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Chapter 4.10 MINERAL RESOURCES

4.10.1 Environmental Setting

Gold is the primary mineral resource sought by suction dredge miners. Gold naturally occurs in two types of deposits: lode or placer. Lode gold is found within solid rock, commonly as veins formed in quartz, while placer deposits are found within unconsolidated sediments, typically but not always in stream beds. Suction dredge gold mining involves the pursuit of placer deposits.

Approximately 115,330 ounces of gold were produced by a handful of commercial lode mines in California in 2008 (California Geological Survey [CGS], 2008). The largest lode mine in the state produced 108,000 ounces of gold in 2008 alone (CGS, 2008).

Placer Gold Mining in the State

Streams rich in gold include streams draining the Sierra Nevada, Klamath Mountains, and the Mojave Desert. Some dredging also occurs to a lesser extent within the Peninsular Ranges, Transverse Ranges, northern Great Valley, and Coast Ranges (CGS, 2002a). Dredging is popular in the “Mother Lode Region” which includes the American, Bear, Calaveras, Cosumnes, Feather, Merced, Mokelumne, and Yuba rivers. Most of this area was mined during the mid 1850s, and again during the 1970s and 1980s (CGS, 2002b; Clark, 1972). Table 4.10-1 illustrates the magnitude of placer gold production from the Gold Rush period to 1968.

TABLE 4.10-1. PLACER GOLD ACTIVITY IN CALIFORNIA

| Period | Ounces of Placer Gold Extracted |
|-----------|---------------------------------|
| 1848-1858 | 26,200,000 |
| 1859-1884 | 21,200,000 |
| 1885-1899 | 2,200,000 |
| 1900-1934 | 10,800,000 |
| 1935-1968 | 7,800,000 |
| Total | 68,200,000 |

Source: Churchill, 2000

Most suction dredgers operate in rivers and streams that have been previously mined for gold, in some cases, several times.

1 **Claims**

2 In 1872, the General Mining Law, described further under the *Regulatory Setting* section
 3 below, authorized the prospecting and mining for locatable materials, such as gold,
 4 platinum, and silver on federal public lands. Under this Law, all citizens of the U.S., 18 years
 5 or older, have the right to locate a lode or placer mining claim on federal lands open to
 6 mineral entry. The mining law opens up land in the public domain that has never been set
 7 aside for a specific use. Land dedicated for specific uses such as military installations,
 8 national parks, or wilderness areas, are not subject to mineral entry. Land west of the Great
 9 Plains managed by the U.S. Forest Service or the Bureau of Land Management (BLM), unless
 10 designated as wilderness area, is generally open to mining claims. In California, federal
 11 lands administered by the National Forests or the BLM are available for prospecting
 12 (Demaagd pers. comm., 2009).

13 A miner may stake a 'claim' on public land, which is meant to declare an exclusive right to
 14 extract minerals in the claim area. However, an individual miner does not need a personal
 15 mining claim to mine; mining on an existing claim is legal if permission is given by the
 16 claimant. Claims may be either patented or unpatented. Unpatented claims simply give the
 17 holder the right to mine on the claim, while a patented claim gives the holder outright
 18 ownership of the claim. Once patented, the claim area becomes private land and is
 19 unavailable for public use. There is currently a moratorium by the Federal government on
 20 issuance of new patented claims. (Environmental Working Group, 2000)

21 There are four types of unpatented claims: (1) placer claims, (2) lode claims, (3) tunnel
 22 claims, and (4) mill site claims. An estimated 60,000 to 120,000 people engage in
 23 recreational placer mining, including use of pans and suction dredges, in the Sierra Nevada
 24 each year (U.S. Forest Service 2001). Much of this activity, including the majority of suction
 25 dredging takes place on unpatented placer claims. Table 4.10-2 below shows the number of
 26 reported mineral activity notices or permits within National Forest lands between 1997 and
 27 1999 fiscal years.

28 **TABLE 4.10-2. NUMBER OF MINERAL COLLECTION PERMITS AND NOTICES FOR PLANS TO CONDUCT**
 29 **MINING ACTIVITIES IN NATIONAL FOREST LANDS DURING 1997 AND 1999**

| National Forest | 1997 | 1998 | 1999 |
|------------------------|--------------|--------------|-------------|
| El Dorado | 80 | 29 | 45 |
| Inyo | 3 | 5 | 4 |
| Lassen | 43 | 42 | 0 |
| Plumas | 100 | 100 | 23 |
| Sequoia | 8 | 55 | 5 |
| Sierra | 164 | 144 | 24 |
| Stanislaus | 200 | 200 | 168 |
| Tahoe | 662 | 631 | 659 |
| Lake Tahoe Basin | 0 | 0 | 0 |
| Toiyabe | 0 | 0 | 0 |
| <i>Total</i> | <i>1,260</i> | <i>1,206</i> | <i>928</i> |

Source: Adapted from Table 5.4.a - Non-bonded operations (U.S. Forest Service, 2001)

1 However, activity is not directly related to the number of mining claims in an area because
2 many claims sit idle for years while in other cases, a single operation may tie up several
3 claims.

4 ***Suction Dredge Gold Mining***

5 The popularity of recreational suction dredging fluctuates with the worldwide price of gold.
6 In the last 45 years, the price of gold quickly fluctuated from \$100 per ounce in 1974 to a
7 peak of approximately \$850 per ounce in 1980. The peak in 1980 was followed by a crash
8 to \$250 per ounce in 1999 and a recovery to approximately \$1,200 per ounce in 2010, as of
9 mid-July 2010 (GoldPrice, 2010).

10 In 2009, the California Department of Fish and Game received over 3,600 applications for
11 suction dredge permits. This reflects a gradual decline in this activity from previous years.
12 In the 1980s, the California Department of Fish and Game received an average of
13 approximately 9,070 applications for suction dredge permits per year. This spike in
14 interest appears to be related to the spike in gold prices. However, as gold prices decreased
15 from their 1980 highs, permit requests for the last eight years have averaged fewer than
16 3,000 per year (see Figure 3-1 in Chapter 3).

17 Commercial mines report annual gold and silver production to the California Department of
18 Conservation and pay a tax on the amount of gold and silver produced. There is no such
19 requirement for suction dredgers to report how much gold they produce. However, based
20 on the Suction Dredger Survey results, California resident permit holders recovered on
21 average approximately 3.37 ounces of gold; while out of state permit holders reported a
22 slightly higher amount (3.41 ounces). Based on a selling price of gold at \$1,000 per ounce,
23 this amount translates into an approximate value of \$3,374 and \$3,406 dollars. (Suction
24 Dredger Survey results, Appendix F)

25 **4.10.2 Regulatory Setting**

26 ***Federal***

27 Management of subsurface minerals pursuant to the General Mining Law of 1872 is
28 administered by the BLM. The surface disturbance aspect of mining on federal lands is
29 managed by the applicable land manager (e.g., BLM, U.S. Forest Service).

30 **General Mining Law of 1872**

31 The amended General Mining Law of 1872 allows any U.S. citizen, corporation, or alien who
32 has declared their intention to become a U.S. citizen the right to prospect for, locate, and
33 develop mining claims on open public-domain lands if they meet certain requirements (U.S.
34 Forest Service, 2001; BLM, 2009). Patented mining claims provide the right for a mining
35 claimant to obtain a title to the land and for the mining of locatable minerals, which include
36 metallic minerals (ex., gold) and some types of nonmetallic minerals (ex., gemstones).
37 Under this law, placer deposits can also be claimed and the mineral rights would be
38 acquired by the claim holder (Diggles et al., 1996).

39 Unpatented claims provide rights to the mining of locatable minerals, but do not provide the
40 claimant title to the land. A patented claim is private land and is unavailable for public use.

1 BLM has not been accepting new applications for patents since October 1, 1994 when
2 Congress imposed a budget moratorium on BLM acceptance of any new mineral patent
3 applications (BLM, 2009). Prior to the moratorium, to obtain a patented mining claim, a
4 mining claimant was required to meet the following requirements:

- 5 ■ For mining claims, demonstrate a physical exposure of a valuable (commercial)
6 mineral deposit (the discovery) as defined by meeting the BLM's Prudent Man
7 Rule and Marketability Test;
- 8 ■ For mill sites, show proper use or occupancy for uses to support a mining
9 operation and be located on non-mineral land;
- 10 ■ Have clear title to the mining claim (lode or placer) or mill site;
- 11 ■ Have assessment work and/or maintenance fees current and performed at least
12 \$500 worth of improvements (not labor) for each claim (not required for mill
13 sites);
- 14 ■ Meet the requirements of the BLM's regulations for mineral patenting as shown
15 in the Code of Federal Regulations at 43 CFR 3861, 3862, 3863, and 3864; and
- 16 ■ Pay the required processing fees and purchase price for the requested land
17 (BLM, 2009).

18 The BLM is responsible for managing mineral resources, including the administration and
19 enforcement of this law, on both U.S. Forest Service and BLM lands through its headquarter
20 office and 12 state offices. The two fundamental components of administration of the law
21 are adjudication and mineral examination. The adjudication process is performed by land
22 law examiners in each state office and involves reviewing mineral applications for
23 completeness and compliance with the law and regulations, except for the mineral
24 examination process. Certified BLM geologists or mining engineers will perform a formal
25 mineral examination once an application has been designated as complete and in
26 compliance. Formal mineral examinations verify the discovery of a valuable (commercially
27 viable) mineral deposit on the mining claims and proper use or occupancy for any mill sites,
28 and include the preparation of a mineral report. A mineral contest proceeding may be
29 conducted if applications do not demonstrate a discovery or proper use or occupation. The
30 final approval process for a completed and verified application involves final review and
31 action by the Secretary of the Interior and, if approved, issuance of a mineral patent by the
32 BLM.

33 Federal Land Policy Management Act of 1976

34 The Federal Land Policy and Management Act (FLPMA) of 1976, as amended, was enacted
35 to "establish public land policy, establish guidelines for its administration, provide for the
36 management, protection, development, and enhancement of the public lands, and for other
37 purposes" (U.S. Department of the Interior, 2001). Under the FLPMA, one of BLM's
38 responsibilities is to manage public lands in a manner that considers the Nation's need for
39 domestic mineral sources and implements the Mining and Minerals Policy Act of 1970 as it
40 pertains to public lands (U.S. Department of the Interior, 2001). BLM authorizes and
41 permits mineral exploration, mining, and reclamation actions on BLM public lands as
42 mandated by Section 302(b) of FLPMA (BLM, 2009). Any activities that disturb the surface
43 of a mining claim or site require authorization (BLM, 2009).

1 BLM can provide one of three levels of authorization: casual use, notice level, and plans of
2 operations. The first level, casual use, does not require any sort of notification and applies
3 to dredges with engines less than 10 hp. Under the second and third levels, the purpose of a
4 notice of intent (NOI) or plan of operations is to minimize adverse environmental impacts
5 on surface resources within public lands. These latter two levels require NEPA compliance
6 and Endangered Species Act (ESA) consultation (if applicable).

7 An NOI is required from any person proposing to conduct operations which might cause a
8 significant disturbance of surface resources. The NOI generally applies to exploratory
9 activities involving the use of dredges larger than 10 hp, explosives, or other mechanized
10 earth moving equipment. Camping for more than 14 days also triggers an NOI. Notice level
11 activities must not exceed an annual total unreclaimed surface disturbance of 5 acres per
12 calendar year. The NOI must identify the area involved, the nature of the proposed
13 operations, the route of access to the area of operations, and the method of transport
14 (Electronic Code of Federal Regulations, 2010). Following receipt of a notice of intent to
15 operate, BLM will notify the operator if approval of a plan of operations is required before
16 the operations may begin. In the absence of such a response, the miner is authorized to
17 proceed with the activity following submittal of the NOI. Note that it is up to the miner to
18 determine that the activity exceeds casual use and requires an NOI, although BLM also can
19 inspect a site and require that an NOI be submitted.

20 Larger surface disturbance activities, and the transition from exploration to production,
21 require a plan of operations that is approved by BLM, and reclamation bonding (BLM,
22 2009). A plan of operations is necessary when the activities will likely cause a significant
23 disturbance to surface resources or if requested by BLM following submittal of an NOI. A
24 plan of operations must include but not be limited to:

- 25 ■ contact information for the mining operator and/or claimant,
- 26 ■ a map of the project area and access roads, and
- 27 ■ detailed information on the proposed operations, including transport routes,
28 period of operation, type of operation, and measures to protect the environment
29 (Electronic Code of Federal Regulations, 2010).

30 Mining activities are not authorized to commence without approval of the plan of operation.
31 A review of mining plans of operations by BLM may result in approval of the plans or a
32 request for a validity examination. If BLM determines that a plan of operation has adequate
33 measures to mitigate surface resource impacts to acceptable levels, a plan may be approved.
34 However, if BLM determines that the potential impacts are excessive, a mineral examiner
35 may be requested by BLM to review the plan of operations or conduct a validity
36 examination. Based on the mineral examiner's findings related to the reasonableness of
37 potential impacts, BLM may deny or approve the plan of operations.

38 Any removal of minerals from BLM lands (or public land in general) is considered mining,
39 even if it is for recreational purposes. Miners should contact the appropriate BLM office to
40 confirm the specific potential notification/authorization requirements for a proposed
41 activity.

U.S. Forest Service Mining Oversight

Although BLM manages mineral resources themselves (i.e., mining claims) within U.S. Forest Service lands, the U.S. Forest Service is responsible for minimizing adverse environmental impacts from mining on surface resources in the national forests (U.S. Forest Service, 2001). Wildlife, recreation, timber, and water quality comprise surface resources in the national forests. The U.S. Forest Service protects surface resources from locatable mineral mining activities via proposing mineral withdrawals and noticing requirement similar to those described above for the BLM (U.S. Forest Service, 2001).

In terms of withdrawals, the U.S. Forest Service may propose that areas within the National Forests are no longer available for the location or entry of new mining activities permissible under U.S. mining laws and subject to valid existing rights. To finalize the withdrawal of National Forest System lands from mining, the BLM and/or Congress must provide final approval. The BLM is responsible for reviewing the U.S. Forest Service's proposal and potentially providing approval for withdrawals that have limited time periods (e.g., 20 years) and/or are less than 5,000 acres. For permanent withdrawals larger than 5,000 acres, Congress must provide its approval. Any existing mining rights at the time of a withdrawal must be honored or acquired. (U.S. Forest Service, 2001)

To obtain a permit for locatable mineral mining (e.g., suction dredge mining) on National Forest lands, the U.S. Forest Service uses the same approach as BLM (i.e., one of three levels of authorization: casual use, notice level, and plans of operations). However, the threshold for exceeding casual use is different than for BLM, and generally applies to situations in which there is a long-term encampment or use of closed roads. An exception to the notice of intent and plan of operation requirements is that certain activities require only an administrative pass from the U.S. Forest Service. For mining operations that will last less than 14 days and that will result in minimal surface resource disturbances, the U.S. Forest Service may issue an Administrative Pass that grants a temporary authorization for prospectors and miners who have a statutory right to enter and prospect on public lands (U.S. Forest Service, 2008).

State

Surface Mining and Reclamation Act of 1975 (SMARA)

The purpose of the Surface Mining and Reclamation Act of 1975 (SMARA) and its recent amendments is to "create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations" (California Department of Conservation [CDC], 2007a). Specific objectives of SMARA's surface mining and reclamation policies are to:

- prevent or minimize adverse environmental effects and reclaim mined lands to a condition that is readily usable for alternative land uses;
- encourage the production and conservation of minerals, while considering the values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment; and
- eliminate residual hazards to the public health and safety (CDC, 2007a).

1 The act's requirements apply to anyone, including government agencies, engaged in surface
2 mining operations in California (including those on federally managed lands) that disturb
3 more than one acre and/or remove more than 1,000 cubic yards of overburden or mineral
4 product in any one location (CDC, 2007a; CDC, 2007b). Disturbance or removal activities
5 include, but are not limited to: prospecting and exploratory activities, dredging and
6 quarrying, streambed skimming, removing overburden, borrow pitting, and the stockpiling
7 of mined materials. A disturbance is the occurrence of any of the above surface mining
8 operations on mined lands. Mined lands include the surface, subsurface, and ground water
9 of an area in which surface mining operations will be, are being, or have been conducted,
10 including roads, land excavations, mining waste, and areas in which all structures and
11 equipment related to the mining activities are stored. Overburden is defined as the soil,
12 rock, or other materials that lie above a natural mineral deposit or in between mineral
13 deposits, before or after their removal by surface mining operations (CDC, 2007a).

14 *Mineral Classification*

15 In addition to regulating mining and reclamation activities, SMARA requires the State of
16 California to inventory and classify selected mineral resources within California. The intent
17 of SMARA is to classify the absence or presence of mineral resources within a region,
18 identify the market area of the commodity, and to estimate the future need of the
19 commodity within a geographic area. Additionally, the mineral resource information is
20 referenced in city and county general plans and used during the land-use planning process
21 to restrict the development of incompatible land uses in areas with identified mineral
22 deposits, especially those of regional or statewide significance (CDC, 2007b).

23 Areas are classified into Mineral Resource Zones (MRZ) depending on the occurrence and
24 availability of the mineral resource. Pursuant to Section 2790 of SMARA, the state Mining
25 and Geology Board designates certain mineral resource sectors within geographical areas to
26 be of regional or statewide significance. MRZ maps are available by county. As of 2008, all
27 counties except Los Angeles, Nevada, Marin, Sonoma, Napa, San Joaquin, and Kern have
28 been surveyed for mineral resources (CGS, 2008).

29 As an example, in Yuba County the Yuba City-Marysville production-consumption region is
30 the only area within the county that has MRZ classifications. The classifications are
31 primarily for Portland cement concrete (PCC) aggregate; however, some areas of gold
32 deposits have been identified. Most of the eastern portion of the county has not been
33 classified. The Yuba City-Marysville area has vast quantities of low-cost, high-quality PCC
34 aggregate materials locally available that are more than sufficient to meet the local
35 demands. Within the Yuba City-Marysville production-consumption region, the dredge field
36 in the Yuba River is classified as MRZ-2 for gold. MRZ-2 represents areas where the
37 adequate information indicates that significant mineral deposits are present, or where it is
38 judged that a high likelihood for their presence exists. (CDC, 1988)

39 *SMARA Compliance Process*

40 If a mining activity meets the disturbed/removed area or volume thresholds described
41 above, a miner would be required to complete the SMARA compliance process through the
42 local city or county and the California Department of Conservation, Office of Mine
43 Reclamation (OMR). The SMARA compliance process generally includes: 1) approval of a
44 surface mining permit and/or a conditional use permit, and 2) the preparation and approval

1 of a reclamation plan (McNally pers. comm., 2010, Gonzalez pers. comm., 2010). The
2 applicable city or county typically approves the surface mining or conditional use permits.
3 The approval of reclamation plans is performed by a designated “lead agency,” which may
4 include a city, county, the San Francisco Bay Conservation and Development Commission, or
5 the Mining and Geology board (CDC, 2007a). For El Dorado and Yuba counties, the OMR
6 serves as the lead agency (Gonzalez pers. comm., 2010). Approval of the surface mining
7 permits or conditional use permit and a reclamation plan is contingent on compliance with
8 all other applicable environmental regulations, including but not limited to CEQA, the Clean
9 Water Act, and CESA. The lead agency would inform the mining applicant of the type of
10 CEQA document required and all required permits (McNally pers. comm., 2010).
11 Additionally, approval of the reclamation plan would require approval of a financial
12 assurance plan by the lead agency (Gonzalez pers. comm., 2010). Fees are typically
13 associated with the application process and the required annual inspections of the mining
14 site by the lead agency. Annual production activities must be reported to the OMR until a
15 mine has been certified as reclaimed by the lead agency (Gonzalez pers. comm., 2010).

16 4.10.3 Impact Analysis

17 ***Findings of 1994 Environmental Impact Report***

18 The 1994 EIR did not make findings for this environmental resource area.

19 ***Criteria for Determining Significance***

20 For the purposes of this analysis, the Proposed Program would result in a significant impact
21 if it would:

- 22 ■ Result in the loss of availability of a known mineral resource that would be of
23 value to the region and the residents of the state;
- 24 ■ Result in the loss of availability of a locally important mineral resource recovery
25 site delineated on a local general plan, specific plan or other land use plan; and
- 26 ■ Conflict with any applicable mining regulations of an agency with jurisdiction
27 over the project adopted for the purpose of avoiding or mitigating an
28 environmental effect.

29 As discussed in the *Regulatory Setting* section above, suction dredging miners may be
30 required to comply with a variety of mining laws. An Appendix G threshold of the CEQA
31 Guidelines related to consistency with other laws states an impact would be significant if a
32 project would “Conflict with any applicable land use plan, policy, or regulation of an agency
33 with jurisdiction over the project...*adopted for the purpose of avoiding or mitigating an*
34 *environmental effect.*” The General Mining Law of 1872 was not adopted for the purpose of
35 avoiding or mitigating the environmental effects of mining. Therefore, this discussion does
36 not address if suction dredging activities would comply with this law, because this
37 threshold is not applicable.

38 Unlike the General Mining Law of 1872, one of the purposes of the USFS and BLM
39 authorizations for surface disturbance associated with mining is to prevent or minimize
40 adverse environmental effects. Similarly, one of the specific purposes for which SMARA was
41 adopted is to prevent or minimize adverse environmental effects. Suction dredging miners

1 may be required to comply with SMARA if they meet the threshold requirements.
2 Therefore, the impact discussion below further considers and discusses the potential of the
3 Proposed Program to comply with these requirements.

4 Suction dredging activities requiring notification under Fish and Game Code section 1602
5 are not anticipated to result in any new or more severe impacts related to mineral
6 resources beyond those which are described below.

7 **4.10.4 Environmental Impacts**

8 ***Impact MIN-1: Availability of, or Access to, Placer Gold Deposits (Beneficial)***

9 Mining methods that may be used to access placer gold deposits include but are not limited
10 to suction dredging, high-banking, and panning. Implementation of CDFG's Program would
11 lift an existing ban on suction dredging and would increase the potential access to placer
12 gold deposits using this mining method. Other mining methods (high-banking, panning,
13 etc.) would not be regulated by the Program and could be utilized with or without
14 implementation of the Program, although they may be governed by other regulatory
15 schemes (e.g., Fish & G. Code § 1602 covering alterations to streambeds in the case of high-
16 banking).

17 By permitting the use of suction dredges, the Program would provide another means for
18 recovery of gold from placer deposits. Adoption of the Proposed Program would result in a
19 beneficial impact by allowing an additional method for extracting mineral resources (i.e.,
20 increasing the availability of such resources). The Proposed Program may also include
21 measures to permanently or seasonally restrict suction dredging activities in certain areas
22 of the State. However, these restrictions on suction dredging activities would not preclude
23 other methods of mineral extraction. Therefore, the Proposed Program would not result in
24 a loss of availability from the existing baseline conditions (i.e., prohibition of suction
25 dredging) and would only change the allowable methods of mineral recovery. Therefore,
26 the Proposed Program would have a beneficial impact on the availability and access to
27 placer gold deposits.

28 ***Impact MIN-2: Compliance with Applicable Federal and State Mining Regulations (No 29 Impact)***

30 The Proposed Program would authorize suction dredge mining activities in California. As
31 described previously in this chapter, suction dredge mining activities could occur on
32 federal, state, or privately-owned lands throughout the state. The California SMARA applies
33 to any surface mining activities that occur in the state, including activities performed by
34 federal agencies or on federal lands, and that meet the SMARA volume or area thresholds.
35 Therefore, any surface mining activity in California, including suction dredge mining
36 activities, may be required to comply with SMARA. Similarly, suction dredging activities on
37 federal land must comply with the requirements of USFS and the BLM.

38 Implementation of the Proposed Program would not affect the ability of placer miners using
39 other mining techniques to comply with the applicable federal and state mining regulations
40 because the Proposed Program would only apply to suction dredging miners. In addition,
41 although the Proposed Program's requirements would not directly require compliance with
42 other federal and state mining laws, because it is outside of CDFG's jurisdiction to enforce

1 such a requirement, suction dredging miners would still be responsible for complying with
2 any applicable mining regulations. CDFG is not aware that SMARA compliance has been
3 required related to suction dredging in the past, and hence no known conflicts exist.
4 Similarly, CDFG's past and currently proposed regulations may be stricter in certain
5 respects than BLM and USFS requirements, but CDFG is not aware of any instances where
6 implementation of its 1994 regulations generated conflicts with the requirements of those
7 agencies. The Proposed Program is not believed to include any new or changed provisions
8 that would introduce the potential for such conflicts. Thus, the Proposed Program would
9 not affect the ability of placer miners to comply with applicable state and federal
10 regulations. Therefore, there would be no impact.