RESOLUTION No. 2005-

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, MAKING FINDINGS CONCERNING SIGNIFICANT EFFECTS OF THE PROJECT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, PREPARED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR GENERAL PLAN AMENDMENT NO. 2001-03/CRYSTAL GEYSER ROXANE, ZONE RECLASSIFICATION NO. 2001-004/CRYSTAL GEYSER ROXANE, AND CONDITIONAL USE PERMIT NO. 2001-19/CRYSTAL GEYSER ROXANE; AND APPROVING GENERAL PLAN AMENDMENT NO. 2001-03/CRYSTAL GEYSER ROXANE

WHEREAS, the Inyo County Board of Supervisors, through Section 15.12.040 of Inyo County Code, has designated the Planning Commission as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on December 11, 2001, the County of Inyo adopted the Land Use Element of the Inyo County General Plan; and

WHEREAS, this Board hereby finds that the proposed amendment of the Inyo County General Plan Land Use designation from *"Rural Protection"* to *"Light Industrial"* on a 30-acre portion of the 120.4-acre Crystal Geyser Roxane property located at 4050 South U.S. Highway 395 in the community of Olancha, is compatible with the location, which is 3 miles from the nearest residence, one-half mile from the nearest business, and across U.S. Highway 395 from other property also designated as Light Industrial, and is also the location of the raw material (well water of sufficient quality and quantity for bottling), and is consistent with the Inyo County General Plan; and

WHEREAS, pursuant to Section 15025 of the State CEQA Guidelines and Section 15.12.040 of the Inyo County Code (CEQA Procedures), the Planning Commission is responsible for the environmental review of all County projects; and

WHEREAS, the Planning Commission is required to conduct a public hearing on proposed General Plan Amendments, Zone Reclassifications, and Conditional Use Permits and to make a recommendation to the Board of Supervisors thereon (Sections 65854 and 65855 of Government Code); and

WHEREAS, on December 29, 2004 the Inyo County Planning Department completed an Initial Study and Environmental Checklist and Draft Environmental Impact Report pursuant to the California Environmental Quality Act concerning General Plan Amendment No. 200103-01/Crystal Geyser Roxane, Zone Reclassification No. 2001-04/Crystal Geyser Roxane, and Conditional Use Permit No. 2001-19/Crystal Geyser Roxane, and;

WHEREAS, the Inyo County Planning Department circulated said Draft Environmental Impact Report for a 45-day public review period as required by Section 15.32.060 of Inyo County Code, commencing on December 30, 2004 and ending on February 14, 2005; and

WHEREAS, the 30-acre property is located in the southeast corner of a 120.4 acre parcel located approximately 3 miles south of Olancha, at 4050 South U.S. Highway 395, adjacent to, and west of U.S. Highway 395, Inyo County Assessor's Parcel Number 33-110-17, as described on the attachment hereto which is incorporated by reference herein.

WHEREAS, all impacts identified in the Draft Environmental Impact Report and in comments thereon have been eliminated or reduced to a level of less than significant, with the exception of Aesthetic, Biological, and Groundwater resources as further detailed below; and,

WHEREAS, at a noticed public hearing on April 27, 2005, the Planning Commission considered the Draft and Final Environmental Impact Report, report of staff, and all oral and written comments to date regarding these projects; and

WHEREAS, following said public hearing the Planning Commission adopted a Resolution wherein it recommended that this Board of Supervisors: 1) adopt the Statement of Overriding Considerations; 2) adopt the Final Environmental Impact Report and thereby certify that the requirements of the California Environmental Quality Act have been satisfied with respect to the General Plan Amendment, Zone Reclassification, and Conditional Use applications; and, 3) approve the Crystal Geyser Roxane General Plan Amendment and Zone Reclassification for the 30-acre portion of the 120.4-acre property, and the Conditional Use Permit applications; and

WHEREAS, pursuant to that recommendation this Board of Supervisors held a public hearing and considered all written and oral testimony presented concerning the Crystal Geyser Roxane General Plan Amendment, Zone Reclassification and Conditional Use Permit applications.

NOW, THEREFORE, BE IT HEREBY RESOLVED that, based on that all of the information in the public record and on recommendation of the Planning Commission, this Board makes the following findings concerning the significant effects of this project as required by Title 14, California Code of Regulations, Section 15091:

1. Increased traffic: Impact #3.2-2, as identified in the EIR.

Facts: The proposed project will generate additional traffic in the area.

Mitigation Measures:

- The applicant shall comply will all requirements of Caltrans for the installation of acceleration and deceleration lanes and turn lanes. All northbound trucks shall proceed south on U.S. Highway 395 to the first median break prior to turning onto northbound lanes of U.S. Highway 395.
- Traffic volumes shall not exceed the Level of Service "C."

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

2. Increased PM_{10} (particulate matter) emissions: Impact #3.3-1, as identified in the EIR.

Facts: The proposed project will result increased PM_{10} emissions from construction equipment and grading activities.

Mitigation Measures:

- During construction the following measures to control fugitive dust and emissions of particulates shall be employed:
  • Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant;
  • Watering or treating of all disturbed but inactive portions of the site with an appropriate dust suppressant;
  • Covering or wetting down of materials transported by truck to control dust;
  • Daily cleanup of mud and dirt carried onto paved streets from the site;
  • Suspension of dust-producing activities during periods of sustained high winds (gusts exceeding 25 mph) when dust control measures are unable to avoid visible dust plumes; and,
  • Maintenance of all construction equipment in proper working order.

- The project shall establish a daily trip generation cap for the entire project (the 30-acre bottling plant plus development of the additional 90 acres), of 4,957 daily trips. If daily trip generation exceeds this level, the conditions of approval shall require that the applicant submit and present to the Planning Director for approval a Transportation Demand Management (TDM) plan that establishes a carpool matching program, vanpool commute program, and/or operational strategies (e.g., staggered work hours/days, flexible scheduling, and on-site services such as cafeteria/lunch room, break room, gym, showers, etc).

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

3. Increased noise: Impact #3.4-1, as identified in the EIR.

Fact: There will be an increase in noise resulting from construction activities.

Mitigation:

- Contractor(s) shall implement the following measures during the bottling plant construction, if noise-sensitive uses exist within 500 feet:
  • All construction vehicles and equipment (fixed or mobile, including generators) shall be equipped with properly operating and maintained mufflers;
  • Any generators or air compressors proposed to operate on a 24-hour basis and within 500 feet of residential units or sensitive receptors (such as schools) shall be placed within an enclosure to reduce nuisance noise;
  • All noise-generating construction activities shall be limited to weekdays, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m. Construction activities shall not be performed on weekends or federal holidays.

• Implement, as directed by Inyo County, appropriate additional noise mitigation measures, including, but not limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, installing acoustic barriers around stationary construction noise sources, and routing construction trucks away from noise-sensitive areas.

- Noise levels produced by stationary and mobile sources on the project site shall not exceed 70 dB Ldn at the property line.

- The applicants shall submit acoustical studies prepared by a qualified acoustical engineer demonstrating to the Inyo County Planning Department that operational noise will not exceed the standard in this measure prior to issuance of building permits.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

4. Aesthetics and altered views: Impact #3.5-1, as identified in the EIR.

Fact: Substantial alteration of views of the site from U.S. Highway 395 would occur by introduction of development on a site currently dominated by desert scrub vegetation and open space.

Mitigation:

- The applicant shall submit full-color architectural renderings, including signage, of all proposed facilities. Photo simulations showing the "before" project site and the "after" project site shall also be provided along with a sample board of materials, the proposed color palette, and a landscaping plan. The photo simulations shall be from at least two angles, and from various distances (e.g., 500, 1,000, and 2,000 feet) from both the north and from the south along U.S. Highway 395. The simulations shall show relative height, location, and appearance of the proposed facilities as viewed from U.S. Highway 395. The renderings, sample boards, landscaping plans, and photo simulations shall be submitted for consideration and approval by the Planning Commission prior to approval of building permits.
  • Buildings shall be constructed with non-reflective surfaces, including roofs and windows, and the windows shall be designed so they face away from the highway.
  • Buildings shall be painted or otherwise covered in soft 'desert-sand' colors that match the local tones and hues.
  • Buildings, wastewater ponds, outside equipment and utilities such as propane tanks, water tanks, solid waste containers, etc., shall be landscaped or screened with materials such as sand-colored concrete block to reduce visibility from U.S. Highway 395 or nearby businesses.
  • Signs shall be externally illuminated. Signage shall not be painted or otherwise affixed to buildings.
  • Landscaping and screening shall incorporate native and common ornamental vegetation, such as cottonwood and poplar trees, blackbush scrub, sagebrush, rabbit brush, cactus, and native wildflowers, grasses, and forbs.

• All driveways shall be paved in a light-colored material, and landscaped in native vegetation and vegetation common to the area (e.g., cottonwood and poplar trees, various native and ornamental shrubs, and native flowers and grasses) to the greatest extent possible.
• Use of local soils, rocks, and other materials that give the area a 'natural' look shall be included in the design. Cactus and other fire-resistant vegetation shall be strategically placed on the project site to minimize fire hazard while maintaining visual aesthetics.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report. However, this impact remains significant and unavoidable. A Statement of Overriding Considerations is attached to this Staff Report.

5. Light and glare: Impact #3.5-2, as identified in the EIR.

Fact: The project will create new sources of light and glare, which could adversely affect nighttime views in the area.

Mitigation:

• Lighting shall be installed with the lowest illumination feasible, using soft yellow/orange/pink lighting elements, low pressure sodium elements, or other lighting as approved by the Inyo County Planning Director. Baffles, shades, and hoods shall be used to direct all lighting downward, such that light does not escape in an upward direction, and is not reflected onto any off-site buildings or roadways. All light standards and fixtures within parking lots shall be of a cutoff or motion sensor/timed design. Prior to issuance of building permits, the Public Works (Building and Safety) Department will review proposed lighting fixtures to ensure compliance with this measure. The applicant shall submit a lighting plan showing compliance with the above requirements and specifying the location and intensity of proposed exterior or outdoor lighting features. All signage shall be externally illuminated.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

6. Fire hazard and risk of upset: Impact #3.6-1, as identified in the EIR.

Fact: There will be an increased risk of wildland fires due to truck traffic and employee vehicles entering and exiting the site, and other activities at this location.

Mitigation:

- Vegetation surrounding all structures and along all roadways shall be cleared or otherwise maintained pursuant to the standards required by California Department of Forestry and the Olancha Community Services District. Landscaping on the project site shall consist of xeric and low combustion species approved by the California Department of Forestry and Fire Protection. Trucks on the project site shall be required to remain on paved surfaces.

- Buildings constructed on the project site shall comply with applicable Fire Safe Regulations adopted and enforced by California Department of Forestry and the Uniform Fire Code that relate to entry/exit, maintenance of defensible space measures, signing and building numbering, building spacing, water storage, fire flow, fire hydrants, and other requirements designed to promote fire protection. All buildings shall be equipped with automatic fire sprinklers with an uninterruptible power supply.

- As a part of the site design, all facilities proposed for the project site shall contain all required fire hazard prevention, fire fighting, and personal safety equipment, as required by the Uniform Fire Code. Prevention and safety equipment includes fire extinguishers, smoke alarms, and related equipment.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

7. Accidents involving hazardous materials: Impact #3.6-4 and identified in the EIR.

Fact: There is the potential for upset and accidents involving transport and use of hazardous materials on the project site.

Mitigation:

- The following drainage and spill control and containment features shall be incorporated into the project design:
  • Trench drains with storm water controls
  • Oil/wastewater separators
  • Spill containment

- The proposed wastewater treatment plant shall be required to comply with Uniform Building Code standards for construction. Health and safety regulations shall be in place relative to the storage and use of hazardous chemicals or substances at the plant site prior to issuance of building permits.

- Material Safety Data Sheets and Business Plans must also be prepared and filed to obtain the required building permits.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

8. Flood hazard and stormwater runoff: Impacts #3.9A-1and #3.9A-3, as identified in the EIR.

Facts: The project could expose persons and property to flooding, and could result in additional runoff to downstream properties.

Mitigation:

- The applicant shall prepare and submit a drainage plan as part of the first development application, which includes appropriate flood protection, storm water detention/retention facilities. The drainage plan shall preserve the four existing drainage washes crossing the property, with 50-foot setbacks on each side of the wash, demonstrate that proposed structures are protected from localized flooding, and that the site facilities have been designed to withstand storm flow during a 100-year design storm event. The drainage plan shall identify both pre-project and post-project flows and shall indicate specific measures to protect structures from flood damage.

- The applicant shall construct on-site detention or retention basins sufficient to result in no net increase in post-development stormwater flow. Such basins shall not encroach upon or affect the conveying capacity of the four existing drainage washes crossing the property and shall be described in the Drainage Plan required above.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

9. Surface water quality: Impact #3.9A-3, as identified in the EIR.

Fact: Surface water quality could be adversely affected during construction activities and site occupancy.

Mitigation:

- To protect surface water quality from degradation, the applicant and all subsequent developers on the site shall comply with and obtain approvals from the Lahontan Regional Water Quality Control Board for storm water discharges for construction and industrial related activities, including a Storm Water Pollution Prevention Plan, National Pollutant Discharge Elimination System Construction Stormwater Permit, and General Industrial Stormwater Discharge permit (if required).

- The applicant shall construct on-site detention or retention basins sufficient to result in no net increase in post-development stormwater flow. Such basins shall not encroach upon or affect the conveying capacity of the four existing drainage washes crossing the property and shall be described in the Drainage Plan required above.

- Drainage flows shall not affect LADWP's aqueduct easement. The applicant shall not locate effluent disposal areas, retention basins, and/or improvements within the easement unless written permission is received from LADWP following submittal of detailed drainage and grading plans. LADWP may require installation of curbs or asphalt berms to prevent soil erosion within the easement. No improvements shall be constructed within 50 feet of the aqueduct easement. Any site runoff allowed to enter LADWP property or easements shall also comply with LADWP Guidelines for onsite oil/water separators.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

10. Lowered water levels: Impact #3.9B-1, as identified in the EIR.

Fact: There is a potential for well interference from the production will on adjacent, private wells, lowering water levels in these wells. If the wells are shallow and pumps set near the water table, the well could go dry.

Mitigation:

- The applicant shall develop and implement a groundwater monitoring program for an initial 5 year minimum period, with additional monitoring required for 5 years following the drilling and installation of any new water supply wells.

- The groundwater monitoring program shall include the drilling and installation of at least 3 small diameter observation wells within ½ mile to the north, south, and east of the CG-2 production well. The observation wells shall be monitored at least quarterly for groundwater levels. If possible, the wells shall be integrated into the groundwater monitoring network and database maintained cooperatively by LADWP and the Inyo County Water Department.

- Criteria for determining if an adjacent water supply is adversely impacted shall use the procedures outlined in the *Green Book for the Long-term Groundwater Management Plan for the Owens Valley and Inyo County*. This includes the use of any available groundwater models and aquifer tests, and the establishment of new monitoring wells drilled to the same depth as adjacent private wells to monitor groundwater depths.

- If the monitoring wells show a consistent long term decline in groundwater levels that cannot be explained by climatic fluctuations, or similar trends in other wells not thought to be potentially impacted by the CG-2 well, then the applicant shall be responsible for deepening the affected wells, resetting and replacing pumps at lower levels, or drilling and completing new replacement wells for any adversely impacted wells.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

11. Impact to Olancha Spring: Impact #3.9-B, as identified in the EIR.

Fact: Pumping of groundwater for the proposed project could lower the water table in the vicinity and impact Olancha Spring and its water-dependent vegetation.

Mitigation:

- Because of the biological significance of the spring, and the uncertainty over potential impacts of groundwater withdrawal from the CG-2 production well on the spring, the applicant shall conduct

a program of groundwater and spring monitoring. Shallow observation or monitoring wells (20 foot deep) shall be established in the groundwater body supplying the spring and both sides of the fault to determine if the CG-2 production well is impacting the spring. A baseline of spring flow shall also be established. Monitoring shall be conducted quarterly for a minimum of 5 years, after installation of all wells on the site, with an annual report filed with the Inyo County Planning Department and Inyo County Water Department on the results of the monitoring, along with any conclusions and recommendations. If possible, the monitoring information shall be integrated into the spring monitoring database maintained by the Inyo County Water Department.

- The applicant shall ensure that monitoring well information shall be interpreted in conjunction with an analysis of rainfall patterns and trends in other shallow zone wells and spring observations being conducted by LADWP and Inyo County throughout Owens Valley, to verify that changes in spring flow and water levels in the perched water table are a result of the project, and not due to climatic fluctuations, fault movement, or other causes. Inyo County's Green Book shall be used as the basis for procedures for establishing the monitoring program and interpreting results, and developing follow up mitigations. If the data analysis shows that the CG-2 production well is having an effect on the spring, then the applicant shall develop a mitigation plan to offset the impacts. Suitable mitigations for minor impacts on flow could include enhancing, restoring, and protecting other natural springs and seeps located on the west side of the Owens Valley.

- In order to recognize a change in the wetland vegetation or wildlife populations that might be caused by the project, the applicant shall document baseline information on the current conditions at the spring, prior to project pumping. The baseline biological document shall include low level aerial photography of the spring to document the extent of the wetland vegetation; a survey to determine the plant species composition and structure at the spring; and a survey to obtain a population estimate for the Owens Valley vole and to determine if Wong's springsnail occurs. If the long term monitoring indicates biological impacts are occurring due to pumping, then the applicant shall be required to reduce pumping to a level that does not create such impacts, or provide other appropriate compensatory mitigations measures to the satisfaction of the CDFG and Inyo County, including enhancing and restoring other springs in southwest Owens Valley.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

12. Wastewater impact on groundwater: Impact #3.9C-1, as identified in the EIR.

Fact: The disposal of treated wastewater through percolation ponds has the potential to degrade the groundwater quality.

Mitigation:

- The applicant shall submit plans for wastewater treatment facilities which are designed meet the requirements of the Lahontan Regional Water Quality Control Board. Project applicants shall obtain Waste Discharge Requirements for wastewater treatment facilities from the Lahontan Regional Water Quality Control Board.

- The applicant shall install monitoring wells as required by Lahontan, and monitoring of groundwater for nitrate-nitrogen shall be performed to determine if there is a relationship between the rate of percolation in the ponds and nitrates in the groundwater. If rapid infiltration is the cause of elevated nitrate levels, the pond bottoms shall be engineered to control the rate of percolation. The area proposed for new percolation ponds shall be tested for percolation rates to determine that the area is adequate for disposal of treated wastewater. Alternatively, wastewater treatment facilities shall be designed to nitrify and denitrify the effluent so there would be no net impact on groundwater.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

13. Potential odors from wastewater treatment: Impact #3.9C-2, as identified in the EIR.

Fact: The operation of wastewater treatment facilities could create objectionable odors that are detectable off-site during plant upsets or unusual climatic conditions such as inversions or stable atmospheric conditions.

Mitigation:

- The applicant shall submit plans to ensure wastewater treatment facilities are designed to control and mitigate odors so that off-site detection is minimized. Facility design shall be reviewed and approved by the Regional Water Quality Control Board, Lahontan Region, and Inyo County Environmental Health Services Department to verify that appropriate odor control features are incorporated prior to the issuance of permits for all phases of this project.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

14. Impacts from improperly designed sewage disposal: Impact #3.9C-3, as identified in the EIR.

Fact: On-site sewage disposal systems for the bottling plant that are improperly sited or designed have the potential to adversely affect groundwater quality.

Mitigation:

- The applicants shall submit on-site sewage disposal system designs that can be reviewed and permitted by the Inyo County Environmental Health Services Department. The design shall be based on soil profile and percolation test data taken at the site of the proposed disposal systems. Special engineered designs may be required to achieve compliance with applicable regulations.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

15. Impacts to native vegetation: Impact #3.10-1, as identified in the EIR.

Fact: The bottling plant could impact native vegetation and allow the spread of noxious weeds.

Mitigation:

- The applicant shall establish a monitoring and control program to prevent the spread of non-native or noxious species on-site, where if unchecked they could create off-site effects, acceptable to the County. Review of the detailed operating plan for the wastewater treatment plant effluent disposal area shall also be conducted to identify procedures that could be implemented to minimize potential invasion of noxious weed species.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

16. Impacts to the Mohave ground squirrel: Impact #3.10-5, as identified in the EIR.

Fact: Vegetation removal and ground disturbance required for the bottling plant will impact individuals and the associated habitat.

Mitigation:

- Compensatory mitigation for Mohave ground squirrel habitat loss at a rate of 3 acres protected for every one acre lost to development shall be accomplished by one and/or a combination of the following four measures:

a) Acquire lands at a 3:1 ratio that support optimum Mohave ground squirrel habitat in Inyo County, at a location which would be approved by the California Department of Fish and Game (CDFG); and pay a one time endowment fee for the long-term management of these lands, the cost of which shall be negotiated between Crystal Geyser Roxane and the CDFG.

b) Eliminate livestock grazing by fencing the entire site.

c) Purchase grazing leases on BLM grazing allotments in Inyo County within the range and in the habitat of the Mohave ground squirrel and eliminate livestock grazing on these lands.

d) Restore disturbed native vegetation within the range and in the habitat of the Mohave ground squirrel on public or State lands in Inyo County.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact

report. However, this impact remains significant and unavoidable. A Statement of Overriding Consideration is attached to this Staff Report.

17. Impacts to desert tortoises and other reptiles: Impact #3.10-12, as identified in the EIR.

Fact: Vegetation removal and ground disturbance required for the bottling plant could impact individuals and their associated habitat.

Mitigation:

- Crystal Geyser Roxane shall enter into an agreement with CDFG and the U.S. Fish and Wildlife Service (USFWS) to provide fair share funding for a desert tortoise exclusion fence along portions of U.S. Highway 395 that traverse high-density desert tortoise areas. The quantity and location of fencing shall be negotiated among Crystal Geyser Roxane, the CDFG, and the USFWS.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

18. Impacts to birds: Impact #3.10-15, as identified in the EIR.

Fact: Ground-disturbing activities and removal of vegetation could impact birds, including the burrowing owl.

Mitigation:

- The applicant shall ensure that all ground-disturbing activities shall be conducted during the non-breeding season for birds (from approximately mid July to mid February for most passerine species and from 1 September to 31 January for western burrowing owls) to reduce the incidences of take of bird nests, eggs, and dependent young, which are protected by the Migratory Bird Treaty Act of 1918. Thirty days prior to ground disturbing activities, the site shall be surveyed for western burrowing owls. If western burrowing owls are found during the non-breeding season, a qualified biologist shall relocate them to a nearby location on BLM land, following standardized CDFG protocols. If they are found during the breeding season, the owls shall not be relocated until it has been determined by a qualified biologist that the young have fledged and are feeding independent of their parents.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

19. Impacts to wildlife at Olancha Spring: Impact #3.10-19, as identified in the EIR.

Fact: There could be impacts to the wildlife at Olancha Spring from increased noise, light and human visitation.

Mitigation:

- Crystal Geyser Roxane shall enter into an agreement with the BLM to erect a livestock exclusion, yet wildlife-friendly, fence around the wetlands at Olancha Spring to offset impacts associated with the potential increase in noise, night-time lighting, human visitations, and hunting pressure. Outdoor lighting at the bottling plant shall be directed downward and away from the direction of the spring.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

20. Impact to a registered cultural resource: Impact #3.11-5, as identified in the EIR.

Fact: Potential disturbance and destruction of Site CA-INY-323 could occur due to construction activities.

Mitigation:

- The applicant shall ensure that if project improvements intrude on the site registered as "Site CA-INY-323," a large diffuse prehistoric site (as described in Chapter 3.11 of the Draft EIR), a representative of a local tribe and a qualified archaeologist shall be present to ensure that important subsurface cultural deposits are not disturbed whenever the following ground disturbing activities occur on the project site: grading, cutting, filling, trenching or any other ground-disturbing activity associated with project construction. The qualified archaeologist shall verify the presence of any previously unidentified cultural resources (e.g., unusual amounts of non-native stone [obsidian, fine-grained silicates, basalt], bone, shells, prehistoric or historic period artifacts [such as purple glass, beads, arrowheads, stone tools, etc.; concentrations of cans and bottles; structural remains]). Work in the immediate vicinity shall cease, and the Inyo County Planning Department shall be notified immediately. The qualified archaeologist shall prepare an evaluation of the significance of the find relative to CEQA impact evaluation criteria and identification of appropriate mitigation. The archaeologist shall submit appropriate recommendations to the Planning Department.

- The applicant shall include these requirements in any project construction contracts and specifications. In addition to the construction superintendent, all construction personnel involved in ground-disturbing activities during project construction will sign documents acknowledging that they have been informed of these requirements and will comply. A qualified archaeologist and local Native American, as appropriate, will be retained to serve as a monitor whenever ground-disturbing activities occur. The Planning Department will make final determinations resulting in any required action or mitigation.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

21. Potential disturbance of undiscovered cultural sites: Impact #3.11-7, as identified in the EIR.

Fact: Construction activities could lead to the disturbance or destruction of undiscovered cultural sites or burial grounds.

Mitigation: (see also Mitigation for #20. above)

- In the event that grading, cutting, filling, trenching or any other ground-disturbing activity associated with project construction reveals the presence of any skeletal remains, State law requires that the applicant ensure that immediate notification of the County Coroner occurs. The applicant shall ensure that the Inyo County Planning Department is notified immediately. If the remains found are a Native American burial site, the Planning Department shall notify interested Native Americans in the county within three days of notification of the existence of the site by project representatives. If the Planning Department finds that avoidance of the site is infeasible, the Planning Department shall expressly permit interested Native Americans to relocate the burial site within 11 days. If the burial site is not relocated by Native Americans within 11 days, the project sponsor may do so. Relocation shall be as close to the original burial site as possible.

- The applicant shall ensure that consultation occurs to ensure Native American concerns are fully taken into account prior to action being undertaken. This mitigation measure will assure that appropriate procedures are followed with respect to previously unidentified skeletal remains or Native American burial grounds that may be found during project construction activities.

Finding: Changes or alterations have been required in, or incorporated into the project, which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

BE IT FURTHER RESOLVED that based on all of the information in the public record and on recommendation of the Planning Commission, this Board makes and adopts the following Statement of Overriding Considerations:

The Draft Environmental Impact Report (EIR) prepared for the Crystal Geyser Roxane beverage bottling plant identified three significant adverse unavoidable project impacts relating to aesthetics, biological and groundwater resources. Pursuant to the California State Public Resources Code Section 21081 (b) and the California Environmental Quality Act (CEQA) Guidelines Sections 15091 and 15093, the Board of Supervisors of the County of Inyo has balanced the benefits of the proposed project against potential unavoidable adverse impacts associated with the proposed project and has adopted all feasible mitigation measures with respect to these impacts.

Significant, Unavoidable Impacts:

Aesthetics The development of urban (light industrial) uses in the current open space, desert scrub vegetation setting would constitute a substantial change in the views along U.S. Highway 395. The specific mitigation measures proposed, which are also Conditions of Approval are as follows:

- The County shall require developers to submit full-color architectural renderings, including signage, of all proposed bottling plant facilities. Photo simulations showing the "before" project site and the "after" project site shall also be provided along with a sample board of materials, the proposed color palette, and a landscaping plan. The photo simulations shall be from at least two angles, and from various distances (e.g., 500, 1,000, and 2,000 feet) from both the north and from the south along U.S. Highway 395. The simulations shall show relative height, location, and appearance of the proposed facilities as viewed from U.S. Highway 395. The renderings, sample boards, landscaping plans, and photo simulations shall be submitted for consideration and approval by the Planning Commission prior to approval of building permits.

These renderings and samples shall conform to the following design criteria and be required as Conditions of Approval:

• Buildings shall be constructed with non-reflective surfaces, including roofs and windows, and the windows shall be designed so they face away from the highway.
• Buildings shall be painted or otherwise covered in soft 'desert-sand' colors that match the local tones and hues.
• Buildings, wastewater ponds, outside equipment and utilities such as propane tanks, water tanks, solid waste containers, etc., shall be landscaped or screened with materials such as sand-colored concrete block to reduce visibility from U.S. Highway 395 or nearby businesses.
• Signs shall be externally illuminated. Signage shall not be painted or otherwise affixed to buildings.
• Landscaping and screening shall incorporate native and common ornamental vegetation, such as cottonwood and poplar trees, blackbush scrub, sagebrush, rabbit brush, cactus, and native wildflowers, grasses, and forbs.
• All driveways shall be paved in a light-colored material, and landscaped in native vegetation and vegetation common to the area (e.g., cottonwood and poplar trees, various native and ornamental shrubs, and native flowers and grasses) to the greatest extent possible.
• Use of local soils, rocks, and other materials that give the area a 'natural' look shall be included in the design. Cactus and other fire-resistant vegetation shall be strategically placed on the project site to minimize fire hazard while maintaining visual aesthetics.
• Lighting shall be installed with the lowest illumination feasible, using soft yellow/orange/pink lighting elements, low pressure sodium elements, or other lighting as approved by the Inyo County Planning Director. Baffles, shades, and hoods shall be used to direct all lighting downward, such that light does not escape in an upward or outward direction, and is not reflected onto any off-site buildings or roadways. All light standards and fixtures within parking lots shall be of a cutoff or motion sensor/timed design. Prior to issuance of building permits, the Public Works (Building and Safety) Department will review proposed lighting fixtures to ensure compliance with this measure. The applicant shall submit a lighting plan for the bottling plant showing compliance with the above requirements and specifying the location and intensity of proposed exterior or outdoor lighting features.

The lighting plan shall be subject to review and approval by the Planning Director and Sheriff's Department to ensure that minimum safety standards are maintained while minimizing off-site lighting impacts.

Design and construction of structures, landscaping, and lighting requirements to minimize the impact to the aesthetics, ambience and viewshed of the property would reduce the impact of the proposed development. However, the impact will remain significant and unavoidable.

Biological Resources: The property has been identified as Mohave ground squirrel habitat, and since one individual was trapped on-site, it is assumed that there is a population at this location. The development of light industrial uses in this rural, open space setting, and damage to squirrel burrows and removal of vegetation and other habitat resources, would constitute a substantial impact on this listed species. The specific mitigation measures proposed, which are also Conditions of Approval are as follows:

- Compensatory mitigation for Mohave ground squirrel habitat loss at a rate of 3 acres protected for every one acre lost to development shall be accomplished by one and/or a combination of the following four measures:

a) Acquire lands at a 3:1 ratio that support optimum Mohave ground squirrel habitat in Inyo County, at a location which would be approved by the California Department of Fish and Game (CDFG); and pay a one time endowment fee for the long-term management of these lands, the cost of which shall be negotiated between Crystal Geyser Roxane and the CDFG.

b) Eliminate livestock grazing by fencing the entire site.

c) Purchase grazing leases on BLM grazing allotments in Inyo County within the range and in the habitat of the Mohave ground squirrel and eliminate livestock grazing on these lands.

d) Restore disturbed native vegetation within the range and in the habitat of the Mohave ground squirrel on public or State lands in Inyo County.

Adhering to the requirements of Fish and Game to minimize the impact to the Mohave ground squirrel and squirrel habitat would reduce the impact of the proposed development. In addition, there are thousands of acres of appropriate habitat in the surrounding landscape, so impacts at the 30-acre site will not lead to the extirpation of this species. However, the impact will remain significant and unavoidable.

Groundwater: Pumping of groundwater for the proposed project could lower the water table in the vicinity and impact Olancha Spring and its water-dependent vegetation. The specific mitigation measures proposed, which are also Conditions of Approval are as follows:

- Because of the biological significance of the spring, and the uncertainty over potential impacts of groundwater withdrawal from the production well on the spring, the applicant shall conduct a program of groundwater and spring monitoring. Shallow observation or monitoring wells (20 foot deep) shall be established in the groundwater body supplying the spring and both sides of the fault to determine if the production well is impacting the spring. A baseline of spring flow shall also be established. Monitoring shall be conducted quarterly for a minimum of 5 years, after installation of all wells on the site, with an annual report filed with the Inyo County Planning Department and Inyo County Water Department on the results of the monitoring, along with any conclusions and recommendations. If possible, the monitoring information shall be integrated into the spring monitoring database maintained by the Inyo County Water Department.

- The applicant shall ensure that monitoring well information shall be interpreted in conjunction with an analysis of rainfall patterns and trends in other shallow zone wells and spring observations being conducted by LADWP and Inyo County throughout Owens Valley, to verify that changes in spring flow and water levels in the perched water table are a result of the project, and not due to climatic fluctuations, fault movement, or other causes. Inyo County's Green Book shall be used as the basis for procedures for establishing the monitoring program and interpreting results, and developing follow up mitigations. If the data analysis shows that the CG-2 production well is having an effect on the spring, then the applicant shall develop a mitigation plan to offset the impacts. Suitable mitigations for minor impacts on flow could include enhancing, restoring, and protecting other natural springs and seeps located on the west side of the Owens Valley.

- In order to recognize a change in the wetland vegetation or wildlife populations that might be caused by the project, the applicant shall document baseline information on the current conditions at the spring, prior to project pumping. The baseline biological document shall include low level aerial photography of the spring to document the extent of the wetland vegetation; a survey to determine the plant species composition and structure at the spring; and a survey to obtain a population estimate for the Owens Valley vole and to determine if Wong's springsnail occurs. If the long term monitoring indicates biological impacts are occurring due to pumping, then the applicant shall be required to reduce pumping to a level that does not create such impacts, or provide other appropriate compensatory mitigations measures to the satisfaction of the CDFG and Inyo County, including enhancing and restoring other springs in southwest Owens Valley.

Even with the proposed mitigation measures, significant impacts to visual, biological and groundwater resources will still exist. The Board of Supervisors has also examined project alternatives, as described in the Draft EIR prepared for the project, and found that none of the alternatives, except the "Reduced Project Alternative," fully achieve project objectives of manufacturing bottled water products requiring water with specific qualities which is in sufficient quantities that pumping of this groundwater will not impact neighboring wells or the regional water quality.

As a result, the Board of Supervisors, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project, has determined that the potential unavoidable adverse environmental impacts identified above may be considered "acceptable" due to the following specific considerations, which outweigh the unavoidable, adverse environmental impacts of the proposed project. Each of the separate benefits of the proposed project, as stated herein, is determined to be unto itself, and independent of the other project benefits, as basis of overriding all unavoidable adverse environmental impacts identified in these findings.

Project benefits include:

1. Development of 30-acres of light industrial property that will provide employment for approximately 35 local residents and will add to the tax base of Inyo County, and will not significantly impact the environment or affect the health, welfare or safety of residents and visitors.

All environmental, social, and economic impacts have been identified and analyzed, and mitigation required for any impacts that are deemed significant. Loss of 30 acres of Mohave ground squirrel habitat

and an unknown number of individuals will not result in the elimination of this species from the thousands of acres of adjacent habitat. The development of light industrial uses in an undeveloped open space may result in an aesthetic impact, which is true for most development occurring in currently undeveloped areas. However, setbacks, screening, use of muted desert tones for structures and other impermeable surfaces, use of native landscaping, minimum lighting, screening of accessory facilities, and other mitigation measures reduce the impact and result in a development that will resemble other rural agricultural or light industrial uses in the area. Studies indicate that the water table supplying Olancha Spring is very shallow and is different from, and separated from, the deeper aquifer supplying the production well. In addition, recharge of the regional aquifer is far in excess of cumulative and future groundwater withdrawal.

2. The 30-acre beverage bottling plant implements the objectives established for the proposed project.

The proposed project satisfies the project actions and objectives for the Crystal Geyser Roxane Beverage Bottling Plant, as stated in the Draft Environmental Impact Report, Executive Summary, page ES-1, as follows:

> *The development and operation of a mineral water, juice and tea beverage bottling plant on a 10-acre area in the southeast portion of the property. In this initial phase of development, approximately 10 million gallons of beverage would be bottled per year. The beverage would be exported from Inyo County in the form of manufactured/processed goods (consumer items ready for purchase by the public).*

Conclusion.

For the foregoing reasons, the Board of Supervisors of the County of Inyo, serving as the Lead Agency, concludes that Conditional Use Permit No. 2001-19/, General Plan Amendment No. 2001-03/ and Zone Reclassification No. 2001-04/Crystal Geyser Roxane (Beverage Bottling Plant) for the 30-acre bottling plant project, will result in a beneficial addition of light industrial development on a property that is at a suitable location and which provides the necessary resources, that outweighs the unavoidable environmental impacts. Therefore, the County of Inyo has adopted this Statement of Overriding Considerations.

BE IT FURTHER RESOLVED that, based upon the Initial Study, Environmental Checklist and Final Environmental Impact Report for General Plan Amendment No. 2001-03/Crystal Geyser Roxane, Zone Reclassification No. 2001-04/Crystal Geyser Roxane, and Conditional Use Permit No. 2001-19/Crystal Geyser Roxane, and all oral and written comments received, this Board adopts the Final Environmental Impact Report and certifies that the requirements of CEQA have been satisfied with respect to those three applications.

BE IT FURTHER RESOLVED that, based on that all of the information in the public record and on recommendation of the Planning Commission, this Board hereby approves General Plan Amendment No. 2001-03/Crystal Geyser Roxane and Conditional Use Permit No. 2001-19/Crystal Geyser Roxane. This General Plan Amendment shall be effective thirty days after adoption of this Resolution.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2005

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Ted Williams, Chair
Inyo County Board of Supervisors

ATTEST:
RON JULIFF
Clerk of the Board

By:_____
Pat Gunsolley, Assistant