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**AGENDA ITEM NO.:** 7 (Action Item and Public Hearing)

**PLANNING COMMISSION**

**MEETING DATE:** April 25, 2018

**SUBJECT:** Amendment of Conditional Use Permit No. 2007-04/Project Darwin, LLC

**EXECUTIVE SUMMARY:**

Conditional Use Permit 2007-04 allowed for the resumption of mining operations at the Darwin Mine by the current operator, Project Darwin, LLC. The Darwin Mine is an underground mine, and while many minerals are in the mine, the primary mineral targeted for extraction is Zinc Sulfate, which is primarily used as a fertilizer additive. The Staff Report, and Notice of Decision for the original CUP 2007-04/Project Darwin, LLC is included as Exhibits C & D.

This proposed amendment is to add crushing and processing operations that were not part of the original CUP. The crushing operations will utilize a portable crusher adjacent to an existing concrete slab (former location of a water tank) that will be utilized for all material stockpiling. The pilot plant, an ore processing center to extract zinc sulfate and other key minerals from the raw ore, is to be located within an existing Quonset hut style building located near the stockpile slab. All facilities are in close proximity to the main mine adit (see Exhibit A). The pilot plant will utilize water and a dilute sulfuric acid to remove the zinc sulfate into solution where the sediment will then be run through a filter to remove impurities. The existing building that is to be repurposed to house the pilot plant already has a slab and curb providing emergency retention. The slab and curb of the building will need to be repaired and patched and demonstrate that they can retain liquid prior to use. Additionally, and as required by Federal, State and local regulation, a secondary containment basin will be installed around the perimeter of the structure. This containment structure will be approximately 4' in height and will have a capacity around 10 times the maximum amount of fluids that would be utilized in the pilot plant. Dilute sulfuric acid, is a relatively low level hazard to this environment, as its primary area of concern is its potential to get into a waterway and disrupt the flora and fauna of an aquatic ecosystem. It can also easily be neutralized by introduction of a base material (solutions of which will be kept on site for emergency measures).

The Darwin Mine is located approximately 4 miles southeast of the intersection of the Darwin Road with State Route 190 and ½ mile northwest of the Town of Darwin. Even with the added areas of disturbance for the crushing and processing operations, the project is still less than one

acre in size of surface disturbance (with the mine being primarily an underground operation) and the project still does not meet the threshold for requiring compliance with SMARA.

## **PROJECT INFORMATION**

<b>Supervisory District:</b>	5
<b>Applicants:</b>	Project Darwin, LLC (Jack Stone)
<b>Landowners:</b>	Project Darwin, LLC
<b>Community:</b>	Site of Darwin Mine, North of the Town of Darwin
<b>A.P.N.:</b>	035-040-03
<b>Existing General Plan:</b>	Rural Protection (RP)
<b>Existing Zoning:</b>	Open Space, 40 acre minimum (OS-40)
<b>Surrounding Land Use:</b>	Open space and other mining operations. The Town of Darwin lies approximately ½ mile to the southeast.
<b>Recommended Action:</b>	<b>1.) Approve the amendment to Conditional Use Permit 2007-04</b>
<b>Alternatives:</b>	<ol style="list-style-type: none"><li>1.) Specify modifications to the proposal and/or the Conditions of Approval.</li><li>2.) Make specific findings and deny the application.</li><li>3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.</li></ol>
<b>Project Planner:</b>	Tom Schaniel, Associate Planner

## **BACKGROUND**

On March 21, 2016, Mr. Jack Stone, on behalf of Project Darwin LLC filed an application for a SMARA reclamation plan and amendment to Conditional Use Permit (CUP) 2007-04. In the intervening time, Mr. Stone has scaled back his permitting and has again brought the project to a level of disturbance that is below the SMARA threshold. Mr. Stone may pursue other permits for work in and around the current Darwin Mine, but currently this application is only dealing with the elements that are directly amending the existing CUP.

CUP 2007-04 allowed for the resumption of mining from the Darwin Mine. That CUP is still in place and Project Darwin, LLC is operating within the scope and conditions of that permit. CUP 2007-04 did not allow for crushing or processing on site. Through the use of a portable crusher and a processing facility to be located within an existing building, the mine will be able to minimize the truck traffic previously allowed under the approved CUP.

## **STAFF ANALYSIS**

The project involves an amendment to CUP 2007-04 which allowed for mining to resume at the Darwin Mine. The site is located on 1,050 acres of privately owned land (patented mining claims) and is zoned Open Space-40 acre minimum (OS-40). Under the provisions of the OS-40 zone "mining" is a conditional use per County Code Section 18.12.040(I).

The mining activity is almost entirely underground and the majority of the underground activities are regulated by the Federal (MSHA & ATF&E) and State (CAL-OSHA) agencies. CUP 2007-04 primarily dealt with above ground activities.

Staff routed the application for the amendment of CUP 2007-04/Project Darwin, LLC. to the departments of: Assessor, Environmental Health, and Public Works. The department of the Treasurer/Tax Collector was also consulted to establish that taxes were currently paid. No significant comments were received.

Land Use Analysis: The property is surrounded by other mining operations relating to the Darwin Mine. The parcel that contains this project is a 1,050 acre piece of patented land owned by Project Darwin, LLC. The parcel is surrounded by unpatented land owned by the Bureau of Land Management (much of which Project Darwin, LLC holds the mineral claims on). To the south of the project (and separate by a piece of BLM land) is the community of Darwin, a minimally utilized residential neighborhood with a population of 43 as of the 2010 census.

General Plan: The Land Use Element designates the existing parcel to be Rural Protection Designation (RP). Surrounding land is all State and Federal Land (SFL). Rural Protection Designation is under Policy LU-2.95 in the General Plan. One element of this designation is "the managed production of resources". The continued mining operations are consistent with this General Plan designation.

Zoning: The proposed parcel is zoned OS-40. OS-40 allows for "Mining and processing of natural resources" as a conditional use. The original conditional use permit and this amendment are consistent with the Inyo County Zoning Code.

Utilities and Public Services: This amendment will require no improvements to utilities or public services. The project is served by its own private water rights and system and existing septic systems. Electricity is provided by Southern California Edison, and all proposed facilities (crushing and ore processing) will run off of electric power.

## **ENVIRONMENTAL REVIEW**

The original CUP was approved with a Negative Declaration. This project is changing the scope from the original CUP by allowing for crushing and processing, requiring the amendment to the CUP. The changes to the CUP also necessitates an addendum to the original Negative Declaration. This addendum is an appropriate CEQA evaluation (instead of an entirely new CEQA document) because the conditions requiring a subsequent environmental document do not exist for this amendment. The addendum to the Negative Declaration is included as Exhibit B.

## RECOMMENDATIONS

Find the proposed project is addressed by the addendum to the 2007 Negative Declaration and therefore no subsequent environmental document is required. Consideration of the addendum is adequate to comply with CEQA for this project, pursuant to CEQA Guidelines Section 15164.

### Recommended Findings

1. The proposed project is covered by CEQA Guidelines Section 15164 and Inyo County Code Section 15.36.220 which indicate, in part, that an addendum to a Negative Declaration may be prepared if none of the requirements for preparation of a subsequent environmental document apply. The Planning Commission adopts the addendum to the Negative Declaration of Environmental Impact and certifies that the provisions of the California Environmental Quality Act have been satisfied and that the addendum to the Negative Declaration of Environmental Impact reflects the County's independent analysis and judgment and finds that the addendum to the Negative Declaration of Environmental Impact demonstrates that there is no substantial evidence that the project will have a significant effect on the environment.

*[Evidence: This proposed project is covered by CEQA Guidelines Section 15164 and Inyo County Code Section 15.36.220 which indicate, in part, that an addendum to a Negative Declaration may be prepared if none of the requirements for preparation of a subsequent environmental document apply. None of the requirements for preparation of a subsequent environmental document do apply and the list of these requirements and why they do not apply is included within the addendum.]*

2. The proposed amendment to CUP 2007-04 is consistent with the Inyo County General Plan and Goals and Policies.

*[Evidence: The project property's General Plan Designation of Rural Protection Designation (RP) states that the land shall be utilized for "the managed production of resources." Responsible mining has been considered a managed production of resources in Inyo County.]*

3. The proposed amendment to CUP 2007-04 is consistent with the Inyo County Zoning Ordinances.

*[Evidence: The proposed parcel is zoned OS-40. OS-40 allows for "Mining and processing of natural resources" as a conditional use. The original conditional use permit and this amendment are consistent with the Inyo County Zoning Code. In particular, the processing of natural resources, the focus of this amendment, is specified as a conditional use in the Inyo County Code.]*

4. Based on substantial evidence in the record, the Planning Commission finds that the design or proposed improvements are not likely to cause substantial environmental damage, or substantially and avoidably injure fish, wildlife, or their habitat, or cause serious public health, welfare, or safety problems.

*[Evidence: As indicated by the Negative Declaration and the Addendum to the Negative Declaration, the project will not result in substantial impacts to the physical environment or human beings, either individually or cumulatively, or directly or indirectly.]*

5. Based on substantial evidence in the record, the Planning Commission finds that no significant impacts to native vegetation or wildlife will result from the proposed project.  
*[Evidence: As indicated by the Negative Declaration and the addendum to the Negative Declaration, the project will not result in any significant impacts. The project is completely within areas previously disturbed by mining. The majority of mine operations will be underground, with less than an acre of land involved at the surface level.]*

#### Conditions of Approval

- 1.) All Conditions of Approval from the original Conditional Use Permit are still in full effect and are not modified by this amendment.
- 2.) The applicant shall obtain all necessary permits required by implementation of the amendment to CUP 2007-04. Building Permits for upgrading of the existing building for the Pilot Plant will be obtained and the building brought up to Code as required by the Inyo County Building and Safety Department prior to beginning any ore processing. Any permits required by GBUAPCD, Inyo County Environmental Health and Lahontan Regional Water Quality Control Board shall be obtained prior to implementing any crushing or ore processing.
- 3.) The applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning the amendment to CUP 2007-04/Project Darwin, LLC or applicant's failure to comply with conditions of approval.

#### **EXHIBITS**

- A. Aerial Map of Project Area
- B. Addendum to the Negative Declaration of Environmental Impact
- C. Staff Report for CUP 2007-04/Project Darwin, LLC
- D. Notice of Decision for CUP 2007-04/Project Darwin, LLC
- E. Negative Declaration of Environmental Impact for CUP 2007-04/Project Darwin, LLC

Exhibit A

Aerial View of Surface Mine Operations that are  
Part of the Amendment to CUP 2007-04



## Exhibit B

### **Addendum to the Negative Declaration Prepared for the Darwin Mine Project In Support of an Amendment to Conditional Use Permit #2007-04**

This Addendum has been prepared pursuant to the California Environmental Quality Act (CEQA) in order to evaluate a proposed amendment to the Conditional Use Permit (CUP #2007-04) that was approved December 5, 2007 for the re-opening of the Darwin Mine. The proposed amendment to the CUP would allow for a mobile crushing facility to be used at the site, and then a pilot plant facility (for separation of desired ore from overburden) will be set up within an existing building on the site.

#### **Authority**

CEQA Guidelines Section 15164 and Inyo County Code Section 15.36.220 indicate, in part, that an addendum to a Negative Declaration may be prepared if none of the requirements for preparation of a subsequent environmental document apply. The decision-making bodies shall consider the addendum prior to making a decision on the project. The addendum need not be circulated for public review.

#### **Project Description**

The proposed amendment to CUP #2007-04 for the Darwin Mine would allow for the use of mobile crushing facilities on site with a capacity of crushing 100 tons per hour and a maximum tonnage of 500 tons per day. All material stockpiles will occur on an existing concrete pad that had previously been the location of a water tank. A dust suppression system will be part of the crushing facilities and the facilities will require permitting from the Great Basin Unified Air Pollution Control District regulating dust mitigation measures. Additionally, a pilot plant (a facility for separating the desired ore, primarily zinc sulfate from the crushed rock) will be established in an existing Quonset hut type building on the site. The pilot plant will have a maximum capacity of 500 tons per day. As per the original CUP, all tailings of overburden will be moved back underground within the mine. No stockpiles at any time will exceed that which can be stored on the concrete pad (refer to aerial view of project).

#### **Negative Declaration for the re-opening of the Darwin Mine**

The Negative Declaration prepared for the re-opening of the Darwin Mine Project, and certified in 2007, evaluated the following environmental issues:

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology & Water Quality
- Land Use and Planning
- Mineral Resources

- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

The Negative Declaration indicated none of these issues were areas of significant impact on the environment. Of the above issues, only four are affected by this addendum. For the other issues, the findings of the original Negative Declaration remain unchanged.

### **Need for an Addendum to the Original Negative Declaration Prepared for the re-opening of the Darwin Mine Project**

The current proposal by Darwin Project, LLC to provide crushing and mineral extraction facilities on site were not included in the original conditional use permit or its associated Negative Declaration.

Specifically, CEQA Guidelines Section 15162 notes that once a Negative Declaration has been adopted for a project, the preparation of a subsequent Negative Declaration is not necessary unless the lead agency for the project (in this case, Inyo County) determines that “substantial changes” are proposed either in or by the project itself, or changes are proposed in the circumstances under which the project is undertaken, or if substantial new information becomes available concerning the project.

Staff concluded that there is no need for a subsequent Negative Declaration, based on the impacts of the project with the allowed changes from the addendum will be very similar to the impacts of the original Negative Declaration. Areas of potential additional impacts, like release of dust affecting air quality will be subject to permitting that will require these areas to have less than significant impacts. The use of trucks to haul material off site will also be greatly reduced by implementation of the measures allowed in the amendment to the CUP.

CEQA Guidelines Section 15164 notes that such an Addendum to a Negative Declaration should be prepared by the lead agency for a project. The Guidelines further note that an Addendum is appropriate “if some changes or additions are necessary but none of the conditions described in (CEQA Guidelines) Section 15162 calling for preparation of a subsequent EIR have occurred.” Staff has determined this to be the case, in that the crushing and processing of ore on site has a similar impact to the trucking of ore off site that was allowed in the original CUP and associated Negative Declaration. It does, however, constitute a change to the terms of the project CUP that was approved in 2007 which specifies ore crushing and processing were not a part of the original CUP. As a result, the CUP for the project must be amended to add the crushing and processing of ore on site.

CEQA Guidelines Section 15164 also states an Addendum to a Negative Declaration “need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration” for the project. As a result, staff has not circulated this Addendum to the Negative Declaration for public review, but rather has included it as an attachment to the staff report prepared for the appeal to the amendment to CUP 2007-04/Project Darwin, LLC.

## **Potential Environmental Consequences of an Amendment to CUP 2007-04/Project Darwin, LLC**

Staff has evaluated the likely impacts of the proposed crushing and processing on each of the environmental issues addressed in the Negative Declaration. Only four issues addressed in the Negative Declaration were impacted by this amendment. Those issues are as follows:

**Air Quality:** The proposed crushing facilities have the potential to generate dust. The crushing facilities will include dust suppression equipment and will be permitted for use by the Great Basin Unified Air Pollution Control District, which will require that dust be limited to a level of less than significant impact, in compliance with local air quality requirements. The processing facilities will not create any dust or air quality issues.

**Hazards and Hazardous Materials:** No hazardous materials are part of the mobile crushing facilities which are run off of electricity that is already provided to the site. The separation facilities (pilot plant building) will utilize a 10-15% solution of sulfuric acid. The acid baths will be located within the pilot plant building, which has a curb construction allowing for containment within the building (as part of the retrofitting of the building the curb and slab will have any cracks repaired and sealed and will be tested for general retention capabilities prior to operation of the pilot plant). A secondary, 4' retention wall will be constructed around the building to ensure any primary containment breach would be contained. All acid stored on site will be in a tank with secondary containment, as required by federal and state law, and quantities will be below the threshold that require a Hazardous Materials Business Plan (HMBP). All facilities will be permitted and inspected by the Inyo County Environmental Health Department for compliance with State and Local laws, both prior to commencement of operations and periodically. The dilute nature of the solution being used and its lack of proximity to any surface water, the proposed containment facilities, and the required permits and inspections by local agencies all keep this to a less than significant impact to the environment.

**Noise:** The new possible noise source, rock crushing, is very similar to the noise source considered in the original Negative Declaration, haul truck loading and operation. Based upon information from the U.S. National Institute for Occupational Safety and Health (NIOSH) paper "Noise Assessment of Stone/Aggregate Mines: Six Case Studies" by E.R. Bauer and D.R. Babich it appears that the impact of noise to the nearby community of Darwin will be less than significant. Loading of haul trucks creates noise in the 80-100 decibel range and crushing equipment creates noise in the 85-105 decibel range (6' or less from the noise source). Assuming 100 decibels and line of site, the closest residence in Darwin is 1,400 feet from the project site would hear 53 decibels (equivalent of a quiet conversation), with the majority of the town closer to 3,000 feet from the project site hearing 47 decibels (equivalent of a library). All of these numbers assume line of site. To the south of the proposed mobile crushing set-up is an existing ore waste dump for over burden from the previous operation of the mine. This waste dump makes a large (in excess of 100 feet tall) berm that visibly and aurally separates the operations at the Darwin Mine, including the proposed crushing facilities, from the community of Darwin. While quantification of the exact impact is difficult to quantify, it will take the already acceptable noise levels and reduce them significantly.

As indicated in the original Negative Declaration, noise sources at the operations will be of a level to require equipment operators and personnel in close proximity to the operations to utilize personal protective equipment for their ears and for vehicles to be equipped with standard noise abatement equipment.

The noise produced by the crushing is comparable to that which was anticipated in the original Negative Declaration, and is of less than significant impact to the nearest occupied properties to this operation. The use of personal protective equipment and noise abatement equipment in vehicles will keep job site sound levels within acceptable OSHA limits for a work environment.

Transportation and Traffic: The proposed amendment to the CUP will not take away the Darwin Mine, LLC's right to operate as originally allowed in the approved CUP, which foresaw a possibility of 20 trucks per day shipping 500 tons of ore per day to Millers Mill, near Tonapah, Nevada. However, on site crushing and processing would be in place of trucking off site, and would greatly reduce the amount of trucks. While the operator would still have the right to truck off site, they could not both crush and process and truck raw ore off site. They can crush and process (significantly reducing the truck traffic) or they can haul for crushing off site, but they cannot do both; therefore the impact of this addendum will range from no impact compared to what was evaluated in the original Negative Declaration to a significant positive impact by reducing trucking to and from the project site from what was anticipated in the original CUP. Even the truck traffic anticipated in the original Negative Declaration was deemed to be less than significant impact.

## Findings

CEQA Guidelines Section 15162 indicates that no subsequent environmental document is required unless certain conditions apply. These conditions do not exist for the proposed addition of crushing and processing facilities at the Darwin Mine, as discussed below:

- No substantial changes will result from the amendment to CUP #2007-04 that will require major revisions to the previous Negative Declaration done for the re-opening of the Darwin Mine Project as there are no new significant effects or and all impacts are still less than significant.

*The proposed amendment to the CUP is consistent with the environmental analysis provided in the Negative Declaration Prepared for the re-opening of the Darwin Mine Project, as the area of the project is unaffected, the impacts to noise are comparable to that which was anticipated in the original Negative Declaration, the impact of transportation and traffic may be significantly reduced, and the impact from dust and hazardous materials are required by local, state and federal law to be less than significant.*

- No substantial changes have occurred with respect to the circumstances under which the project is being undertaken, which might require major revisions of the previous conditional use permit due to the involvement of significant effects or a substantial increase in the severity of previously identified significant effects.

*Staff, has analyzed the proposed crushing and processing amendment to the original CUP and no significant changes have occurred in respect to circumstances under which the project is being undertaken. The project will result in the same amount of material*

*being removed from the mine, but allow for the opportunity to significantly reduce hauling, eliminating impacts on roads, use of fuel and impacts of trucks to other drivers. With no increase to impacts to the area, and with a similar project scope there is not substantial change in respect to the circumstances under which the original project was undertaken.*

- No new information of substantial importance that was not known, and which could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was certified, shows or indicates that any of the following has occurred, or will occur, as a result of the proposed amendment to allow the proposed project:
  - 1.) One or more significant effects not discussed previously.  
*No significant effects not discussed previously. While some effects were new, their impact was less than significant.*
  - 2.) Significant effects previously examined will be substantially more severe.  
*Effects previously examined will be either comparable to the level of the original effect examined in the Negative Declaration, or improved. All effects are less than significant.*
  - 3.) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project.  
*There were no mitigation measures or alternatives identified in the Negative Declaration prepared for CUP 2007-04/Project Darwin, LLC.*
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous Negative Declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.  
*There were no mitigation measures or alternatives identified in the Negative Declaration prepared for CUP 2007-04/Project Darwin, LLC*

None of the above-specified conditions apply to the proposed amendment to CUP 2007-04/Project Darwin, LLC, therefore no subsequent environmental document is required. Consideration of this addendum is adequate to comply with CEQA requirements for this project, pursuant to CEQA Guidelines Section 15164.

Exhibit C



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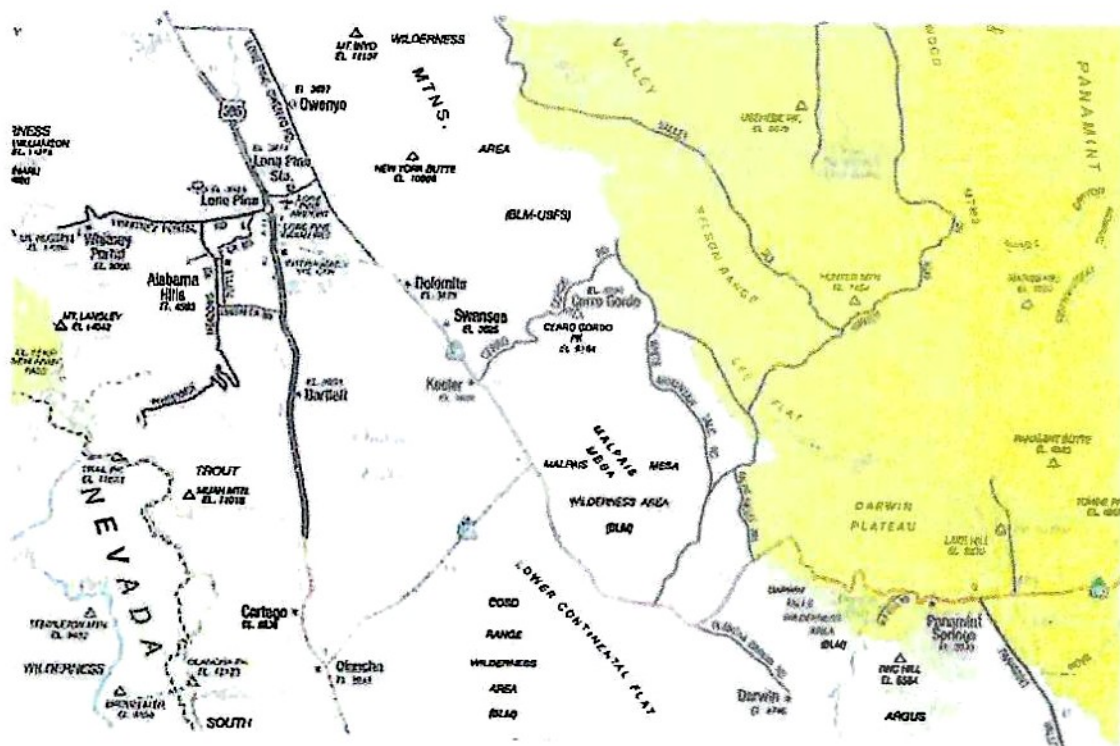
STAFF REPORT

**AGENDA ITEM NO.** 8 (Action Item – Public Hearing)  
**DATE OF MEETING:** December 5, 2007  
**SUBJECT:** Conditional Use Permit No. 2007-04/Project Darwin, LLC.

EXECUTIVE SUMMARY

Project Darwin, LLC is requesting a Conditional Use Permit to re-open the Darwin Mine. The site is located approximately 4 miles southeast of the intersection of the Darwin Road with State Route 190, ½ mile northwest of the town of Darwin.

The project involves the issuance of a Conditional Use Permit (CUP) by Inyo County. The project site is located on 1,050 acres of privately owned land (patented mining claims) and is zoned Open Space, 40 acre minimum (OS-40). Under the provisions of the OS-40 zone "mining" is a conditional use per County Code Section 18.12.040(I).



The applicant has indicated that any surface disturbance will be less than one (1) acre in size therefore, this project does not meet the threshold for requiring an accompanying reclamation plan pursuant to SMARA.

The mining activity is almost entirely underground and the majority of the underground activities are regulated by the Federal (MSHA)(ATF&E) and State (CAL-OSHA) agencies. Therefore, any conditions placed on the CUP will primarily be restricted to the above ground activities.

### **PROJECT INFORMATION**

<b>Application:</b>	<b>Conditional Use Permit No. 2007-04/Project Darwin LLC.</b>
<b>Supervisory District:</b>	<b>Fifth.</b>
<b>Applicant:</b>	<b>Project Darwin, LLC.</b>
<b>Address:</b>	<b>P.O. Box 1367. Tonopah, Nevada 89049.</b>
<b>Landowners:</b>	<b>Project Darwin, LLC.</b>
<b>Zoning:</b>	<b>Open Space, 40 acre minimum (OS-40).</b>
<b>General Plan:</b>	<b>Rural Protection (RP).</b>
<b>Site Size:</b>	<b>1,050 acres.</b>
<b>Location:</b>	<b>Approximately 1/2 mile northwest of Darwin and approximately 4 miles southeast of the intersection of the Darwin Road with State Route 190.</b>
<b>Recommended Action:</b>	<b>Approve the Conditional Use Permit with the Recommended conditions.</b>
<b>Alternative:</b>	<b>Deny the Conditional Use Permit; therefore, not allowing Project Darwin, LLC to re-open Darwin Mine.</b>
<b>Project Planner:</b>	<b>Adena Fansler, Associate Planner.</b>

### **HISTORY**

Within the Darwin mining area (including the Coso's) the mines were first located about 1858 and high-graded oxidized silver-lead ores were found at Darwin in 1874.

In 1875 a formal town, named after pioneer Darwin French, with graded streets, businesses and a post office were established and water was obtained from the Coso Mountains. In 1876 Darwin had a population of 1,000. By 1877 it had a population around 3,500. In 1878 a national economic slowdown hit Darwin. By September the newspaper closed and population fell to 200-300. In 1879 a fire destroyed most of the building in Darwin and only 85 people remained by 1880. The post office remained open to the present except for a two-month period in 1902.

Most of the rich surface ores were depleted and little mining occurred until 1915 when the Darwin Lead and Silver Mines shipped ore to Utah until 1919.

From 1922 to 1929 American Metals, Inc. leased the mines and development began on Mt. Ophir (Darwin Mine) and a company town was built. Mining lasted off and on until 1942 when the government closed the mine for the "War Effort".

In 1945 most of the silver-lead zinc part of the district came under one management (the Darwin Mines). The mine was then purchased by the Anaconda Company who operated it more or less continuously until 1957.

The Darwin Mine was leased in about 1967 to West Hill Exploration, Ltd. which operated the mine until about 1970 and had poor operating results.

Mexicanus Colorado Company mined 1971-1972.

Montecito Mining Company mined 1974-1976.

Anaconda Company reprocessed 80,000 tons of mine tailings 1981-1982.

Quintana Minerals Corporation took ownership from Anaconda in 1984 but never operated the mine. They subsequently sold it to Blue Range Mining Company in 1989. They also never operated the site.

In 1995 clean-up of the property was ordered by the Federal and State government. The use, storage and disposal of hazardous material on-site had ended. Hazardous materials stored onsite have been removed. Transformers have been removed or replaced with units, which are in compliance with current laws. The ball mill building was demolished and wastes contained within were disposed of. The above ground storage tanks were drained and removed. The reclamation of the heap area done by Anaconda was reviewed and approved. Bonds held by Inyo County and Lahontan were eventually released.

Project Darwin, Inc. bought the property in 1996 transferring interest to Project Darwin, LLC in 2000, which is the current owner and applicant.

Anaconda's operation (1945-1957) never had more than a year's supply of ore in sight. In their 10 years they operated the mine they had no problems in keeping ahead of the processing mill. Their yearly exploration always found more profitable ore. The Darwin Mine has never been considered as "mined out". A number of geologic studies on the ore reserves have been made indicating the potential for a significant amount of additional ore. With mineral prices presently quite high the applicant has filed this application.

The Darwin District produced at least 1.1 million short tons (2,000 lbs) of silver-lead-zinc ore from 1875 to 1976. Anaconda mined the majority from 1945-1957. Since 1942 the ore averaged around 6 oz. silver, 6% lead and 6% zinc per ton however, much higher percentages (20-30%) have been recorded.

## PROJECT DESCRIPTION

The project involves the mining of primarily the zinc and tungsten ore with other amounts of silver, copper, lead and gold being obtained as a byproduct of the milling process.

All waste rock will be utilized to back-fill existing underground stopes.

Rails and hoists exist underground and will be up-dated to current MSHA guidelines.

Electrical (battery powered) locomotives will be utilized to avoid air-borne particulate. The locomotives will pull the ore cars to and from various underground loading chutes, where electric powered slushers will move the ore into chutes and eventually into the ore cars.

Calcium chloride (salt) and a combination of sonic dust suppression will be used to neutralize air-borne particulate in the mine.

The mining operation has to be operated in accordance with all Federal MSHA mining regulations and California OSHA Mine & Tunnel Division requirements. Explosive storage and handling will comply with all ATF&E and Inyo County Sheriff's explosive regulations.

No new roads will be required. No additional surface disturbance beyond that now existing will occur in order to eliminate the necessity for a reclamation plan pursuant to the Surface Mining and Reclamation Act (SMARA) (more than one acre and more than 1,000 cubic yards of disturbance).

No processing, including crushing, will occur on the site. The ore will exit the Defiance Portal and be deposited into a skid mounted dump side. Initially, five (5) trucks per day will transport the ore to Millers Mill just north of Tonopah, Nevada. They will exit on Darwin Road to Highway 190 to Highway 395 to Highway 6 to Millers Mill. Trucks will travel during the evening hours.

Initially, 125 tons of ore per day (one shift, Mon-Fri) will be produced and shipped daily to Millers Mill. This will require up to 22 employees (including five truck drivers). This is called Phase One.

Once under production, this may increase to 500 tons per day (one shift, Mon-Fri) and shipped daily to Millers Mill. This would result in twenty (20) trucks loads per day and an additional 35 employees. This is called Phase Two. Phase Two will require up to 57 employees (including 20 truck drivers).

The applicant proposes to provide van service from Lone Pine and Keeler to the project site during Phase One and bus service during Phase Two in order to keep the transportation cost to the employees at a minimum.

There is currently housing on site for eight (8) employees and an additional eight (8) houses could be utilized for future housing if brought up to current building codes.

Employees will arrive at the existing recreation facility and park where after a brief on-site safety meeting they will enter into the fenced portal area and will then be issued necessary lighting and safety equipment. Here they will change to their work clothes. They will then be hauled underground to their designated work areas.

The ore will be continuously hauled out of the portal and placed into a skid mounted dump slide. It will be located at the end of the existing rails from the Defiance mine portal. An extension of the rails will be required (approximately 300-400 feet) in order to dump the ore cars down into the ore dump slide. The proposed location of the skid mounted dump slide, the truck loading and parking area was previously the site of the ball crusher mill and flotation mill, which was removed in 1995. This area is located approximately 50 feet below the portal area. No outside ground storage of the ore will be necessary.

Haul truck maintenance (tune-up, oil and lubrication) will be done at Millers Mill in Nevada.

All surface facility upgrades that are required (septic systems, plumbing, lavatories, electrical, building structural improvements) shall be accomplished under Inyo County building permits.

Any requirements for improvements, or signage, to any intersection with the Darwin Road (County road) shall be accomplished under Inyo County Road Department **encroachment permits**.

### **SURROUNDING LAND USES**

All of the surrounding lands are vacant Bureau of Land Management lands with a General Plan Designation of State and Federal Lands (SFL), zoned Open Space, 40 acre minimum (OS-40).

### **STAFF ANALYSIS**

The project involves the issuance of a Conditional Use Permit (CUP) by Inyo County. The project site is located on 1,050 acres of privately owned land (patented mining claims) and is zoned Open Space, 40 acre minimum (OS-40). Under the provisions of the OS-40 zone "mining" is a conditional use per County Code Section 18.12.040(I).

The mining activity is almost entirely underground and the majority of the underground activities are regulated by the Federal (MSHA),(ATF&E) and State (CAL-OSHA) agencies. Therefore, any conditions placed on the CUP will primarily be restricted to the above ground activities.

The applicant is aware of the thresh-holds, which will initiate the implementation of the SMARA and anticipates no additional surface disturbance of over one acre or the removal of 1,000 cubic yards of surface material during the mining operation. Any surface improvements or construction will affect only the existing structures or previously disturbed areas within the existing Darwin mine facilities.

Staff is recommending approval of the CUP with conditions which includes ownership requirements; obtaining encroachment permits; obtaining other agency and county permits; a maintenance agreement for Darwin Road; waste disposal provisions; hooded lighting; no use of the swimming pool; the sealing of all adits; and the limitation of 500 tons of ore productions per day.

*As of January 1, 2007 all projects, which requires a Negative Declaration or Mitigated Negative Declaration shall be required to pay the Department of Fish and Game habitat impact fee of \$1,800 (Senate Bill 1535) prior to the recording of the Notice of Determination. Inyo County will no longer determine if a project has a "de minimums" impact on vegetation or wildlife habitat. The applicant must directly contact the Department of Fish and Game for an exemption of this habitat impact fee.*

#### ENVIRONMENTAL REVIEW

A Draft Negative Declaration was prepared for the project and was submitted for public review and comment on October 4, 2007 with comment period ending on November 6, 2007. As of this date, three comments have been received on the Draft Negative Declaration.

These comments were from the Lahontan Regional Water Quality Control Board, and Kathleen Goss of Darwin. Copies of their comments are attached. Staff's response to their concerns are as follows:

#### Lahontan:

**Storm-water control and pollutant discharge:** The project is not proposing any additional construction on the project site, except for the installation of a slide dump to contain the ore. All other facilities are existing (residences, office, scale house, battery room, recreational hall, shower/dressing/locker room) and only require rehabilitation to bring them up to current codes. No new structures or grading is required. No changes are to be made to existing drainage channels. There are no surface waters on or adjacent to the project site. The depth to groundwater is unknown but is known to exceed over 1,000 feet based upon nearby drilling. No mitigation is required.

**NPDES General Industrial Storm-water Permit requirement:** In reviewing the threshold requirements for this permit (Application N. 97-03-DDWQ) we do not think this project would qualify however, Staff has added the condition that all necessary permits from Lahontan shall be obtained prior to any mining activities.

**Waters of the State and of the U.S. mitigation:** There are no surface waters on the project side, adjacent to the project site or in the immediate area. The Darwin Mine is an existing mine without any water infiltration and it is not expected to be encountered at further deeping of the mine. No mitigation is required.

**Other:** Storm-water management is not required for this specific project as no new construction is proposed except for the rehabilitation of existing structures, extension of the rail line to the proposed slide dump. No new roads, parking areas or grading are required. No surface water occurs on the project site or on adjacent properties. No drainage channels will be affected.

**Kathleen Goss:**

**1. Aesthetics:** As proposed, the mining operation will be conducted Monday thru Friday during the **daylight** hours (one shift). Some additional outside security or outside residential lights may be installed. If so, they are conditioned to be directed toward the ground and shall be hooded.

**2. Air Quality:** The Great Basin APCD had been sent a copy of the Draft Negative Declaration and we have received no comments. The applicant has indicated that he has discussed this project with them. A condition is included for the applicant to obtain all necessary permits from that agency.

**3. Hydrology & Water Quality:** The applicant owns the water rights from the Darwin Wash well from the State Division of Water Rights. The well has produced 138 gpm in the past but that amount is totally unnecessary for this project. That amount would total 200,000 gallons per day if it produced at maximum. That amount would fill the domestic water tanks and the swimming pool in one day. Water usage by the project is only for drilling purposes, showers, domestic usage and possible dust control. No ore processing will occur as was the case with Anaconda's flotation mill.

**4. Noise:** Ore will be dumped only during daylight hours. Diesel trucks are decibel rated at 90dB(a) to 100dB(a). Assuming a 95dB(a) rating the decibel level at 1,500 feet (the nearest residence to the truck parking/loading area) will be 41dB(a) which is considered "Quiet Conversation". This is without any obstructions between the noise source and the receptor. The parking area/loading area has an adjacent 50'-75' high waste dump which will deflect the noise upward from the Darwin Community. Likely, no noise from the diesel trucks will reach Darwin.

The Darwin Wash well will need to be refurbished and the existing water line to the Darwin Mine repaired, if necessary, which may temporarily involve additional vehicles utilizing the public roads through the Darwin Community.

**5. Transportation & Traffic:** This comment is somewhat unclear and difficult to address as a specific condition of approval. Certainly, the five loaded ore trucks daily during Phase One and the possibility of twenty loaded ore trucks daily in Phase Two will

have an impact on Darwin Road. It is, at this time, difficult to ascertain what specific remuneration to Inyo County should be made for the "upgrading and maintaining" of the Darwin Road to State Highway 190. It appears that the applicant and Road Department have discussed this issue previously. We have therefore, added a condition, which requires the applicant, by written agreement, to provide his applicable share for the maintenance of the Darwin Road.

**6. Utilities and Service systems:** The applicant has indicated that all domestic trash and wastes shall be hauled to the Lone Pine Landfill for disposal. This is one of the conditions of approval.

### **PUBLIC NOTICE**

A Notice of Public Hearing was published in the local newspaper and mailed to the surrounding property owners within 300 feet of the subject property (in this case, only to BLM).

### **RECOMMENDATIONS**

Staff recommends approval of the applicant's proposed conditional use permit with conditions. The Planning Department therefore recommends the Planning Commission take the following actions:

**"Move to adopt the Final Negative Declaration of Environmental Impact and certify that the provisions of CEQA have been met; make the following findings with respect to and approve Conditional Use Permit No. 2007-04/Project Darwin, LLC. with the recommended conditions of approval."**

#### **I. ENVIRONMENTAL**

Based on the whole record, the Initial Study, the Draft Negative Declaration, and written comments received, responses to those comments contained herein, and pursuant to CEQA Guidelines Section 15074(b), the Inyo County Planning Commission adopts the Final Negative Declaration and finds that the requirements of the California Environmental Quality Act have been satisfied.

*[Evidence: In accordance with the requirements of the California Environmental Quality Act, an Initial Study and Draft Negative Declaration of Environmental Impact was prepared and circulated for this project for public review and comment. Any concerns and issues raised in those comments are adequately addressed in the discussion in the Draft Negative Declaration, Staff Report and Public Hearing testimony.]*

## II. FINDINGS

The proposed conditional use permit is found to be consistent with the Inyo County General Plan Designation and Goals and Policies, as well as the Inyo County Zoning Ordinance sections, which are applicable to the property.

*[Evidence: The General Plan Designation is Rural Protection (RP), zoned Open Space, 40 acre minimum (OS-40), both which allow underground mining projects with the approval of a conditional use permit by Inyo County.]*

## III. CONDITIONS OF APPROVAL

1. Pursuant to Section 18.81.140 of the County Code the authorization of this Conditional Use Permit shall lapse and be void unless started within one year of the date of its approval. The Planning Commission may, without a hearing, extend the Conditional Use Permit for additional one-year periods upon application filed prior to the expiration of the Conditional Use Permit.
2. The Conditional Use Permit is for the re-opening of the Darwin Mine by the applicant, Project Darwin, LLC. This CUP is issued solely to this applicant. Any change in ownership, revisions, additions or expansions in the project description contained in the application shall require an amendment to this CUP.
3. The applicant shall obtain encroachment permits from the Inyo County Road Department for both the existing main mine access road AND the existing ore truck access road.
4. The applicant shall obtain all necessary permits from MSHA, ATF&E, CAL-OSHA, GBABCD, Lahontan, Inyo County Sheriff's Department and the Environmental Health Department (septic, water and hazardous material storage) prior to any mining operations.
5. The applicant shall pay the Department of Fish and Game the habitat impact fee of \$1,800 pursuant to Senate Bill 1535. The applicant may directly contact the Department of Fish and Game to apply for an exemption of this habitat impact fee.
6. Any storm-water from any additional surface disturbance or impervious areas shall be contained on-site and/or directed into existing natural drainage channels.
7. The existing swimming pool on the project site shall not be utilized for recreational uses.
8. NO ONE Prior to transporting of ore the applicant, shall enter into an agreement with the Inyo County Road Department concerning improvements of the Darwin Road to State Route 190 to the satisfaction of Inyo Count Public Works.

9. The applicant shall obtain all necessary building, plumbing and electrical permits from Inyo County prior to any construction, rehabilitation, or major maintenance to any of the surface facilities.
10. Any additional outside lighting (security, safety or residential) shall be directed toward the ground and the lamps hooded.
11. All domestic garbage and waste shall be hauled to the Lone Pine Landfill for disposal.
12. Any increase beyond the proposed 500 tons of ore per day production (Phase Two) shall require an amendment to this CUP.
13. Upon the termination of underground mining activities (exceeding 90 days) all adits to the Darwin Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department.
14. Any surface disturbance in excess of one acre or involving more than 1,000 cubic yards of material shall not be permitted without the submission and approval of a reclamation plan pursuant to SMARA and Inyo County Code.
15. The applicant, landowner, and operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the county, its advisory agencies, appeal boards, or its legislative body concerning Conditional Use Permit No. 2007-04/Project Darwin, LLC.

Attachments: Vicinity Map/Location Map  
Negative Declaration  
Negative Declaration Comments (2)  
Pictures  
Application



**Planning Department  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526**

**Phone: (760) 878-0263  
(760) 872-2706  
FAX: (760) 872-2712  
E-Mail: InyoPlanning@qnet.cor**

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**NOTICE OF DECISION**

December 5, 2007

**Jack Stone  
Darwin Project, LLC.  
P.O. Box 1367  
Tonopah, Nevada 89049**

**SUBJECT: Conditional Use Permit No. 2007-04/Project Darwin, LLC.**

On December 5, 2007 the Inyo County Planning Commission conducted a public hearing to consider the above application to re-open the Darwin mine. The site is located approximately 4 miles southeast of the intersection of the Darwin Road with State Route 190, ½ mile northwest of the town of Darwin. After considering the report of staff and all oral and written comments received, the Planning Commission took the following actions:

**I. ENVIRONMENTAL**

Based on the whole record, the Initial Study, the Draft Negative Declaration, and written comments received, responses to those comments contained herein, and pursuant to CEQA Guidelines Section 15074(b), the Inyo County Planning Commission adopts the Final Negative Declaration and finds that the requirements of the California Environmental Quality Act have been satisfied.

*[Evidence: In accordance with the requirements of the California Environmental Quality Act, an Initial Study and Draft Negative Declaration of Environmental Impact was prepared and circulated for this project for public review and comment. Any concerns and issues raised in those comments are adequately addressed in the discussion in the Draft Negative Declaration, Staff Report and Public Hearing testimony.]*

## II. FINDINGS

The proposed conditional use permit is found to be consistent with the Inyo County General Plan Designation and Goals and Policies, as well as the Inyo County Zoning Ordinance sections, which are applicable to the property.

*[Evidence: The General Plan Designation is Rural Protection (RP), zoned Open Space, 40 acre minimum (OS-40), both which allow underground mining projects with the approval of a conditional use permit by Inyo County.]*

## III. CONDITIONS OF APPROVAL

1. Pursuant to Section 18.81.140 of the County Code the authorization of this Conditional Use Permit shall lapse and be void unless started within one year of the date of its approval. The Planning Commission may, without a hearing, extend the Conditional Use Permit for additional one-year periods upon application filed prior to the expiration of the Conditional Use Permit.
2. The Conditional Use Permit is for the re-opening of the Darwin Mine by the applicant, Project Darwin, LLC. This CUP is issued solely to this applicant. Any change in ownership, revisions, additions or expansions in the project description contained in the application shall require an amendment to this CUP.
3. The applicant shall obtain encroachment permits from the Inyo County Road Department for both the existing main mine access road AND the existing ore truck access road.
4. The applicant shall obtain all necessary permits from MSHA, ATF&E, CAL-OSHA, GBABCD, Lahontan, Inyo County Sheriff's Department and the Environmental Health Department (septic, water and hazardous material storage) prior to any mining operations.
5. The applicant shall pay the Department of Fish and Game the habitat impact fee of \$1,800 pursuant to Senate Bill 1535. The applicant may directly contact the Department of Fish and Game to apply for an exemption of this habitat impact fee.
6. Any storm-water from any additional surface disturbance or impervious areas shall be contained on-site and/or directed into existing natural drainage channels.
7. The existing swimming pool on the project site shall not be utilized for recreational uses.
8. Prior to transporting of ore the applicant, shall enter into an agreement with the Inyo County Road Department concerning improvements of the Darwin Road to State Route 190 to the satisfaction of Inyo Count Public Works.

9. The applicant shall obtain all necessary building, plumbing and electrical permits from Inyo County prior to any construction, rehabilitation, or major maintenance to any of the surface facilities.
10. Any additional outside lighting (security, safety or residential) shall be directed toward the ground and the lamps hooded.
11. All domestic garbage and waste shall be hauled to the Lone Pine Landfill for disposal.
12. Any increase beyond the proposed 500 tons of ore per day production (Phase Two) shall require an amendment to this CUP.
13. Upon the termination of underground mining activities (exceeding 90 days) all adits to the Darwin Mine shall be physically sealed to the satisfaction of the Inyo County Planning Department.
14. *A reclamation plan shall be submitted to the Inyo County Planning Department for processing within 60 days from the date of approval of this Conditional Use Permit.*
15. The applicant, landowner, and operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the county, its advisory agencies, appeal boards, or its legislative body concerning Conditional Use Permit No. 2007-04/Project Darwin, LLC.

Section 16.56.020 of the Inyo County Subdivision Ordinance provides that any interested party may, within ten (10) days after the Planning commission's action, appeal the determination made by the Planning Commission to the Inyo County Board of Supervisors after compiling evidence of an alleged error and making an appeal fee payment of three-hundred dollars (\$300) to the Clerk of the Board. If you have any question regarding the Planning Commission's action, please contact this office at (760) 872-2706.

Thank you,



Pat Cecil  
Planning Director

cc: Richard Cervantes, Fifth District Supervisor  
Paul Payne, Fifth District Commissioner  
Marvin Moskowitz, Environmental Health