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April 29, 2015

California Energy Commission
Dockets Unit, MS-4
Docket No. 86-AFC-1C
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Sir and Madam:

Searles Valley Minerals Inc. hereby submits the following comments on the ACE Project Decommissioning Plan dated November 25, 2014 submitted to the California Energy Commission ("CEC") by ACE Cogeneration Company ("ACC"), Docket No. 86-AFC-1C, (the "Plan").

I. BACKGROUND.

On November 30, 1990, Kerr-McGee Chemical Corporation ("KMCC") transferred certain assets in Searles Valley, California to Searles Valley Minerals Inc. (formerly named "North American Chemical Company", then renamed "IMC Chemicals Inc.", and then renamed "Searles Valley Minerals Operations Inc." and hereinafter called "SVM"). Included in the assets acquired on November 30, 1990 by an assignment from KMCC to SVM was a Ground Lease between KMCC and ACC dated as of April 22, 1988 (the Ground Lease as subsequently amended by the Amendment Agreement (Ground Lease) dated as of April 22, 1988, the Second Amendment (Ground Lease) dated as of November 30, 1990, the Third Amendment Agreement (Ground Lease) dated as of November 3, 1993, the Fourth Amendment to Ground Lease dated as of September 30, 1996, and the Fifth Amendment to Ground Lease dated as of November 6, 2006 hereinafter called the "Lease"). Also included in the assets acquired on November 30, 1990 by an assignment from KMCC to SVM was a Steam Purchase and Sale Agreement between KMCC and ACC dated as of April 22, 1988 (the Steam Purchase and Sale Agreement as subsequently amended by the First Amendment to the Steam Purchase and Sale Agreement dated as of December 15, 1988, the Second Amendment to the Steam Purchase and Sale Agreement dated as of November 30, 1990, and the Third Amendment to the Steam Purchase and Sale Agreement dated as of September 30, 1996 hereinafter called the "SPSA").

Pursuant to the Lease, ACC leases the real property on which its coal-fired circulating fluidized bed power plant sits from SVM for a term that ends on December 31, 2045. ACC owns fee title to the 65-acres of land on which its ash disposal site is located. Pursuant to the SPSA, ACC

purchases brackish and potable water from SVM. SVM also operates plants on property directly adjacent to ACC's plant.

SVM submits its comments as the landowner of the site to be decommissioned, the lessor of the real property on which ACC's plant sits, and as the owner and operator of plants immediately adjacent to ACC's plant site where SVM employs hundreds of workers.

II. COMMENTS.

1. "New Owner"

Throughout the Plan, the term "new owner" is used. SVM understands the term to mean a new owner, approved by SVM, of the buildings and improvements on the leased premises and not a new owner of the real estate that is the site. SVM is the owner and the lessor of the real estate.

2. Assignment from ACC to Sabco, Inc.

The third paragraph of Section 1.1 on page 1-1 of the Plan, and the fourth paragraph of Section 2.1 on page 2-1 of the Plan discuss an agreement reached on November 24, 2014 between ACC and Sabco, Inc. ("Sabco") to assign the Lease to Sabco as part of the Plan.

Section 11.1 of the Lease discusses ACC's rights, as Lessee, to assign all or any part of ACC's interest in the Lease. Section 11.1 provides that ACC may with the prior written consent of SVM, which consent shall not be unreasonably withheld, assign or otherwise transfer all or any part of ACC's interest in the Lease pursuant to a Permissible Transfer as set forth in that certain Limited Partnership Agreement between ACC and KMCC dated as of February 15, 1988. SVM did not acquire from KMCC any interest in that Limited Partnership Agreement. Section 11.1 further provides that SVM may withhold its consent only if the proposed assignee's financial condition is such that it is or will be upon its acquisition of ACC's interest in the Lease be unable to meet its obligations under the Lease as they become due. A copy of Section 11.1 is attached as Attachment 2 A.

ACC did not advise SVM of its agreement with Sabco reached on November 24, 2014 to transfer the Lease to Sabco. SVM only learned of this agreement to assign when it obtained a copy of the Plan, originally filed on November 25, 2014, from the CEC website in early January 2015. On January 12, 2015 SVM gave written notice to ACC that it had learned of this agreement to assignment and that any assignment by ACC required SVM's prior written consent. ACC responded to SVM by an undated letter, acknowledged that SVM's prior written consent is required for any assignment, and asked for SVM's consent to the assignment to Sabco. On January 15, 2015 SVM responded to ACC's letter and asked for financial information on Sabco which SVM understands is a California corporation incorporated on November 7, 2014 with no operations. SVM also advised ACC that SVM had not consented, and was not consenting, to any assignment of the Lease to Sabco. SVM has since its January 15th letter to ACC renewed its request for financial data on Sabco but has not received any response. SVM understands that Sabco was incorporated in California in November 2014 and that it has no operations.

Despite ACC's statements in the Plan about assigning the Lease to Sabco, no such assignment is possible without the prior written consent of SVM and such prior written consent has not been given and may never be given to an assignment to Sabco.

3. Other Uses of the ACC Plant Site.

The third paragraph of Section 1.1 on page 1-1 of the Plan, the second paragraph of Section 1.2 on page 1-2, the third paragraph of Section 1.4 of the Plan, the fourth paragraph of Section 3.1 on pages 2-1 and 2-2 of the Plan, and Section 4.1 on page 4-1 of the Plan discuss the use of the leased land by Sabco for industrial purposes after the power plant and its associated facilities are demolished and removed by ACC.

Section 3.1 of the Lease is quite clear that the property was leased to ACC solely for the construction, operation and maintenance upon the leased premises of a cogeneration facility for the production of steam and electrical power. Section 3.1 also provides that ACC may occupy and use the leased premises for any other lawful purpose, **upon the prior written consent of SVM**. A copy of Section 3.1 of the Lease attached as Attachment 3 A.

Unlike the Lease's provisions on assignment, SVM may withhold its consent to any use of the leased premises for any lawful purpose other than the construction, operation and maintenance upon the leased premises of a cogeneration facility for the production of steam and electrical power. On January 15, 2015 SVM advised ACC that SVM had not consented to and was not consenting to any use of the leased premises for any purpose other than for the production of steam and electrical power.

4. Environmental Considerations.

Section 1.3 on page 1-2 of the Plan states that prior to the construction of the ACE Project, the project site was highly disturbed. The next paragraph states that the ACE site and its surroundings have been used for industrial purposes, including mineral extraction. Section 5.5.3.1 on page 5-26 of the Plan states that the ACE site was undeveloped land until the power generation facility was constructed beginning in 1986.

This may be confusing. As far as SVM knows, there never was any mining ("mineral extraction") on the ACE site or in the areas surrounding the ACE site. SVM's solution mining of brine from beneath the surface of Searles Dry Lake occurs miles from the ACE site. See Figure 3-1 in the Plan. Solution mining occurs over many square miles of Searles Dry Lake, a small portion of which can be seen in the south east area on Figure 3-1.

5. Ownership of the ACC Ash Disposal Site.

Section 3.4 on page 3.2 of the Plan states that the only portion of the existing site owned by ACC is the 65-acre ash landfill and the second paragraph of Section 5.11.1 on page 5-49 of the Plan states that the 65-acre landfill is on property owned by ACC. But in Exhibit D to the Plan, in the second paragraph of paragraph number 1, Discharger, on the first page of Board Order No. 6-00-92 of the California Regional Water Quality Control Board, Lahontan Region ("Water Board"),

Waste Water Discharge Requirements for ACE Cogeneration Company, ACE Ash, dated November 15, 2000 it states that as "the landowner of the property on which ACE disposal operations occur, [SVM] is a responsible party for the discharge and any condition or threatened condition of pollution or nuisance resulting from the discharge as it affects surface or ground waters on [SVM] managed land." SVM only learned of the contents of Board Order No. 6-00-92 when it obtained a copy of the Plan.

By an Ash Disposal Site Easement Agreement of November 30, 1990 ("ADSEA") by and between KMCC and ACC, KMCC permitted ACC to create and manage the 65-acre ash landfill. Paragraph 1. (b) (i) states that ACC, as the Grantee, shall bear any and all costs of remediation, removal and disposition of the ash disposed of on the Ash Disposal Site required under any applicable environmental laws or regulations, including without limitation, the costs of any disposal, treatment, investigation, testing, monitoring or other clean-up activities. Paragraph 6 (b) of the ADSEA provides that ACC agrees to indemnify and hold SVM harmless from and against any and all liability, actions, claims, demands, damages, judgments, fines, penalties, assessments, losses and expenses including attorney's fees for personal injury or death or property damage or other losses arising out of or in connection with or as a result of ACC's operations upon or use of the Ash Disposal Site. The ADSEA was assigned to SVM by KMCC. Copies of paragraphs 1. (b) (i) and 6. (b) are attached as Attachment 5 A.

Recital C to the ADSEA states that KMCC contracted to sell to ACC the Ash Disposal Site pursuant to a Purchase and Sale Agreement dated March 1, 1990. By a Grant Deed dated August 9, 1994 and recorded on February 23, 1995, SVM conveyed to ACC all of its right, title and interest in the ACC 65-acre ash disposal site. So when ACC was negotiating with the Water Board for Board Order No. 6-00-92 in 2000, it knew that it, and not SVM, was the landowner of the 65-acre property on which ACE disposal operations occurred, that SVM did not manage that property, and that all ash disposed of on the Ash Disposal Site was generated by and came from ACC's power plant. A copy of the Grant Deed is attached as Attachment 5 B.

As part of its duties under the Plan, ACC should be required to contact the Water Board and to prepare and file prior to the approval of the Plan any and all documents that are reasonably necessary in SVM's opinion to correct Board Order No. 6-00-92 so that the Water Board is informed and the record is clear that ACC is the landowner of the 65-acre disposal site, that ACC managed the Ash Disposal Site, that all the ash disposed of on the Ash Disposal Site was generated by ACC's power plant, and that ACC is the responsible party for the discharge and any condition or threatened condition of pollution or nuisance resulting from the discharge as it affects surface or ground waters, that SVM is not a responsible party for the discharge and any condition or threatened condition of pollution or nuisance resulting from the discharge as it affects surface or ground waters.

6. Thermal Host Interconnection.

Section 3.8 on page 3-3 of the Plan states that SVM, as the thermal host for the ACC plant, took up to 300,000 pounds per hour of steam.

That is not correct. SVM took up to 600,000 to 650,000 pounds per hour of steam.

7. Water.

Section 3.9 on page 3-4 of the Plan states that ACC obtained both potable water and brackish water from SVM. Section 4 (a) of the SPSA provides that SVM is to provide ACC with 180 GPM of potable water with a peak of 250 GPM at the actual average cost thereof and Section 4 (b) of the SPSA provides that SVM is to provide ACC with at least 1,200 GPM of brackish water with a maximum of 1,700 GPM from the South Brackish and the Valley Wells brackish water systems at the actual average cost thereof. Copies of Section 4 (a) and of Section 4 (b) are attached as Attachment 7 A.

ACC clearly states in Section 5.11.3 on page 5-50 of the Plan that potable water and brackish water will be available for the ACC plant and for any "new owner," and the third paragraph of Public Services, Utilities and Schools of Section 5.14.3.3 on page 5-70 of the Plan states that Decommissioning will likely require potable water. But by a letter dated August 29, 2014, ACC gave written notice to SVM that it was terminating the SPSA effective October 1, 2015. A copy of that letter is attached as Attachment 7 b.

SVM has disputed that termination since Section 2 of the SPSA provides that in order to terminate the SPSA, ACC must have paid SVM for all accrued but unpaid liabilities under the SPSA. SVM maintains that ACC failed to perform its obligations under the SPSA in 2013, 2014 and 2015 and that the damages incurred by SVM in 2013 and 2014 in the period prior to ACC's alleged termination notice are unpaid liabilities of ACC. ACC disagrees with SVM's position. A copy of Section 2 of the SPSA is attached as Attachment 7 C.

ACC's position on potable and brackish water is totally inconsistent. In the Plan, ACC states that potable water and brackish water is and will be available. But that is months after the date that ACC claims it terminated the SPSA, the agreement that gives ACC the right to buy potable and brackish water from SVM. ACC is telling CEC one thing and telling SVM the opposite.

The third paragraph of Public Services, Utilities and Schools of Section 5.14.3.3 on page 5-70 of the Plan states that Decommissioning will likely require potable water. But if ACC has terminated the SPSA, as it claims, it has terminated its right to buy potable and brackish water from SVM. So where will ACE get the water it states it needs for decommissioning?

ACC has continued to take potable water from SVM under the terms of the SPSA after ACC's alleged termination of the SPSA. However, ACC has not paid SVM for water it has taken during 3 time periods, one in late 2014 and two in 2015. ACC was invoiced for that water consumed and has also been notified by a subsequent invoice of its failure to pay over \$800.00 past due. While SVM continues to supply water to ACC, if ACC does not pay its past due invoices, fails to provide adequate assurances for payment for water delivered in the future or if the SPSA has been terminated by ACC or is by mutual agreement terminated in the future prior to its expiration date of October 31, 2015, ACC will no longer be supplied potable and brackish water by SVM. In any event, neither ACE nor any permitted assignee will be supplied water by SVM after October 31, 2015. Where will the water for decommissioning come from?

Section 3.9 and Section 5.11.1 on page 5-49 of the Plan state that SVM obtains brackish water to supply to ACC from its mineral extraction process. That is not correct. According to the SPSA, the brackish water supply from SVM comes from the South Brackish and the Valley Wells brackish water systems.

8. Waste Water.

The Waste Water section of Section 5.5.3.2 on page 5-28 of the Plan states that wastewater generated will include dust suppression drainage and equipment wash water.

Section 4 (d) of the SPSA provides that SVM shall provide, without charge, to ACC disposal of waste water generated by ACC's Facility not to exceed 100,000 ppm total dissolved solids.

As discussed in paragraph 7, Water, above, by a letter dated August 29, 2014, ACC gave written notice to SVM that it was terminating the SPSA effective October 1, 2015. While SVM disputes the validity of that termination notice, if ACC has terminated the SPSA, as it claims, it has terminated its right to have SVM provide disposal of ACC's waste water. In any event, neither ACC nor any permitted assignee will be supplied waste water disposal services by SVM after October 31, 2015. So how will ACC or any permitted assignee dispose of its waste water?

9. Fire Water.

Section 5.6.3.7 on page 5-37 of the Plan states that the existing on-site fire protection systems will be relied upon for as long as buildings remain occupied.

Section 4 (d) of the SPSA provides that SVM shall provide, without charge, to ACC fire water at a capacity of 1,000 GPM.

As discussed in paragraph 7, Water, above, by a letter dated August 29, 2014, ACC gave written notice to SVM that it was terminating the SPSA effective October 1, 2015. While SVM disputes the validity of that termination notice, if ACC has terminated the SPSA, as it claims, it has terminated its right to have SVM provide fire water to ACC. In any event, neither ACC nor any permitted assignee will be supplied fire water by SVM after October 31, 2015. So how will ACC or any permitted assignee operate the existing on-site fire protection system?

10. Underground Foundations, Structures, Pipelines, Etc.

Table 4.2-1 on page 4-3 of the Plan states in the fourth box of Bulk Materials that ACC will remove the tops of foundations not being retained by new owner, Section 4.6 on page 4-6 of the Plan states that underground portions of steam and water pipelines that are not required for SVM operations will be abandoned in place, Section 4.7 on page 4-6 of the Plan states that water pipelines will be left in place for use by the new owner, Section 4.13 on page 4-7 of the Plan states that once the above ground portions of the ACC plant are demolished and removed the site will be cleaned up for future use by the new owner, and Section 5.8.3 on page 5-45 of the Plan states that underground facilities such as foundations, and a natural gas pipeline after being drained will be left in place.

Section 16.2 of the Lease provides that if SVM provides ACC with written notice at least one year prior to the last day of the Lease term that SVM desires that ACC demolish the Project and restore the Premises to its raw land condition, ACC shall do so at its sole cost and expense. A copy of section 16.2 is attached as Attachment 8 A. On November 4, 2014, SVM gave a notice to ACC under Section 16.2 that it wanted the Project demolished and the Premises restored to its raw land condition. A copy of that letter is attached as Attachment 8 B.

As the landowner of the site of ACC's plant, SVM believes that if ACC is going to demolish part of its plant, ACC should be required to remove all underground foundations of buildings or other underground portions of the ACC plant to be demolished and that it further be required to remove all underground steam and water pipelines that are not going to be used by SVM or that could not be used by any building that will not be demolished. It makes no sense to leave the underground parts of foundations and underground pipelines to be removed at the end of the Lease term. If the Lease term does continue until December 31, 2045, most likely no one will recall where these underground foundations and pipelines are located. If these underground foundations and abandoned pipelines remain until the end of the Lease term, then the cost of removing them will be borne by SVM or its successors if and when the property is developed for other purposes.

Since ACC constructed the buildings and the underground pipelines, ACC should be required as part of decommissioning to remove underground foundations of all buildings or other underground portions of the ACC plant to be demolished and that it further be required to remove all underground steam and water pipelines that are not going to be used by SVM.

On page 40 of the Argus Cogeneration Expansion Project Decommissioning Staff Analysis dated April 2015 ("Staff Analysis") in the first paragraph of IMPACT ON EXISTING WASTE FACILITIES, it states that the proposed project would generate 6,000 tons of solid waste. This number will need to be updated if underground foundations, etc. are to be removed as part of the Plan. Also, the number of trucks per day arriving and leaving the site will need to be increased or the period for demolition extended.

11. Hazardous Materials.

On page 26 of the Argus Cogeneration Expansion Project Decommissioning Staff Analysis dated April 2015 ("Staff Analysis") in the first paragraph of HAZARDOUS MATERIALS, it states that according to the Plan, hazardous materials, namely, sodium hydroxide, 50% solution and sulfuric acid that are presently in above ground storage tanks "would be retained onsite and part of the demineralized water treatment system for future use by the new owners." On page 31 of the Staff Analysis, Sabco, the alleged "new owner" is described as "a California corporation operating as a general contractor." A demineralized water treatment system would only serve a power plant. But what Sabco intends to use the site for, if it ever gets an assignment of the Lease consented to by SVM, is unknown. But if it is a general contractor and plans to use the site as a base for its general contracting businesses, Sabco will not need a demineralized water treatment plant on site. This discussion is not, and should not be deemed to be, consent by SVM that Sabco can operate any lawful business on the site other than a power plant as required under the

lease. ACC should be required to remove all hazardous materials from the site, including hazardous materials in the above ground storage tanks used for a demineralized water treatment system and any other hazardous materials.

12. Dust Control.

Table 5.2-1 on page 5-4 of the Plan and Section 5.2.3 on page 5-6 of the Plan state that ACC will use appropriate dust suppression mitigation to limit fugitive particulate matter emissions. AQ-3 of Section 5.2.4 on page 5-12 of the Plan states that ACC's contractor shall submit the Dust Control Plan to the MDAQMD at least 30 days prior to commencement of demolition, the Wastewater section of Section 5.5.3.2 on page 5-28 of the Plan states that wastewater generated will include dust suppression drainage and equipment wash water, Section 5.6.3.7 on page 5-37 of the Plan states that the existing on-site fire protection systems will be relied upon for as long as buildings remain occupied, and Section 5.12.2 on page 5-53 of the Plan states that the water pipelines will remain in place and continue to be used by the new owner of the site.

The second paragraph of Section 5.11.3 on page 5-50 of the Plan states that the brackish water line will be left in place since it also serves "the site's new owner." That is not correct since the owner of the real estate that is the site is, and will remain, SVM.

Dust suppression in the Plan will rely on the use of brackish or potable water. But as commented on in Paragraph 7, Water, above, ACC will not have any potable or brackish water supply under the SPSA since, according to ACC, it terminated the SPSA on September 30, 2014. So how will ACC suppress the dust that will be generated during decommissioning? In addition, ACC is now months late in paying for water delivered by SVM under the SPSA. SVM may be forced to terminate water supply to the site due to ACC's failure to pay its water bills or, if ACC is correct, ACC's termination of the SPSA last year.

Table 5.2-1 on page 5-4 of the Plan refers to Rule 403 and Rule 403.1 – Fugitive Dust. The dust control plan required by the MDAQMD Rule 403.1 should be available for review as part of the Plan

13. Emissions during ACC's Prior Operations.

Table 5.2-2, Comparison of Decommissioning Criteria Pollutant Emissions with Operations, on page 5-8 of the Plan uses emissions during operations in 2013 as the base year. But is this the correct base year since ACC only operated in 2013 mostly during the summer and did not operate during most of the rest of 2013? SVM believes that the last full calendar year that ACC operated its power plant was 2012.

There are no calculations for material handling of demolished materials (such as loading material into trucks), emissions from portable equipment, or cutting of materials with saws or torches. If ACC is going to be required to remove the foundations of structures it has demolished, then the fugitive emissions from demolition will increase and this needs to be considered.

ACC should provide those calculations with the basis for them.

14. Noise.

The second paragraph of Section 5.13.3 on page 5-58 of the Plan uses a noise measurement at the property line of the nearest residence, about 2,000 feet east of the ACE plant. Is this the correct place to measure noise from demolition?

SVM's plant is just across the fence line from the ACE Plant. ACC reports in the Plan that decommissioning will take about 6 months. That means that the noise from the decommissioning will affect SVM's employees for 6 months, especially those who work in areas near ACC's plant. How do we protect these employees from elevated noise levels, especially the very loud noise that should accompany the implosion of the power plant? ACC has not discussed that in its Plan and it needs to be addressed to protect the workers at SVM.

15. Decommissioning Alternatives.

The third paragraph of Section 6.0 states that ACC considered the alternative of restoring the site to its natural state which would add the extra step of covering the site with top soil and planting native vegetation. But ACC reports that it did not propose to do so because the portion of the ACC site where the power plant is located is leased from SVM and the lease is being transferred to a new owner (in reality, a new lessee with the prior approval of SVM, which has not been given).

As stated above, SVM has notified ACC that it wants the site restored to its raw land condition when the lease term ends. SVM sees no reason for ACC not to be obligated, under the Plan, to demolish all structures and improvements to the land and to restore the entire leased property to its raw land condition. As the owner of the site, SVM prefers that the site be cleared and restored to its raw land condition.

SVM hereby requests that the Plan be amended to require that ACC demolish all structures and improvements to the land and to restore the entire leased property to its raw land condition.

16. Board Order No. 6-00-92.

Board Order No. 6-00-92 of the Water Board for the Waste Water Discharge Requirements for ACC ash disposal site requires ACC to submit a post-closure maintenance plan at least 180 days prior to beginning any partial or final closure activities or at least 120 days prior to discontinuing the use of this site for waste treatment, storage or disposal.

As part of the Plan, ACC should be required to submit this document to CEC and have it available for review by the public.

17. Nuisance.

Table 5.2-1 on page 5-4 of the Plan refers to Rule 402 – Nuisance of the MDAQMD. The Description column does not provide a complete description of the requirements. Injury,

detriment, nuisance, annoyance, which endanger the comfort, repose, health or safety or cause injury or damage to business or property are the issues. The requirements for the rule are more extensive than stated in the Plan and have more potential to be an issue with SVM during demolition.

ACC should be required to address these issues in more detail.

18. Explosives Plan.

Section 5.6.3.8 on page 5-38 of the Plan discusses the plan to use explosives for the implosion of the facility boiler.

SVM is concerned about damage due to a shock wave or flying debris to parts of its plant that are only across a fence from where the implosion will occur. ACC needs to disclose what steps it will take to prevent injury to SVM's employees or damage to SVM's plants due to shockwaves or flying debris from the implosion.

Since this is the only asset that ACC has and since ACC will in the near term be out of business, ACC should be required to obtain and maintain insurance of adequate coverage and sufficient amount from a financially secure insurer to cover any damages that could occur to persons or property due to the use of explosives.

19. Boiler Refractory.

Boiler refractory should be checked for radioactivity prior to disposal in the ash disposal site.

20. Asbestos and Lead Paint.

The Plan states that no asbestos or lead paint were used during the construction of the project. What assurances are there that this is correct? Has there been an asbestos or lead paint sampling program done? An asbestos/ lead paint survey should be required and the results available for review by the public prior to demolition.

21. Demolition Permit.

A demolition permit from the San Bernardino County Land Use Services Department is required. It should be obtained and available for public review prior to demolition since this is part of decommissioning. This requirement is not shown in the Plan.

22. Demolition Notice to MDAQMD.

A notice must be submitted to the MDAQMD for demolition per Rule 306 of the MDAQMD. This requirement is not shown in Table 5.2.1 of the Plan.

The notification and forms should be submitted and be available for review prior to the start of demolition. Per the MDAQMD Asbestos Demo/Reno General Information form, asbestos surveys are required prior to renovation and demolition.

23. Post Demolition Site Assessment.

SVM recommends that a site assessment be required after the demolition is completed to assure that no environmental issues, such as ground contamination, exist.

24. Conditions of Certification – CEC Executive Summary.

On page 15 of the Argus Cogeneration Expansion Project Decommissioning Staff Analysis dated April 2015, it is recommended in AQ-SC4 that the project owner shall ensure that all applicable portable equipment used by the demolition contractor shall be registered through the ARB Portable Equipment Registration Program (PERP).

ACC should also be required to ensure that all off-road diesel equipment used by the demolition contractor shall be registered through the CARB off road program and has the proper CARB decals.

ACC should also be required to ensure that all applicable on-road diesel equipment used by the demolition contractor shall be registered through the CARB Truck and Bus Regulation and that proof of registration be available for view.

25. Fire Protection and Emergency Medical Response.

On pages 48 and 49 of the Argus Cogeneration Expansion Project Decommissioning Staff Analysis dated April 2015, the provision of fire protection and emergency medical response is discussed. SVM provided fire protection and emergency medical response services to ACC for a monthly fee under an Emergency Response Agreement. However, ACC has not paid those fees to SVM for at least three past months, despite a past due invoice sent to ACC. Since ACC has not paid past due amounts to ensure that SVM will provide those services, ACC should not rely on SVM providing those services during decommissioning. Fire, rescue and hazmat services for emergency incidents during decommissioning may overcome ACC's capabilities.

26. Commencement of Decommissioning.

It is stated on page 136 of the Commission Decision and Order adopted on January 6, 1988 in the Application for Certification for the Argus Cogeneration Expansion AFC that at least 12 months prior to commencing decommissioning activities at the ACE facility, ACC shall file the decommissioning plan with the CEC Compliance Project Manager. The decommissioning plan was filed with CEC on November 25, 2014.

SVM understands that the commencement of the decommissioning activities may not start before November 25, 2015, 12 months after the date the decommissioning plan was filed with CEC. Is this correct? If not, please advise why and on what date decommissioning may start?

Very truly yours,

Searles Valley Minerals Inc.

By: 

Ross H. May

Director of Safety, Security, Health and Environmental

ATTACHMENTS

of the sums awarded with Lessee's Mortgagee, then within thirty (30) days after the expiration of that period, each such party shall submit its good faith estimate of the value of said interests or the amount of said diminution as of the date of the taking. If the higher of said estimates is not more than 105% of the lower of such estimates, the value or the amount of the diminution shall be the average of the submitted estimates. If otherwise, then within ten (10) days the question shall be submitted to the courts, or as the parties may otherwise agree.

11. ASSIGNMENT; SUBLETTING; HYPOTHECATION.

11.1. Right to Assign and Sublet.

Lessee shall have the right with the prior written consent of Lessor, which consent shall not be unreasonably withheld, to assign or otherwise transfer all or any part of Lessee's interest in this Lease or in the Premises and the Project, pursuant to a Permissible Transfer as set forth in that certain Limited Partnership Agreement between Lessee as general partner and Lessor as limited partner, dated as of February 15, 1988. Lessor may withhold consent only if the proposed assignee's financial condition is such that it is or will be upon its acquisition of the Lessee's interest in this Lease, reasonably unable to meet its obligations under the Lease as they become due. Provided that Lessee's assignee assumes all of Lessee's obligations under this Lease, upon the assignment of all of Lessee's interest hereunder, Lessee shall have no further liability for any obligation hereunder. Lessee shall have the right, without the consent of Lessor, to sublet the whole or any part of the Premises and the Project. Lessor's consent shall not be necessary for any transfer of this Lease at a foreclosure sale, either to Lessee's Mortgagee or to any other party taking at such sale, or for an assignment by Lessee in lieu of foreclosure, or in conjunction with the appointment of a receiver or other enforcement proceedings initiated by Lessee's Mortgagee. Lessor's consent shall also not be necessary for any assignment of this Lease by Lessee to a partnership, joint venture, corporation or other legal entity from which Lessee is entitled to receive at least twenty percent (20%) of all profits and losses of such entity relating to the Premises, the Lease, or the Project, and upon such assignment of all of Lessee's obligations under this Lease, Lessee shall have no further liability for any obligation hereunder.

3. USE OF PREMISES.

3.1. Use.

Lessee shall have the right to use the Premises for construction, operation and maintenance of a power generating facility or facilities and related fuel storage and fuel transportation facilities and appurtenant uses without consent of Lessor. Lessee shall have the right to obtain conditional use permits and/or changes in zoning affecting the Premises to provide for said uses. Any improvements constructed on the Premises (the "Project") shall be at Lessee's sole and absolute discretion provided the Project is consistent with the uses permitted herein. Lessee may occupy and use the Premises for any other lawful purpose, upon prior written consent of Lessor. So long as no default has occurred and is continuing hereunder, Lessor covenants peaceful and quiet enjoyment of the Premises by Lessee.

Lessor covenants and warrants that the Premises are not now affected by any zoning restrictions, covenants, restrictions, easements or agreements which prohibit the construction, operation and maintenance upon the Premises of a cogeneration facility for the production of steam and electrical power and coal terminal facility for delivery of coal to Lessee and Lessor (the "Project") with appurtenant parking, nor do the same prevent access to and from the Premises and the roadways adjoining the Premises.

3.2. Compliance with Ordinances, Etc.,

Lessee shall at its sole cost, subject to Lessee's right to contest pursuant to Section 16.16 hereof, comply with the requirements of all applicable municipal, county, state and federal authorities now in force, or which may hereafter be in force, in any manner pertaining to all or any part of the Premises or the improvements thereon, or the use or occupancy thereof, and shall faithfully observe in such use and occupancy all applicable municipal, county, state and federal statutes, ordinances, rules, regulations, orders and directives now in force or which may hereafter be in force.

3.3. Toxic Substances.

Lessor represents and warrants that the Premises are vacant land and have not been used for the storage or

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Paragraph 1, (b) (i) of ADSEA

(a) The exclusive easement and right of ingress and egress over and across the real property (the "Ash Disposal Site") situated in San Bernardino County, State of California and legally described on Exhibit "C" attached hereto and incorporated herein for the disposal of ash generated locally by Grantee.

(b) The Grantee's easement rights and other rights set forth in paragraph 1(a) are subject to the following covenants, conditions and restrictions on use:

(i) Grantee shall bear any and all costs of remediation, removal and disposition of the ash disposed of on the Ash Disposal Site required under any applicable environmental laws or regulations, including without limitation, the costs of any disposal, treatment, investigation, testing, monitoring or other clean-up activities; and

(ii) It is understood and agreed that Grantor makes no representations or warranties that the Ash Disposal Site is suitable for such use. Grantee represents to Grantor that it has made an on site inspection of the Ash Disposal Site, and that Grantor has made no representations or warranties as to the condition of the Ash Disposal Site or its suitability for Grantee's intended use.

2. Use of Easement.

(a) Grantee shall have the right from time to time to cut down and clear away any and all trees and brush now or hereafter located on the Ash Disposal Site to the extent necessary for Grantee's use of the Easement.

(b) Grantee shall have the right to mark the Ash Disposal Site with suitable markers.

(c) Grantee may from time to time increase or decrease its use of the Easement without affecting its rights hereunder.

(d) The parties to this Agreement shall exercise their respective rights hereunder and in connection with the Ash Disposal Site in accordance with applicable law and not in a manner which will unreasonably interfere with the exercise of the rights of the other party hereunder.

3. Repair and Maintenance/Title. This Agreement shall not obligate Grantor to operate, construct, maintain and/or repair any improvements on the Ash Disposal

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Paragraph 6. (b) of ADSEA

without modification except as may be represented by the requesting party and that there are no uncured defaults on the part of the requesting party.

5. Representations, Warranties and Covenants.

Grantor represents, warrants and covenants that, subject to the provisions of this Agreement, Grantee shall have quiet and peaceable enjoyment of the Easement and other rights contained herein without claim or interference by Grantor or any party claiming by or through Grantor.

6. Indemnification.

(a) By Grantor. Grantor shall indemnify, save harmless, and defend Grantee from and against any and all suits, actions, legal proceedings, claims, fines, demands, costs, and expenses for injury and death to persons and damage to property of third parties caused by the willful misconduct or negligence of Grantor in connection with Grantor's use of the Easement, Ash Disposal Site or its obligations hereunder, including, but not limited to, attorneys' fees and expenses. This provision shall in no way limit Grantor's obligations for indemnification set forth elsewhere or arising at law or in equity.

(b) By Grantee. Grantee agrees to indemnify and hold Grantor harmless from and against any and all liability, actions, claims, demands, damages, judgments, fines, penalties, assessments, losses and expenses including interest, court costs and attorneys' fees for personal injury or death or property damage or other loss arising out of or in connection with or as a result of Grantee's operations upon or use of the Ash Disposal Site. This provision shall in no way limit Grantee's obligations for indemnification set forth elsewhere or arising at law or in equity.

7. Priority of Agreement. This Agreement and all rights hereunder are and shall be prior, and shall not be subject or subordinate in any respect, to any mortgage that may now or hereafter affect the Grantor's right, title or interest in the Ash Disposal Site or any advance made under any such mortgages, or any renewals, modifications, replacements and extensions thereof. In confirmation of such priority, the parties hereto shall promptly execute and deliver and cause the Holder to execute and deliver any instrument that any party or such Holder, or any of their respective successors in interest, may reasonably request

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Page 1
RANNO No. 15008 -39

SIGNATURE REMITT

NORTH AMERICAN CREDIT, COMPANY, A DELAWARE CORPORATION

BY Tony Gaspovich V/Caregiver
Tony Gaspovich

BY _____

95-056819

95-056819

GOVERNMENT CODE 37361.7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: Linda L. HagerDATE COMMISSION EXPIRES: 08/12/95DATE: Feb. 22, 1995

PLACE OF EXECUTION: SAN BERNARDINO COUNTY, STATE OF CALIFORNIA

Linda L. Hager
NOTARY PUBLIC

CHICAGO TITLE COMPANY

GEOFF TAYLOR

95-056819

95-056819

Page 1

Tract No. 14001 -18

LEGAL DESCRIPTION EXHIBIT

PARCEL 1 OF PARCEL MAP NO. 14001, IN THE COUNTY OF SAN BERNARDINO, AS PER PLAT RECORDED IN BOOK 174 OF PARCEL MAPS, PAGES 11 TO 17, INCLUSIVE RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM AN UNDIVIDED 1/16TH OF ALL COAL, OIL, GAS AND OTHER MINERAL DEPOSITS, AS RESERVED BY THE STATE OF CALIFORNIA BY PATENT DATED OCTOBER 31, 1919, IN BOOK 254, PAGE 246 OF OFFICIAL RECORDS.

RESERVING INTO THE DONOR, ITS SUCCESSORS AND ASSIGNS, ALL OF THE GAS AND OTHER MINERAL DEPOSITS AND RIGHTS OF DOMINANT EASEMENT, EXCEPT AS TO ANY DEPTH MORE THAN 200 FEET BELOW THE RESPECTIVE PRESENT SURFACE ELEVATIONS OF THE HEREIN DESCRIBED PROPERTY, TOGETHER WITH ALL RIGHTS ASSOCIATED THEREWITH, WITHIN, HOWEVER, THE RIGHT OF SURFACE ENTRY.

95-056819

shorter period as may be agreed between Owner and Kerr-McGee, provided, however, Kerr-McGee covenants and agrees that it shall accept and use each year at least that amount of steam, as currently established under PURPA, necessary to maintain the status of the Facility as a Qualified Facility during the Term of this Agreement, notwithstanding any Force Majeure event (unless such event affects actual delivery and use of the Steam) at, or the closing of, the Chemical Plant. In the event of any Force Majeure that affects actual delivery and use of the Steam, Kerr-McGee shall use its best efforts to remedy such Force Majeure and shall take the Steam from Owner under this Agreement prior to Steam from other sources. In the event that the Owner is required, by a change in PURPA, to increase the amount of steam tendered to maintain its status as a Qualified Facility, Kerr-McGee shall use its best efforts to take such additional requirement.

(d) Except as set forth in Section 3(a), Owner makes no warranties, express or implied, as to the quality or characteristics of Steam supplied.

(e) At Kerr-McGee's option, and in its sole cost and expense, Kerr-McGee may recover carbon dioxide from the flue gas of the Facility, provided said recovery does not affect the operations of the Facility.

* 4. Facility Operation - Water.

(a) Subject to the provisions hereof, as of January 1, 1990, Kerr-McGee shall provide to Owner 180 GPM continuous of potable water with a peak of 250 GPM, in compliance with the specifications set forth on Exhibit A, on a daily basis for use at the Facility.

(i) Kerr-McGee does not warrant that the quantity or quality of potable water will be available at any particular time, provided Kerr-McGee shall use its reasonable efforts to provide the quantity and quality of potable water specified herein.

(ii) Kerr-McGee does not anticipate immediate capital investments in the potable water systems to accommodate Owner. However, Kerr-McGee anticipates the possibility of significant long-term capital investments in the potable water systems for (i) relocating its wells within the Indian Wells Valley and (ii) extending and modernizing

the pipeline system from Indian Wells Valley to Searles Valley. In addition to paying for all reasonable costs incurred in connecting to the potable water system, Owner shall pay its prorata share of such long-term capital and operating costs amortized as a straight line basis over the expected life of the capital improvements by an adjustment in the water rates.

(iii) The total use of potable water by Kerr-McGee, Owner and the Searles Domestic Water Company ("SDWC") would be approximately an average of 1500 GPM. SDWC is a regulated public utility. If allowed by law, Kerr-McGee will provide potable water directly to Owner under terms and conditions as set forth under this Section 4. If required by law that the potable water be provided through SDWC, the terms and conditions will be those applicable under such laws and regulations.

(iv) If Kerr-McGee provides potable water directly to Owner, Owner will pay Kerr-McGee for potable water at the actual average cost therefor (including a reasonable allocation for depreciation on facilities existing as of the date hereof based upon the unamortized cost of said facilities and as set forth in (ii) above) of operating the potable water system, allocated among the users thereof based on usage. Such average actual cost for the last year for which details are available was \$.42 per 1000 gallons for 1984 and is forecast as \$.42 per 1000 gallons for 1988.

(b) Subject to the provisions hereof, as of February 1, 1990 Kerr-McGee shall further provide or cause to be provided to the Owner at least 1200 GPM of brackish water with a maximum of 1700 GPM, meeting the specifications set forth on Exhibit B, for use at the Facility.

(i) Kerr-McGee does not warrant that the requested quantity or quality of brackish water will be available at any particular time, provided Kerr-McGee shall use its reasonable efforts to provide the quantity and quality of brackish water specified herein.

(ii) Pursuant to the Emission Control, Maintenance and Construction Agreement dated as of April 22, 1988, between the parties, Owner will reimburse Kerr-McGee for the cost to improve the

brackish water system by drilling and completing two new wells and installing a new pipeline to deliver brackish water from Valley Wells to Owner and Kerr-McGee. In addition, Owner will interconnect with existing South Brackish Field water system at a point in or near the Chemical Plant.

(iii) Kerr-McGee will operate the South Brackish and the Valley Wells brackish water systems, along with other sources of brackish water which may be available from time to time, as a combined system, provided, however, Kerr-McGee will provide Owner with brackish water only from the Valley Wells unless Owner approves of an alternative source, and Owner will pay Kerr-McGee for the brackish water delivered to it at the actual average cost (including a reasonable allocation for depreciation on existing facilities based upon the unamortized portion of the cost of the existing facilities but excluding depreciation on facilities paid for by Owner) of operating the combined system. Such average actual costs for the last year for which details are available was \$.29 per 1000 gallons for 1984 and is forecast as \$.36 per 1000 gallons for 1988.

(iv) Kerr-McGee will manage the combined brackish water system and use reasonable efforts to provide the quantity and quality of water needed by Kerr-McGee and Owner using the available facilities and blending of the different sources to the extent practical.

(v) With respect to quality, if after implementing the foregoing, the quality requirements of either or both parties cannot be met, then:

- a. If one party is dissatisfied with the quality and elects to seek to improve the quality of the water it uses, that party shall bear the entire cost (capital and operating cost) to provide the improved quality brackish water.
- b. If both parties are dissatisfied with the quality and elect to seek to improve the quality, the parties shall bear the cost (capital and operating cost) in proportion to both (i) the relative quality improvement required by each of the parties and (ii) their respective use of brackish water.

quality improvement required by each of the parties and (ii) their respective use of brackish water.

(vi) With respect to capacity, Kerr-McGee will use its best efforts to provide the capacity needed by both parties, including reasonable spare capacity. If either party requests an increase in use over a base volume of 7500 GPM for Kerr-McGee and 1320 GPM for Owner, the parties shall first conduct a hydrologic assessment of the remaining reserves. The additional production shall be undertaken only if (i) the assessment indicates that the additional production will not jeopardize the availability of brackish water for Kerr-McGee or Owner at the rates of 7500 GPM and 1320 GPM respectively through the year 2020, and (ii) the requesting party pays the entire cost of the increased production capacity. In the event the non-requesting party subsequently increases its rate, the non-requesting party at the time of each increase shall pay to the requesting party a prorata share of the costs of the increased capacity.

(c) If the available supply of potable water or brackish water falls, or is projected to fall, or is restricted to a level that could not supply the total requirements of both parties, (i) the available supply will be prorated between the parties in proportion to their requirements, and (ii) the total cost of increasing capacity to meet the requirements of both parties shall be borne by the parties in proportion to their use.

(d) As of May 6, 1988 Kerr-McGee shall further provide, without charge, to Owner fire water at a capacity of 1000 GPM and disposal of waste water generated by the Facility not to exceed 100,000 ppm total dissolved solids.

(e) Kerr-McGee shall return to the Owner 100% of the Condensate meeting the specifications set forth in Exhibit C, provided, however, in the event that Kerr-McGee does not return 100% of the Condensate or the Condensate quality is not in accordance with the specifications, Kerr-McGee shall pay to Owner the reasonable additional cost incurred by Owner as a result of either action.

ACE COGENERATION COMPANY, LP
600 Anton Blvd, 11th Floor
Costa Mesa, CA 92626

August 29, 2014

VIA E-MAIL AND FEDERAL EXPRESS

Mr. Roland Buchs
Searles Valley Minerals Inc.
P.O. Box 96
Trona, CA 93592
buchs@svminerals.com

Re: Termination of ACE Cogeneration Facility Steam Purchase and Sale Agreement (the "Agreement")

Dear Mr. Buchs:

Please be advised that, as we have previously informed you, the ACE Cogeneration Facility will be permanently terminating its operations effective as of September 30, 2014. Accordingly, the Agreement is hereby terminated effective as of such date in accordance with Section 2 of the Agreement.

We will be in contact to coordinate regarding the wind up of ACE's operations, but wanted to be sure that we provided written notice in the time frame contemplated by the Agreement to allow SVM time to plan for the shutdown.

Please let me know if you have any questions or would like to discuss this further.

Sincerely,

ACE COGENERATION COMPANY

By: 

Name: Glen Casanova

Title: General Manager

Section 2 of the Steam Purchase
and Sale Agreement

(m) "Steam Point of Delivery" - the point at which Kerr-McGee accepts Steam by connection to the Facility downstream of measurement devices.

(n) "Surplus Steam" - Steam in excess of the steam required to satisfy the Owner's obligations under the SCE Contract.

(o) "Tender" - shall be deemed to occur whenever the Facility is capable of delivering Steam at the Steam Point of Delivery.

(p) "Term" - the term of this Agreement as provided under Article 2 below.

(q) "Year" - a calendar year from January 1 to December 31.

2. Term.

This Agreement shall be effective as of the date of execution and shall continue for a term of twenty one (21) years after the date Owner has given the notice set forth in Paragraph 3 hereof. Either Party shall have the right to terminate this Agreement without liability, upon 30 days' written notice in the event the Owner fails to obtain on or before August 1, 1988, all equity and financing commitments and each of the material agreements incidental to the development and construction of the Facility, all in form and substance acceptable to the Owner. Owner shall have the further right to terminate this Agreement at Owner's election upon thirty (30) days written notice and payment of all accrued but unpaid liability hereunder upon permanent termination of the construction or operation of the Facility.

3. Facility Operation - Steam.

(a) Commencing with the first day that the Facility is capable of delivering Steam pursuant to and in accordance with the terms hereof, as reasonably determined by Owner and Owner has given written notice thereof to Kerr-McGee, but not before December 15, 1990, unless Owner otherwise elects, Owner shall have available for Tender to Kerr-McGee and shall deliver to Kerr-McGee in accordance with the terms of this Agreement, without charge, Steam up to a maximum amount of 498,724,000 pounds per year with minimum pressure of 450 psig (with pressure fluctuations not to exceed plus or minus five percent on a continuous basis) and minimum temperature of 700 degrees Fahrenheit from the

unless the same is in writing executed by the party whose rights are being waived or modified. No surrender of possession of any part of the Premises shall release Lessee from any of its obligations hereunder unless accepted by Lessor, or unless permitted in the Lease. The receipt and retention by Lessor, and the payment by Lessee, of BYR or additional rent with knowledge of the breach of any covenant or agreement contained in this Lease shall not be deemed a waiver of such breach by either Lessor or Lessee.

16.2. Surrender of Premises; Holding Over.

Lessee agrees on the last day of the Lease Term or on the earlier termination of this Lease, to surrender the Premises, including all then existing improvements in good order, condition and repair, wear and tear excepted. In the event, however, that Lessor provides written notice to Lessee at least one (1) year prior to the last day of the Lease Term that Lessor desires Lessee to demolish the Project, and restore the Premises to its raw land condition, Lessee agrees to do so at its sole cost and expense, in compliance with all applicable laws, including, without limitation, laws regulating the decommissioning of cogeneration facilities. No act or thing done by Lessor or Lessor's agents during the Lease Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Lessor. Nothing contained herein shall be construed as a consent to any occupancy or possession of any portion of the Premises and the Project by Lessee beyond the expiration of the Lease Term or earlier termination of this Lease. Any holding over with Lessor's consent shall be on a month-to-month tenancy, on the same terms and conditions contained herein.

16.3. Notices and Consents.

Wherever in this Lease it shall be required or permitted that notice, request, demand or other communication be given or served by either party to this Lease to or on the other, or on Lessee's Mortgagee, such notice, request, demand or other communication shall be given to the party to whom directed, in writing, and delivered personally or forwarded by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:



Searles Valley Minerals

13200 Main St., Trona, CA 93562
P.O. Box 367, Trona, Ca 93592-0367
(760) 372-4311

November 4, 2014

Mr. Glen Casanova
General Manager
ACE Cogeneration Company, LP
600 Anton Blvd., 11th Floor
Costa Mesa, CA 92626

Sent via e-mail and certified mail, return receipt requested

Re: Ground Lease dated as of 22 April 1988

Dear Mr. Casanova:


We refer to Section 16.2 of the Ground Lease dated as of 22 April 1988 by and between ACE Cogeneration Company, LP ("Lessee") and Searles Valley Minerals Inc., assignee Kerr-McGee Chemical Company, ("Lessor"), as subsequently amended on 22 April 1988 by the Amendment Agreement, on November 30, 1990 by the Second Amendment Agreement (Ground Lease), on November 3, 1993 by the Third Amendment Agreement (Ground Lease), on September 30, 1996 by the Fourth Amendment to Ground Lease, and on November 6, 2006 by the Fifth Amendment to Ground Lease (said Ground Lease as amended to date hereof herein called the "Ground Lease"). Terms defined in the Ground Lease and used in this letter shall have the meanings set forth in the Ground Lease.

Section 16.2 states that if Lessor provides written notice to Lessee at least one (1) year prior to the last day of the Lease Term that Lessor desires that Lessee demolish the Project, and restore the Premises to its raw land condition, Lessee shall do so at its sole cost and expense. The Lease Term is now scheduled to expire on December 31, 2045.

Lessor hereby gives written notice to Lessee that Lessor desires that Lessee demolish the Project prior to the last day of the Lease Term and restore the Premises to its raw land condition at Lessee's sole cost and expense.

Very truly yours,

Searles Valley Minerals Inc.

By: 

Director, Strategic Investment