one-hundred-year rains. The containment pond is lined and fully meets State and federal standards. The existing lease provides for immediate notification to the State in the event circumstances require use of the pond. Additionally, monitoring equipment is in place to protect the State's parcel from seepage of facilities not located on State property. No cyanide leach operations are conducted on the State lands.

Under the original lease, a Negative Declaration was prepared and adopted for this project by Kern County.

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The recommended lease assignment has been prepared in accordance with lease terms providing for such assignments. Staff has also negotiated a rent increase of \$1,536 per year, or a total consideration of \$3,840 per year. A rent review scheduled for 1992 will be conducted pursuant to the terms of the original lease with Billiton.

OTHER PERTINENT INFORMATION:

1. On December 12, 1989 Billiton Exploration contacted Commission staff regarding the merger of Billiton Exploration and Shell Oil Company and Billiton's desire to assign their interest in lease PRC 7132 to Shell Oil Company effective December 31, 1989.
2. On February 16, 1990 staff received from Shell Oil Company a Certificate of Status from the Secretary of State's Office for the purpose of qualifying to transact intrastate business in California.
3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

- EXHIBITS:
- A. Land Description.
  - B. Location Map.
  - C. Negative Declaration.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. APPROVE THE ASSIGNMENT OF LEASE PRC 7132, A GENERAL LEASE - INDUSTRIAL USE, FROM BILLITON EXPLORATION U.S.A., INC. TO SHELL OIL COMPANY, EFFECTIVE DECEMBER 31, 1989.

CALENDAR ITEM NO. 63 (CONT'D)

3. APPROVE THE NEGOTIATED RENTAL RATE OF \$3,840 PER YEAR, EFFECTIVE AUGUST 1, 1990. A RENT REVIEW SCHEDULED FOR 1992 WILL BE CONDUCTED PURSUANT TO THE TERMS OF THE ORIGINAL LEASE WITH BILLITON.
4. ALL OTHER TERMS AND CONDITIONS OF THE LEASE SHALL REMAIN UNCHANGED FOR THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE, MADE A PART HEREOF.

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EXHIBIT "A"

LAND DESCRIPTION

PRC 7132.

A parcel of California State lieu lands in Kern County, California, described as follows:

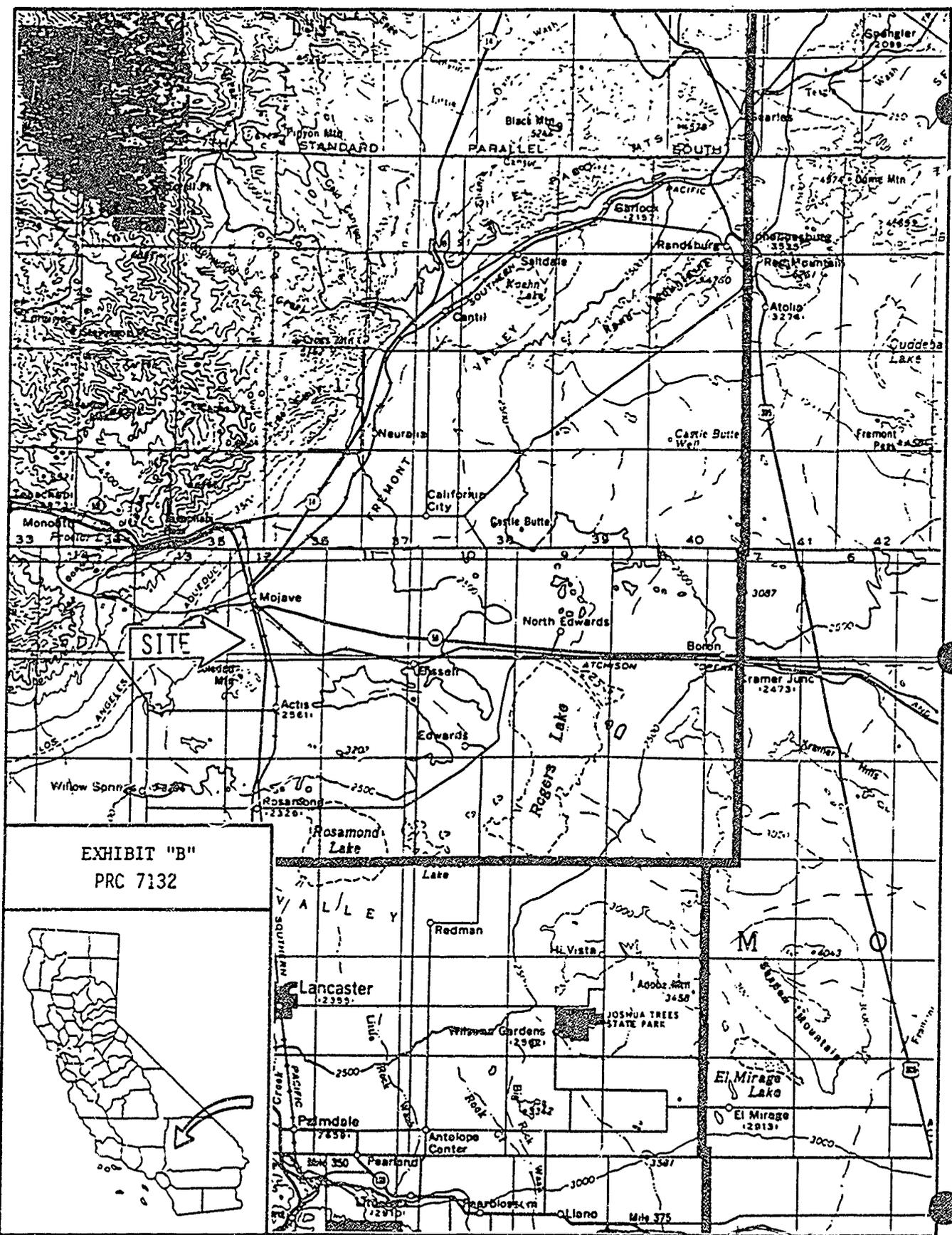
Lot 1, Section 28, T11N, R12W, SBM.

EXCEPTING THEREFROM that portion thereof patented August 30, 1971 to the California State Department of Public Works, Division of Highways.

END OF DESCRIPTION

PREPARED SEPTEMBER 9, 1987, BY BIU 1.

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**EXHIBIT "B"**  
**PRC 7132**

An inset map of California with a box highlighting the area shown in the main map, indicating its location within the state.

EXHIBIT "C"  
BEFORE THE BOARD OF ZONING ADJUSTMENT  
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

APPLICATION FOR CONDITIONAL USE PERMIT CASE NO. 16, MAP NO. 196 RESOLUTION NO. 195-87

Approx 3/4 mi S of the intersec of Purdy Ave & St Hwy 14, S of Mojave  
Shell Mining Company

FINDINGS AND DETERMINATION

I, Randall L. Abbott, Secretary of the Board of Zoning Adjustment of the County of Kern, State of California, do hereby certify that the following resolution, proposed by Mr. Froehlich, seconded by Mr. Zimmerman, was duly passed and adopted by said Board of Zoning Adjustment at an official meeting hereof this 8th day of October, 1987, by the following vote, to wit:

AYES: Aitken, Barbich, Froehlich, Zimmerman, Young

NOES: None

ABSTAINED: None

ABSENT: Price

*Steven G. Ladd*

SECRETARY OF THE BOARD OF ZONING ADJUSTMENT  
COUNTY OF KERN, STATE OF CALIFORNIA

RECEIVED  
STATE LANDS COMMISSION

OCT 22 PM 11:21

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Section 7000, et seq.), herein called the Zoning Ordinance; and

(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Department of Planning and Development Services has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.177 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

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(e) Said parcel of real property is described as follows:

APN: 297-290-06, 07, 08, and 09  
297-290-01, 02, 03, 04, and 05.  
297-290-04,  
297-300-04, 07, 08, and 09

Portions of Sections 28, 29, 32, and 33 of T11N, R12W, S88E, Kern County of Kern, State of California; the NW/4 of Section 33 T11N, R12W, S88E, according to the official plat thereof.

Except that portion lying easterly of the westerly line of State Highway Route 23 (U.S. 6) as conveyed to the State of California by deeds recorded June 5, 1931, in Book 413, page 366 of Official Records, and June 25, 1931, in Book 413, page 419 of Official Records, said state highway being 90 feet wide.

Also except that portion described as follows: beginning at the southwest corner of the NW/4 of said Section 33; thence N00°00'00" along the west line of said NW/4 of Section 33, a distance of 2,281.42 feet to a point; thence S56°18'36"E, a distance of 1,081.67 feet to a point; thence S15°04'20"E, a distance of 1,130.06 feet to a point; thence S80°04'46"E, a distance of 727.34 feet to a point; thence N88°05'05"E, on a line that is parallel to the south line of said NW/4 of Section 33, a distance of 750.00 feet to a point that falls in the east line of said NW/4 of Section 33; thence S00°13'42"E, along said east line of the NW/4 of Section 33, a distance of 400.17 feet to the southeast corner of said NW/4 of Section 33; thence S88°05'05"W, along the south line of said NW/4 of Section 33, a distance of 2,662.84 feet to the Point of Beginning.

Also except that portion described as follows: beginning at a point on the north line of said NW/4 which lies distant S88°43'09"W, 969.05 feet from the USGLQ Concrete Monument with brass cap marking the north quarter corner of said section, said point also lies distant N88°43'09"E, 201.75 feet from the Engineer's Station 696 + 81.05 on the baseline of the State Department of Public Works' Survey for State Freeway in Kern County from 1.2 miles north of Rosamond to 2.1 miles south of Mojave, Road 9-Ker-14-PM 4.2/14.0; thence (1) from said Point of Beginning, S20°56'E, 1,230.97 feet; thence (2) along a tangent curve to the right with a radius of 6,190 feet, through an angle of 10°37'41", an arc distance of 1,148.20 feet to a line which lies parallel with and 400.00 feet northerly of (measured at right angles) the south line of said NW/4; thence (3) along said parallel line S88°23'19"W, 527.50 feet; thence (4) continuing S88°23'19"W, 14.79 feet; thence (5) N79°39'29"W, 36.00 feet; thence (6) N15°28'08"E, 356.07 feet; thence (7) from a tangent bearing of N14°25'07"W, along a curve to the left with a radius of 5,750 feet, through an angle of 06°30'53", an arc distance of 658.35 feet; thence (8) N20°56'W, 1,373.81 feet to the north line of said NW/4; thence (9) N88°43'09"E, 424.74 feet to the Point of Beginning.

Also except all oil gas, minerals, and other hydrocarbon substances in and under or that may be produced from said land, which provide that there shall be no entry upon the surface of said land or any portion thereof above a depth of 300 feet for the purpose of prospecting or mining or removing said substances as excepted in deed from R.E. Brantley, dated September 24, 1956, recorded August 21, 1957, in Book 2833, page 240 of Official Records; and

(f) Said application has been made pursuant to provisions of Article 7286 of said Ordinance Code, and requests a conditional use permit as provided in Section 7020.03.G.J.

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insofar as said requirements are applicable to the aforescribed parcel of real property, and more particularly to allow the expansion of a surfacing mining operation and site reclamation plan in accordance with the Surface Mining and Reclamation Act of 1975 in an A-1 (Limited Agriculture) District; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Board, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Board has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Board; and

(i) Said notice of hearing stated that a negative declaration will be presented which states that the activity in question will not have a significant effect on the environment and that an environmental impact report is, therefore, not required under the provisions of the California Environmental Quality Act and that it is proposed to dispense with any environmental impact report in the consideration of such matter; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Department of Planning and Development Services and all persons so desiring were duly heard; and

(k) During said hearing and prior to consideration of the merits of said matter, this Board called for any objections to the dispensing with an environmental impact report or to said negative declaration; and

(l) This Board has considered the recommendation of the Department of Planning and Development Services and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Zoning Adjustment of the County of Kern, as follows:

(a) This Board finds that the facts recited above are true and that this Board has jurisdiction to consider the subject of this resolution; and

(b) This Board hereby adopts said negative declaration and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Board of Zoning Adjustment that the application herein described be, and it is hereby, A P P R O V E D, with development to be in substantial conformity with the plan as presented, subject to the following conditions:

(1) All necessary building permits must be obtained.

(2) The method of water supply and sewage disposal shall be approved by the Kern County Health Department.

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- (3) Fire flows and fire protection facilities shall be as required or approved by the Kern County Fire Department.
- (4) Prior to commencement of the expansion activities, the applicant shall submit an exact legal description for each excavation site, waste dump site, as well as for the expanded ore processing plant. The legal description shall contain a breakdown of the amount of acreage located on public and private lands.
- (5) Prior to commencement of mining activities, the applicant shall submit a copy of legal description, required by Commission 4, to the Kern County Public Works Department. The applicant shall post and maintain (with the Director of Public Works) a surety bond in the amount determined by the Public Works Department, but not to exceed 150% per acre, to guarantee the reclamation work will be completed in accordance with the approved reclamation plan, and the surety company shall give the County at least six months notice of intent to terminate the bond.
- (6) Prior to commencement of mining activities, the applicant shall submit a revised plot plan for each heap leach/milling facility, including those on Bureau of Land Management land, which specifies the exact location of all facilities to be contained therein, including leach pads, ponds, and commercial coaches, with distances provided to all property lines, section, and midsection lines.
- (7) No buildings or structures shall be located within 70 feet of any midsection line or within 80 feet of any section line unless a setback deviation study is requested in writing by the applicant and approved by the Director of Planning and Development Services.
- (8) Recreational vehicles shall not be utilized except for temporary periods during on-site construction activities only.
- (9) For any additional expansion or intensification of the operation in conjunction with the project, the applicant shall submit a revised operational statement and plot plan to the Director of Planning and Development Services. A new conditional use permit may be required at that time.
- (10) Finished depth of the pit shall not exceed 250 feet below original terrain level unless a plan to exceed this depth is submitted and approved by the Director of Planning and Development Services as being in conformity with the intent of this permit.
- (11) All processed wastewater shall be maintained within the boundaries of the site and outside the existing drainage channels, if any.
- \*(12) The applicant shall comply with the requirements listed by the Air Pollution Control District as indicated in their "Authority to Construct" permit.
- \*(13) The applicant shall comply with all recommendations made by L. Maynard Moe, PhD, in report dated May 30, 1985, prior to commencement of each future phase.
- \*(14) The applicant shall comply with all recommendations made by Robert A. Schiffman in report dated August 30, 1985, prior to commencement of each future phase.
- \*(15) All applicable mitigation measures made a part of Conditional Use Permit 12, Map 196 shall be made a part of this project.
- \*(16) The storage of cyanide salts shall be within and restricted to 3,500-pound "flow bin", or similar containers, as depicted in the submitted specifications for the subject container.
- \*(17) The applicant shall comply with the regulations and/or permit requirements of the Environmental Protection Agency, Regional Air Quality Control Board/Lahontan Region, and Bureau of Land Management; shall submit a list of Stored Chemicals and Material Data sheets to the Kern County Fire Department; and shall report to local law enforcement.

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agencies (California Highway Patrol and Kern County Sheriff's Department) the date, time, and route(s) of cyanide transportation.

- (18) All signs shall be subject to review by the Director of Planning and Development Services as to height, size, and design and must be approved by the Director prior to installation.
- (19) Mining shall be confined to the four excavation sites identified in the applicant's development plan. Before any excavation can commence on any other area, all necessary permits shall be obtained from all appropriate agencies.
- (20) Prior to commencement of any mining or processing activities to be conducted on federally owned land, the applicant shall obtain all necessary permits from the Bureau of Land Management.
- (21) Final pit slopes shall be consistent with the requirements of a Mining and Safety and Health Administration (MSHA) Ground Control Plan and consistent with the approved Bureau of Land Management operating plan.
- (22) Any waste rock dump area shall be finished to a final slope not to exceed one-foot horizontal to one-foot vertical.
- (23) A three-foot-high earthen berm shall be placed around open pit with warning signs posted to provide for public safety.
- (24) Applicant shall comply with all the applicable regulations of the Kern County Health Department. The applicant shall transmit copies of all approvals obtained from the Health Department to the Director of Planning and Development Services.
- (25) Aluminum skirting shall be installed and maintained in place around the base of each commercial coach at all times. Skirting of equal material durability and design may be approved by the Director of Planning and Development Services.
- (26) All heap leach pads, processing ponds, and tailing ponds shall be adequately fenced to provide for public safety and safety of employees.
- (27) All tailing pond slopes shall be graded to a 2:1 (two-foot horizontal to one-foot vertical) slope at the completion of use.
- (28) Construction and maintenance of processing equipment on the project site shall be within the boundaries outlined on the submitted plot plan.
- (29) All stockpiles shall be limited to the confines of the subject site unless expansion is approved in accordance with conditions of approval of this permit.
- (30) All dirt access roadways, parking, and maneuvering areas shall be treated with a dust binding agent or water at regular intervals to avoid the production of airborne dust.
- (31) During the grading and excavation period, should any archaeological or historical articles be uncovered, all work in said grading area shall cease until such time as the findings are properly examined by a registered archaeologist.
- (32) Upon completion of all activity, all of the permittee's buildings and equipment, excluding utilities, shall be removed or converted to other permitted uses compatible with the existing zoning. Concrete slabs and footings shall be buried in place or removed.
- (33) Surface mining operation shall be in accordance with Article 1265 of the Zoning Ordinance.
- (34) The operator shall notify the County within 30 days of the mining operations.

- (35) Final reclamation, as specified in the approved reclamation plan, shall be completed within 12 months of the notice given, pursuant to Condition 32. If this conditional use permit is terminated for mining and processing operations on the property lease for consecutive months, the operations shall be considered complete and reclamation work shall be completed within 12 months of such termination or operation cessation.
- (36) The Board of Supervisor shall have the authority to authorize County or private personnel to go on the site of the mine and any adjacent property of the permittee for the purpose of performing work to accomplish the reclamation plan, if the permittee fails to perform or conform to requirements imposed by any order made under Section 7204.06 of the Kern County Zoning Ordinance within a fixed or reasonable time, provided that the County assumes responsibility of compliance with such regulations.
- (37) The person conducting or in charge of all surface mining operations shall make the same open and available for such inspection during regular County business hours, or at such other times as may be mutually agreed upon by him and the Zoning Enforcement Officer.
- (38) The property owner shall be fully responsible for compliance by any lessee of the site to all conditions of this permit, and failure to comply or conform thereto may be cause for immediate revocation of this permit by the Board of Zoning Adjustment.
- (39) All on-site night lighting shall be directed away from adjoining properties and State Route 14.
- \*(40) Construction of the leaching system shall be in accordance with the Regional Water Quality Control Board discharge requirements as set forth in Title 23, Chapter 3, Subchapter 15, California Administrative Code. This includes designing the system for zero discharge with double liner or liners and capacity equal to 1.7 million tons plus required freeboard for precipitation storage and one foot of dry freeboard. A sand layer or synthetic material shall be placed between the liner or liners and a leach detection system installed.
- \*(41) All project components (leach pad and ponds) shall be bermed, as shown on submitted plans, to protect surface waters from cyanide contamination. In addition, the applicant shall implement any other design requirements deemed necessary by the Floodplain Management Section of the Department of Planning and Development Services to prevent runoff and to flood protect facilities. This may include designing the pregnant solution pond to hold runoff from the pad area from the 100-year, 24-hour storm plus 24 hours of leachate from the ore, grading the pad area to have positive drainage to the collection pond, diverting runoff around or away from major facilities, and protecting hazardous materials storage by means of berms. Secondary containment structures may be required in such area. In the event hazardous fluid escapes containment, the applicant shall excavate the contaminated material and place it within the tailings impoundment or leach pad. Alternatively, the contaminated material shall be mixed with a neutralizing reagent and left in place. All state and federal requirements regarding use, storage, and disposal of hazardous liquids shall be met.
- \*(42) The applicant shall implement any erosion control requirements deemed necessary by the Floodplain Management Section. This may include conducting mining operations and channel diversions (if any) in such a manner that would not increase the sediment load or 100-year peak discharges into natural channels, which could result in damage to adjacent property.
- \*(43) The applicant shall implement the recommendations of project biologist.
- \*(44) The applicant shall obtain the necessary clearance from the Health Department before any wastes from the site are deposited at the Mojave-Rosamond landfill.

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- \* (45) The applicant shall obtain an archaeological survey of the project site, or a statement from the California Archaeological Inventory that no such survey is required prior to commencing operations.
- (46) Should a conflict occur between the statistical data shown on the plan and the conditions of approval, the conditions of approval shall prevail.
- (47) No ore bearing material obtained from any off-site location shall be brought in for processing at the on-site heap/leach facility unless requested in writing and approved by the Director of Planning and Development Services. In considering such a request, the applicant shall provide any information deemed necessary by the Director in evaluating such a request.
- (48) This permit shall become null and void if the use authorized has not been activated within a one-year period of time of the approval of said permit. An extension of time may be granted by the Board of Zoning Adjustment if a written request is submitted prior to the expiration date of this permit; and

\*DENOTES MITIGATION MEASURES

(c) Noncompliance with the adopted conditions of approval may cause permit revocation proceedings in accordance with Section 7284.06 of said Ordinance Code; and

(d) The findings of this Board upon which its decision is based are as follows:

- (1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.
- (2) This project and any activities and improvements authorized thereunder will not have a significant effect on the environment and an environmental impact report is not required for consideration of such matter.
- (3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not be substantial and will not interfere with maintenance of a high-quality environment now or in the future.
- (4) The proposed use is consistent with the goals and policies of the General Plan.
- (5) The proposed use is consistent with the purpose of the applicable district or districts.
- (6) The proposed use is listed as a use subject to a conditional use permit in the applicable zoning district or districts or a use determined to be similar to a listed conditional use in accordance with the procedures set out in Section 7282.03.
- (7) The proposed use meets the minimum requirements of this chapter applicable to the use and complies with all other applicable laws, ordinances, and regulations of the County of Kern and the State of California.
- (8) The proposed use will not be materially detrimental to the health, safety, and welfare of the public or to property and residents in the vicinity.
- (9) Approval of the project would allow the extraction and processing of a natural resource in accordance with Section 7020.03.G.3 and Section 7020.03.A.2 of the Kern County Zoning Ordinance.
- (10) The proposed project, as developed under the conditions made a part of this permit, will allow a reasonable use of the property without resulting in significant adverse impacts to surrounding properties.

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1e) The Secretary of this Board shall cause notice of determination to be given to the County Clerk, and

1f) The Secretary of this Board shall cause copies of this resolution to be distributed to the following:

- Snell Mining Company (owner/applicant) (1);
- Kern County Public Works Department (1)
- Kern County Health Department (1)
- Kern County Fire Department (1)
- Kern County Sheriff's Department (1)
- Air Pollution Control District (1)
- Bureau of Land Management (1)
- Environmental Protection Agency (1)
- Regional Water Quality Control Board/Lahontan Region (1)
- California Highway Patrol (1)
- California Archaeological Inventory (1)
- Mining and Safety and Health Administration (1)
- Floodplain Management Section (1)
- Building Inspection Division (4)
- Zoning Enforcement Officer (1)
- Kern County Assessor (1)
- Kern County Assessor  
Chief, Realty Division (1)
- Kern County Supervisors
  - #1 Ashburn (1)
  - #2 Austin (1)
  - #3 Larwood (1)
  - #4 Nettinger (1)
  - #5 Shell (1)
- File (3)

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