UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 11, 2008

Vicki Wood, Field Manager
Bureau of Land Management
1661 S. 4th Street
El Centro, CA 92243

Subject: Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the United States Gypsum Company Expansion/Modernization Project, Imperial County, California [CEQ #20080089]

Dear Ms. Wood:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementation Regulations at 40 CFR 1500-1508, and Section 309 of the Clean Air Act.

In our July 14, 2006, letter on the Draft EIS/EIR, we expressed concerns that the proposed project could have adverse impacts on watershed resources, including water quality and habitat, groundwater quality and quantity, and air quality. We continue to have concerns regarding water resources and recommend the Bureau of Land Management address these issues prior to issuing the mining permit and document them in the Record of Decision (ROD). Our detailed comments are enclosed.

We appreciate the opportunity to review this Final EIS/EIR and request a copy of the ROD when it becomes available. If you have any questions, please call me at (415) 972-3846 or have your staff call Jeanne Geselbracht at (415) 972-3853.

Sincerely,

/s/

Nova Blazej, Manager
Environmental Review Office

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Enclosure: EPA's Detailed Comments

Cc: Jurg Heuberger, Imperial County Planning and Development Services
Robert Smith, U.S. Army Corps of Engineers

Groundwater Resources

The Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) does not provide predicted concentrations of contaminants in area wells that could result from increased pumping and groundwater drawdown from United States Gypsum Company's (USG) wells. In Response 25-7, the Final EIS/EIR refers to discussions of groundwater level changes and Mitigation Measure 3.3-2, but we were unable to find a discussion of predicted impacts to constituents such as fluoride, boron, and iron in groundwater. Although Mitigation Measure 3.3-2 describes how potential exceedences of drinking water standards would be mitigated, predictions of potential groundwater degradation in area wells would be useful to understand the likelihood of impacts to water quality both for constituents that could meet standards and for constituents likely to exceed them. According to Table S-1 of the Final EIS/EIR (pp. S-17, 18), degradation of water quality from increased pumping would be a significant impact and, even with implementation of Mitigation Measure 3.3-2, would still be a significant impact.

In addition if, beyond a few wells close to the USG pumping wells, groundwater quality data indicate a downward trend in water quality in the basin, the Final EIS/EIR (pp. S-17, 18) states the only way to halt or reverse these trends would be to curtail pumping by reducing production at the Plant or by implementing one or more project alternatives that reduce or eliminate withdrawals from the basin prior to the groundwater quality being degraded to the point were it was no longer suitable for its current uses. However, this is not considered a mitigation measure in the Draft EIS/EIR (pp. 3.3-80, 81) as its effectiveness appears questionable. Furthermore, it is unclear whether, under such circumstances, reducing or eliminating withdrawals would be included as a requirement of USG's permit.

> **Recommendation:** We recommend the Bureau of Land Management (BLM) seriously consider other practicable means to avoid or minimize these significant impacts and identify them in the Record of Decision (ROD). The ROD should state whether all practicable means to avoid or minimize these impacts have been adopted, and if not, why they were not. [40 CFR 1505(c)]

The Final EIS/EIR (Table S-1) indicates that Mitigation Measures 3.3-1 and 3.3-2 would only require USG to replace degraded or depleted water supplies in affected wells for ten years after cessation of groundwater pumping, or until the well recovers to baseline levels or water quality standards, whichever comes first. These measures are inadequate because replacement water would only be required for ten years after pumping cessation, even if impacts lasted much longer.

> **Recommendation:** These mitigation measures should be revised to require USG to monitor and fully mitigate affected wells for as long as impacts exceeding water quality standards or baseline impacts (e.g., increased pumping costs) last. The ROD should include these revised commitments to ensure full mitigation of impacts to groundwater wells.

Waters of the United States

It appears that activities involved in the proposed mine expansion would involve the discharge of dredged or fill material into waters of the U.S. In our July 14, 2006, letter on the Draft EIS/EIR, we raised the need for substantial additional information on waters of the U.S. that could be affected by the proposed project. We recommended the Final EIS/EIR describe all waters of the U.S. and discuss how they could be affected by the project, including past impacts. We recommended the discussion include acreages and channel lengths, habitat types, values, and functions of these waters and reference project-scale maps that clearly depict these waters and their proximity to each part of the project (e.g., pipelines, quarries, roads, etc.). We recommended the maps also depict the existing channel diversions as well as proposed channel diversions for all future quarrying phases. However, the Final EIS/EIR does not provide this important information.

> **Recommendation:** We recommend the ROD describe all waters of the U.S. and discuss how they could be affected by the project, including acreages and channel lengths, habitat types, values, and functions of these waters, and describe all proposed channel diversions for all future quarrying phases.

Activities involving discharge of dredged or fill material into waters of the U.S. require authorization by the U.S. Army Corps of Engineers (Corps) and compliance with the substantive environmental criteria of the Federal Guidelines (Guidelines) at 40 CFR 230 promulgated under Section 404(b)(1) of the Clean Water Act. However, the Final EIS/EIR states that, although a Section 404 permit application is anticipated for the quarry plan (Response 25-4), the Corps has not been contacted or notified of the proposed project and a jurisdictional delineation has not been conducted (Response 25-2). Response 25-5 states that USG will contact the Corps and California Department of Fish and Game to determine jurisdictional boundaries and apply for appropriate permits. In addition, pursuant to 40 CFR 230, any permitted discharge into waters of the U.S. must be the least environmentally damaging practicable alternative (LEDPA) available to achieve the project purpose. Agencies should integrate the requirements of Section 404 with the National Environmental Policy Act (NEPA) in the formation of project purpose and alternatives, analysis of impacts, and development of mitigation measures to clearly demonstrate that the proposed project is the LEDPA. As we stated in our Draft EIS/EIR letter, this information was needed in the Final EIS/EIR, including an evaluation of the project alternatives in order to demonstrate the project's compliance with the 404(b)(1) Guidelines. The Final EIS/EIR does not provide sufficient information on avoidance alternatives or mitigation to fully offset unavoidable impacts to waters of the U.S. as required under the Guidelines (40 CFR 230.10(d)).

> **Recommendation:** To inform the mine permitting decision regarding the proposed project's compliance with the Clean Water Act Section 404(b)(1) Guidelines BLM should ensure the proposed project complies with the Clean Water Act Section 404(b)(1) Guidelines before signing the ROD. A jurisdictional

delineation should be conducted for the project area, and BLM should coordinate with the U.S. Army Corps of Engineers to determine if the proposed project requires a Clean Water Act Section 404 permit. If, under the proposed project, dredged or fill material would be discharged into waters of the U.S., the ROD should discuss the alternatives that were analyzed and selected to avoid or minimize those discharges and describe and commit to mitigation to fully offset unavoidable impacts to waters of the U.S. Mitigation should be implemented in advance of the impacts to avoid habitat losses due to the lag time between the occurrence of the impact and successful mitigation. The discussion should include the following information:

- Acreage and habitat type of waters of the U.S. that would be created or restored;
- Water sources to maintain the mitigation area;
- The revegetation plans including the numbers and age of each species to be planted;
- Maintenance and monitoring plans, including performance standards to determine mitigation success;
- The size and location of mitigation zones;
- The parties that would be ultimately responsible for the plan's success;
- Description of a long-term financing plan for the mitigation; and
- Contingency plans that would be enacted if the original plan fails.