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**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

PORTER ESTATE COMPANY BRADLEY RANCH LLC (PLN140395)

RESOLUTION NO. 15-030

Resolution by the Monterey County Planning
Commission:

- 1) Adopting the Mitigated Negative Declaration;
and
- 2) Approving a temporary Use Permit to allow
production testing for oil and gas using an
existing well (Bradley Minerals Well 2-2); and
- 3) Adopting the Mitigation Monitoring and
Reporting Program.

[PLN140395, Porter Estate Company Bradley Ranch
LLC, 72327 Jolon Rd, Bradley, South County Area
Plan (APN: 424-081-082-000)]

The Porter Estates application (PLN140395) came on for public hearing before the Monterey County Planning Commission on July 30, 2014 and April 29, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a temporary use permit to allow the exploration for oil and gas using an existing well
EVIDENCE: a) The exploration for oil and gas using an existing oil well will involve production testing within the existing borehole of Bradley Minerals Well 2-2 that has an approximate depth of 10,400 feet, located at 72327 Jolon Road, Bradley. No additional drilling, grading, or construction is permitted. 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.
 b) 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:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
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 zonings 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. Therefore, the project is an allowed land use for this site.
- c) This is an existing well pad site containing two existing oil wells, Bradley Minerals Well 1-2 and 2-2. The original well, 1-2, was drilled in 1985, 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 PLN070173 and granted an extension in 2009 under PLN080457. Both 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 shut in.
- e) The previous planning entitlements have allowed site development to the extent necessary for the proposed application. 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. 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 historically permitted for oil related exploration, and the project as proposed does not conflict with the goals of the Agricultural Winery Corridor Plan.
- g) The project was referred to the South County Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, 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.
- 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 in recommendation of project approval 5-0.
- 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.

3. **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 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 by 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) Staff identified potential impacts to Biological Resources. The following reports have 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 these reports and concurs with their 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 for the exploration of oil and gas was granted in 2009 under 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 and requires 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.

4. **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 the RMA- Planning, Cal Fire South County Fire Protection District, RMA-Public Works, Environmental Health Bureau, and 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) RMA-Planning conditioned the temporary permit to expire one year from the date that construction begins and requires 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 production results at six month intervals to verify if it has been determined that commercial quantities exist on site or not. 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 and to ensure the maintenance of above ground storage tanks and the disposal of hazardous waste, including but not limited to requiring that handling of production fluids are 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) Staff conducted a site inspection on July 14, 2014 to verify that the site is suitable for this use.
- h) 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:** **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 of the approved date. Bradley Minerals Well 1-2 exists on the same project site and was permitted under PLN040283. This permit is 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.

6. **FINDING:** **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Planning Commission, 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 clearly no significant effects would occur. All other potentially significant effects identified in the Initial Study were determined to have a less than significant impact or no impact.
 - 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 have been prepared in accordance with Monterey County regulations, are designed to ensure compliance during project implementation, and are hereby 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 PLN140395 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 mitigation measures that were applied to the project will raise employees' awareness of the environmental conditions through Worker Environmental Awareness Program, will require minimization measures for the San Joaquin Kit Fox and avoidance measures for the American Badger, and will require pre-construction surveys to ensure special status species are not present on site. The mitigation measures also require a mitigation plan if there are special status species found on site during the pre-construction survey.

- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 3/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) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. 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 the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- 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. 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 is 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 would not change the determination of the Initial Study, and impacts to air quality would remain less than significant.
- j) 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.

7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** Section 21.80.010.D of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- 1) Adopt a Mitigated Negative Declaration; and
- 2) Approve a temporary use permit to allow production testing for oil and gas using an existing well (Bradley Minerals Well 2-2), in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference; and
- 3) Adopt the Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this 29th day of April, 2015 upon motion of Commissioner Rochester, seconded by Commissioner Getzelman, by the following vote:

AYES: Brown, Getzelman, Rochester, Roberts, Padilla
NOES: Vandevere, Salazar, Diehl, Mendez
ABSENT: Hert
ABSTAIN: None


Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON MAY 01 2015

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE MAY 11 2015

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 1 year after the above date of granting thereof if no extension or subsequent use permit is applied for.

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 production testing for oil and gas using an existing well (Bradley Minerals Well 2-2). The property is located at 72327 Jolon Rd, Bradley (Assessor's Parcel Number 424-081-082-000), South County Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. 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 15-030) was approved by the Planning Commission for Assessor's Parcel Number 424-081-082-000 on April 29, 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 issuance of building permits or commencement of the use. (RMA - Planning)

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

Prior to the issuance of grading and building permits or 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, 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 property owner 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 property owner 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, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner 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 property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner 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 issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, 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 issuance of building or grading permits, 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 issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to RMA - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning.

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

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, 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.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

7. PD005(A) - NOTICE OF EXEMPTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to CEQA Guidelines § 15062, a Notice of Exemption shall be filed for this project. The filing fee shall be submitted prior to filing the Notice of Exemption. (RMA-Planning)

Compliance or Monitoring Action to be Performed: After project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

8. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The 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 property owner 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 issuance of building and grading permits, 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.

9. 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.

10. 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 construction activities. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 testing begins, with a request to extend the permit at the specific site for a period not to exceed an additional six (6) months. Any request approval will be contingent upon no violation of grading, zoning, land use policies or local and state regulations.

Compliance or Monitoring Action to be Performed: Apply for an extension, if necessary, prior to the expiration of the temporary Use Permit

20. 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. If the monthly number of trips exceeds 13, a subsequent use permit shall be required to convert site to full production.

21. PDSP003 - SITE RESTORATION (NON-STANDARD)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Should the applicant not find commercial quantities of oil and gas at this location (Bradley Minerals Well 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 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 prior to commencement of production testing.

Prior to the expiration of the temporary Use Permit, the applicant shall submit documentation (site photos, DOGGR permits, etc) to RMA-Planning that the site has been restored to its predevelopment state.

22. 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 Applicant (Trio Petroleum LLC) and its successors and assigns shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

23. 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.

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, 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: 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, prepare a Spill Prevention Control Countermeasure (SPCC) Plan and submit 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 issuance of building permits.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor 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.



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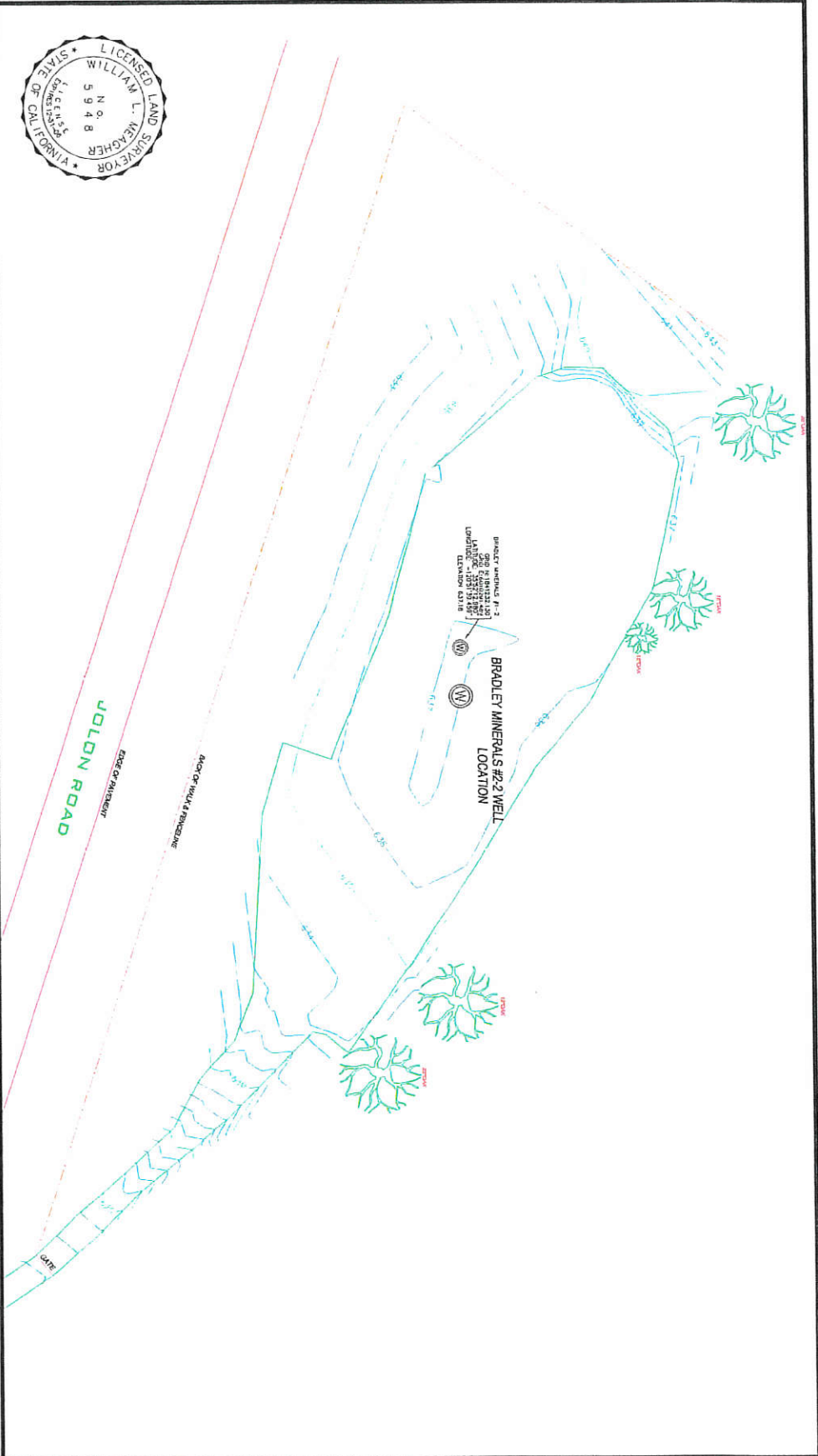


NORTH



SCALE: 1" = 60'

BRADLEY MINERALS #2-2 WELL LOCATION BRADLEY, CALIFORNIA



SHEET 1
OF 1
DRAWING NO.
807070