UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105-3901
OCT 2 1 2009

Mr. Michael Bennett
Bureau of Land Management
Palm Springs-South Coast Field Office
1201 Bird Center Drive
Palm Springs, CA 92262

Subject: Draft South Coast Resource Management Plan Amendment and Draft Environmental Impact Statement for Santa Ana River Wash Land Exchange [CEQ# 20090244]

Dear Mr. Bennett:

The U.S. Environmental Protection Agency (EPA) has reviewed the Bureau of Land Management's (BLM) Draft Environmental Impact Statement (DEIS) for the proposed Santa Ana River Wash Land Exchange. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act (CAA).

The DEIS analyzes the potential impacts associated with the exchange of ownership of approximately 315 acres of BLM land with approximately 320 acres of land owned by the San Bernardino Valley Water Conservation District (District), and the amendment of the South Coast Resource Management Plan (SCRMP). The lands proposed for the exchange are located within the Santa Ana River Wash in southwestern San Bernardino County, California. The land exchange will facilitate implementation of the 2008 Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (Wash Plan). The Wash Plan encourages the coordinated development of multiple resource uses in the Santa Ana River Wash, including habitat conservation, water conservation, recreation, transportation, and aggregate mining. The DEIS analyzes two alternatives, the Proposed Action (land exchange), and a No Action Alternative.

The primary purpose of the land exchange is for the BLM to dispose of isolated lands which have been previously degraded by mining activities, and to acquire District lands with higher habitat value adjacent to an existing Area of Critical Environmental Concern (ACEC) parcel. EPA recognizes that the exchange will allow the BLM to consolidate fragmented parcels with high-quality habitat, resulting in improved management of the ACEC. The land exchange would also consolidate federal ownership, improve administration efficiency, and increase habitat preservation.

From the perspective of environmental stewardship, we support the overall goals of the land exchange. We recognize that people from multiple agencies have worked together for years on this collaborative effort, and that it is inherently difficult to balance the competing needs of various parties and multiple land uses.

Based on our review, we have rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) (see the enclosed "*Summary of EPA Rating Definitions*"). We have concerns about the indirect impacts associated with the planned expansion of aggregate mining and the potential effects of these activities on endangered species and wetlands. We are also concerned that baseline conditions of threatened and endangered species have not been fully evaluated nor disclosed within the DEIS. Without this information, it is difficult to assess the impacts associated with the Proposed Action or to design appropriate mitigation measures to minimize these impacts. Please see the enclosed Detailed Comments for a description of these concerns and our recommendations.

We appreciate the opportunity to review this DEIS. When the Final Environmental Impact Statement (FEIS) is released for public review, please send one hard copy and one CD ROM to this office at the same time it is officially filed with our Washington D.C. office. If you have any questions, please contact me at (415) 972-3521 or Ann McPherson, the lead reviewer for this project, at (415) 972-3545 or at mcpherson.ann@epa.gov.

Sincerely,

Kathleen M. Goforth

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions
EPA's Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

EPA DETAILED COMMENTS ON THE DRAFT SOUTH COAST RESOURCE MANAGEMENT PLAN AMENDMENT AND DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE SANTA ANA RIVER WASH LAND EXCHANGE, OCTOBER 21, 2009

Project Description

The Proposed Action is the exchange of ownership of approximately 315 acres of Bureau of Land Management (BLM) land with approximately 320 acres of land owned by the San Bernardino Valley Water Conservation District (District), and the amendment of the South Coast Resource Management Plan (SCRMP). The exchange would dispose of isolated lands that have been previously degraded by mining activities within the Santa Ana River Wash Area of Critical Environmental Concern (ACEC) and would allow BLM to consolidate fragmented parcels with high-habitat value. Of the 315 acres of BLM lands that would be offered to the District, approximately 259 acres would be leased for mining and 56 acres would be set aside for habitat conservation. In exchange, the BLM would receive 320 acres of land owned by the District with high quality habitat values located adjacent to other ACEC lands and managed habitat. Additional acreage (85 acres of BLM land and 60 acres of District land) may be exchanged to equalize values.

The BLM-parcel was identified for exchange because it is generally degraded, contains limited habitat, is rich in aggregate resources, and is located adjacent to existing mining operations (pg. 1-3). Lands acquired by the BLM through the proposed exchange would be added to the Santa Ana River Wash ACEC and would also become part of the planned multi-jurisdictional, multi-species Habitat Conservation Area (HCA).

Water Resources

Impacts to Wetlands and Waters of the U.S. (WOUS)

Chapter 4 (Environmental Consequences) of the Draft Environmental Impact Statement (DEIS) indicates that implementation of the Proposed Action would not have any effects to the hydrology/floodplain. The Proposed Action includes only the transfer of land and does not include potential ground-disturbing activities that could alter drainage patterns (pg. 4-13). The DEIS recognizes that there will be indirect effects on hydrology, including the potential for groundwater production, which is deemed insignificant, as well as erosion and siltation, which will be controlled by site-specific measures.

While the DEIS states that the applicant should consult with the appropriate responsible resource agency to verify that any needed discretionary permits/authorizations (Clean Water Act (CWA) Section 401 and Section 404) have been secured, there is no information on specific wetland locations or acreage within either of the exchange parcels. Indirect impacts of the proposed action would include the degradation and loss of wetlands and other WOUS located within the proposed land exchange, and the habitats associated with them.

Recommendation:
The Final Environmental Impact Statement (FEIS) should identify, delineate, and quantify all wetlands and WOUS located within the proposed land exchange. Based on proposed or reasonably foreseeable land uses, the FEIS should describe and quantify the acreage of wetlands/waters that will be impacted under each alternative. The document should also describe avoidance measures that can be implemented to minimize the potential negative impacts to these resources.

Endangered Species

The DEIS indicates that two State and federally listed plant species (Santa Ana River woolly-star and slender-horned spineflower) as well as two federally listed wildlife species (California gnatcatcher and San Bernardino Kangaroo Rat (SBKR)), have been observed in the Project Area (pg. 3-59). Figures 3.5 and 3.7 illustrate the occurrences of these four listed species and other special designations within the Project Area, including future land use. Based on these tables and figures, it appears that these species are not as prevalent on District lands as on BLM lands. The SBKR, in particular, appears more prevalent on BLM lands, in both the proposed preservation areas and the proposed mining areas (fig. 3.7).

Chapter 4 (Environmental Consequences) of the DEIS defers to the *Biological Technical Report* prepared by URS (April 2009). The *Biological Technical Report* is intended to disclose and evaluate the on-site habitat conditions and determine the potential for occurrence of biological resources, including special status species (Appendix G - pg. 1-1). The report does not contain quantitative data about the occurrence of species in the land parcels, nor does it adequately describe the technical information that was reviewed or the methodology used to analyze the data (Appendix G - pg. 2-2). Instead, the DEIS simply notes that the woolly star, spineflower, and SBKR are known to occur on both BLM and District lands, and notes that future landowners will be informed to consult with the U.S. Fish and Wildlife Service or other responsible resource agency, prior to initiating any soil-disturbing activities (pg. 4-19).

The DEIS points out that executing the land exchange would increase the quantity and quality of ACEC designated land (from 400 acres to 580 acres) and secure the establishment of a contiguous corridor along Plunge Creek southward. The DEIS also states that biological resources would continue to be actively managed under both project alternatives through either ACEC designations or Designated Critical Habitat (DCH), and concludes there will be no direct effects on federally protected plant and animal species or their habitats from the execution of any alternative (pg. 4-17). The DEIS notes, however, that impacts to special status species and their natural habitats would occur at a degree proportional to the activities occurring within the existing areas. We note that the DEIS states that approximately 259 acres would be leased for mining and approximately 56 acres would be set aside for habitat conservation (ES-2); however, there is no evaluation of the indirect impacts associated with this proposal to expand mining operations.

EPA is concerned about indirect impacts on these endangered species, particularly the SBKR. We note that the mere presence of these species on both parcels of land does not equate to the relative occurrence, distribution, and abundance of the species within each parcel. The DEIS does not present a detailed analysis of the occurrence and distribution of these species beyond the very basic qualitative information presented in tables 3.3 and 3.4 and figures 3.5 and 3.7. Nor does the DEIS evaluate the indirect impacts associated with the expansion of aggregate mining in the BLM land parcel. We also note that there is no evidence of concurrence by the U.S. Fish and Wildlife Service on the conclusions presented in the DEIS, including the *Biological Technical Report*.

Recommendations:
EPA recommends that the FEIS include more detailed information about the occurrence and distribution of these species, in particular, the SBKR, on both parcels of land.

The FEIS should analyze all direct, indirect, and cumulative impacts to federally-listed, State-listed, and BLM sensitive species from all anticipated land exchange scenarios considered.

The FEIS should describe the data sources that were reviewed in conjunction with the preparation of the *Biological Technical Report* and discuss differences in sampling protocol and methodology used to analyze the data in each of the studies referenced in that report.

The FEIS should document that the BLM has incorporated the most recent data available from the U.S. Fish and Wildlife Service and the California Department of Fish and Game. If such data are not incorporated, the FEIS should explain why.

EPA recommends that, if not yet complete, the BLM conduct thorough baseline surveys of the endangered species on both parcels of land prior to the land exchange, so that the issue of potential impacts to such species can be fully vetted prior to the completion of the transaction.

Because of the potential impacts to the SBKR, we recommend BLM consult with the U.S. Fish and Wildlife Service and include the outcome of this consultation in the FEIS.

We recommend that the FEIS discuss additional monitoring and mitigation, as appropriate. We recommend that the BLM work closely with the U.S. Fish and Wildlife Service and the California Department of Fish and Game to determine appropriate mitigation measures.