

RECORDING REQUESTED BY:

Donovan C. Collier, Esq.
Gresham Savage Nolan & Tilden, PC
550 E. Hospitality Lane, Suite 300
San Bernardino, CA 92408

WHEN RECORDED MAIL TO:

County of San Bernardino
Land Use Services Dept.
385 N. Arrowhead Ave.
San Bernardino, CA 92415-0182

Exempt from Documentary Transfer Tax per Rev. & Tax Code 11922

APNs: 0447-111-10; 0447-031-03

Space above line for Recorder's use only

FIRST AMENDMENT TO EAST PIT CONSERVATION EASEMENT DEED

THIS FIRST AMENDMENT TO EAST PIT CONSERVATION EASEMENT DEED ("Amendment") is made this 8th day of June, 2021, by and between MITSUBISHI CEMENT CORPORATION, a Delaware corporation ("Grantor") and the COUNTY OF SAN BERNARDINO, a body corporate and politic of the State of California ("Grantee"), with reference to the following facts:

RECITALS

WHEREAS, Grantor is the owner of that certain real property in San Bernardino County, California, comprising approximately 69.43 acres commonly referred to as the "East Pit Conservation Area" and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Grantee is a public agency empowered to acquire, administer, operate and maintain lands for protecting habitat required to maintain ecosystems essential for the preservation of species of plants and animals, and is authorized to hold conservation easements for these purposes;

WHEREAS, Grantee approved Mining/Reclamation Plan 84M-016, Revised, for Grantor as of September 27, 1997 (the "1997 Revised Mining/Reclamation Plan"), in which Grantee identified four carbonate plant species, including specifically the Parish's daisy, Cushenbury milkvetch, Cushenbury buckwheat, and Cushenbury oxytheca (the "Carbonate Species"), which could be impacted by operations under the 1997 Revised Mining/Reclamation Plan;

WHEREAS, as a result of the identified impacts to the Carbonate Species, Condition 42 of Grantee's approval of the 1997 Revised Mining/Reclamation Plan required Grantor to identify real property under its control which could be dedicated for the conservation of the Carbonate Species;

WHEREAS, On October 12, 1999, Grantor dedicated to Grantee, by unrecorded instrument, the East Pit Conservation Easement (the "Original East Pit Conservation Easement") over the Property for protection of the Carbonate Species in satisfaction of Condition 42 of the County's approval of the 1997 Revised Mining/Reclamation Plan;

WHEREAS, Grantee approved Mining/Reclamation Plan 84M-016, Revised, for Grantor as of May 20, 2004 (the "2004 Revised Mining/Reclamation Plan" (2004M-01)), in which Grantee identified that Big Horn Sheep ("BHS") could be impacted by operations under the 2004 Revised Mining/Reclamation Plan;

WHEREAS, as a result of the identified impacts to BHS, Condition 59 of Grantee's approval of the 2004 Revised Mining/Reclamation Plan required Grantor to identify real property under its control which could be dedicated for the conservation of BHS;

WHEREAS, Grantor and Grantee modified the Original East Pit Conservation Easement to expressly dedicate the Property for the conservation of BHS in addition to the previous dedication of the Property for conservation of the Carbonate Species, and memorialized the Original East Pit Conservation Easement as so modified by executing that certain East Pit Conservation Easement Deed dated June 4, 2013 and recorded October 21, 2013 in the Official Records of the Recorder for San Bernardino County, California, as Document No. 2013-0455691 ("Original East Pit Conservation Easement Deed");

WHEREAS, Grantor has determined, and Grantee acknowledges, that it is reasonably necessary for Grantor's mining operations in the vicinity of the Property that Grantor have the right to construct portions of a haul road ("Haul Road") over certain portions of the Property and Grantor have rights over such portions of the Property and over certain additional portions of the Property adjacent thereto (collectively, "Haul Road Areas") for Grantor's Haul Road construction and use, including, without limitation, rights of pedestrian and vehicular access, ingress and egress for transportation of various mining operation equipment and materials, including, without limitation, soil, minerals, aggregate, tailings and water;

WHEREAS, Grantee approved the South Quarry Reclamation Plan 2020M-01 for Grantor on August 11, 2020 ("South Quarry Plan") which, among other things, permits Grantor to construct and use the Haul Road as more particularly provided in the South Quarry Plan, and required Grantor to dedicate additional real property under Grantor's control for conservation purposes, in part to compensate for the Carbonate Species habitat at the Property anticipated to be impacted by the Haul Road Areas;

WHEREAS, in satisfaction of Condition of Approval No. 80 of the South Quarry Plan, Grantor will relinquish approximately 448 acres of unpatented mining claims and

conveyed approximately 94 acres of certain other real property to the United States Forest Service (collectively, "Mitigation Properties"); and

WHEREAS, Grantor and Grantee desire to execute this Amendment to memorialize of record Grantor's rights and reservations with respect to the Haul Road and Haul Road Areas pursuant to the Original East Pit Conservation Easement, as modified and memorialized by the Original East Pit Conservation Easement Deed, as modified by this Amendment;

NOW THEREFORE, pursuant to the South Quarry Plan, and in consideration for the foregoing Recitals and the mutual covenants, terms, conditions and reservations contained herein, Grantor and Grantee amend the Original East Pit Conservation Easement Deed as provided below.

OPERATIVE PROVISIONS

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein by this reference.

2. Terms. Capitalized terms used herein without definition have the meanings ascribed to them in the Original Easement Pit Conservation Easement Deed.

3. Haul Road Areas. The Haul Road Areas are depicted in Exhibit "B" attached hereto, each incorporated herein by this reference. The Haul Road Areas encompass approximately five (5) acres of land within the Conservation Easement.

4. Haul Road Use Permitted. Notwithstanding any provision of the Original East Pit Conservation Easement or the Original East Pit Conservation Easement Deed to the contrary, and taking into consideration the Mitigation Properties as conservation areas, the Haul Road Use, as defined below in this Amendment, is hereby deemed and agreed to be a permitted use of the Haul Road Areas by Grantor and an additional reserved right under Section 6 of the Original East Pit Conservation Easement Deed.

5. Haul Road Use. Grantor has the right, in perpetuity, to construct the Haul Road and related facilities and engage in the Haul Road Use, but without obligation to do so. The "Haul Road Use" means, collectively, the uses described in Exhibit "C" attached hereto and incorporated herein by this reference.

6. Effect. Except as amended by this Amendment, the terms of the Original East Pit Conservation Easement and the Original East Pit Conservation Easement Deed remain in full force and effect. In the event of a conflict between the provisions of this Amendment and the provisions of the Original East Pit Conservation Easement, or the Original East Pit Conservation Easement Deed, the terms of this Amendment shall govern and control.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Amendment the day and year first written above.

GRANTOR: MITSUBISHI CEMENT CORPORATION,
a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE: COUNTY OF SAN BERNARDINO,
a body corporate and politic of the State of California

By: _____

Name: Curt Hagman

Title: Chairman

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD
LYNNA MONELL
Clerk of the Board of Supervisors
of the County of San Bernardino

By: _____
Deputy



STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

On _____ before me, _____
(insert name and title of the officer)
personally _____ appeared
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

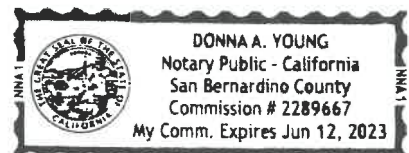
Signature _____ (Seal)

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

On June 25, 2021 before me, Donna a. Young, Notary Public
(insert name and title of the officer)
personally _____ appeared
Curt Hagman, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Donna A. Young (Seal)

EXHIBIT "A"
EAST PIT CONSERVATION AREA

THOSE PORTIONS OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 15 AND 07 THE NORTHWEST 1/4 OF SECTION 14 BOTH IN TOWNSHIP 3 NORTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 15, THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID EAST 1/2, N 88 54 48 E 1346.93 FT. TO THE NORTHEAST CORNER OF SAID SECTION 15. THENCE S 41 01 17 W 1491.88 FT. TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

THENCE S 38 20 00 E 63.00 FT., THENCE S 43 10 00 E 46.00 FT., THENCE S 54 10 00 E 88.00 FT., THENCE S 43 30 00 E 49.00 FT., THENCE S 25 20 00 E 55.00 FT., THENCE S 12 00 00 W 43.00 FT. THENCE S 26 10 00 W 57.00 FT., THENCE S 28 40 00 W 73.00 FT., THENCE S 20 30 00 E 69.00 FT., THENCE S 16 00 00 E 94.00 FT., THENCE S 08 00 00 H 109.00 FT., THENCE S 27 50 00 W 107.00 FT., THENCE S 40 20 00 W 88.00 FT., THENCE S 61 10 00 W 89.00 FT., THENCE S 45 00 00 W 98.85 FT., THENCE S 21 50 00 W 65.45 FT., THENCE S 41 20 00 W 70.00 FT., THENCE S 36 00 00 E 52.00 FT., THENCE S 14 20 00 E 100.00 FT., THENCE S 56 40 00 E 123.00 FT., THENCE S 42 30 00 E 96.00 FT., THENCE S 72 50 00 E 120.00 FT., THENCE N 80 20 00 E 100.45 FT., THENCE N 87 20 00 E 113.91 FT., THENCE S 89 50 00 E 680.00 FT., THENCE S 01 55 34 W 245.02 FT.

TO THE SOUTHERLY LINE OF THE NORTHWEST 1/4 OF SAID SECTION 14. THENCE WESTERLY ALONG SAID SOUTHERLY LINE S 89 11 04 W 173.18 FT. TO THE SOUTHWESTERLY CORNER OF SAID NORTHWEST 1/4. THENCE WESTERLY ALONG THE SOUTHERLY LINE OF THE NORTHEAST 1/4 OF SAID SECTION 15, S 89 57 56 W 1313.09 FT. TO THE SOUTHWEST CORNER OF THE EAST 1/2 OF SAID NORTHEAST 1/4. THENCE NORTHERLY ALONG THE WEST LINE OF SAID EAST 1/2, N 01 13 23 E 1500.79 FT., THENCE LEAVING SAID WESTERLY LINE, N 80 10 00 E 398.30 FT. TO THE TRUE POINT OF BEGINNING.

CONTAINING 22.19 ACRES

THAT PORTION OF- THE OF THE NORTHWEST 1/4 OF SECTION 14 IN TOWNSHIP 3 NORTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 15 IN TOWNSHIP 3 NORTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID EAST 1/2, N 88 54 48 E 1346.93 FT. TO THE NORTHEAST CORNER OF SAID SECTION 15. THENCE S 02 07 36 E 2447.59 FT. TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION:

THENCE S 71 40 00 E 253.00 FT., THENCE S 77 10 00 E. 41.00 FT., THENCE N 85 30 00 E 105.00 FT., THENCE N 75 00 00 E 231.00 FT., THENCE N 88 00 00 E 82.00 FT., THENCE S 84 00 00 E 96.00 FT., THENCE S 82 30 00 E 90.00 FT., THENCE S 71 00 00 E 80.00 FT., THENCE N 83 40 00 E 231.00 FT., THENCE N 88 30 00 E 260.00 FT., THENCE N 61 20 00 E 92.00 FT., THENCE S 37 00 00 E 107.00 FT., THENCE S 77 30 00 E 124.00 FT., THENCE S 32 40 00 E 140.06 FT.

TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST 1/4. THENCE WESTERLY ALONG SAID SOUTH LINE S 89 11 04 W 1789.93 FT. THENCE LEAVING SAID SOUTH LINE, N 01 55 34 E 245.02 FT. TO THE TRUE POINT OF BEGINNING.

CONTAINING 7.42 ACRES

TOGETHER WITH THE FOLLOWING DESCRIBED LAND:

THOSE PORTIONS OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 AND THE NORTHEAST 1/4 OF SAID SECTION 14 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE LAST MENTIONED NORTH 1/2, THENCE NORTHERLY ALONG THE WEST LINE OF SAID NORTH 1/2 N 00 26 47 E 755.98 FT., THENCE LEAVING SAID WEST LINE,

S 63 10 00 E 563.00 FT., THENCE N 87 30 00 E 105.00 FT., THENCE N 68 10 00 E 100.00 FT., THENCE N 74 00 00 E 293.00 FT., THENCE N 70 00 00 E 88.00 FT., THENCE N 35 50 00 E 95.00 FT., THENCE N 21 40 00 E 375.00 FT., THENCE N 05 10 00 E 152.00 FT., THENCE NORTH 138.00 FT., THENCE N 12 30 00 W 120.00 FT., THENCE N 26 20 00 W 176.00 FT., THENCE N 35 10 00 W 100.00 FT., THENCE N 66 40 00 E 401.98 FT. TO THE WESTERLY LINE OF STATE HIGHWAY NO. 18, 100.00 FT. WIDE. THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE S 42 46 08 E 5.57 FT. TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 310.00 FT., THROUGH A CENTRAL ANGLE OF 48 46 12, A LENGTH OF 263.87 FT., THENCE TANGENT TO SAID CURVE S 06 00 04 W 119.76 FT. TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF

1150.00 FT., THROUGH A CENTRAL ANGLE OF 11 07 33, A LENGTH OF 223.31 FT., THENCE TANGENT TO SAID CURVE S 05 07 29 E 150.00 FT. TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 450.00 FT. THROUGH A CENTRAL ANGLE OF 30 11 45, A LENGTH OF 237.16 FT., THENCE TANGENT TO SAID CURVE S 35 19 14 E 619.89 FT. TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 950.00 FT., THROUGH A CENTRAL ANGLE OF 13 59 20, A LENGTH OF 231.95 FT., THENCE TANGENT TO SAID CURVE S 21 19 54 E 225.28 FT. TO A POINT ON THE SOUTH LINE OF SAID NORTH 1/2. THENCE WESTERLY ALONG SAID SOUTH LINE, S 89 48 19 W 2200.41 FT. TO THE POINT OF BEGINNING.

CONTAINING 39.82 ACRES

Assessor's Parcel No: 0447-111-10; 0447-031-03

THIS MAP IS FOR THE PURPOSE
OF AN EASEMENT ONLY

Sec. 13 & 14, T. 3N., R. 1E., S.B.B. & M.

Lucerne Valley Union 0447-10
Tax Role Area
88005

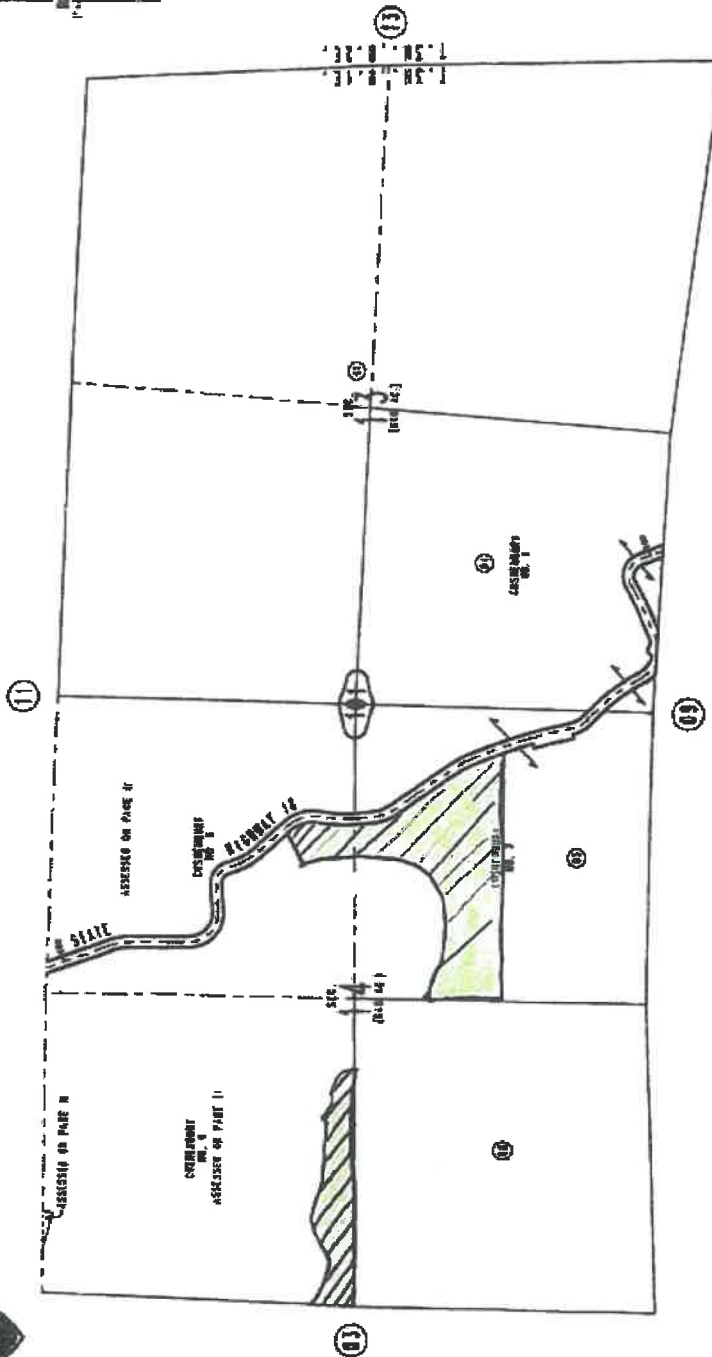


Exhibit A to East Pit Conservation Easement Deed
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07/25/07 10

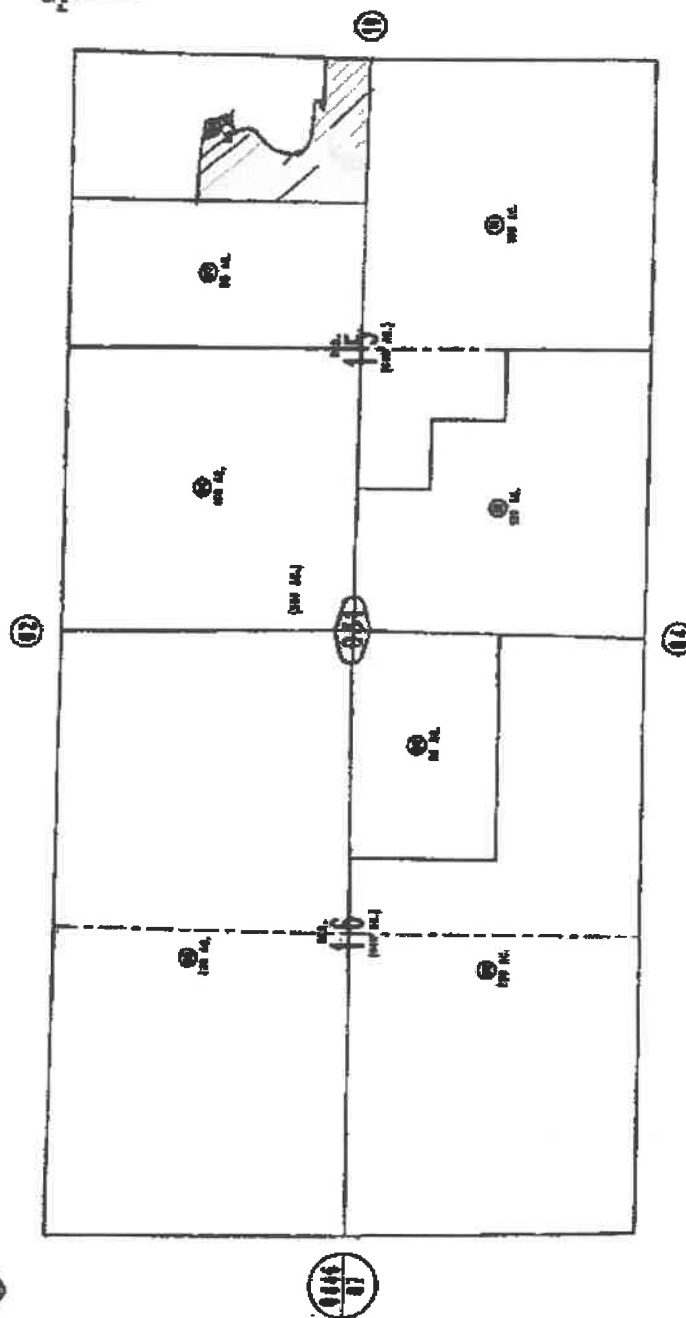
Assessor's Map
Book 0447 Page 10
San Bernardino County

April 2005

THIS MAP IS FOR THE PURPOSES
OF THE EASEMENT DEED ONLY.

Sec. 15 & 16, T. 3N., R. 1E., S.B.B.&M.

Lucerne Valley Union 0447-03
Tax Rate Area
88005



Assessor's Map
Book 8447 Page 03
San Bernardino County

April 2004

Exhibit A to East Pit Conservation Easement Deed
Page 5 of 5

EXHIBIT "B"
DEPICTION OF HAUL ROAD AREAS

[See attached page]

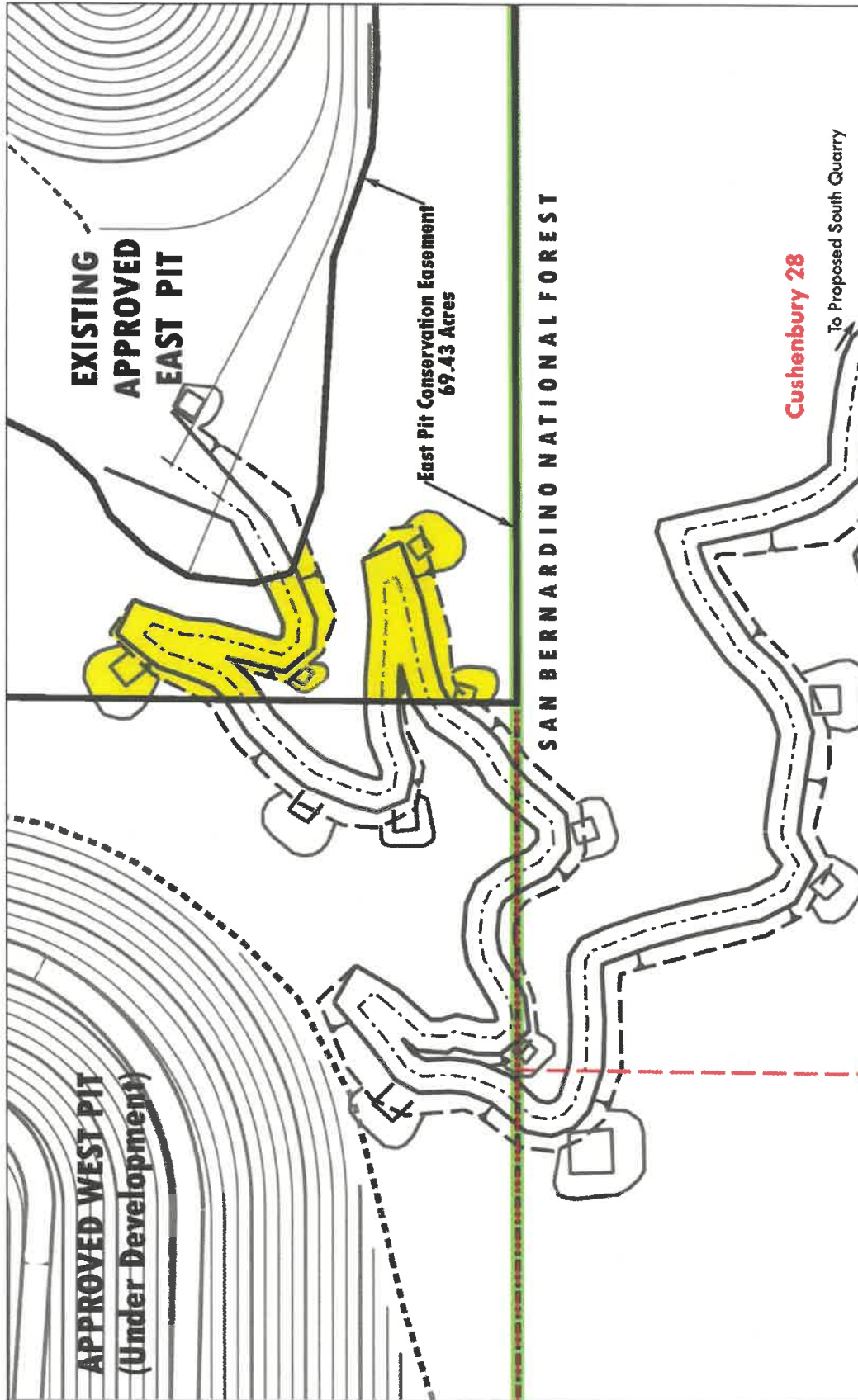


EXHIBIT "C"

HAUL ROAD USE

Haul Road Use deemed and agreed to be permitted use of the Haul Road Areas include:

1. Vehicular and pedestrian access to, and ingress and egress to and from, the South Quarry and the Cushenbury Cement Plant for purposes of, and purposes relating to, the extraction and transportation of limestone for use in the cement manufacturing process;
2. Use of various types of equipment including, without limitation, bulldozers, off-road haul trucks, front-end loaders, graders, water trucks and personal vehicles;
3. Performance of engineering analyses of the Haul Road Areas, including, without limitation, surveying, drainage studies, soil testing, and slope stability;
4. Construction of the Haul Road and related improvements and facilities including, without limitation, the roadway, safety berms, drainage improvements, erosion control measures and sediment basins;
5. Performance of Haul Road and related improvements and maintenance activities including without limitation, the repair of the roadway and drainage facilities and erosion and dust control;
6. Performance of construction and construction staging activities in connection with the construction of the Haul Road and related improvements and as may be performed from time to time in connection with the maintenance thereof; and
7. Performance of other activities which may, from time to time, be reasonably necessary or convenient in connection with or to accomplish any of the foregoing, including, without limitation, the transportation of soils, aggregate, fuel, overburden and water.

COUNTY OF SAN BERNARDINO
CERTIFICATE OF ACCEPTANCE OF
AMENDED CONSERVATION EASEMENT DEED

This Certificate of Acceptance pertains to the interest in certain real property conveyed by the Amended Conservation Easement Deed dated June 8, 2021, to which this Certificate of Acceptance is attached,

from: **MITSUBISHI CEMENT CORPORATION**

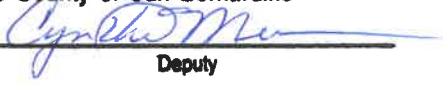
to: **COUNTY OF SAN BERNARDINO, a body corporate and politic of the State of California ("Grantee")**

Said Conservation Easement Deed is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee's governing body, and Grantee hereby consents to recordation of same.

Dated: **JUN 08 2021**

COUNTY OF SAN BERNARDINO,
a body corporate and politic of the State of California

**SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD
LYNNA MONELL
Clerk of the Board of Supervisors
of the County of San Bernardino**

By 

Deputy

By: 

[Signature]

Curt Hagman

[Printed Name]

Its: Chairman, Board of Supervisors

[Printed Title]

ATTEST:

County Clerk
Lynna Monell
Printed Name

