

**CALIFORNIA DEPARTMENT OF PARKS AND RECREATION,  
OFF-HIGHWAY MOTOR VEHICLE RECREATION (OHMVR) DIVISION**

***FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR  
EASTERN KERN COUNTY PROPERTY ACQUISITION***

**1.0 INTRODUCTION**

The California Department of Parks and Recreation, OHMVR Division, prepared a Draft and a Final Environmental Impact Report (collectively, EIR) for the Eastern Kern County Property Acquisition (SCH No. 2012091066), which involves the purchase and management of up to 59 privately-owned parcels totaling 28,275 acres in the western Mohave Desert in Kern County, California. The parcels are largely interspersed with lands owned by the U.S. Bureau of Land Management (BLM), although some parcels are within the Sequoia National Forest or adjacent to parcels under private or other ownership. The project property would be managed for continuation of existing land uses and visitor activities unless changed by a subsequent park general plan process. Proposed management activities include maintenance of existing facilities (e.g., signage, fencing, trails, and restrooms), general operations (e.g., public safety, law enforcement, and emergency services), resource management, special projects, and special events.

The EIR considers the environmental effects of the OHMVR Division acquiring and managing the project properties. The findings set forth below regarding the project are adopted by the OHMVR Deputy Director as the OHMVR Division's findings under the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.). The findings provide the written analysis and conclusions of the OHMVR Division regarding the project's environmental impacts and mitigation measures.

**2.0 STATUTORY REQUIREMENTS FOR FINDINGS**

Public Resources Code section 21081 and the CEQA Guidelines (14 Cal. Code Regs. § 15091 (a)) require that no public agency approve or carry out a project for which an EIR has been certified that identifies one or more significant effects of the project on the environment unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. Pursuant to Public Resources Code section 21081 (a), the possible findings, which must be supported by substantial evidence in the record, are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

CEQA Guidelines section 15364 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

When determining whether to approve a project, CEQA requires the decision-making agency to balance the project’s economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, against the project’s unavoidable environmental risks. If those benefits outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable” (CEQA Guidelines § 15093 (a)). When the lead agency approves a project that will result in the occurrence of significant effects that are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record (CEQA Guidelines § 15093 (b)).

### **3.0 PROJECT DESCRIPTION**

#### **3.1 Project Location and Setting**

The project parcels proposed for OHMVR Division acquisition are located in eastern Kern County, west of State Route 14 between the city of Ridgecrest to the northeast and the city of Tehachapi and communities of Mojave and California City to the south. Major population centers of Bakersfield and Los Angeles are approximately 75 miles to the west and 120 miles to the south, respectively. Geographically, the project property is located in the western edge of the Mojave Desert. It comprises lower elevation flatlands in the southern and eastern parcels and higher elevation canyons and slopes approaching the Piute Mountain Range in the northern and western parcels. The project property is largely undeveloped and predominately used for cattle grazing and off-highway vehicle (OHV) recreation.

#### **3.2 Project Objectives**

California’s southern desert region has been identified as a premier and important OHV recreational opportunity area, but lands available for OHV recreation in Southern California have been greatly reduced due to alternative energy projects, rural development, and other closures. This project is specifically designed to provide public OHV recreation in Southern California, enhance the management of the lands, and protect OHV opportunity in this critical region of California. The primary objectives of the acquisition of the project parcels are to:

- Establish broader public land ownership in and around an existing large-scale OHV recreation area in Southern California
- Facilitate the provision of a “destination” desert-oriented OHV recreation area that provides a broad spectrum of experiences and skill levels

- Transfer important springs, riparian areas, and other sensitive resource areas to the public
- Avoid conflicts by ensuring use and development of the lands are compatible with OHV recreation and public access
- Facilitate access to existing public lands
- Maintain public land corridors that avoid crossing private lands
- Work with federal partners and non-profits to provide and manage a comprehensive recreation opportunity in the greater project area
- Further OHMVR Division Strategic Plan Goal 1: Sustain Existing Opportunity
- Acquire land from willing seller(s)

More specifically the OHMVR Division has identified the following priorities for the acquisition area:

- Ensure management for compliance with the OHMVR Division 2008 Soil Conservation Standard
- Provide additional monitoring and stewardship of important biological and cultural resources
- Provide comprehensive law enforcement, emergency medical response, outreach, visitor education, and interpretation
- Facilitate a reduction in trespass into areas closed to motorized vehicles

### **3.3 Project Characteristics**

The OHMVR Division proposes purchasing up to 59 project parcels totaling 28,275 acres in two phases. The initial acquisition consists of 53 project parcels comprising 26,727 acres by the OHMVR Division. This phase is referred to as the “Proposed Parcel Acquisition.” These parcels have been offered for sale to the OHMVR Division by ReNu and are available for immediate purchase. A possible future acquisition consists of some or all of six parcels comprising 1,518 acres, should they become available for purchase. This potential second phase of the project is referred to as “Potential Future Acquisition.”

Upon OHMVR Division acquisition, existing uses occurring on the property would continue. No changes in land uses are proposed. No expansion of open riding or the existing route network is proposed. No new points of access to the project property are proposed. No construction of new facilities is proposed, although minor projects are foreseeable, such as repairs to existing facilities, installing vault toilets, kiosks, and signage, or ensuring ADA compliance at existing facilities. Additionally, some existing trails could require minor trail realignments to address localized erosion or avoid a sensitive resource. These changes would be subject to subsequent environmental review and CEQA compliance. Consistent with Public Resources Code section 5002.2 (c), prior to developing a general plan, no facilities could be developed that result in the permanent commitment of a resource of the unit.

OHMVR Division acquisition of the project parcels would not foreseeably cause a significant change in the location, type, or intensity of land uses presently occurring on or adjacent to the project parcels. To account for the possibility that OHMVR Division ownership of the property and interest in a future planning process for the park could

attract a slight increase in visitation to the project area, the OHMVR Division assumes annual visitation specifically due to the acquisition project could increase 1% from 2012.

Upon acquisition, the OHMVR Division would begin to provide resource and visitor management services via rangers, environmental scientists, and maintenance staff. Trail maintenance services are currently occurring on the project parcels, generally via operations of Friends of Jawbone. The OHMVR Division would manage five broad categories of activities, all of which currently occur on the project parcels to at least some degree:

- Visitor Activities, including OHV recreation, hiking and backpacking, camping, birding, wildlife viewing, hunting, rockhounding, mountain biking, and horseback riding
- Maintenance and Operations, including garbage pick-up, facilities maintenance, signing, fencing, ongoing maintenance of trails and access corridors, public safety and law enforcement patrols, medical aid, and emergency response to law enforcement and medical aid calls
- Resource Management, including installing and maintaining sensitive habitat protection fences, installing and maintaining other closure area boundaries by signs and fences, wildlife species monitoring and management, vegetation management, exotic pest plant removal, and restoration planting
- Special Projects, including installing vault toilets or informational kiosks, ensuring ADA compliance at existing facilities, and fixing trails to address public safety
- Special Events, which may require a separate review and approval process, including organized group activities such as OHV competitions and poker runs, tours for large groups interested in the project area, and media events

The OHMVR Division is a state agency subject to compliance with public resources codes for protection of sensitive biological and cultural resources and for meeting soil conservation standards. The OHMVR Division has incorporated specific management measures to protect these resources into the project; therefore, they are not considered mitigation measures and have thus been considered prior to making a significance conclusion. Table 1 provides a summary of the management measures that are included in the project and considered below when significance findings are presented:

<b>Table 1. Summary of Management Measures</b>
<p><b>LAND USE (EIR Section 3.3.2):</b></p> <p><b>OHV Travel Route Designations.</b> Identify areas of unauthorized OHV use and develop a response plan (e.g., restoration, signage, barriers, educational kiosks, and law enforcement).</p> <p><b>Public Education.</b> Post OHV opportunities and regulations throughout the property. Explore partnering with other agencies and organizations for public education on OHV recreation issues.</p> <p><b>Law Enforcement Program.</b> Work jointly with local authorities and federal agencies to address multi-jurisdictional issues. Assess needs and assign law enforcement to provide daily patrols.</p> <p><b>Pacific Crest Trail Corridor Protection.</b> Collaborate with USFS and BLM to manage OHV recreation on state lands in a manner compatible with the Pacific Crest Trail corridor.</p>

**Table 1. Summary of Management Measures****AGRICULTURAL RESOURCES (EIR Section 4.3.2):**

**Terms and Conditions of RCA Grazing Permit.** Apply terms and conditions of RCA grazing permit to livestock operations on the acquisition property within the RCA for the duration of the permit term.

**Monitoring Rangeland and Livestock Operations.** Annually monitor forage conditions on parcels used for grazing and livestock operations. Conduct rangeland health assessments.

**AIR QUALITY (EIR Section 5.3.2):**

**Strategic Plan Objective 1.5, Dust Monitoring and Management Plan.** Reduce the amount of dust generated by OHVs by 2014 through a dust monitoring and management program implemented as part of the OHMVR Division Strategic Plan.

**BIOLOGICAL RESOURCES (EIR Section 6.3.2):****Wildlife Habitat Protection Program (WHPP) and Habitat Monitoring System (HMS).**

Inventory aquatic resources, special-status species, and sensitive habitats and prepare a WHPP to manage, restore, and sustain viable species composition within the property.

**Grazing Management.** Work with BLM, USFS, and permittee to ensure grazing is managed to protect resources while ensuring cattle movement is not unduly impeded. Implement the same standards that apply to BLM lands.

**CULTURAL RESOURCES (EIR Section 7.3.2)**

**Cultural Resource Management Program.** Incorporate all historical and archaeological resources that exist within the project into the OHMVR Division Cultural Resource Management Program. Evaluate resources for significance and protect resources.

**Cultural Resources Inventory.** Survey all areas for historical resources. Require a cultural resource survey and Native American consultation for all projects in non-surveyed areas.

**Annual Cultural Resource Management Training.** Hold annual workshops to educate staff on the resources found within the area and protocols upon the discovery of a resource.

**Cultural Resource Monitoring.** Implement a monitoring program to document adverse changes to the resources through the California Archaeological Site Stewardship Program (CASSP).

**Accidental Discoveries.** Immediately evaluate finds. If determined to be a historical or unique archaeological resource, develop and implement avoidance measures or appropriate mitigations. If human remains are discovered and coroner determines remains are Native American, the Native American Heritage Commission will be consulted.

**Native American Consultation and Monitoring.** Consult with California Indian Tribes and organizations connected to the region on projects and management practices involving the project area's natural and cultural resources.

**Preservation in Place.** Avoid archaeological sites during construction planning and use preservation in place as the preferred manner for mitigating impacts to archaeological sites.

**Historical Resource Protection Measures.** Implement resource protection measures including signage, park staff patrols, restricted access, conducting a 5024 review and Native American consultation, and including site within CASSP.

**Paleontological Resource Protection Measures.** A qualified paleontologist will conduct a records search of the acquisition area, conduct a comprehensive paleontological resource inventory to identify unique paleontological resources, sites, and/or unique geological features, and develop protective measures.

<b>Table 1. Summary of Management Measures</b>
<p><b>GEOLOGY/SOILS (EIR Section 8.3.2)</b></p> <p><b>Assess Erosion Conditions.</b> Evaluate all water crossings that intersect with designated routes to determine contribution to sediment load using LIDAR and aeriels to identify where use occurs. Evaluate hillclimbs by assessing gullyng on the slopes. Remediate where eroded soils are deposited offsite.</p> <p><b>Address Erosion Issues.</b> Remediate areas found out of compliance with the 2008 Soil Conservation Standard. Prepare a sustainable plan for the hillclimbs. Direct recreationists to designated areas and prohibit use of lands more susceptible to erosion.</p> <p><b>Prepare Soil Conservation Plan.</b> Prepare a protocol for assessing and maintaining trails consistent with the 2008 Soil Conservation Standard, a protocol for monitoring the trails, and a compliance report. Identify trail maintenance procedures in a soil conservation plan.</p>
<p><b>GREENHOUSE GAS (EIR Section 9.3.2)0</b></p> <p><b>Strategic Plan Objective 1.3, Reduce Carbon Footprint.</b> Reduce the carbon footprint associated with SVRA management by 25% below 2009/2012 fiscal year levels by 2020.</p>
<p><b>HAZARDS AND PUBLIC SAFETY (EIR Section 10.3.2)</b></p> <p><b>Provide Educational Material to Visitors Regarding Valley Fever.</b> Disseminate the Public Health Services flyer or similar flyer to explain the causes and risk of valley fever.</p> <p><b>Supplemental Phase I ESA.</b> Determine the status of recognized environmental conditions (RECs) on parcel K-13 property. Take appropriate steps to remove and/or remedy the materials.</p> <p><b>Closure of Open Pits and Shaft.</b> Secure open pits by filling in with earth and secure shaft by filling in or fencing and signing to prevent injury and safety hazard to the public.</p>
<p><b>RECREATION (EIR Section 11.3.2)</b></p> <p><b>Firearms.</b> Post signage at trailhead and campsite locations and provide public outreach to educate visitors of California Department of Parks and Recreation (CDPR) policy on firearms. Monitor for evidence of firearm use.</p> <p><b>Rockhounding.</b> Allow use only upon approval from the Parks Director. Post signage at trailhead locations and campsites educating visitors of CDPR policy on rockhounding.</p> <p><b>Law Enforcement and Education Program.</b> Staff the project area with peace officers to educate the public on appropriate recreation and cite illegal uses, equipment, and conduct.</p> <p><b>Special Events.</b> Identify participant limits, number of concessions, need for safety personnel and facilities such as portable toilets, specific event routes, staging areas, etc. If needed, require fee to secure OHMVR Division personnel for public safety and sensitive resource protection.</p>

#### **4.0 RECORD OF PROCEEDINGS AND CUSTODIAN OF DOCUMENTS**

The record, upon which all findings and determinations related to the approval of the project are based, includes the following:

1. The EIR including all appendices, technical studies, and documents referenced in or relied upon by the EIR.
2. All information (including written evidence and testimony) provided by OHMVR Division staff to the decisionmaker(s) relating to the EIR, the approvals, and the project.
3. All information (including written evidence and testimony) presented to the OHMVR Division by the environmental consultant who prepared the EIR or incorporated into reports presented to the OHMVR Division.

4. All information (including written evidence and testimony) presented to the OHMVR Division from other public agencies related to the project or the EIR.
5. All applications, letters, testimony, and presentations relating to the project.
6. All information (including written evidence and testimony) presented at any OHMVR Division public meeting related to the project and the EIR.
7. All BLM and USFS adopted land use plans and other documents relevant to management of forest and bureau lands within the project area.
8. The Mitigation Monitoring and Reporting Program for the project.
9. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The California Department of Parks and Recreation, OHMVR Division is the custodian of the documents and other materials that constitute the record of the proceedings upon which the OHMVR Division's decisions are based. The contact for this material is:

Mr. Dan Canfield  
California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street  
Sacramento, California 95816  
(916) 324-4442

## **5.0 CONSIDERATION AND CERTIFICATION OF THE EIR**

In accordance with CEQA, the OHMVR Division concurrently with these findings hereby certifies that the Final EIR for the Eastern Kern County Property Acquisition has been completed in compliance with CEQA and the CEQA Guidelines and finds the EIR adequately addresses the environmental impacts of the project.

The OHMVR Division finds and determines that the Final EIR provides:

- A comprehensive analysis of the relevant environmental issues sufficient to inform the OHMVR Division, responsible agencies, members of the public, and other interested parties of the potential significant environmental effects of the Eastern Kern County Property Acquisition.
- A complete description of the environmental resources that may be affected, and discloses all of the direct, indirect and cumulative impacts relating to construction and operation of the development envisioned by the Eastern Kern County Property Acquisition.
- An extensive set of Eastern Kern County Property Acquisition management measures and additional mitigation measures that are designed to reduce or avoid significant environmental impacts to the extent feasible.
- Complete, good faith and reasoned responses to all comments on the Draft EIR that raise significant environmental issues.

The OHMVR Division has reviewed and considered, as a whole, the information contained in the EIR including the evidence and other information presented in public and agency comments, as well as the responses to those comments. This has provided the OHMVR Division with a comprehensive and well-rounded understanding of the environmental issues presented by the

Eastern Kern County Property Acquisition. The OHMVR Division's findings are based on full appraisal of the evidence and other information contained in the Final EIR, as well as the evidence and other information in the record addressing the Final EIR. By adopting these findings, the OHMVR Division confirms and adopts the findings and conclusions of the EIR. The EIR and these findings represent the independent judgment and analysis of the OHMVR Division.

## **6.0 MITIGATION MONITORING AND REPORTING PLAN**

As required by Public Resources Code section 21081.6, the OHMVR Division, in adopting these findings, also adopts the project Mitigation Monitoring and Reporting Program (MMRP). The MMRP is designed to ensure that, during implementation of the project, the OHMVR Division and other responsible parties will comply with the adopted mitigation measures, summarized within these findings, as well as in the Draft EIR. The MMRP is attached to these findings as Exhibit A. The OHMVR Division will use the MMRP to track compliance with the adopted mitigation.

## **7.0 LEGAL EFFECT OF FINDINGS**

To the extent that these findings conclude that the management measures incorporated into the project design and the mitigation outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the OHMVR Division hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the OHMVR Division formally approves the project.

The management measures and mitigation are included in the MMRP adopted concurrently with these findings, and will be effectuated through the process of implementing the project (refer to Section 6.0 of these findings).

## **8.0 SIGNIFICANCE FINDINGS**

### **8.1 Effects Found To Be Not Significant**

Project effects on aesthetics, hydrology and water quality, mineral resources, noise, population/housing, public services/utilities, and traffic and transportation were assessed in EIR Volume I, Section 13.5 and determined to be less than significant. The following project effects were analyzed in the EIR Volume I, Chapters 4-11, and also determined to be less than significant. No mitigation is required for any of these less than significant impacts.

#### **8.1.1 Land Use Plans and Policies**

**Impact:** OHMVR Division acquisition and property management activities would not conflict with applicable land use plans, policies, or regulations. Existing land uses would remain unchanged. No new land uses would be introduced. Property management activities would not change the pattern of OHV recreation or increase OHV intrusion into nearby areas closed to OHV use.

**Finding:** The OHMVR Division finds that the direct project management activities themselves would not change existing land uses, the pattern of recreational uses, or create OHV intrusion into closed areas. The impact is less than significant (EIR Sections 3.3.3.1, 3.3.4.1, and 3.4). No change in the project is required to mitigate or avoid a significant effect on the environment.

**Impact:** OHMVR Division acquisition and property management could result in a 1% increase in visitor use to the project area. The nature of visitor uses that could increase would be consistent with existing recreational use of the property and would not conflict with plans, policies, and regulations governing property use. The 1% increase in visitor use could add to existing levels of unauthorized OHV use on the Pacific Crest Trail, Red Rock Canyon State Park, BLM land, and private property. Implementation of Land Use Management Measures would more than offset any increase in intrusions associated with the 1% visitor use increase and is expected to reduce existing intrusion levels from current levels.

**Relevant Management Measures:**

- **OHV Travel Route Designations.** Identify areas of unauthorized OHV use and develop a response plan (e.g., restoration, signage, barriers, educational kiosks, and law enforcement).
- **Public Education.** Post OHV opportunities and regulations throughout the property. Explore partnering with other agencies and organizations for public education on OHV recreation issues.
- **Law Enforcement Program.** Work jointly with local authorities and federal agencies to address multi-jurisdictional issues. Assess needs and assign law enforcement to provide daily patrols.
- **Pacific Crest Trail Corridor Protection.** Collaborate with USFS and BLM to manage OHV recreation on state lands in a manner compatible with Pacific Crest Trail corridor.

**Finding:** The OHMVR Division finds that the project as designed with the incorporation of Land Use Management Measures (fully described in EIR Section 3.3.2) would not increase incidents of OHV intrusion, and the impact is less than significant (EIR Sections 3.3.3.2 and 3.3.4.2). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, implementation of the Land Use Management Measures is likely to reduce existing intrusion levels by introducing state law enforcement resources into the project area resulting in a net beneficial effect.

### 8.1.2 Agricultural and Forestry Resources

**Impact:** OHMVR Division acquisition could lead to future preparation of a general plan governing use of the project property. The potential loss of the property as grazing land could occur in the foreseeable future given the current CDPH livestock policy preference for no or limited grazing in state parks. Consistent with current policy, the OHMVR Division may determine grazing is an important historical and cultural component of the lands or serves a resource restoration purpose, and CDPH and/or the OHMVR Division could establish different policies toward grazing in the future. Future grazing use of the property would be determined during the general plan approval process. Therefore, actual loss of grazing land resulting from land use changes in a future general plan is speculative at this time and cannot be assessed.

Implementation of property management activities could result in restricted grazing access to property areas needing natural and cultural resource protection. The potential need for grazing use restriction is unknown and cannot be determined prior to property acquisition and extensive resource surveys. The impact is therefore speculative. The amount of pastureland affected by cultural resources would likely be less than a few acres over the entire 27,000-acre area being grazed.

Implementation of the Agricultural Resource Management Measures to manage rangeland health would not result in a loss of access to public grazing land or loss of use of grazing land by the operator. Implementation of the Agricultural Resource Management Measures would apply

federal standards to the presently unregulated ReNu parcels, potentially resulting in a beneficial impact to rangeland forage.

**Relevant Management Measures:**

- **Terms and Conditions of RCA Grazing Permit.** Apply terms and conditions of RCA grazing permit to livestock operations on the acquisition property within the RCA for the duration of the permit term.
- **Monitoring Rangeland and Livestock Operations.** Annually monitor forage conditions on parcels used for grazing and livestock operations. Conduct rangeland health assessments.

**Finding:** The OHMVR Division finds that project activities would not result in the loss of or reduction in access to grazing land and the impact is less than significant (EIR Sections 4.3.3.1, 4.3.4.1, and 4.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, the implementation of the Agricultural Resource Management Measures incorporated into the project (fully described in EIR Section 4.3.2) would have a potential net beneficial effect of applying federal rangeland health standards on 28,275 acres of unregulated private land (EIR Sections 4.3.3.1 and 4.3.4.1).

**IMPACT:** OHMVR Division acquisition and property management could result in a 1% increase in visitor use of the project area. The increase would occur in existing recreation areas and would not affect the use of the property for cattle grazing or result in loss of public or private grazing land.

**Finding:** The OHMVR Division finds that the impact of increased visitor use on public and private grazing land is less than significant (EIR Sections 4.3.3.1 and 4.4). No change in the project is required to mitigate or avoid a significant effect on the environment.

### 8.1.3 Air Quality

**Impact:** OHMVR Division property management activities and the potential 1% increase in visitor use would generate mobile emissions and fugitive dust. The project would not introduce new uses or stationary sources to the project area and would not emit lead, SO<sub>2</sub>, sulfates, H<sub>2</sub>S, or vinyl chloride in amounts that exceed air quality standards.

Mobile emissions from light duty park operation and maintenance vehicles combined with mobile emissions from a 1% potential increase in park visitation would generate 5.6 pounds per day of NO<sub>x</sub> and 4 pounds per day of ROG. The combined mobile emissions would not exceed the Eastern Kern Air Pollution Control District (EKAPCD) CEQA threshold of 137 pounds per day of NO<sub>x</sub> or ROG and, therefore, would not exceed ambient air quality standards for ozone.

Property management operations on unpaved roads and the potential 1% increase in visitor use would generate fugitive dust. Some special events could also generate fugitive dust, although no new events have been suggested or proposed. The increased emissions would be infrequent, intermittent, and of low enough magnitude so as not to exceed established daily or annual standards for PM<sub>10</sub> and PM<sub>2.5</sub>. The fugitive dust associated with the project would not conflict with EKAPCD Rule 402 and would not contribute to an exceedance of any ambient air quality standard. Implementation of the Soil Conservation Standards identified in the Geology and Soils Management Measures could have the beneficial impact of addressing potential erosion issues associated with existing OHV use levels that may contribute to fugitive dust.

Total project emissions would not be a significant source of toxic air contaminants such as diesel particulate matter and would not create exposure to a significant cancer risk at any sensitive receptor location.

Property management activities and the 1% increase in visitor use would comply with the Air Quality Attainment Plan in effect for the Mohave Desert Air Basin and would not obstruct implementation of that plan.

**Relevant Management Measures:**

- **Strategic Plan Objective 1.5, Dust Monitoring and Management Plan.** Reduce the amount of dust generated by OHVs by 2014 through a dust monitoring and management program implemented as part of the OHMVR Division Strategic Plan.
- **Prepare Soil Conservation Plan.** Prepare a protocol for assessing and maintaining trails consistent with the 2008 Soil Conservation Standard, a protocol for monitoring the trails, and a compliance report. Identify trail maintenance procedures in a soil conservation plan.

**Finding:** The OHMVR Division finds that mobile emissions and fugitive dust associated with project activities would not exceed ambient air quality standards and the impact is less than significant (EIR Sections 5.3.3, 5.3.4, and 5.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, implementation of the Air Quality Management Measure (fully described in EIR Section 5.3.2) is expected to reduce existing air quality emissions from the project area (EIR Section 5.5). Implementation of the Geology and Soils Management Measures (fully described in EIR Section 8.3.2) would further reduce fugitive dust associated with any existing OHV use areas susceptible to erosion (EIR Section 5.3.3.2).

#### 8.1.4 Biological Resources

**Impact:** OHMVR Division property management activities could be located where special-status species or sensitive habitat areas, including wetlands, riparian, or aquatic habitats, are known to occur. Proposed Biological Resources Management Measures, including pre-activity surveys prior to commencing disturbance activities to identify location of species and monitoring during management activity by a qualified biologist, would avoid potential impacts to special-status species or sensitive habitat.

Fencing may be installed as a resource management measure. Fencing would be designed to allow wildlife passage and be installed under supervision of a qualified Environmental Scientist. Wildlife movement or corridors would not be affected.

No Habitat Conservation Plans or Natural Community Conservation Plans are in effect on the property. Proposed property management activities would not conflict with approved plans related to protection of biological resources.

**Relevant Management Measures:**

- **Wildlife Habitat Protection Program (WHPP) and Habitat Monitoring System (HMS).** Inventory aquatic resources, special-status species, and sensitive habitats and prepare a WHPP to manage, restore, and sustain viable species composition within the property.
- **Grazing Management.** Work with BLM, USFS, and permittee to ensure grazing is managed to protect resources while ensuring cattle movement is not unduly impeded. Implement the same standards that apply to BLM lands.

**Finding:** The OHMVR Division finds that the project management activities would not adversely impact special-status species or sensitive habitats including wetlands, riparian, or aquatic habitats. The impact is less than significant (EIR Sections 6.3.3.1, 6.3.3.2, and 6.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

Implementation of the WHPP and HMS Management Measure (fully described in EIR Section 6.3.2) is expected to have a beneficial effect of protecting sensitive biological resources from potential effects of existing uses (EIR Section 6.3).

**Impact:** OHMVR Division acquisition and property management could result in a 1% increase in recreational use in or near special-status species or their habitat and sensitive vegetation communities including wetland, riparian, and other aquatic habitat. Off-route OHV travel poses the greatest risk to special-status species and sensitive habitats including aquatic resources.

Proposed Land Use Management Measures would reduce the potential increase in off-route OHV travel associated with the 1% increase in visitor use. Proposed Biological Management Measures would identify and protect known and newly identified sensitive areas near designated routes through placement of protective signs, fencing or barriers, closed or restricted access, and law enforcement. Implementation of management measures would offset impacts to special-status species (except desert tortoise), their habitat, and sensitive vegetation communities associated with increased OHV use. OHMVR Division-implementation of management measures would offset impacts to special-status species (except desert tortoise), their habitat, and sensitive vegetation communities associated with increased OHV use.

A 1% increase in visitor use would not impede wildlife movement or affect use of corridors. No HCPs or NCCPs are in effect on the project property, and increased visitor use would not conflict with approved plans related to protection of biological resources.

#### **Relevant Management Measures:**

- **OHV Travel Route Designations.** Identify areas of unauthorized OHV use and develop a response plan (e.g., restoration, signage, barriers, educational kiosks, and law enforcement).
- **Public Education.** Post OHV opportunities and regulations throughout the property. Explore partnering with other agencies and organizations for public education on OHV recreation issues.
- **Law Enforcement Program.** Work jointly with local authorities and federal agencies to address multi-jurisdictional issues. Assess needs and assign law enforcement to provide daily patrols.
- **Pacific Crest Trail Corridor Protection.** Collaborate with USFS and BLM to manage OHV recreation on state lands in a manner compatible with Pacific Crest Trail corridor.
- **WHPP and HMS.** Inventory aquatic resources, special-status species, and sensitive habitats and prepare a WHPP to manage, restore, and sustain viable species composition within the property.

**Finding:** The OHMVR Division finds that, with implementation of Land Use and Biological Management Measures, the increased visitor use of the project area would not adversely impact special-status species (except desert tortoise) or sensitive habitats including wetlands, riparian, or aquatic habitats. The impact is less than significant (EIR Section 6.3.3, 6.3.4, and 6.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. See Findings Section 8.3 for a separate finding on desert tortoise.

#### **8.1.5 Cultural Resources**

**Impact:** Property management activities implemented by the OHMVR Division could be located where cultural resources (historical, archaeological, paleontological, or Native American human remains) occur. Ground disturbance from these activities could harm these resources. The OHMVR Division's Cultural Resources Management Guidelines and the project Cultural Resources Management Measures include pre-activity surveys prior to commencing disturbance

activities. Project activity near cultural resources would occur under supervision of a qualified state archaeologist and would not result in damage of resources. Implementing the Cultural Resources Management Measures, which include measures for historical and paleontological resources, would have a beneficial effect on the existing condition of known resources and undiscovered resources.

**Relevant Management Measures:**

- **Cultural Resource Management Program.** Incorporate all historical and archaeological resources that exist within the project into the OHMVR Division Cultural Resource Management Program (see Section **Error! Reference source not found.**). Evaluate resources for significance and protect resources.
- **Cultural Resources Inventory.** Survey all areas for historical resources. Require a cultural resource survey and Native American consultation for all projects in non-surveyed areas.
- **Annual Cultural Resource Management Training.** Hold annual workshops to educate staff on the resources found within the area and protocols upon the discovery of a resource.
- **Cultural Resource Monitoring.** Implement a monitoring program to document adverse changes to the resources through the California Archaeological Site Stewardship Program (CASSP).
- **Accidental Discoveries.** Immediately evaluate finds. If determined to be a historical or unique archaeological resource, develop and implement avoidance measures or appropriate mitigations. If human remains are discovered and coroner determines remains are Native American, the Native American Heritage Commission will be consulted.
- **Native American Consultation and Monitoring.** Consult with California Indian Tribes and organizations connected to the region on projects and management practices involving the project area's natural and cultural resources.
- **Preservation in Place.** Avoid archaeological sites during construction planning and use preservation in place as the preferred manner for mitigating impacts to archaeological sites.
- **Historical Resource Protection Measures.** Implement resource protection measures including signage, park staff patrols, restricted access, conducting a 5024 review and Native American consultation, and including site within CASSP.
- **Paleontological Resource Protection Measures.** A qualified paleontologist will conduct a records search of the acquisition area, conduct a comprehensive paleontological resource inventory to identify unique paleontological resources, sites, and/or unique geological features, and develop protective and/or mitigation measures.

**Finding:** The OHMVR Division finds that the project management activities would not adversely impact cultural resources (historical, archaeological, paleontological, or Native American human remains). The impact is less than significant (EIR Sections 7.3.3, 7.3.4, and 7.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, the implementation of the Cultural Resources Management Measures (fully described in EIR Section 7.3.2) would have a beneficial effect on existing resource conditions (EIR Sections 7.3.3 and 7.3.4).

**Impact:** A 1% increase in visitor use caused by OHMVR Division acquisition could increase recreational use near cultural resources (historical, archaeological, paleontological, or Native American human remains) resulting in resource damage. Given that no significant changes would occur in the type or intensity of land uses, project impacts on these resources would not be significant. Proposed Cultural Resources Management Measures include prescriptive actions to

protect all cultural resources occurring on the project property. Any potential for the negligible 1% increase in visitor use to increase recreational use near cultural resources would be addressed by Proposed Cultural Resources Management Measures.

**Relevant Management Measures:**

- **Cultural Resource Management Program.** Incorporate all historical and archaeological resources that exist within the project into the OHMVR Division Cultural Resource Management Program (see Section **Error! Reference source not found.**). Evaluate resources for significance and protect resources.
- **Cultural Resources Inventory.** Survey all areas for historical resources. Require a cultural resource survey and Native American consultation for all projects in non-surveyed areas.
- **Annual Cultural Resource Management Training.** Hold annual workshops to educate staff on the resources found within the area and protocols upon the discovery of a resource.
- **Cultural Resource Monitoring.** Implement a monitoring program to document adverse changes to the resources through the California Archaeological Site Stewardship Program (CASSP).
- **Accidental Discoveries.** Immediately evaluate finds. If determined to be a historical or unique archaeological resource, develop and implement avoidance measures or appropriate mitigations. If human remains are discovered and coroner determines remains are Native American, the Native American Heritage Commission will be consulted.
- **Native American Consultation and Monitoring.** Consult with California Indian Tribes and organizations connected to the region on projects and management practices involving the project area's natural and cultural resources.
- **Preservation in Place.** Avoid archaeological sites during construction planning and use preservation in place as the preferred manner for mitigating impacts to archaeological sites.
- **Historical Resource Protection Measures.** Implement resource protection measures including signage, park staff patrols, restricted access, conducting a 5024 review and Native American consultation, and including site within CASSP.
- **Paleontological Resource Protection Measures.** A qualified paleontologist will conduct a records search of the acquisition area, conduct a comprehensive paleontological resource inventory to identify unique paleontological resources, sites, and/or unique geological features, and develop protective measures.

**Finding:** The OHMVR Division finds that the increased visitor use of the project area would not adversely impact cultural resources (historical, archaeological, paleontological, or Native American human remains). The impact is less than significant (EIR Sections 7.3.3, 7.3.4, and 7.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Implementation of the Cultural Resources Management Measures (fully described in EIR Section 7.3.2) would further reduce any potential for impacts to known and undiscovered resources and should have a beneficial effect on existing resource conditions (EIR Sections 7.3.3 and 7.3.4).

### 8.1.6 Geology and Soils

**Impact:** OHMVR Division property management activities may involve installation of minor site improvements such as fencing, signage, and vault toilets. There is no potential for injury or death from collapse of these structures due to fault rupture and seismic shaking.

Trail management activity such as recontouring or minor realignments could occur to address localized erosion. Proposed activities would be reviewed by a soil resource specialist prior to commencement to minimize the potential for soil erosion and loss of topsoil. Implementation of Geology and Soil Management Measures would protect soil resources. If any eroded soil conditions exist on the acquisition parcels, the Geology and Soil Management Measures would improve existing conditions. Project activities would have no impact related to unstable geologic units or soil. No new structures would be located on expansive soils creating a risk to life or property.

**Relevant Management Measures:**

- **Assess Erosion Conditions.** Evaluate all water crossings that intersect with designated routes to determine contribution to sediment load using LIDAR and aerials to identify where use occurs. Evaluate hillclimbs by assessing gullying on the slopes. Remediate where eroded soils are deposited offsite.
- **Address Erosion Issues.** Remediate areas found out of compliance with the 2008 Soil Conservation Standard. Prepare a sustainable plan for the hillclimbs. Direct recreationists to designated areas and prohibit use of lands more susceptible to erosion.
- **Prepare Soil Conservation Plan.** Prepare a protocol for assessing and maintaining trails consistent with the 2008 Soil Conservation Standard, a protocol for monitoring the trails, and a compliance report. Identify trail maintenance procedures in a soil conservation plan.

**Finding:** The OHMVR Division finds that the project management activities would not adversely impact geology and soils or expose people or structures to substantial risk from seismic activity. The impact is less than significant (EIR Sections 8.3.3, 8.3.4, and 8.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, the implementation of the Geology and Soils Management Measures (fully described in EIR Section 8.3.2) may improve existing resource conditions (EIR Section 8.3.3).

**Impact:** Portions of designated routes traversing acquisition parcels have soils with high and moderate erosion potential, and areas within the acquisition parcels may be prone to erosion. A 1% increase in annual visitor usage would not significantly increase erosion potential. The OHMVR Division would implement Geology and Soils Management Measures, including a soil conservation plan to address all trails, routes, and open areas on the acquired parcels. To the extent any erosive conditions exist on the acquisition parcels, OHMVR Division acquisition and management would improve soil resources affected by increased visitor use. Increased visitor use would not create impacts related to unstable geologic units or expansive soils.

**Relevant Management Measures:**

- **Assess Erosion Conditions.** Evaluate all water crossings that intersect with designated routes to determine contribution to sediment load using LIDAR and aerials to identify where use occurs. Evaluate hillclimbs by assessing gullying on the slopes. Remediate where eroded soils are deposited offsite.
- **Address Erosion Issues.** Remediate areas found out of compliance with the 2008 Soil Conservation Standard. Prepare a sustainable plan for the hillclimbs. Direct recreationists to designated areas and prohibit use of lands more susceptible to erosion.
- **Prepare Soil Conservation Plan.** Prepare a protocol for assessing and maintaining trails consistent with the 2008 Soil Conservation Standard, a protocol for monitoring the trails, and a compliance report. Identify trail maintenance procedures in a soil conservation plan.

**Finding:** The OHMVR Division finds that the increased visitor use of the project area would not adversely impact geology and soils. Implementation of the Geology and Soils Management Measures (fully described in EIR Section 8.3.2) would protect soils and provide sustainable recreational use. The impact is less than significant (EIR Sections 8.3.3, 8.3.4, and 8.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment. Further, to the extent any erosive conditions exist on the acquisition parcels, implementation of the Geology and Soils Management Measures would have a beneficial effect on existing resource conditions (EIR Section 8.3.3).

### 8.1.7 Greenhouse Gas Emissions

**Impact:** Total GHG emissions from OHMVR Division management operations and a 1% increase in visitor vehicle trips are 166 carbon dioxide equivalent (MTCO<sub>2</sub>e). Although no standards for GHG emissions apply to mobile emissions occurring over a broad region, the increase in GHG emissions would be lower than all stationary source and land use development mass thresholds of significance adopted by EKAPCD and other air districts including the Bay Area Air Quality Management District and the San Luis Obispo County APCD. The GHG emissions generated by project management activities and a 1% visitor use increase would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions.

#### Relevant Management Measures:

- **Strategic Plan Objective 1.3, Reduce Carbon Footprint.** Reduce the carbon footprint associated with SVRA management by 25% below 2009/2012 fiscal year levels by 2020.

**Finding:** The OHMVR Division finds that greenhouse gas emissions associated with project activities would not exceed regional standards set by EKAPCD, and the impact is less than significant (EIR Sections 9.3.3, 9.3.4, and 9.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

### 8.1.8 Hazards, Hazardous Materials, and Public Safety

**Impact:** OHMVR Division ownership and management of the property for continued vehicle recreation would not introduce the transport, use, or disposal of hazardous materials to the project properties. Occasionally small amounts of gasoline or oil may be released from park maintenance vehicles. Fuel spills associated with park maintenance and operations vehicles would be small and do not pose a significant safety hazard.

The project area has the potential to support the *coccidioides* fungus. Although the chance of contracting valley fever in the area is considered remote, it is a possibility. The OHMVR Division acquisition and property management activities would not alter the risk of public exposure to the *coccidioides* fungus.

Three Proposed Acquisition parcels (A-2, A-7, and B-10) have open pits or shafts, which may become dump sites or safety hazards if accessed by the public. Filling the open pits and closing or fencing the shaft as proposed by the Management Measures would prevent public injury and eliminate the safety hazard.

One Potential Future Acquisition parcel (K-13) was not accessed during the Phase 1 ESA investigation of the project parcels and therefore it is unknown whether any environmentally hazardous conditions occur on this parcel. This parcel is not accessed by the public and is not proposed for public use by the project. Any hazardous condition that may be present on parcel K-13 would be unaffected by the acquisition and property management activities proposed by the OHMVR Division. A subsequent evaluation of parcel K-13 and implementation of

recommendations as proposed by the Supplemental Phase I ESA Management Measure would address any hazardous conditions after the property is acquired.

OHMVR Division acquisition and management of project properties would not change existing land uses or introduce new uses and, therefore, would not affect Rough 1, the Department of Defense low-level flight path that overlies the eastern project parcels.

Any site improvements constructed would be minor and sited away from thick vegetation areas. Structures would not create a significant risk of loss to wildland fire.

**Relevant Management Measures:**

- **Provide Educational Material to Visitors Regarding Valley Fever.** Disseminate the Public Health Services flyer or similar flyer to explain the causes and risk of valley fever.
- **Supplemental Phase I ESA.** Determine the status of recognized environmental conditions (RECs) on parcel K-13 property, should it be acquired. Take appropriate steps to remove and/or remedy the materials.
- **Closure of Open Pits and Shaft.** Secure open pits by filling in with earth and secure shaft by filling in or fencing and signing to prevent injury and safety hazard to the public.

**Finding:** The OHMVR Division finds that project management activities would not create hazardous conditions or risks to public safety. Hazards and Public Safety Management Measures (fully described in EIR Section 10.3.2) have been incorporated into the project design. The impact is less than significant (EIR Sections 10.3.3, 10.3.4, and 10.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

**Impact:** Small amounts of gasoline or oil may be released from vehicles associated with the 1% increase in annual visitation. Fuel spills from visitor vehicles would be small and do not pose a significant safety hazard.

Visitors to the project property have no higher risk of exposure to the *coccidioides* fungus than elsewhere in the project region. As such, a 1% increase in visitation to the project site would not increase the amount of public exposed to fungus.

The two airstrips in the project area do not pose a safety risk to the 1% increase in annual visitors. The visitors would not be exposed to a significant risk of wildland fire.

Three project parcels (A-2, A-7, and B-10) have open pits or shafts, which may become dump sites or safety hazards if accessed by the public. A 1% increase in visitor use could result in increased public exposure to an existing safety hazard, such as the open pits or shafts on parcels A-2, A-7, and B-10. Filling the open pits and closing or fencing the shaft as proposed by the Management Measures would prevent public injury and eliminate the safety hazard.

**Relevant Management Measures:**

- **Provide Educational Material to Visitors Regarding Valley Fever.** Disseminate the Public Health Services flyer or similar flyer to explain the causes and risk of valley fever.
- **Closure of Open Pits and Shaft.** Secure open pits by filling in with earth and secure shaft by filling in or fencing and signing to prevent injury and safety hazard to the public.

**Finding:** The OHMVR Division finds that increased visitor use of the project area would not create hazardous conditions or risks to public safety. Hazards and Public Safety Management Measures (fully described in EIR Section 10.3.2) have been incorporated into the project design. The impact is less than significant (EIR Sections 10.3.3, 10.3.4, and 10.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

### 8.1.9 Recreation

**Impact:** OHMVR Division acquisition and property management activities would not cause deterioration of existing recreational facilities on the project property or nearby recreational areas. Acquisition and management would not necessitate an expansion of recreational facilities. Acquisition would result in the initiation of a future general plan process in which changes in recreational opportunities could be considered.

Hunting and target shooting are legal activities occurring on BLM property and may occur on the acquisition parcels that are interspersed with BLM land. Hunting and shooting on its property are not authorized by ReNu. OHMVR Division acquisition and management may curtail firearm use on OHMVR Division property but would not result in the loss of legal firearm recreation on federal property.

Rockhounding may occur on the acquisition parcels but is not authorized by ReNu. Upon OHMVR Division acquisition, rockhounding activities would be authorized subject to OHMVR Division regulations. The existing recreational opportunity for rockhounding would not be significantly reduced.

#### Relevant Management Measures:

- **Firearms.** Post signage at trailhead and campsite locations and provide public outreach to educate visitors of CDPR policy on firearms. Monitor for evidence of firearm use.
- **Rockhounding.** Allow use only upon approval from the Parks Director. Post signage at trailhead locations and campsites educating visitors of CDPR policy on rockhounding.
- **Law Enforcement and Education Program.** Staff the project area with peace officers to educate the public on appropriate recreation and cite illegal uses, equipment, and conduct.
- **Special Events.** Identify participant limits, number of concessions, need for safety personnel and facilities such as portable toilets, specific event routes, staging areas, etc. If needed, require fee to secure OHMVR Division personnel for public safety and sensitive resource protection.

**Finding:** The OHMVR Division finds that project management activities would not result in physical deterioration of facilities or displace recreational opportunity. Recreation Resources Management Measures (fully described in EIR Section 11.3.2) have been incorporated into the project design. The impact is less than significant (EIR Sections 11.3.3, 11.3.4, and 11.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

**Impact:** The proposed acquisition could result in a 1% increase in visitor use to the project area. Any increase in visitor use would result in a proportional increase in the need for facility maintenance such as trails, signage, fencing, vault toilets, etc. The increase would not result in a concentration of visitor usage in one area such that the existing facilities would no longer be adequate to serve visitor demand. The increase in visitor use would not cause a deterioration of existing facilities or necessitate expanded recreational facilities.

A 1% increase in visitation would include visitors engaging in both motorized and non-motorized recreational activities, which could increase potential conflicts between user groups. The annual increase of 1,800 visitors equates to 35 visitors per weekend. Given the scale of the area available to recreation (11,500 acres of open riding area plus miles of trails), the increased use is unlikely to result in increased interaction between motorized and non-motorized user groups. Any increase in conflicts above baseline conditions would be considered negligible.

### Relevant Management Measures:

- **Firearms.** Post signage at trailhead and campsite locations and provide public outreach to educate visitors of CDPR policy on firearms. Monitor for evidence of firearm use.
- **Rockhounding.** Allow use only upon approval from the Parks Director. Post signage at trailhead locations and campsites educating visitors of CDPR policy on rockhounding.
- **Law Enforcement and Education Program.** Staff the project area with peace officers to educate the public on appropriate recreation and cite illegal uses, equipment, and conduct.
- **Special Events.** Identify participant limits, number of concessions, need for safety personnel and facilities such as portable toilets, specific event routes, staging areas, etc. If needed, require fee to secure OHMVR Division personnel for public safety and sensitive resource protection.

**Finding:** The OHMVR Division finds that increased visitor use of the project area would not result in physical deterioration of facilities or displace recreational opportunity. Recreation Resources Management Measures (fully described in EIR Section 11.3.2) have been incorporated into the project design. The impact is less than significant (EIR Sections 11.3.3, 11.3.4, and 11.4). No changes or alterations to the project are required to mitigate or avoid a significant effect on the environment.

### 8.2 Effects Determined To Be Mitigated To Below a Level of Significance

One significant impact is identified for the project. This impact cannot be mitigated below a level of significance. See Section 8.3 below.

### 8.3 Significant Effects That Cannot Be Mitigated To Below the Level of Significance

The EIR (Sections 6.3.3, 6.4, and 13.1) identifies one project impact on biological resources that cannot be mitigated to below the level of significance.

**Impact BIO-1:** Desert tortoises are vulnerable to collision from high speed OHV recreation occurring during organized race events or from individual riders. The risk of collision with desert tortoise can be reduced by restricting high speed events, but cannot be eliminated from individual riders without eliminating the use. The projected 1% growth in annual visitation resulting from OHMVR Division acquisition would increase OHV recreation in areas that are known to support the desert tortoise. The increase in ridership would increase the possibility of take.

### Relevant Management Measures:

- **OHV Travel Route Designations.** Identify areas of unauthorized OHV use and develop a response plan (e.g., restoration, signage, barriers, educational kiosks, and law enforcement).
- **Public Education.** Post OHV opportunities and regulations throughout the property. Explore partnering with other agencies and organizations for public education on OHV recreation issues.
- **Law Enforcement Program.** Work jointly with local authorities and federal agencies to address multi-jurisdictional issues. Assess needs and assign law enforcement to provide daily patrols.
- **Wildlife Habitat Protection Program (WHPP) and Habitat Monitoring System (HMS).** Inventory aquatic resources, special-status species, and sensitive habitats and prepare a WHPP to manage, restore, and sustain viable species composition within the property.

- **Special Events.** Identify participant limits, number of concessions, need for safety personnel and facilities such as portable toilets, specific event routes, staging areas, etc. If needed, require fee to secure OHMVR Division personnel for public safety and sensitive resource protection.

#### **Mitigation Measure:**

**Mitigation Measure BIO-1:** Competitive events requiring an OHMVR Division special event permit shall be restricted to the Jawbone Canyon Open Area and courses dedicated for such use in the CDCA Plan. No competitive special events shall be permitted in desert tortoise habitat on project parcels outside of the Jawbone Canyon Open Area. Organized trail-riding events may be allowed 1 November to 1 March while most tortoises are hibernating. OHMVR Division shall provide education materials informing park visitors that very young tortoises may be encountered during the fall and winter, at the time of the event, and should be avoided. Organized trail-riding events shall only be allowed on open and seasonally limited routes with the application of standard protection measures, such as use of specified parking, staging, and concession areas, and placement of monitors throughout the course. No cross-country travel shall be allowed outside of the OHV Open Areas. The OHMVR Division shall provide daily law enforcement presence and work with Friends of Jawbone and BLM to maintain fences and signs to prevent off-designated route travel in desert tortoise habitat. The OHMVR Division shall consult with USFWS to determine additional effective feasible mitigation measures to further reduce take of desert tortoise.

**Finding:** The OHMVR Division finds that changes have been required to substantially lessen the environmental effect; however, the impact remains significant.

## **9.0 PROJECT ALTERNATIVES**

Where a lead agency has determined that, even with the adoption of all feasible mitigation measures, a proposed project would still cause one or more significant environmental impacts that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. An alternative may be “infeasible” if it fails to fully promote the lead agency’s underlying goals and objectives with respect to the project.

In accordance with CEQA Guidelines section 15126.6, a reasonable range of alternatives to the project are described in Chapter 12 in Volume I of the Final EIR and summarized below.

### **9.1 Considered and Rejected Alternatives**

The OHMVR Division considered alternative sites, but no alternative sites capable of supporting a large-scale OHV recreation site in the greater Mojave area were available. Additionally, OHV recreation is already established in the project area, and the OHMVR Division would provide additional management resources, including law enforcement. Further consideration of an alternative site was rejected.

The OHMVR Division also considered the feasibility of consolidated land ownership/land management. Such an alternative would require a land transfer or other form of agreement with BLM and possibly USFS. Similarly, the OHMVR Division considered but rejected the idea of proposing modifications to travel routes in this project. Both the land ownership/land management consolidation and modification to travel routes would require long-range planning, changes to federal planning documents, and National Environmental Policy Act (NEPA) compliance, all of which are beyond the scope of the current project and not necessary to meet the project objectives; neither alternative would reduce adverse project effects. Further consideration

of consolidated land ownership/land management or route changes was rejected for the current project.

### **9.2 No Project Alternative**

Under this alternative the OHMVR Division would not acquire the 59 private parcels. The parcels would remain as private property and, presumably, the landowner would maintain the parcels for sale until a buyer/s was found. The current or a future landowner could decide to exclude OHV and other recreation. The properties would continue to be subject to potential illegal dumping and degradation from vehicle trespass, although the current fencing/signage and litter control program may be able to continue. The sensitive resources found on the properties during extensive field surveys conducted for the EIR could also be at risk. In particular several important cultural resource sites would be at risk, as would springs supporting riparian habitat, high quality desert tortoise and Mojave ground squirrel habitat, and populations of special-status plants. Under OHMVR Division ownership, these resources would receive targeted monitoring and management.

It is difficult to find sites that are suited to OHV use. This site is uniquely suited to and currently used for OHV recreation. If the parcels are not purchased by the state, an opportunity to improve management of an established OHV recreation area and to secure new property for future enhancement of OHV recreation would be lost. The opportunity for creating a more consolidated pattern of land ownership in an OHV area would also be lost.

### **9.3 Reduced Acquisition Area**

Under this alternative the OHMVR Division acquisition would be limited to only those 33 parcels that are within the OHV use area (roughly east of and including Butterbredt Canyon Road). The 27 parcels that are west of the OHV area would remain as private property. Those western parcels comprise 12,543 acres; therefore, the removal of these parcels from the acquisition area would reduce the area acquired from 28,275 acres to 15,732 acres.

Since primary objectives of the acquisition include establishing broader public land ownership in and around an existing large-scale OHV recreation area in Southern California, reducing OHV conflicts with incompatible land uses, and protecting habitat, removal of the parcels outside the active OHV area from the purchase would meet some of the project's objectives, albeit to a somewhat lesser extent. It would not, however, allow the OHMVR Division to work with the BLM and USFS to provide and manage a comprehensive recreation opportunity in the greater project area, such as helping to protect the Pacific Crest Trail from trespass, or to maintain public land corridors that avoid crossing private lands. Securing the western parcels also provides CDPR with potential mitigation lands that could help offset future impacts associated with any changes in recreational use.

Additionally, given that a 1% increase in annual visitor use could still occur under this alternative, and that desert tortoise is most likely to occur in the area that is included within the Reduced Acquisition Area, this alternative would not reduce the potential project effects on desert tortoise. The impact would remain significant and unavoidable. As a result, this alternative was not selected.

### **9.4 Expanded Acquisition Area**

Under this alternative the OHMVR Division acquisition area would be expanded to include additional private properties south, east, and west of the current acquisition area boundary. Acquisition of additional parcels would expand the expanse of uninterrupted public lands in the area, thus maintaining opportunities for future recreation, whether for additional motorized or non-motorized uses. In particular, acquiring additional parcels south of the current project area

would create a wider swath of buffer lands around the OHV area and minimize the potential for conflicts between land uses. In addition, resource protection would be afforded to any sensitive cultural resource sites and special-status species habitat occurring within the expanded area.

The OHMVR Division has been approached by property owners for some of these private parcels, and other parcels may be available. Any additional parcels would be subject to negotiation, appraisals, and other purchase requirements, and none of the parcels in the expanded acquisition area were subject to resource surveys as part of this EIR. The impact from increased risk of collision with desert tortoise would remain significant and unavoidable. Furthermore, the availability of opportunity purchase funds would also need to be determined. Given that the proposed acquisition meets the OHMVR Division's objectives for the area by consolidating a large area of recreation opportunity under public ownership, and that subsequent parcels could be considered as part of future long-range planning, this alternative was not selected.

### **9.5 Exclusions for Resource Protection**

Based on initial cultural and biological surveys conducted for this EIR, several parcels or groups of parcels were identified as having higher potential resource values than other parcels. These "resource sensitive" parcels are:

- Parcel D-2 (west ½): next to Dove Springs Open Area; important area for cultural resources (grinding rocks); ¼ mile of desert riparian habitat; good Mohave ground squirrel habitat. Fencing is in place on west side of SC103.
- Parcels B-9 and B-10: Contains Butterbrecht Spring and a lengthy corridor of desert riparian habitat; good potential for rare plants; important for cultural resources (grinding rocks). Some fencing is in place.
- Parcels A-4, A-6, and A7: around Alphie Springs; parcels have no designated trails; good tortoise area; good potential for rare plants. Some fencing is in place.
- Parcels S-3, S-4, and S-6: Next to Red Rock Canyon State Park; good tortoise area; Mohave ground squirrel present; cultural resources; good potential for rare plants.

Under this alternative, in order to reduce the incidence of OHV trespass on these parcels, existing routes that pass through the parcels would be eliminated. In particular, a two mile section of Road SC262 between Power Line Road and SC175 would be closed off. Power Line Road would remain open.

Additionally, State Parks would exclude cattle grazing on the nine parcels listed above before the current permit term expires in 2018. Removing grazing from the state properties would not affect the permittee's right to graze cattle on the adjacent BLM lands. As such, the OHMVR Division would be responsible for keeping cattle off of the parcels, presumably through the use of extensive fencing.

This alternative would require installation of as much as 20 miles of fencing. Fencing could interfere with the grazing permittee's movement of cattle in the broader area. Existing cattle improvements found within the parcels including corrals and water sources would have to be relocated out of the protected parcels. The state would have to work with the grazing permittee and BLM to determine where to relocate any grazing related infrastructure.

The project impact to desert tortoise would remain significant and unavoidable under this alternative since OHV recreation would still continue in desert tortoise habitat, annual ridership in habitat areas would increase by 1%, and proposed Biological Management Measures and mitigation could not fully offset the effects of increased OHV recreation on the desert tortoise. This alternative would prematurely locate resource protection areas prior to the results of extensive studies planned after property acquisition and in advance of the general plan and therefore was not selected.

## 10.0 STATEMENT OF OVERRIDING CONSIDERATIONS

As discussed in Section 8.3 of these CEQA findings, the EIR concludes that the proposed project, project, even with the incorporation of all feasible mitigation measures and consideration of alternatives, will nonetheless cause a significant unavoidable impact on the California desert tortoise. The OHMVR Division has adopted all feasible mitigation measures with respect to these impacts, which further lessen the impact but would not reduce it below a level of significance.

In determining whether to approve the Eastern Kern County Property Acquisition, and in accordance with Public Resources Code section 21081(b) and CEQA Guidelines sections 15043 and 15093, the OHMVR Division has balanced the land use planning, environmental, and law enforcement benefits of the project against its unavoidable environmental effect. The OHMVR Division finds the benefits of the project outweigh the unavoidable significant adverse environmental effect for the reasons set forth below. The substantial evidence supporting the various benefits can be found in the preceding sections of these findings, which incorporate by reference the final EIR and other information in the administrative record. The OHMVR Division finds that each of the following benefits is an overriding consideration.

### Land Use Planning Benefits

- OHMVR Division jurisdiction over the project area would enable initiation of a regional planning process for a large area of non-contiguous properties.
- OHMVR Division ownership opens future possibilities for consolidated land ownership or management partnerships with federal agencies (BLM and USFS).
- Planning over the entirety of the project area would allow for balance in recreation opportunity, use of rangeland for cattle grazing, and protection of sensitive natural and cultural resources.

### Environmental Benefits

- Natural and cultural resources would be inventoried and protected from any existing use impacts.
- Federal rangeland protection standards would be applied to presently unregulated private land.
- OHMVR Division ownership of OHV recreation trails and riding areas would ensure conformance with the 2008 Soil Conservation Standard throughout the project area.
- Redundant hillclimbs would be closed and erosion prone trail sections or sections impacting sensitive resources would be rerouted.

### Law Enforcement Benefits

- The OHMVR Division would establish a daily law enforcement presence on site and local point of contact for the community.
- Public education and outreach to community would be provided through informational signage, brochures, and public contacts.
- The OHMVR Division would partner with and support other law enforcement agencies working to protect adjacent areas from unlawful OHV activity, particularly the Pacific Crest Trail, Red Rock Canyon State Park, BLM lands, and privately-owned property.
- The OHMVR Division would enforce closures of unauthorized trails.

Recreation Benefits

- The acquisition would facilitate the provision and sustainability of a “destination” desert-oriented OHV recreation area that provides a broad spectrum of experiences and skill levels.
- OHMVR Division ownership would avoid conflicts by ensuring use and development of the lands are compatible with OHV recreation and public access.

For each and all of these reasons, the OHMVR Division finds that, on balance, the benefits of the project outweigh the unavoidable environmental impact, and the impact has been minimized to the extent feasible. Therefore, the project’s level of environmental impact is considered to be acceptable.