

FHWA Letter of Consent, Decision  
Independence Material Pit  
CACA 047712

## DECISION RECORD

**Federal Highway Administration  
Letter of Consent  
For  
Independence Mineral Material Pit  
CACA 047712**

On December 12, 2005, the California Department of Transportation (Caltrans) submitted a request to the Federal Highway Administration (FHWA) for a Department of Transportation Easement from the Bureau of Land Management (BLM) for Parcel 3837-1 (Independence Pit) pursuant to U.S.C. Title 23; Highways, Section 317 and Section 107(d). Caltrans proposes to acquire the referenced BLM parcel for a material site to provide material for Federal Road Projects. On December 19, 2005, the FHWA asked the BLM for concurrence on the Caltrans' request and requested the issuance of a Letter of Consent specifying the conditions of transfer. The Independence material site identified as Parcel 3837-1 is described as:

Mount Diablo Meridian, California,  
T. 13 S., R. 35 E.,  
Section 7,  
S1/2 of Lot 2 of the NW1/4,  
N1/2 of Lot 2 of the SW1/4.

amounting to 81.02 acres more or less.

I have reviewed environmental assessment CA-170-98-28 and the Determination of NEPA Adequacy (DNA) CA-170-06-10 including the explanation and resolution of any potentially significant environmental impacts. I have determined that the issuance of the Letter of Consent with the stipulations as defined below will not have significant impacts on the human environment and that an EIS is not required. I have determined that the proposed action is in conformance with the approved 1993 Bishop Resource Management Plan. There will be no effect on threatened or endangered species as a result of the action.

Under the authority of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, (90 Stat. 2743, 43 U.S.C. 1770), and in conformance with the Interagency Agreement between the Bureau of Land Management and Federal Highway Administration (FHWA) signed on July 27, 1982 and the Federal Highway Act of 1958, it is my decision to issue a Letter of Consent CACA 047712 to the FHWA so that a 5-year highway easement deed can be issued to the California Department of Transportation (Caltrans) for 81.02 acres of public land known as the Independence Material Pit. The pit will be used for the Highway 395 Black Rock, Independence, and Manzanar 4-Lane Projects and associated FHWA highway maintenance and will be restricted to the removal of up 550,000 cubic yards of material over a five year period, as described in Alternative 2 (with minor changes) of the Environmental Assessment (EA) CA-170-98-28 dated May 19, 1998.

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The Letter of Consent will be subject to the following conditions and stipulations which must be included in the right-of-way use document issued to the State of California, Department of Transportation, agreed upon by the State, and administered by the FHWA. BLM will work with or through FHWA when they observe non-compliance with the conditions.

1. Pit use will be restricted to the removal of up 550,000 cubic yards of material over a five year period. Average anticipated extraction is 110,000 cubic yards, with a maximum of 300,000 cubic yards in any one year.
2. Any proposal for additional material extraction beyond the 550,000 cubic yards from the site or beyond the 5 year time period will require a NEPA analysis for the proposal.
3. A Surface Mining and Reclamation Plan (SMARA Plan), in conformance with the state and local regulations as specified in 43 CFR 3600, will be prepared by Caltrans in consultation with BLM and Inyo County. Reclamation Bonding requirements will be determined by the County. The SMARA will be approved by Inyo County prior to surface disturbing activities.
4. Reclamation will be conducted per the SMARA at the end of mining or the end of the five year period, whichever occurs first. At that time, the site will be permanently closed and reclaimed. Reclamation shall proceed incrementally so as to rehabilitate those areas not to be disturbed again within the five-year period. Reclamation will include slope recontouring, stabilization, and construction of drainage channels. The current LADWP water diversion/spreading facilities will be maintained and left on site to meet LADWP's needs. Stockpiled material will be spread over the disturbed area and then covered with recovered top-soil. The site shall be reseeded (native vegetation) with a seed mixture, rate and method as specified by the BLM Authorized Officer. The end product for the site is as open space and wildlife habitat with established native vegetation.
5. Approximately 31 acres (all of which is already disturbed) will be mined for sand and gravel. This will be primarily the NW 1/4 of the SW 1/4 of Section 7, but will include just a sliver of the south edge of the SW 1/4 of the NW 1/4 of Section 7. About 11.5 acres in the southeast corner of the parcel (NW 1/4 of the SW 1/4), south of and including the Boron Springs Wash and including a 50' setback along the northwest bank edge of the wash will not be mined. A 50' setback from the property boundary will be implemented for all mining activity. There will be no extraction from undisturbed areas. It is Caltrans' or its contractor's responsibility to stay within the existing disturbance of the project area.
6. Mining will be done with equipment associated with mineral material extraction opening only a small area at any one time, thus keeping to a minimum the amount of area that will be disturbed at any one time.
7. Only equipment and vehicles used for the material extraction will be placed in the pit. The pit can not be used for storage, maintenance or repair of equipment and or vehicles used on the highway 4-lane projects.
8. There will be no gravel crushing, separating, asphalt or concrete batch plants on-site. The only type of material screening allowed is a "grizzly" sorter on site.
9. Only temporary buildings associated with the mining operation will be allowed on site.

10. No "visual screening" berms will be constructed.
11. Material stockpiles should be placed to minimize their visual profile from Hwy 395. Stockpile locations may change during mining. Mining will proceed to a depth of no greater than 50' below the ground surface in the southwest portion of the site, and no greater than 25' below the ground surface in the northeast portion of the site. Total volume in this portion of the site is estimated at 1.6 million cubic yards, the depth should not reach these levels.
12. Slopes within the pit will be no steeper than 3:1 (horizontal:vertical (H:V)) except in the active excavation area during material removal.
13. Due to the volume of traffic, both on 395 and into the site, the existing access road at Highway 395 will be widened to provide an easy turning radius for trucks entering or leaving the highway so that those leaving the highway do not have to slow unnecessarily to make a tight turn, and so that two trucks may use the intersection at one time. Caltrans will have the option of determining whether to install acceleration and deceleration lanes for north- and south-bound traffic leaving and entering the site. All work done within the highway right-of-way will be done under Caltrans' authority.
14. In areas where native vegetation has re-established, the top 2" of material will be scraped off and placed in windrows at the top of excavation slopes to be used for later reclamation. This topsoil may be mixed with existing vegetation, but will not be mixed with processing fines. Topsoil and vegetation removal will not precede mining by more than one year.
15. Caltrans or its contractor will control the tamarisk on site by cutting it, and applying Garlon 4 to the stumps per BLM direction.
16. Useable and non-useable material will be separated with the grizzly sorter and stockpiled on site. Stockpile height will not exceed 15 feet above ground level at the eastern pit boundary, with slopes no greater than 2:1 (H:V). Minimization of visual impacts will be taken into consideration for stockpile location and heights with an attempt to keep the stockpile visibility below the undisturbed surface grade at the eastern boundary. Useable material will not be stockpiled long-term. Fine-grained, non-use material will be saved for reclamation.
17. As mining proceeds, the existing sediment basin in the northeast corner of the disturbed area will be deepened and kept operable to meet LADWP's needs. The basin will be no more than 25' deeper than the existing topography and graded so that it will collect drainage from the southern portion of the site. Slopes of this basin will be no greater than 2:1 (H:V). If damaged by mining or related activities, the existing outlet structure will be rebuilt per LADWP construction specifications to handle flows from a 100-year storm.
18. The second detention basin, in the extreme southwest portion of the site, will also be maintained to collect water from the existing diversion channel from the Boron Springs Wash. This basin will be similar to the one described above, except for the outflow, which will have a rocked intake and spillway. The combined capacity of the two basins would be about 32 acre-feet, which is greater than the expected volume of discharge from a 24 hour storm with a 20-year return period.
19. A drainage ditch will be installed along the base of the southeastern pit slope to direct internal flows (and overflow from the southwest basin) into the existing sedimentation basin in the northeast. The ditch will have a 6' wide bottom, will be 3 feet deep, and will

- have side slopes of 3:1 (H:V). Two rock check dams will be constructed 300' apart in the central section of the ditch. Straw bale check dams will be constructed every 100' between the rock check dams. The ditch gradient will be about 3-4% to the northeast.
20. If an office area is constructed, runoff from that area will flow into a small 0.5 acre feet containment area on the northeast corner of the office site.
  21. Best available control technology, such as maintaining a moist aggregate surface will be used to suppress extraction, processing, and hauling dust sources. The entire extraction and processing operation will be required to comply with Air Pollution Control District regulations, and operate under permit from the District. Caltrans or its contractor will meet all GBAPCD requirements for CO and NO<sub>x</sub> emissions. As the active mining moves away from an area, a dust palliative (WESLIG-120 or its equivalent) will be spread over the disturbed area. Fugitive dust will be controlled in order to minimize visibility hazards on the highway and visual nuisances outside of the pit. Should operations exceed these levels or create a hazard or nuisance, Caltrans will shut down mining operations until corrective actions are taken.
  22. As required by Lahontan Regional Water Quality Control Board (RWQCB), all storage containers for lubricants, fuel, etc. will have secondary containment structures underneath them with the capacity of the primary container. Berms or ditches will be built around these storage/containment areas to divert surface water flows.
  23. A well, capable of providing 20,000 gallons of water per day, may be drilled at the northwest corner of the operation. The well will be constructed according to State of California Dept. of Water Resources standards and Inyo County Water Dept. requirements. It will be: a 6" to 8" diameter production well drilled to a depth of approximately 200' to ensure that it penetrates the confined aquifer, completed with a gravel pack and sanitary seal, an above ground well cover with a locking cap. It is planned to use a 50 hp submersible pump capable of delivering water at a rate of 340 gpm from a pumping depth of 200' (capable of producing up to 200,000 gallons in a 10 hour day). Following well construction and prior to production, a draw-down test will be run and the results provided to BLM, Inyo County Water Dept. and the Ft. Independence Tribe. If the draw-down test shows unacceptable impacts to local wells, the well will capped and not used.
  24. Safe drinking water will be provided for site employees if needed.
  25. Operation waste water will be collected in the sedimentation basin and reused or allowed to evaporate or infiltrate. Waste water will not contain additives or chemicals.
  26. During operations, portable chemical toilets will be provided and maintained.
  27. Electricity will be provided by a portable generator, or by a temporary service line from the existing power line near the site. The temporary service line will be run underground.
  28. The hours of operation for most operations at the site will be 5 am to 8pm.
  29. Caltrans or its contractor is responsible for disposing of all debris, fluids or toxic materials in accordance with State and Federal regulations.
  30. No toxic materials or fluids shall be disposed of at the material site.
  31. Warning signs shall be placed where appropriate during operational phases to minimize hazards to passing traffic.
  32. Caltrans or its contractor is responsible for all suppression costs for any fire resulting from their operations and practices.

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33. All motorized equipment shall have state and federally approved spark arresters.
34. No access routes will be gated or locked, except with BLM written permission.
35. Monthly production reports will be required. The reports will include monthly totals and accumulated totals; and certified official scale weight slips should be available upon request by the BLM.
36. Caltrans or its contractor will provide to the federal government, at no cost, an initial site survey, and yearly surveys, at a time determined by the BLM Authorized Officer, for the purpose of verifying production volume. The initial survey will be done prior to production. Annual surveys will be conducted thereafter. The above surveys will be done by a state licensed surveyor or by airphotogrammetric method.
37. Due to an identified cultural site, there will be no surface disturbing activity on public land located within the fenced Caltrans highway ROW at the extreme northeast corner of the parcel unless the appropriate mitigation or recovery has been completed to the SHPO and BLM satisfaction.
38. Should any historic or prehistoric artifactual remains or debitage be encountered during use of the material site, all operations will cease until consultation occurs with the BLM, and the BLM Authorized Officer authorizes the operation to continue.
39. Mineral materials from the pit are considered "free use". Caltrans will not charge nor will any Caltrans contractor charge or assess a fee for these materials. Costs for extraction, processing, transport loading, or hauling are acceptable charges.
40. If temporary structures are used, The buildings (including roofs) will be painted in drab, non-reflective, earthen colors with irregular patterning to break up their outline and reduce their visibility. Camouflage netting may be substituted for painting. Painting will not be required for mining equipment or vehicles.
41. During periods of non-operation, equipment will be stored in low areas on site to be less visible from off-site locales.
42. During extended periods of non-operation (more than 30 days), equipment and structures will be removed from the site.

Failure to meet the standards, stipulations and requirements of this decision will result in a BLM request to FHWA for a shut-down of the pit until the conditions are met.

Alternative 2 (with minor changes) was chosen because it will meet Caltrans needs for a mineral material pit near the proposed 4-lane projects, and the 5-year time frame should be adequate for completion of the highway projects. The alternative does not allow for rock crushers, separating, asphalt or concrete batch plants which should reduce or eliminate the public concerns over noise, odor, visual impacts, and dust emissions. This decision does alter Alternative 2 in four aspects: the pit will be exclusively used for the Black Rock, Independence, and Manzanar 4-lane highway projects or for FHWA highway maintenance projects; equipment and structures will not be camouflage painted but non-painted structures can be camouflage netted; the mineral extraction equipment will not be limited to a large backhoe, and the construction of accel/decel traffic lanes will be determined by Caltrans engineers.

Based on the intended uses by Caltrans and its contractor, the changes to Alternative 2 are needed in order to provide a reasonable and workable pit operation. Caltrans' mineral material use under a highway easement is "free use" and therefore is restricted to only Federal highway

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projects. Although camouflage painting would initially reduce visual impacts, within two months of pit operation, the equipment would not be visible from the highway due to the lowered pit floor. In addition, many contractors rent or lease their equipment and the painting would place an unnecessary cost on the contractor and Caltrans. VRM Class III standards would be maintained. The large amount of material to be extracted (100K to 300K cu. yds. per year) cannot be efficiently done with a large backhoe as proposed in Alternative 2. Bulldozers, excavators, and front-end loaders are needed to move that amount of material efficiently. The large backhoe was considered as a way to reduce overall pit disturbance. Even with the proposed additional equipment, the excavated areas are still stipulated to be small, eliminating pit wide extraction. The potential accel/decel lanes were a safety concern. Since the lanes would be within the Caltrans highway ROW and under their jurisdiction, the BLM will defer to Caltrans traffic safety judgment for determining whether these lanes are needed. These changes to Alternative 2 do not change the environmental analysis and have been documented in the DNA CA-170-06-10.

In 1998, members of the community brought forward many valid concerns when there was a proposal for a competitive material sale for the Independence pit. That proposal was to use the pit for the highway 4-lane projects and for general sales in the private sector. The proposal also included crushing, separating, asphalt or concrete batch plants in the pit. The public concerns were mainly about truck traffic, dust, noise, and visual impacts. In support of those concerns, the 1998 BLM decision on the competitive sale prohibited the crushing, separating, asphalt or concrete batch plants except for a grizzly screen, required camouflage painting of buildings and equipment, and limited the extraction equipment to a large backhoe. On February 8, 2006 the BLM notified 49 potentially affected public individuals, agencies, and gravel producers of the new proposal to use the pit exclusively for the Caltrans 4-lane projects and highway maintenance and requested comments on the proposal. The notice was also published as an Inyo Register article on the February 11, 2006. In addition, the BLM and Caltrans discussed the proposal with the Inyo County Board of Supervisors on February 28, 2006. The Board did not express opposition to the proposal. Six comments were received from the notification. Five commenters supported the proposed Caltrans use, one of which, also wanted the site used for a recreational lake after completion of the highway projects. One commenter from a local gravel operation asked if the pit could be used for other public and private uses. The commenter was informed that the pit would not be available for other public or private uses.

The proposed use will meet Class III visual resource standards. The 31 acres of existing pit disturbance is barely visible to the casual observer from the highway. The site is visible from Hwy 395 near Oak Creek due to a slight rise in the highway; it is not visible from the Onion Valley road; and due to distance, it will be barely visible from Oak Creek campground. Initially, the mining equipment and haul trucks will be seen from Hwy 395 from both travel directions. Within two months of operation, the pit floor will be lowered enough to effectively shield the majority of pit activity. Although Hwy 395 has been designated a scenic highway, the designation does not prohibit development or adjacent highway uses. The intent is to provide a long term objective to maintain or enhance the Hwy 395 scenic qualities. The scenic quality will be impacted along a 0.5 mile stretch of Hwy 395 and at the pit entrance. This impact will be short-term and minimized as the pit floor is lowered over time, thereby, removing most of the equipment from sight. When completed, the site will be deeper than it is now, but it will be

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recontoured, replanted with native vegetation and reclaimed as wildlife habitat. The visual aspect will be enhanced after the pit is reclaimed.

Elimination of the crushing, separating, asphalt or concrete batch plants removes: most potential problems with odors, CO or NO<sub>x</sub> emissions, substantial amount of noise, and long-term visual impacts of the batch plants. The Owens Valley is a non-attainment area for PM<sub>10</sub>. As such, the

federal conformity rule states that we need to produce less than 70 tons of PM<sub>10</sub> per year from the site. This includes emissions from excavation, stockpiling, stockpiles, loading, and vehicular traffic, as well as any dust produced during periods of non-operation. Dust emissions will be controlled by utilizing surface watering and dust palliatives. Because the soil type does not contain silty fines, the site will easily meet the conformity criteria.

There should be no impact to the LADWP diversion / water spreading structures. These structures are used to augment groundwater infiltration and prevent flooding in Independence and along the highway. These structures have not been well maintained. It is expected that the pit operation and pit reclamation will improve the functioning of these structures.

Caltrans has indicated that if the highway projects can not be completed or project funding is lost prior to the five year expiration, Caltrans may request an extension of the easement. Caltrans would be required to prepare the National Environmental Policy Act (NEPA) documents, revise the SMARA plan and conduct the public input for the proposed extension.

Following completion of the sale, the site will be recontoured and reclaimed as; a water catchment area for LADWP, wildlife habitat, and open space per an approved SMARA reclamation plan. Should Inyo County and the residents of Independence make other proposals for future use of the site, those proposals would be considered.

It is in the public's interest to issue a Letter of Consent to the Federal Highway Administration so that FHWA can issue a highway easement deed to the Caltrans for the Independence mineral material pit. The pit would supply fill and gravel material on a "free use" basis for the Black Rock, Independence, Manzanar and other federal highway construction and maintenance projects. There is a stated need by Caltrans for material for highway projects and a public benefit of lower project costs. Caltrans indicated that the Independence gravel material will save about \$5 million on the highway projects. The Independence pit is an existing pit and can supply these needs. The pit is not in an ideal location for a long-term use; and therefore, is limited to a 5-year period. The various 4-lane highway projects using the mineral material will; reduce traffic congestion, improve vehicle recovery zones, reduce accident rates, and improve overall safety to the traveling public.

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