



# Monterey County

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## Board Order

Upon motion of Supervisor Armenta, seconded by Supervisor Phillips and carried by those members present, the Board of Supervisors hereby:

Held a Public hearing and adopted **Resolution 15-209** to:

- a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve an application by Trio Petroleum for a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
- b. Adopt a Mitigated Negative Declaration;
- c. Approve a temporary Use Permit (Porter Estates (Trio Petroleum) to allow the production testing for oil and gas using an existing well, subject to conditions of approval; and
- d. Adopt the Mitigation Monitoring and Reporting Program (PLN140395 / 72327 Jolon Road, Bradley / APN 424-081-082-000 / South County Area Plan)

PASSED AND ADOPTED on this 7th day of July 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on July 7, 2015.

Dated: July 16, 2015  
File ID: 15-0748

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 15-209

Resolution of the Monterey County Board of Supervisors to:
a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
b. Adopt a Mitigated Negative Declaration;
c. Approve a temporary Use Permit to allow the production testing for oil and gas using an existing well subject to conditions of approval; and
d. Adopt the Mitigation Monitoring and Reporting Program.....
(PLN140395/Porter Estates. 72327 Jolon Road, Bradley, South County Area Plan)

The appeal by the Center for Biological Diversity from the Planning Commission's approval of the temporary Use Permit (Porter Estates (Trio Petroleum) PLN140395) came on for public hearing before the Monterey County Board of Supervisors on June 23, 2015 and July 7, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors hereby finds and decides as follows:

FINDINGS

- 1. FINDING: PROJECT DESCRIPTION – The project is a temporary use permit to allow the use of an existing oil well, Bradley Minerals 2-2, for the exploration for oil for a period of one year with limits placed on the amount of oil that can be produced.
EVIDENCE: a) The project is located at 72327 Jolon Road, Bradley (Assessor's Parcel Number 424-081-082-000). The owner of the real property is Porter Estate Company Bradley Ranch, Inc. The mineral rights for the subsurface portion of this property are owned by Bradley Mineral Rights, Inc. Trio Petroleum, LLC (applicant) holds a lease with Bradley Minerals Inc for the use of the subsurface portion of the property.
b) The applicant requests to test an existing borehole to determine whether there is a commercial quantity of oil at a certain depth. To the extent there is sufficient oil available to commercially extract, a Use Permit for long term production of the well will be required.
c) Bradley Minerals Well 2-2 that has an approximate depth of 10,400 feet, was drilled under a prior temporary use permit (PLN070173) in 2008

for production testing; this use permit expired in 2009. No additional drilling, grading, or construction is permitted with this temporary use permit. This current use permit only allows testing using an existing well. The project has been conditioned to limit the production testing to one year and will not include the use of hydraulic fracturing or any other form of well stimulation treatments.

- d) The quantity of oil which can be extracted during this temporary testing period is capped by a condition of approval limiting the number of truck trips to and from the site.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140395.

2. **FINDING:** **PROCEDURAL BACKGROUND** – The project has been processed in compliance with County regulations.
- EVIDENCE:**
- a) On May 13, 2014, Monterey County Resource Management Agency issued a Notice of Violation to Trio Petroleum for working on an existing oil well with expired permits (14CE00123).
  - b) On May 28, 2015, the applicant applied for a temporary Use Permit (PLN140395) to allow production testing on an existing well (Bradley Minerals Well 2-2).
  - c) The temporary Use Permit application was deemed complete on June 27, 2014.
  - d) The project was brought to public hearing before the Monterey County Planning Commission on July 30, 2014 with a proposed categorical exemption under the California Environmental Quality Act (CEQA). During this public hearing, the Planning Commission continued the hearing to a date uncertain, and directed the preparation of an Initial Study for the temporary Use Permit application (PLN140395).
  - e) The Initial Study determined that any potentially significant impacts can be mitigated to less than significant, resulting in the preparation of a Mitigated Negative Declaration. The draft Mitigated Negative Declaration (“MND”) for the temporary use permit was prepared in accordance with CEQA and circulated for public review from February 27, 2015 through April 1, 2015 (SCH#: 2015021091) Two comments were received during this time, see Finding 7, none of the comments substantially change the analysis in the MND.
  - f) The Planning Commission considered the project and MND at a public hearing on April 29, 2015. During this public hearing, the Planning Commission adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan, and approved the temporary Use Permit application (PC Resolution No. 15-030) with a 5-4 vote.
  - g) An appeal from the Planning Commission’s approval of the temporary Use Permit (PLN140395) was timely filed by the Center for Biological Diversity (“appellant”), on May 11, 2015.
  - h) The appeal was brought to public hearing before the Board of Supervisors on June 23, 2015. At least 10 days prior to the public hearing, notices of the public hearing were published in the Monterey County Weekly and

were posted on and near the property and mailed to the property owners within 300 feet of the subject property as well as interested parties.

- i) On June 23, 2015, staff recommended that the public hearing be continued to July 7, 2015 to allow additional time to prepare responses to the appellant's contentions and applicant and appellant did not object to the continuance. The County is required to bring appeals to hearing before the Board of Supervisors within 60 days of receiving the appeal. The Board of Supervisors continued the hearing to July 7, 2015, which was within the 60 day period. On July 7, 2015, the Board of Supervisors conducted the public hearing, at which the applicant, appellant, and all members of the public wishing to be heard had the opportunity to testify.
- j) Staff Report, minutes of the Planning Commission and Board of Supervisors, information and documents in Planning file PLN140395 and Clerk of the Board file.

3. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for a temporary Use Permit to determine if oil and gas can be commercially extracted at this location.

- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
    - the 2010 Monterey County General Plan;
    - South County Area Plan;
    - Agricultural Winery Corridor Plan;
    - Monterey County Zoning Ordinance (Title 21);
 No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - b) The property is located at 72327 Jolon Rd, Bradley (Assessor's Parcel Number 424-081-082-000), South County Area Plan. The parcel is zoned F/40 and PG/40 [Farming and Permanent Grazing, 40 acres per unit], both zoning districts allow for the exploration for and removal of oil and gas; however, the proposed development is predominantly located in the portion of the property zoned Permanent Grazing. The project is an allowed land use with a Use Permit on this site.
  - c) The project site is an existing well pad site containing two existing oil wells, Bradley Minerals Well 1-2 and 2-2. The original well, Well 1-2, was drilled in 1985, and approved for a temporary use permit in 2004 (PLN040283) for re-drilling of the well. Bradley Minerals Well 2-2 was drilled in 2007 under a temporary use permit (PLN070173), and the Use Permit was granted an extension in 2009 under PLN080457. All use permits have expired.
  - d) The project planner conducted a site inspection on July 14, 2014 to verify that the project on the subject parcel conforms to the plans listed above. There is an access road off of Jolon Road with a locked gate controlling access. The site contained a temporary trailer and a port-a-potty restroom. Both the Bradley Minerals Well 1-2 and 2-2 were not in use. The temporary Use Permit would allow temporary steel tanks to be

- brought onsite, a pumping unit to be placed on top of Bradley Minerals Well 2-2, and production testing of the well.
- e) The installation of previous test wells onsite has resulted in site improvements necessary for this proposed project. There is an existing access road that leads to the existing well pad. There will be no additional drilling, grading or vegetation removal necessary for the temporary use permit.
  - f) The project is located within the Jolon Road Segment of the Agricultural Winery Corridor Plan (AWCP). This plan designates corridor segments within Monterey County that encourage winery related development in support of the growing industry. The AWCP is designed to apply only to projects related to the wine industry. This particular parcel has been permitted for oil exploration, and the project as proposed does not conflict with the goals of the Agricultural Winery Corridor Plan because of the limited visibility of the well pad.
  - g) The project was referred to the South County Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedures adopted by the Monterey County Board of Supervisors per Resolution No. 15-043, this application warranted referral to the LUAC because the permit application and land use matter may raise significant land use issues that necessitate review prior to a public hearing by the Planning Commission or Board of Supervisors.
  - h) The South County LUAC met on June 18, 2014 to discuss the application and any potential issues. The applicant gave a short presentation on the project and necessary equipment for production testing. The applicant responded to questions from the Southern Monterey County Rural Coalition regarding the use of hydraulic fracturing and other well stimulation treatments, which are not proposed or permitted as part of this temporary use permit. The LUAC voted 5-0 for a recommendation of project approval.
  - i) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140395.

4. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, Cal Fire South County Fire Protection District, RMA-Public Works, Environmental Health Bureau, and Monterey County Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions have been incorporated from the Environmental Health Bureau to address handling of hazardous materials. RMA-Planning added conditions to limit the life of the permit, require full restoration of the site if commercial quantities are not found, and to clarify that this permit does not allow any use of well stimulation treatments.
  - b) Potential impacts to Biological Resources have been identified and

mitigated to a level of less than significant. The following report has been prepared:

- "Biological Assessment" (LIB140218) prepared by Robert A Booher Consulting, Bakersfield, CA in May of 2014.

An outside consultant reported in the above mentioned document that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed this report and concurs with its conclusions.

- c) The site has been used for oil and gas exploration dating back to 1985. Bradley Minerals Well 2-2 was permitted in 2007 (PLN070173) to allow the drilling of the well and the exploration for oil and gas. An extension of the Use Permit for the exploration of oil and gas was granted in 2009 under file PLN080457, which expired in 2010. This application will allow the exploration for oil and gas on Bradley Minerals Well 2-2, for which the site has been permitted in the past.
- d) The project has been conditioned to require full restoration of the site if the applicant does not seek a Use Permit for production and to require the applicant to submit a performance bond equal to the cost of full site restoration.
- e) Staff conducted a site inspection on July 14, 2014 to verify that the site is suitable for this use.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN140395.

5. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

**EVIDENCE:**

- a) The project was reviewed by RMA- Planning, Cal Fire South County Fire Protection District, RMA-Public Works, Environmental Health Bureau, and Monterey County Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Cal Fire South County Fire Protection District, RMA-Public Works, and Water Resources Agency did not recommend conditions.
- c) The County conditioned the temporary permit to allow testing for one year from the date the resolution is mailed to the applicant and require the applicant to apply for a subsequent use permit to convert the exploratory oil well site to full production if commercial quantities of oil and gas are found. The applicant is required to submit monthly logs of truck trips to ensure the produced fluids from production testing will remain under the trips estimated in the Initial Study. The project has been conditioned to allow specific uses, which do not include the use of

hydraulic fracturing or any other form of well stimulation treatments. The project has been conditioned to require full restoration of the site if no commercial quantities of oil or gas are found. To ensure compliance the applicant is required to submit a performance bond equal to the cost of full site restoration.

- d) The Environmental Health Bureau has conditioned the project to require the applicant to maintain an up-to-date Business Response Plan, submit an inventory of any hazardous waste expected to be generated on site for review and acceptance, and submit a Spill Prevention and Control Plan that will describe all onsite containment measures for fluids and tanks that will prevent any spills and clean up measures if spills occur. All plans shall be compliant with state and federal regulations.
- e) Necessary public facilities will be provided and will be temporary in nature. The applicant has contracted a licensed rental company to provide temporary restroom facilities and a portable 500 gallon tank of fresh water for onsite needs.
- f) The project site will be equipped with a natural gas flare to burn off natural gas if it is found during production testing, in accordance with Monterey Bay Unified Air Pollution Control District requirements. The project has been conditioned to ensure compliance with Monterey Bay Unified Air Pollution Control District requirements.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA - Planning for the proposed development found in Project File PLN140395.

6. **FINDING:** **VIOLATIONS** - The subject property is not in compliance with rules and regulations pertaining to zoning uses in the County’s zoning ordinance. The approval of this permit will correct the existing violation and bring the property into compliance.

- EVIDENCE:**
- a) The proposed project corrects an existing violation, 14CE00123. With the approval of this permit, the subject property will be compliant with all rules and regulations. The violation exists because the applicant began working on the existing oil well (Bradley Minerals Well 2-2) under an expired use permit for exploratory drilling. This temporary use permit allows the exploratory work to be conducted on the existing oil well for up to one year from the mailing of the resolution to the applicant. Bradley Minerals Well 1-2 exists on the same project site and was permitted under file PLN040283. That permit expired, and the well site was never restored to its predevelopment state. This is a second violation on the property. The project is conditioned to require a performance bond in the full amount of estimated site restoration which will include the abandonment of Bradley Minerals Well 1-2 & 2-2, removal of all temporary structures, and re-contouring of the land.
  - b) Pursuant to Section 21.84.140 of Monterey County Code, permit applications for uses which have been established or initiated prior to the application for permit shall require a fee of twice the amount normally charged for the application. The applicant has paid in full all retroactive permit fees for this project.

- c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN140395.

7. **FINDING:** **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Board of Supervisors, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
  - b) Monterey County RMA-Planning prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN140395).
  - c) The Initial Study analyzed several environmental factors potentially affected by the project including aesthetics, biological resources, greenhouse gas emissions, land use/planning, transportation/traffic, agriculture resources, cultural resources, hazards/hazardous materials, mineral resources, public services, utilities/service systems, air quality, geology/soils, hydrology/water, and noise. The applicant has agreed to proposed mitigation measures relevant to biological resources that avoid the effects or mitigate the effects to a point where the impacts are less than significant. All other potentially significant effects identified in the Initial Study were determined to be less than significant.
  - d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with CEQA and Monterey County regulations, is designed to ensure compliance during project implementation, and is incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval.
  - e) The Draft Mitigated Negative Declaration ("MND") for this project was prepared in accordance with CEQA and circulated for public review from February 27, 2015 through April 1, 2015 (SCH#: 2015021091).
  - f) Due to the existing disturbed condition of the project site, lack of prey base, and limited vegetation cover in the project area, special status wildlife are not expected to be resident in the project footprint, but some special status wildlife may move through the site and buffer area while hunting or foraging. The 500 foot buffer area that surrounds the project site has the potential to support the San Joaquin whipsnake, coast horned lizard, burrowing owl, San Joaquin Kit Fox, American badger, and Salinas pocket mouse, and it is possible that these species could move through the project site. Activities within the project site could



also impact breeding of these species should they take up residence nearby in the surrounding habitats. The site is also within the range of California condor, and although the site lacks conditions optimal for foraging, it is possible that this species could occur in the vicinity. There are protected blue oak trees located on the project site, and an ephemeral stream located adjacent to the site. The following mitigation measures, which have been incorporated as conditions of approval, reduce these potential impacts to biological resources to a less than significant level:

**MM1 – Worker Environmental Awareness Program:** A County approved biological monitor shall prepare and present a worker environmental awareness program (WEAP) training for all personnel working on the site. The environmental training will reduce potential impacts to special status species that have the potential to occur within the buffer area and project site.

**MM2 – Pre-disturbance surveys for special status species:** In order to minimize potential biological impacts to special status species that have the potential to occur within the project site, a qualified biologist shall conduct two pre-disturbance surveys to determine if special status species have moved onto the project site or within the 500 foot buffer area.

**MM3 – San Joaquin Kit Fox (SJKF) Avoidance and Minimization Measures –** Due to the disturbed nature of the site, SJKF are not expected to reside within the project site; however, the species has been documented within the vicinity of the project site. To reduce potential impacts to SJKF that could den in the buffer area, the SJKF avoidance and minimization measures shall be included with the Worker Environmental Awareness Training (MM1).

**MM4 – Prepare a Burrowing Owl Mitigation Plan:** Western burrowing owls are not expected to reside within the project site but have been historically documented within the vicinity of the project site. The project would not result in removal of suitable burrowing owl habitat, but impacts could occur directly and indirectly if burrowing owls occurred in or around the project site. If pre-disturbance surveys (required by MM2) determine that burrowing owls are present within the site or project buffer area, then a burrowing owl mitigation plan shall be prepared consistent with the California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation.

**MM5 – Remove Microtrash:** The project site does not contain features suitable for the California condor roosting or nesting; however, the project could generate microtrash that could spread into surrounding habitats and potentially impact condor foraging. The mitigation measure requires that removal of microtrash shall occur weekly, and shall be included in WEAP training (MM1), to reduce potential impacts to

condors.

MM6 – Work Limitations: California Tiger Salamander (CTS) breeding habitat does not occur on or immediately adjacent to the project site; however CTS could occur transiently at night during rain storms while moving to breeding ponds. To reduce potential impacts to CTS to less than significant, limitations of vehicular access and non-automated work shall be restricted at night during rain storms.

MM7 – Relocate Species of Special Concern (SSC) reptiles out of work area: Coast horned lizard and San Joaquin whipsnake are known to occur in the vicinity though not documented on the project site. If pre-disturbance surveys (required by MM2) find SSC reptiles, they shall be relocated by the qualified biologists to reduce potential impacts to less than significant.

MM8 – Badger Avoidance Measures: The American badger could occur in the buffer area surrounding the project site and could move through the project area. If the pre-disturbance surveys (required by MM2) discover dens within 100 feet of the project onsite, exclusion zones shall be established to prevent intrusion of workers on foot, vehicles, and equipment near the dens to reduce potential impacts to a level of less than significant.

MM9 – Preconstruction Nesting Bird Survey: Immediately adjacent to the project site are oak woodland and grassland that could potentially be nesting habitat for a variety of birds. Project activity that commences during the avian nesting season (February 1 to September 15) could potentially impact nesting birds that may inhabit the oak woodland. To reduce potential impacts to a less than significant level, pre-disturbance surveys (required by MM2) conducted by a qualified biologist shall observe and, if necessary, move nests from the project buffer area during nesting season.

MM10 - Spill Containment/Prevention Plan: The project site does not contain riparian habitat or sensitive natural communities; however, an ephemeral stream channel is present approximately 90 feet north of the project site. The project site would not result in direct impacts to the stream, but because it is downslope of the project, this mitigation measure requires that a spill containment/prevention plan shall be developed according to performance criteria included in the MND to avoid potential impacts of the project to the ephemeral stream.

MM11 – Tree Protection: The project does not require removal of any blue oak trees that exist onsite; however, some ground disturbing activities (such as creation of berm for spill containment) may occur adjacent to trees. Implementation of tree protection measures will reduce potential impacts to blue oaks to a less than significant level.

- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 4/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLN140395) and are hereby incorporated herein by reference.
- h) All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless California Department of Fish and Wildlife (CDFW) determines that the project will have no effect on fish and wildlife resources. (Fish and Game Code Section 711.4)  
The project site itself lacks potential for supporting special status species; however, the 500 foot buffer area surrounding the project site has the potential to support San Joaquin whipsnake, coast horned lizard, burrowing owl, San Joaquin Kit Fox, American Badger, Salinas Pocket Mouse, and is in the range of the California Condor. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to CDFW for review, comment, and to recommend necessary conditions to protect biological resources in this area. Mitigation measures identified above have been required to ensure the project has a less than significant effect on these resources that have the potential to occupy the site.
- i) The County has considered the comments received during the public review period and they do not alter the conclusions in the Initial Study and Mitigated Negative Declaration. Neither the comments received on the MND nor the appeal by Center for Biological Diversity present a fair argument supported by substantial evidence that the project may have a significant effect on the environment. The comments received from the Monterey Bay Unified Air Pollution Control District ask for clarification on the estimated truck trips and reference the newest data for the Air Quality Management Plan as the 2013 Triennial Update, while the Mitigated Negative Declaration referenced the 2008 Air Quality Management Update. Review of the 2013 data compared to the 2008 demonstrate that the use of the newer information would not change the determination of the Initial Study, and impacts to air quality would remain less than significant.
- j) An errata to the MND (Attachment D) has been prepared presenting an updated analysis of greenhouse gas emissions of the project utilizing new data found in the 2013 Intergovernmental Panel on Climate Change report. The MND previously used data from the 2007 Intergovernmental Panel on Climate Change report, which had a lower global warming potential for methane. The updated analysis does not show a significant change in total carbon dioxide (CO<sub>2</sub>) equivalent emissions from the project; emissions remain under the daily threshold utilized by California Air Resources Board (CARB) for CEQA analysis, and impacts to greenhouse gases remain less than significant. The errata also addresses the appropriateness of thresholds used within the MND and

clarification of the cumulative impacts analysis.

- k) Subsequent to the comment period for the MND, changes have been made to one of the Mitigation Measures (#10) for Biological Resources. The Mitigation Measure as revised is equivalent or more effective than the Mitigation Measure presented in the MND and has been considered by the Board of Supervisors at a public hearing. Mitigation Measure #10 for Biological Resources has been revised and will be implemented through a condition of approval (#26). The condition will require the applicant submit a Spill Prevention Control Plan that will address the containment and spill prevention of all onsite fluids and tanks. The condition includes performance criteria contained in the Mitigation Measure for the containment of onsite fluids that will prevent any potential impacts to the adjacent ephemeral stream. Secondly, the condition requires containment of onsite tanks as required by the California Health and Safety Code. This condition, with revisions made since the Planning Commission hearing will be equivalent or more effective than the originally written mitigation measure to reduce potential impacts to the ephemeral stream adjacent to the project site, pursuant to CEQA Guidelines section 15074.1(d).
- l) Recirculation of the MND is not required. The revision or replacement of mitigation measures does not require recirculation of the Mitigated Negative Declaration, pursuant to CEQA Section 15073.5(c)(1) if the mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1. Also, the errata to the MND amplifies and clarifies information in the MND but does not make a substantial revision of the MND within the meaning of CEQA Guidelines Section 15073.5.
- m) A Notice of Determination (NOD) was filed with the Monterey County Clerk/Recorder on April 30, 2015 subsequent to previous project approval the Planning Commission and all state and local fees were paid for processing and recording. The project has been conditioned to require filing of a new Notice of Determination following approval by the Board of Supervisors.
- n) Monterey County RMA-Planning, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

**8. FINDING:**

**APPEAL AND APPELLANT CONTENTIONS**

The appellant, Center for Biological Diversity, requests that the Board of Supervisors grant the appeal and deny the temporary use permit application (PLN140395). The appeal alleges that the Mitigated Negative Declaration prepared for the project does not comply with the requirements of CEQA and the Planning Commission's actions are not consistent with state law. The contentions are contained in the Notice of Appeal (Attachment F of the July 7, 2015 Board of Supervisors Staff Report) and listed below with responses. The Board of Supervisors finds that there is no substantial evidence to support the appeal and makes the

**EVIDENCE:** a) following findings regarding the appellant's contentions:  
**Contention 1 - The MND fails to consider reasonably foreseeable impacts from the project.**

The appellant contends that the MND did not consider impacts of all phases of the project including project planning, implementation, operation, and future development and refining and combustion of fossil fuels.

**Response:** The project description in the MND (Pages 2-9 of Exhibit C) specifies that the Initial Study would analyze the reasonably foreseeable impacts of production testing and long term production of the project. That includes the assumption that if commercial quantities of oil and gas were found during production testing of Bradley Minerals Well 2-2, it is reasonably foreseeable that the second well on the property, Bradley Minerals Well 1-2, would also be used for production. The project description includes the necessary activities for preparing the site for testing, production testing, and the reasonably foreseeable activities that would be necessary for converting the site for long term production, and the impact of long term production for both wells. The MND analyzes the reasonably foreseeable impacts of production testing of Bradley Minerals Well 2-2, and long term production of both Bradley Minerals Well 1-2 & 2-2 for impacts to aesthetics, biological resources, greenhouse gas emissions, land use/planning, transportation, agricultural resources, cultural resources, hazardous materials, mineral resources, public services, utilities, air quality, geology, hydrology, and noise, including potential cumulative impacts. Anything beyond this analysis is not reasonably foreseeable and would be mere speculation. The previous tests on this well did not result in a permanent production facility, so it is not known if the well will yield commercially viable quantities of oil. If commercial quantities are found, a new Use Permit will be required to develop the site for long term production, which will require environmental review based upon what is known and proposed at that time.

b) **Contention 2 - The MND fails to consider the harm from Well Stimulation or Enhanced Oil Recovery Techniques:**

The appellant contends that unless the project approval is expressly conditioned upon a permanent prohibition on well stimulation and enhanced oil recovery techniques, CEQA requires that the impacts of those techniques to be fully disclosed and analyzed. The appellant cites potential impacts of enhanced recovery techniques such as acidizing, steam injection, and hydraulic fracturing.

**Response:** The project description in the MND states that no well stimulation, including steam injection or hydraulic fracturing, is proposed and that any long term production of Bradley Minerals Well 2-2 & 1-2 would not include any well stimulation. The temporary Use Permit approved by the Planning Commission was conditioned (#22 – NO WELL STIMULATION TREATMENTS) to prohibit the use of any

well stimulation on Bradley Minerals Well 2-2, and this draft condition remains in the conditions of approval before the Board of Supervisors. The project description discloses the possibility of using acid for ongoing well maintenance, which is not considered well stimulation, as the acid is intended to clean, not stimulate, the borehole. Acid is used to clean the perforations of the well, and is immediately pumped out of the well. The concentration of the acid chemical and impacts were analyzed on page 48 of the MND, concluding that impacts would be less than significant.

c) **Contention 3 - The MND fails to consider the harm resulting from produced water:**

The appellant contends that the MND fails to consider the impact of the produced water because the document did not disclose where exactly the produced water will be transported to. Secondly, the appellant states that impacts resulting from produced water have not been fully evaluated in the MND because recent assessments by the EPA have determined numerous deficiencies with the Underground Injection Control (UIC) program.

**Response:** The Hazardous Materials section of the MND states that the produced fluids will be treated as hazardous materials, as fluids from deep in the ground naturally contain harmful chemicals and a high amount of total dissolved solids (TDS). The MND states that the produced fluids would be transported according to the regulations of the following responsible agencies: California Department of Transportation, California Environmental Protection Agency, California Department of Toxic Substances Control (DTSC), and California State Fire Marshal. The MND states in the project description that the produced fluids will be delivered to an approved disposal well or wastewater disposal facility. All disposal wells are regulated by the US Environmental Protection Agency's (EPA) Underground Injection Control (UIC) Program. In 1983 the EPA gave the State of California Department of Conservation (DOC) the primary authority to regulate all Class II injection (disposal) wells. The County is entitled to rely on compliance with state and federal regulations to determine that impacts will be less than significant. The MND determined that compliance with the above mentioned agency's regulations would result in less than significant impacts due to Hazardous Materials (produced water).

The reliance on compliance with state and federal regulations to conclude the impact is mitigated is reasonable, notwithstanding the EPA finding that there are numerous injection (disposal) wells injecting into non-exempt aquifers. Both the EPA and the DOC have been actively communicating over the past year to work toward compliance. The DOC has initiated a rulemaking process to address compliance with injection wells in non-exempt aquifers, establish penalties for failure to comply, and has required the 'shut in' of several wells to evaluate

impacts to surrounding water supply wells. Due to the recent assessments, communication, and plan of action agreed upon by the EPA and DOC, the County can continue to rely on compliance with state regulations to determine impacts of produced water would be less than significant. However, in order to be extraordinarily cautious, a condition is proposed for the Board of Supervisors' consideration which will require the disposal well sites to be sites that are in compliance with state and federal regulations, are in an exempted aquifer, and that an after the fact report be provided showing that the authorized disposal sites were utilized.

d) **Contention 4 - The MND fails to consider significant impacts on water resources:**

The appellant contends that even though the project description states that all produced fluids will be contained in enclosed steel tanks, the County did not expressly prohibit the use of sumps or any kind storage pit, and that it is reasonably foreseeable that the applicant would dig a storage pit, leading to impacts on water resources. The appellant also contends that the MND unlawfully defers the preparation of a spill prevention plan as a mitigation measure.

**Response:** The MND analyzed impacts based on the project description, which includes the use of fully enclosed steel tanks to hold all produced fluids and that the project would not include any additional grading. The resolution approved by the Planning Commission was conditioned to allow only specific uses that are described in the project description, which includes a statement that no additional grading is necessary for the project (Finding1). This finding and evidence remains in the draft resolution before the Board of Supervisors (Attachment B). Any activity that would involve additional grading for the project would be in violation of the temporary Use Permit. In order to be very conservative, condition #26 of the project has been modified to make abundantly clear that no sump or storage pit may be excavated on the project site and all fluids must be contained in a manner which precludes spills from being absorbed into the soil or released into the environment.

The preparation and submittal of a spill prevention plan is Mitigation Measure #10 for biological resources, which has been incorporated into the conditions of approval for the project (Condition #26). The condition requires the Spill Prevention Plan to be developed according to a set of performance criteria (included in condition) that will reduce potential impacts of any spill onsite from draining into the adjacent ephemeral stream. Since the Planning Commission hearing, Condition #26 has been clarified and amplified to spell out in more detail the requirements for the Spill Prevention Plan. Because the mitigation measure and condition of approval include performance criteria to achieve the reduction of impacts, the County is not deferring mitigation.

The requirement provides secondary containment which is a standard practice in situations addressing potential spill of material which could be detrimental to the environment. Secondly, the condition requires the submittal of a spill prevention control plan for compliance with existing regulations of the California Health and Safety Code.

e) **Contention 5 - The MND fails to consider significant impacts of greenhouse gas emissions:**

The appellant states that the MND made two errors in its approach to calculating greenhouse gas emissions and determining the significance. First, the appellant contends that the threshold used (10,000 MT CO<sub>2</sub>E per year) is too high and not adequately supported. The second contention is that the global warming potential for methane used in the MND did not specify a timeframe and that the potential is ‘woefully’ below current data for global warming potential, referencing a 2013 report.

**Response:** The MND utilized thresholds recommended by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) for stationary source projects, the threshold for stationary source projects is the appropriate threshold for this project. Stationary source projects are projects that are not portable and are only operated at a single facility. This threshold of 10,000 MT CO<sub>2</sub>E per year is utilized by MBUAPCD, as well as San Luis Obispo Air Pollution Control District (SLOAPCD), and the Bay Area Air Quality Management District (BAAQMD). The MND calculated that the emissions estimated from the project would result in 835 MT CO<sub>2</sub>E per year for the testing phase, which is significantly under the threshold recommended by MBUAPCD. The MND determined that the emissions for long term production would result in 1,609 MT CO<sub>2</sub>E per year for long term production. After the Planning Commission hearing, it was determined this calculation was in error, and the actual emissions for long term production would result in 1,586.83 MT CO<sub>2</sub>E per year, which is lower than what was originally analyzed in the MND and significantly under the threshold recommended by MBUAPCD.

The global warming potential that was used to analyze the project was based on the 2007 Intergovernmental Panel on Climate Change (IPCC) Report, which California Air Resources Board (CARB) uses as a CEQA threshold. The global warming potential is used to determine how much carbon dioxide equivalent (CO<sub>2</sub>E) the methane and nitric oxides contribute to greenhouse gas emissions. The 2007 IPCC report stated the global warming potential for methane was 23, meaning every unit of methane is multiplied by 23 and added to the total CO<sub>2</sub> emissions. The 2013 IPCC report increased the global warming potential to 28 (meaning every unit of methane is multiplied by 28). The global warming potential was analyzed for a 100 year time frame, which



CARB uses as the standard practice for CEQA analysis. In response to this comment, additional analysis has been done using the 2013 data for global warming potential (28). The emissions estimated from the project would result in 837 MT CO<sub>2</sub>E per year (as opposed to 835 MT CO<sub>2</sub>E) for the testing phase, and 1,587.25 MT CO<sub>2</sub>E per year (as opposed to 1,586.83 MT CO<sub>2</sub>E) for long term production. The analysis resulted in only a negligible change in total exploration and production emissions (less than 1%) which does not change the significance conclusion of the MND. This analysis is included in the errata to the Mitigated Negative Declaration (Attachment D).

f) **Contention 6 - The environmental document is deficient in its mitigation of impacts on biological resources:**

The appellant contends that the MND mitigations for biological resources do not sufficiently reduce the impacts of special status species to “less than significant.”

**Response:** The appellant incorrectly contends that the project site supports the San Joaquin kit fox, that the California condor inhabits the area, and that the vicinity of the project site is used by numerous special status animals. The MND and previous biological reports conducted in 2007 and 2014 by Booher Consulting indicate, based on literature review and onsite surveys, that no special status species have been previously documented within the boundaries of the proposed project site, no special status species were observed during the biological surveys, and special status species are not anticipated to occur in the project site as a result of the existing conditions of the site. The biological reports depict the site as a highly disturbed site, with an existing gravel pad, and lacking vegetation. The reports did indicate that the project vicinity has the potential to support special status plant species and wildlife species. The MND developed mitigations that would reduce impacts to these potentially occurring special status species to “less than significant.” Regarding the appellant’s reference to the California condor, the California condor has been reintroduced in Big Sur (50 miles west) and the Pinnacles National Park (45 miles north), and the closest sighting of a condor was 3.55 miles east of the project. The MND states that the project site does not contain any known or potential nesting sites; however because potential foraging habitat was observed in the project vicinity, mitigations are provided. According to California Department of Fish and Wildlife, the San Joaquin kit fox has been recorded in proximity to the project site; however no species or any suitable denning were observed in the project site. The MND states that the project vicinity may support foraging for the San Joaquin kit fox, therefore mitigations are provided to reduce impacts to “less than significant.” The mitigations provided in the MND sufficiently reduce impacts to special status species. The project site clearly does not contain habitat to support sensitive species, however due to habitat in the vicinity that could potentially support sensitive

species, mitigations have been provided to reduce potential impacts that the project could have on potentially occurring sensitive species in the larger vicinity.

- g) **Contention 7 - Further Deficiencies of the MND:** The applicant contends that the MND does not contain a “real or adequate” cumulative impacts analysis.

**Response:** The MND addresses cumulative impacts to air quality, noise, transportation/traffic, and utilities. It concludes that, when considered in combination with the effects of past and probable future projects, the project would result in less than significant impacts. The analysis of this project’s contribution demonstrates that its impact is not cumulatively considerable. This permit would only allow testing for a temporary period of one year of one existing well on a previously disturbed site. At the conclusion of this time, the applicant is required to restore the site or, if commercial quantities of oil and gas are found, the applicant may apply for a subsequent Use Permit to develop the site for long term production, which will require environmental review. Any contribution of this project to greenhouse gas emissions or climate change would be negligible. The analysis also shows the reasonably foreseeable impact if the well were to be used for production. This contribution to greenhouse gases and climate change would be substantially below MBUAPCD thresholds.

Subsequent to the preparation of the Initial Study and release of the Mitigated Negative Declaration, Trio Petroleum submitted three separate application requests for additional test wells within approximately 5 miles of this project site in the Hames Valley. These applications are in the preliminary stage and are distinctly different in nature than the proposed Use Permit for Bradley Minerals Well 2-2, and therefore do not belong in the cumulative impact analysis. These wells would not be intended to test for the production of oil from the same geologic formation as the Bradley Minerals Well 2-2, but are wells targeting different geologic layers at some distance from the project site. The location of the proposed wells in Hames Valley was determined using geologic and seismologic information that shows anomalies in the underlying geologic layers approximately 4,000-6,000 feet below surface, as compared to the subject project to test an existing well at 10,400 feet in depth. These future applications will be processed separately and environmental review of these proposed test wells will review the cumulative effects of those wells. The Bradley Minerals Well is different in nature because it is an existing well looking at a particular geologic formation while the potential future wells would look at geologic anomalies which would be a different source of oil.

**DECISION**

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
- b. Adopt a Mitigated Negative Declaration;
- c. Approve a temporary Use Permit to allow the production testing for oil and gas using an existing well, in general conformance with the sketch, and attached hereto as Exhibit 1, and subject to the conditions of approval, attached hereto as Exhibit 2, both attached hereto and incorporated herein by reference; and
- d. Adopt the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit 2.

**PASSED AND ADOPTED** upon motion of Supervisor Armenta, seconded by Supervisor Phillips carried this 7th day of July 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

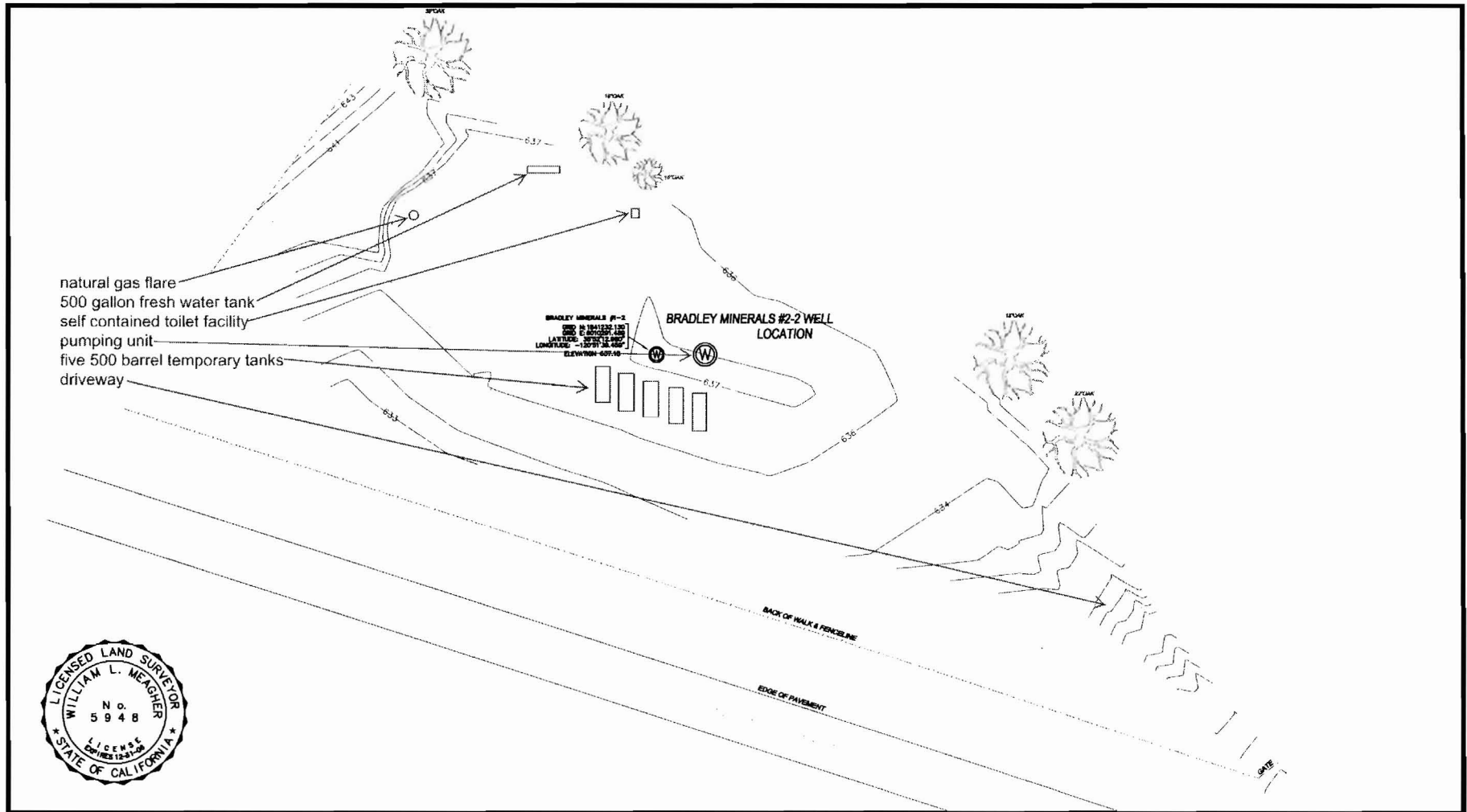
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on July 7, 2015.

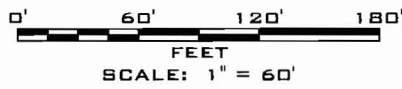
Dated: July 16, 2015  
File Number: 15-0748

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy



WM HOLDINGS INC.  
 William L. Meagher  
 2747 Sherwin Ave. #12  
 Ventura, Ca. 93003  
 (805) 677-4850  
 Drawn by Jeremy Henry, LS



NORTH

**BRADLEY MINERALS #2-2 WELL  
 LOCATION  
 BRADLEY, CALIFORNIA**

SHEET 1  
 OF 1  
 DRAWING NO.  
**807070**

PLN140395

APPLICA. T SUMMITAL

REVISED: 06-20-2007

# Monterey County RMA Planning

## Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN140395

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This temporary use permit (PLN140395) allows the use of an existing oil well, Bradley Minerals 2-2, for the exploration for oil for a period of one year with limits placed on the amount of oil that can be produced. The property is located at 72327 Jolon Rd, Bradley (Assessor's Parcel Number 424-081-082-000), South County Area Plan. The owner of this parcel is Porter Estate Company Bradley Ranch, Inc. The mineral rights for the subsurface portion of this property are owned by Bradley Mineral Rights, Inc. Trio Petroleum, LLC (applicant) holds a lease with Bradley Minerals Inc for the use of the subsurface portion of the property. The owner of the mineral rights for this property (Bradley Minerals, Inc) and applicant (Trio Petroleum, LLC) and their successors and assigns are the "Owner/Applicant" for purposes of these conditions and are jointly and severally responsible for compliance with the conditions. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions contained in this permit. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

## 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A temporary use permit (Resolution Number 15-209) was approved by the Board of Supervisors for Assessor's Parcel Number 424-081-082-000 on July 7, 2015. The permit was granted subject to 27 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to commencement of the use. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

## 3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.  
(RMA - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

#### 4. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The Owner/Applicant agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The Owner/Applicant will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, or recordation of the certificates of compliance, whichever occurs first and as applicable. The County shall promptly notify the Owner/Applicant of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the Owner/Applicant of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the Owner/Applicant shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the commencement of use, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to RMA-Planning.

#### 5. PD016 - NOTICE OF REPORT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Prior to the commencement of use, a notice shall be recorded with the Monterey County Recorder which states:  
"A Biological Assessment (Library No. LIB140218), was prepared by Robert A. Booher Consulting in May, 2014 and is on file in Monterey County RMA - Planning. All development shall be in accordance with this report."  
(RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the commencement of use, the Owner/Applicant shall submit proof of recordation of this notice to RMA - Planning.

**6. PD005 - FISH & GAME FEE NEG DEC/EIR**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Pursuant to the State Fish and Game Code Section 711.4, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

**7. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The Owner/Applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the Owner/Applicant submits the signed Agreement. The agreement shall be recorded. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Within sixty (60) days after project approval or prior to the commencement of use, whichever occurs first, the Owner/Applicant shall:

- 1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.
- 2) Fees shall be submitted at the time the property owner submits the signed Agreement.
- 3) Proof of recordation of the Agreement shall be submitted to RMA-Planning.



## 8. MM1 - WORKER ENVIRONMENTAL AWARENESS TRAINING

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

A County-approved biological monitor shall prepare a worker environmental awareness program (WEAP) training to be given to all personnel (site supervisors, equipment operators and laborers) which emphasizes the potential for special status species and nesting birds to occur within and immediately adjacent to the project site. Because the operations phase may occur over an extended period, an initial training shall be conducted by a qualified biologist for site supervisors and project managers prior to initiation of site activities. WEAP materials shall be provided in written form to be used for subsequent trainings. The WEAP shall cover identification of these species, their habitat requirements, and applicable regulatory policies and provisions regarding their protection, and measures being implemented to avoid and/or minimize potential impacts. The WEAP shall also address the presence of native trees adjacent to the project site, drainage features adjacent to the project site, and appropriate measures to avoid impacts to these adjacent resources. A fact sheet or other supporting material containing this information shall be prepared and distributed to all of the workers on-site. Upon completion of training, employees shall sign a form stating that they attended the training and understand all the conservation and protection measures.

During training, contractors and personnel shall be instructed to allow any wildlife observed within the project area to move out of harm's way of their own accord, unimpeded.

The WEAP must contain the following specific information regarding SJKF: photographs describing and illustrating potentially occurring SJKF, description of SJKF habitat needs, a discussion of measures to be implemented for avoidance if one is observed, the identification of an on-site contact in the event the species is seen on the site, an explanation of the status of the species and its protection under the federal and state Endangered Species Acts, and a report of the historic occurrence of kit fox in the project area. The WEAP must specify the reporting process to the designated on-site contact if SJKF are seen on site. This contact is responsible for notifying the County-RMA Planning Department of any sightings, and notifying regulatory agencies if warranted as specified in measure BIO-3.

The WEAP must contain the following specific information regarding California condor: photographs describing and illustrating California condor and differentiating this species from the common turkey vulture, a definition of microtrash, and description of specific microtrash measures to be implemented to avoid potential for impacts, measures for avoidance if a condor is observed, and the identification of an on-site contact in the event the species is seen on the site.

The WEAP must contain the following specific information regarding California tiger salamander: photographs describing and illustrating California tiger salamander, measures to be implemented to avoid potential for impacts, and the identification of an on-site contact in the event the species is seen on the site.

**Compliance or  
Monitoring  
Action to be Performed:**

Training shall be conducted for new personnel before they initiate equipment mobilization onto the site. The contractor shall be responsible for ensuring that all personnel working on-site comply with the guidelines. Prior to the start of equipment mobilization, a copy of all written materials shall be provided to employees as part of the WEAP training. Because the operations phase may occur over an extended period, an initial training shall be conducted by a qualified biologist for site supervisors and project managers prior to initiation of equipment mobilization activities. WEAP materials shall be provided in written form to be used for subsequent trainings. Prior to new personnel beginning work, the previously trained site supervisor or project manager shall provide WEAP training materials for new employees and document that personnel who will work on site have received WEAP training. A sign-in log identifying all trained employees shall be submitted to the County within one week of each training session.

#### 9. MM2 - PRE-DISTURBANCE SURVEYS FOR SPECIAL STATUS SPECIES

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

Prior to equipment mobilization, within 14 days prior to start of activities, a qualified biologist shall conduct two pre-activity surveys to determine if special status species have moved into the project site or within the 500-foot buffer (where visible and legally accessible). Species-specific measures are provided below in the event that special status species or their sign are found during preconstruction surveys.

**Compliance or  
Monitoring  
Action to be Performed:**

The initial preconstruction survey shall be conducted within 14 days prior to equipment mobilization. An additional survey shall be conducted immediately prior to the start of equipment mobilization (within 24 hours) to verify absence of SJKF and burrowing owl. A report documenting results of the preconstruction surveys shall be submitted to County RMA-Planning within one week of completing the second and final survey.

## 10. MM3 - SJKF AVOIDANCE AND MINIMIZATION MEASURES

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The following avoidance and minimization measures shall be incorporated pursuant to USFWS guidance for small projects:

1. If dens are located within 200 feet of proposed project activity areas, during preactivity surveys, exclusion zones shall be established prior to construction by a qualified biologist. Exclusion zones shall be roughly circular with a radius of the following distances measured outward from the entrance:

- a) Potential den: 50 feet
- b) Atypical den: 50 feet
- c) Known den: 100 feet
- d) Natal/pupping den: USFWS must be contacted (occupied and unoccupied)

2. Protective exclusion zones shall be placed around all known and potential dens which occur outside the project footprint, or alternatively, the project site boundary shall be demarcated such that dens are protected.

3. If the project site is not clearly marked or fenced, exclusion zones around known dens shall be demarcated by fencing that encircles each den on the project site at the appropriate distance and does not prevent access to the den by kit foxes. Acceptable fencing includes untreated wood particle-board, silt fencing, or orange construction fencing, as long as it has openings for kit fox ingress/egress and keeps humans and equipment out.

4. For potential and/or typical dens, placement of 4-5 flagged stakes 50 feet from the den entrance(s) will suffice to identify the den location; fencing shall not be required, but the exclusion zone must be observed.

5. If exclusion zones extend into project areas, only essential vehicle operation on the existing driveway and foot traffic shall be permitted. Otherwise, all construction, vehicle operation, material storage, or any type of surface-disturbing activity shall be prohibited or greatly restricted within the exclusion zones.

6. If a natal/pupping den is located within 200 feet of the project site, work within 200 feet of the den shall cease, the USFWS shall be notified immediately and under no circumstances shall the den be disturbed or destroyed without prior authorization.

7. Project-related vehicles shall observe a daytime speed limit of 15 miles per hour (mph) throughout the site in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active.

8. Night-time activities shall be minimized to the extent possible, because SJKF are nocturnal. During night work the speed limit shall be reduced to 10 mph. Off-road traffic outside of designated project areas shall be prohibited.

9. To prevent inadvertent entrapment of kit foxes or other animals, any excavated, steepwalled holes or trenches more than two feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed.

Before such holes or trenches are filled, they should be thoroughly inspected for

trapped animals. If at any time a trapped or injured kit fox is discovered, work shall cease immediately and the USFWS and CDFW shall be contacted.

10. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored on-site for one or more overnight periods shall be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the Service has been consulted.

11. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in securely closed containers and removed at least once a week from the project site.

12. No firearms shall be allowed on the project site.

13. No pets, such as dogs or cats, shall be permitted on the project site to prevent harassment, mortality

**Compliance or  
Monitoring  
Action to be Performed:**

SJKF Avoidance and Minimization Measures shall be included in the WEAP training (see BIO-1); documentation of WEAP training is monitored under measure BIO-1. Prior to equipment mobilization, signage shall be posted specifying speed limits, and work limits shall be clearly marked in the field. If SJKF are observed on or within 200 feet of the project site, the project applicant or representative shall contact the County RMA-Planning Department reporting the observation and documenting compliance with SJKF measures, as applicable. An annual report shall be submitted for production testing and production phases documenting compliance with SJKF measures. This report can be submitted with documentation of compliance with other conditions. If SJKF are sighted in the project area, the project applicant or representative shall immediately notify CDFW, USFWS, and the County RMA-Planning Department.

## 11. MM4 - PREPARE A BURROWING OWL MITIGATION PLAN

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

If preconstruction surveys determine that burrowing owls are present within the project site and/or buffer area, a burrowing owl mitigation plan shall be prepared consistent with the CDFW 2012 Staff Report on Burrowing Owl Mitigation. This plan shall describe site-specific avoidance and minimization measures and incorporate the following:

- Occupied burrows shall be avoided during burrowing owl nesting season unless a qualified biologist approved by CDFW verifies that birds have not begun egg laying or juveniles are foraging independently and are capable of independent survival.
- Outside breeding season, between September 1 and January 31, or during breeding season with express written approval from CDFW, burrowing owls within 500 feet of project disturbance area shall be moved away from disturbance areas using passive relocation techniques. Prior to relocation, a relocation plan must be prepared and approved by CDFW. A minimum of one week or more is required to relocate owls. The relocation plan must follow the CDFW 2012 Staff Report on Burrowing Owl Mitigation guidelines and include the following:
  - o Install one-way doors in burrow entrances. Leave doors in place for 48 hours to ensure owls have left the burrow.
  - o Allow one or more weeks for owls to acclimate to off-site burrows. Daily monitoring is required during passive relocation.
  - o Once owls have relocated off-site, collapse existing burrows in project areas. Prior to burrow excavation, flexible plastic pipe shall be inserted into the tunnels to allow escape of any remaining owls during excavation. Excavation shall be conducted by hand whenever possible.
  - o Burrows outside the project site but within the buffer shall be fitted with temporary exclusion devices.
  - o Destruction of burrows shall occur only pursuant to a management plan approved by CDFW.
  - o As an alternative (if approved by CDFW), all occupied burrows identified off-site within 500 feet of project activities outside of nesting season (September through January) and during nesting season (February 1 through August 31) could be buffered by hay bales, fencing (e.g. sheltering in place) or as directed by a qualified biologist and the CDFW.

**Compliance or  
Monitoring  
Action to be Performed:**

If required, the Burrowing Owl Mitigation Plan shall be submitted to the County RMA-Planning Department and CDFW prior to work that affects burrowing owls. The plan shall be approved by the County prior to implementation. Documentation shall be submitted to CDFW following approval.

If preconstruction surveys determine that burrowing owls are not present on site, the condition has been satisfied and no further action is required.

## 12. MM5 - REMOVE MICROTRASH

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** During periods when personnel are present on site, such as during equipment mobilization, pump and tank installation, project personnel shall regularly check project areas, pick up and contain microtrash, and remove from the site at least once weekly.

**Compliance or Monitoring Action to be Performed:** Microtrash cleanup and containment shall occur daily and removed from the site weekly. . The applicant shall submit an annual report to the County RMA-Planning Department documenting compliance with microtrash cleanup requirements. This report can be submitted with documentation of compliance with other conditions.

## 13. MM6 - WORK LIMITATIONS

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** No non-automated work or vehicular site access shall occur at night during rain storms. During WEAP training (BIO-1) contractors and personnel shall be instructed regarding these limitations on site for work and access.

**Compliance or Monitoring Action to be Performed:** Documentation of WEAP training shall occur as part of measure BIO-1. During periods of project activity, the applicant shall submit an annual report to the County RMA-Planning Department documenting compliance with work limitations. This report can be submitted with documentation of compliance with other conditions.

## 14. MM7 - RELOCATE SSC REPTILES OUT OF WORK AREA

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** If encountered during preconstruction surveys, San Joaquin whipsnake and coast horned lizard shall be relocated out of direct project impact areas by the qualified biologist. During WEAP training (BIO-1) contractors and personnel shall be instructed to allow any reptiles observed within the project area to move out of harm's way of their own accord, unimpeded.

**Compliance or Monitoring Action to be Performed:** If relocations occur, the biologist shall submit results with the preconstruction survey report to the County RMA-Planning Department.

## 15. MM8 - BADGER AVOIDANCE MEASURES

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** If potential badger dens are identified in close proximity to project activity areas, exclusion zones shall be established to prevent intrusion of workers on foot, vehicles, and equipment in close proximity to dens. During natal season (March 1 through June 30) dens within 100 feet of work areas shall be marked and avoided unless they are located outside existing fencing. Outside breeding season, dens within 50 feet must be flagged and avoided.

**Compliance or Monitoring Action to be Performed:** If required based on results of pre-activity surveys, exclusion zone barriers shall be maintained until all construction activities or operational disturbances have been terminated. At that time all fencing shall be removed to avoid attracting subsequent attention to the dens. If fencing is required for protection of dens, a report shall be submitted to the County RMA-Planning Department by the project biologist documenting that exclusion zone buffers are in place.

If the preconstruction survey (MM2) determines that there are no badger dens identified in proximity to project activity areas, this condition can be satisfied and no further action is required.

## 16. MM9 - PRECONSTRUCTION NESTING BIRD SURVEYS

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Prior to equipment mobilization that commences within the nesting season, February 1 through September 15, a qualified biologist shall conduct preconstruction surveys for nesting birds, including raptors, in all areas within 500 feet of proposed disturbance areas, where accessible. The required survey dates may be modified based on local conditions, as determined by the biologist based on observations in the field. Early removal of nest starts (incomplete nests in which eggs have not been laid) can be performed by the qualified biologist for common species to discourage mated pairs from nesting in areas subject to disturbance. Nest starts of special status birds shall not be disturbed without consultation with CDFW. Active nests of native birds shall be protected with a no-work buffer. Buffer distance shall be a minimum of 100 feet for songbirds and 500 feet for raptors. Prescribed buffers may be adjusted to reflect existing conditions such as ambient noise, topography, and level of disturbance from proposed activities in consultation with CDFW and the County. Any nest buffer zones shall be clearly delineated to avoid disturbance to nesting birds. Depending on their proximity to disturbance areas, buffer zones may be designated in the field in various ways, including flagging, fencing, and/or signage.

**Compliance or Monitoring Action to be Performed:** Surveys shall be completed within 14 days prior to equipment mobilization. If buffers and follow-up monitoring are required, the biologist shall submit a monthly monitoring report identifying active nests, monitoring results, and condition of buffer zones. Reports can be combined with other reporting requirements where appropriate.

## 17. MM11 - TREE PROTECTION

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** To minimize root disturbance to the protected native oaks that would not be removed by the project, the following tree protection measures shall be implemented:

1. Limits of any ground-disturbing work within 25 feet of native trees shall be clearly flagged in the field. Parking shall be restricted to existing graveled areas and shall not be permitted under trees. Parking locations for passenger vehicles shall be designated away from oak trees. Workers will be informed of the need to avoid parking under oaks as part of WEAP training (Measure BIO-1).

2. Soils shall not be deposited around or over any trees in the project area.

**Compliance or Monitoring Action to be Performed:** Prior to the start of equipment mobilization, the applicant shall provide documentation, in the form of photographs, that tree protection measures have been implemented and the prohibiting of parking underneath oak trees has been incorporated into the WEAP training materials.

## 18. PDSP001 - TEMPORARY USE PERMIT (NON-STANDARD)

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This temporary Use Permit shall expire one year from the date that the resolution is mailed to the applicant, with a n option for applicant to request to extend the permit at the specific site for a period not to exceed an additional six (6) months. Any approval of such request will be contingent upon no violation of grading, zoning, land use policies or local and state regulations.

**Compliance or Monitoring Action to be Performed:** The applicant must apply for an extension, if desired, prior to the expiration of the temporary Use Permit

## 19. PDSP002 - SUBSEQUENT PERMIT REQUIRED (NON-STANDARD)

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** If the production testing for oil and gas finds that commercial quantities of oil and gas exist at this location (Bradley Minerals Well 2-2), a subsequent Use Permit approval will be required to convert the site to full production. This Use Permit allows production testing as long as the monthly truck trips remain under 13 as described in the Initial Study. If oil production results in an increase in truck trips above this, a permanent Use Permit shall be obtained to allow production from this well.

**Compliance or Monitoring Action to be Performed:** The applicant shall submit monthly logs of truck trips made for the hauling away of produced fluids for Bradley Minerals Well 2-2 to RMA-Planning for review. If the monthly number of trips exceeds 13, a subsequent use permit shall be required to convert site to full production.



**20. PDSP003 - SITE RESTORATION (NON-STANDARD)**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Should the applicant not apply for and obtain a subsequent Use Permit for full production of oil and gas at this location (Bradley Minerals Well 1-2 & 2-2), all wells onsite shall be abandoned, all temporary facilities shall be removed, and the site shall be restored to its predevelopment state as permanent grazing/non-native grasslands. This restoration includes removal of gravel and other surface materials and contaminated soil and the restoration of natural grade, with the re-vegetation of the site.

**Compliance or Monitoring Action to be Performed:** A performance bond or security in the amount of one hundred percent (100%) of the estimated cost of well abandonment (Bradley Minerals Well 1-2 & 2-2) and site restoration shall be submitted to RMA-Planning by Owner/Applicant prior to commencement of use.

Prior to the expiration of the temporary Use Permit, and if the applicant has not applied for a subsequent Use Permit for full production, the applicant shall submit documentation (site photos, DOGGR permits, etc) to RMA-Planning that the site has been restored to its predevelopment state.

**21. PDSP004 - NO WELL STIMULATION TREATMENTS**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The temporary use permit will allow production testing using an existing oil and gas well, Bradley Minerals 2-2. The use of any form of well stimulation treatment, including hydraulic fracturing, acid fracturing, and acid matrix stimulation, is not permitted with this entitlement.

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant (Trio Petroleum LLC) and their successors and assigns shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

**22. PDSP005 - CONFORMANCE WITH MBUAPC (NON-STANDARD)**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Any flaring of natural gas shall be done using permitted equipment by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and shall comply with all applicable MBUAPD standards.

**Compliance or Monitoring Action to be Performed:** Contact the Monterey Bay Unified Air Pollution Control District.

**23. PDSP006 - CONFORMANCE WITH CALIFORNIA CLASS II UIC PROGRAM**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The disposal of produced fluids shall not be injected in any well that is currently out of compliance with the Safe Water Drinking Act. The applicant shall disclose the location of the fluid disposal. The disposal of fluids shall be in conformance with all applicable regional, state, and federal regulations and meet the following performance criteria:

- Disposal of fluids shall be in a permitted injection well that is located in an aquifer that has been exempted by the Department of Conservation, or
- Disposal of fluids shall be in a permitted injection well that is located in an aquifer that has a Total Dissolved Solids (TDS) concentration above 10,000 mg/L which does not require an exemption from the Department of Conservation, or
- Disposal of fluids will be at an approved hazardous waste facility

**Compliance or Monitoring Action to be Performed:** Prior to commencement of operation, the applicant shall disclose the name of the licensed contractor hired to dispose of produced fluids, and list of permitted disposal sites to RMA-Planning. With the requirement of Condition #19 (submittal of the monthly log of truck trips made), the applicant shall disclose the destination of the disposed fluids to RMA-Planning.

**24. EHSP01 - HAZARDOUS MATERIALS: BUSINESS RESPONSE PLAN (NON-STANDARD)**

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The applicant shall maintain an up-to-date Business Response Plan that meets the standards found in the California Code of Regulations, Title 19, Division 2, Chapter 4 (Hazardous Material Release Reporting, Inventory, and Response Plans) and the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Material Release Response Plans and Inventory), and the Monterey County Code Chapter 10.65.

**Compliance or Monitoring Action to be Performed:** Prior to commencement of operation, the Owner/Applicant shall submit a signed Business Response Plan – Memorandum of Understanding (form available from EHB) that specifies an approved Business Response Plan must be on file with Hazardous Materials Management Services prior to bringing hazardous materials on site and/or commencement of operations.

**25. EHSP02 - HAZARDOUS WASTE CONTROL (NON-STANDARD)**

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The facility shall comply with the standards found in the California Code of Regulations, Title 22, Division 4.5 and the California Health and Safety Code, Division 20, Chapter 6.5, and the Monterey County Code Chapter 10.65 for the proper handling, storage and disposal of Hazardous Waste, including but not limited to produced fluids, as approved by the Environmental Health Bureau (EHB).

**Compliance or Monitoring Action to be Performed:** Prior to commencement of operation, the applicant shall submit to the Hazardous Materials Management Services of the Environmental Health Bureau (EHB) an inventory of any hazardous waste expected to be generated on site for review and acceptance. If no hazardous waste is expected to be generated, applicant shall submit attestation to the satisfaction of EHB.

**26. EHSP03 - HAZARDOUS MATERIALS: SPILL PREVENTION CONTROL COUNTERMEASURE PLAN (NON-STANDARD)**

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The applicant shall submit a Spill Prevention Control Plan for the following:

Onsite fluids: The Plan shall include containment and spill prevention measures that when implemented, will avoid any potential impacts to the adjacent ephemeral stream. The plan shall describe specific methods for avoiding spills of hazardous materials, containment and cleanup measures in the event such spills occur, and means by which materials would be prevented from being washed offsite into the adjacent drainage during rain events. Such measures can include containment berms, temporary containment devices such as fiber rolls with oil pads around sites, drip pans under generators and equipment. The plan shall describe steps taken in the event of a spill and how contaminated materials shall be collected and contained. If spill containment berms are used, such berms must be located within the existing disturbed project site rather than adjacent undisturbed habitat. The containment areas shall not involve any additional excavation and shall include lined surfaces to prevent absorption of liquids into the soil and release of liquids into the surrounding environment. All containment areas shall be within the existing well pad footprint.

Onsite tanks: Above ground storage tanks for petroleum products (i.e. diesel, oil, and gasoline) with greater than 1320-gallons of capacity or for cumulative storage of more than 1320-gallons shall meet the standards as found in the California Health and Safety Code, Section 25270 et seq. and of the Code of Federal Regulations, Part 112 (commencing with Section 112.1) of Subchapter D of Chapter 1 of Title 40.

**Compliance or Monitoring Action to be Performed:** Prior to commencement of operation, the applicant shall submit a plan for the containment of onsite fluids and tanks. This Spill Prevention Control Countermeasure (SPCC) Plan shall be submitted to the Environmental Health Bureau (EHB) for review and acceptance.

This standard condition shall fully satisfy the #10 Biological Resources mitigation measure of the Mitigated Negative Declaration

**27. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the commencement of operation. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the commencement of operation, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval.

Prior to the commencement of operation the Owner/Applicant shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.