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County of Santa Barbara
Planning Commission
Planning & Development
123 E. Anapamu Street
Santa Barbara, California 93101

Subject: Diamond Rock Mine FEIR (03CUP-00000-00037 & 03RP-00000-00002 – SCH No. 2003121049 - 05EIR-00000-00001)

Dear Planning Commissioners:

David Magney Environmental Consulting (DMEC) has been retained by the Stop the Trucks! Coalition and the California Native Plant Society (CNPS) to address a number of impacts of the proposed mining project near Ventucopa in northeastern Santa Barbara County. The Coalition is particularly concerned about the impact that trucks from the proposed mine, and others that are planned, will have on the qualify of environment of the Ojai Valley. CNPS is concerned about the short and long-term impacts the project will have on native plants and natural vegetation. DMEC previously conducted a botanical survey of the project site as a subconsultant to Bumgardner Biological Consulting in 2003, and is familiar with the project site.

DMEC has reviewed the Final Environmental Impact Report (FEIR) and supporting documents. The Coalition and CNPS requested that DMEC specifically address issues related to Biological Resources, Traffic Safety, and Air Quality. DMEC has reviewed these issues and found that they were not adequately addressed in the EIR.

BIOLOGICAL RESOURSES

Page 3.4-4, Section 3.4.2.1.8 **Occurrence of Aquatic Habitat**. The FEIR claims that the Cuyama River is "highly ephemeral", with flows "occurring for brief periods of time (days to several weeks) after rainfall events". This is a gross mischaracterization of the flow conditions of the Cuyama River.

The portion of the Cuyama River that flows between Ozena Valley and New Cuyama is best characterized as intermittent, as surface flows occur for long durations during all years but the driest years, such as 2006-2007. For example, personal observations by David Magney on a nearly biweekly basis between November 2005 to present found surface flows present just south of the Ventura County line all of the 2005, 2006, and through May 2007, including 24 and 29 May 2007. The river finally went underground in this reach of the Cuyama River in March 2007. As evidence, below are two photographs of the Cuyama River taken from State Route 33 in Ventura County about 3 miles south of the Ventura-Santa Barbara County line, taken on 26 April 2006, Figure 1, Photos of Cuyama River on 26 April 2006. In all but highly contaminated sites, surface waters that are present for more than two weeks almost always develop habitat for aquatic species of invertebrates and amphibians. Fishes could easily travel between perennial reaches of the Cuyama River in such flows as occurring in the photographs shown below.

Figure 1. Photos of Cuyama River on 26 April 2006

Left: Cuyama River from SR33 looking downstream. *Right: Cuyama River from SR33 looking upstream.*

Contrary to that stated in the FEIR, **the Cuyama River has substantial surface flows** for extended periods of time. Substantial near surface flows associated with the shallow groundwater aquifer occurs year round. These shallow groundwater flows often provide habitats for aquatic life when they provide surface flows.

Page 3.4-7, Section 3.4.2.4 **Special-status Plants**. The FEIR correctly identifies at the end of this paragraph that special-status plant species includes "species of local botanical interest, and included on the list of locally rare plants maintained by the local CNPS chapter". However, the next paragraph claims that there are no special-status plant species present onsite. This is not supported by the facts or evidence. DMEC conducted a botanical survey of the project site on 19 June 2003, which was included as part of Bumgardner's report on the biological resources of the project site. **Special-status plants are present onsite.** DMEC specifically identified five (5) plant species that are considered special-status species; however, none are identified in the FEIR. These plants include: *Astragalus macrodon* (CNPS List 4), *Eriogonum inerme* (locally rare), *Filago depressa* (locally rare), *Lessingia tenuis* (locally rare), and *Romneya coulteri* (CNPS List 4).

Furthermore, the FEIR lists *Astragalus asymmetricus* as present onsite (Page 3.4-3, 1st paragraph). This species is known only from one location in Santa Barbara County, on Santa Cruz Island (*T.S. Brandegee sn April 1888* UC). It is known from only one location in adjacent Ventura County near the coast on Casitas Pass (*H.M. Hall 3219* UC), collected in 1902. By the definitions of rare plants listed in the EIR on Page 3.4-7, this species should have been treated as a rare species and destruction of the population as a significant impact, and either avoided or fully mitigated.

Landscape Berm Plant Palette. On Page 11 of the Staff Report to the Planning Commission recommends *Calocedrus decurrens*, *Pinus coulteri*, *Quercus douglasii*, and *Heteromeles arbutifolia*. While all of these are native to Santa Barbara County, none occur in the vicinity of Ventucopa as the climate is too hot and dry. Rather, species such as *Pinus monophylla*, *Juniperus californica*, *Quercus john-tuckeri*, *Rhamnus tomentella* would be much more suitable for the intended purposes, all of which occur naturally in the vicinity of Ventucopa.

Riverbank Restoration Seeding Prescription. Page 20 of the Staff Report lists a number of shrub and herbaceous species to be used in habitat restoration. One species listed, Festuca californica, is inappropriate and not recommended. In addition, several species are not fully identified, and would likely result in the inappropriate subspecies or variety being planted. These include: *Chrysothamnus nauseosus*, *Eriogonum fasciculatum*, *Lupinus excubitus*, and *Lupinus bicolor*. Not indicating which subspecies or variety is prescribed dictates that the typical species is listed, such as *Eriogonum fasciculatum* var. *fasciculatum*. However, in this example, *E. fasciculatum* var. *fasciculatum* does NOT occur in the region, and could fail or contaminate the gene pool of the variety that does occur in the Ventucopa area. This is an example of such lists being prepared by persons not familiar with the local flora that could result in ecological damage or just failure of the intended revegetation efforts. The list should be modified to correct these errors.

The Staff Report also suggests that if a species is not available commercially, then an alternate species can be substituted. Most native plant species are not available commercially, except for a relatively small number of species. The fact that the proposed mine project is spread out over a 30-year period gives the mine operators ample time to contract grow and produce the appropriate species prescribed. There are numerous native plant nurseries that will grow native species to provide the quantities of plants needed on a project-by-project basis, and the lack of current availability should not be a justification for substitution to other species not prescribed. The primary intent of revegetation is to replant the species onsite that were eliminated from the project site as a result of the project, not just providing landscaping.

Page 21 of the Staff Report suggests that April or May would be good months to implement planting. This timing is an indication of the lack of knowledge of the climate of the Ventucopa region, which is high desert. February through late March would be much more appropriate timing for planting to capture the winter rains, as scarce as they are in the Cuyama Badlands area, and allow the plantings to adapt to the late-spring and summer drought and heat.

Using Roundup, or other herbicide, to control weeds, as recommended on Page 22 of the Staff Report, is not recommended as such treatments would almost certainly kill desirable, naturally recruiting native species that are present in the seed bank. Hand weeding is the preferred method to control weeds, which should be done only under the supervision of a qualified botanist familiar with the native plants of the Ventucopa region.

TRAFFIC

The Diamond Rock Mine FEIR considers traffic issues in Section 3.5 and concludes that the Project will have no significant impacts on traffic safety on Highway 33 (SR 33) in Ventura County and will impact traffic volume only south of Highway 150 (SR 150) during peak traffic periods. The FEIR analyzes the anticipated effects of Project haul trucks on traffic volume by looking only at increases in overall traffic volume, in effect equating trips by haul trucks with those of passenger vehicles and small trucks. By using this approach the FEIR fails to disclose the percentage increases specifically for haul truck traffic on SR 33. The information that is provided includes all traffic for the dispersed delivery scenario (20% of loads to Ventura County) in Table 1, 2004 Daily Traffic on State Route 33 and Projected Increases Resulting from Project Haul Trucks Under the Dispersed Delivery Scenario (20% of Loads to Ventura County). However, when examining only commercial truck traffic, truck trip volume on SR 33 in Cuyama Valley south of the Project and in the Los Padres National Forest could increase by 55% to 85%, in North Ojai

(near Nordhoff High School) by 15 to 24%, and south of Ojai by 2% to 4%. Under the south delivery scenario (100% of loads to Ventura County), these percentages would increase five-fold.

Table 1. 2004 Daily Traffic on State Route 33 and Projected Increases Resulting from Project Haul Trucks Under the Dispersed Delivery Scenario (20% of Loads to Ventura County)

Area	Average Daily Traffic 2004	% Trucks 2004	# Trucks 2004	+ 18 Truck Trips/Day	% Increase in Traffic Volume	% Increase in Trucks	+ 28 Truck Trips/Day	% Increase in Traffic Volume	% Increase in Trucks
Near Ventucopa	410	8%	33	51	4%	**55%**	61	7%	**85%**
North Ojai @ El Roblar Ave.	2,950	4%	118	136	0.6%	**15%**	146	0.9%	**24%**
SR 33 South of Ojai	24,500	3%	735	753	0.07%	**2%**	763	0.1%	**4%**

Based on FEIR Table 3.5-15, which is based on Caltrans data.

It is hardly reasonable to equate haul trucks with smaller vehicles in regard to traffic volume and safety due to their tremendously greater size and weight, their inability to start or stop quickly, and for gravel trucks in particular their known tendency to lose material that damages windshields and headlights, which may cause accidents or injuries. Project haul trucks will create hazards and congestion due to:

- Their slow uphill speeds,
- Their tendency to negotiate turns by crossing over the centerline (as witnessed and video-taped by Mr. Magney on 22 February 2007), and
- By making it difficult for other vehicles to pass due to a lack of passing lanes and turnouts and/or the operators failure to use them to allow other faster motorists to pass, as illustrated by the photograph in Figure 2, Two Gravel Trucks on SR33 between Pine Mountain and Ojai Blocking Traffic. These effects are greatly exacerbated on narrow, winding mountainous roads such as SR 33, which, being designed and built in the early 1930s, was not designed to handle such large trucks.

The increased truck volume of 15% to 24% near Nordhoff High School is of particular concern with regard to safety, and though this issue is discussed in the FEIR, it is not adequately addressed. The EIR needs to provide a specific traffic safety assessment of SR33 in the vicinity of Nordhoff High School rather than just relaying on general traffic statistics.

Figure 2. Two Gravel Trucks on SR33 between Pine Mountain and Ojai Blocking Traffic

These trucks and others observed on other dates, routinely failed to use existing turnouts to allow faster-moving vehicles to pass safely. There are only three short stretches of SR33 between Pine Mountain summit and Ojai where passing is legal. There are only a maximum of five legal stretches to pass to the north.

The FEIR states in Section 3.5.6.2, Page 3.5-15, that "Truck accident rates were slightly higher along State Route 166 than along State Route 33, probably due to the higher percentages of trucks along State Route 166." Given the significantly higher percentages of trucks expected on SR 33 in Ventura County, as calculated in Table 1, truck accident rates would certainly be expected to increase as a result of the Project. FEIR Table 3.5-18 indicates that most accidents on SR 33 south of the Project involve hit objects and vehicle overturns, and with more large haul trucks on this narrow mountain road an increase in such accidents can be expected. Hazardous conditions created by weather (rain, snow, ice), rock fall, mud and dirt slides, and other causes increase the likelihood of truck accidents. There are many sensitive habitats and biological resources along this route (e.g. Sespe and North Fork Matilija Creeks) and traffic accidents, particularly those involving gravel trucks, could have significant impacts on these resources. SR33 follows/parallels Sespe Creek and Adobe Creek (a tributary) for approximately 15 miles, and North Fork Matilija Creek for approximately 10 miles, offering many opportunities for fuel spills into either creek should a truck crash.

Despite the obvious relationship between truck volume and truck accidents stated in the FEIR and the potential for accidents on SR 33, the FEIR fails to address the issue of Project-related increases in traffic accidents on SR 33 in Ventura County in a meaningful way.

Required Mitigation Measure TR-1 is an attempt to regulate Project haul truck traffic impacts in Ventura County that places responsibility for enforcement largely on the Applicant and citizens who lodge complaints, with only an annual administrative review by Santa Barbara County. It is not reasonable to expect that such a process will be effective given the variable level of demand for aggregate materials in diverse areas and the use of independent haul truck operators not under the control of the Applicant. Unexpected delays on SR 33 due to weather, slides, accidents, roadway maintenance, and other causes could interfere with the successful implementation of Required Mitigation Measure TR-1. Under the California Environmental Quality Act (CEQA), required mitigation measures must be feasible and lead agencies are responsible for determining their feasibility. According to the California Code of

Regulations, such mitigation measures must be "capable of being accomplished in a successful manner" (CCR §15364). The FEIR fails to establish the feasibility of Required Mitigation Measure TR-1.

Suggested Condition TR-3 proposes practices that could help to alleviate traffic safety and congestion issues, but of course is not mandatory. Though well intended, these measures to prevent caravans, parking, and staging on SR 33 with Applicant and citizen "enforcement" cannot reasonably be expected to succeed. Again, variable demand for product, independent truck operators, and other uncontrollable factors limit the potential effectiveness of Suggested Condition TR-3, which will do little to prevent congestion and unsafe conditions.

In summary, the Diamond Rock Mine FEIR clearly fails to adequately address Project impacts on traffic safety and congestion on SR 33 in Ventura County. The anticipated increases in Project haul truck traffic volume are not described in a way that makes it possible to consider their impacts in a credible fashion, and the FEIR appears to deliberately minimize this issue. The FEIR's analysis of traffic safety is incomplete and grossly inadequate. The FEIR fails to establish the feasibility of Required Mitigation Measure TR-1, with implementation and enforcement contingent on several variable and uncontrollable factors.

AIR QUALITY

The Diamond Rock Mine FEIR considers air quality issues in Section 3.7 and concludes that Project haul truck emissions will be less than significant in Ventura County. The FEIR analysis was based on the dispersed delivery scenario (20% of loads to Ventura County) with 65 miles of travel on SR 33 from the Ventura County-Santa Barbara County line to US 101, which includes 15.8 miles in the Ojai Planning Area of the Ventura County Air Pollution Control District (VCAPCD). FEIR Tables 3.7-10 and 3.7-11 and Section 3.7.2.3.7, Page 3.7-17, indicate that projected NO_x emissions in Ventura County resulting from the Project do not exceed the VCAPCD threshold criteria of 5 pounds per day in the Ojai Planning Area and 25 pounds per day in all other areas of Ventura County, as calculated in Table 2, Projected NO_x Emissions Resulting from Project Haul Trucks in Ventura County Under Dispersed Delivery Scenario (20% of Loads to Ventura County).

Table 2. Projected NO_x Emissions Resulting from Project Haul Trucks in Ventura County Under Dispersed Delivery Scenario (20% of Loads to Ventura County)

Miles Traveled in Ventura County	Added Miles	NO_x Lbs/Day (18 Truck Trips/Day)	NO_x Lbs/Day (28 Truck Trips/Day)	Miles Traveled in Ojai Planning Area	NO_x Lbs/Day (18 Truck Trips/Day)	NO_x Lbs/Day (28 Truck Trips/Day)
65*	0	11.7*	17.6*	15.8* (+0)	2.8*	4.2*
68	+ 3	12.2	18.4	18.8 (+3)	3.4	**5.1****
78	+ 13	14.0	21.1	28.8 (+13)	**5.2****	**7.8****
93	+ 28	16.7	**25.2****	-	-	-
140	+ 75	**25.2****	**37.9****	-	-	-

* Based on FEIR Tables 3.7-10, 3.7-11, and Section 3.7.2.3.7 for travel of 65 miles on SR 33 from the Ventura County-Santa Barbara County line to US 101.

** (and the associated values in **bold** typeface) Indicates exceedance of Ventura County Air Pollution Control District threshold criteria.

The FEIR air quality analysis assumes that the most recent advances in diesel engine technology and diesel fuel conforming to particular specifications will be utilized by Project haul trucks over the 30 life of the mine. It cannot be assumed that such factors will indeed be in place at Project startup, or for that matter, at any other time during the life of the Project. The FEIR analysis also assumes that haul truck NO_x occurring in the Ojai Planning Area will only be produced by the trucks when they are traveling over the 15.8 miles of SR 33 in the Ojai Planning Area, and does not consider the contribution of haul truck NO_x emissions generated in areas adjacent to the Ojai Planning Area that could migrate in. It is not clear if the FEIR air quality analysis considers variable and uncontrollable factors, such as traffic congestion, that result in longer trip times and additional fuel consumption and emissions. As a result of the above factors, the FEIR air quality analysis likely underestimates haul truck emissions, in particular NO_x emissions in Ventura County.

Even though underestimated, the NO_x emission level of 4.2 lbs/day in the Ojai Planning Area for peak production conditions (28 truck trips/day) is close to the VCAPCD threshold of 5.0 lbs/day. Increasing the travel distance in the Ojai Planning Area by only 3 miles per day for each of the 28 truck trips increases NO_x emissions to 5.1 lbs/day (using the methods used in the EIR), which exceeds the VCAPCD threshold (see Table 2). Increasing the travel distance in the Ojai Planning Area by 13 miles per day for each of 18 truck trips (average production) increases NO_x emissions to 5.2 lbs/day, again exceeding the VCAPCD threshold.

Figure 1 is a copy of Figure 3-1 found on Page 3-4 of the Ventura County Air Quality Assessment Guidelines (2003), which indicates that the Ojai Planning Area includes the US 101 corridor from the SR 33/US 101 interchange north to the Ventura County-Santa Barbara County line, a distance of 13 miles, as broken down in Table 3, Approximate Travel Distances from the SR 33/US 101 Interchange to Various Locations in Ventura County. This means that haul truck deliveries to Santa Barbara County routed south on SR 33 and then north on US 101 would produce NO_x emissions in exceedance of the VCAPCD threshold for the Ojai Planning Area under both average and peak production conditions. Increasing travel distance by 28 miles in Ventura County for each of 28 truck trips increases NO_x emissions to 25.2 lbs/day, which exceeds the VCAPCD threshold for Ventura County areas outside of the Ojai Planning Area. Deliveries to growth areas in Ventura County such as Fillmore, Moorpark, and Simi Valley could easily increase trip distance by 28 miles.

Though perhaps unlikely, if the travel distance within Ventura County was to increase by 75 miles for each of 18 truck trips, the VCAPCD threshold for Ventura County NO_x emissions (25 lbs/day) would be exceeded. If production was intermediate, between average and peak, and there were 23 haul truck trips per day, an additional 45 miles for each trip within Ventura County would result in NO_x emissions above the 25 lbs/day threshold. The FEIR air quality analysis clearly did not consider many possible haul truck travel scenarios within Ventura County. It also appears not to have included truck operators based in Ventura County that would travel within Ventura County to get to the "start point" at SR 33/US101 at the beginning of the day and then travel another unknown distance within Ventura County at the end of the day after the last load has been delivered. This would also contribute to the underestimation of Project NO_x emissions in Ventura County.

Figure 1. Figure 3-1 of Ventura County Air Quality Assessment Guidelines

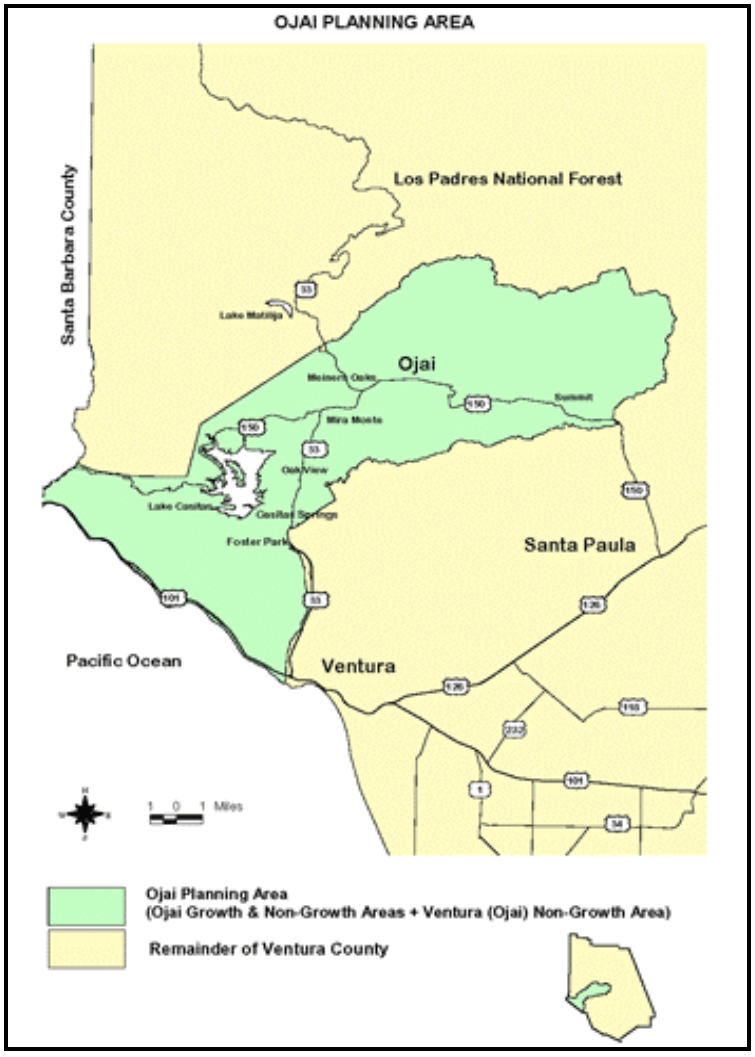

Table 3. Approximate Travel Distances from the SR 33/US 101 Interchange to Various Locations in Ventura County

Destination	Distance in Miles
Oxnard	11
North on US 101 to Santa Barbara County Line*	13*
Santa Paula	17
Camarillo	17
Fillmore	25
Thousand Oaks	30
Piru	33
Simi Valley	37

* Within Ventura County APCD Ojai Planning Area.

DMEC

In summary, the FEIR clearly fails to adequately address Project air quality impacts in Ventura County. It appears likely that the VCAPCD thresholds for NO_x emissions will be exceeded in Ventura County at various times due to Project haul trucks under the dispersed delivery scenario (20% of loads to Ventura County). Under the south delivery scenario (100% of loads to Ventura County), NO_x emission exceedances would be expected with great regularity, perhaps even daily. Both Santa Barbara County and Ventura County have non-attainment status for ozone and particulate matter, and Project haul truck emissions and gravel deliveries will further contribute to the levels of these pollutants of concern. NO_x emissions contribute to ozone formation, diesel engines emit particulate matter, and fugitive dust from gravel deliveries contributes to the level of particulate matter. The FEIR underestimates the expected levels of haul truck emissions, does not consider many possible haul truck travel scenarios within Ventura County, and does not propose any mitigation measures for impacts to Ventura County air quality.

These facts about the air quality analysis leaves the EIR inadequate, requiring additional analysis as indicated before these impacts would be adequately assessed and appropriate and feasible mitigation proposed to reduce significant impacts to less-than-significant levels.

In conclusion, DMEC finds that the EIR's analyses of impacts to biological resources, traffic safety, and air quality to be inadequate. A highlight of some of the specific issues are described above, and should be addressed thoroughly and the FEIR recirculated to be considered adequate pursuant to CEQA.

Sincerely,

David L. Magney
President

Stephen Hoskinson, PCA
Environmental Scientist, Chemist

cc: Michael Shapiro, Committee to Stop the Trucks