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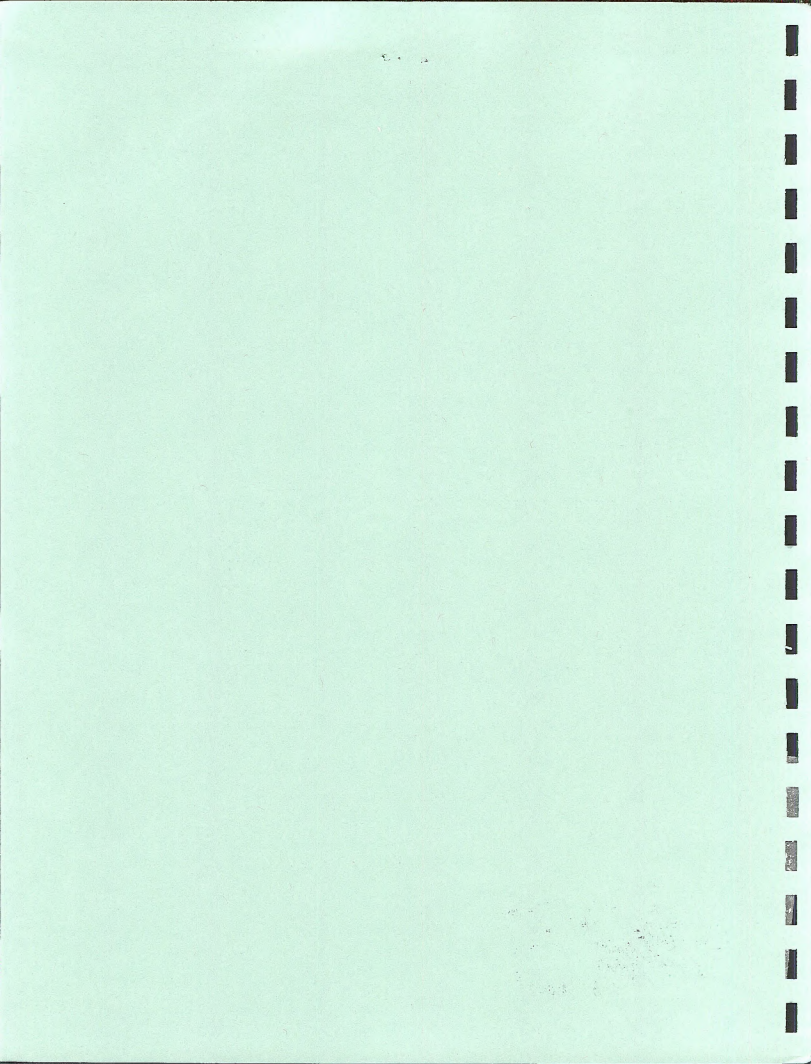


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# ENVIRONMENTAL ANALYSIS HANDBOOK

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## Introduction





# Introduction

## Purpose

This handbook is designed to supplement the Bureauwide NEPA Handbook which provides guidance for implementing and complying with the National Environmental Policy Act of 1969 (NEPA). The purpose of this handbook is to provide additional guidance on programs and procedures pertinent to California.

## An Overview

The purpose (spirit) of NEPA is:

"To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere, and stimulate the health and welfare of man; to enrich the understanding of ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality."

The letter of the law requires Federal agencies to:

1. Develop methods and procedures which will insure that environmental resources may be given appropriate consideration in decision-making, along with economic and technical consideration;
2. Utilize a systematic and interdisciplinary approach;
3. Make diligent efforts to involve the public, and to provide for public disclosure of proposed actions on public land, the analysis of these proposals and any alternatives and the BLM decision regarding the proposal.

The Council of Environmental Quality (from the Executive Office of the President) established the methods and procedures for complying with NEPA (i.e. the NEPA process) in the CEQ Regulations (40 CFR 1500-1508). Additional guidance may be found in:

Departmental Manual (516 DM 1-6). Prepared by the Office of Environmental Project Review (OEPR), this manual applies to all agencies and Bureaus in the Department of the Interior. Appendix 5 is the BLM section.

National Environmental Policy Act Handbook (H-1790-1). Prepared by the Washington D.C. BLM office, this handbook applies to all BLM offices.

Public involvement is achieved through participation in the decision-making process and the availability of public disclosure documents, such as: Environmental Assessments (EA), Environmental Impact Statements (EIS), Decision Records (DR), Record of Decisions (ROD), and Categorical Exclusion Review (CER).

Public disclosure documents are of three basic types: 1) notices, 2) analytical documents, and 3) decision documents. Notices include Notice of Intent and Notice of Availability. The EA and EIS are analytical documents which describe the proposed project and its likely impacts. The DR and ROD are decision documents which declare what the federal agency is going to do. A proposal may not be implemented until the decision document has been signed by the authorized officer (i.e. the decision-maker, 40 CFR 1506.1).

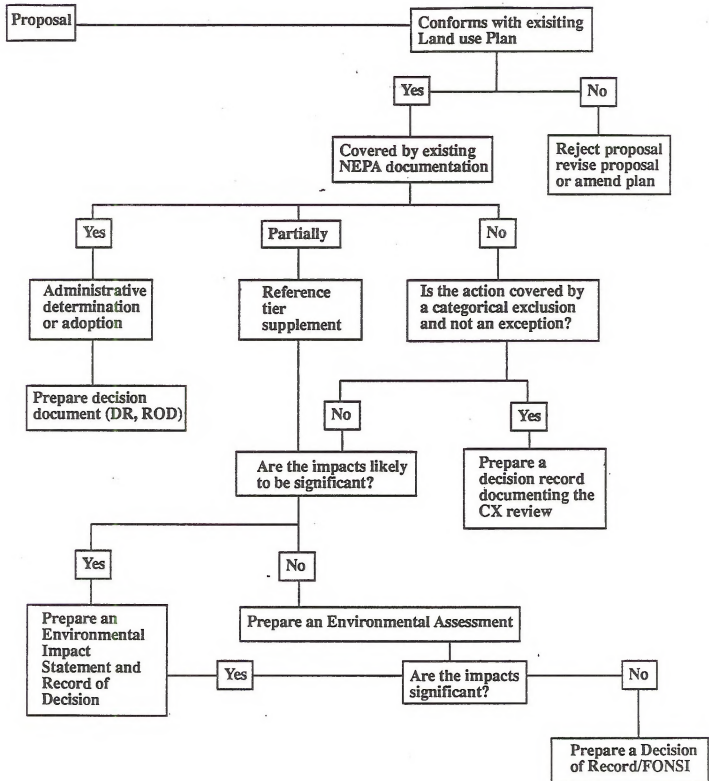
## **The NEPA Process**

There are five basic steps to completing the NEPA Process:

1. **Scoping** (Chapter I of this guidebook), which includes:
  - a. Defining the proposal (Chapter I-A);
  - b. Establish interdisciplinary team (Chapter I-B);
  - c. Plan Conformance determination (Chapter I-C);
  - d. Initiate public participation (Chapter VII-C & D);
  - e. Select documentation type (Figure 1, Chapter 1-D);
2. **Data collection:** based on recommendations from the interdisciplinary team and the public, the appropriate data needed for analysis is collected.
3. **Documentation of the Environmental Analysis** (Chapters II, III, IV and V)
4. **Decision Documentation** (Chapters II, III, IV and V)
5. **Project Implementation and Monitoring** (Chapter VI)



Figure 1: NEPA Documentation Process







**Chapter I - Screening for NEPA Compliance**



## Chapter I: Screening for NEPA Compliance

### A. Project Initiation

There are two basic types of proposals (also known as proposed projects, or proposed actions):

Internally Generated Proposals are initiated by BLM employees. The proposed action (or group of proposed actions, for example, an activity plan) are resource management actions which fulfill the objectives of the land use plan (the Resource Management Plan-RMP or the Management Framework Plan-MFP), or warrant amendment of the land use plan.

Externally Generated Proposals are initiated by private parties, state or other federal agencies. These proposals typically require resource use permits, grants, leases, or mining plan approval.

Before a proposed project can be considered for approval (i.e., before the NEPA process can begin):

1. BLM must have jurisdiction over the land and associated resources in the project area.
2. Funds for processing and implementing the proposal should be included in the annual work plan, or in a cost-reimbursable account (external projects only).

Early in the process, a clearly defined proposal must be described in writing. Adequate environmental analysis can not begin until the proposal and any alternatives have been clearly defined. Constantly changing proposals, or proposals which have not been thoroughly thought out in the beginning can result in unreasonable expenditures of time, money and staff resources, and incomplete environmental analysis.

This is also the time to start thinking about mitigation measures which can be built into the proposal. Ideally, the proposed action should incorporate the mitigation measures to reduce or eliminate adverse impacts.

### B. Roles in the NEPA Process

#### Project Lead

When a proposed action is considered for approval, the line manager shall assign a project lead (team lead) who is responsible for the NEPA analysis. Generally, this person will be a resource specialist from the benefiting subactivity. Duties include:

1. Developing the NEPA document for the proposed action;
2. If applicable, coordinate with the project proponent (applicant) and affected parties;
3. Coordinate with the resource specialists for their input;
4. Conduct/coordinate the monitoring to ensure that the proposed action is implemented as approved and mitigated.
5. If applicable, report to the District Office or State Office Project Coordinator on the status of the project and any additional needed information.

## B. Roles and Responsibilities (cont.)

If the proposed action crosses Resource Area, District or State boundaries, a District Office staff person may be selected as project lead.

### Environmental Coordinator

Each office should assign the overall responsibility for NEPA compliance to an individual on a full or part-time bases. Duties include:

1. Assists the Project Lead in deciding: 1) what level of documentation is needed, and 2) what resources and issues are of concern;
2. Assists in conflict resolution;
3. Reviews environmental documents for NEPA compliance;
4. Screens actions for conflicts with existing planning documents;
5. Oversees maintenance of the EA roster and files.

### Resource Specialists

Duties include:

1. Be members of the Interdisciplinary Team;
2. Respond to a data request from the Project Lead in a timely fashion;
3. Provide the Project Lead with a description of the affected environment and environmental consequences within the scope of the proposed action and alternatives;
4. Provide the Project Lead with reasonable mitigation for the anticipated impacts.

### Branch Chiefs

Duties include:

1. Assure the timeliness and quality of the product;
2. Facilitate conflict resolution;
3. Screen the recommendations in light of on-going management policy/desires.

### Area Manager

Conveys to the staff, particularly the Branch Chiefs and the Environmental Coordinator, whether or not the document is meeting the needs for sound management decisions.

## B. Roles and Responsibilities (cont.)

### State and District Office Coordinators

Duties include:

1. Become familiar with the project or plan. This includes travel to the project site on one or more occasions;
2. Coordinate briefings and internal review;
3. Consolidate internal comments and transmit those comments to the project lead within the allowable time frame;
4. Coordinate document review with other agencies.

## C. Plan Conformance

### General Guidance

The proposed action must be in conformance with the existing land use plan for consideration (FLPMA Sec.302(a); 43 CFR 1610.5-3(a); BLM 1600).

Conformance means the proposed action and its impacts are consistent with the planning objectives, policies and decisions listed in the land use plan.

Proposed actions which will result in significant surface disturbance or impacts to resources must be specifically mentioned in the land use plan for these actions to be in conformance.

If the proposed project does not conform with the land use plan, then the project must either be 1) rejected, 2) revised to conform with the land use plan, or 3) revise the land use plan through an amendment prior to further consideration of the project.

The applicant may protest a decision to reject a proposal due to nonconformance to the next level of BLM organization. For example a protest should be filed with the District Manager on an Area Manager's decision. The IBLA has dismissed such protests (reference the Carrasco case: 90 IBLA 39 (1985) - Docket # IBLA 86-42).

### Documentation

All Categorical Exclusion Records (CER), Environmental Assessments (EA) and Environmental Impact Statements (EIS) must include a statement identifying the land use plan that authorizes the proposed action. Be sure to include the name of the land use plan, date approved and summarize the authorizing decision.

### Example

This proposed action is in conformance with the Arcata Resource Management Plan (April, 1992) which lists as one of its resource condition objectives: "enhance riparian condition in Butte Creek" (page 28).

#### D. Type of Documentation: CER, EA or EIS

The decision to complete a CER, EA or an EIS is determined by the line manager (authorized officer). The current standards and guidelines for determining which is the appropriate document are described in CEQ regulations (40 CFR 1501.3, 1501.4), the DOI Manual 516 DM 6-Appendix 5, and the BLM NEPA Handbook. (See also Appendix 1 in this handbook.)

Proposals which will result in significant impacts must be analyzed through an EIS. Additional factors to consider are:

1. Document length. An EA should not exceed 10-15 pages. If a substantially longer document is needed, consider preparing an EIS. Lengthy EAs (which are usually complex or controversial) will require nearly the same amount of analysis, public and agency participation, and internal review as an EIS for the same project.
2. Mitigation ("Mitigated FONSI's"). If potentially significant impacts can be reduced to an acceptable level through mitigation, an EA can be used. However, BLM must have the authority to implement the mitigation measures. An EIS should be considered if the effectiveness of the mitigation is in doubt.
3. Controversy. Controversial actions generally warrant preparation of an EIS. Be sensitive to issues that may be controversial to state or national groups even if no controversy is identified locally.

A project is not considered controversial simply because members of the public are opposed to the project. A project is deemed to be controversial when the significance of the impacts are in question or there is a potential for significant adverse impacts to the environment. There must be sufficient technical or environmental basis for concern to warrant an EIS.

4. Anticipated protests, appeals, or litigation. If BLM's decision is likely to be challenged, an EIS may be more defensible than an EA if the effects of the action may be significant.
5. Cyanide, pesticides and other hazardous chemicals. An EIS is required for projects involving cyanide or other hazardous chemicals if the impacts are likely to be significant; otherwise, an EA may be used. In either case, the EIS or EA is subject to State Director review.
6. Size of Disturbance. Mining operations disturbing 640 acres or more require an EIS. This includes cumulative acres over the life of the operation. Lands associated with the mining operation which have been reclaimed are also included in the total disturbed acreage.

The need for an EIS may NOT be avoided by submitting separate Plans of Operation for different phases of the project. All phases of the mining operation must be considered when calculating the total disturbed acreage.



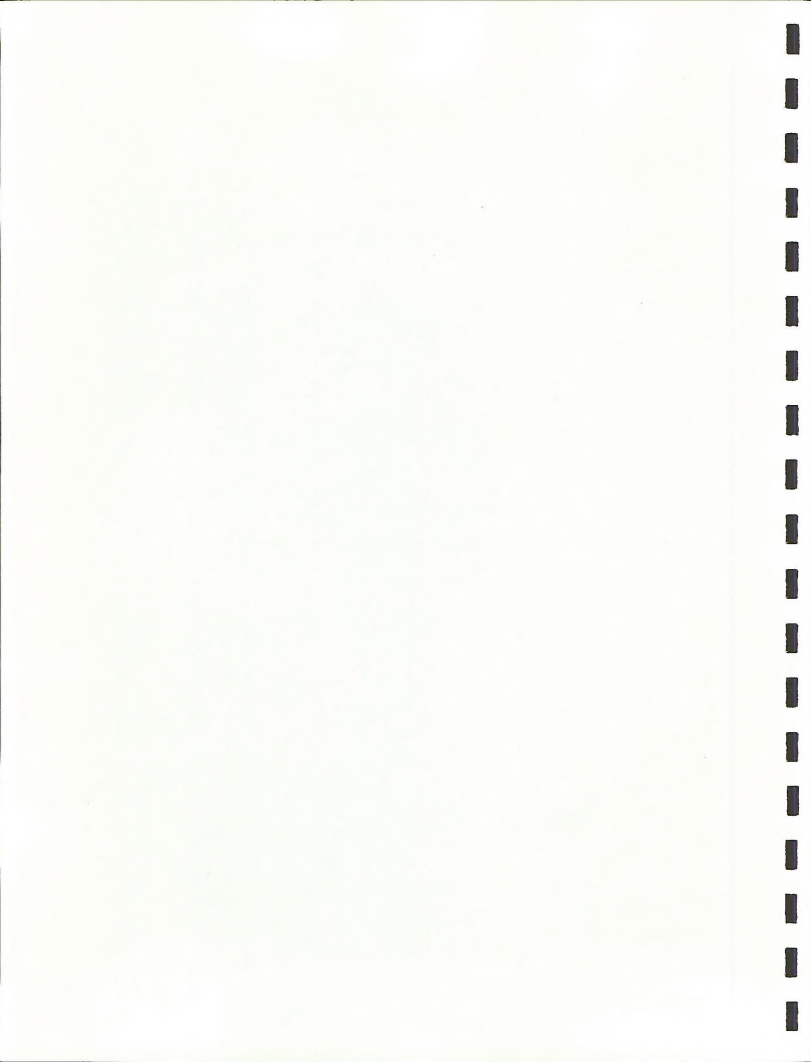
D. Type of Documentation: CER, EA or EIS (cont'd)

7. Cumulative Impacts. An EIS is required if BLM's action will result in significant cumulative impacts to resource values, even if BLM's action by itself would not result in significant impacts. The accumulation of incremental impacts to resource values can occur on private, state or federal lands. For example, the United States District Court for the Eastern District of California placed an injunction (prohibited) a U.S. Forest Service timber salvage project because "Although ... the South Fork Fire Recovery Salvage Project in itself is unlikely to result in substantial erosion, ... the ... Project produces sediment which, acting cumulatively with sediment from all other sources, is likely to cause irreparable damage to the salmon and the steelhead population of the South Fork Trinity River" (NO. CIV. S-88-1322 LKK).

There is no need to do an EA if it is known that an EIS will be required (40 CFR 1501.3(A)).



## Chapter II - Using Categorical Exclusions



## Chapter II: Using Categorical Exclusions

### General Guidance

Categorical Exclusions are actions which have been found to not have significant effects (individually or cumulatively) on the human environment and may be excluded from the EA or EIS process.

To determine if a proposed action may be categorically excluded from further NEPA compliance, 1) review the list of actions which qualify as categorical exclusions (Appendix 2, revised March 31, 1992), and 2) check the list of exceptions (conditions likely to ensue adverse affects) to verify that none apply. If any of the exception criteria apply, the proposed action does not qualify as a categorical exclusion.

### Documentation

In California, we encourage that all categorically excluded, surface disturbing actions be documented with at least a decision record. See Appendix 3 for examples. These should also be noted in the EA register (see Chapter VII, under "Record Keeping").

Generally, stipulations should not be attached to a Categorical Exclusion Decision Record. If stipulations are required to mitigate potential impacts, an EA or EIS may be needed instead of a categorical exclusion.

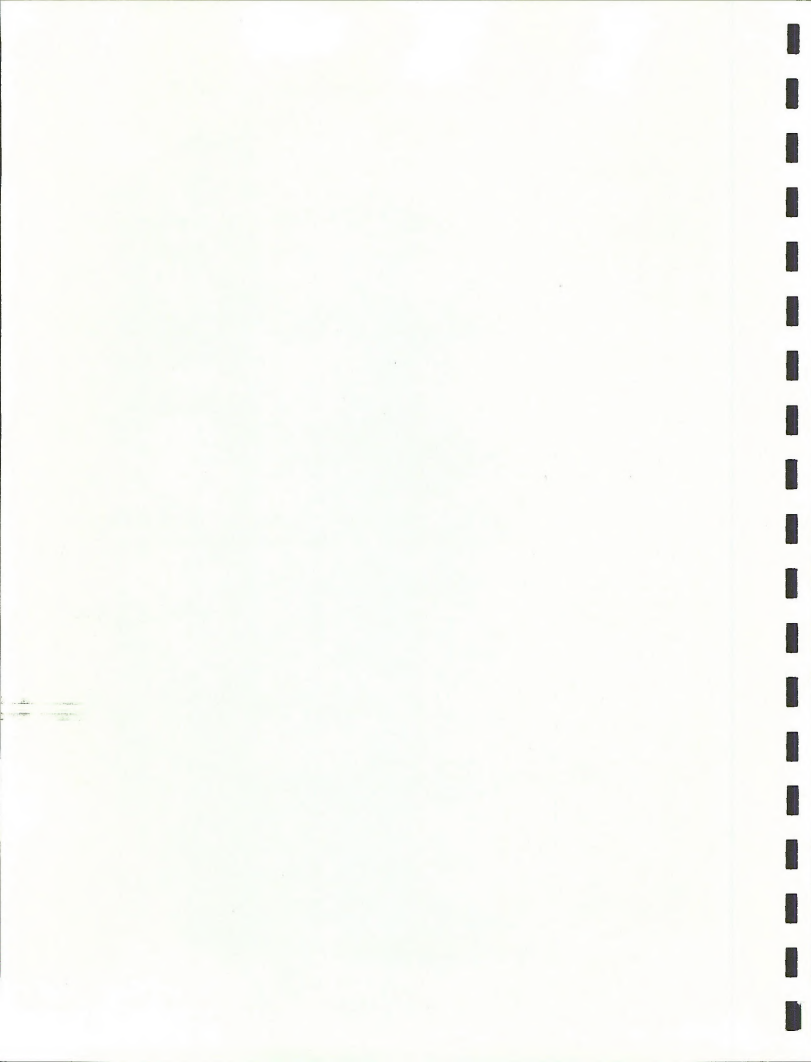
Routine government actions, such as administration, law enforcement, inventory, and other non-surface disturbing activities do not need to be documented.

Categorical Exclusions are no longer appropriate for oil and gas leasing.





**Chapter III - Using Existing Environmental Analyses**



## Chapter III: Using Existing Environmental Documents

### A. Administrative Determination

#### General Guidance

An administrative determination is a process to determine if a proposed action is fully analyzed by an existing environmental document (in which BLM was the lead or a cooperator) and to determine if further NEPA compliance is required. A proposed action is administratively determined to be fully analyzed by an existing environmental document if all of the following conditions apply:

1. The existing environmental document fully complies with the CEQ regulations.
2. The description of the proposed action is essentially the same as the action described in the existing document, and the location of the proposed action is within the area described in the existing document.
3. The direct, indirect and cumulative impacts of the proposed action are essentially the same as those described in the existing document.

For example, the environmental documentation done to analyze the impacts of issuing a film permit for a dry lake bed may be used the next year to analyze the impacts of issuing a new film permit for the same dry lake bed, provided the proposed action and impacts are essentially the same. If only some or none of the administrative determination criteria are true, then a separate environmental document (CER, EA or EIS) must be completed for the proposed project.

Do not use outdated programmatic EAs for authorizing specific actions. This can result in legal challenges by failing to provide adequate environmental analysis. An EA is considered outdated:

1. Five years after completion of the document;
2. the documents are no longer available;
3. circumstances, laws or regulations have changed since completion of the EA. For example, programmatic EAs that do not address cumulative impacts should not be used.

#### Documentation

If a proposed action is fully analyzed by an existing BLM environmental document (EA or EIS), a new decision record must be signed for the proposed action. Be sure to identify in the decision record the name, date, and identification number of the existing environmental document, and declare that the existing environmental document has been administratively determined to fully analyze the new proposal (Figure 2). The format suggested in Illustration 1, Chapter III of the BLM NEPA Handbook (H-1790-1) may also be used.

## Figure 2: Administrative Determination/FONSI/Decision Record

Decision: It is my decision to approve the proposed action of \_\_\_\_\_ as evaluated in the attached environmental assessment. Mitigation measures identified for the proposed action in the attached environmental assessment have been formulated into stipulations. This decision incorporates by reference the attached stipulations.

Administrative Determination: The attached environmental assessment (name, date, ID#)- \_\_\_\_\_ has been reviewed against the following criteria and has been determined to fully analyze the proposed action described above. Thus, additional NEPA analysis is not required.

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are not significantly different than those identified in the existing document.
6. The proposed action would not change the previous analysis of cumulative impacts.
7. Public involvement in the previous analysis provides appropriate coverage for the proposed action.

Finding of No Significant Impact: Based on the analysis contained in the attached environmental assessment, I have determined that the proposed action will have no significant effect on the environment and is not a major federal action. Thus, preparation of an Environmental Impact Statement is not required.

Rationale for the decision: The decision to allow the proposed action does not result in undue or unnecessary environmental degradation and is in conformance with the \_\_\_\_\_ Resource Management Plan, <approved/as amended> <date>.

Compliance and Monitoring: The attached compliance and monitoring plan has been developed for this project and is incorporated by reference into this decision.

### Attachments:

- EA
- Stipulations
- Compliance and Monitoring Plan

## B. Adoption

### General Guidance

Environmental documents developed by other agencies in which BLM was neither a joint lead nor cooperating agency may be adopted as BLM documents provided:

1. The other agency's document fully analyzes the proposed project, administratively determined by the criteria in the previous section:
2. If the other agency's document is an EIS, it must be released for public review as a final BLM adopted document for the standard public review period.
3. BLM has independently evaluated the document and is responsible for its accuracy.

### Documentation

Be sure to include an adoption statement in the "Dear Reader" letter for the adopted environmental document and in the decision record, for example:

Dear Reader:

Enclosed for your review is the final Curly Top Virus Control Plan and Environmental Assessment for public lands administered by the Bureau of Land Management.

This document, was originally released to the public in March of 1991 by the State of California Department of Food and Agriculture, and has been administratively determined to fully analyze BLM's proposed action. The CDFG's plan and final EA have been adopted by the BLM and are being released for public review as a final BLM document.

### Decision Record - Statement of Adoption

The following environmental document (name, date, ID#): \_\_\_\_\_ has been administratively determined to fully analyze the proposed action described above, thus additional NEPA analysis is not required. This document, was originally released to the public in March of 1991 by the State of California Department of Food and Agriculture, and has been adopted by the BLM.

## C. Incorporating by Reference

### General Guidance

Portions of an existing document may be incorporated or referenced in a new document, provided that the referenced document is readily available for public review.

Non-BLM documents may be referenced without prior adoption.

### Documentation

When incorporating or referencing portions of an existing environmental document, be sure to include: 1) a brief summary of the sections referenced (enough so that the new document can stand on its own), 2) the name of the referenced document, 3) the date signed, and 4) the page or section number, for example:

Refer to Chapter III, of the "Knoxville Recreation Management Plan" (Sept., 1992) for a detailed description of the affected environment. The following is a summary of that discussion.

Air quality at Knoxville ranges from very good to excellent and falls within the Class II Category of the Clean Air Act of 1977.

C. Incorporating by Reference (cont'd)

Water quality in Hunting Creek ranges from good (near Hunting campground) to fair (downstream of McLaughlin Gold Mine).

Minerals and Soils: The Knoxville area contains serpentine rocks and soils which are naturally high in asbestos, and contain boron, nickel, mercury, chromium and gold. Several historic mining sites can be found throughout the area. The McLaughlin Gold Mine is the only mine currently in operation.

Vegetation types vary from scattered hardwoods and grasses along the valleys and lower slopes to dense chaparral brush on the upper slopes and ridge tops. Digger pine and cypress are the primary conifer species found throughout the area.

Rare, Threatened and Endangered Species: The Fish and Wildlife Service has identified two candidate plant species within the Knoxville area: Fritillaria pluriflora (Adobe Lily), and Streptanthus morrisonii (Morrison's jewel flower). No RT&E wildlife species have been found within the Knoxville area.

Cultural Resources: Prehistoric and historic archaeological sites inventories found a few isolated prehistoric finds, but no permanent dwelling sites. The prehistoric finds consisted principally of surface scatters of obsidian flakes and occasional tool fragments associated with hunting and foraging activities.

D. Tiering

General Guidance

Tiering is used when analyzing specific proposed actions for which more general environmental analysis has been done by program (e.g. forestry, grazing) or geographic area.

For example, an activity plan and associated EA would tier off of the Resource Management Plan and EIS. The general analysis found in the RMP/EIS may be used to provide background information, some cumulative impacts analysis and to define a reasonable range of alternatives; however, site-specific impacts are analyzed in the activity plan/EA.

The tiered document must be readily available for public review.

Documentation

When tiering, be sure to include in the specific document: 1) a summary of the relevant portions, 2) name of the general document, 3) date signed and 4) the referenced page numbers.

E. Supplementing

General Guidance

Supplements to existing draft or final EISs and EAs may be prepared when additional environmental analysis is needed (40 CFR 1502.9).



#### E. Supplementing (cont'd)

Additional scoping is not required (40 CFR 1502.9(c)); however, BLM must prepare, circulate, and file the supplemental document in the same fashion as the document being supplemented. For example, if a Final EIS requires supplementing, then the supplemental EIS must be first released as a draft, then as a final. If a Draft EIS requires supplementing, a supplemental EIS is first released as a draft. The Final EIS incorporates both the original and supplemental draft EIS information and changes.

#### Documentation

Supplements will have the same format as the existing EIS, however the documentation will be focused on a particular resource or use.

Be sure to identify in the "Introduction" the role of the supplement in relation to the previously released environmental document. (In other words: 1) why is a supplement necessary and 2) how will it be used in conjunction with the existing environmental document.)

#### Case Examples

1. The Viceroy Gold Mine draft EIS was released for public review prior to the official listing of the desert tortoise as a threatened species. Additional analysis and mitigation measures were needed to address the desert tortoise. This was done in a supplemental draft EIS which was released for additional public review. No additional scoping was done. The final EIS was released as a whole document.
2. After the South Fork Eel River Management Plan and Elkhorn Ridge Timber Sale draft EIS was released for public review, new information came to light regarding spotted owl and questions were raised by the public regarding the timber sale. These issues are being addressed in a supplemental draft EIS. No additional scoping will be done.





**Chapter IV - Preparing Environmental Assessments**



## Chapter IV: Preparing Environmental Assessments

### A. Types

EAs generally are of two types:

1. "Simple" EAs are neither controversial nor substantial and always result in a finding of no significant impact (FONSI),
2. "Major" EAs require substantial documentation (>15 pages), and may be controversial. Major EAs result in either:
  - a) FONSI statement, usually with numerous stipulations attached,
  - or b) significant impacts are identified and a notice of intent (NOI) to prepare an EIS is issued. There is no need to complete a Decision Record if an EIS will be prepared. As with all EISs, State Director concurrence is required. The EA and a brief rationale for preparing an EIS should be submitted to the State Director.

### B. Suggested Formats

The EA formats presented in the NEPA Handbook (H-1790-1) are well suited for California BLM's purposes.

Illustration 3, Chapter IV, of the NEPA Handbook is appropriate for simple EAs with non-controversial proposals and few mitigation measures attached. The Decision Record and FONSI statement is included in this form.

Illustration 1, Chapter IV, of the NEPA Handbook is also appropriate for simple EAs which will not be released for formal public review. A separate DR must be attached.

Illustration 2, Chapter IV, of the NEPA Handbook is appropriate for Major EAs which will be released for a formal 30-day public review period. Be sure to include an analysis of the No Action Alternative. A separate DR must be attached.

A sample format is also included in Appendix 4. Examples of EAs may be found in Appendix 5.

### C. Contents

Please refer to Chapter of IV of the NEPA Handbook (H-1790-1) for guidance. Additional guidance regarding the no action alternative, critical elements, and cumulative impacts are provided in this handbook under Chapter V: Environmental Impact Statements. A checklist of required elements for EAs is included in Appendix 4.

### D. Public Notice and Participation

Any person affected by, or who has specifically expressed an interest in an action must be given adequate opportunity to participate in the EA process. Failure to notify the interested or affected public could be interpreted as a violation of the regulations (40 CFR 1506.6(b); 40 CFR 1501.4(b); 516 DM 3.3)). BLM decisions have been remanded by IBLA for failing to provide a 30-day public comment period on EAs for which interested parties specifically requested a public comment period (IBLA 91-448).

#### D. Public Notice and Participation (cont'd)

An EA register (i.e. log) and copies of EAs, DRs, and DRs for CXs, shall be maintained at the Resource Area for public review. Refer to Chapter VII, under "Record Keeping" of this guidebook for additional guidance. The additional public participation opportunities described under "Public Participation" of this guidebook may also be appropriate for EAs.

EAs (also EISs and relevant reference materials) must be available to the public without charge "to the extent practicable." If additional printing or copying is necessary, fees may be charged which do not exceed the actual cost of making copies (40 CFR 1506.6(f)).

#### E. Decision Records

The decision record (DR) documents the decision of the authorized officer after the NEPA analysis has been completed and contains the following information:

1. statement approving or rejecting the proposal;
2. rationale for approving or rejecting the proposal, including a land use plan conformance statement;
3. include a FONSI statement;
4. reference or identify any stipulations;
5. reference or include a monitoring schedule;
6. discuss how substantive public comments were incorporated into the document (Major EAs only);
7. include a statement of the public's appeal rights (Major EAs only). See Chapter V, section D for example wording.

FONSIs include: 1) a brief statement that the proposed action examined in the EA will not have a significant impact on the human environment, and 2) declares that and EIS is not required, example:

FONSI: The proposed action, as analyzed in the attached Environmental Assessment, is not a major federal action and will have no significant impacts on the human environment; therefore preparation of an Environmental Impact Statement pursuant to 40 CFR 1508.13 is not required.

Example FONSI/DRs may be found in Appendix 6.



**Chapter V - Preparing Environmental Impact Statements**



## Chapter V: Preparing Environmental Impact Statements

### A. Project Initiation

#### Externally Initiated Projects

More often than not, proposals requiring an EIS level of analysis will be initiated by private parties outside of the BLM, for example: a mining plan of operation, a proposed waste disposal site etc. EIS development for these proposals require substantial coordination and take one to two years to complete. (See Figure 3 for a typical EIS timetable and list of tasks to be completed.)

For all externally initiated EISs, a Memorandum of Understanding (MOU) between BLM, the applicant and other lead governmental agencies must be completed (see Chapter VIII, section E for additional guidance). Usually, the applicant will hire a third party contractor (i.e. consultant) to write the EIS (see Chapter VIII, section H), and may establish a cost reimbursable account to cover BLM's expenses (see Chapter VIII, section G). Although the applicant pays for the services of the third-party contractor, the contractor is chosen by the BLM and works for the BLM. If a cost-reimbursable account is not provided, funds for processing the project should be identified in the annual work plan.

#### Internally Initiated Projects

Projects proposed by BLM specialists requiring an EIS level of analysis will also adhere to the EIS timetable outlined in Figure 3, minus the MOU, cost-reimbursable account and the third-party contractor. Funds for completing the EIS should be identified in the annual work plan, provided by the benefiting subactivity.

### Figure 3: Typical EIS Timetable and Tasks

The following 18-month schedule is for a hypothetical EIS; actual length of process will vary according to complexity of project, public or agency participation, as well as the work load and level of experience of the preparers. Some EISs have been completed in less than 12 months; a few have exceeded two years. Combining the EIS with a plan amendment and/or EIS, when appropriate is advised.

#### Preplanning Month 1-2

- Resource Area documents need for an EIS;
- Meets with applicant;
- Advises District and State Offices;
- Prepares EIS preparation plan;
- Briefs State Director and obtains State Director concurrence.
- Completes Memorandum of Understanding with the applicant and other lead agencies;
- Completes third party agreement, if applicable;
- Selects environmental contractor;
- Cost-recovery account established.

#### Publish NOI; Conduct Scoping Month 3

- Resource Area prepares and publishes Notice of Intent in the Federal Register;
- Conduct public scoping meeting(s);
- Prepares scoping report of issues;
- Interdisciplinary team assigned;
- Project summary (EDT) provided to State Office.

#### Prepare Preliminary Draft EIS Month 4-5

- Resource Area or contractor conducts any necessary studies;
- Determine if formal consultation for biological or cultural resources is required;
- Prepare Biological Assessment, if applicable;
- Identify possible mitigation measures;
- Coordinate with other agencies or local government;
- Prepare Preliminary Draft EIS;
- District Office and State Office review;
- Revise preliminary draft EIS based on internal review;
- Additional District and State Office review, if necessary;
- Prepare camera-ready copy for State Director approval;
- Brief District Manager and State Director;
- State Director approves for printing and distribution.

#### Printing and Public Notice of DEIS Month 6

- Draft EIS printed and distributed;
- Draft EIS filed with the Environmental Protection Agency;
- EPA Notice of Availability published in the Federal Register.

### Figure 3: Typical EIS Timetable and Tasks (cont.)

<u>Public Review (45-90 days)</u>	Month 7-9
Resource Area conducts public meeting or hearing(s); Resource Area prepares and submits consultation package; State Office initiates formal consultation with Fish and Wildlife Service, State Historic Preservation Office.	
<u>Prepare Preliminary Final EIS</u>	Month 10-11
Resource Area responds to public comments; Prepare preliminary Final EIS; Coordinate with other agencies or local government; Section 106, Section 7 compliance as needed; District and State Office review; Revise preliminary Final EIS based on internal review; Additional review if necessary; Prepare camera-ready copy for State Director approval; Brief District Manager and State Director; State Director approves for printing and distribution.	
<u>Printing and Public Notice of Final EIS</u>	Month 12
Final EIS printed and distributed; Final EIS filed with EPA; EPA Notice of Availability published in <u>Federal Register</u> .	
<u>Availability of Final EIS</u>	Month 13
Final EIS available for public review for a minimum of 30 days	
<u>Record of Decision</u>	Month 14
Resource Area prepares preliminary Record of Decision; Coordinate with other agencies as needed; Assure Section 106 and Section 7 requirements are incorporated; District and State Office review Record of Decision; Resource Area prepares Record of Decision for approval; Record of Decision signed.	
<u>Appeal Period</u>	Month 15
30-day appeal period per CFR Part 4.	
<u>Implementation</u>	Month 16
Begin implementation unless appeals pending; Conduct monitoring.	

## A. Project Initiation (cont.)

### Review and Approval of EISs

The District Manager and State Director must be notified that an EIS will be developed for a proposed project. A short cover memo with an attached "Project Summary" (Appendix 7) will suffice.

California BLM policy requires that a preparation plan for EISs be prepared for District Manager and State Director review. Refer to the Glossary in this guidebook and Chapter V, Section C.2 of the NEPA Handbook (H-1790-1) for additional guidance. An example preparation plan is included in Appendix 8.

All EISs must be reviewed and approved by the State Director. A State Office coordinator will be assigned for each document as the lead for State Director review. This responsibility will generally be in PECS but may be assigned to another Branch or Division.

Some EISs must also be approved by the Office of Environmental Affairs (OEA) in the Department of the Interior. State Office PECS will be responsible for advising the District or Resource Area that OEA review is required and for establishing specific review procedures for individual EISs. State Director review is required prior to submitting an EIS to OEA.

## B. Scoping/Screening

### Notice of Intent

Once the State Director has been notified that an EIS will be developed for a proposed project, a Notice of Intent (NOI) published in the Federal Register formally begins the scoping process. Refer to Chapter VIII of this handbook for guidance on preparing NOIs. The Area or District Manager may sign the NOI.

If an NOI is published for a proposal which is subsequently abandoned without completing the NEPA process (for example, the applicant withdraws the application), another NOI does not need to be published. However, interested parties should be directly informed.

### Public Participation

See Chapter VII, sections C and D for guidance.

### Mockup

The mockup is a rough draft of the EIS. The mockup provides a general "road map" of what the EIS will look like and helps the project lead and team members identify information gaps. Mockups are recommended for Major EAs and EISs, and are often submitted for District and State Office review. Third party contractors must prepare a mockup.

## C. Documenting the Analysis: Draft and Final EISs

### EIS Contents

The following outline lists the required elements of an EIS. This particular format, however, is only a suggestion. General guidance on EIS contents may be found in Chapter V, Section C.3 of the NEPA Handbook (H-1790-1). Appendix 9 lists some examples of well-written EISs which may be referenced. Additional guidance for specific elements is included in this section of the guidebook.

#### "Dear Reader" Letter

#### Cover Sheet

- Title of proposed action;
- Location: county, state;
- Type of document: Draft EIS, Final EIS, EIS/EIS, etc;
- Date issued;
- EPA and BLM document control numbers;
- Lead and cooperating agencies, including address and telephone of contact person;
- Date comments are due;
- One paragraph abstract of the EIS;
- Identify other intended uses of this EIS.

#### Signature Page

#### Table of Contents

#### Summary

Describe the major issues, significant considerations, and conclusions in 15 pages or less.

#### Chapter I-Introduction

- Purpose and Need for the project;
- General location, including maps;
- Relationship to BLM policies, land use plans, etc;
- Issues identified during scoping, including those considered but dropped from further analysis with rationale.

#### Chapter II-Proposed Action and Alternatives

- Proposed Action;
- Alternatives, including No Action Alternative;
- Features common to all alternatives;
- Alternatives considered but dropped from further analysis;
- BLM's Preferred Alternative;
- Table comparing the potential impacts;

#### Chapter III-Affected Environment

Physical, Biological, Social, Economic resources, including the required Critical Elements.

EIS Contents (cont.)

**Chapter IV-Environmental Consequences**

Assumptions and assessment guidelines of the analysis.

Proposed Action

Physical, Biological, Social, Economic impacts.

Alternatives, including No Action alternative

Physical, Biological, Social, Economic impacts.

Cumulative Impact Analysis

Assumptions, scope of analysis;

Reasonably Foreseeable Future Actions;

Cumulative impacts, by alternative.

Mitigation Measures, by alternative.

Residual impacts of the proposed action.

Unavoidable Adverse Impacts of the proposed action.

Irreversible/irretrievable commitment of resources.

Short-term uses/long-term productivity of the environment, as affected by the proposed action.

**Chapter V-Consultation and Coordination**

Description of scoping process and public participation

**List of Preparers**

**Glossary**

**References**

**Index**

**Appendices**

Document distribution list;

Technical Reports;

Copies of substantive public comments received and the corresponding responses.



### C. Documentation (cont.)

#### Other intended uses of the EIS

The EIS should identify any other environmental review or consultation requirements for which the EIS will be used to provide analysis, for example:

- Endangered Species Act, Section 7 consultation with the U.S. Fish and Wildlife Service (Note: the EIS may only be used as a reference, and not as a Biological Assessment)
- Clean Water Act, Section 404 permit from U.S. Army Corps of Engineers
- California Department of Fish and Game Code, Section 1603 agreement
- National Historic Preservation Act, Section 106 compliance
- California Fish and Game Code, Section 2081 permit

#### Signature Page

Be sure to include a signature page in the draft and final EIS for State Director approval, for example:

Recommended by: \_\_\_\_\_ Date  
Area Manager

Concurred by: \_\_\_\_\_ Date  
District Manager

Approved by: \_\_\_\_\_ Date  
State Director

#### No Action Alternative

The "no action" alternative should be addressed in Major EAs and must be addressed in EISs as a basis for comparison. The IBLA has remanded BLM decisions that were based on EAs which failed to consider the no action alternative (IBLA 91-448). Simple EAs do not need to analyze a no action alternative unless there is a possibility that the authorized officer may reject the proposal. A proposal may not be rejected unless the impacts of taking no action (i.e. rejecting the proposal) is analyzed.

If the "no action" alternative has all ready been analyzed in an existing NEPA document, the EA may be tied to that document. For example, if a utility corridor has been established in an RMP/EIS in which the no action alternative was addressed, an EA for a proposed powerline right-of-way within the same utility corridor may reference the "no action" alternative analysis in the RMP/EIS. The existing NEPA document must have a valid analysis of the "no action" alternative and must be readily available for review. Refer to Chapter III of this guidebook for additional guidance.

### C. Documentation (cont.)

#### Critical Elements

If any of the critical elements of the human environment (Table 1) may be affected by the proposed project or alternatives, these impacts must be specifically addressed in the NEPA document. If the impacts are significant, an EIS is required. Consultation with the appropriate agency or affected parties may also be appropriate.

Critical elements which will not be affected or will only be minimally affected, do not need to be analyzed in the environmental consequences section. However, we recommend that a statement be included in the introduction to the following effect:

This document addresses those resources which may be affected by one or more of the alternatives. The following critical elements will not be affected by the proposed action or any of the alternatives: ... The following critical elements will at most be minimally affected and are not included in the analysis:...

In the unlikely event that this environmental document is appealed, this statement will demonstrate to the IBLA that all of the critical elements were taken into consideration by the BLM.

#### Impacts to Other Resources

In addition to the resources listed as critical elements in Table 1, be sure to address other affected resources, for example, plants and animals that are not State or Federally listed, State listed plants, and sensitive plants (see Chapter IX, Section A). The IBLA has remanded BLM decisions based on EAs which "...inadequately analyzed the effects of the proposed activity on wildlife in the project area..." (IBLA 91-448) although the EA did address R,T&E species. Refer to Appendix 10 for a list of environmental factors to consider, including social and economic impacts.

Biological diversity, or biodiversity, is the variety of life and its processes. This element of the affected environment has been of increasing concern. Bureauwide policy is currently being developed.

Whenever possible, the impacts should be quantified, for example: "Five percent of the local mule deer population will be affected."

**Table 1**  
**Critical Elements of the Human Environment**

<b>Critical Element</b>	<b>Statutory/Manual Reference</b>	<b>Regulatory Agency</b>
ACEC	FLPMA Air Act (42 USC 7401); E.O. 11514; BLM 7300	DO/SO PEC Staff
Cultural/Historical/ Paleontological/ Native American	Antiquities Act; National Historic Preservation Act (16 USC 470); American Indian Religious Freedom Act (42 USC 1996); DOI ER-80-2; BLM 8100 & 8270	State Historic Preservation Officer, Advisory Council on Historic Preservation, local Native American groups
Threatened or Endangered Species	Endangered Species Act (16 USC 1531); PL-96-15; BLM 6840	U.S. Fish and Wildlife Service
Flood Plains	E.O. 11988; DOI ER-80-3; BLM 7260	Soil Conservation Service; Dept. of Agriculture Cooperative Extension
Farm Lands: Prime or unique	Surface Mining and Reclamation Act (30 USC 1201); PL-97-98 Title XV; DOI 516 App 2 (2.2 & 2.9)	Soil Conservation Service; Dept. of Agriculture Coop. Extension
Waste: Hazardous and Solid	RCRA (42 USC 6901); CERCLA (42 USC 9615); BLM 9180 and 9183	Environmental Protection Agency
Water Quality: Drinking, Ground	Safe Drinking Water Act (42USC300f); Clean Water Act (33USC1251); E.O. 11738; E.O. 11752; DOI ES-77-5; DOI 516 2.6; BLM 7240 & 9184	Regional Water Quality Control Board
Wetlands/Riparian	E.O. 11990 & E.O. 11988; BLM 6740	U.S. Army Corp. of Engineers
Wilderness	FLPMA Sec. 603 (43 USC1701); Wilderness Act (16USC1131); BLM 8500	DO/SO BLM Wilderness Coordinator
Wild/Scenic Rivers	Wild and Scenic Rivers Act (USC-1271); DOI ES-80-2; BLM 8014	DO/SO Outdoor Recreation Planner

## C. Documentation (cont.)

### Cumulative Impact Analysis

The cumulative impact analysis should answer the following questions:

1. What are the assumptions on which the analysis is based?
  - a. Identify the geographic area of analysis and the rationale for the choice of study area. The geographic area covered by the analysis should not be limited to the immediate project site or planning area. The specific resource values should dictate the appropriate boundaries of the study--watersheds, habitat units, oil and gas fields, and others may be used.  
  
For example, analysis of a heap leach mining operation potentially impacting water quality should consider other actions within the watershed or basin (on public and private land) that could also affect the water quality.
  - b. The time frame for analysis should also be indicated. Generally, this should extend for the life of the plan or action, or duration of impacts. For example, an oil field development may commit the resource for over 50 years.
  - c. Other parameters used to define the scope of the cumulative impact analysis.
2. How have the resources been affected by past and present actions initiated by federal, state or private groups?

3. What are the Reasonably Foreseeable Future Actions (RFFA) within the area and their probable impacts?

The following points should be considered when preparing a RFFA (are also known as Reasonably Foreseeable Development-RFD):

- a. Base the RFD on available or anticipated future technology.
- b. Estimates should be tied as much as possible to approved land use plans, specific project plans and proposals, and professional estimates of future use and development. Worst case scenarios are not reasonably foreseeable.
- c. Factor in reasonable stipulations.
- d. Consider the potential of the resource, anticipated supply, and realistic demand estimates for the resource. For example, if a proposed heap-leach mine is within an extensive area with moderate to high potential for gold, the area could be expected to support a number of future mining operations. Also, consider potential military projects on lands near military bases.

### Cumulative Impact Analysis, Example (cont.)

The following example is an analysis of cumulative impacts to plants for a proposed oil and gas lease:

**Assumptions.** The geographic extent considered in this analysis encompasses the mid and southern San Joaquin Valley with a planning horizon of ten years.

**Reasonably Foreseeable Future Actions.** Based on data from 1985 to 1990, no more than 15,000 wells are projected to be drilled on Federal, state and private lands in the San Joaquin Valley in the next 10 years, assuming present economic conditions and international political systems. About 14,000 of these will be within the study area for this EA.

Approximately 49 miles of seismic lines are projected to be run on public lands in the 1992 lease sales. These lines may be run regardless of whether the tracts are leased. About 50% of the lines would be run cross-country and would temporarily disturb up to 3 acres per mile.

Based on historical records and proximity of leases to existing fields, it is projected that 55 new wells will be drilled during the next ten years on public lands offered in the 1992 lease sales. If the wells are successful oil producers, additional support facilities will be needed, such as pipelines and electric lines. These can be placed within the access road disturbance. If tank batteries are needed, less than one acre of land will be disturbed per five to 10 producing wells.

**Cumulative Impacts.** For the seven parcels which contain T&E species, five Federally listed T&E plant species continue to be threatened by one or more of the following activities: urbanization, conversion of native habitat for agriculture, oil and gas development, livestock grazing, competition from alien plants, water development associated with agriculture and off highway vehicle use. Their habitats have been virtually extirpated and extant populations are for the most part fragmented, small, and privately owned.

Federal protection, conservation and recovery measures are mandatory under the Endangered Species Act but they only apply to Federally authorized actions and areas of Federal jurisdiction. The cumulative impacts of continuing losses on private lands make protection on Federal lands all the more critical for the conservation and recovery of these species. Federally authorized actions will be subject to all applicable laws and policies including the National Environmental Policy Act review process and Section 7 consultation requirements.

Indirect impacts include loss of soil structure, fertility, water holding capacity, and cryptogamic crusts which seem to be an essential micro-habitat feature for some of the rare plant species. Roads associated with lease development increase access to off-highway vehicle use and contribute to additional habitat damage. The result of such surface disturbing activities increase the likelihood of weed invasion and fragment rare plant populations to where they become genetically isolated and lose viability over time, resulting in additional population loss.

Because ESA Section 7 consultation requirements will be followed even under Standard Stipulations, the effects of implementing this alternative will not be significant compared to other foreseeable activities in the San Joaquin Valley area.

See also Appendix 11 for an example cumulative impact analysis.

### C. Documentation (cont.)

#### Significant Impacts

If, upon completion of the environmental analysis, the impacts are found to be significant, the line manager may choose to:

1. Reject the proposal;
2. Change the proposal;
3. Choose another alternative;
4. Mitigate the impacts to a lower level of significance;
5. Proceed with the project. The Record of Decision must explain why proceeding with the project will provide a public good, despite the detriment to the environment.

#### Stipulations and Mitigation Measures

Mitigation measures are included in the environmental analysis as recommended ways of reducing the environmental impacts. Stipulations are mitigation measures which the Record of Decision puts into effect. Thus, the Record of Decision may require completion of all or some of the mitigation measures recommended in the environmental analysis. Monitoring is often included as part of the mitigation strategy to ensure that the stipulations are implemented.

Mitigation measures must be realistic and enforceable. Also, the consequences of implementing the mitigation measures need to be considered. For example, mitigation measures designed to benefit vegetation could have an impact on wildlife. It is the responsibility of the Environmental Coordinator to ensure that the recommended mitigation measures for a particular impact do not substantially conflict with other resource values. The environmental consequences of mitigation measures are analyzed under "residual impacts".

There are five basic ways of mitigating impacts (40 CFR 1508.20):

1. Avoiding the impact altogether by not taking a certain action or parts of an action, (for example, rejecting all or parts of the proposal, or relocating the proposal).
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, (for example, authorize 150 total disturbed acres instead of 200).
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (for example, surface mining reclamation).
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, (for example, installing and maintaining desert tortoise proof fences).
5. Compensating for the impact by replacing or providing substitute resources or environments (for example, acquiring private lands and establishing a wildlife preserve.)

Note that simply promising to do monitoring is not a mitigation measure. If monitoring is being conducted to check the air, soil or water for excessive levels of hazardous chemicals or erosion, a plan of action (action plan) must be identified as a mitigation measure in the event excessive levels are found.



### C. Documentation (cont.)

#### Irreversible and Irrecoverable Commitment of Resources

Irreversible commitments are those that cannot be reversed, except perhaps in the extreme long term. Examples include: extinction of a species, removal of mineral ore, and cutting an old-growth forest which takes 300-500 years to regenerate. Irrecoverable commitments are those that are lost for a period of time. For example, if a highway is constructed through a forest, the timber productivity of the right-of-way is lost for as long as the highway remains. The construction of the highway signals an irrecoverable loss in exchange for the benefits of the highway. This section is included in an EIS only when an irreversible or irrecoverable commitment of resources is likely to occur.

#### Short Term Uses of the Human Environment versus Maintenance and Enhancement of Long Term Productivity

This section should provide a clear sense of what is being gained or lost in the short term, and what is being gained or lost in the long term. There is no need to include this discussion in the EIS if there are no trade-offs.

#### Residual Impacts

Residual impacts are the impacts remaining after the mitigation measures have been taken into account. Be sure to include the effects of the mitigation measures themselves.

#### Unavoidable Adverse Impacts

Unavoidable adverse impacts are those which can not be mitigated.

#### Example

Action: Heap leach mining operation using cyanide.

Impacts: Wildlife mortality, loss of habitat, etc.

Mitigation: Use of enclosed tanks, drip emitters to prevent wildlife exposure to cyanide.

Residual Impact: Still some loss of habitat and occasional mortality. However, impacts are substantially reduced. These effects are unavoidable but with appropriate reclamation at completion of the project, the effects may be reversed. Thus, they would not be irreversible or irretrievable.

Logging an ancient forest, in contrast would result in an irreversible and irretrievable impact since the resource values, for all practical purposes, would not recover.

#### D. The Record of Decision (ROD)

Upon completion of the environmental analysis (Final EIS) and following the 30-day public review period, the authorized officer (i.e. decision-maker) selects the actions which are to be implemented. These actions (now called decisions) are documented in the Record of Decision (ROD).

The Council of Environmental Quality (CEQ) has made clear that "agencies will be held accountable for preparing Records of Decision that conform to the decisions actually made and for carrying out the actions set forth in the Records of Decision" (Question 34d, Federal Register, March 23, 1981).

##### Contents

The ROD contains the following information:

#### 1. Cover Sheet

- a. Title;
- b. Project or case file identification number;
- c. Preparing office and office location;
- d. Cooperating agencies, if any;
- e. Signature and title of the responsible official and concurring officials;
- f. Date of signature.

#### 2. Summary (only if the ROD exceeds 10 pages)

#### 3. Decision

This is a clear and concise description of the approved action(s).

#### 4. Alternatives Considered

- a. This section describes the proposed action and the alternatives analyzed in the EIS.
- b. The "environmentally preferable" alternative is also identified. This is the alternative which would result in the least adverse or the most beneficial impacts to the natural environment.

#### 5. Management Considerations

This section describes the rationale for the decision. Include social, economic and other pertinent considerations weighed in the decision-making process.

#### 6. Stipulations



D. The Record of Decision-ROD (cont.)

7. **Monitoring** (see Chapter VI in this guidebook)

9. **Public Involvement**

Briefly describe efforts to involve the public throughout the NEPA process.

8. **Statement of the Public's Appeal Rights**

A statement of the public's appeal rights is required for lands actions and should be included for other types of actions as well, for example:

If the public wishes to appeal this/these decision(s) for the purpose of a hearing before an Administrative Law Judge of the Interior Board of Land Appeals (IBLA), a written appeal must be filed with the District Manager at the address listed below within thirty (30) days of the date of this document. The written appeal must clearly and concisely specify the reasons why the decision is in error, in accordance with Title 43 of the Code of Federal Regulations, Part 4.470 and 43 CFR 4160.4.

Public Notification

Affected and interested parties must be informed that an ROD has been signed and is available for public review. The public may be notified through press releases or individual letters. Certified mail is recommended if the decision is likely to be appealed by an interested or affected party.

Specific programs and activities may require a "Notice of Availability" be published in the Federal Register, for example land disposal actions.

Implementation

Implementation of the approved actions listed in the ROD cannot begin until at least 30 days after the EPA Notice of Availability for the Final EIS has been published in the Federal Register (40 CFR 1506.10). In addition, until the ROD is issued, no action concerning the proposal can be taken which would either have an adverse impact or limit the choice of alternatives (40 CFR 1506.1(a)).

Example Document and Additional Guidance

Additional guidance may be found in the Bureauwide NEPA Handbook (H-1790-1), Chapter V. Refer to Appendix 12 in this guidebook for an example ROD.



**Chapter VI - Monitoring**



## Chapter VI: Monitoring

### Types

There are generally two types of monitoring:

1. Compliance monitoring;
2. Monitoring to determine the effectiveness of the stipulations and validity of the analysis.

### Roles and Responsibilities

The project lead for the proposed action is responsible for ensuring implementation as approved and mitigated.

The resource specialists are responsible for monitoring the effectiveness of the stipulations and validity of the analysis.

Environmental coordinators are encouraged to work with the specialists to establish priorities and to determine effective systems for assuring that the results of monitoring are reflected in management decisions and environmental documents.

Monitoring intervals should be determined by the line manager, depending on specific needs and circumstances of each project. Monitoring should be addressed in annual program reviews, reports, and documented in the project/case file.

Enforcement (although not a part of the NEPA regulations) may be required to achieve compliance on certain projects as authorized by FLPMA and other regulations. The project lead should work with BLM law enforcement staff when a noncompliance situation is identified that cannot be resolved administratively. Be sensitive to situations where the proponent is willing, but unable to comply. In this case, additional environmental analysis may be required.

The emphasis will be on achieving voluntary compliance but offices should take all steps necessary to achieve compliance if the proponent does not cooperate. Complete and accurate records of all contacts, communications, observations, and enforcement actions must be maintained in the project/case file.

### Cumulative Impact Assessment

As actions are implemented, it is important to be aware of and monitor changes to the environment that may affect the validity of the cumulative impact assessment. If it is found that the original assessment is no longer valid, additional NEPA analysis may be required, including the preparation of a supplemental EA or EIS.

For example, if a RFFA predicted 10 additional development wells in an oil field over the life of the plan, and 2 years after the RMP was completed this threshold is reached, it may be necessary to revise the original analysis and supplement the NEPA and plan document if further development is to be considered.

In another example, additional analysis may be required if it appears that the impacts to a particular resource are significantly different than what was concluded in the original NEPA document.

### Monitoring Plan

Development of a Monitoring Plan is recommended to concisely document any required monitoring, describe the methodology used, and to establish a schedule for completion.

For large surface mining operations and major construction projects such as pipelines, a "Reclamation and Mitigation Requirements Book" containing the information necessary to monitor compliance with the terms of the approved plan of operation shall be prepared following completion of the Final EIS. This book will be used by BLM inspectors to monitor progress and ensure compliance with all stipulations of the approved plan. Contact the State Office Minerals Division for a sample copy. The compliance book should include the following:

1. A one page description of the proposal;
2. A map showing the location of all disturbance;
3. The stages when the reclamation will take place;
4. Performance standards;
5. Bond amounts and agencies holding the bonds;
6. List of stipulations listed in the ROD.

This book should be organized by major resource categories such as water, vegetation and wildlife sections.

**Chapter VII - Reviewing Other Agency  
Environmental Documents**





## Chapter VII: Reviewing Other Agency Environmental Documents

In addition to BLM's own internal documents, BLM is legally obligated to review other agency's environmental documents if there is a direct or indirect effect on the public lands; for example, when resource values overlap administrative boundaries, or the proposed project site is adjacent to public lands.

The Washington Office Division of Planning and Environmental Coordination (WO-760) is the lead coordinator for other federal agencies. The State Office P&EC staff serve as the lead coordinators for state agencies and WO-760.

The State Office P&EC staff are responsible for 1) determining if California BLM lands may be affected, 2) providing comments, or transmitting these environmental documents to the appropriate District for review and response, and 3) consolidating the comments in a response memorandum (or letter if outside the Department of the Interior). The State Office PEC shall send a short "there are no BLM lands involved and therefore we have no comment" memo for proposed projects not affecting BLM lands or programs.

The State Office PECS coordinator makes sure the BLM comments do not contradict and edits the BLM comments if appropriate. The original commentator must be contacted if substantial changes are made or if the comments are omitted.

The District or Resource Area may respond directly to local agencies about local projects.

See also the section on "Providing Comments" in Chapter VIII of this handbook.



**Chapter VIII - Administrative Procedures**



## Chapter VIII: Administrative Procedures

### A. Mapping: Automated and Traditional

Maps must be included with the NEPA documents to show the general location of a proposed project and if applicable, a map of the proposed project site. Map scales of 1:24,000 to 1:100,000 for general location maps and larger scales for project site maps are recommended.

#### Automated Mapping

Maps produced using computerized systems, such as Geographic Information Systems (GIS) have the added advantage of being easily reproducible and allow for computerized integration and analysis of base map and data base information. Use of GIS can provide the following information: 1) Location - What is at ...?, 2) miles of roads and acreage, 3) Trends - What has changed since...?, 4) Patterns - What spatial patterns exist?, and 5) Modeling - What if ...?

The BLM currently uses a family of public domain GIS software called MOSS. MOSS consists of four major software packages: the Automated Digitizing System (ADS) for data capture; the Map Overlay and Statistical System (MOSS) for the analysis of vector data; the Map Analysis System (MAPS) for the analysis of cell data; and the Cartographic Output System (COS) for creating quality map output.

The BLM will be updating its GIS software soon. Use of MOSS will be slowly phased out (over three to five years) as the geographic data is transferred from MOSS onto the new systems.

The first step in using GIS in your environmental analysis is to create a digital map data base if one does not already exist. If you would like the California State Office Mapping Science Section to automate the base map, please contact CA-942 as soon as possible. You will need to be as explicit as possible about the information to be stored, how you will structure and record data, and how you expect to use the map data base.

#### Additional Guidance

BLM Planning Aid #7, "A Guide to the Identification of GIS data themes for use in the Resource Management Plan process" is an informational publication which you may find useful.

For further information on how the State Office can help you with your GIS project planning please contact the following:

Chief of Mapping Science (CA-942)  
GIS Specialist (CA-954)  
LIS Coordinator (CA-954)

## B. Federal Register Notices

Notices are published in the Federal Register to inform the public of BLM's intentions (Notice of Intent -NOI), and to announce the availability of environmental documents for public review (Notice of Availability -NOA). Notices are sent out for EISs and Major EAs.

### Procedure

Submit a "Federal Register Notice Description" (Figure 4) to the State Director and Director (WO-140) at the same time the manuscript notice is sent to the Office of the Federal Register. Approval from the State Director or Director to publish the notice is not required.

Prepare the Federal Register Notice manuscript in the following format (with double spaced lines, 1 1/2 inch left, and 1 inch right, top and bottom margins):

DEPARTMENT OF THE INTERIOR  
Bureau of Land Management

**Billing Code:** 4310-40-M

**[BLM's Internal Billing Code; Case File or Docket Number]**

**Subject Heading:** <Name of the proposed project, county, state>

**Agency:** Bureau of Land Management, <Resource Area>, <District>, California.

**Action:** <Notice of Intent to prepare or Notice of Availability of a particular document>

**Summary:** <what the proposed action is and the authority>

**Supplementary Information:** <additional information, including rationale>

**Dates:** <list deadlines for public response>

**For Comments and Further Information Contact:** <name and address of BLM office to contact>

**Dated:** \_\_\_\_\_

<Authorized Officer's Signature>

<Authorized Officer's name and title, printed>

See Appendix 13 of this handbook for an example submission.

B. Federal Register Notices (cont.)

Manuscript notices (three copies) are mailed to:

The Office of the Federal Register,  
National Archives and Records Administration,  
Washington, D.C. 20408

To submit manuscripts via express mail, overnight mail, or by messenger service, use the following address:

The Office of the Federal Register, Room 8301,  
1100 L Street, NW, Washington, D.C. 20005.

Do not use this address for ordinary mail. Doing so will delay your document, sometimes by months.

Additional guidance may be found in the "Federal Register Document Drafting Handbook", the BLM NEPA Handbook (H-1790-1), Chapter VIII, and WO IM 92-108.

Rules for avoiding common mistakes

The following is a list of rules for avoiding the most common errors found in BLM Federal Register submissions. Avoiding these errors will help expedite publication.

1. Do not use letterhead paper for manuscripts. Letterhead should only be used for letters to the OFR regarding publication instructions.
2. Include "DEPARTMENT OF THE INTERIOR" and "Bureau of Land Management" in the typed document heading. Many documents are improperly submitted with a District or Resource Area as the heading.
3. Always include a Federal Register billing code above the heading. For California BLM, the code is "4310-40-M".
4. Include BLM's internal billing code in brackets, followed by the case file or docket number, for example:  
[CA-017-91-4212-13; CA-40544]
5. The State, District, or Resource Area office are identified in the "AGENCY:" line at the beginning of the preamble of the document, or elsewhere in the text of the document, such as in the "ADDRESSES:" line.
6. Type or rubber stamp a printed version of the signing official's name immediately above or below the signature.
7. Never submit a document signed by one official "for" another; use "acting". "Joe DiMaggio for Ted Williams, District Manager" is wrong. "Amelia Earhart, Acting State Director" is correct.
8. Number the manuscript pages, after the first page.
9. Always submit three original signed copies of the manuscript. Photocopies of signatures are not acceptable.

B. Federal Register Notices (cont.)

10. Make sure all three copies are clearly readable.
11. Double space everything in the manuscript, including lists and land descriptions. Double spacing reduces typesetting errors.
12. Make certain that fractions in land descriptions and other contexts are clear. The type faces or fonts used in some of our field offices make it difficult distinguish quarters from halves.
13. Instructions to the OFR that are included in the manuscript document but are not themselves to be printed in the Federal Register should be underlined and placed in brackets. The most common example of this is a publication instruction as to effective date or due date. Example: "Comments shall be submitted by [30 days after date of publication]." The OFR will calculate the date and insert it in the document. This may be done anywhere in a document where a date is required.
14. Do not use "immediately" in Federal Register documents. Refer to a specific deadline date if you can project one accurately, such as "June 1, 1992," or ask the OFR to calculate a specific date, as in the previous example.
15. To correct printing errors made by the OFR or GPO, send a letter and identify the error by Federal Register page, column, and line. There is no need to prepare a correction document. (Attaching a marked copy of the page is helpful.) Corrections should be stated very explicitly, especially in land descriptions. The OFR will prepare the correction notice (and pay for its publication). If you include your telephone number, the OFR will call you with the publication date of the correction. Also include the name of a contact person, in case the OFR needs to call for further information or clarification.
16. A correction document must be submitted to correct errors made by the BLM that are not discovered until after publication. Correction documents have the same format as an original manuscript, including the same heading.
17. Include your telephone number with all requests for specific publication dates. The OFR will call you if they cannot meet your request.



Figure 4: Federal Register Notice Description

<b>Federal Register Notice Description</b>	
<b>To:</b>	WO Director (140) State Director, California
<b>From:</b>	California
<b>Office (DO/RA/Division):</b>	
<b>Title of Document:</b>	
<b>Statement of Sensitivity:</b>	<for example: "Statute requires publication by ..."; "Congressional interest in this matter"; or "None".>
<b>Description of Notice, including Citation Authority:</b>	<for example, "This notice, issued under the authority of 43 CFR part 2710, informs the public of the proposed sale of 40 acres of public land in Nevada County, California." Note: the authority referenced should be a CFR or USC citation.>
<b>Date Work has begun on Notice:</b>	
<b>Date Notice is to be Published:</b>	
<b>Name of Official Signing Document:</b>	
<b>Title:</b>	
<b>Telephone Number:</b>	
<b>Name of Specialist Preparing Document:</b>	
<b>Title:</b>	
<b>Telephone Number:</b>	
<b>Date Forwarded to WO, SD, FR:</b>	

## C. Public Participation

### Some Observations and Tips for Public Involvement Programs

1. Maintain the visibility of the program.
2. Early public involvement minimizes distrust and rumors.
3. Begin the public involvement program by listening, not by "selling". If you begin by selling, you will likely need to be defensive which will undermine the credibility of the public involvement program.
4. An agency's limits on authority and jurisdiction must be made clear to the public to minimize unrealistic expectations.
5. Use language that is understandable to the public, for example, avoid acronyms, abbreviations and technical language.
6. Feelings and opinions are a source of information about people's values and their sense of the way things "ought" to be. Be careful to not disregard people's opinions simply because they are not factual. Otherwise, public involvement will effectively be limited to a few highly-organized lobbies who know how to present their comments in ways designed to impress you. Try to translate people's feelings into alternatives and provide an analysis of the implications of these alternatives.
7. Since the public is frequently not sophisticated about technical or economic feasibility, and certainly cannot be aware of the maze of agency authorities, limitations, etc., it is relatively easy to slip into a posture of constantly telling the public what cannot be done. But the result is frustration and resentment by the public, and a belief that the agency is simply selling its own point of view. Instead, we must convey to the public that BLM is using its professional expertise to find solutions in response to the public's needs.

### Identifying the Public

When compiling a list of interested or affected parties, be sure to consider the following groups of people:

1. People who live or own property in the immediate area of the proposed project.
2. Businesses or professional organizations that have jobs or competitive advantages to win or lose; for example loggers, whitewater guides.
3. Those peoples whose use of an area will be affected by the project; for example, recreation based organizations, wildlife and bird watchers, resource-user groups.
4. Groups of people who may perceive the proposed project as a threat to the tradition and culture of the local community; for example homeowner's associations, Native American groups.
5. Groups whose values or "sense of the way things ought to be" will be affected by the proposed project, for example environmental organizations, pro-development coalitions.
6. Local, state and federal agencies, including: County Board of Supervisors, Regional Water Quality Control Board, Air Quality Control Board, City Councils, State Clearinghouse.

## C. Public Participation (cont'd)

### Mailing Lists

The name, group affiliation, and address of interested parties should be maintained in a computerized mailing list. Listings for government agencies should also include a contact person and phone number.

Each proposed project will have its own mailing list of interested groups and persons. This list should be subdivided into two groups: 1) interested parties who will receive all notices and updates regarding the project, and 2) parties who will receive notices, updates and copies of the environmental document. Parties not receiving copies of environmental document should receive a letter notifying them that the document is available for review, and where this document can be obtained.

WordPerfect 5.1 or dBASE are useful applications for storing and printing mailing lists. The State Office Mail List is also available for use and accessible on the Honeywell Level 6. Contact the State Office Public Affairs office for training and assistance.

### Extent of Involvement

The extent of public involvement should be geared to the scope of the environmental document, for example:

#### 1. Simple EAs

- a. Periodic public notification through media releases that an EA register is available for review and where the register is located;
- b. A sign or notice in the reception area that the EA register is available for review and where the register is located.

#### 2. Major EAs and EISs

- a. Media releases or Federal Register notices that an EA or EIS is being prepared;
- b. Scoping, or issue identification meetings;
- c. Contacts with specific interest groups, especially affected groups;
- d. Placing EAs and EISs in public libraries;
- e. Public Comment Period upon completion of the EA or EIS, and before the decision record is signed:

<u>Type of Document</u>	<u>Public Comment Period</u>
Simple/Major EA	30 days
Draft EIS	60 days
Final EIS	30 days
RMP Amendment/EA	45 days
RMP Amendment/EA that considers ACEC designation	60 days
RMP Amendment/EIS	90 days
RMP/EIS	90 days

EAs (also EISs and relevant reference materials) must be available to the public without charge "to the extent practicable." If additional printing or copying is necessary, fees may be charged which do not exceed the actual cost of making copies (40 CFR 1506.6(f)).

## D. Public Meetings

### Types of Meetings

The type of meetings used to solicit public participation will depend on the complexity of the proposed project and the public participation goals you intend to accomplish. The following is a list of some of these meeting types:

1. **Public Hearings** are formal meetings with a moderator, legal requirements for public notice and a verbatim public record. Participants are given the opportunity to make public statements with little or no interaction between the various participants.
2. **Workshops** are usually held for audiences of no more than 25-30 people, and often have a specific task or goal to be accomplished.
3. **Open House** sessions allow participants to view informational exhibits and to ask questions.
4. **Kitchen meetings and field trips** are informal, small group meetings in which participants can discuss issues person-to-person.

### Preparing for Public Meetings

The first step in preparing for a public meeting is to clearly define the goals you wish to accomplish. Is the purpose of this meeting to 1) inform the public, 2) gather public responses, or 3) gather support for a proposed project?

Make reservations for a meeting space with sufficient room capacity, an adequate microphone system, proper ventilation and climate control.

The discussions and comments made at the public meeting should be recorded. This can be done on flip charts. If a meeting is likely to be well-attended or controversial, we recommend use of a tape recorder during the meeting.

Maps and drawings must be large enough to be visible to the audience. If needed, be prepared to bring your own flip charts, slide projector, overhead projector, and screen.

### Effective Meeting Leadership

Effective meeting leadership is critical for a successful public meeting. The fundamental premise for effective meeting leadership is the same for democracy: people accept leadership because it is in their self-interest.

An effective meeting leader provides structure to a meeting to accomplish the objective of the meeting. There needs to be some limits set on topics, procedures for recognition of speakers, rules to ensure that everyone gets heard, etc. So long as the leader provides that structure, it is in the interest of the participants to cooperate with the leader. The following are some points to consider for effective meeting leadership:

1. If the meeting leader is relaxed and relatively informal, the audience will be more relaxed and comfortable.
2. Introduce yourself and your staff. Very briefly say something about yourself to convey the message that you are a person and not just an agency representative.

#### D. Public Meetings (cont.)

3. Acknowledge any elected officials or their representatives, or other "celebrities" in attendance; however, make sure no one is left out and that the general audience does not feel unappreciated.
4. Make clear to the public the purpose of the meeting. Describe the format of the meeting, including where and how you want people to participate. Establish, or better still propose, any needed ground rules, for example: time limits, one person at-a-time, raise hand to be recognized, etc.
5. State problems or issues in a constructive way, such that it doesn't sound like any individual or group "caused" the problem.
6. During discussions, keep the meeting focused on the topic. Point out that the discussion has drifted. Re-state the original topic under discussion.
7. If the meeting will include an open forum so that the public can express their comments and ask questions, gather a list or by show of hands, count the number of people wishing to speak. Divide the number of speakers by the total time allotted for the open forum to establish the time allotted for each speaker. At the beginning of the open forum, request each speaker to state their name and organization, and to stay within the time limits. Be flexible. Some speakers will be very concise; others will need a little more time. When answering questions, restate the question to make sure you understand the question and that the rest of audience heard the question.
8. Without judging, criticizing or being defensive, summarize and record what the public has said: "Your feeling is that..." If you feel compelled to make a comment, make it clear that you are temporarily stepping out of your role as a meeting leader. "I'd like to take off my meeting leader hat for a moment and comment." Better still, let one of your staff members make the comments.
9. Avoid confrontations. Certain members of the public will point their fingers at you, make wild accusations, and call you names. Your response: "Thank you Mr. So-and-So for your comments. Our next speaker is ..."

Sometimes, the public will make accusations based on their experience or stories about other government entities, implying that you, as a government agency will do the same. It is critical to acknowledge the person's experience or story, then focus on your office or plan, for example:

I am aware that several government entities have used condemnation to acquire private lands for public projects. However, to the best of my knowledge, our office has never used condemnation, nor do we intend to so.

10. At the end of the meeting, the meeting leader should clearly state: a) how the public comments will be used, and b) what will happen next in the decision-making process. This gives the public a sense of confidence that their participation has meant something and maintains visibility in the decision-making process.

#### D. Public Meetings (cont.)

##### Handling a Hostile Audience

If you will be conducting a meeting in which the issues to be discussed are particularly controversial, or the public has some pent up anger and frustrations towards government, the public may respond to you with undue hostility. It is critical for you to keep in mind that 1) they are venting their anger and frustration on you as the representative of government and not you personally, and 2) do not fight their hostility by being defensive. There are several things you can do to minimize hostility:

1. Prior to the meeting, meet with leaders of interest groups likely to have strong feelings and listen to their concerns.
2. Establish ground rules for participation. You may wish to meet with various interest group leaders prior to the meeting to develop a consensus.
3. If a meeting is likely to be particularly hostile, it may be better to select a meeting leader who is known to the community or groups.
4. Minimize the symbols of governmental power: for example, large numbers of staff wearing uniforms, very prominent Department and Bureau logos and large flags. When things get emotional, as long as you are a symbol to people, rather than a human being, people are more likely to be abusive.
5. Without judging, criticizing or being defensive, summarize and record what the public has said.
6. If the issues involved are particularly controversial, it may be necessary to first hold a meeting simply to allow the public to vent their frustration, with a second meeting a couple of weeks later to begin discussing ways to address the issues.
7. If you need to correct a breach of ground rules, identify the problem, not the solution. For example, if people are being interrupted without a chance to complete their presentations, rather than saying "don't interrupt," which is a solution, say "I am concerned that people are being interrupted and may not be able to complete their presentations," which is the problem.
8. Keep in mind that meetings have a finite length and you will survive.

#### E. Multi-Agency Efforts

##### Lead or Coop Status

The lead agency is responsible for completing the analysis and writing the environmental document.

The cooperating agency (cooperator) provides information and comments on the document.

Usually, an agency will formally invite another agency to participate in a project as a joint-lead or cooperator. However, any BLM authorized officer may request joint lead or cooperator status.



#### E. Multi-Agency Efforts (cont'd)

Two federal agencies rarely work together as joint leads; one is assigned the lead role. Federal and State (or local) agencies usually work together as joint leads.

Once an agreement is reached, a Memorandum of Understanding (MOU) must be prepared. If not all ready informed, the State Director must also be notified. A short cover memo with an attached copy of the MOU and "Project Summary" (Appendix 7) will suffice.

##### Memorandum of Understanding

The MOU is a legal document that explains the terms of agreement for the cooperative effort. The MOU should do the following: 1) identify the individual within each agency/organization who will serve as agency lead, 2) outline the method to be used for selecting the EIS contractor, 3) pledge cooperation, 4) identify how disputes between the agencies will be resolved, 5) contain an "escape clause" (for example "agencies may terminate this agreement upon thirty days written notice"), and 6) include a schedule. (See Appendix 14 for an example MOU).

The MOU is signed by the executive officer of the other agency, and depending on the agency involved, the MOU may be signed by the District Manager or State Director. The State Director signs MOUs with Federal and State agencies. The District Manager signs MOUs with local agencies (for example, counties, regional boards etc).

##### Coordination

At the same time an MOU is being prepared, contact all agencies likely to be affected by the proposal and from whom permits must be granted to proceed with the proposed project. Each contact letter should request whether the agency is interested in participating in the EIS preparation, and if so, to name a contact person. A description of the proposed action, a preliminary schedule and information about scoping meetings should be enclosed.

If the project has a cost recovery account, an agency may request a transfer of funds. Fund transfers can be arranged through an interagency letter agreement and the use of BLM's 1681 form.

As a NEPA lead, BLM is required to consider all issues, not just those occurring on public land. Meet with all the agencies on a regular basis; good communication leads to a successful project. The EIS must be acceptable to each participating agency if they are to grant their permits.

#### F. State Requirements

##### California

The California Environmental Quality Act (CEQA) is the State of California equivalent of NEPA, and applies to state and local government agencies that regulate activities on private land. The types of documents produced are also similar, however the names are slightly different (Table 2).

CEQA requires state and county agencies to prepare a Negative Declaration for minor actions, and an Environmental Impact Report for major projects. CEQA's Negative Declaration and NEPA's FONSI may be used interchangeably.

#### F. State Requirements (cont'd)

An EIR is similar to an EIS, both in content and required format, however they are not interchangeable. A joint EIS/EIR can easily be worked out that will serve the needs of both CEQA and NEPA. Sometimes a joint EIR/Major EA may be appropriate due to more stringent CEQA requirements.

In addition to the NEPA required elements for an EIS, an EIR requires the following information: 1) growth inducing impacts, 2) organizations and persons consulted, and 3) a list of draft EIS/EIR commentators. A discussion of the economic and social effects is still optional. CEQA also requires agencies to implement feasible mitigation measures or alternatives that will reduce project related environmental consequences below the level of significance. If the environmental consequences of a proposed action can not be mitigated below the level of significance, the proposed action can not occur (unless a finding of specific overriding considerations is made). The guidelines define feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors".

CEQA documents must be completed within 12 months.

Typically, a State or local agency will be designated lead for CEQA compliance, and a Federal agency will take the lead for NEPA compliance. For a joint EIS/EIR, they would serve as co-leads (see section on "Multi-Agency Efforts" for additional information).

#### Nevada

The Susanville District manages public land in both California and Nevada. California BLM policy on public lands also applies to public lands in Nevada.

The State of Nevada does not have a law that is an equivalent to the State of California's CEQA law, however, certain procedures must be complied with to ensure document consistency with other State laws.

All draft and final EISs must be submitted to the Nevada State Clearinghouse at the following address:

- Ron Sparks
- Nevada State Clearinghouse
- Department of Administration
- Capital Complex
- Carson City, NV 89710
- Telephone: (702) 687-6367

The various Nevada State Departments will have an opportunity to provide their comments on the EIS through the State Clearinghouse. Some surface disturbing projects may also require construction and/or operating permits from the State of Nevada (see Table #2).

At the same time the draft or final EIS is released for public review, a copy shall also be provided to the Nevada State Governor for a 60-day review period.



**Table 2: Procedures under CEQA and NEPA**

<b>CEQA</b>	<b>NEPA</b>
<u>Submission of Permit Application</u>	<u>Submission of Permit Application</u>
Determine Completeness of Permit Application within 30 days of receipt	Determine Completeness of Permit Application
Lead Agency prepares Initial Study	Lead Agency conducts Environmental Assessment
If minor action, prepare a Negative Declaration. Otherwise ...	If no significant impacts, prepare a FONSI and Decision Record. Otherwise ...
Decision to prepare EIR within 30 after days the Permit Application is completed.	Decision to prepare EIS
Notice of Preparation	Notice of Intent
---	Formal Scoping
Lead Agency prepares Draft EIR	Lead Agency prepares Draft EIS
Notice of Completion	---
Public Notice of Availability of Draft EIR	Federal Register Notice of Availability of Draft EIS
---	Circulation by Lead Agency of Draft EIS
Public Review Period (30-90 days)	Public Review Period (45 days)
Lead Agency responds to comments and certifies the EIR	Lead Agency responds to comments and prepares Final EIS
---	Federal Register Notice of Availability of Final EIS
---	Distribution of Final EIS
Certification of Final EIR by Lead Agency	---
Lead Agency approves project	Lead Agency approves project
Notice of Determination, implementable 30 days after filing	Record of Decision
Disposition of Final EIR	Federal Register Notice of Availability of ROD

Table 3 - Sample List of Permits Required by the State of Nevada  
Department of Conservation and Natural Resources

AGENCY	PERMIT NAME	PURPOSE
Bureau of Air Quality	Permit to Construct	Ensure that adequate air pollution control equipment is used in industrial processes to protect the ambient air quality standards and public health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility, scenic, aesthetic and historic values within the state.
Bureau of Air Quality	Operating Permit	Reaffirm, through testing, inspection and/or monitoring, that the initial determination of compliance relied on for the issuance of the permit to construct is valid.
Bureau of Water Permits and Compliance	Nevada State Ground Water Permit	Prevent pollution of ground water and to protect the environment.
Bureau of Water Permits and Compliance	National Pollutant Discharge Elimination System Permit	Regulate discharge into "waters of the U.S." to prevent water pollution, protect the environment and to preserve the beneficial uses that have been designated for those waters.
Bureau of Water Permits and Compliance	Underground Injection Control Permit	Regulate underground injection and to prevent pollution of ground water and protect the environment.
Bureau of Mining Regulation and Reclamation	Nevada Water Pollution Control Permit	Protect waters of the State from discharges associated with mining by establishing requirements for surface stabilization and reclamation upon closure.
Bureau of Mining Regulation and Reclamation	Nevada Mining Reclamation Permit	Protect the environment through the issuance of exploration project and mining operation reclamation permits.
Bureau of Waste Management	Approval to Operate a Solid Waste System	Prevent improper operation of waste systems which could cause unsafe health conditions or environmental problems.
Bureau of Waste Management	Hazardous Waste Management Permit	Ensure proper management of hazardous wastes by generators, transporters, and treatment, storage and disposal facilities.
Division of State Lands	Submit application for approval	Authorize all uses of state-owned lands.

The Nevada Division of Water Resources is responsible for distributing and administering the public waters of the State of Nevada to protect the safety and health of Nevada's citizens and animal life, to preserve the quality of life within the State and to protect existing rights of water users. The following is a sample list of required permits:

1. Permit to Appropriate the Public Waters
2. Permit to Change Existing Water Rights
3. Temporary Change Permit
4. Primary Permits (Reservoir Storage)
5. Permit for Use of Secondary (Waste) Water
6. Permit for Construction, Reconstruction or Alteration of a Dam
7. Permit for Recharge, Storage and Recovery of Water

## G. Cost Reimbursable Accounts

### Guidance

Cost-reimbursable accounts are sources of funding provided by an applicant (i.e. project proponent) to reimburse BLM for costs of processing their application and completing the NEPA analysis. Guidance for establishing a cost-reimbursable account is described in BLM Manual 1323 and 43 CFR 2800.

For Surface Mining projects and other major projects requiring an EIS, establishment of a cost-reimbursable account is at the discretion of the proponent. A proponent may choose to establish such an account to expedite processing of their application; otherwise processing begins when BLM funding has been allocated to the project. Cost-reimbursable accounts are required for applications requesting a right-of-way. Please check the BLM manual for additional program specific guidance.

### Before a cost-reimbursable account can be established:

1. A pre-application meeting should be held to discuss the project with the proponent.
2. The proponent must submit a completed application to BLM.
3. BLM prepares a cost estimate for processing the application and conducting the NEPA analysis (a table of estimated costs is sufficient). If a Right-of-Way is involved, BLM must also complete a "Right of Way Cost Recovery Category and Fee Determination Record" (BLM form 1323-2).

Estimated costs may include coordination with the contractor and project proponent, review of draft and final EISs, consultation with other agencies, public meeting and hearing attendance, and other costs associated with the project.

An EIS takes one to two years to complete. Eighteen months is realistic for an EIS if all goes smoothly.

4. The Resource Area sends the applicant a copy of the cost estimate and Fee Determination form, which the applicant has 30 days to appeal in writing. Otherwise, the applicant may waive their appeal rights in a one page letter indicating that "we (the applicant) concur and waive our 30 days appeal right. Please proceed with application processing."
5. The applicant, BLM and other lead agencies must develop and sign an MOU which includes stipulations for BLM's cost recovery. See BLM Manual 1323, Illustration 5 for an example.
6. Case processing CANNOT occur anytime the applicant owes payment on a bill, or has appealed the amount of cost estimate.

### To establish a cost-reimbursable account:

1. The Resource Area submits to the District a copy of:
  - a) the application
  - b) the MOU (see Chapter VIII, Section E)
  - c) the cost estimate and Fee Determination form
2. The District Office contacts the State Office (CA-950) and receives a charge code for the project.

#### G. Cost Reimbursable Accounts (cont'd)

3. The District contacts the Denver Service Center to activate the account.
4. The Denver Service Center bills the applicant after being notified by the Resource Area of the amount. The applicant may choose to be billed quarterly or yearly.

##### Using the account

1. The amount of time spent on the project by each BLM specialist and a description of the work done should be documented using BLM Form 1323-1 and submitted to the project lead.
2. The account should be recovered monthly. If the account appears to be running low, the project lead should develop a cost estimate for the next billing period and submit a request to the Denver Service Center to bill the applicant. The project lead should notify the applicant that they will be receiving a bill for the next period.

#### H. Third Party Contracting

##### Authority and Basic Guidance

A Third Party Contract is an arrangement between a project applicant, BLM, and an independent environmental contractor. The contractor, paid by the applicant, prepares the EIS according to the requirements of NEPA and BLM policy. The basic authority for this arrangement is 40 CFR 1506.5(c). The BLM NEPA Handbook, H-1790-1, Appendix 7 provides additional guidance.

##### Responsibility for NEPA Compliance

The environmental contractor is responsible to BLM, not the applicant, for preparing an environmental document that meets the requirements of NEPA. If the contractor-prepared document does not comply with NEPA, the Bureau will be held accountable by IBLA or the courts.

The work of the contractor must be monitored and reviewed regularly by the District or Area Office to ensure objectivity and technical adequacy in the environmental documents. It is a good practice to require the contractor to notify BLM in advance of any discussions or meetings with the applicant, so that BLM can be present. The Bureau should be provided with copies of any correspondence between the applicant and the contractor.

##### Memorandum of Understanding

A Memorandum of Understanding must be developed and signed by BLM, the applicant and any other lead or cooperating agencies prior to selection of the contractor. Refer to Appendix 14 for a sample MOU.

In addition to establishing the cooperative agreement between the agencies, the MOU must declare that the BLM will select the contractor, and that the project proponent will directly pay the third party contractor for their services. Since moneys are paid directly to the contractor by the project proponent, Federal procurement requirements do not apply.

A cost reimbursable account for BLM may also be established per guidance in BLM Manual 1323. The State Office PECS may submit the MOU to the Regional Solicitor for review prior to signature.

## H. Third Party Contracting (cont.)

### Selection of the Contractor

BLM is required by 40 CFR 1506.5(c) to select the environmental contractor. Notify CA-930 when a contractor has been selected.

BLM, the applicant and other lead agencies should develop a detailed "Scope of Work" for estimating contracting costs that specifies: 1) the schedule, 2) responsibilities of the contractor with respect to participation in meetings and other public involvement activities, 3) printing, 4) distribution of draft and final documents, 5) inventory, 6) analysis, 7) document content, and 8) document format.

Potential environmental contractors must provide BLM a Statement of Qualifications, indicating any relevant experience and qualifications, including education and professional qualifications of the individuals who will prepare the NEPA document, previous experience with BLM or CEQA agency projects, knowledge of the area and the project, the extent to which subcontractors will be employed, as well as in-house support skills and project management capabilities.

Each candidate third-party contractor must sign a disclosure statement prepared by the BLM specifying that they have no financial or other interest in the outcome of the project (40 CFR 1506.5(c)) prior to the selection process. An example of such an interest is where the contractor may also be responsible for project design, engineering or construction.

It is recommended that a Request for Proposals (RFP) be used on the larger projects to solicit competitive bids from interested consultants. Competitive procurement procedures are discussed in BLM Handbook H-1510-6.

BLM may consider qualified candidates suggested by the applicant; however, BLM must make an independent review of each candidate. BLM will assume no responsibility for prior agreements between the applicant and other parties. This is a particularly sensitive issue where a contractor may have been approved by the CEQA lead agency. Early coordination among parties will help prevent conflicts later on.

## I. Internal Review

The purpose of an internal review process is to ensure that NEPA standards are met, and to ensure that decisions regarding the significance of impacts are based on consistent standards.

### Which Documents

All EISs are subject to review by the State Director. Major EAs which meet the following criteria are also subject to review:

1. The District or Area Manager believes the anticipated level of controversy warrants State Director review.
2. An Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA) is required;
3. The action normally requires an EIS (Appendix 1), but the District or Area Manager believes an EA is appropriate;
4. The action may affect a Threatened or Endangered Species, and may require consultation with Fish and Wildlife Service;



## I. Internal Review (cont'd)

5. Processing methods using cyanide are proposed in a mining plan of operation;
6. Parcels are proposed for fluid mineral leasing pending completion of a Resource Management Plan;
7. The proposed action is not in conformance with the existing land use plan and a plan amendment is required.
8. An appeal is likely to be filed with IBLA.

### Roles and Responsibilities

All staff levels should be involved early in the preparation of a major environmental document and communicating with their counterparts throughout the process.

The District Office is responsible for technical review of the document. The District office may also provide technical expertise for scarce skills, for example hazardous materials and soils.

The State Office staff is responsible for reviewing policy and legal issues, coordinated through a designated State Office Project Coordinator. The Planning and Environmental Coordination Staff (PECS) will normally have this role, however individuals from other units may be assigned based on project needs, issues and workload. The State Office may also provide technical expertise for scarce skills, for example legal advice.

### Document Review

Project coordinators should establish a reasonable schedule for review by their office. Generally, a two-week period for internal review is recommended; however this may vary, depending on complexity, scope of issues, or other factors. The initial review will normally require more time than subsequent reviews.

Preferably, the District Office should review the document first, make any technical corrections and then submit the document to the State Office for review. As an alternative, the District Office may review the document, list their comments in a memorandum, and submit both the unaltered document and their comment memo to the State Office.

State Office comments shall be made in writing and transmitted formally by memorandum to the District Manager. If serious technical deficiencies are found, the State Office may request that the document be corrected and resubmitted for review. If the District or Area Manager disagrees with any of the State Office comments, a mutually agreed upon process for resolving the disagreement shall be established.

### Preliminary Briefings for the State Director

The project lead shall conduct a preliminary briefing for the State Director as soon as practicable following development of a firm proposal. Briefings are required for all EISs. Briefings for major EAs are not mandatory; however, the State Director may request a briefing. This requirement is not intended to duplicate existing procedures for RMP preplan or similar briefings. Briefings shall be coordinated through the State Office Planning and Environmental Coordination Staff. State Office staff from the Divisions of Resources, Minerals, or Operations may also be invited to attend.

## I. Internal Review (cont'd)

The District or Area Manager and necessary staff should also prepare a concise written report for the briefing which includes the following information: description of the project proposal, key issues, anticipated schedule for completing environmental documents, and expected public and agency participation. The forms provided in Appendix 7 (Project Summary) may be used as a guide.

Detailed maps of the project site or study area should also be prepared for the State Director's briefing. USGS quad maps or BLM surface management maps, depending on the size of the project, are recommended. Indicate project boundaries, land ownership, location of proposed structures or facilities, and any important physical or cultural features.

### Quality Control

The District Managers are responsible for ensuring quality control of NEPA documents. Usually, the District Manager will give the District PEC Chiefs the responsibility for reviewing the adequacy of environmental documents within the District through a sampling process.

Quality documents can best be ensured at the Resource Area level. The Environmental Coordinator should review each NEPA document for adequacy prior to submitting the document to the Area Manager for review and signature. The Environmental Coordinators, at the direction of the Resource Area Managers, should also provide yearly NEPA training to the specialists.

## J. Providing Comments

Comment memos from BLM specialists usually contain general, specific and summary comments. Comments longer than half a page should be submitted to the State Office on floppy disk using Word Perfect software.

"General comments" identify general inadequacies found throughout the document, including examples, and if available, sources for additional information.

"Specific comments" are listed by page and paragraph, not by topic.

The "summary" may contain recommendations about the proposed project and alternatives.

Comments must be constructive, specific, and never accusatory. For example, avoid comments like:

~~"I think the author is trying to make a name for himself."~~

~~"The overall section on flora is very weak."~~

~~"This document is totally biased, impossible and outrageous."~~

## K. Printing

### Coordination

The printing and distribution of BLM produced environmental documents is coordinated through the California State Office Printing and Publication Section (CA-951). The State Office Printing Specialist serves as the program lead for printing requirements statewide and acts as the central coordinator for publication and production of printed materials through the State Office, Service Center, Washington D.C. Office and the Government Printing Office (GPO)-Information Bulletin No. CA-92-077. Environmental documents published by a third party contractor do not need to be coordinated through CA-951.

### Options

There are four basic options for printing environmental documents, depending on the number of copies, size, and desired features:

1. Simple EAs (small number of copies, short documents, no frills) may be produced at the Resource Area or District Office using a copy machine without prior consultation with the State Office Printing Specialist.
2. Simple and Major EAs may be reproduced at a local copy shop if the total procurement costs are less than \$1,000 per document title. The State Office Printing Specialist must be notified at time of procurement.
3. Environmental documents can be reproduced at the State Office by the Printing Specialist upon presentation of a charge code. Documents requiring numerous copies ( $\pm$  100), special features or large documents may be deferred to the Government Printing Office.
4. Regional documents such as RMPs, unusually large documents, documents requiring numerous copies with a large distribution, or documents with several specialized features shall be reproduced through the Government Printing Office.

### Preparing Documents for Printing

The State Office Printing Specialist should be contacted before development of the draft environmental document. The Printing Specialist will provide assistance and advice on design of front and back covers, spine and self mailers, preparation of tables, mailing services, the binding of map envelopes and other details specific to preparing a camera ready copy for the printer in proper format.

Resource Area staffs are responsible for the content, design, and layout of the document. This includes proofreading, selection of appropriate illustrative materials (tables, maps, cover illustration, etc.) to ensure that the target audience is accurately informed.

Text entry should be accomplished with a computer using WordPerfect 5.0 or 5.1. Printing on a laser printer at 300 dpi is sufficient for typesetting environmental documents. Consult with the Printing Specialist if you need help.

Preparation services performed by the Printing Specialist require about five working days. Printing turn around time by the GPO is approximately 30 to 45 days, depending on the size of the document.



L. Filing Documents with the State Clearinghouse

Why

To ensure that federal actions are consistent with State and local government, and to foster an exchange of information, federal governments are required to send copies of selected environmental documents to the State Clearinghouse.

Where

The State of California, Office of Planning and Research has been designated the official State Clearinghouse and the single point of contact for the State of California. Send the documents to the following address:

State Clearinghouse  
1400 Tenth Street, Room 121  
Sacramento, CA 95814  
Telephone: (916) 445-0613

What

For all EISs and selected EAs, the following documents shall be sent to the State clearinghouse:

1. One (1) copy of the Notice of Completion (Figure 5) at the same time that the NOI is sent for publication in the Federal Register.
2. Provide ten (10) copies of the draft EIS or EA at the same time document is filed with EPA and made available for public review. (BLM covers the costs.)
3. Provide ten (10) copies of the final EIS (which should show how the State Clearinghouse comments were addressed) at the beginning of the public review period.
4. Furnish ten (10) copies of the ROD or DR/FONSI at the same time document is released to the public. The State Clearinghouse may request a 30-day review period to comment on a FONSI statement prior to project implementation.

The following types of EAs may be considered of interest to state and local agencies:

1. EAs for proposals which normally require an EIS;
2. EAs for proposals that will set a precedent;
3. The impacts are of special interest to the State, for example:
  - a. transfer of federal real property to states, municipalities, private parties or other federal agencies.
  - b. All District and Resource Area land use plans and Wilderness plans.
  - c. Solid waste disposal facilities or wastewater treatment facilities where State or Federal grants will be made.
  - d. Any stationary source of non-residential air pollution or proposals affecting air quality in Class I areas outside of BLM lands.
  - e. any proposal that directly affects State owned or managed lands.
  - f. Development of, or changes in utility corridors
  - g. actions that will significantly affect traffic on a State road or require a right-of-way or encroachment permit from a State agency.

L. Filing Documents with the State Clearinghouse (cont'd)

- h. actions that will permanently divert surface water
- i. proposals which would interfere with attainment of regional water quality standards as stated in the approved areawide waste water management plan
- j. actions potentially affecting a species designated or proposed for designation as threatened, rare or endangered by the State of California.

The State Clearinghouse is responsible for 1) distributing the copies to the appropriate State agencies, and 2) responding in writing by the end of the review period.

Additional Guidance

For additional information, please refer to Executive Order 12372, "Intergovernmental Review of Federal Programs" dated July 14, 1982, and the MOU between BLM and State of California, signed November 23, 1983).

NOTICE OF COMPLETION AND ENVIRONMENTAL DOCUMENT FORM

See NOTE Below

SCH # \_\_\_\_\_

1. Project Title: \_\_\_\_\_  
 2. Lead Agency: U.S. Bur Land Mgmt 3. Contact Person: \_\_\_\_\_  
 3a. Street Address: \_\_\_\_\_ 3b. City: \_\_\_\_\_  
 3c. County: \_\_\_\_\_ 3d. Zip: \_\_\_\_\_ 3e. Phone: \_\_\_\_\_  
 PROJECT LOCATION 4. County: \_\_\_\_\_ 4a. City/Community: \_\_\_\_\_  
 4b. (optional) Assessor's Parcel No. \_\_\_\_\_ 4c. Section \_\_\_\_\_ Twp. \_\_\_\_\_ Range \_\_\_\_\_  
 5a. Cross Streets: \_\_\_\_\_ 5b. For Rural, Nearest Community: \_\_\_\_\_  
 6. Within 2 miles of: a. State Hwy No. \_\_\_\_\_ b. Airports \_\_\_\_\_ c. Waterways \_\_\_\_\_

7. DOCUMENT TYPE

<u>CEQA</u>	
01	<u>NOP</u>
02	<u>Early Cons</u>
03	<u>Reg Dec</u>
04	<u>Draft EIR</u>
05	<u>Supplement/ Subsequent EIR (if no. prior SCH # _____)</u>

<u>NEPA</u>	
06	<u>Notice of Intent</u>
07	<u>Envir. Assessment/ FONSI</u>
08	<u>Draft EIS</u>

<u>OTHER</u>	
09	<u>Information Only</u>
10	<u>Final Document</u>
11	<u>Other</u>

8. LOCAL ACTION TYPE

- 01 General Plan Update  
 02 New Element  
 03 General Plan Amendment  
 04 Master Plan  
 05 Annexation  
 06 Specific Plan  
 07 Redevelopment  
 08 Rezone  
 09 Land Division (Subdivision, Parcel Map, Tract Map, etc.)  
 10 Use Permit  
 11 Cancel Ag Preserve  
 12 Other

9. TOTAL ACRES: \_\_\_\_\_

10. DEVELOPMENT TYPE

- |    |                                    |                  |
|----|------------------------------------|------------------|
| 01 | <u>Residential: Units</u>          | <u>Acres</u>     |
| 02 | <u>Office: Sq.Ft.</u>              | <u>Acres</u>     |
|    | <u>Employees</u>                   | <u>Employees</u> |
| 03 | <u>Shopping/Commercial: Sq.Ft.</u> | <u>Acres</u>     |
|    | <u>Employees</u>                   | <u>Employees</u> |
| 04 | <u>Industrial: Sq.Ft.</u>          | <u>Acres</u>     |
|    | <u>Employees</u>                   | <u>Employees</u> |
| 05 | <u>Sewer: MGD</u>                  |                  |
| 06 | <u>Water: MGD</u>                  |                  |
| 07 | <u>Transportation: Type</u>        |                  |
| 08 | <u>Mineral Extraction: Mineral</u> |                  |
| 09 | <u>Power Generation: Wattage</u>   |                  |
|    | <u>Type:</u>                       |                  |
| 10 | <u>Other:</u>                      |                  |

11. PROJECT ISSUES DISCUSSED IN DOCUMENT

- |                                     |                                |                               |                                |
|-------------------------------------|--------------------------------|-------------------------------|--------------------------------|
| 01 <u>Aesthetic/Visual</u>          | 08 <u>Geologic/Seismic</u>     | 15 <u>Sewer Capacity</u>      | 22 <u>Water Supply</u>         |
| 02 <u>Agricultural Land</u>         | 09 <u>Jobs/Housing Balance</u> | 16 <u>Soil Erosion</u>        | 23 <u>Wetland/Riparian</u>     |
| 03 <u>Air Quality</u>               | 10 <u>Minerals</u>             | 17 <u>Solid Waste</u>         | 24 <u>Wildlife</u>             |
| 04 <u>Archaeological/Historical</u> | 11 <u>Noise</u>                | 18 <u>Toxic/Hazardous</u>     | 25 <u>Growth Inducing</u>      |
| 05 <u>Coastal</u>                   | 12 <u>Public Services</u>      | 19 <u>Traffic/Circulation</u> | 26 <u>Incompatible Landuse</u> |
| 06 <u>Fire Hazard</u>               | 13 <u>Schools</u>              | 20 <u>Vegetation</u>          | 27 <u>Cumulative Effects</u>   |
| 07 <u>Flooding/Drainage</u>         | 14 <u>Septic Systems</u>       | 21 <u>Water Quality</u>       | 28 <u>Other</u>                |

12. FUNDING (approx.) Federal \$ \_\_\_\_\_ State \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

13. PRESENT LAND USE AND ZONING: \_\_\_\_\_

14. PROJECT DESCRIPTION: \_\_\_\_\_

15. SIGNATURE OF LEAD AGENCY REPRESENTATIVE: \_\_\_\_\_ Date \_\_\_\_\_

NOTE: Clearinghouse will assign identification numbers for all new projects. If a SCH Number already exists for a project (e.g. from a Notice of Preparation or previous draft document) please fill it in.

## M. Record Keeping

### Resource Area Log

Each Resource Area shall maintain a register or log (manually or on computer) tracking completed NEPA documents in that office. The log should contain:

1. name of the document,
2. date of the Decision Record,
3. type of project, for example, oil and gas leasing, powerline right-of-way, etc), and
4. identification number (docet #, case file #, or other number which will ease finding the project file).

Be sure to include Decision Records for categorical exclusions in the register.

Each project or case file should contain a copy of the NEPA documents (analysis, decision documents and attachments), or at least reference the NEPA document ID numbers and where they are located.

Be sure to also update any program specific data base management systems; for example, lands actions should also be entered into the ORCA or CR System.

### State Office Environmental Documents Tracking System

The Environmental Coordinator at the State Office is responsible for tracking EISs and major EAs being developed in the state. This information is used to quarterly brief the State Director on the status of these documents and to respond to Washington D.C. information requests.

The Environmental Coordinator maintains a file on each project which includes letters, memos, maps and other information about the project. The current status is tracked using the California's automated Environmental Documents Tracking (EDT) System. The EDT system operates in dBASE IV and produces a menu-driven system for accessing the EDT data base, editing and producing reports.

The District Office Planning and Environmental Coordinator is responsible for reporting the status of these EISs and major EAs to the State Office PEC staff. Please use the forms included in Appendix 7, or use the EDT system.

## N. Protests and Appeals

### Guidance

Public objections to any proposed action in a BLM NEPA document are processed through the Administrative Review procedures described in 43 CFR Part 4. Additional guidance may be found in the State Office "Protests and Appeals Guide Book."

### Protests

Protests are written objections to any proposed action (i.e. the DR or ROD has not been signed), and must be filed with BLM (generally to the next higher level of authority than the decision maker) within 30 days of publication of the "Notice of Availability" of the Final EIS or EA in the Federal Register. A 10 day grace period after the 30 days shall be observed. Any person is qualified to file a protest.

## N. Protests and Appeals (cont'd)

Prior to making a decision and signing the DR or ROD, BLM must take into consideration the elements addressed in the protest and provide the protesting party a written acknowledgement of having received the protest:

Dear Mr. \_\_\_\_\_:

We have received your letter of protest for the proposed \_\_\_\_\_.

We are currently reviewing the concerns raised in your protest and we will take them into consideration when we make a final decision. Thank you for your input.

An "appeal" submitted prior to issuance of a final decision by BLM shall be treated as a protest and the party shall be so informed.

Filing a timely protest (even if denied by BLM) automatically makes the person or group a "party in the case".

### Appeals

An appeal is a written objection to a final decision put forth in a DR or ROD. The appealing public party (appellant) must have "standing" in the case and must submit the written appeal to the BLM authorized officer within 30 days of publication in the Federal Register of the "Notice of Availability" for the DR or ROD (plus 10 days grace period, 43 CFR 4.401(a)). A "protest" filed after the DR or ROD is signed may be considered an appeal.

To have "standing", the public party must 1) be a party in the case and 2) be adversely affected by the decision. Being a party in the case is someone who "in one way or another actively participated in the decision-making process" or is someone (or an organization) that actually uses the land in question. Participation typically occurs through the filing of written comments, providing oral comments at public meeting, providing data or filing a protest. To be adversely affected, the party must show that their consumptive or non-consumptive use of the land has been denied or altered by BLM's decision. The affected party does not have to be located in or near the project area.

An appeal goes before the Interior Board of Land Appeals (IBLA) who will decide 1) if the appellant has standing in the case and 2) if the appeal has merit. The BLM may not make the determination whether or not an appellant has standing. The BLM may dismiss an appeal only if it arrives after the appeal period.

Decisions set forth in RMPs and Plan Amendments may not be appealed (see "Land Use Plans" below). Activity Plans may be appealed.

Filing an appeal transfers jurisdiction of a case to IBLA. Due to the large number of cases, the IBLA can take a year or two to hear and case and render a decision. Therefore, BLM is encouraged to continue negotiating with an appellant and come to a resolution such that the appeal is withdrawn.

## N. Protests and Appeals (cont'd)

An appeal prohibits execution of the decision except for decisions designated by law as "full force and effect." The following decisions are in "full force and effect" upon approval: 1) "full force and effect" decisions approved by the Office of Hearings and Appeals or IBLA, 2) right-of-way decisions, 3) oil and gas operational decisions (see 43 CFR 3165.4(a) and 52 CFR 5384), 4) timber sales, and 5) mining plans of operation that are not in wilderness areas (43 CFR 3809.4-f). If a decision is in full force and effect, the appellant can go directly to court.

Upon receipt of an appeal, the State Director shall contact the Regional Solicitor, and within 30 days, may file a written answer to IBLA explaining why the appeal should not be sustained (43 CFR 4.414). A copy of the answer shall be served to the appellant (43 CFR 4.401(c)). All documents, including return receipts and the case file, shall be forwarded to IBLA.

Appeals involving grazing issues usually will be appropriately processed as provided for in 43 CFR part 4.470, through an administrative law judge in response to a final decision following the NEPA process.

### Land Use Plans

Decisions listed in a proposed RMP/Final EIS or Plan Amendment (land use allocation type decisions) may be protested according to the procedures described in 43 CFR 1610.5-2, BLM Manual 1617.2 and Instruction Memorandum-91-234.

Land use planning protests are not heard by IBLA. The Director of the BLM, representing the Secretary of the Interior, must render a decision on the protest and set forth the reasons for the decision in writing. The decision shall be sent to the protesting party by certified mail. Once the Director makes a decision and the ROD or DR is signed, the Director's decision is final and not appealable.

Protests submitted by parties who do not have "standing" may be dismissed (i.e. ignored) by the Director. A party has standing if:

- a. The individual or organization participated in the planning process (43 CFR 1610.2(f)), even if not located in or near the area covered by the plan. Participation typically occurs through the filing of written comments, providing data or oral comments.
- and b. The individual or organization has an interest which may be adversely affected (43 CFR 1610.5-2(a)). The individual or organization simply needs to show that lands in the area covered by the RMP or Plan Amendment, or similar lands, are used by them (either in a consumptive or non-consumptive manner) and that the plan would deny or alter their use of the land. The affected party does not have to be located in or near the planning area.

**Chapter IX - Technical Guidance for Specific  
Resources/Projects**







## Chapter IX: Technical Guidance for Specific Resources/Projects

### A. Threatened and Endangered Species

#### Endangered Species Act, Section 7 Consultations

If federally listed plants or animals, or those proposed for listing (also known as threatened and endangered species or T&E), are found within the sphere of influence of the proposed action, then the Section 7 consultation or conference process prescribed in 50 CFR Part 402 must be followed.

If the proposed action may affect federally listed plant or animal species, or designated critical habitat for such listed species, then formal Section 7 consultation is required.<sup>1</sup> The single exception is when the action is determined "not likely to adversely affect any listed species or critical habitat" and when written concurrence of such determination is obtained from the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS), as appropriate.

If the action is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat, then conference pursuant to Section 7 of the Endangered Species Act is required. The Section 7 consultation process should be undertaken in concert with the NEPA process. BLM must have a Biological Opinion before the ROD can be approved.

Projects requiring the preparation of an EIS are likely to qualify as a Major Construction Activity. "Major Construction Activity" is defined in 50 CFR 402.02 as "a construction project (or other undertaking having similar physical impacts) which is a major Federal action significantly affecting the quality of the human environment as referred to in the National Environmental Policy Act."

If listed species or designated critical habitat may be present in the action area of a Major Construction Activity, BLM must prepare a Biological Assessment and request a "species list" from FWS or NMFS, as appropriate, concerning the listed and proposed species that may be present in the project area. A Biological Assessment is a document that evaluates the potential effects of the action on listed and proposed species and designated or proposed critical habitat.

The primary purpose of the Biological Assessment is to determine whether any listed species or designated critical habitats are likely to be adversely affected by the action and whether formal Section 7 consultation or conference is necessary.

If a Biological Assessment is required for a project, the flow diagram outlined in Figure 4a should be followed until the Section 7 consultation process is completed.

Guidance concerning the subjects to be addressed in the Biological Assessment is provided in 50 CFR 402.12(f).

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<sup>1</sup>For projects affecting listed terrestrial or freshwater species, consultation must be initiated with the Fish and Wildlife Service. For projects affecting listed anadromous or marine species, consultation must be initiated with the National Marine Fisheries Service.

## A. Threatened and Endangered Species (cont'd)

If the proposed action is not a Major Construction Activity, but is within the range of listed or proposed T&E species, BLM normally prepares a document (usually called a Biological Evaluation) that contains essentially the same information as a Biological Assessment.<sup>2</sup> For such projects, the flow diagram outlined in Figure 4b should be followed until the Section 7 consultation process is completed.

After the Biological Assessment or Biological Evaluation has been completed, the only other thing needed to initiate formal consultation is a transmittal memorandum from the State Director to the Regional Director of FWS or NMFS, as appropriate, which summarizes the proposed action and the principal findings of the Biological Assessment or Biological Evaluation. Current California policy is for all formal Section 7 consultations to be initiated by the State Director.

More detailed information concerning the Section 7 consultation process may be found in 50 CFR Part 402 and BLM Manual Section 6840.

### Relation to NEPA

The Biological Assessment, Biological Evaluation or Biological Opinion may be incorporated into the body of the NEPA document, or kept as a separate document and included in the appendix. In either case, the Decision Record or Record of Decision may not be signed until all requirements for Section 7 consultation have been completed.

### Special Status Plants

It is California BLM policy to conserve not only Federal and State listed plant species but also other special status plant species, including Federal candidate and sensitive plant species (see Glossary). To this effect, Environmental Assessments involving botanical resources shall be based on the most adequate resource data possible. This means that prior to approving a proposed action (for example, a land exchange or disposal) all public land parcels involved in the proposed action must be surveyed for special status plants by someone qualified to determine if any are present. Further, these surveys must be conducted at the appropriate time of year to properly identify the special status plants in question. Merely consulting the California Natural Diversity Data Base records to determine if any special status plants are present on the public land parcels is an unacceptable clearance method and runs counter to the Bureau's special status plant policy.

### Endangered Plants on Private Land

Section 9 of the Endangered Species Act (ESA) prohibits removing, cutting up, digging up, damaging or destroying an endangered plant in knowing violation of any state law or regulation, or in the course of any violation of a state criminal trespass law.

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<sup>2</sup>The documentation of project effects on T&E species normally provided in a separate and distinct document (Biological Assessment or Biological Evaluation) may be consolidated into a NEPA document, provided that all of the substantive and information requirements of Section 7 of the Endangered Species Act are met. See 50 CFR 402.06 for details concerning how the consultation, conference, and biological assessment procedures may be coordinated with other environmental reviews.

Figure 4a: Endangered Species Consultation Process for Major Construction Activities Requiring an EIS

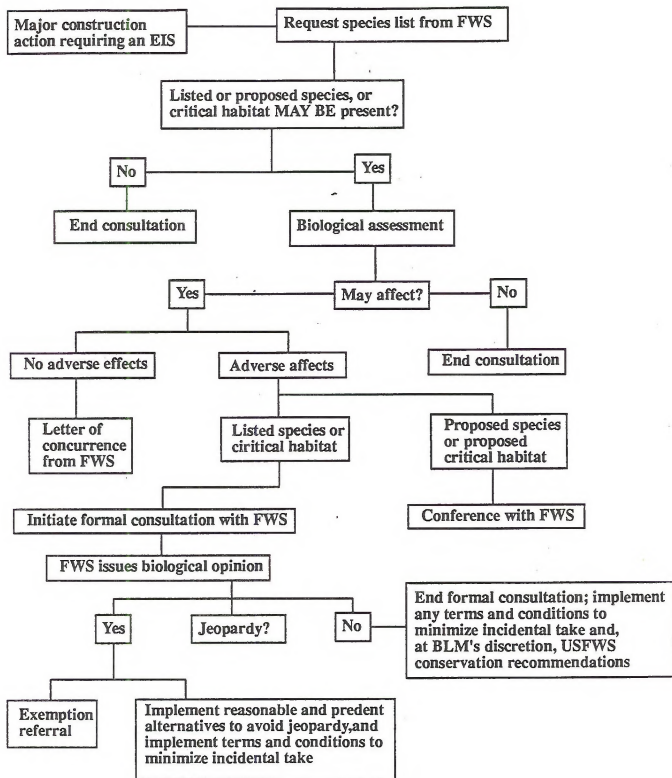
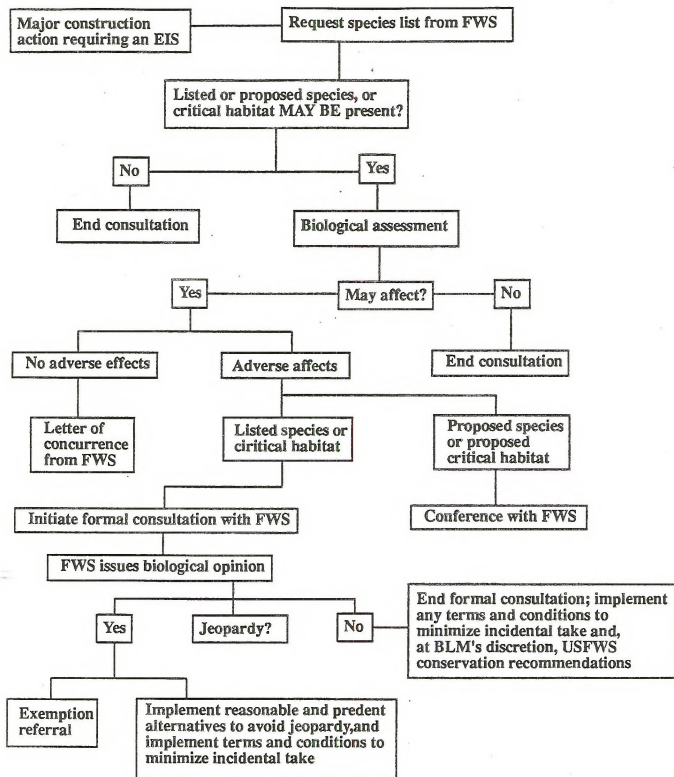


Figure 4b: Endangered Species Consultation Process for Actions NOT involving Major Construction Activities



#### A. Rare, Threatened and Endangered Species (cont.)

The provisions of the ESA apply to all projects in their entirety, regardless of surface ownership, when the right-of-way or facility on non-Federal land depends on BLM authorization on lands administered by BLM, for example interrelated or interdependent actions.

Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration.

#### State Listed Plants and Animals

It is BLM policy to conserve State-listed plants and animals, and to utilize BLM authorities to ensure that actions authorized, funded, or carried out on the public lands of California that may affect State-listed plants and animals are fully coordinated with the California Department of Fish and Game and other interested persons. The objective of all programs must include the means to conserve State-listed plants and animals --and the habitats on which they depend, to promote their delisting, and/or to enhance or maintain the ecosystems on which they depend. This policy applies to all BLM programs and actions related to the public lands and Federal subsurface mineral estate in California.

Guidance for conserving state listed plants and animals may be found in the following sources:

- a. California Endangered Species Act of 1984.
- b. California Native Plant Protection Act of 1977 (Fish and Game Code Sections 1900-1913 and 1925-1926).
- c. FLPMA, sections 202(c), 103(1), 201.
- d. Endangered Species Act, Section 4 as amended.
- e. The Sikes Act, Title II, Section 202(c)(3).
- f. BLM Manual Section 6840.06 and 6840.2.
- g. BLM/CDFG Master Memorandum of Understanding (CA-192, signed July 28, 1982).

It is the responsibility of BLM to prepare and maintain on a continuing basis an inventory of the State rare and endangered species on all BLM-administered lands. This inventory shall be used to develop and revise land use plans. State rare and endangered species are scarce by definition, and their habitats should be considered for identification as potential Areas of Critical Environmental Concern (ACEC).

Whenever A BLM line manager concludes that the available information is adequate and determines that a proposed action may affect a State-listed species, he must modify the proposed action, abandon it, or confer with the nearest Regional Manager of the CDFG. CDFG staff specialists may be brought into these processes much earlier, but in many cases the consideration of State-listed species to this point will be entirely within BLM.

## B. Range Management

NEPA documentation (CX, EA or EIS) is required for all range management activities including: 1) adjustments of stocking levels, changes in kinds of livestock and season of use; 2) changes in grazing treatments, such as location of grazing activities, intensity of livestock use, time of use, frequency of use, level of forage utilization and associated activities such as trailing, salting, vehicle use etc.; 3) range improvements, not only including new projects, but also modification, relocation, removal and maintenance of existing projects.

Proposed actions related to range management must be in conformance with an approved RMP or MFP. NEPA analysis for a proposed action may not reexamine decisions already made in the Land Use Plan except through the plan amendment process.

Please refer to Appendix 2 of this handbook for a list of Categorical Exclusions related to range management.

Cumulative impact analysis for grazing actions should consider the effects of past actions. For example, the impacts of implementing proposed range improvements, grazing systems or other Allotment Management Plan provisions should be evaluated in relation to past grazing management and other previous uses in the allotment to reveal significant trends or changes.

Actions addressing grazing preferences or applications for grazing requires formal decisions beyond the NEPA process. Appeal procedures are described in 43 CFR part 4.470.

## C. Cultural Resources

### Public and Private Land Interface

When the location of potential disturbance is associated with a BLM decision, the BLM shall take into account the potential effects to cultural properties on Federal and non-federal lands.

Where BLM is acting as lead agency for the environmental review of a proposed project that involves lands under other jurisdiction or ownership, BLM's responsibility may extend to the entire project.

Compliance with section 106 is a Federal agency responsibility that cannot be delegated or transferred to a non-Federal party.

### Potential Impacts to Cultural Resources

To determine whether proposed land use decisions would have effects on cultural properties, the authorized officer consults with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation according to the procedures described in 36 CFR Part 800, which implement Section 106 of the National Historic Preservation Act.

Only cultural properties that meet the National Register qualifying criteria, as determined by the authorized officer and the SHPO are subject to compliance with section 106.



## C. Cultural Resources (cont'd)

### Cultural Compliance Reports

Whenever cultural resources are likely to occur, we must carry out inventory, evaluate all properties for eligibility for the National Register of Historic Places, evaluate impacts to cultural resources, mitigate the impacts, consider alternative courses of action, and submit inventory results and National Register evaluations to the SHPO and the Advisory Council. Cultural compliance reports shall consist of the following:

1. Description of the proposed action including those alternatives under consideration.
2. Pre-field literature review and summary (Class I) including consultation with the SHPO, professional community and concerned Native Americans or other ethnic groups.
3. Field inventory (Class II or Class III) results, including rationale for inventory design, specific amount of field coverage, summary description of all cultural values revealed and predicted cultural sensitivity for the project area. Evaluation in terms of eligibility for the National Register of Historic Places for all recorded prehistoric, historic or ethnographic sites.
4. Description of predicted impacts on cultural values from proposed action.
5. Mitigation measures including site avoidance, testing and full data recovery program. If possible, this section should consider a preliminary research design for the mitigation program.
6. Mitigation measures should be developed in concert with lease stipulation requirements included as part of the action. On this basis they must be reasonable in character and technologically economically feasible.
7. SHPO comments should be solicited early enough to ensure inclusion in the final environmental document. We must allow a 30-day time frame for SHPO comments, plus sufficient time for mailing and analysis of the comments as required.
8. The Advisory Council's comments are required when the action could impact National Register quality properties known or unknown. Compliance can be developed on a program basis initially or on a project basis, based on stipulations, or both. Coordination with other Federal agencies must be insured for some types of actions, especially in those instances where the other agency lacks CRM staff capability.
9. Submission of the cultural compliance documentation to the ACHP should include the SHPO comments, or evidence that the document was submitted but no response was forthcoming.

### Integration of Cultural Processes in EA/EIS

1. Include only summary of items 2 and 3.
2. Where feasible, impact and mitigation sections for EA/EIS should be developed following completion of consultation with the SHPO and ACHP.
3. Initiation of treatment programs approved through the section 106 process should not be initiated prior to approval of the ROD.

## C. Cultural Resources (cont'd)

### Guidance

Guidance for complying with the National Historic Preservation Act and Executive Order 11593, in conjunction with NEPA documents may be found in 36 CFR Part 800 and BLM Manual 8143.

## D. Native American Consultation

### Policy

Consideration of Native American cultural and religious values associated with Bureau lands, consistency with Tribal planning programs and evaluation of potential effects of BLM actions on Indian Lands shall be undertaken in conjunction with all resource management and planning actions. This responsibility extends to the preparation of planning documents, range improvements, mineral actions, wildlife recovery plans, issuance of cultural resource permits and other actions.

It is the policy of the Bureau to:

1. Regularly consult and coordinate with appropriate Native American groups to identify and consider the concerns of Native Americans in Bureau land use planning and decision-making.
2. Review land use planning decisions, and other major Bureau decisions, for consistency with tribal land use and resource allocation plans. In Alaska, the Bureau will review plans and decisions for consistency with Alaskan Native village corporation or Alaskan Native regional corporation resource management plans.
3. Recognize Native American traditional cultural and religious values as an important part of our nation's heritage and to develop the capability to adequately address impacts to these values which may result from Bureau land use decisions.

Consultation should be initiated at the earliest possible point in the planning or resource management action and include all potentially interested or effected Native American groups. Bureau policy provides that any issues identified through this consultation process for which we do not have responsibility or jurisdictional authority will be communicated to the appropriate agency or bureau.

### Guidance

As a means of reaching multiple-use land and resource decisions through the evaluation of resource information, all tiers of the Bureau's planning process will incorporate techniques to identify Native American heritage and religious values. Various aspects of the planning process will be used to identify these values. At a minimum, these include:

1. **Public Participation:** Issues related to the American Indian Religious Freedom Act (AIRFA) will be identified through, but not limited to, standard public participation techniques (e.g. public meetings, mailing of newsletters). When necessary, identification of these issues may involve interviews with Native American community members who are not official representatives of the tribal government.



#### D. Native American Consultation (cont'd)

2. **Consultation and Consistency Review:** As part of its responsibilities under Sec. 202 (C)(9) of FLPMA, the Bureau will, to the extent practicable, ensure consistency with affected tribal land and/or resource plans. AIRFA related issues and N.A. heritage issues will be part of this consistency review.
3. **Relationship to NEPA Documents:** To evaluate the impacts resulting from land use decisions, the Bureau will follow all NEPA regulations and CEQ guidelines to assess the impacts to Native American heritage issues. The application of categorical exclusions will not relieve the Bureau of the need to evaluate impacts to Native American heritage or religious values.

Specific standards and guidance for consultation and coordination with Native American groups are set forth in BLM Manual 8160, "Native American Coordination and Consultation". Additional guidance specific to Native American cultural values associated with Bureau lands is contained in California Manual Supplement 8-2 "Native American Socio-cultural Concerns".

#### E. Wilderness Management

Whenever a proposed action is located within or near Wilderness Study Areas (WSAs), a non-impairment analysis must be conducted to determine if the proposal is permissible under the Interim Management Policy (IMP) and guidelines for WSAs described in BLM handbook 8550-1, "Interim Management Policy and Guidelines for Lands under Wilderness Review." The non-impairment analysis is incorporated into the NEPA documentation.

##### NEPA Documentation

The information needed to reach a conclusion based on the nonimpairment criteria cited above are included in the EA and EIS. Categorical exclusions are not appropriate for proposals involving wilderness values. The following information must be included in NEPA documents involving wilderness:

1. A description of the proposal and alternatives, including:
  - a. projected location and use of required access.
  - b. Design considerations of structures and support facilities, such as size, color and materials.
  - c. Construction methods, including machinery or vehicles to be used.
  - e. Maintenance schedules and procedures.
  - f. Miles, square feet or acres of surface disturbance.
2. A description of the entire wilderness study area (or inventory unit), including:
  - a. Identify the WSA by name and number, for example, Cady Mountains WSA (CDCA-251).
  - b. Existing uses and manmade or man-caused features.
  - c. Wilderness characteristics as documented in the Wilderness Study Reports.
  - d. A map of the WSA from the Wilderness Study Report.

## E. Wilderness Management (cont.)

### 3. Analysis of reclamation:

- a. What the particular reclamation plan will accomplish.
- b. How the process will be implemented (type and amounts of hand and machine work).
- c. Vegetation to be reestablished.
- d. Schedule for completion.
- e. Probability for success.
- f. If a reclamation plan is not available or is inadequate, assess what measures would be needed to return the disturbed areas to the required reclamation level.

### 4. Cumulative impacts assessment, including:

- a. If the project's impacts had existed at the time of intensive inventory, would those impacts have disqualified the area from being identified as a wilderness study area?
- b. Will the addition of this proposal produce an aggregate effect upon the area's wilderness characteristics and values that would constrain the Secretary's recommendation with respect to the area's suitability or unsuitability for preservation as wilderness?
- c. For wilderness study areas that are pristine in character, will the addition of this proposal significantly reduce the overall wilderness quality of the WSA?

### Decision Documentation

In addition to the standard NEPA documentation for decision documents (DRs, RODs), projects affecting WSAs shall include:

1. A determination that an activity is exempt, acceptable or unacceptable under the IMP.
2. Describe how the public will be informed.

### Record Keeping

The District Office shall maintain a permanent documentation file for each WSA or inventory unit. In addition to the required inventory and WSA information, this file should contain a summary of all authorized, unauthorized and proposed actions, since December 1979, within the WSA or inventory unit. The associated environmental documentation should also be referenced.

### Management Review and Decision

Upon completion of the environmental analysis, the Authorized Officer may take one of two courses of action:

1. Reject the Proposal
2. Approve of the Proposal, if the action meets the non-impairment standard or is exempt from the standard. The Area Manager should forward a copy of the NEPA documentation, FONSI, stipulations and Area Manager recommendation to the District Office for approval. This concurrence is designed to insure consistency in application of the IMP. The District Manager may delegate authority to approve emergency actions.

## F. Surface Mining Operations

### EA or EIS?

To avoid unnecessary duplication, an EA to establish the need to prepare an EIS should be as concise as possible and focus on the significant impacts. The optional short form EA may be used (NEPA Handbook, Illustration 3). The EA and a brief rationale for preparing an EIS should be submitted for State Director review and concurrence. This will provide a written record of the analysis and manager's determination prior to initiating the EIS.

Large scale surface mining operations normally require an EIS (516 DM 6 Appendix 5). When cyanide is involved, public controversy may dictate the preparation of an EIS even on smaller size operations. Controversy does not mean simply that a person or a few individuals disagree with the proposal; there must be sufficient technical or environmental basis for concern about the project to warrant an EIS. The need to prepare an EIS on a large surface mining operation cannot be avoided simply by submitting separate plans of operations for phases of the project. (Sources for further information: BLM NEPA Handbook H-1790-1; Department Manual 516 DM; CEQ Regulations 40 CFR Part 1500).

1. An EIS is required for any surface mining operation involving Public Lands in California that would disturb a total of 640 acres or more. An EIS may also be required on smaller operations if they are controversial or significant impacts would result. The District Manager will make this determination. State Director concurrence is required prior to issuing a Notice of Intent to prepare an EIS.
2. There may be unusual circumstances where an EA is the appropriate document for mining operations 640 acres or more. In such cases, the EIS requirement will be waived only with State Director concurrence and with a 30-day public review of the EA and FONSI. The responsible office shall submit an EA, FONSI, and Decision Record for State Director review and concurrence. The EA must provide sufficient information to assure that no significant impacts would result.
3. All phases of the mining operation must be considered in the EA or EIS, as well as roads, utilities, and administrative and processing facilities associated with the mining operation. Related Bureau actions such as rights-of-way grants; sale, exchange, or acquisition of land; or other actions will be considered as part of the project and will also be addressed in the environmental document.
4. An EA may be used to authorize limited exploratory drilling to determine location of an ore body. The claimant or operator should be advised that an EIS may be required for subsequent development.

### Environmental Review Requirements for Open Pit Mining

Because of the controversy associated with open pit mining, additional guidelines have been established to ensure public concerns are addressed in the EA or EIS:

1. **Alternatives:** A range of alternatives to the proposed action shall be analyzed for all open pit operations. The alternatives shall include No Action, other design or processing alternatives necessary to eliminate site specific conflicts, and various backfilling alternatives

## F. Surface Mining Operations (cont'd)

including no backfilling, partial backfilling, and complete backfilling. Variations, such as sequential backfilling may also be considered. The environmental analysis shall indicate the expected costs of each alternative and discuss the secondary use of the site following reclamation. As required by NEPA, BLM shall devote substantial treatment to each alternative analyzed in detail.

2. **No Action:** This alternative shall mean the continuation of existing management for the area without approval of the proposed action. No Action should address other kinds of existing resource activities and uses, such as livestock grazing, recreation, or wildlife management. The environmental document should note that a decision to disapprove the mining plan can only be made on a finding of unnecessary and undue degradation; however, No Action is analyzed for comparative purposes since NEPA requires that all reasonable alternatives are considered, even if they are outside the authority of the agency to implement.
3. **Complete backfilling:** Complete backfilling involves filling of all open pits and removal or grading to natural contours any remaining material. No subsequent mineral use of the pit will be assumed.
3. **Partial backfilling:** This alternative involves filling of open pits up to a point which would allow future mineral use of the pit.
4. **Sequential backfilling:** Sequential backfilling will be considered where more than one pit is involved or the shape of the pit would permit such a process.

### Cyanide

State Director review is required for any cyanide operation. A good analysis will be required in the EA or EIS of the following:

1. Enclosed system feasibility;
2. spray or drip application;
3. methods of covering solution ponds: netting, floating covers, etc.,
4. methods of decommissioning heap leach piles.

### Quality Control/State Office Involvement

State Office Planning and Environmental Coordination Staff and the Division of Mineral Resources shall be involved early in the process for EAs and EISs on large surface mining operations. If a third party contract or cost recovery account are involved, the Division of Administration shall also be consulted. The State Director will sign draft and final EIS and Record of Decision.

### BLM/County Cooperation

BLM and the County should work closely to coordinate the environmental review process in accordance with NEPA, CEQA, and SMARA and the SMARA Amendment.

## F. Surface Mining Operations (cont'd)

1. **SMARA:** Most surface mining operations in California are affected by the California Surface Mining and Reclamation Act (SMARA) of 1975, as amended. BLM and the County share responsibility for ensuring compliance with SMARA on public lands in accordance with the February 7, 1990 MOU. Key areas of cooperations are:
  - a. Developing individual MOUs for large surface mining operations;
  - b. joint environmental review; Reclamation plan
  - c. conducting inspection and enforcement activities;
  - d. bonding;
  - e. eliminating duplication whenever possible.
2. **Exemptions:** Exempt from SMARA are the following:
  - a. Prospecting for, or the extraction of, minerals for commercial purposes and removal of overburden in total amount of less than 1,000 cubic yards in any one location of one acre or less;
  - b. surface mining operations that are required by Federal law in order to protect a mining claim, such as annual assessment work, if such operations are conducted solely for that purpose; and
  - c. such other surface mining operations which the State has determined to be of an infrequent nature and which involve only minor surface disturbances.
3. **Joint Environmental Documents:** Joint NEPA/CEQA documents should be prepared to minimize paperwork and eliminate duplication. The District will develop an MOU between BLM, any lead Federal agency, and the lead agency under CEQA to guide preparation of the EIS/EIR. The State Director will sign the draft and final EIS/EIR documents. The responsible official for other lead Federal agencies and the SMARA lead should co-sign the documents.
4. **Environmental Assessments:** Joint EA/EIRs may be prepared for mining operations which do not require an EIS.
5. **Decision Process and Documentation:** The lead Federal agency and the lead agency under SMARA prepare separate decision documents. The ROD, signed by the BLM authorized officer, must meet the content requirements of 40 CFR 1505.2 (see also BLM NEPA Handbook H-1790-1) and include a detailed rationale for the decision. The rationale explains the basis for the decision, including the management considerations such as impacts to sensitive resources, social and economic considerations, long-term benefits, and any essential considerations of national policy which were balanced in reaching the final decision. The ROD indicates whether the decision is in conformance with existing land use plans, policies, and programs.
6. **Public Involvement:** Public involvement activities such as scoping meeting, public meetings or hearings should be coordinated and combined to the extent possible. BLM and the SMARA lead conduct the meetings, not the applicant.
7. **Appeals:** Allow 30 days following the filing of the FEIS before the ROD is signed. The period is often used as a review period for additional public comments. This review is discretionary for an EA. A formal 30-day appeal period in accordance with 43 CFR Part 4 begins on the signing of the ROD (or DR). Be aware that 3809 does not require BLM to delay implementation during this appeal period, but the State Director may elect to do so.



## F. Surface Mining Operations (cont.)

### Analysis of Cumulative Impacts

Cumulative impacts must be considered in the environmental analysis process. Cumulative impacts are "the impacts on the environment which result from the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions" (40 CFR 1508.7). In addressing cumulative impacts for a surface mining operation, the following should be considered:

1. Identify the specific mineral related and other actions that could cause cumulative impacts. This analysis should include other mineral operations in the area; associated roads, buildings, communications or utility service facilities; other non-mineral actions, such as grazing, off-highway vehicle use, or timber harvesting to the extent that such actions may cause cumulative impacts. Reasonable foreseeable future scenarios should be constructed to indicate the expected level of future development within the area of analysis.
2. Determine the specific resource values affected. Focus on key resources such as T&E species, key cultural values, or other sensitive or significant values.
3. The geographic area of analysis may be different for each resource. Consider boundaries such as air basins, watersheds, ecosystems, habitats or others as appropriate. Include lands administered by BLM as well as the lands of other agencies and private lands. Social and economic impacts should also be addressed as necessary.
4. The extent of documentation will depend on the complexity and size of the project and the degree of impact anticipated. Not all operations will result in cumulative impacts. Cumulative impacts of small, non-controversial operations may be addressed in a short paragraph or two. Large scale operations normally will require more substantial treatment.

### Reviewing Plans of Operations and Notices

Mining proposals which may cause degradation must have some thought behind them and be professionally done. There have been numerous mining scams in the last several years, some of them occurring in whole or in part on the public lands, and with notices or plans of operation acknowledged or approved by BLM. There have also been proposals to open large open pits with only minimal drilling to block out the ore body. Therefore, responsible official shall ensure that:

1. All notices and plan submissions will be reviewed from a practical and technical standpoint to ensure that the proposal makes sense.
2. The operator should submit data on exploration holes, ore grade, and reserves that would justify consideration of the project.

To develop a viable mining operation, the sequence of events progresses through exploration, evaluation, permitting, mine and plant construction, operation and final reclamation. Each step is dependent on the success of the previous stage.

Additional guidance may be found in the 3802/3809 Regulations and the 3809 Manual.

## F. Surface Mining Operations (cont.)

### Reclamation Plan

Reclamation Plans for 3809 plans of operation may be referenced in the EIS. However, reclamation plans must be developed as discrete, stand-alone documents. The preliminary reclamation plan should be completed and available when the draft EIS is prepared. A final, approved reclamation plan will be completed after the ROD is signed to incorporate any required reclamation actions from the ROD.

### Reclamation and Mitigation Requirements Book

On large surface mining operations, a book containing the information necessary to monitor compliance with the terms of the approved plan of operation shall be prepared following completion of the FEIS. (Some examples have been developed--Cedarville, Castle Mountain-- but we are still refining the concept.) This book will be used by BLM inspectors to monitor progress and ensure compliance with all stipulations and mitigation measures of the approved plan. If it is not a requirement it should not be in the book. It should include the following:

1. A one page description of the proposal.
2. A map showing the location of all disturbance.
3. The stages when the reclamation will take place.
4. Performance standards.
5. Bond amounts and agencies holding the bonds.
6. Copy of all pertinent permits.
7. List of mitigating measures listed in the EIS and ROD.

The book should be organized by major resource categories such as water, vegetation, and wildlife sections.

## G. Oil and Gas Leasing

### Conditions for Leasing

Only parcels of land which meet all five of the conditions listed below should be authorized by the districts for State Office inclusion in future competitive sales.

1. Result in no significant direct/indirect/cumulative impacts.
2. Either be within an area open to or available for oil and gas leasing, as stated in an existing MFP or RMP or, if the existing plan is silent on leasing, be in an area where leasing would generally be in conformance with other planned resource goals, allocations, and actions.
3. Be in an area of land that does not have the same environmental conditions as the lands that were the subject of the court appeal in Conner v. Burford.
4. Have been studied in an environmental document which contains an appropriate Reasonable Foreseeable Development Scenario (RFD), and a Cumulative Impact Analysis (CIA) based on the RFD (See the discussion below for a Caliente example).
5. Either contain no Threatened or Endangered (T&E) species/ habitat or have a completed ESA Section 7 consultation with a "No Jeopardy Opinion" from the U.S. Fish and Wildlife Service (FWS).

## G. Oil and Gas Leasing (cont'd)

### Plan Conformance

Leasing must be in conformance with the existing land use plan. In every case, the manager must determine if leasing conforms with the existing plan, i.e., if leasing and development are compatible with the objectives and specific management prescriptions for other resources. This can be accomplished through the completion of an EA which contains the required SPG information (H-1624-1 Manual) and analyzes impacts on other resources.

No parcels of lands should be offered if oil and gas leasing is not in conformance with the plan, or if the plan specifically states that leasing must be evaluated in a plan amendment. Plan conformance must be documented with a statement in the decision document, indicating that oil and gas leasing and development have been analyzed and that leasing conforms with the existing plan.

### Completing an Environmental Assessment

As discussed above, oil and gas leasing can only be allowed under certain conditions. For areas of land which meet those conditions, field offices will complete EAs. Do not complete analyses on individual, isolated parcels. Instead, select an area which contains enough public minerals to make this interim effort worthwhile. The EA provides the SPG information and must have an RFD, with a prediction of the field development, and a CIA. The requirement for a field RFD (not a parcel RFD) is applicable to all alternatives that are considered in the one EA. If an EA has four alternatives, there may be as many as four RFDs because the predicted development may change, based on the types of restrictions in each of the alternatives. The CIA also requires an analysis of actions and activities on adjacent lands, i.e., a comprehensive look at overall impacts. Therefore, an environmental review must be completed on a broader area than just individual parcels.

The Bakersfield District recently completed an EA for lands in the Caliente Resource Area. The Wheeler Ridge portion of this document provides an example of a document that successfully incorporates the elements of the SPG, complies with NEPA, and satisfies the Conner requirements, so we have attached it as an example. Notice that both the RFD and CIA, which cover an area of land, have been incorporated directly into the body of the EA.

### Endangered Species Act, Section 7 Compliance

For any lands which contain T&E species or habitat, the FWS should do a "comprehensive" Section 7 consultation on the full leasing proposal, including the predicted level of field development (RFD) and the CIA, prior to BLM offering the lands for lease. Accordingly, California will not offer any parcels for lease if the lands are located in historic, existing, or likely T&E habitat, until a formal Section 7 consultation is completed with the FWS. Our policy is for the BLM to provide FWS with an EA, containing an RFD, T&E information or inventories, a CIA, and recommended mitigation/avoidance. Field offices should provide sufficient information in the Section 7 request for that the FWS can decide whether or not T&E species will be protected. On the other hand, we do not need a consultation for areas with no T&E species.

### T&E Stipulation

There is an alternative to the inventory requirements above. For potential habitat lands, where inventories have not been completed, BLM can place a T&E stipulation on offered tracts. We should then forward the EA package, with the T&E stipulation, to the FWS for consultation.



## G. Oil and Gas Leasing (cont'd)

Field offices will only use the T&E stipulation on a case-by-case basis, for land tracts that are within the range of T&E species. However, since California has so many different T&E species, there will probably be areas within California where the T&E stipulation will have to be used extensively. If an offered oil and gas parcel is partly in T&E habitat and partly outside the environment for T&E, then the T&E stipulation will apply only to part of the parcel. Parcels of land which contain no habitat do not need the T&E stipulation.

The benefit of using the T&E stipulation is that BLM can resume the oil and gas leasing program by offering drainage parcels and industry-interest parcels in high potential areas at future sales, while complying with the Conner case.

### Additional Guidance

Additional guidance may be found in Instruction Memorandum CA-92-145 "Interim Policy for Oil and Gas."

## H. Lands

### Purpose

This supplement provides guidance in completing National Environmental Policy Act (NEPA) analysis and decision documentation for lands and right of way actions. This section also clarifies Washington Office Instruction Memorandum 91-4.

### Background

Land Reports are no longer used. All information is now included in the environmental document and decision record (DR). The use of Land Reports was eliminated in Washington Office Instruction Memorandum 91-4.

### Environmental Requirements for Lands and Right of Way Actions

In addition to the required NEPA elements discussed in Handbook H-1790-1 and Chapters IV and V of this guidebook for EAs and EISs, lands and right of way actions are required to include explicit documentation of impacts to the Critical Elements of the Human Environment.

If analysis shows that there will be no impact to a critical element, or that it is not present, that finding must be documented. For non-realty actions, documentation of unaffected critical elements is recommended.

Declaring that there are no impacts to critical elements is sometimes referred to as a "negative declaration." This should not be confused with the Negative Declaration procedure under the California Environmental Quality Act (CEQA)). This requirement does not apply to categorical exclusions (CXs) which, by definition, do not require documented analysis.

### Lands and Right of Way Technical Information

Realty information pertinent to an action must be included in the NEPA or decision document. The recommended practice is to include this information in the Decision Record (DR) or Record of Decision (ROD).

## H. Lands (cont'd)

Some of the information needed for lands and right of way actions, as with other programs, is unique. Some of this information, such as land status, access, encumbrances, etc., is not covered by the H-1790-1 handbook. Although Land Reports are no longer used, it is still necessary to review and record this data for the decision maker and for future reference in the casefile. All facts bearing on the action should be analyzed and documented, in addition to the NEPA requirements.

Appendix 15 includes a list of typical lands and realty data which may be needed when processing and adjudicating these cases. Appendix 15 is not intended as definitive or mandatory. Its purpose is to provide a checklist for use by the specialist.

### Plans of Development

Summary: Plans of development (POD) should be used in the application and review process, and should be integrated into the NEPA analysis and documentation as part of the proposed action or mitigation measures.

Plans of development enhance communication between the proponent and the BLM and are required as part of the application or proposal. The POD should fully describe the action through all phases of construction and use. PODs should be used to explain design features, construction techniques, industry operating procedures, and agreed upon up-front mitigation, monitoring, and rehabilitation.

The POD should match the preferred alternative of the NEPA document. PODs may be referenced or appended to increase clarity and reduce redundancy. Guidance in content, format, and use of PODs may be found in BLM Handbook H-2801-1. Their use is not limited to rights of way. When used properly, the need for BLM-to develop and impose mitigation measures without proponent participation is reduced.

### Realty Specialist's Recommendation

Summary: A written recommendation by the realty specialist is not required. A recommendation may be included as part of the decision document at the authorized officer's option.

Land Reports included the recommended action of the specialist. This recommendation carried no delegated responsibility, and under IM 91-4 is no longer used. NEPA review requires an interdisciplinary approach, rather than analysis and recommendation by one specialist. It is inappropriate to include decisions or recommendations within a CX, EA, or EIS.

In some cases managers may still prefer that the specialist document his/her recommendation. If used the recommendation should be included in the DR or ROD, as part of the rationale or in a separate "recommendation" section. The manager's decision should track with the recommendation.

Sometimes, the manager may disagree with the specialist's recommendation and arrives at a different decision. If the manager and specialist cannot resolve the difference, the DR or ROD should explain why the decision was modified.

## H. Lands (cont'd)

The manager may omit the recommendation. If the specialist disagrees and believes that his/her dissent should be documented, normal BLM procedures are used. The specialist may document his/her concerns in a standard memorandum to the supervisor or manager. A copy may be placed in the official casefile. The NEPA and decision documents are not the appropriate places to chronicle disagreements between staff and management.

### Document Format

Summary: There is no required format for NEPA documents. Handbook H-1790-1 is the primary guide, and deviations should be the exception. Technical realty information, including specialists recommendations, if used, should be placed in the decision document.

The format recommended for NEPA documents in lands and right of way actions are now found in BLM Handbook H-1790-1, California State, district, and resource area handbooks and manuals, and current instruction memoranda. With few exceptions, specific format is recommended, not required.

As noted in Section 4, above, certain lands and right of way technical information must be included in NEPA documents. Placement of this information should be logical, and should be easily read and understood.

The recommended location for realty technical information is in the rationale portion of the DR or ROD. There are several reasons for placing the data there:

1. Standardized location from case to case reduces confusion and expedites review.
2. Placement outside the CX or EA allows use of abbreviated "fill in" optional CX and EA forms, like those found in Handbook H-1790-1, for routine actions.
3. Since the specialist recommendation, if used, must be in the DR or ROD, the realty technical information should logically be in the same document for easier review.

Appendix 4 contains a recommended EA outline for lands and right of way actions. Appendices 5 and 6 contain a sample EA and DR for a typical right of way action.

### Decision Documents

Summary: Regardless of the level of NEPA documentation, all lands and right of way action DRs and RODs should be individually prepared in narrative format.

A narrative decision should be used to record the details of the decision. Pre-printed or "canned" decision forms may be used to provide a checklist of information to include in the document; however the narrative should refer specifically to a particular project. Preparation of an original decision document reduces the chances of significant errors or omissions.

While some actions may require only minimal NEPA documentation, all have legal and adjudicative ramifications. The decision maker must have sufficient information to make a sound decision. Pertinent information known by the specialist, or found only in working papers or notes must be formally documented.

## H. Lands (cont'd)

Most lands and right of way actions require preparation and issuance of legal documents to implement the decision (grants, leases, patents, etc.). The NEPA decision document must provide all the detail needed for post-decision adjudication. Inclusion of terms and conditions into authorizations can only be based on the decision document. All terms and conditions must be supported by the NEPA document.

Appendix 15 contains a checklist of items to consider for inclusion in a Decision Record involving lands actions. Appendix 6 contains an example Decision Record for lands actions.

## I. Soil, Air and Water Resources

### Soil Resources

Where appropriate, soil interpretation data from the most recent Soil Survey should be incorporated into the NEPA analysis for proposed actions and alternatives.

Specific issues to be addressed should include a general discussion of soil conditions and associated problems, soil erosion rating, and the affects of the soil type on both water quality and quantity, both on and off-site.

Adopted Best Management Practices (BMPs) for non-point source pollution should use soil data and the soil erosion predication rating process in selecting the specific BMP used.

Soil survey enhancement can provide additional interpretations for specific uses such as on water quality, riparian area management and surface reclamation needs.

### Air Resource

Coordination with local Air Pollution Control Districts should be accomplished early in the project development phase to identify specific air quality issues.

Specific areas of concern are those impacting Public Health as stated in the Federal and California Clean Air Acts. Areas involving PM-10, fugitive dust, ozone damage, smoke management and Toxic Hot Spots are the primary concerns. On and off-site impacts must be analyzed.

### Water Resources

Where affected, the NEPA analysis for proposed actions and alternatives must consider the impacts to water resources, both quantitatively and qualitatively. Water quality concepts and management techniques need to be identified and assessed.

The appropriate California Regional Water Quality Control board is to be furnished copies for review of all draft EISs and EAs which involve significant water quality issues.

Adapted Best Management Practices (BMPs) or Management Measures (MMs) for non-point source pollution reduction need to be appropriately incorporated.

Source pollution and storm water runoff impacts need to be adequately assessed in all NEPA processes.

## J. Visual Resources

A Visual Resources Management (VRM) class is assigned to all public lands within a Resource Area and designated as such in the Resource Management Plan. The VRM classification prescribes the level of acceptable change in the landscape, ranging from very low (VRM Class I) to high levels of change (VRM Class IV).

The contrast rating assessment is a systematic process used by the BLM to analyze the potential visual impacts of proposed projects. The degree to which a proposed project affects the landscape depends on the visual contrast created between the project and the existing landscape.

The contrast can be measured by comparing the project features with the major features in the existing landscape. The basic design elements of form, line, color and texture are used to make this comparison and to describe the visual contrast created by the project. The basis of this comparison is established by the VRM objectives. The conclusions of this analysis are incorporated into the EA or EIS. (See BLM Manual Sections 1621, 8400, 8410, H-8410-1, 8430, H-8431-1).

## K. Land Use Planning

### Resource Management Plans

A Resource Management Plan (RMP) or Plan Amendment is actually a combined planning and NEPA compliance document: RMP/EIS. All of the required elements in an EIS are included in an RMP. Plan Amendments generally incorporate an EA level of NEPA analysis although an EIS may be used. Refer to BLM Planning Manual 1617 for more specific guidance. See also FLPLMA (Public Law 94-579), Section 202: Land use planning.

The RMP/EIS and RMP Amendment/EA are primary planning documents that analyze land use allocation decisions. Land use allocation decisions specify:

1. Resource condition objectives, for example, desired plant communities (DPC);
2. Allocate types of uses for specific parcels of public land, for example T&E stipulations for oil and gas leases, withdrawals, public sales, wildlife winter range, sage grouse leks, timber production;
3. Designate areas for special management, for example designating an area as an Area of Critical Environmental Concern (ACEC).

Activity Plans and NEPA documents for specific projects may not make land use allocations.

The scope of an RMP/EIS is based on regional or logical boundaries, and not just the Resource Area boundary. The regional extent considered in an RMP/EIS will depend on the complexity of the issues involved; for example, a mule deer herd may spend the summer within the boundaries of one Resource Area, and winter in another Resource Area.

The scope of the cumulative impact analysis in an RMP is at a regional level and is comprehensive for all RMP actions. Cumulative impacts to wildlife, mineral resources and development, cultural values and other resources should be discussed in general terms, although specific geographic locations or other details should be cited. Attention should be given to possible cumulative effects to ecological systems or processes. International or world-wide cumulative impacts such as global warming may be considered at this level.



## K. Land Use Planning (cont.)

RMPs require a 60-day minimum State of California Governor's review period. The governor's review period should preferably begin after the public review period has ended.

### Activity Plan

Activity Plans are second tier (or secondary documents) which describe how the land use allocations will be implemented, for example, how an area will attain the specified desired plant community. The analysis for an activity plan will usually focus on a specific area and types of activities, for example Recreation Management in the Knoxville Area. The associated NEPA document may be an EA or EIS.

Reference the RMP as much as possible to provide background information, resource objectives and analysis. Supplemental information may be necessary to provide more detailed analysis. As always, be sure to include a discussion of the cumulative impacts.

### Recommended Format

The proposed activity plan should be combined with the NEPA document, for example:

Summary, Table of Alternatives

Chapter 1: Introduction

Background, Setting/Location, Need for the Action, Plan Conformance, Issues

Chapter 2: Alternatives

Management Actions common to all Alternatives

(except No Action alternative), including short summary of monitoring plan.

Alternative A (Proposed Action)

General guidance and specific actions unique to A

Map

Alternative B

Alternative C

Alternative D (No Action Alternative)

Summary of Impacts table

Chapter 3: Existing Environment

Chapter 4: Alternative Impacts

Environmental and socio-economic impacts

How do the different alternatives resolve the issues?

Cumulative Impacts, by alternative.

Chapter 5: Public Participation

Describe public participation process

Comments/commentator/response

Appendices, including Monitoring Plan

The Activity Plan (or management plan) goes into effect once the Decision Record is signed.



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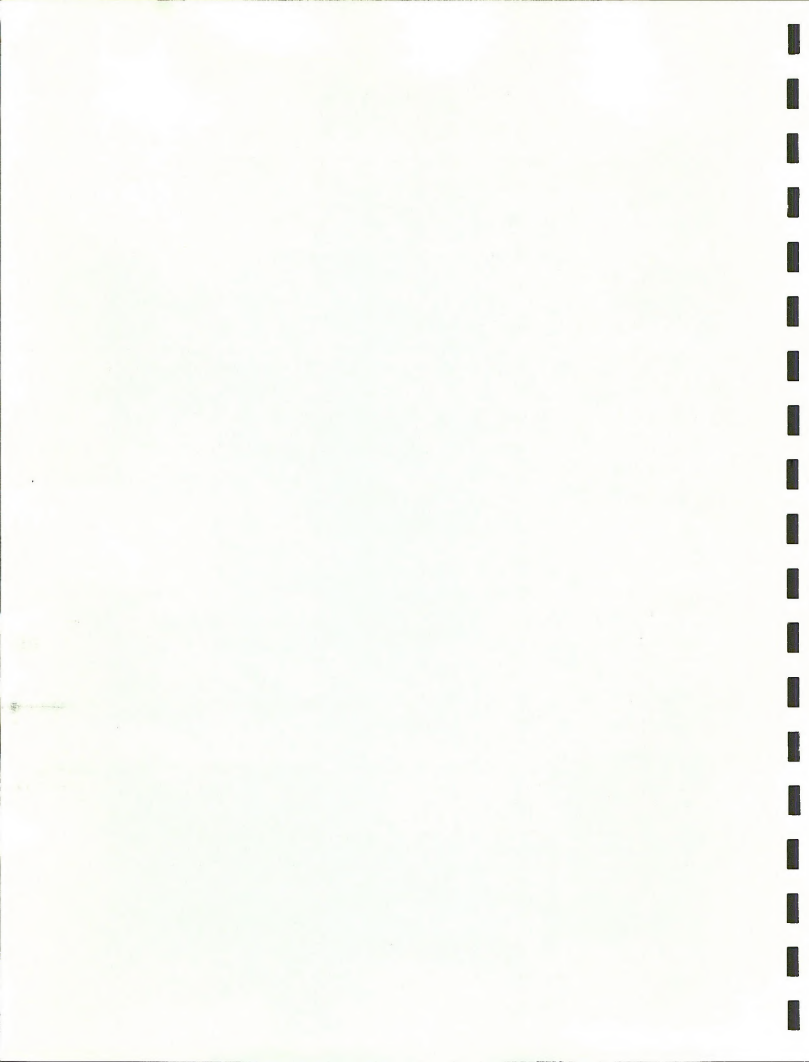
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## **Glossary of Terms and Acronyms**



## Glossary of Terms and Acronyms

For additional definitions, see 40 CFR 1508 and BLM's NEPA Handbook glossary.

**Administrative Determination** = a process to determine if a proposed action is fully analyzed by an existing environmental document and to determine if further NEPA compliance is required.

**Appeal** = written objection from the public to a decision put into effect in a decision document (DR or ROD).

**Authorized Authority** is the person delegated to make decisions, usually the Area Manager, District Manager or State Director (also called the line manager).

**California Environmental Quality Act (CEQA)** is the companion law to NEPA which affects all private and non-federal lands in California.

**Categorical Exclusion (CX)** = a specific type of action which will not individually or cumulatively have a significant effect on the human environment and which may be excluded from the EA or EIS process.

**Categorical Exclusion Record (CER)** = a one or two page document that records the screening process used to verify the appropriateness of excluding a proposed action from NEPA compliance with an EA or EIS. The Categorical Exclusion is approved upon signing of the Decision Record (with the CER attached).

**CDFG** = State of California, Department of Fish and Game

**CEQ** = Council of Environmental Quality

**CEQA** = California Environmental Quality Act

**CER** = Categorical Exclusion Record

**CFR** = Code of Federal Regulations

**Contractor** = see Third party contractor

**Cost-reimbursable account** = sources of funding provided by an applicant (i.e. project proponent) to pay BLM for the time spent processing their application and conducting the NEPA analysis.

**Council of Environmental Quality** is the regulatory agency, in the Office of the President, responsible for writing the regulations which interpret NEPA and for overseeing NEPA compliance nationwide.

**Cumulative Impact** on the environment results from the collective impacts of past, present and reasonably foreseeable future actions regardless of which agency (Federal or non-Federal) or persons undertake such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. For example, the impact of drilling one oil and gas well may have little or no significant impact by itself, but when the effects of full field development are considered, including the associated road building and other construction, the aggregate impact may be substantial. The same for individual timber sales: effects of individual actions may be relatively minor, but when added to the effects of other actions, they can have a significant cumulative impact on the watershed.

## Glossary of Terms and Acronyms (cont'd)

**CX** = Categorical Exclusion

**Decision Record (DR)** = A document signed by the authorized officer implementing the selected decision(s) analyzed in the EA or CX.

**Direct Impacts** are the effects that occur at the same time and place as the proposed action, such as visual impacts caused by the excavation of a major open pit mine.

**dpi** = dots per inch

**DR** = Decision Record

**EA** = Environmental Assessment

**EIR** = Environmental Impact Report is an environmental document that analyzes proposed actions on private or other non-federal land in California. It is analogous to an EIS and adheres to the guidelines established by the federal CEQ and the California Council of Environmental Quality.

**EIS** = Environmental Impact Statement

**Environmental Analysis** is the analytical process used to determine the appropriateness and potential effects of a proposed action. NEPA and California BLM policy require environmental analysis for most proposed actions, with interdisciplinary input and public involvement. The CER, EA, EIS, DR and ROD documents our analysis.

**Environmental Assessment (EA)** = a NEPA document which analyzes the potential direct, indirect and cumulative impacts of a proposed action and alternative actions. Significant impacts to the human environment are not likely to be incurred; the level of public involvement is at the discretion of the line manager.

**Environmental Documents** is a general term for all NEPA documents, including CX, EA, EIS, DR, ROD and state documents such as EIR.

**Environmental Impact Statement (EIS)** = This NEPA document analyzes the potential direct, indirect and cumulative impacts of a proposed action and alternative actions. Significant impacts to the human environment are likely to be incurred; thus, public participation is an integral part in the development of this document.

**EPA** = Environmental Protection Agency

**ESA** = Endangered Species Act

**Finding of No Significant Impact** = a statement which discusses why an action or proposal is not expected to have a significant impact on the human environment and contains the rationale supporting the decision that no EIS is needed. It is generally part of the DR.

**FONSI** = Finding of No Significant Impact

**FWS** = United States Fish and Wildlife Service, Department of the Interior

**IBLA** = Interior Board of Land Appeals

## Glossary of Terms and Acronyms (cont'd)

**Indirect Impacts** are the secondary effects that are later in time or farther removed in distance. A major open pit mine might include new roads which could have the indirect effect of increasing vandalism to nearby archaeological resources that were previously inaccessible and undisturbed.

**Interested party** includes individuals, consumers, organizations, special-interest groups, local, State, and Indian tribal governments, and officials from other Federal agencies.

**Joint Lead Agencies** are two or more agencies (State or local, and at least one Federal) that equally share the responsibilities for preparing an EA, EIS or combination document (EIS/EIR). The purpose of having joint lead agencies is to eliminate duplication of effort.

**Land Use Plans** = documents generated through the planning process (Section 202 of FLMPA and 43 CFR 1600) which describe the planning objectives for public lands and how these objectives will be implemented. BLM utilizes a two-tier planning system. The first tier is the Resource Management Plan (older versions are called Management Framework Plans) which describe regional planning objectives. Second tier plans are called activity plans which describe how the objectives listed in the RMP will be implemented for a specific area.

**Lead Agency** is the agency primarily responsible for preparing an EA or EIS. All other agencies involved are cooperators.

**Major EA** is an Environmental Assessment that analyzes proposed actions with potentially significant impacts or controversy. These documents should be formally released for public review.

**Memorandum of Understanding (MOU)** = The MOU provides procedures and guidance on cooperation and coordination among the BLM, other cooperating or lead agencies, and the applicant for the preparation of a legally sufficient environmental document. Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) are prepared when a state agency is involved in the process. It is the intent of all parties to the MOU that the preparation of the document will integrate Federal, State, and County environmental processes, hearings, and other public participation activities to the extent possible.

**MFP** = Management Framework Plan

**Mitigation Measures** = (see also **Stipulations**) are actions described in an EA or EIS as recommended ways of reducing or eliminating adverse impacts to the environment.

**Mockup** = a rough preliminary draft of what the completed EA or EIS will contain. Each section is written as completely as possible, although there will likely be some major gaps. The mockup provides a general "road map" of what the final document will look like and helps the project lead and team members identify information gaps. Mockups are recommended for Major EAs and EISs, and are often submitted for District and State Office review.

**Monitoring** is the periodic review of active or completed projects to ensure that the approved project and associated environmental stipulations are implemented as specified in the decision record, and to verify the validity of the environmental analysis.

**MOU** = Memorandum of Understanding



## Glossary of Terms and Acronyms (cont'd)

**National Environmental Policy Act of 1969 (NEPA)** = the public law (signed on January 1, 1970 by then President Nixon) which mandates that the direct, indirect and cumulative impacts of proposed actions on the human environment be analyzed through a public review process before an action is implemented.

**NEPA** = National Environmental Policy Act of 1969

**NOA** = Notice of Availability

**NOI** = Notice of Intent

**Notice of Availability (NOA)** = a notice published in the Federal Register notifying the public that the BLM is releasing an EA, EIS, DR or ROD for public review. The NOA officially commences the 30-day public review/appeal period. An NOA is required for Major EAs and EISs.

**Notice of Intent (NOI)** = a notice published in the Federal Register notifying the public that an EIS or Major EA will be developed for a proposed project. The NOI is prepared by the lead office. Publication of an NOI formally begins the scoping process for an EIS. The purpose of the NOI is to 1) notify persons or agencies interested in, or affected by a proposed Federal action; and 2) to seek information and/or participation in scoping. The notice includes the following information: the proposal, times, dates and locations of public scoping meetings, timeframe when public comments will be accepted, possible alternatives and an agency contact for further information. Known issues should also be listed. NOIs published for RMPs and amendments contain additional information (see 43 CFR 1601.3(g) and 1601.4-2).

**PECS** = Planning and Environmental Coordination Staff

**Planning and Environmental Coordination Staff (PECS)** = the BLM employees responsible for overseeing the NEPA process. Duties include: developing and reviewing environmental documents, providing assistance and training on NEPA compliance, and coordinating.

**Preparation Plan.** Although not required, preparation plans have proven to be helpful in organizing and managing the EIS process. The preparation plan also serves to direct the consultant and inform agency representatives of their approval and oversight responsibilities. The preparation plan should include: a realistic schedule for EIS completion, description of the anticipated issues, alternatives, impact topics, public/agency participation, and staffing and support needs. The completed preparation plan is then forwarded to the BLM State Office and District Office.

**Protest** = written objection from the public to any proposed action on public land. See also appeals.

**Public Participation** = Providing systematic opportunity (through public scoping meetings, 30-day public review of environmental documents, Federal Register notices and media releases) for affected or interested parties (see USDI Manual 301 DM 2.2A) to inform the public of activities on the public lands and to provide them the opportunity to express their opinions on BLM actions and policies, which will be taken into consideration in decision-making.

## Glossary of Terms and Acronyms (cont'd)

**Reasonable Foreseeable Development Scenario** considers probable future actions within the proposed project area. For example, if a proposed heap-leach mine is within an extensive area with moderate to high potential for gold, the area could be expected to support a number of future mining operations. Worst case scenarios are not reasonably foreseeable.

**Record of Decision (ROD)** = a document signed by the authorized officer implementing the selected decision(s) analyzed in the EIS.

**Residual Impacts** = Impacts remaining after mitigation measures have been implemented (i.e. the unavoidable adverse impacts). This includes the potential impacts of the mitigation measures on other resources.

**ROD** = Record of Decision.

**Scoping** = the first step in NEPA compliance. Purpose is to determine the range of actions, alternatives, impacts and other issues to be considered in an EA or EIS (see 40 CFR 1508.25); scoping often includes public meetings.

**Sensitive Species** = a species designated as sensitive by the California State Director, and receives at least the same attention as a candidate species.

**Special Status Species** = refers to a species that is either 1) Federally listed as threatened or endangered, 2) officially proposed for Federal listing as endangered or threatened, 3) a candidate for Federal listing as endangered or threatened, 4) State listed as endangered, threatened, or (for plants) rare, or 5) listed by the California State Director as sensitive.

**Significant Impact** = Effect of an action judged on the basis of the criteria listed in 40 CFR 1508.27 to be of sufficient magnitude to warrant an EIS be written.

**State Clearinghouse** = To ensure that Federal actions are consistent with state and local governments, Federal agencies are required to send copies of selected environmental documents to the State Clearinghouse. The State of California, Office of Planning and Research has been designated the official State Clearinghouse and is the single point of contact for the State of California.

**Stipulations** = (see also **Mitigation Measures**) are actions identified in the decision document (DR, ROD) which must be executed for the approved project to be in compliance. The stipulations are typically mitigation measures which were included in the environmental analysis.

**Substantially Unnoticeable** = refers to something that is insignificant enough to be a very minor feature of the overall area or is not distinctly recognizable by the average visitor as being manmade or man-caused because of age, weathering, or biological change.

**Third-party contractor** = is an environmental consultant selected to prepare an EIS, chosen by the lead agencies to avoid any conflict of interest, in accordance with 40 CFR 1506.5(c). Contractors shall execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project.

## Glossary of Terms and Acronyms (cont'd)

**Unnecessary and Undue Degradation** = impacts greater than those that would normally be expected from an activity being accomplished in compliance with current standards and regulations and based on sound practices, including use of the best reasonably available technology (see also 43 CFR 3809).

**USFWS** = United States Fish and Wildlife Service, Department of the Interior

**USGS** = United States Geological Service

**VRM** = Visual Resource Management

**Appendix 1**

**Major Actions Normally Requiring an EIS**



516 DM 6-Appendix 5.3: Major Actions Normally Requiring an EIS

- A. The following types of Bureau actions will normally require the preparation of an EIS:
1. Approval of Resource Management Plans.
  2. Proposals for Wilderness, Wild and Scenic Rivers, and National Historic Scenic Trails.
  3. Approval of regional coal lease sales in a coal production region.
  4. Decision to issue a coal preference right lease.
  5. Approval of applications to the BLM for major actions in the following categories:
    - (a) Sites for steam electric powerplants, petroleum refineries, synfuel plants and industrial facilities.
    - (b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways and railroads.
  6. Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.
  7. Approval of any mining operation where the area to be mined, including any area of disturbance, over the life of the mining plan, is 640 acres or larger in size.
- B. If, for any of these actions, it is anticipated that an EIS is not needed based on potential impact significance, an environmental assessment will be prepared and processed in accordance with 40 CFR 1501.4(e)(2).





**Appendix 2**

**List of Acceptable Categorical Exclusions  
and Exceptions**



## 516 DM 6-Appendix 5.4: Categorical Exclusion

The Departmental Manual [516 DM 2.3A(3) & Appendix 2] requires that before any action described in the following list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or an EIS. When no exceptions apply, the following types of Bureau actions normally do not require the preparation of an EA or EIS:

### A. Fish and Wildlife

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use (e.g. modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.
- (4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.
- (5) Routine augmentations such as fish stocking, providing no new species are introduced.
- (6) Relocation of nuisance or predated wildlife, providing the relocation does not introduce new species into the ecosystem.
- (7) Installation of devices on existing facilities to protect animal life such as raptor electrocution prevention devices.

### B. Fluid Minerals

- (1) Issuance of future interest leases under the Mineral Leasing Act of Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (3) Approval of minor modifications or minor variances from activities described in approved development/production plans (e.g. the approved plan identifies no new surface disturbance outside the area already identified to be disturbed).
- (4) Approval of unitization agreements, communitization agreements, drainage agreements, underground gas storage agreements, compensatory royalty agreements, or development contracts.
- (5) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.
- (6) Approval of royalty determinations such as royalty rate reductions.

### C. Forestry

- (1) Land cultivation and silvicultural activities (excluding herbicides) in forest tree nurseries, seed orchards, and progeny test sites.
- (2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.
- (3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used and there is no conversion of timber type or conversion of nonforest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.

#### 516 DM 6-Appendix 5.4: Categorical Exclusion (cont'd)

- (4) Precommercial thinning and brush control using small mechanical devices.
- (5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.) cones, seeds and personal use firewood.

#### D. Rangeland Management

- (1) Approval of transfers of grazing preference.
- (2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.
- (3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.
- (4) Removal of wild horses or burros from private lands at the request of the landowner.
- (5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.
- (6) Approval of the adoption of healthy, excess wild horses and burros.
- (7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.
- (8) Issuance of title to adopted wild horses and burros.
- (9) Destroying old, sick, and lame wild horses and burros as an act of mercy.

#### E. Realty

- (1) Withdrawal extensions or modifications which only establish a new time period and entail no change in segregative effect or use.
- (2) Withdrawal revocations, terminations, extensions or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.
- (3) Withdrawal revocations, terminations, extensions, or modifications; classifications terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).
- (4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.
- (5) Actions taken in conveying mineral interest, where there are no known mineral values in the land, under Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).
- (6) Resolution of class one color-of-title cases.
- (7) Issuance of recordable disclaimers of interest under section 315 of FLPMA.
- (8) Corrections of patents and other conveyance documents under section 316 of FLPMA and other applicable statutes.
- (9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.
- (10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).
- (11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA section 302(b) leases where no new facilities or other changes are needed.
- (12) Grants of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.

#### 516 DM 6-Appendix 5.4: Categorical Exclusion (cont'd)

- (13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the right-of-way boundary.
- (14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.
- (15) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and future changes in management will be subject to the NEPA process.
- (16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.
- (17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.
- (18) Temporary placement of a pipeline above ground.
- (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.
- (20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize a trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

#### F. Solid Minerals

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease readjustments, renewals and transfers, including assignments and subleases.
- (3) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.
- (4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.
- (5) Determination and designation of logical mining units (LMUs).
- (6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.
- (7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable and locatable minerals. (e.g. the approved plan identifies no new surface disturbance outside the area already identified to be disturbed.)
- (8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals. (e.g. change in mining sequence or timing)
- (9) Digging of exploratory trenches for mineral materials, except in riparian areas.
- (10) Disposal of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

516 DM 6-Appendix 5.4: Categorical Exclusion (cont'd)

G. Transportation Signs

- (1) Placing existing roads in any transportation plan when no new construction or upgrading is needed.
- (2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to existing roads.
- (3) Temporary closure of roads.
- (4) Placement of recreational, special designation or information signs, visitor registers, kiosks and portable sanitation devices.

H. Other

- (1) Maintaining plans in accordance with 43 CFR 1610.5-4.
- (2) Acquisition of existing water developments (e.g. wells and springs) on public land.
- (3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included is silting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters, and automatic air or water samplers.
- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- (5) Issuance of special recreation permits to individuals or organized groups for search and rescue training, orienteering or similar activities and for dog trials, endurance horse races or similar minor events.
- (6) A single trip in a one month period to drilling or data collection or observation sites.
- (7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.
- (8) Installation of minor devices to protect human life (e.g. grates across mines).
- (9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.
- (10) Removal of structures and materials of nonhistorical value, such as abandoned automobiles, fences, and buildings, including those built in trespass, and reclamation of the site when little or no surface disturbance is involved.
- (11) Actions where BLM has concurrence or coapproval with another DOI agency and the action is categorically excluded for that DOI agency.
- (12) Rendering formal classification of lands as to their mineral character and waterpower and water storage values.

## Exceptions to Categorical Exclusions

The following exceptions apply to individual actions within categorical exclusions. Environmental Assessments or Environmental Impact Statements must be prepared for actions which may:

<u>DM#</u>	<u>Exception</u>
2.1	Have significant adverse effects on public health or safety.
2.2	Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.
2.3	Have highly controversial environmental effects.
2.4	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
2.5	Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.
2.6	Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.
2.7	Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
2.8	Have adverse effects on species listed or proposed to be listed on the Endangered or Threatened Species list, or have adverse effects on designated critical habitat for these species.
2.9	Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.
2.10	Threaten to violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.





**Appendix 3**

**Example Documents: Categorical Exclusions**

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## Categorical Exclusion Review and Decision Record

District: \_\_\_\_\_ Resource Area: \_\_\_\_\_  
 Case File/Project No. \_\_\_\_\_ C.X. No. \_\_\_\_\_  
 Project Name: \_\_\_\_\_  
 Location: \_\_\_\_\_  
 Proposal Description: \_\_\_\_\_

Plan Conformance: \*\*\*\*\*RMP, Chapter #, Section #  
 Departmental Categorical Exclusion: 516 DM 6, Appendix 5.4, #

Do any of the following exceptions apply? (Yes/No)

Criteria 516 DM 2.3 A	Specialist Surname/Date	Comments
Public Health and Safety		
Unique Characteristics		
Environmentally Controversial		
Uncertain and Unknown Risks		
Environmentally Controversial		
Uncertain and Unknown Risks		
Establish Precedent		
Cumulatively Significant		
National Register/Cultural Conflicts		
Violate Law/Regulations		

I have reviewed the proposal in accordance with the categorical exclusion review guidelines. This proposal will have no significant effects nor does it qualify as an exception to the categorical exclusions.

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Title: \_\_\_\_\_

It is my decision to approve the categorically excluded proposed action as described above, which is in conformance with the land use plan, will have no significant effects, and for which none of the categorical exclusion exceptions apply.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Title: \_\_\_\_\_

## Categorical Exclusion Decision Record

<file codes>  
<EA number>  
<office code>

Decision: It is my decision to approve the proposed action of \_\_\_\_\_  
\_\_\_\_\_.

Categorical Exclusion Review: This proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4. None of the exceptions described in 516 DM 2-Appendix 2 apply. Therefore, additional environmental analysis is not required.

Rationale for the Decision: The decision to allow the proposed action will not result in significant effects to the human environment, and is in conformance with the California Desert Conservation Area Plan (1980), as amended.

Prepared by:	_____	_____
	<title>	Date
Reviewed by:	_____	_____
	Environmental Coordinator	Date
Approved by:	_____	_____
	Area Manager	Date

**Appendix 4**

**Checklist for Environmental Assessments  
and Sample Outline**





NEPA Compliance Checklist for Environmental Assessments

- \_\_\_ Title, EA Number, Type of Project
- \_\_\_ Location of Proposal
- \_\_\_ Name and Location of Preparing Office
- \_\_\_ Lease, Serial or Case file number (if applicable)
- \_\_\_ Applicant name (if applicable)
- \_\_\_ Date of preparation
  
- \_\_\_ Conformance with existing RMPs, MFPs, Activity Plans
- \_\_\_ Need for proposed action
- \_\_\_ Description of the proposed action and alternatives considered, including the no action alternative
- \_\_\_ Affected Environment (optional in EAs)

Environmental Consequences of proposed action and alternatives on all affected resources, including:

Critical Elements of Human Environment	Direct Impacts	Indirect Impacts	Cumulative Impacts
Rare, Threatened and Endangered Species (Sect. 7 process)			
Cultural Resources (Sect. 106 process)			
Air, Soil and Water Quality			
Wetlands/Riparian			
ACEC			
Wilderness			
Wild and Scenic Rivers			
Farm Lands			
Floodplains			
Native American Religious Concerns			
Hazardous or Solid Wastes			

- \_\_\_ Mitigation Measures
- \_\_\_ Residual Impacts
- \_\_\_ Agencies and persons consulted
- \_\_\_ List of Preparers
- \_\_\_ Maps
- \_\_\_ Decision Record with FONSI, Stipulations, Monitoring Plan
  
- \_\_\_ Register EA name and number in the EA log for public review

## Sample Outline for Environmental Assessments

### Cover Sheet

- Title, EA Number, Type of Project
- Name and Location of Preparing Office
- Lease, Serial or Case file number (if applicable)
- Applicant name (if applicable)
- Date of preparation

### Background

- Need for Action
- Location of Proposal
- Conformance with Land Use Planning
- Relationship to Laws, Regulations, and Planning

Description of the proposed action and alternatives, including the no action alternative. As an option, may discuss alternatives considered but not analyzed

Description of Affected Environment (optional in EAs)

### Environmental Impacts, including

- Critical Elements
- Mitigation measures, Monitoring plan
- Residual Impacts
- Cumulative Impacts (if applicable)

Persons and Agencies Consulted (outside BLM).

List of Preparers (inside BLM, optional)

**Appendix 5**

**Example Documents: Environmental Assessments**



ENVIRONMENTAL ASSESSMENT  
for the  
RECOMMENDED SANTA ROSA MOUNTAINS NATIONAL SCENIC AREA DESIGNATION  
and  
PROPOSED PLAN AMENDMENT

EA-CA-066-90-07

San Jacinto and Santa Rosa Mountains, February 1990

Prepared By:

United States Department of the Interior  
Bureau of Land Management  
California State Office  
California Desert District  
Palm Springs-South Coast Resource Area

1  
2  
3



# PROPOSED AMENDMENT TO THE CALIFORNIA DESERT CONSERVATION AREA PLAN

## I. INTRODUCTION

### A. Need for the Proposed Action

In the Santa Rosa and San Jacinto mountains the current management situation is one of piecemeal decisions and actions by many jurisdictions without an overall set of guiding principles. In order to provide a consistent and appropriate framework for management, the Bureau Of Land Management (BLM) recognizing the need for and in consideration of a formal request through the California Desert Advisory Council by the Coachella Valley Association of Governments recommends the designation of approximately 200,000 acres of the Santa Rosa and San Jacinto Mountains as the Santa Rosa Mountains National Scenic Area (See Illustration 1). This recommendation followed unanimous support for the designation by the Riverside County Board of Supervisors based upon a motion by Supervisor Patricia Corky Larson.

The management "umbrella" of the National Scenic Area designation would provide the framework to coordinate and integrate management philosophies and actions by those making land use decisions, so that the outstanding and unique values recognized by all, are consistently managed. The National Scenic Area designation, not only would recognize the nationally significant cultural, wilderness, wildlife, and vegetative values of the area, but it would also provide a philosophy for management, and would identify tools to achieve the common goals. Following the designation, a detailed management plan would be developed by the BLM, in cooperation with other governments, Native Americans, and private landowners.

Since the designation would involve a change in use, this environmental assessment also serves as a plan amendment to the California Desert Conservation Area Plan (1980).

### B. Background and Description

The San Jacinto and Santa Rosa Mountain ranges extend from near the San Geronio Pass southeast to the Salton Sea. The portions of the San Jacinto and Santa Rosa Mountains that reach from the San Geronio Pass to the Riverside/Imperial County line form a scenic backdrop for southern California's Coachella Valley (See Illustration 1). Their mountain peaks, outlined against an almost always cloudless blue sky, loom above the steep mountain escarpment, making the setting postcard perfect. These mountains are one of the natural resources that have given the Palm Springs area and the Coachella Valley a national and international reputation as a desert oasis.

Besides the scenic values, these mountains possess nationally significant wildlife, wilderness, cultural, recreational, and vegetative values. There are numerous plant and animal species that reach their northernmost and southernmost range limits in these mountain ranges. Several species are endemic to these ranges. For example, the entire range of the endangered desert slender salamander is restricted to a few square meters of seepage in an isolated canyon in the Santa Rosa Mountains. It occurs nowhere else in the world. These mountains also support the United States' largest remaining population of Peninsular bighorn sheep, estimated to be about 200 and declining in 1989. To manage the Peninsular bighorn sheep, the BLM and the California Department of Fish and Game established a Santa Rosa Mountains Wildlife Habitat Management Area in 1980 (See Illustration 2). The California Department of Fish and Game acquired lands in this area specifically to preserve the Peninsular bighorn sheep habitat.

The area's significant wilderness values were also recognized by the BLM, through the creation in 1979 of the 69,000 acre Santa Rosa Mountains Wilderness Study Area (WSA). About 99% of this area is recommended for inclusion in the National Wilderness Preservation System (See Illustration 2). This WSA was ranked fourth in wilderness values out of the 137 WSA's in the California Desert Conservation Area during the desert planning process. This wilderness study area provides the missing link joining the adjacent U.S. Forest Service Santa Rosa Mountains Wilderness with the Anza-Borrego Desert State Park Wilderness. It ties the heavily vegetated mountains of San Bernardino National Forest to the dry, barren sands of Anza-Borrego Desert State Park, completing an environmental sequence of landforms, wildlife, and vegetation. Few, if any such environments, can be found in the National Wilderness Preservation System.



The San Jacinto Mountains contain outstanding vegetative values. The BLM manages scattered parcels of land in these mountains (See Illustration 4). The Indian Canyons, managed by the Agua Caliente Band of Cahuilla Indians, contain scenic palm oases, whose significance led to the initiative to Save the Indian Canyons. This movement led to the State of California identifying a large block of these lands to be studied for inclusion in a state park, including nine sections of public land (See Illustration 2).

Presently, there is tremendous pressure being placed on the potential development of the Santa Rosa and San Jacinto Mountains. In 1988 the population of the Coachella Valley was approximately 200,000, and by the year 2000, the population is projected to double. In response to these mounting pressures, the area's local governments and communities have initiated legislative proposals to address hillside development in the Santa Rosa Mountains.

The BLM has responded to this situation by re-examining its role in managing public lands in the Santa Rosa and San Jacinto Mountains. The BLM met with local governments and organizations to discuss management of its fragmented San Jacinto and Santa Rosa Mountains lands. From these meetings, the importance of finding an effective mechanism to allow for a more comprehensive recognition and management of the area's nationally significant scenic, biological, and wilderness values came to the forefront. It was decided that the National Scenic Area designation would allow for the management of the area as a whole rather than in separate units. In May 1989, a motion was made by Riverside County Supervisor Patricia Corky Larson to the Riverside County Board of Supervisors to support the designation of the Santa Rosa Mountains as a National Scenic Area. The Board unanimously supported the recommendation. Following this, in June 1989, the Coachella Valley Association of Governments, which represents all the cities in the Coachella Valley, made a formal request of the California Desert Advisory Council to amend the California Desert Conservation Plan to designate the Santa Rosa Mountains National Scenic Area. This designation would improve the management of the area by providing a management umbrella for cooperative management with local governments and organizations. The designation would, more importantly, recognize the area's nationally and internationally renowned values.

#### C. Public Involvement and Issue Identification

After the National Scenic Area proposal was presented to the Desert Advisory Council in June 1989, the Palm Springs-South Coast Resource Area held three open houses to discuss the proposal with the public. At a July 1989 open house, an informal consensus of a group of local interested citizens and community representatives was reached to continue pursuit of the Scenic Area designation. To address the significant issues of the proposed area, an ad hoc committee of representative publics was established in September 1989. As a group, the committee worked on defining boundaries. The committee then divided into five subcommittees to further identify and address the issues that would result from designation. The issues that were identified at the open house, at committee meetings and by the BLM are:

1. Impact on land use and development
2. Impact on research activities
3. Impact on wildlife (Peninsular bighorn sheep and desert slender salamander)
4. Impact on sensitive plant species
5. Impact on wilderness values (Santa Rosa Mountains WSA)
6. Impact on recreation
7. Impact on visual resources
8. Impact on cultural resources
9. Impact on mineral resources

#### D. Issues and Concerns Considered, but Dropped

The following resource issues were examined, but dropped from further study and analysis because it was determined that the proposed action and its accompanying alternatives would not significantly affect or impact them. No further discussion of these resources will be presented in this EA:

##### Areas of Critical Environmental Concern

Socio-economic  
Topography  
Transportation  
Farm Lands  
Flood Plains  
Hazardous or Solid Wastes  
Wetlands  
Air Quality/Climate  
Water Resources

## II. PROPOSED ACTION AND ALTERNATIVES

### A. Alternative A - Proposed Action - National Scenic Area Designation and Plan Amendment

The proposed action is to amend the 1980 California Desert Conservation Area Plan and to add a special area designation through Secretarial Order, the Santa Rosa Mountains National Scenic Area, encompassing approximately 200,000 acres. Its boundaries are as shown on Illustration 2. A management philosophy and goals as listed below will be adopted, and a management plan with the appropriate level of analysis would be developed with public involvement, and then implemented.

As part of this designation, the following management goals would be adopted:

1. To assure the best balance between protection, recreational use, and development of natural and biological values of the area.
2. To maintain the mountain viewshed.
3. To enhance wildlife, wilderness, vegetative, cultural, and watershed values of the area.
4. To provide a cooperative management umbrella for local and state governments, interested organizations and other land owners.
5. To ensure compatibility between use of private and public lands.
6. To provide visitor services for the public's enjoyment and understanding of the area's National and local significance.
7. To provide access opportunities for scientific research, recreation, and development of private lands.
8. To consolidate lands that contain key wildlife and cultural resource values.
9. To enhance management objectives of the existing special area designations and activity plans.

The recommended Scenic Area would include the foothills of both the San Jacinto and Santa Rosa Mountains which form the western boundary of the Coachella Valley. The mountain escarpments run from One Horse Spring in the north to the Riverside-San Diego County line in the south, which borders the Anza Borrego Desert State Park. The northern and eastern boundary approximately follows the toe of the slope. The northern boundary also includes some alluvial fans such as Snow Creek fan, Tachevah fan, Tahquitz fan, Indian Canyons fan, Magnesia fan, Dead Indian Creek fan, and the alluvium above Bear Creek. The western boundary approximately follows the California Desert Conservation Area boundary and portions of the western boundary of the Santa Rosa Mountains WSA. (See Illustration 2). To the west of the National Scenic Area, lies the U.S. Forest Service San Jacinto Wilderness, the Mt. San Jacinto State Park, Mt. San Jacinto State Wilderness, and the U. S. Forest Service Santa Rosa Mountains Wilderness.

Based on public input and ad hoc advisory committee recommendations, minor boundary modifications were made to make the area more manageable, and to define the boundaries more clearly. About 2900 acres were deleted from the eastern boundary from south of Lake Cahuilla Regional Park to north of Toro Canyon. The boundary was relocated to follow more closely the toe of the slope, making the area more manageable. About 1900 acres of private land were added to the southeastern boundary. This more clearly defined boundary follows the 400 contour line from Sheep Canyon to the Riverside/San Diego County line. Also, three sections of Anza Borrego Desert State Park lands were deleted (T. 8 S., R. 5 E., Sections 10, 14, and 24) because their scenic values are adequately managed and protected under state park status.

#### B. Alternative B - Modified National Scenic Area Boundary

The northern, western, and southern boundary would remain the same as in Alternative A. The eastern boundary, however, would head south following the toe of the slope to Lake Cahuilla Regional Park, then would head southward along the eastern side of Lake Cahuilla Regional Park then would head southeast along the flood control dike, and then would head southeast following the sea level contour to the Riverside/Imperial County line.

#### C. Alternative C - No Action Alternative

If the National Scenic Area designation, Alternative A and B, is rejected, the BLM administered public lands in the proposed area would continue to be managed under the 1980 California Desert Conservation Area Plan. The Santa Rosa Mountains WSA would be managed under the Interim Management Policy and Guidelines for Lands Under Wilderness Review, and the Santa Rosa Mountains Wildlife Habitat Management Area would be managed under the Santa Rosa Mountains Wildlife Habitat Management Plan. These plans and guidelines will manage the particular resource in the short term, but management would still be fragmentary.

#### D. Alternatives Considered, But Not Analyzed in Detail

Cooperative management agreements and alternative special area designations were explored; however all of them would still result in a fragmented management approach. Only the National Scenic Area designation would create the type of management umbrella approach that would resolve the issues. Alternative boundaries were considered and informally reviewed by the public. These alternatives will not receive further analysis in this document.

### III. AFFECTED ENVIRONMENT

#### A. Land Use and Development

Within the approximately 200,000 acre area, there are 90,000 acres of public land administered by the BLM, 31,000 acres of California State lands, 63,000 acres of private lands, 1,280 acres of U.S. Forest Service lands, and 13,000 acres of Agua Caliente Band of Cahuilla Indians lands. The land ownership is primarily checkerboard (See Illustration 4). Alternative B also includes approximately 15,000 acres of flat lands that are extensively used for vineyards. The Scenic Area designation would only apply to BLM administered lands and lands within the proposed boundaries that may be acquired by the BLM.

The jurisdictions of Riverside County and the Cities of Palm Springs, Palm Desert, Rancho Mirage, Cathedral City, Indian Wells, and La Quinta lie within the scenic area boundaries (See Illustration 3). In 1989 Riverside County was considered one of the fastest growing counties in the State of California, and Cathedral City, which lies south of Palm Springs and at the foothills of the Santa Rosa Mountains, was identified as one of the fastest growing cities in the nation. The rapid growth and continued popularity of the Coachella Valley as a destination tourism resort community has and will continue to place pressure on the Santa Rosa Mountains for meeting recreational and community expansion needs of the valley. There are also many existing public works facilities, particularly for domestic water and flood protection, located within the NSA which require continued access, maintenance, and repair. With the projected population growth, there will be a need to construct, access, maintain and repair more facilities.

#### B. Research

Inside the National Scenic Area boundaries is the Santa Rosa Mountains State Game Refuge, Deep Canyon Research Center administered by the University of California-Riverside, Carrizo Canyon State Ecological Reserve, and Magnesia Spring State Ecological Reserve. A nonprofit organization, the Bighorn Institute, established to study disease in bighorn sheep, is also present.

#### C. Wildlife

The proposed Scenic Area is overlapped by the Santa Rosa Mountains Wildlife Habitat Management Area that contains approximately 121 square miles of habitat for the Peninsular bighorn sheep, a state listed Threatened species and a Category 2 Candidate for listing as a Threatened or Endangered species by the U.S. Fish and Wildlife Service. This area supports the United States' largest population of the Peninsular bighorn, estimated to be 200 and declining in 1989. This same area contains habitat for the desert slender salamander, a species listed by both the Federal government and the State of California as Endangered. There is also a rich array of other wildlife species in the Santa Rosa Mountains including amphibians, reptiles, birds, and mammals. Examples include the great plains toad, western rattlesnake, golden eagle, red-tailed hawk, coyote, bobcat, and mule deer. There are also two wild horse herd management areas within the proposed area.

#### D. Vegetation

The subject lands contain a variety of plant assemblages including: creosote bush scrub, Colorado saltbush scrub, desert chaparral, desert dry wash woodland, riparian woodland, desert fan palm oasis woodland, California pinyon-juniper woodland, and mixed conifer forest. One of these plant assemblages, the desert fan palm oasis woodland, has been classified as an unusual plant assemblage because of its rare occurrence.

The National Scenic Area contains over 600 species of plants. Seven of these are sensitive species listed in the California Department of Fish and Game Natural Diversity Data Base as candidate species for threatened or endangered status by the U.S. Fish and Wildlife Service:

- Streptanthus bernaardinus (Laguna Mountains Jewelflower)
- Arctostaphylos otavensis (Otay Manzanita)
- Ditaxis californica (California Ditaxis)
- Gilia maculata (Little San Bernardino Mountains Gilia)
- Penstemon californicus (California Beardtongue)
- Phacelia parishii (Parish's Phacelia)
- Marina orcutii var ocurtii (California Marina)

Seven other species merit special attention by virtue of their being listed in the California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California (CNPS 1989). These are:

- Colubrina californica (Las Animas Colubrina)
- Antirrhinum cvathiferum (Deep Canyon snapdragon)
- Astragalus tricarlinatus (Triple-ribbed milk vetch)
- Ayenia compacta (Ayenia)
- Ditaxis adenophora (Glandular ditaxis)
- Matelea parvifolia (Spearleaf)
- Salvia eremostachya (Santa Rosa sage)

#### E. Wilderness

The Santa Rosa Mountains Wilderness Study Area (WSA) occupies much of the southern portion of the area. Ninety-nine percent of this WSA is recommended for designation as wilderness. This National Scenic Area proposal will not affect that recommendation. The WSA includes approximately 47,000 acres of public land, 19,000 acres of State land and 3,000 acres of private inholdings. The WSA is contiguous with the U.S. Forest Service Santa Rosa Mountains Wilderness Area to the west and the Anza Borrego Desert State Park Wilderness to the south.

#### F. Recreation

Over two million recreationists visit the Coachella Valley every year. They are attracted to the resource values, rugged topography, and spectacular scenery of the San Jacinto and Santa Rosa mountains. Current primitive recreational activities include backpacking, picnicking, photography, bird watching, weekend camping, horseback riding, day hiking, nature study and hunting.

Many points of recreational interest are laced together by a network of aboriginal and wildlife trails. Building on that heritage, there are over 100 miles of recreational trails that have been laid out in recent times for the enjoyment of an increasing number of modern trail users. It is anticipated that trail use and the overall recreational uses of the area will significantly increase in the future with recognition and the projected population growth in the valley. A Special Recreation Use Permit for interpretive jeep tours along Palm Hills Drive in the City of Palm Springs has been issued for a six month assessment period, and a Special Recreation Use Permit for the Ranch of the Seventh Range for equestrian trail rides in the Santa Rosa foothills has been annually issued for the past several years. Historically, other areas have been used for organized day hikes and interpretive hikes especially in the more popular canyons with palm oases.

One of the most popular areas in the San Jacinto Mountains is the Indian Canyons. Access to the Indian Canyons is controlled by the Agua Caliente Indian Tribe who restrict access to day use and charge an admission fee. Trail access to other popular canyons in the San Jacinto Mountains requires permission or a permit from the Agua Caliente Indian Tribe.

#### G. Visual Resources

The proposed area has outstanding scenic values. When the area was inventoried for its scenic values, as part of the Visual Resource Management Program, it was given a scenic quality rating of "A" or excellent. It was rated on the basis of landform, vegetation, water, color, adjacent scenery, scarcity, and cultural modifications criteria. Under this program, it was also given a visual resource management class rating of II. This means that the visual resources of the area will be managed in such a manner that any changes in form, line, color, or texture caused by a management activity should not be evident in the characteristic landscape.

The Scenic Area has striking vertical relief, with many prominent sharply defined mountain peaks, that create the near-perfect scenic backdrop for the Coachella Valley. Adding variety to the landscape, are steep canyons, sandy washes, and rocky cliffs. A variety of vegetative types from the creosote bush scrub, to the



desert fan palm oasis woodland, to the pinyon-juniper woodland create interesting forms, textures, and patterns. Overall, the area is free from aesthetically undesirable or discordant sights and influences, enhancing its scenic qualities. The adjacent scenery, such as Mount Jacinto that stands in the background, also adds to the beauty of the area. The high ridges and mountain tops offer magnificent panoramic views of the Coachella Valley, Peninsular Ranges, Salton Sea, and much of the southern portion of the California Desert.

There are endless powerful visual images created by the combination of landscape features, making the area worthy of national recognition. Some examples of such images are: rugged mountain peaks outlined against a flaming orange sky, the awesome color explosion of hundreds of blooming ocotillos covering a hillside after a rainstorm, and the sight of a herd of bighorn sheep standing on a highly eroded cliff silhouetted against the blue sky.

#### H. Cultural Resources

Many significant archaeological and historic sites are located throughout the geographical area of the Santa Rosa Mountains. Prehistorically and historically, these mountains were a main focus of Cahuilla hunting and gathering and the origin of much of their legend and mythology.

Prehistoric Cahuilla sites are usually identified with hunting and gathering. These villages and seasonal base camps often contain milling stones, roasting pits, shard scatters, and lithic reduction areas. Many villages are also affiliated with locations of Cahuilla legend and myth. Other Cahuilla sites consist of rock cairns (possible shrines) and alignments, rock shelters, and petroglyph and pictograph sites. The NSA's southeastern portion contains a unique variety of cultural resources owing to its association with the ancient shoreline of the now extinct Lake Cahuilla. Besides villages sites and special use areas, there are numerous fish traps which were associated with Lake Cahuilla when it was extant.

To date relatively little archaeological inventory and recordation have been accomplished in the Santa Rosa Mountains because of the steep, rugged terrain and the reluctance of many Cahuilla informants to yield information concerning the villages of their ancestors.

#### I. Native American Concerns

The Santa Rosa Mountains have been occupied by the Cahuilla for at least the last 1,500 years. Specific geographical areas which hold special significance include Nicholas, Rock House, Martinez, Toro, and Palm Canyon (and its canyon tributaries), the peak of Santa Rosa Mountain and the ancient shoreline of the now extinct Lake Cahuilla. The clans who were known to live within these areas include the Sauipaklitum, Wiwaiistam, Costakikum, Se'-o-ya, Wanticinakik-Taminawitum, Kewel, Sewia, and We-wut-now-ku. The surviving members of these clan groups occupy the Santa Rosa, Caba:un, Morongo, Agua Caliente and Torres Martinez Reservations.

A significant and natural concern of the various bands of the Cahuilla is the protection of their village and sacred sites and other areas of ancestral/traditional domain. Dr. Clement Meighan surveyed many areas of the Santa Rosa Mountains in the late 1950's only to find that "...an enormous amount of looting of archaeological material had taken place, perhaps the most anywhere in California." As a result, maximum protection of their cultural heritage is paramount to the Cahuilla. A unified plan for the protection and investigation of these resources is needed; as well as special use access for areas which are sacred to the Cahuilla people.

## J. Mineral Resources

Geologic data available for the study area indicates a potential for metallic minerals, limestone, and geothermal resources. Although the exact extent of mineralization for most of the area is unknown, mineral surveys conducted by the U.S. Geologic Survey and the U.S. Bureau of Mines for the Santa Rosa WSA indicate that this portion of the study area -- the southern one-third -- has a high potential for tungsten and a moderate potential for gold and geothermal resources. The Santa Rosa Mountains were first prospected in the late 1800's for gold. Data from the MILS classification indicate potential for limestone, iron, tungsten and asbestos from the northern portion of the study area. There has been gold production from mines just outside the study area in the adjacent National Forest. The formations from which this gold production was derived extend into the study area giving the study area a moderate potential for gold.

There is a high potential for aggregate materials in washes and alluvial fans in the study area and in the valley at the mountain margins. A moderate potential for aggregate resources also exist as granite deposits within the granitic batholith rocks. The granitic batholith is also a host rock for deposits of feldspar and kyanite.

Most of the study area is classified by the BLM as having a moderate potential for the occurrence of geothermal resources along the fault zones in both the Santa Rosa and San Jacinto mountain ranges. There are, however, no geothermal leases in the study area nor has there been any energy production in the Coachella Valley along the eastern edge of the study area.

A comprehensive mineral inventory will be completed during development of the Scenic Area Management Plan.

## IV. ENVIRONMENTAL CONSEQUENCES

This section of the environmental assessment focuses directly on the issues identified through the scoping process. The environmental impacts of each alternative are described issue by issue. The environmental impacts of these alternatives on the study area's other resources have also been analyzed and have been found to be insignificant.

Since the alternatives presented in this assessment describe overall management emphasis, and do not propose specific, on-the-ground projects or actions, the environmental consequences of the alternatives are identified in comparative, general terms. In most case, subsequent analysis will be required to implement resource management decisions. More detailed or site-specific studies will be conducted in compliance with the National Environmental Policy Act and its implementing regulations as the management plan for the designated area is developed after designation.

### Alternative A-Proposed Action-National Scenic Area Designation and F Proposed Plan Amendment

#### A. Impact on Land Use and Development

BLM and local jurisdictions would coordinate in setting up guidelines to ensure impacts on resource values, especially visual resources, are minimized and that development plans (including access) are consistent with resource values. It is anticipated that public land within the area would not be available for disposal, but this is not expected to adversely affect local governments. In conjunction with local government, zoning modification for hillsides, ridgelines and valleys would be considered. Also, BLM would work with local jurisdictions on modifying General Plans to provide for conservation easements and access to trails and private landlocked lands.

The NSA designation would not extinguish or alter prior rights issued to the Coachella Valley Water District for access, maintenance, or repair of existing public works facilities. The BLM recognizes the need for construction, maintenance, repair and access to future public works projects, particularly for domestic water and flood protection. These types of facilities are not incompatible with the NSA. The NSA designation

would focus on facility design and access in conjunction with other Scenic Area objectives. Site specific needs would be addressed in the management plan and at the time of the specific project proposal.

#### B. Impact on Research

The NSA designation would not affect the operation or use of the research facilities. The designation, though, would be beneficial to research because it would provide additional legal access for scientific purposes.

#### C. Impact on Wildlife

Owing to increased use from higher visibility of the area, there will be greater and more frequent contact and intrusion between humans and wildlife. However, effects to wildlife will be minimal by locating trails away from sensitive habitat. Limits on the carrying capacity of sensitive habitat and the implementation of seasonal closures in bighorn sheep areas will also reduce conflicts.

The intent of the NSA is to place additional emphasis on the objectives of the Santa Rosa Mountains Wildlife Habitat Management plan (HMP) for the protection of Peninsular bighorn sheep. Existing commitments and agreements for conservation of wildlife in the Santa Rosa Mountains will not be nullified or compromised by the NSA. The designation would allow for the management of the area as an entire unit resulting in better assessment of cumulative effects on bighorn sheep habitat and other wildlife resources. The management umbrella would serve as a means to expedite the HMP objectives and to gain further assistance in involving county and city jurisdictions in enhancing the bighorn objectives that the BLM and the California Department of Fish and Game have adopted.

#### D. Impact on Vegetation

Increased recreational use of both a non-motorized and motorized use would affect the vegetation along trails. However, the disturbance to sensitive species will be minimized by diverting recreational use away from sensitive areas by re-alignment of trails. Also, limiting access or type of recreational use of trails or use areas would have a beneficial impact to vegetation.

#### E. Impact on Wilderness

There will be no effect on the Santa Rosa Mountains WSA. These lands are currently managed under the Interim Management Policy and Guidelines for Lands Under Wilderness Review, which provides sufficient restrictions to limit actions that would affect wilderness quality.

#### F. Impact on Recreation

The addition of visitor services, the provision of new and legal access, and the development of trails and other facilities will have a beneficial effect on recreational opportunities. Non-motorized recreational use will be minimally impacted as motorized use would be restricted to designated routes of travel. By having a regional plan, recreationists would be offered a vast array of recreational opportunities in a wide spectrum of settings. By better directing the public to recreational settings and experiences, they will have a higher quality recreational experience, and trail conflicts between bikers, hikers, and equestrians will be reduced.

#### G. Impact on Visual Resources

The visual resource objectives will be used to assess surface disturbing activities and to design mitigating measures and stipulations that will minimize impacts to visual resources. This will have an overall beneficial effect on visual resources.



#### H. Impact on Cultural Resources and Native American values

As a result of the area being designated a National Scenic Area, recreational use will increase. However, this is not expected to have an adverse impact as use will be limited and restricted in sensitive archaeological areas. In addition, trails would be located away from cultural resources and areas of Native American values, and access to sensitive cultural resource areas would be restricted, if not closed, in some instances. Further, Native American values would be protected by similar measures as well as by developing cooperative agreements with Indian tribes to protect such resources through patrolling areas subject to vandalism.

#### I. Impact on Mineral Resources

Although surface disturbing activity will be regulated to protect the area's visual resources, mineral exploration and development will be permitted within the northern two-thirds of the proposed Scenic Area - the area outside the Santa Rosa Mountains WSA. No development of the area's mineral resources has yet occurred; however there are two mining claims on record with the BLM. The apparent lack of exploration activities now does not preclude interest in the future. Future proposals within the Scenic Area to withdraw lands that have moderate to high potential for mineral resources will be addressed on a site specific basis and the decision to withdraw will be made only when other management options are deemed not viable. In summary, the Scenic Area designation itself will not significantly impact mineral resource exploration and development.

#### Alternative B-Modified National Scenic Area Boundary

The environmental consequences for Alternative B are the same as for Alternative A, except that management of such fragmented public land would be more difficult and land consolidation would be more difficult owing to the high value of adjacent agricultural lands.

#### Alternative C-No Action

Under the 1980 California Desert Conservation Area Plan, the proposed area contains unclassified areas, and areas classified for limited (L) uses, and for controlled (C) uses, meaning that the primary management emphasis of the area would continue to be on conservation of resources, with access predominately by non-motorized means.

Under Alternative C the various land fragments would continue to be managed separately under their existing special designations and activity plans. There would be no comprehensive management umbrella created for cooperative efforts with other land owners and managers to manage the area as a whole on a more regional basis. Also, without a strong identity, it would be more difficult for BLM to support and fund specific proposals for the area's resources and uses.

In addition, the rapid growth of the Coachella Valley is inevitable, resulting in increased recreational use and economic development. The BLM would have a difficult time keeping pace with the recreational demands, and some of the area's resource values would likely be compromised as pressures for development mount. This would increase pressure on wildlife, the bighorn sheep in particular, and on the sensitive vegetation. There is potential conflict between motorized and non-motorized recreational use. Impacts to cultural resources and Native American values would be adversely affected by hillside development. There would also be a lower priority to acquire and consolidate lands on an area-wide basis for key wildlife and cultural values that could result in more development and loss of viewshed. And, on a final note, the area would not receive the national recognition it deserves.

## V. RESIDUAL IMPACTS

Alternative A and B, the designation of the National Scenic Area, would have no significant adverse impacts, and no residual impacts will occur. Upon designation a management plan that would propose specific management actions to resolve identified issues, would be written and distributed for public review. The impacts of these actions would be addressed in an accompanying environmental assessment. This environmental assessment would address mitigating measures and residual impacts of the proposed management actions.

## VI. CONSISTENCY WITH STATE AND LOCAL PLANS

Alternatives A and B do not conform with the California Desert Conservation Area Plan (1980); they conform with the Santa Rosa Mountains Wildlife Habitat Management Plan, and the Interim Management Policy and Guidelines for Lands Under Wilderness Review.

Alternatives A and B are consistent with the overall objectives of the Western Coachella Valley Plan, the Eastern Coachella Valley Plan, the City of Palm Springs General Plan, the Cathedral City General Plan, Rancho Mirage General Plan, Palm Desert General Plan, Indian Wells General Plan, and the La Quinta General Plan.

One of the management goals envisioned for the Scenic Area is to provide the best balance for recreational use, development, and protection of significant resources. The management umbrella created by the Scenic Area would bring together parties with similar concerns and objectives to work on resolving issues. Under the management umbrella concept, a Steering Committee would be gathered together to make decisions on which lands to develop, which to consolidate for key resource values, and what mitigating measures would be necessary to reduce impacts resulting from development. Both BLM public lands and private lands could be used for this consolidation.

This is a critical time for cooperative efforts. In light of the recent concern over hillside development, there is a valleywide movement for cities to re-evaluate their zoning and land use of the hillsides. The management umbrella would especially focus on working with cities on:

1. Improving methods of identifying key sensitive hillside, wildlife, and cultural sites for preservation
2. Reducing impacts to hillsides by working with developers' proposals on location, design, and level of development

The Coachella Valley Association of Governments and city representatives on the SRMNSA ad hoc committee have shown their support of the National Scenic Area concept, and demonstrated the desire to implement the management umbrella as the best means for the BLM to more effectively communicate and work with cities on land use issues. Specific actions would be addressed in the management plan following designation.

## VII. CUMULATIVE AFFECTS

The cumulative affects of both Alternatives A and B would be beneficial. Since there would be a series of actions to reduce resource conflict and to constrain resource losses, the overall affect would be positive. Under Alternative C, the management of the area by local government and BLM would continue present practices. Seemingly unrelated actions and piecemeal decisions would result in conflicts between sensitive resources and developmental and recreational demands. Collectively, the increased use would result in deterioration of resources values over time.

Adoption of either Alternatives A or B would assist Riverside County in their efforts to preserve open space and significant resources. The successful November 1988 "open space" referendum for Riverside County is an indication that Southern California is working towards developing all of its private lands and that a

majority of the local populous is deeply concerned about preserving an adequate amount of open space for future generations. The implementation of a land acquisition program, resulting from the implementation of Alternative A or B, would provide the public with a large block of "open space" public land while relieving some pressure from local communities who must deal with issuing permits for development while struggling to find the "right place and right amount" of open space for its citizens.

#### VIII. LIST OF PREPARERS

Laura Gundrum, Palm Springs-South Coast Resource Area Outdoor Recreation Planner

Mike Mitchell, Palm Springs-South Coast Resource Area Archaeologist

Roland de Gouvenain, Palm Springs-South Coast Resource Area Botanist

Mike Blymyer, Palm Springs-South Coast Resource Area Wildlife Biologist

James Abbott, Palm Springs-South Coast Resource Area Assistant Area Manager

David Eslinger, Palm Springs-South Coast Resource Area Supervisory Outdoor Recreation Planner

Doug Romoli, California Desert District, Environmental Specialist

Carl Rountree, California State Office, Planning and Environmental Coordination Staff Chief

#### IX. PERSONS, GROUPS, AND GOVERNMENT AGENCIES CONSULTED AND/OR COORDINATED WITH

##### Federal Agencies Contacted

Joshua Tree National Monument  
U.S. Forest Service

##### State Agencies Contacted

Anza Borrego Desert State Park  
California Department of Fish and Game  
Mount San Jacinto State Park  
Salton Sea State Recreation Area

Through open houses and ad hoc committee meetings, the major issues were identified and addressed. The following groups showed their support through participation on the ad hoc committee. Some of the findings of this committee were incorporated into the Background and Description, Public Involvement, Affected Environment, and Environmental Consequences sections of this environmental assessment.

Agua Caliente Band of Cahuilla Indians  
Best, Best, and Krieger  
Bighorn Institute  
City of La Quinta  
City of Palm Desert  
City of Palm Springs  
City of Rancho Mirage  
Coachella Valley Archaeological Society  
Desert Off Road Adventures  
League of Women Voters  
Palm Springs Desert Museum  
Palm Springs-South Coast Resource Area staff

Environmental Assessment EA-CA065-92-1

Right of Way Application CA-010010  
Applicant: MGS Development Corp.

Location: Mount Diablo Meridian, Kern County, California  
T. 22 S., R. 38 E., Section 34, SW1/4SE1/4NW1/4 (within)

Prepared by: Rufus T. Sodbottom

U.S. Bureau of Land Management  
California Desert District  
Ridgecrest Resource Area

January 2, 1992



### Need for Action

The proposed road right of way is needed by the applicant to provide physical and legal access across public land to private property. Kern County requires owners of private property to show legal access before approving county permits. Although access could be gained without crossing public land, the alternative access would be much more costly because of the terrain involved. Thus, the proposed action is also needed to provide more direct and economical access.

### Conformance with Land Use Planning

The public land is unclassified by the California Desert Conservation Plan of 1980, as amended. The proposed use would conform to the prescriptions for management of unclassified lands in the CDCA Plan. The subject land is within the Land Tenure Adjustment Project planning area, and would be consistent with that plan.

### Relationship to Laws, Regulations, and Planning

The right of way application has been filed pursuant to P.L. 94-579 (FLPMA), and the regulations at 43 CFR 2800. The applicant's development plans, including the road, conform to the Kern County zoning ordinances, and to the Rosamond Specific Plan, approved in 1990.

### Description of the Proposed Action

The applicant proposes to construct, maintain, and use a road right of way 330 feet long by 30 feet wide across the public lands described on the cover of this document. The terrain is relatively flat and level, and no cuts will be required; fill depth will be less than two feet above natural ground level. The surface will be graveled initially, but ultimate plans call for paving with asphalt within ten years.

Construction methods will be conventional. Initial pioneering of the road will be with a medium-sized tracked dozer (Caterpillar D-7 or equivalent). Finish work will be with a mid-sized motor grader. Two pickups, one tractor-trailer belly dump, and a small backhoe will also be used. No special drainage or other design features are needed. Construction should take about two days. The details of the project design are contained in the plan of development, submitted by the applicant, and included in Casefile CA-010010.

Federal Action Involved: The BLM action would be to issue a right of way for a term of 30 years to the applicant.

### Environmental Impacts

#### Wildlife:

The area could be habitat for the desert tortoise, a state and federally listed threatened species. The construction disturbance of 0.23 acres would remove the parcel from use as wildlife habitat. Burrowing species on the site could be taken during construction. Excluding the site during construction, or timing construction to coincide with periods of low tortoise activity, as proposed in the plan of development, would minimize possible impacts to the tortoise.

Use of the access road could impact individual desert tortoises. Consultation with the US Fish and Wildlife Service has led to a determination that the potential impacts of the access road would not jeopardize the tortoise. No measurable impacts to other non-threatened species are anticipated.

#### Cultural Resources:

No impacts to known cultural resources are anticipated if construction is confined to within the exterior limits of the right of way. Although it is unlikely, the presence of subsurface archaeological materials is not precluded, and any such materials might be uncovered during project construction. Standard BLM right of way stipulations would prevent any impacts.

#### Visual Resources:

The proposed action is within a Class IV VRM area, and would cause minimal visual impacts. A visual contrast rating has been completed. The action as proposed in the plan of development would not exceed the level of contrast acceptable within a Class IV area, since there are existing visual intrusions from structures, railroad facilities, mining operations, and other man-made developments.

#### Other Resources:

No threatened or endangered plant species have been identified on the site. The use of the road could generate fugitive dust, but if county construction site dust control measures are implemented during construction, and the road is then graveled as called for in the plan of development, the impact would be insignificant.

The following critical environmental elements have been determined to be absent or not affected by the proposed action: ACECs; Prime and Unique Farmlands; Floodplains; Native American Concerns; Hazardous or solid wastes; Water Quality; Wetlands/Riparian Zones; Wild & Scenic Rivers; Wilderness.

#### Residual Impacts and Mitigating Measures:

The proposed action would commit the subject land to intensive use as a road and would reduce or eliminate its value for open space and wildlife habitat. The visual intrusion, though minor, would remain. The inclusion of the following mitigation measures would further alleviate potential negative impacts.

1. Standard operating stipulations found in BLM Handbook H-2800-1 should be included in the authorization covering the critical elements above, including handling of cultural resources if found, waste disposal, marking limits of the right of way and confining use therein, etc.
2. The holder should be required to follow Kern County procedures for control of fugitive dust during the construction phase.
3. Prior to construction start, a detailed construction schedule should be submitted to the authorized officer and approved, to avoid construction during peak periods of tortoise activity.

#### Cumulative Impacts:

The proposed action would add another short length of access road and facilitate development of another small-acreage site development in an area already heavily used for residential development. Land ownership in the area (within a five-mile radius of the site) is 95% private, 75% developed. The public land involved has been identified for disposal through exchange by the Land Tenure Adjustment Project Plan.



The proposed action would contribute insignificantly to overall development in the area. Use of the site would facilitate logical development and the road would be a logical extension of the existing road grid. There would be no significant negative impacts, since the foreseeable future of the area is continued residential development on private land.

Persons and Agencies Consulted

U.S. Fish and Wildlife Service  
California Department of Fish and Game  
Kern County Planning Department  
Kern County Road Department  
Rosamond Water District



**Appendix 6**

**Example Documents: Decision Records**



**Decision Record**  
Finding of No Significant Impact  
EA-CA065-92-1  
Right of Way Application CA-010010

Decision: It is my decision to authorize right of way CA-010010 for construction, use, and maintenance of a 330 foot long by 30 foot wide access road on 0.23 acres of public land. The boundaries of the right of way area are described by metes and bounds in the plan of development submitted with the application, contained in the official casefile, and are within the public land described as:

Mount Diablo Meridian, Kern County, California  
T. 22 S., R. 38 E., Section 34, SW1/4SE1/4NW1/4 (within)

The grant shall issue pursuant to the Act of October 21, 1976, and the regulations at 43 CFR 2800. The right of way shall be subject to the special terms and conditions attached to this decision. The initial term of the grant shall be 30 years, renewable. Rental shall be determined using the current schedule for linear rights of way, pursuant to 43 CFR 2803.

Compliance and Monitoring: Construction monitoring will be performed by the Ridgecrest Resource Area realty specialist. Site inspections will be made the first day of construction activity, and within 30 days of completion of construction.

Finding of No Significant Impacts: Based upon the analysis of the potential environmental impacts contained in the EA, I have determined that the impacts are not expected to be significant, that the proposed action does not constitute a major Federal action with significant impacts to the human environment, and that an environmental impact statement is not required.

Rationale: The proposed action has been analyzed, with no apparent serious impacts anticipated. The environmental assessment adequately covers all affected resource values. The design features and operational measures included in the plan of development to prevent environmental impacts, and the mitigation measures identified in the analysis have been formulated into the stipulations (Attachment 1).

The decision to allow the proposed action, including mitigation, would not result in undue or unnecessary environmental degradation, and is in conformance with the California Desert Conservation Area Plan of 1980, as amended. The action would also conform to Bureau policy to allow rights of way for access for useful structures and improvements (43 CFR 1725, BLM Manual 1603).

Realty Information:

Ownership

Both the surface and the mineral estates of the public land involved are in public ownership, under the administrative jurisdiction of the Bureau of Land Management.

Access

Physical access to the subject land is provided by existing roads on public and private land. The physical access present also provides permissive but non-exclusive legal access.

Restrictions

No existing entries, applications, classifications, segregations, orders, mineral leases, or other encumbrances of record have been identified which appear to conflict or preclude the proposal. Review of Bureau records as of the date of this document showed no current mining claims on the site.

The right of way would adjoin right of way LA-12345, a water pipeline right of way issued to the Rosamond Water District. No conflict or incompatibility between the two rights of way has been identified.

Applicant Qualifications

The applicant is a California Corporation, in good standing with the Secretary of State. The applicant holds other BLM rights of way in California, and appears to be in compliance with their terms and conditions. No bond was identified as needed.

---

Area Manager

Date

Attachments:

Grant Stipulations

[Not included in this example; this attachment should include all terms and conditions to be attached to the right of way grant. The decision record could also reference a list of stipulations found elsewhere.]

<file codes>  
<EA number>  
<office code>

### DECISION RECORD/FONSI

**DECISION:** It is my decision to approve the proposed action of \_\_\_\_\_ as evaluated in the attached environmental assessment. Mitigation measures identified for the proposed action in the attached environmental assessment have been formulated into stipulations. This decision incorporates by reference the attached stipulations.

**FINDING OF NO SIGNIFICANT IMPACT:** Environmental impacts associated with the proposed action have been assessed. I conclude that the proposed action will have no significant impact on the environment and is not a major federal action. Preparation of an Environmental Impact Statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 is not required.

**RATIONALE FOR DECISION:** The decision to allow the proposed action does not result in any undue or unnecessary environmental degradation and is in conformance with the California Desert Conservation Area Plan (1980), as amended.

**COMPLIANCE and MONITORING:** The attached compliance and monitoring plan has been developed for this project and is incorporated by reference into this decision.

Reviewed by:

\_\_\_\_\_  
Environmental Coordinator

\_\_\_\_\_  
Date

Recommended by:

\_\_\_\_\_  
Chief, Resources Branch

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief, Recreation Branch

\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
Area Manager

\_\_\_\_\_  
Date

Attachments:

EA  
Stipulations  
Compliance and Monitoring Plan



<CAMC number>  
3802/8500 WSA ###  
<EA number>  
<office code>

## DECISION RECORD/FONSI

**Decision:** It is my decision to approve the proposed action of \_\_\_\_\_  
Mitigation measures identified for the proposed action in the environmental consequences section of the attached environmental assessment have been formulated into stipulations. This decision incorporates by reference the attached stipulations.

<or>

**WILDERNESS NON-IMPAIRMENT DECISION:** I have reviewed the decision to <deny/accept> the proposed action for \_\_\_\_\_ and I have determined that this decision <will/will not> <enhance/impair> wilderness values as stated in the Interim Wilderness Management Policy, and that it will not cause cumulative impacts that will constrain the Secretary of the Interior's recommendation with respect to the area's suitability as wilderness. Mitigation measures identified for the proposed action in the environmental consequences section of the attached Environmental Assessment have been formulated into stipulations.

**FINDING OF NO SIGNIFICANT IMPACT:** <if proposed action is accepted...> Environmental impacts associated with the proposed action have been assessed. I conclude that the proposed action will have no significant impact on the environment and is not a major federal action. Preparation of an Environmental Impact Statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 is not required.

**RATIONALE FOR DECISION:** The decision to <allow/deny> the proposed action does not result in any undue or unnecessary environmental degradation and is in conformance with the <name of land use plan> (<year>), as amended. Anticipated impacts as mitigated will remain nonimpairing in the WSA as a whole. The anticipated impacts will not constrain the Secretary of the Interior's decision regarding the area's suitability or nonsuitability for preservation as wilderness.

**COMPLIANCE and MONITORING:** The attached compliance and monitoring plan has been developed for this project and is incorporated by reference into this decision.

Reviewed by: \_\_\_\_\_  
Environmental Coordinator Date

Recommended by: \_\_\_\_\_  
Chief, Resources Branch - R.A. Date

\_\_\_\_\_  
Chief, Recreation Branch - R.A. Date

\_\_\_\_\_  
Area Manager Date

Approved by: \_\_\_\_\_  
District Manager Date

Attachments:  
EA  
Stipulations  
Compliance and Monitoring Plan

**Appendix 7**  
**Project Summary**



## Project Summary

OFFICE: \_\_\_\_\_

EA/EIS No: \_\_\_\_\_

PROJECT NAME AND TYPE: \_\_\_\_\_

BLM PROJECT LEADER: \_\_\_\_\_

LOCATION (attach map): \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIZE:

Surface Acres

Subsurface Acres

Public lands

Other Federal

State/County/City

Private

Total

SUMMARY OF KEY ISSUES:

- 1.
- 2.
- 3.

IS A PLAN AMENDMENT INVOLVED? Yes or No

BLM ACTION(s) REQUIRED:

- 1.
- 2.
- 3.

OTHER LEAD and COOPERATING AGENCIES:

- 1.
- 2.
- 3.

Project Status

OFFICE: \_\_\_\_\_ EA/EIS No: \_\_\_\_\_

PROJECT NAME AND TYPE: \_\_\_\_\_

STATUS (circle one): Ongoing, New, Inactive, Complete

BLM ROLE (circle one): Sole, Lead, Join, Coop

CATEGORY (circle one):  
Solid Minerals  
Oil and Gas  
Geothermal  
Pipeline/Powerline  
Hydro Projects  
Dump Sites  
Land Tenure Adjustment  
Military Projects  
Weed/Pest Control  
Recreation  
RMP/Amendments  
Activity Plans  
Miscellaneous

PROPONENT: \_\_\_\_\_

THIRD PARTY CONTRACTOR: \_\_\_\_\_

----- MILESTONES -----

MOU      PRE-PLAN      NOI      DRAFT      FINAL      ROD

DATE: \_\_\_\_\_  
(\*p' next to the milestone indicates the proposed completion date)

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Appendix 8**

**Example Document: Preparation Plan**





## ORO CRUZ EIS PROJECT STATUS REPORT

June 16, 1992

- ☛ Memorandum of Understanding between American Girl Mining Joint Venture (AGMJV) and BLM completed 5/13/92.
- ☛ Cost Recovery account established for reimbursement of BLM costs incurred to *expedite* preparation of EIS and processing of POO on 5/18/92. Account 7122 09 6514 opened with \$10,000.
- ☛ Third-party contractor (DeDycker and Associates) selected to assist BLM with preparation of EIS. Interdisciplinary EIS team has been formulated. BLM to review and Statements of Qualifications and Financial Interests for all team members this month.
- ☛ Notice of Intent published in the Federal Register on 6/5/92. CDD Public Affairs issued simultaneous press release.
- ☛ Public scoping meetings scheduled for 6/30/92 in El Centro, CA and for 7/1/92 in Yuma, AZ.
- ☛ Archeological consultant provided with guidance related to Section 106 determinations of eligibility and effect on 5/29/92.
- ☛ Held on-site meeting with Fish and Wildlife Service and State Fish and Game to discuss Section 7 consultations for Oro Cruz POO and American Boy Plan Amendment.
- ☛ Copies of the EIS Preparation Plan, Strategy for Public Involvement, and Scoping Document for the Oro Cruz EIS distributed to CDD and CSO.

*From the Desk of Thomas F. Zale*



# EIS PREPARATION PLAN

Oro Cruz Operation of the  
American Girl Project

## INTRODUCTION

This document provides a plan of action to guide the preparation of an Environmental Impact Statement (EIS) for the Oro Cruz Operation of the American Girl Project. A Plan of Operation (POO) has been submitted to the El Centro Area Office of the United States Department of the Interior, Bureau of Land-Management (BLM) by American Girl Mining Joint Venture (AGMJV) describing the proposed mining operation in compliance with 43 CFR 3809. The Oro Cruz Operation will include both underground and surface mine development and is the third component of the overall American Girl Project, which includes the previously approved American Girl Canyon and Padre Madre operations.

The addition of the Oro Cruz operation to the American Girl Project will place the total disturbed lands at 825 acres. The BLM has decided that due to the disturbed acreage, the possible increase in the use of cyanide, the presence of desert tortoise, and the potential eligibility of the Tumco-Hedges Townsite within the Oro Cruz property for the National Register of Historic Places, the BLM will perform a cumulative EIS for the combined project.

This Preparation Plan describes the steps and procedures necessary for BLM compliance with the National Environmental Policy Act (NEPA). Each task described herein is an important component of the EIS process, and requires written documentation for the project administrative record. The Preparation Plan will facilitate coordination between participants involved in the preparation of the EIS and those with approval and oversight responsibilities.

### *Task 1 -- FINALIZE MEMORANDUM OF UNDERSTANDING*

A Memorandum of Understanding (MOU) between AGMJV and BLM is currently being developed. The finalized MOU will spell out specific responsibilities of each party during the EIS process.

Start Date: April 1992  
Completion Date: May 1992

---

*Task 2 -- SET UP COST REIMBURSABLE ACCOUNT (CRA)*

The project applicant will reimburse BLM to perform work under the terms of the MOU.

Start Date: May 1992  
Completion Date: May 1992

*Task 3 -- PUBLISH NOTICE OF INTENT FOR EIS AND NOTICE OF SCOPING*

A Notice of Intent (NOI) must be prepared by the BLM and published in the Federal Register after it is determined that an EIS will be prepared. Publication of an NOI formally begins scoping for an EIS. Two purposes of an NOI are: to notify persons or agencies interested in, or affected by, a proposed Federal action; and to seek information and/or participation in scoping. The NOI must be published in the Federal Register at least 15 days prior to the first scoping meeting. BLM will issue simultaneous press releases to regional news media.

Start Date: May 1992  
Completion Date: June 1992

*Task 4 -- SELECTION OF EIS CONTRACTOR*

The BLM will select a qualified EIS contractor in consultation with AGMJV. AGMJV will enter into a contract with the contractor for appropriate baseline data collection, scoping, impact assessment and preparation of the EIS. BLM will work directly with the contractor on NEPA related matters, provide guidance and direction in EIS preparation, and administer the contract. The contractor must submit a Statement of Qualifications and execute a disclosure statement prepared by the BLM specifying that they have no financial or other interest in the outcome of the project.

Start Date: May 1992  
Completion Date: June 1992

*Task 5 -- DEVELOP INTERDISCIPLINARY TEAM*

Production of an EIS is a large undertaking, and requires a large number of technical experts. The BLM and the project third-party contractor will designate individuals with sufficient technical skill to analyze potential environmental impacts associated with the proposed project as members of the interdisciplinary team. Meetings among team members will be held throughout the EIS process. All subcontractors will submit Statements of Qualifications and Disclosures of Financial Interest to the BLM for approval before beginning work on the EIS.

Start Date: April 1992  
Completion Date: May 1992

*Task 6 -- DEVELOP STRATEGY FOR PUBLIC INVOLVEMENT and INTERAGENCY/INTERGOVERNMENTAL COORDINATION and CONSULTATION*

Public involvement and interagency/intergovernmental coordination and consultation are essential to scoping as well as to subsequent phases of the EIS process. A written strategy or plan will be developed for involving the public and for coordinating/consulting with other governmental agencies with interest or expertise in the proposed project.

Start Date: May 1992  
Completion Date: June 1992

*Task 7 -- DEVELOP SCOPING DOCUMENT*

In order to facilitate scoping, a scoping document will be prepared. The document will contain detailed information on the EIS process, the proposed project, roles and responsibilities of the BLM and other interested agencies, and environmental issues associated with project. The scoping document will be available for all persons who attend the scoping meetings or specifically request a copy.

Start Date: May 1992  
Completion Date: June 1992

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*Task 8 -- CONDUCT PUBLIC SCOPING MEETINGS AND SOLICIT PUBLIC COMMENTS*

Scoping meetings will be held in El Centro, California and Yuma, Arizona to explain the project to the public and to solicit public comments. After introductions by the BLM and a description of the EIS process, a brief presentation of the proposed project will be made by the project applicant. Depending upon the size of the audience, a facilitator(s) from the BLM will meet with the group(s) and solicit comments. Comments from the group(s) will be recorded by the third-party contractor on flip charts (the flip charts will serve as the permanent record public concerns and comments). Published notice of each meeting, as required by NEPA, will be made at least 15 days prior to the meeting.

Start Date: June 1992  
Completion Date: July 1992

*Task 9 -- ANALYZE PUBLIC COMMENTS*

All substantive comments obtained from the scoping meetings and other public involvement processes (e.g., written comments) will be analyzed to assist in determination of significant environmental issues. A document describing the results of the analysis will be prepared and submitted for discussion at an interdisciplinary team meeting.

Start Date: July 1992  
Completion Date: August 1992

*Task 10 -- IDENTIFY THE SIGNIFICANT ENVIRONMENTAL ISSUES*

The EIS will focus on significant environmental issues. It is important that the significant environmental issues be identified as early as possible in the EIS process, so that emphasis and priority can be placed on those resource areas. The issues will be defined through existing knowledge of the study area from environmental analysis of the previous projects, and through comments from the public obtained during the scoping process.

Start Date: June 1992  
Completion Date: August 1992

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*Task 11 -- IDENTIFY ALTERNATIVES TO THE PROPOSED ACTION*

Before impacts can be analyzed in detail, reasonable alternatives to the proposed action must be identified. A range of alternatives is initially formulated during scoping and is refined throughout the EIS process. It is important that alternatives be developed at this stage in the EIS process so that data needs can be identified. Alternatives must include the No Action alternative (which reflects denial of any element of the proposed action that would result in unnecessary or undue degradation of public lands), the project as proposed by the applicant, and the project with reasonable modifications in various elements of the proposal. Modifications to the proposed action could include facility siting alternatives, operating methods alternatives, and reclamation alternatives. Alternatives which are unreasonable or infeasible will be dismissed from further consideration. The rationale for dismissal will be documented.

Start Date: June 1992  
Completion Date: August 1992

*Task 12 -- IDENTIFY DATA NEEDS AND BEGIN ANY ADDITIONAL BASELINE STUDIES*

Enough information about the proposed action and alternatives and the environmental setting must be available to analyze potential impacts. Existing data will serve as the basis for most of the EIS technical environmental analysis. The process of identifying data or information gaps begins with reviewing and organizing existing information from other environmental analyses. If this existing database is insufficient, data collection plans will be made. Information needs are primarily determined by the extent to which the proposed action and alternatives are likely to affect the quality of the human environment. At this time, no additional major baseline data collection efforts are anticipated.

Start Date: June 1992  
Completion Date: July 1992



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*Task 13 -- CONDUCT ENVIRONMENTAL IMPACT ANALYSIS OF PROPOSED ACTION AND ALTERNATIVES*

A detailed Draft EIS outline will be developed to guide preparation of the analysis and content of the text describing the analysis. The existing environment for each resource area will be described. This will serve as the basis for projection of impacts. Impact analysis techniques will be determined to meet the specific requirements of each resource area. The objective of impact analysis will be to use standard analytical approaches, and to find the most efficient method(s) of estimating potential impacts. Each technical specialist will develop necessary criteria to determine impact significance, and make a determination as to the timing, magnitude, scope, and significance of impacts. Cumulative impacts will be included in the analysis. Developing and analyzing mitigation measures which could reduce adverse impacts or enhance beneficial impacts can be incorporated into the analysis, or if applicable, into alternatives to the proposed project. Monitoring or enforcement needs can also be identified. Emphasis throughout the impact analysis process will be on the significant environmental issues.

Start Date: July 1992  
Completion Date: September 1992

*Task 14 -- PREPARE BIOLOGICAL ASSESSMENT (BA) and RECEIVE OPINION FROM U.S. FISH and WILDLIFE SERVICE*

Under terms of the Endangered Species Act, consultation with the U.S. Fish and Wildlife Service is required to determine effects on identified species. The BA prepared by the contractor for the BLM formally serves as this required impact analysis. The Service will render a Biological Opinion which must be received and included in the Final EIS.

Start Date: July 1992  
Completion Date: December 1992

*Task 15 -- SELECT THE PREFERRED ALTERNATIVE*

The BLM will select its preferred alternative based on the environmental analysis as well as consideration of other factors which influence the decision.

Start Date: September 1992  
Completion Date: October 1992



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**Task 16 -- PREPARE PRELIMINARY DRAFT EIS**

A preliminary draft EIS will be prepared in accordance with BLM format and content requirements by the interdisciplinary team. The preliminary draft EIS is for internal review only. Internal review will be conducted a BLM interdisciplinary review, and by others as to be determined. Comments will be consolidated by the BLM so that the third-party contractor has one set of comments from which to make changes.

Start Date: September 1992  
Completion Date: November 1992

**Task 17 -- PREPARE AND PRINT DRAFT EIS; NOTIFY PUBLIC OF DRAFT EIS AVAILABILITY**

After comments from the BLM have been incorporated into the EIS document and the BLM California State Director has approved the document, the EIS can be produced in camera-ready form and printed. The EIS will be filed with EPA as required by NEPA. The EPA will then publish notice of the filing in the Federal Register. The date the EPA notice appears in the Federal Register initiates the public review period, which must be at least 60 days.

Start Date: November 1992  
Completion Date: December 1992

**Task 18 -- SUBMIT STATEMENTS OF ELIGIBILITY AND EFFECT TO THE STATE HISTORIC PRESERVATION OFFICER (SHPO)**

Section 106 of the National Historic Preservation Act requires that federal agencies determine how undertakings will affect historic properties on or eligible for the National Register of Historic Places. Statements of eligibility and effect will for all historic properties within the area of potential effect will be prepared by the third-party contractor for submission by the BLM to the SHPO in accordance with an existing Programmatic Agreement among the BLM, the SHPO, and the Advisory Council on Historic Preservation. The BLM will seek SHPO concurrence in a determination of *No Adverse Effect* based on mitigation measures identified in the Draft EIS.

Start Date: November 1992  
Completion Date: January 1993

*Task 19 -- HOLD PUBLIC MEETINGS ON THE DRAFT EIS*

Public meetings or hearings soliciting comments on the Draft EIS will be held in El Centro, California and Yuma, Arizona. Notice of the meetings will be provided at least 15 days in advance by the publication of a Notice of Availability as required by law in the Federal Register and newspaper(s) of general circulation in the area; news releases to the broadcast and print media; and the mailing of notices to interested individuals and organizations. As with the scoping meetings, the actual conduct of the meeting will depend on the level of interest in holding a hearing and/or the level of controversy over the proposed action. If possible, an "open house" format will be used. This provides an opportunity for the general public to ask questions in a one-to-one format.

Start Date: January 1993  
Completion Date: January 1993

*Task 20 -- COMPILE AND EVALUATE COMMENTS ON THE DRAFT EIS*

All written and oral comments on the Draft EIS will be logged into a database. Each comment will be analyzed for its substance, and will be categorized into topical areas. Those comments which require text changes or graphics modifications will be delegated to the appropriate technical specialist for a response. Comments which are wholly out of the scope of the analysis, express support or non-support for the project, or are otherwise non-substantive will not require a response. At this time, the interdisciplinary team will evaluate if additional alternatives are appropriate; it is anticipated that no additional alternatives will be developed at this step in the process. If additional alternatives are developed, or if additional technical environmental analysis is required, it would occur at this time. Based on the comments and any additional analysis, the preferred alternative will be reevaluated and revised, if necessary.

Start Date: February 1993  
Completion Date: March 1993

*Task 21 -- PREPARE PRELIMINARY FINAL EIS*

A Preliminary Final EIS will be prepared based on the evaluation of public comments and any other applicable information on the potential impacts associated with the proposed project. Responses to substantive comments will be included in the Preliminary Final EIS, along with any other necessary text or graphic changes. The U.S. Fish and Wildlife Service's Biological Opinion and SHPO/Advisory Council concurrences must be included in the Preliminary Final EIS.

Start Date: March 1993  
Completion Date: May 1993

*Task 22 -- PREPARE AND PRINT FINAL EIS; NOTIFY PUBLIC OF DRAFT EIS AVAILABILITY*

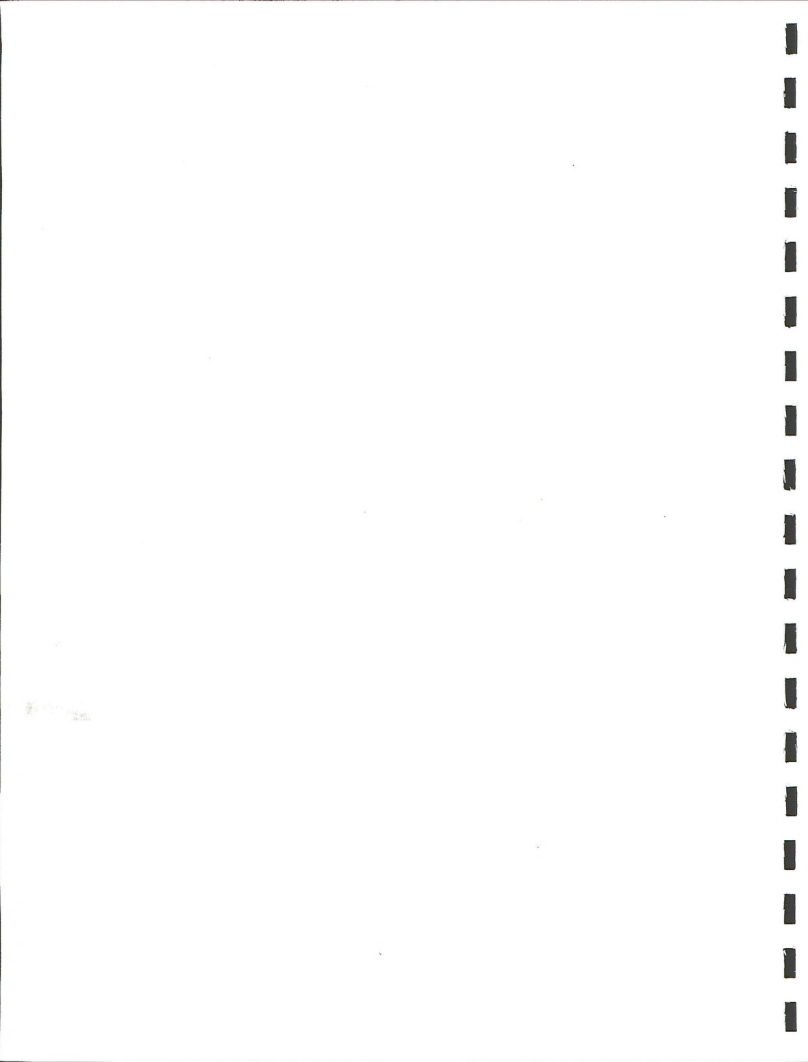
Following incorporation of BLM comments and approval of the Final EIS by the BLM California State Director, a camera-ready document can be prepared and printed. The Final EIS will be filed with the EPA and distributed to the public. The EPA will publish a Notice of Availability of the Final EIS in the Federal Register. A press release to local news media will also announce the availability of the EIS. The Final EIS must be made available to the public for a minimum of 30 days. The date the EPA notice appears in the Federal Register initiates the 30-day availability period.

Start Date: May 1993  
Completion Date: June 1993

*Task 23 -- ISSUE RECORD OF DECISION*

Following the 30-day availability period, a decision on the proposed action may be made. Decisions on an EIS are recorded in a concise public record of decision (ROD). No action concerning a proposed project can be taken until the ROD has been issued. If any appeals or protests are received, the BLM will evaluate and respond as necessary.

Start Date: June 1993  
Completion Date: July 1993



# EIS PUBLIC PARTICIPATION and SCOPING PLAN

## Oro Cruz Operation of the American Girl Project

### INTRODUCTION

This document provides a plan of action to incorporate public participation and scoping into the Environmental Impact Statement (EIS) process for the Oro Cruz Operation of the American Girl Project. The Oro Cruz Operation will include both underground and surface mine development and is the third component of the overall American Girl Project, which includes the previously approved American Girl Canyon and Padre Madre operations. Many elements of public participation and scoping are also discussed in the EIS Preparation Plan.

Overall goals of public participation and scoping include:

- to inform the public of the EIS decision-making/problem solving process
- to identify the potentially affected public
- to identify and clarify key issues, concerns, and opportunities important to the public
- to provide information to the public and BLM's administrative staffs, and make an effort to insure that the information is understood by all parties
- to provide a method to receive and understand input from the public
- to inform the involved public in how their input was used in decisions made by BLM and other involved agencies

The scoping process is used to develop an initial census on what are and are not the significant environmental issues relating to the proposed action. Significant issues will be used to identify and evaluate alternatives and to focus the impact analysis. Scoping serves to reduce the length and complexity of the EIS and public concern over issues of little importance. Scoping will be conducted in accordance with regulatory requirements under the National Environmental Policy Act (NEPA).

The approach to public participation and scoping will be to conduct a broad and open process of information exchange between the involved parties (including BLM, other interested Federal, State and local governmental agencies, the third-party EIS contractor, the public, and the proponent of the proposed action). By conducting a broad and open process, it will be possible to avoid "surprises", which delay the process and result in

inefficient expenditures of resources in preparing the EIS. Scoping will be conducted as a series of specific steps and tasks, but will be ongoing throughout the life of the EIS process.

The public participation and scoping process is the heart of the EIS process. All public participation and scoping actions and processes will be documented as part of the administrative record so that compliance with NEPA can be legally and procedurally supported. Specific components of the public participation and scoping plan are identified below.

*Task 1 -- IDENTIFY AND INTERACT WITH POTENTIALLY AFFECTED PUBLIC*

The purpose of this task is to develop a process to ensure that all interested parties are identified and placed on a project mailing list. The mailing list will be constantly updated throughout the project. All reasonable efforts will be made to know and understand the concerns expressed through this process. The public will be informed of project issues and status through a variety of formal mechanisms (e.g., required notices published in the Federal Register and public meetings), and informal mechanisms (e.g., phone calls from interested parties to agency personnel and other unscheduled information requests).

*Task 2 -- IDENTIFY OTHER FEDERAL, STATE, AND LOCAL GOVERNMENTAL AGENCIES WITH INTEREST AND/OR REGULATORY RESPONSIBILITIES FOR THE PROPOSED PROJECT.*

Other governmental agencies at all levels which are known to be interested in or affected by the proposed action should be identified and placed on the mailing list. These agencies should be notified in order to alert them of potential consultation and coordination needs and to invite them to be cooperating agencies, if appropriate. Any necessary Memoranda of Understanding (MOUs) should be negotiated to guide roles and responsibilities during the EIS process. All agencies will be invited to participate in public meetings. Meetings to provide information to congressional delegation members, county commissioners, etc. can be scheduled as needed to keep respective public officials informed of project status and issues.

*Task 3 -- MAKE PROJECT MATERIALS AVAILABLE FOR PUBLIC REVIEW*

A Plan of Operation (POO) has been submitted to the El Centro Area Office of the BLM describing the proposed mining operation in compliance with 43 CFR 3809. The POO and other pertinent information about the proposed project will be made available for public review at the El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California. Availability of these materials will serve to provide information both to the public and to BLM administrative staff.

*Task 4 -- DEVELOP SCOPING DOCUMENT*

In order to facilitate scoping, a scoping document will be prepared. The document will contain detailed information on the EIS process, the proposed project, roles and responsibilities of the BLM and other interested agencies, and environmental issues associated with the project. The scoping document will be made available for all persons who attend the scoping meetings or specifically request a copy.

*Task 5 -- HOLD PUBLIC SCOPING MEETINGS*

Public scoping meetings will be held in El Centro, California and Yuma, Arizona to explain the project to the public and to solicit public comments. After introductions by the BLM and a description of the EIS process, a brief presentation of the proposed project will be made by the project applicant. Depending upon the size of the audience, a facilitator(s) from the BLM will meet with the group(s) and solicit comments. Comments from the group(s) will be recorded by the third-party contractor on flip charts (the flip charts will serve as the permanent record of public concerns and comments). Published notice of each meeting, as required by NEPA, will be made at least 15 days prior to the meeting.



*Task 6 -- HOLD PUBLIC MEETINGS ON THE DRAFT EIS*

Public meetings or hearings soliciting comments on the Draft EIS will be held in El Centro, California and Yuma, Arizona. Notice of the meetings will be provided at least 15 days in advance by the publication of a Notice of Availability as required by law in the Federal Register and newspaper(s) of general circulation in the area; news releases to the broadcast and print media; and the mailing of notices to interested individuals and organizations. As with the scoping meetings, the actual conduct of the meeting will depend on the level of interest in holding a hearing and/or the level of controversy over the proposed action. If possible, an "open house" format will be used. This provides an opportunity for the general public to ask questions in a one-to-one format.

*Task 7 -- PROVIDE DOCUMENTATION OF THE PUBLIC PARTICIPATION AND SCOPING PROCESSES*

Documentation of the public participation and scoping processes will be provided through preparation of a project administrative record, and through description of the processes in the Draft and Final EISs. Record-keeping is a major component of the EIS project administration. A complete file of supporting documentation will be maintained by BLM and the third-party contractor. These files will serve as the administrative record. The Draft EIS will specifically describe the public participation and scoping efforts which were undertaken during the EIS process, and how public and agency comments were used to formulate significant environmental issues and alternatives to the proposed action. Comments on the Draft EIS differ from public involvement earlier in the process because this is the first chance the public has to review and comment on the impact analysis and the agency's preferred alternative. Comments on the Draft EIS will be addressed in the Final EIS when the comments: are substantive and relate to inadequacies or inaccuracies in the analysis or methodologies used; identify new impacts or recommend reasonable new alternatives or mitigation measures; or involve substantive disagreements on interpretations of significance.



## SCOPING DOCUMENT

### The Proposed Oro Cruz Operation and Cumulative Effects of the American Girl Project

#### INTRODUCTION

A Plan of Operation (POO) has been submitted to the El Centro Area Office of the U.S. Bureau of Land Management (BLM) describing the proposed Oro Cruz gold mining operation. The POO was submitted by the American Girl Mining Joint Venture (AGMJV), the project proponent, in accordance with 43 CFR 3809, the regulations governing surface management of operations authorized by the mining laws. The proposed Oro Cruz operation involves both underground and surface mine development, and is the third component of the overall American Girl Project, which includes the previously approved American Girl Canyon and Padre Madre operations.

The proposed Oro Cruz operation is located in the Cargo Muchacho Mountains on unpatented lode and placer mining claims, primarily on land administered by BLM in Township 15 South, Range 21 East, San Bernardino Meridian, Imperial County, California. The project area is about 15 miles northwest of Yuma, Arizona and about 40 miles east-northeast of El Centro, California. The project area is reached by traveling 13.5 miles west from Yuma on Interstate Highway 8 to the Ogilby exit, going 3.5 miles north to Ogilby on paved State Highway S34, and traveling 4.5 miles northeast from Ogilby along the American Girl Mine Road, a well-maintained gravel road. The project area is approximately 16 air miles southeast of the Gold Fields Mesquite Mine, also a gold heap leach operation. Refer to Figure 1.

The addition of the proposed Oro Cruz operation to the American Girl Project would place the total disturbed lands at over 800 acres. The BLM has decided to prepare an Environmental Impact Statement (EIS) to address the cumulative impacts of the combined project. An EIS is required under provisions of the National Environmental Policy Act (NEPA) when any action taken by a Federal agency may "significantly affect the quality of the human environment". The EIS will assess the affects of the proposed Oro Cruz operation as well as those of any reasonable alternatives to this proposal.

#### REGULATORY AND OPERATING HISTORY OF THE AMERICAN GIRL PROJECT

The American Girl Project currently consists of two components: the Padre Madre operation and the American Girl Canyon operation. The Project is currently in its fifth year of operation. During the five year period, four POOs were approved by the BLM:

- November 1986 (amended 1/87) - Padre Madre Test Phase

- October 1987 – Padre Madre Full Scale Operation
- May 1987 – American Girl Underground Development
- December 1989 – American Girl Canyon Full Scale Operation

In addition to these POO approvals, six minor modifications and amendments were approved by the BLM during the past four years. These modifications and amendments provided for pit development, expansion or construction of waste rock dumps, aggregate removal, and construction of a microwave station.

The POOs and Conditional Use Permit (CUP) for both phases of the Padre Madre development were approved by the BLM and the Imperial County Planning Department (County) based on the completion of an Environmental Assessment (EA) and a Negative Declaration, respectively. The American Girl Underground development was approved following a Finding of No Significant Impact (FONSI) by BLM and a Negative Declaration by the County. Finally, the American Girl Canyon Project was approved after the completion of a joint Environmental Assessment/Environmental Impact Report, which addressed the cumulative impacts of both the Padre Madre and American Girl Canyon operations.

The Padre Madre operation involved the mining and heap leach of 3.7 million tons of ore and 12.5 million tons of waste rock. The American Girl Canyon operation was permitted for 8.5 million tons of ore and 17 million tons of waste rock. Ore processing at the Padre Madre operation was limited to heap leaching, while the American Girl Canyon operation involves both heap leaching and the milling of sulfidic ores and the higher grade oxidized ore from both the Padre Madre and American Girl Canyon operations.

The Padre Madre operation was permitted for a disturbance of 239 acres; the American Girl Canyon operation is approved for a disturbance of 338 acres with the cumulative total for both operations being 618 acres.

The American Girl Canyon operation is currently in its fourth year of the planned eleven year operation. However, with the Padre Madre operation in its waning years, defining additional ore reserves has been a priority for the AGMJV. The need for additional ore reserves led to the acquisition, exploration and development of the Oro Cruz property, located approximately 2.5 miles north of the American Girl Canyon facilities. The proposed Oro Cruz operation would become the third component of the American Girl Project.

## ORO CRUZ OPERATION SUMMARY

The right to explore and develop the Oro Cruz property was acquired by AGMJV in 1990 from NERCO. The property consists of unpatented lode and placer claims located entirely on public lands administered by the BLM. This area has a long history of mineral exploration and mining that has resulted in considerable surface disturbance. More recently, exploration activities conducted by AGMJV and previous property holders have delineated new surface and underground mining targets. Because of AGMJV's ability to develop the Oro Cruz property in conjunction with the American Girl Canyon operation, the proposed Oro Cruz operation would be limited to the mining and waste rock disposal facilities, as well as a heap leach facility. Ore milling would be conducted at the existing American Girl Canyon mill.

Surface mining would occur at the Oro Cruz operation for two years, with 3 million tons of ore and 9 million tons of waste rock being produced. Underground mining would result in 500,000 tons of ore being produced. The higher and lower grade ores would be segregated during the mining and treated separately for processing. Tailings from mill processing would be managed in the same manner as the current operation, with the tailing product being co-disposed with waste rock in either the existing Padre Madre or American Girl Canyon waste rock dumps, or the proposed Oro Cruz waste rock dump. Lower grade ore would be hauled to one or more of three optional sites for processing by heap leaching. These and other proposed project facilities are shown in Figure 2.

## THE EIS PROCESS

The EIS will present an analysis of the physical, biological, social and economic effects of the combined American Girl Project and provide comprehensive information for agency decision makers. Identification of significant environmental issues by BLM and the public is called "scoping". Dissemination of this document is part of the scoping process.

The EIS will evaluate the significance of both direct and indirect impacts from the proposed project and reasonable alternatives to the proposed project. Additionally, the cumulative effects resulting from the proposed project, existing developments, and other reasonably foreseeable activities will also be analyzed. The EIS process will ultimately lead to one of the following possible decisions on the Oro Cruz POO:

- approval of the operation as proposed by AGMJV, or
- approval of the operation with changes incorporated, and/or
- denial of any element of the proposed operation that would result in unnecessary or undue degradation of public lands

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Evaluation during the EIS process may lead to the requirement that the AGMJV adopt impact mitigation measures which are not a part of the original plan. Figure 3 summarizes the EIS process.

### THE PUBLIC'S ROLE

Public involvement is an integral part of scoping and the environmental analysis process. Public involvement provides an opportunity for the general public to participate actively in the process and to communicate their comments and concerns to the agency decision makers.

There are a number of places in the EIS process where public comment is solicited by the responsible lead agency (BLM in this case). You can submit comments at public scoping meetings or send written comments to the BLM using the form at the end of this document:

After publication and distribution of a Draft EIS, BLM will solicit public comment on the environmental impact analysis. A Final EIS will address all substantive public comments and concerns.

### ISSUES

Based on preliminary analysis, BLM has identified a number of environmental, social, and economic issues and concerns that are relevant to the proposed Oro Cruz operation and should be addressed in the EIS. The EIS, for example, should answer questions such as:

- How will threatened or endangered species (e.g., the desert tortoise) or other wildlife be affected by project development?
- How will cultural resources (e.g., the Tumco-Hedges historic townsite) will be affected by project development?
- What are the cumulative effects associated with Oro Cruz development on the region?

You can help BLM focus the EIS on relevant issues or concerns by listing the questions you think the EIS should answer on the form at the end of this document.

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**REVIEW OF THE PLAN OF OPERATION AND RELATED MATERIALS**

A copy of the Oro Cruz POO and other related materials can be reviewed by the public at the following location:

Bureau of Land Management  
El Centro Resource Area  
333 South Waterman Avenue  
El Centro, CA 92243

**WRITTEN COMMENTS**

Comments concerning what environmental issues should be considered in the EIS are welcome. Comments may be submitted at the public meetings or in writing. Please send written comments to:

Bureau of Land Management  
El Centro Resource Area  
333 South Waterman Avenue  
El Centro, CA 92243

Attn: Thomas Zale

# EIS FLOW CHART

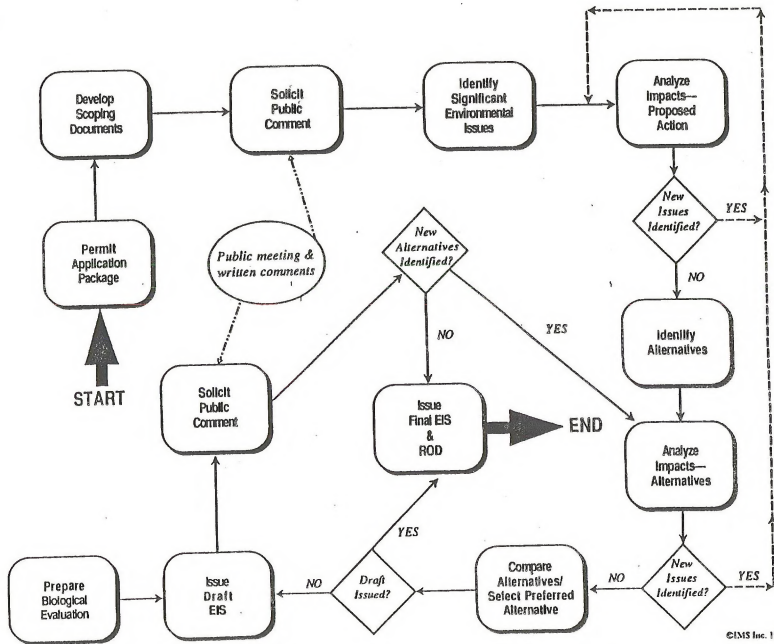


FIGURE 3

**Appendix 9**

**The EIS Hall of Fame**





## The EIS Hall of Fame

The following list of EISs are good examples to consult:

Castle Mountain Project (Viceroy)

Hayden Hill

Eagle Mountain Landfill Project EIS/EIR

California Vegetation Management

Broadwell Basin Residuals Repository

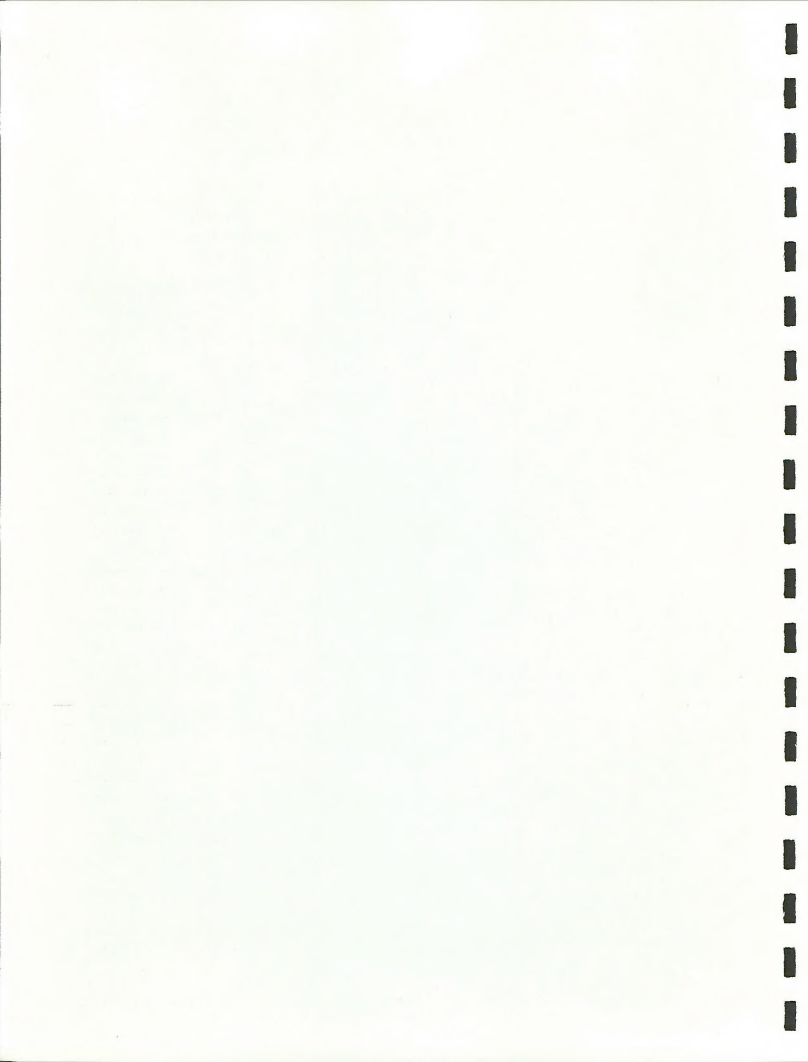
The Monuments

Elkhorn Ridge Timber Sale/So. Fork Eel River Management Plan/EIS



**Appendix 10**

**Environmental Factors Checklist**



### Environmental Factors Checklist

Directions: Check the appropriate columns to indicate that the interdisciplinary team has addressed each of these factors. For those factors with background documentation, indicate where readers can find the information—in the EA, in the appendices, or in the analysis file. As appropriate, include this checklist in an appendix or in the analysis file.

Factors	In EA	Analyzed, Not in EA	Not Applicable	Background Documentation (Location)
<b>Physical Factors.</b>				
1. Location.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Geomorphic/physiographic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Geologic hazards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Unique land forms.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Climate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Soils.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Productivity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Capability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(1) Erodibility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Mass failure.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Minerals and energy resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Locatable minerals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Leasable minerals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Energy sources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Visual resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Cultural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Archaeological.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Historical.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Architectural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Wilderness resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Wild and scenic rivers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Water resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Water quality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Streamflow regimes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Floodplains.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Wetlands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Ground water recharge areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

EXAMPLE 3.1.5—A checklist is a good tool to validate that you have addressed all potential resources. Always have such a checklist in your analysis file. As an option, put the checklist in the appendix. The above checklist is based on a Forest Service list of environmental factors.

Factors	In EA	Analyzed, Not in EA	Not Applicable	Background Documentation (Location)
11. Air quality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
12. Noise.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
13. Fire.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Potential wildfire hazard.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Role of fire in the ecosystem.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
14. Land use including prime farm, timber, and rangelands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
15. Infrastructure improvements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Roads.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Trails.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Utility corridors and distribution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Water collection, storage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Communications systems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Solid waste collection and disposal.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>Biological Factors.</b>				
1. Vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Forest, including diversity of tree species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Rangeland, including conditions and trends.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Other major vegetation types.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Threatened or endangered plants.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Research natural area (RNA) potentials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Unique ecosystems (Other than RNAs).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
g. Diversity of plant communities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
h. Noxious weeds.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

EXAMPLE 3.1.5 (continued).



Factors	In EA	Analyzed, Not in EA	Not Applicable	Background Documentation (Location)
2. Wildlife.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Populations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Threatened or endangered species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Diversity of animal communities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Animal damage control.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Fish.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Populations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Threatened or endangered species, including State-listed species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Recreation resources (usually a combination of physical and biological factors).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Insects and diseases.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Exotic organisms; for example, Russian thistle, Siberian ibex.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>Economic Factors.</b>				
1. Economic base.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Employment/unemployment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Housing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Land use requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Community service requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Revenue base.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Local general government.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Special service districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Plans and programs of other agencies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Income.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Sources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Amounts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Distribution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Cost.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Financial analysis (who pays for what-when).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

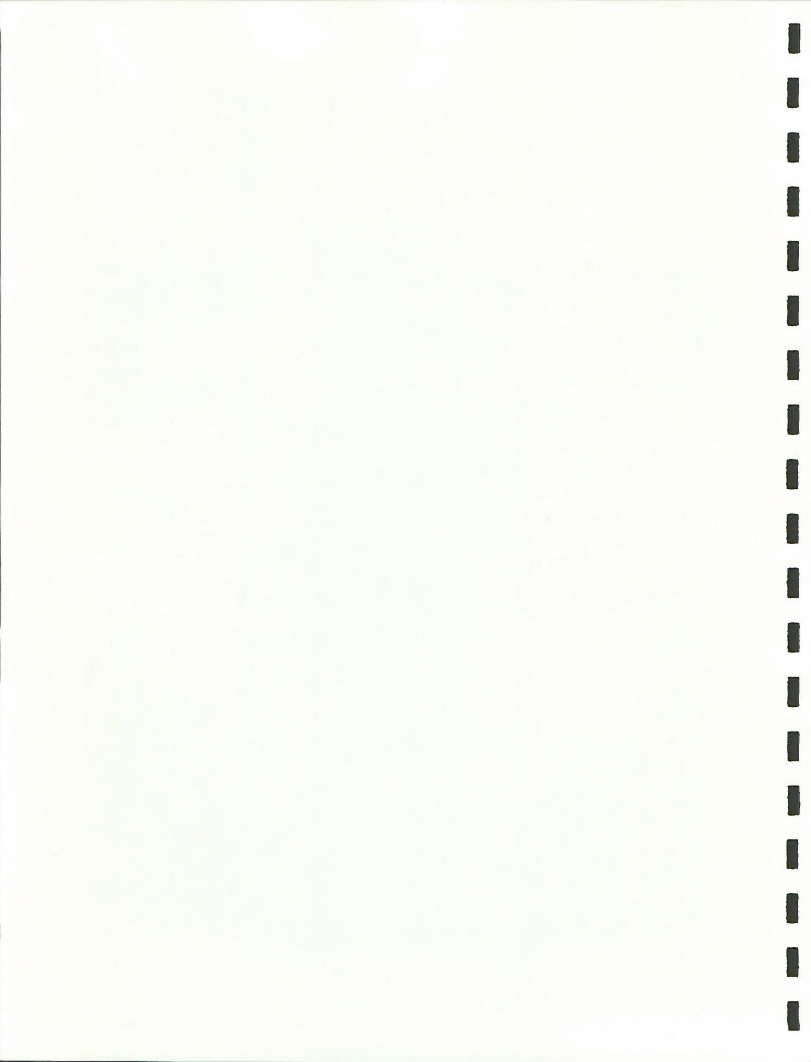
EXAMPLE 3.1.5 (continued).

Factors	In EA	Analyzed, Not in EA	Not Applicable	Background Documentation (Location)
<b>Social Factors.</b>				
1. Population dynamics.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Size (growth, stability, decline).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Composition (age, sex, minority).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Distribution and density.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Mobility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Displacement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Social institutions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Educational.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Family.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Economic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Political.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Military.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Religious.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
g. Recreation/leisure.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Special concerns.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Minority (civil rights).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Historic/archaeological/ cultural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Ways of life—defined by.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. Subcultural variation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Leisure and cultural opportunities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Personal security.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Stability and change.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Basic values.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Symbolic meaning.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
g. Cohesion and conflict.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
h. Community identity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
i. Health and safety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Land tenure and land use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Legal considerations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

EXAMPLE 3.1.5 (continued).

**Appendix 11**

**Example Document: Cumulative Impact Analysis**



## SECTION 9 - ANALYSIS OF CUMULATIVE PROJECT IMPACTS

### 9.1 DESCRIPTIONS OF CUMULATIVE PROJECTS AND ASSUMPTIONS

This section presents a description of the existing, and approved projects that will be occurring in the greater project area as well as those reasonably foreseeable projects that are either currently proposed or are in various planning stages that have potential for occurring in the greater project area. Projects in the greater area are shown in Figure 9.1-1. Details of the projects that are in close proximity to the HVR project site and site access are shown in Figure 9.1-2.

The analysis of cumulative impacts will consider planned and reasonably foreseeable projects that will be developed principally within the time frame of construction and initial operations of the proposed HVR residuals repository (1994 - 1996) as well as the overall effects from the long term operations of these cumulative projects.

#### 9.1.1 Existing Projects for Cumulative Baseline

Major projects outside of Barstow which are presently in operation in the greater project area are briefly presented below. Major operations in and near Barstow, including, but not limited to the Santa Fe Railway Company, the Barstow/Daggett Airport, Southern California Edison and the Owl Rock Products facility have been considered as part of the regional characteristics of the area as presented in each of the resources descriptions in Section 3, Affected Environment.

Little heavy industry operates in the proposed project area. Still the few which do operate each contribute to any cumulative impacts which may affect project implementation.

Major sources of employment (and potential cumulative projects) in the Barstow area, as well as the outlying communities were used in assessing the various projects for inclusion in the cumulative total. Other known projects which were considered to have the potential are also included. These are summarized below.

#### ► Fort Irwin National Training Center

This facility, located to the northeast of Barstow (approximately 20 miles northwest of the project site), is used to train 50,000 soldiers annually in 2-week rotational maneuvers. The Fort employs 4,641 full-time personnel of which 628 are civilian. An EIS is currently being prepared for a proposed expansion (see Section 9.1.2.5 below).

#### ► United States Marine Corps Logistic Supply Base

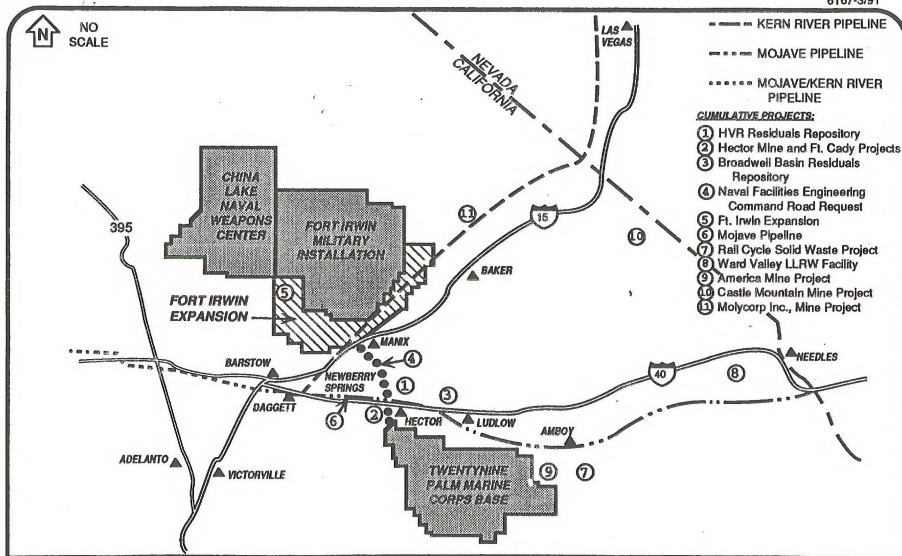
This facility is located immediately east of Barstow (approximately 30 miles west of the project site) and is used to receive, store, repair and ship military items to Marine Corp Units west of the Mississippi. The base employs 2,582 full-time personnel of which 2,056 are civilian.

#### ► Rheox, Inc. Processing Facility.

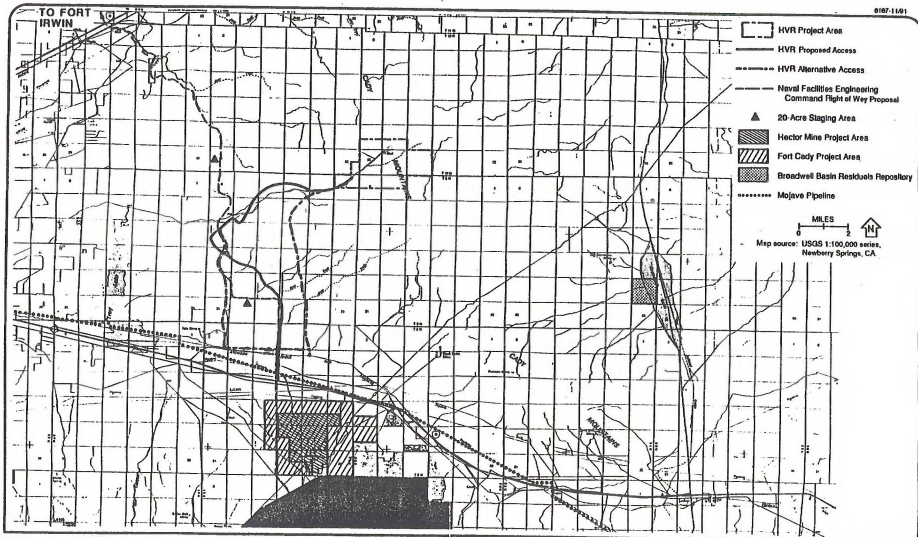
Rheox, Inc. (formerly NL Industries) operates an open pit mine for Hectorite approximately 16 miles east of Newberry Springs. A proposed mine expansion is presented below in Section 9.1.2.1. The material is trucked to the processing facility located adjacent to I-40 in Newberry Springs. As per conversation with Mr. McGath of Rheox (March 11, 1991), the plant prepares finished, packaged material which is shipped 2 to 3 times per week by truck and/or train. Presently, 21 persons are employed at the plant.

#### 9.1.2 Approved and Proposed Projects for Cumulative Baseline

The following projects are approved, proposed or reasonably foreseeable projects that could be built within the same time period as the proposed project. These projects also have long-term operations which would run concurrently with the HVR operation. Of these projects presented below, the Hector Mine Expansion, Fort Cady Project, Naval Facilities Engineering Command training road, and Mojave Natural Gas pipeline are within very close proximity to the HVR access corridor.



CUMULATIVE PROJECTS IN GREATER PROJECT AREA



CUMULATIVE PROJECTS IN CLOSE PROXIMITY TO HVR PROJECT AREA



### 9.1.2.1 Hector Mine Expansion

NL Industries, Inc. (now known as Rheox Inc.) has been mining for bectorite in an area 16 miles east of Newberry Springs for over 50 years. Rheox is proposing to expand its active open pit and overburden stockpiles on both and private lands. The project is located almost due south of Hector about one mile south of I-40 and comprises portions of Sections 22, 23, 24, 26, 27, 34 and 35 of T8N, R5E of the San Bernardino Base and Meridian.

A total expansion of about 140 acres would occur over four phases beginning in about 1991. Mining is expected to continue through 2031 with completion, including reclamation, expected in 2035. Mining operations will produce approximately 550,000 bank cubic yards (BCY) of overburden on an average annual basis.

Cleaned ore is presently, and will continue to be hauled by truck to NL's Newberry Springs Plant, 16 miles to the west of the mine. The route for trucking will be the National Trails Highway (Route 66) which is south of and parallels I-40.

Shipments are expected to remain similar to existing schedules. Shipments of ore presently occur on a periodic basis (not daily) at a rate of about 24 trucks at one time to the Newberry Springs processing facility and about 24 trucks to the Hector railroad siding about 3 to 4 times per year for direct shipment to various markets.

### 9.1.2.2 Fort Cady Solution Mining Project

Fort Cady Mineral Corporation (FCMC) is proposing construction and operation of an in-situ solution mine and processing plant to produce 90,000 tons per year of boric acid. The project would be located 17 miles east of Newberry Springs and one mile south of I-40 and the Hector interchange. The project is proposed on public lands managed by the BLM and private lands leased from NL Industries, Inc., Southern California Edison Company and Southern Pacific Land Company (Sections or portions of Sections 21 through 36, T8N, R5E, San Bernardino Base and Meridian). The project shares sections of land with the Hector Mine Expansion.

Boric acid is widely used in the glass and ceramic industry, with some uses in fire retardants, soaps and other areas. Gypsum, a by-product of the operation, would also be produced. The facility would comprise a total of 250 solution wells, 280 acres of solar evaporation ponds, a 6-acre processing facility and a 60-acre gypsum deposition area. Process water would be recovered from an aquifer located to the west of the Pisgah Fault. FCMC,

comprised of the Corona Corporation and Mountain States Mineral Enterprises, Inc., was recently formed to operate the Fort Cady Project. Materials transport for the facility would be via the AT&SF rail line. A spurline into the plant area is proposed.

### 9.1.2.3 Broadwell Dry Lake Hazardous Waste Repository

The Broadwell Corporation is proposing the construction and operation of the Broadwell Basin Residuals Repository (BBRR) which would be located in the Broadwell Dry Lake Basin approximately 9 miles north of the community of Ludlow, between the Cady and Bristol Mountains. This is approximately 8 miles east of Hidden Valley. Access to the site is by Crucero Road off of I-40 at Ludlow. The proposed facility would be located on private land in the Broadwell Basin. All treatment and disposal facilities would be within Section 25, R7E, T9N, San Bernardino Base and Meridian.

The residuals repository is proposed with an above ground "landfill" style cells that would be double composite lined with leachate collection and removal systems. The quantity of incoming waste is estimated at 2,000 tons per day with a operational life of about 30 years.

The BBRR would accept, treat and dispose of solid hazardous wastes and other wastes that meet state and federal treatment standards. The BBRR would accept only solid wastes that met applicable treatment standards or solid wastes that can be treated to meet the treatment standards. Wastes that would be accepted for treatment include metal contaminated solid waste residuals (sludges and filter press cakes) and contaminated soils high in liquid fractions. The proposed treatment is a stabilization process which minimizes the leaching potential of the metals. Treatment units would blend treatment solutions, water, and/or dry additives in with the waste material prior to spreading into a lined, open landfill-type repository where it would be allowed to cure for 1 to 2 days. During curing, the added dry additives and treatment solutions would produce a pozzolamic reaction that would stiffen the residual matrix. During curing, the treated waste would be walked with heavy equipment to prevent formation of a solid mass. Other waste could be spread in thin layers and compacted. The facility would consist of an entrance area, waste treatment area, support facilities and a waste repository.

The majority of the waste would arrive at the site in bulk by truck. At full operation, the BBRR would be expected to have 40 employees and a maximum of 160 trucks entering and leaving the facility (320 truck round trips per day based on 20 trucks entering and 20 trucks leaving the



facilities per hour for an 8 hour day). This figure is based on the traffic impact study prepared for the Broadwell facility (BSI, 1989). An EIR/EIS is currently being prepared for this project.

#### 9.1.2.4 Naval Facilities Engineering Command Right-of-Way Proposal

The Western Division, Naval Facilities Engineering Command out of San Bruno, California has submitted an application in August 1990 to the BLM for a tactical vehicle trail right-of-way from the northern boundary of the Marine Corps Air-Ground Combat Center (MCAGCC), Twentynine Palms to the railhead at Manix, California. The project would meet the mission requirement of MCAGCC to provide practice for administrative vehicular marches. These marches would provide training for logistical support, and for command and control of mechanized units over long distances. It would also provide a means for development of joint training with Fort Irwin.

The proposed access road would be a 25 mile in length road, 100 meters wide and ungraded except where necessary to prevent off-site erosion or generation of dust. Two 20-acre staging areas would be placed along this length as well. The right-of-way is proposed for intermittent year-round use. Use would range from individual tactical vehicle "sorties" to several hundred tracked and wheeled tactical vehicles utilizing the roadway on a daily basis for 10 to 14 days, about four to five times per year.

The proposed right-of-way alignment may be similar to part of HVR's proposed alignment. Due to a Department of Defense Moratorium against any large scale military realty action placed into effect in September 1990, evaluation of the proposal is on hold.

#### 9.1.2.5 Fort Irwin Expansion

The U.S. Army has proposed that public lands (BLM) be withdrawn and Army management of the lands be permitted such that the National Training Center (NTC) at Fort Irwin could be expanded. The NTC carries out brigade-sized training operations in an environment that allows individuals, units and commands to practice combat skills under realistic wartime conditions. The Army has determined that the NTC as presently exists cannot accommodate current training needs. An EIS is currently being prepared on this action.

While several alternatives are still being considered and evaluated for enlargement of the NTC, the action could affect up to 329,000 acres of which 244,000 acres are public lands administered by BLM.

The proposed expansion area is situated north of I-15 which would also provide for a slight increase in vehicular activity (about 40 bus trips and 25 truck trips once a month).

#### 9.1.2.6 Mojave and Kern River Natural Gas Pipeline Project

This project involves the installation and operation of a 1,060 mile natural gas pipeline from Arizona and Wyoming to the Kern County California area. The Mojave Pipeline Company facilities include 159 miles of 24- and 30-inch pipeline from Topock Arizona to a point near Daggett, California. The Kern River Pipeline Company facility involves 676 miles of 36-inch pipeline from Wyoming to a point near Daggett, California. The Mojave pipeline would generally parallel I-40, while the Kern River pipeline would generally parallel I-15 into the Daggett area. At Daggett the pipelines would merge and extend to near Bakersfield, California.

In the vicinity of the Hector off-ramp at I-40, the Mojave pipeline would cross approximately one-third mile north of I-40 between I-40 and the AT&SF railroad line. The Mojave pipeline would generally parallel I-40 through Newberry Springs into the Daggett area. Pipeline construction was completed by the fall of 1991. However, vegetation scarring will remain and will be apparent when the other projects are constructed. Mitigation monitoring for revegetation will continue for several years.

#### 9.1.2.7 Rail Cycle Solid Waste Disposal Project

The Rail Cycle Project, a combined effort of Waste Management of North America, Inc. and the Atchison, Topeka & Santa Fe Railroad, is proposed as a landfill that would handle 21,000 tons/day of solid waste for 60 to 100 years (a total of 400 to 500 million tons). The project would be located off of I-40 at Amboy, which is halfway between Barstow and Needles, and is approximately 45 miles east of Hector. An EIR/EIS is presently in preparation for this project.

The project would also establish and own materials recovery facilities in strategic locations throughout the Counties of Los Angeles, Orange and San Diego, including San Bernardino, Victorville and Needles. These facilities

would be located along the Santa Fe rail lines within a 20 mile hauling radius for local waste truck haulers. At these facilities, waste would be screened for hazardous materials and recyclables. The acceptable materials would be compacted, loaded into steel intermodal containers and transported by rail to the landfill by the AT&SF railroad.

During initial startup (approximately 1993) two trains per day would run on the present AT&SF line. By the year 2000 it is expected that 7 trains each pulling 100 cars (50 double stacked intermodal containers) would deliver materials to the project on a daily basis. Trains are expected to run from the facility at night and return to the greater Los Angeles area in the morning for the next day's shipment.

#### 9.1.2.8 Ward Valley Low-Level Radioactive Waste Facility

Under the Low-Level Radioactive Waste (LLRW) Policy Act of 1980, the state is required to assume responsibility for the disposal of LLRW materials with a private company as license-designee to develop and operate the facility. U.S. Ecology, Inc., as license-designee is proposing a LLRW facility at Ward Valley. The project is approximately 24 miles west of Needles near the northern end of the Ward Valley in San Bernardino County, and about 1 mile south of I-40.

The site is on federal land managed by the BLM and comprises about 1,000 acres. The project itself would consist of a 70-acre disposal area with about 8 acres of support facilities area, a roadway and utility corridor. The remainder of the area is intended as a buffer zone. As part of the action, property ownership would be transferred from the federal government to the State of California.

The proposed project would provide for the permanent disposal of LLRW (Class A, B and C) that are a state responsibility under Public Law 99-240. These wastes include radionuclides with short half-lives. These wastes would be disposed of in containers placed within trenches and then covered with soil. No hazardous wastes, hazardous LLRW, high-level radioactive wastes or nuclear weapons-related wastes would be accepted. It is expected that the project would receive LLRW generated from four states for a period of 30 years, after which the site would be closed. After closure, the State of California would maintain the site for a period of 100 years. A Final EIR/EIS has been prepared for this project (Dames & Moore, 1991).

Because of this proposed facility's location near Needles, it is expected that construction workers and some supplies

and equipment would come from Needles. During operations, the number of LLRW truck shipments coming through Barstow would average about 13 trips (26 round trips) per week. If all LLRW were shipped by rail, the AT&SF line through Barstow, paralleling I-40, would also carry the equivalent of about 13 truck trailers piggybacked per week (590 per year).

#### 9.1.2.9 America Mine Project

The Palms Mining Company has submitted an application for a Conditional Use Permit and Reclamation Plan to establish an open pit gold mining operation using cyanide heap leach processing methods. The total acreage for the project is 1,355 acres. The mine would be located about 10 miles south of Amboy, nearly adjacent to the Twentynine Palms Marine Base.

The mine would be designed to process 2 million tons of ore annually and operate for up to 15 years, including final reclamation activities. The project would employ approximately 100 persons during operation.

The mine would include two primary mine pit areas with four or more individual pits, two waste rock disposal areas, a heap leach pad, solution storage area, and a gold extraction plant. Support facilities would include ore crushing and transport facilities, solution conveyance pipes, access roads, utilities, mine shop and maintenance structures.

#### 9.1.2.10 Other Projects Located Off of I-15

Two additional projects have been proposed to be located between Baker and the Nevada border off of I-15. These include the Castle Mountain Mine Project which would be a gold mine on 115 acres and reclamation on 2,735 acres located about 15 miles south of I-15 and 4 miles from the Nevada border. The project has been approved. The second project is a proposal for a rare earth minerals mine, referred to as the Molycorp Inc. Mine which would be located about 35 miles northeast of Baker. Support facilities and employees for both facilities would generally come from the Las Vegas and Needles areas.

#### 9.1.3 Long-Term Growth of Project Region

In addition to the long-term continuing operations that will be occurring for the above described projects, there will be some growth of the surrounding area. The greater project area lies within the San Bernardino County Barstow and Baker Subregional Planning Areas. According to the

**Appendix 12**

**Example Document: Record of Decision**



RECORD OF DECISION

Castle Mountain Project  
San Bernardino County, California

ENVIRONMENTAL IMPACT STATEMENT No. 890053

STATE CLEARINGHOUSE No. 88062708

Bureau of Land Management  
California Desert District  
Riverside, California

Approved:

Ed Hunter  
State Director

10/31/90  
Date

## DECISION

I approve Viceroy Gold Corporation's Proposed Plan of Operation, as modified by mitigation and monitoring provisions for the Castle Mountain Project. Based on the environmental analysis of the proposed action, I have determined that the Castle Mountain Project, as modified by mitigation and monitoring provisions, will not cause unnecessary or undue degradation to public lands. Approval of that plan of operation includes my decision to grant a right-of-way to construct, hold, transmit water, and maintain a pipeline along the alignment of Hart Mine Road and to connect individual production wells in Sections 9 and 15, T 14 N, R 17 S., S.B.M with the project site. The right-of-way grant will include access road and electrical power facilities.

My decision to approve the Castle Mountain Project has been made in consultation with San Bernardino County to ensure that the project meets applicable State of California and San Bernardino County laws and regulations, including California's Surface Mining and Reclamation Act of 1975 as amended (SMARA).

The proposed action, including mitigation and monitoring provisions, are described in the following documents which are incorporated by reference: Castle Mountain Project Draft EIS/EIR (February 1989); Castle Mountain Project Draft EIS/EIR Supplement (January 1990); Castle Mountain Project Final EIS (August 1990); Castle Mountain Project Mine Plan and Reclamation Plan (August 1990); Castle Mountain Project Plan for Ground Water Monitoring and Contingency Water Supply to Piute Spring (August, 1990); and US Fish and Wildlife Service Biological Opinion (August 3, 1990).

The Castle Mountain Project will operate as an open pit heap leach mine, using established methods common to the mining industry. The project's objective is to develop a commercial open pit mine using conventional heap leach processing to recover gold in a disseminated ore body. The ore will be processed at a rate of about three million tons per year for approximately 10 years. The project site comprises about 2,735 acres, encompassing approximately 2,620 acres of Federal lands administered by BLM and 115 acres of patented mining claims administered by the County of San Bernardino. The Oro Belle Mine Pit and South Clay Pit Reclamation Area will be located on patented land. The remaining facilities will be located on public land administered by BLM.

Major components of the project include:

Mine Pits: The project will excavate two mine pits known as the Oro Belle and Lesley Ann/Jumbo. The mine pits will cover a total of about 135 acres (100 acres are on land administered by BLM; 35



acres are on patented lands) and have a maximum depth of about 600 feet. About 60 million tons of overburden and 30 million tons of ore would be removed.

Overburden Pile and Crusher: Unmineralized rock will be hauled by truck to the overburden pile. The overburden pile will cover about 300 acres at project completion. Ore will be stockpiled nearby or fed directly to the crusher, where it will be crushed to less than 3/8-inch in size.

Heap Leach Pads: Crushed ore will be transported to heap pads on the valley floor via conveyor or haul truck. "Lifts" of ore will be loaded on synthetic liners and leached with a dilute cyanide solution delivered through a drip irrigation system. The heap leach pads will cover about 330 acres at project completion.

Solution Storage and Gold Processing Plant: Process solutions from the heap leach pads will drain into pipes and flow by gravity to a solution storage area. Process solutions will be stored in welded steel tanks. Solution will be processed to recover gold using carbon absorption and electrowinning methods. The process solution will be recirculated for use at the heap leach pads.

Ancillary facilities: Facilities needed to support the operation will include elements such as an administration building, mine maintenance shop, on-site roads, and water and power supply. Water and power supply needs are described in greater detail below.

Water Requirements and Supply: Average annual water demand is estimated at about 715 acre-feet (about 450 gpm) primarily for the heap leach process and dust control. The water will be supplied from wells developed by the Viceroy. The majority of these wells are located about two miles northwesterly of the site near Hart Mine Road. Water will be delivered from each well site to the main pipeline via a buried pipe in the well access road. The main pipeline will be an 8-inch line buried in the shoulder of Hart Mine Road extended from the West Well Field to the site. Water will be stored in two tanks, with capacities of 120,000 gallons and 40,000 gallons, respectively.

Power Requirements and Supply: Power requirements are estimated at up to 3,000 kilowatts, used principally to operate facilities such as the primary crusher, fine crushing and conveying units, process plant, solution circulation pumps, and ground water well pumps. Power will be provided on-site by propane-fired electrical generators.



Access: Access to the site will be along the Mitigated Access Route Configuration as described on page 3-3 and Figure 3.3 of the Final EIS. The alignment of this route resulted from the environmental review process. The alignment of the access specifically avoids Category 1 desert tortoise habitat. This route begins at the intersection of State Route 164 (Nevada) and the YKL Ranch Pipeline Road, approximately 7.5 miles west of Searchlight, Nevada. The route proceeds 7.7 miles south on the Pipeline Road where it connects to a system of unimproved dirt trails leading to the mine site. About 4.1 miles of existing dirt roads and trails will be upgraded and connected with 4.5 miles of new construction to provide access to the state highway system.

Reclamation: Reclamation will be an active part of ongoing operations as described in the Castle Mountain Project Mine Plan and Reclamation Plan (August, 1990). A soil survey has been completed and areas for soil storage identified. A program of on-site revegetation research will be implemented to determine the most suitable methods to be used. Visual color contrasts of newly exposed rock will be reduced by applying rock staining solutions on the upper mine pit walls. Backfilling of the Jumbo and Lesley Ann pits is neither proposed nor required. Funding for reclamation activities will be guaranteed by bonding.

Proposed bonding for initial project activities is estimated to be \$1,017,900, of which \$619,000 would be posted as a joint BLM/County bond and \$398,900 would be posted with the Colorado River Basin Regional Water Quality Control Board (RWQCB), to be released only with the concurrence of BLM and the County. Within 30 days following the release of this decision, BLM, the County, and Viceroy will begin developing an agreement to design and implement the administrative bonding procedures.

#### ALTERNATIVES INCLUDING THE PROPOSED ACTION

Seven alternatives, including the proposed action, were analyzed. These are:

1. Proposed Action: The proposed project would operate for about 10 years and process ore at a rate of about three million tons per year. About 890 acres of on-site surface disturbance would occur over the project's life. Access would be provided via the Mitigated Access Route Configuration. BLM has determined that the proposed action, including mitigation and monitoring provisions, is the environmentally preferable mining alternative.
2. Reduced Project: Total tons of ore and overburden would be decreased by 50 percent. Total surface disturbance would be

about 560 acres. The rate of mining and processing would be the same as for the Proposed Action, resulting in a 5-year project life.

3. Enlarged Project: Total tons of ore and overburden would be increased by 50 percent. Total surface disturbance would be about 1,070 acres. The rate of mining and processing would be the same as for the Proposed Action, resulting in a 15-year project life.
4. Slower Processing: Total ore and overburden tons would be the same as estimated for the Proposed Action, but the ore processing rate would be decreased by 50 percent, thereby increasing the life of the project to about 20 years.
5. Faster Processing: Total ore and overburden tons would be the same as estimated for the Proposed Action, but the ore processing rate would be increased by 50 percent, thereby decreasing the life of the project to about seven years.
6. Alternative Ivanpah Access Route: This alternative would have the same basic elements as the Proposed Action. However, instead of constructing the Mitigated Access Route, this alternative would require use of existing public roads through high density Category 1 desert tortoise habitat for site access.
7. No Action: The project would not be developed. Existing management and use of the site would continue subject to the California Desert Conservation Area Plan and its guidelines. The land would remain open and available to mining under the 1872 Mining Law.

#### ALTERNATIVE MITIGATION CONSIDERED

Three alternative mitigation measures as part of reclamation and backfilling were examined:

1. Maximum Pit Backfilling: This alternative would involve filling the project mine pits to approximately the original topography through the central area of each pit, but not the much steeper terrain on the flanks of the pits, following completion of the proposed mining operation. It would extend the life of the project about three years. The primary changes would be elimination of the overburden pile and reconstruction of most surface topography in the mine pits.
2. Sequential Pit Backfilling: This alternative would require accelerated mining of the Lesley Ann Pit during the last 12

months of scheduled production from that pit so that overburden material removed from the Oro Belle Pit could be placed directly in the Lesley Ann Pit without intermediate rehandling. Backfilling would therefore occur concurrently with the proposed mining operation. The primary change would be a nominal reduction in the size of the overburden pile, while filling the Lesley Ann Pit to about 30 percent of its maximum backfill capacity.

3. Scree Slope Backfilling: Following completion of the proposed mining operation, overburden would be hauled to the rim of the pits and dumped to create scree slopes of loose rock. This activity would extend the life of the project about 1.5 years. The primary change would be a nominal reduction in the size of the overburden pile and creation of a scree slope to conceal benches on the east wall of the Lesley Ann pit and the walls of the Oro Belle Pit from westerly views in Lanfair Valley.

#### MANAGEMENT CONSIDERATIONS

My decision to approve the proposed Castle Mountain Project is based on my determination that this project will not result in undue or unnecessary degradation. After close examination of the findings of the analysis and the results of public review, and after consultation with other agencies and local government including San Bernardino County Planning Department, I have concluded that the proposed action would satisfactorily resolve the major public land issues. In addition, mitigation measures have been adopted to ensure that all reasonable means to avoid or reduce environmental harm have been incorporated into the project. The project is consistent with BLM's California Desert Plan and East Mojave National Scenic Area Plan as well as with the San Bernardino County General Plan. A summary of management considerations which includes economic, environmental, and administrative factors considered is presented below:

Measures to Protect Desert Tortoise: The need to protect desert tortoise during construction and operation of the project was a major concern to BLM, U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game, Nevada Department of Wildlife, and the public. This concern was further heightened during the environmental review process when the tortoise was listed (April 2, 1990) by the USFWS as threatened in California, Nevada, and portions of other western states.

Viceroy committed to specific changes in the proposal during the preparation of the EIS/EIR to prevent harm to tortoise or its habitat: project facilities will be located away from areas of high tortoise density; any tortoises found on the site prior to

construction will be safely relocated to suitable habitat; the site will be fenced to prevent other tortoises from entering after construction begins; potential raven predation will be controlled; access to the site will be redirected from the existing Ivanpah route to a new, higher elevation location to avoid high density tortoise habitat; vans and buses will be used to reduce traffic volumes through tortoise habitat.

Based on the USFWS determination that the proposed project would not result in jeopardy to the desert tortoise, this issue has been settled. In the Biological Opinion, USFWS identified reasonable and prudent measures to protect the tortoise, including compensation for habitat lost on the project site, and established terms and conditions that will be required of Viceroy.

Provisions for Use and Storage of Cyanide: While cyanide was a concern at the draft EIS/EIR stage, modifications to the proposed action in the Supplement and FEIS/EIR coupled with the required mitigation measures substantially removes any risk to wildlife.

In the draft EIS/EIR, fencing and netting were proposed to exclude wildlife. Based on public and agency concerns about the effectiveness of those measures, Viceroy adopted an alternate design using steel storage tanks. Other measures have also been incorporated into the project proposal to eliminate accidental wildlife mortality, including drip irrigation and enclosed pipes to transport and apply the cyanide solution to leach piles and avoid ponding or exposure to wildlife.

BLM has added specific mitigation measures to protect wildlife and to provide a contingency plan in the event of flooding or overflow of the cyanide storage system. Monthly reporting of wildlife mortality will be required.

Reclamation and Backfilling: BLM evaluated reclamation and backfilling measures in response to concerns about the project's impacts on visual quality, soils, wildlife habitat, vegetation, and other values. The potential for adverse visual impacts was given special consideration since the project is located within the East Mojave National Scenic Area.

Viceroy will reclaim most of the lands disturbed by the mining operation (771 acres reclaimed of 890 acres disturbed), including portions of the Lesley Ann and Oro Belle Pits. There will be no significant residual impacts after reclamation is completed. As additional mitigation, Viceroy has agreed voluntarily to reclaim lands that had been previously disturbed by other companies: Viceroy will reclaim 36 acres on patented lands (South Clay Pit) and 55 acres on private lands immediately adjacent to the project site (North Clay Pit). Altogether, Viceroy will reclaim 862 acres of BLM and private lands.

Specific reclamation measures are described in Viceroy's Castle Mountain Project Mine Plan and Reclamation Plan (August 1990), incorporated by reference in this Record of Decision. Implementation of those measures, including stabilization and revegetation of disturbed areas, control of cuts and fills, salvage of certain native species on the site, establishment of a nursery area for revegetation purposes, staining of rock walls and development of a research and monitoring program, will be ensured by the posting of a \$619,000 reclamation bond. Success of reclamation will be measured by specific diversity and density goals established in this Record of Decision. In addition, a Revegetation Review Committee is being contemplated by Viceroy to advise BLM and the County of possible actions to increase the success of the revegetation efforts and any adjustments to the revegetation standards that may be warranted.

Particular attention was given to the issue of backfilling the 135 acres within the Lesley Ann and Oro Belle Pits. Backfilling was rejected after examining possible backfilling measures. According to a study prepared for BLM by the U.S. Bureau of Mines, "backfilling essentially doubles the costs of loading and hauling material, potentially making an otherwise profitable mine operation uneconomic to develop and operate." Backfilling would also foreclose opportunities for future mining of pit walls.

Maximum backfilling would require hauling approximately 51 million tons of material to fill the 135 acres within pit areas. Thirty nine million tons could not be accommodated, due to the swelling characteristics of mined rock, and would remain where it had been placed during mining. Maximum backfilling would not eliminate visual impacts since the remaining material would be left in place. Additional visual and other impacts would result if the material were to be moved to another location. Maximum backfilling would not provide any substantial improvement in wildlife habitat or benefit for other possible secondary uses of the site.

Sequential backfilling would not significantly change the environmental effects of the proposed action. Other backfilling measures would lengthen project life, increase fuel consumption, and result in greater impacts on water use, wildlife habitat, air quality, and visual resources.



A comparison of the area disturbed and reclaimed on the Castle Mountain Project site follows:

<u>Area Component</u>	<u>Acres Previously Disturbed</u>	<u>Acres to be Disturbed</u>	<u>Acres to be Reclaimed</u>
Lesley Ann Pit		100	10
Oro Belle Pit		35	6
So. Clay Pit	36*	-	36
No. Clay Pit	55*	-	55
So. Overbdn Pile		300	300
Heap Leach Pads		330	330
Solution Storage		10	10
Crusher Area		10	10
Plant		4	4
Admin bldg		1	1
Roads		30	30
Soil Storage		70	70
TOTAL	91	890	862

\* Previously disturbed by different companies.

Impacts to Ground Water: The principal issue concerning groundwater is the potential effect of aquifer drawdown on Piute Spring. This issue has been resolved. Viceroy has modified the project resulting in an approximately 35% reduction in annual water requirements at the site. Studies show that drawdown is highly unlikely but as an added measure of protection, Viceroy will be required to undertake a multiyear monitoring program and contingency water supply for Piute Springs.

Mitigation measures to prevent cyanide leakage into ground water are incorporated into the project and are backed by a \$398,000 bond with the Colorado River Basin RWQCB to be released only with concurrence of BLM and San Bernardino County.

Social and Economic Factors: Public concerns centered on the potential drain on local service such as road maintenance, trash removal, fire and police protection, utilities, and housing. The EIS/EIR demonstrates that no significant adverse impacts will occur on these services since most of the 200 workers are expected to commute from Las Vegas and Viceroy will provide for utilities, trash removal, and other services on site. Further, estimated revenues of \$400,000 per year in property taxes and \$600,000 per year in sales tax and user fees, would be an economic benefit to the County.

Unavoidable and Cumulative Impacts: Some impacts cannot be avoided but none of those impacts warrant disapproval of the project or selection of another alternative. A total of 890

acres of soil and vegetation would be disturbed, less than 0.4% of the vegetation in Lanfair Valley. No sensitive or significant species would be affected and 862 of those acres would be reclaimed. There would be no significant impacts to wildlife, including desert tortoise, other threatened or endangered or sensitive species. Cultural resources would not be adversely affected. Visual impacts of the project would be largely unnoticeable from public highways and would not be inconsistent with the character of the traditional mining use of the area. There would be no significant impact on the East Mojave National Scenic Area. Since other activities within the general area are physically isolated from each other by distance or topography, the potential for cumulative impacts is not considered significant.

#### PUBLIC INVOLVEMENT

As part of the environmental analysis and identification of issues and concerns, a Notice of Intent was published in Federal Register and two public scoping meetings were conducted. Five hundred copies of the Draft EIS (DEIS) were distributed. During the 60 day review period, three public hearings were held on the DEIS. Five hundred copies of the Supplemental DEIS were distributed for sixty day public review. The Final EIS was distributed to the public, agencies, and organizations who had expressed an interest in the project. The availability of documents and meetings were published in local and regional media. As part of the public involvement process four meetings with the Sierra Club Legal Defense Fund (representing the Sierra Club, The Wilderness Society, Natural Resources Defense Council, Desert Protection Council, California Wilderness Coalition, Citizens for Mojave National Park, and Desert Survivors) were held.

#### MITIGATION AND MONITORING

The mitigation measures are described in the FEIS (page 3-10ff), the Reasonable and Prudent Measures and Terms and Conditions of the U.S. Fish and Wildlife Service Biological Opinion (Appendix G, FEIS). The Castle Mountain Project Mine Plan and Reclamation Plan, and the Castle Mountain Project Plan for Ground Water Monitoring and Contingency Water Supply to Piute Spring (page 6ff). Stipulations 1-93 in Attachment 1 of this Record of Decision are required of the operator. In addition, the aforementioned documents contain other more detailed and specific requirements in which the operator must comply.

#### APPEALS

If a party is adversely affected by this action, there is a right of appeal to the State Director in accordance with the



regulations in 43 CFR, Part 3809.4. If an appeal is taken, the notice of appeal must be filed in this office. The appeal must contain:

1. The name and mailing address of the appellant.
2. Where applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to 43 CFR Subpart 3833 which are subject to the appeal.
3. A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.



Attachment 1

CASTLE MOUNTAIN PROJECT - STIPULATIONS

Viceroy or any new operator that succeeds to Viceroy's interest by sale, assignment, transfer, conveyance, exchange or other means (hereinafter referred to as "the Operator") must comply with the following stipulations:

1. Any significant change in the Plan of Operation by the Operator, as modified by stipulations developed as a result of the review process, will require review and approval in the same manner as the initial Plan of Operation. The U.S. Department of the Interior, Bureau of Land Management ("the BLM") may review and request modification of any operation approved in the Plan of Operation, as modified, that is causing unnecessary or undue degradation in accordance with the regulations at 43 CFR 3809.1-7.
2. This approval is conditioned upon the Operator obtaining all necessary county, State, or Federal permits and complying with all applicable local, State and Federal laws and regulations.
3. The Operator shall meet all of the requirements of the Regional Water Quality Control Board's ("RWQCB") Waste Discharge Order and make all monitoring data available to the BLM upon request.
4. The Operator shall meet all applicable permit requirements and conditions of the San Bernardino County Air Pollution Control District ("SBC-APCD").
5. The Operator shall comply with all of the reclamation and other requirements set forth in the August, 1990, Mine Plan and Reclamation Plan for the Castle Mountain Project (the "Reclamation Plan").
6. Before starting mining operations, the Operator shall post a \$619,000.00 letter of credit, cash, or surety bond jointly with the County of San Bernardino ("the County") and the BLM, to ensure compliance with all of the conditions of the Plan of Operations and Reclamation Plan. That bond amount shall be reviewed for adequacy at an initial review meeting which initial review meeting, shall take place as set forth in the Reclamation Plan, and thereafter at two (2) year intervals. The bond amount shall be adjusted as set forth in detail in the Reclamation Plan. Portions of the bond shall be released to the Operator upon certification by the BLM and the County that all reclamation conditions applicable to a given reclamation area have been complied

with, as specified in detail in the Reclamation Plan. The County has agreed to administer the bond, subject to Regulation No. 21(1)(2). Within 30 days following the release of this decision, the BLM, County, and the operator will begin developing an agreement to design and implement the administrative bonding procedures.

7. A monthly report on cyanide-related animal mortalities must be submitted to the BLM Needles office no later than the 10th of each month. This report shall include the following information:
  - a. The number and kind of each mortality attributed to cyanide. "Kind" will be reported under one of the following categories: raptors, songbirds, upland game birds, waterfowl, shore birds, mammals and other;
  - b. Location where the dead animal was found; and
  - c. Other information as requested by the BLM.
8. All structures and facilities shall meet applicable seismic building safety standards. [DEIS p. 6.2-1.]
9. Project facilities shall be located so that landslides which might be induced by earthquakes will not encroach into areas where potentially hazardous chemicals are stored, ponded, or processed. [DEIS p. 6.2-1.]
10. Protore shall be separated in the overburden pile to the extent practical. [DEIS p. 5.2-4.]
11. The Operator shall contract an individual qualified in the assessment of woodrat middens to inventory the project site for these resources before initiating the operation. If located, middens would be assessed for potential paleontological value, extracted at the discretion of BLM and County, and then stored at an approved repository. [DEIS p. 6.2-1.]
12. Project water requirements shall be minimized by the following operational procedures: [FEIS Section 4.1.5.4.]
  - a. Crushing the ore to reduce leaching time so that less water will be circulated and evaporation will be reduced.
  - b. Employing drip irrigation to distribute solution directly to the heap leach surfaces; use of sprinkler systems during the operational phase of each leach pad is prohibited.

13. The Operator shall comply with the "Castle Mountain Project Plan for Ground Water Monitoring and Contingency Water Supply to Piute Spring" (August 1990) which requires: [FEIS Section 4.1.5.1.]
- a. Two additional groundwater monitoring wells (W-37 and W-38) shall be developed between the West Well Field and Piute Spring.
  - b. Water levels in monitor wells W-3, W-19, W-37, W-38, and PS-2 and stream flows at Piute Spring shall be monitored monthly until the end of the third year of project operation. The frequency at which water level and stream flows are monitored during the fourth and subsequent years of operation shall be determined by mutual agreement between BLM and the Operator.
  - c. In the event groundwater levels in monitor well W-37 begin to approach the level predicted by the hydrogeologic modeling completed for the EIR, an additional monitor well (W-40) shall be developed south of monitor well W-37. This well shall be monitored with the same frequency as W-37. The location of the new well will be approved by BLM before installation.
  - d. In the event groundwater levels in monitor well W-37 reach the level anticipated by the hydrogeologic modeling completed for the EIR, the hydrogeologic model shall be recalibrated and the characteristics of the Lanfair Valley aquifer shall be reevaluated. The modeling report and other information shall be submitted to BLM for its consideration and decision as to whether additional mitigation measures are necessary.
  - e. BLM's decision as to whether additional mitigation measures are necessary, such as the provision of supplemental source of water for Piute Spring to ensure no adverse impacts to riparian habitat, shall be circulated for public review and comment prior to implementation.
  - f. If water level declines in monitor well W-37 exceed the drawdown predicted by the hydrogeologic modeling before BLM's decision respecting additional mitigation measures (if any) becomes final, the Operator shall reduce its groundwater pumping rates in accordance with the provisions of the groundwater monitoring plan.
14. Groundwater extraction shall be recorded at each well with flow meters. [DEIS p. 6.3-2.]

15. If any existing wells in Lanfair Valley within 10 miles of the West Well Field go dry as a result of the Castle Mountain project operations, the Operator shall pay the costs to have these wells deepened, or shall provide replacement water to the owner of the affected wells. [DEIS p. 6.3-2.]
16. The heap leach piles shall be constructed to avoid disruption of the large drainage that passes through the western portion of the project site. Minor drainages that would be restricted by heap pad construction shall be diverted around the heap piles. Facilities shall be constructed to avoid major drainages. [DEIS p. 6.3-2, and FEIS at p. S-10.]
17. The Operator shall obtain a Section 1603 permit from the California Department of Fish and Game before altering any stream channels. [DEIS p. 6.3-1.]
18. Reagents and fuels shall be stored in areas protected by dikes or curbs designed to contain the contents of containers to avoid the potential for an accidental spill. [DEIS p. 6.3-2.]
19. The Operator shall obtain a permit from and comply with the RWQCB requirements concerning using materials and implementing procedures to safely contain liquids, including: [DEIS p. 6.3-1]
  - a. Impermeable synthetic liners for process solution basins and heap leach pads.
  - b. Sealed drainage and collection facilities to transport or contain leaching solution.
  - c. Diked leach pads to confine and control drainage from the leach piles.
  - d. Storage basins with adequate freeboard to safely contain storm run-off from within the heap leach system and draindown of solution from the leach pads in the event pumps could not operate because of a power failure.
  - e. Drainage or diversion ditches outside the heap leach system to preclude entry of storm run-off into the system.
  - f. A leakage detection monitoring system for the leach pads, emergency solution storage and stormwater storage basins.

- g. Regularly prepared monitoring reports on the current status of operations.
  - h. Neutralization and final rinsing of the heap leach piles and decommissioning/removal of the solution storage facilities at the time of project completion.
20. Reclamation activities shall include control of slopes on cuts and fills, plus revegetation, to control surface erosion in accordance with the Reclamation Plan. [DEIS p. 6.3-2.]
21. Within one year of the approval of the Plan of Operation, the Operator shall develop a revegetation research program based upon information provided by a qualified expert in desert flora. This research program shall include, but not be limited to the following measures: [DEIS p. 6.4-2; FEIS Section 4.1.4.2.]
- a. Review of available materials describing methods and success rates of revegetation programs employed on other lands in the arid west to determine the best available procedures.
  - b. Development of a research methodology and a schedule for implementation of the revegetation program for submittal to BLM and the County.
  - c. Revegetation success shall be determined by measuring the density and diversity of perennial species. The ten year goal for density, using only perennial species, will be 21% as compared to undisturbed control sites. Using a sigmoidal curve, the five year goal for density will be 6% of the control. The ten year goal for diversity will be 15% using only perennial species, expressed as a similarity index of the control. The five year goal for diversity, based on a sigmoidal curve, will be 4%, expressed as a similarity index of the control. The diversity and density measurements will be based on randomly distributed plots located within areas representative of the reclaimed lands.
  - d. Stockpiling of available soil. Redistribution of these soils over disturbed areas shall be done following completion of activities on an area. Studies shall be initiated to determine where available soil would be most effectively used.
  - e. Identification of dominant species to be used in revegetation. Salvaging of individual plants amenable to transplantation, such as Joshua trees and barrel cactus, shall be completed and such plants will be kept



in nursery areas for replanting on reclaimed areas to provide a continuous seed source. The goal will be to transplant at least 25 percent of barrel cactus and 25 percent of all Joshua trees three to ten feet in height, unbranched or with few branches.

- f. Selection of a site appropriate for a nursery. Considerations will include water availability, access, and other requirements determined by the revegetation experts.
- g. A plan shall be developed to coordinate and phase revegetation efforts in accordance with mining and processing operations. The goal will be to initiate revegetation procedures within six months following completion of project activities over an area.
- h. Potential invasion of exotic species shall be monitored. If exotic species densities exceed levels of these species on non-disturbed areas at the Project Site, a weed control program acceptable to the County and BLM shall be implemented.
- i. Employment of reseeding, transplantation, fertilization, and watering procedures determined appropriate for each disturbed area in the program methodology.
- j. Evaluation of the benefits of removing, shredding, and composting vegetation that would otherwise be lost.
- k. Ground preparation procedures shall include ripping and harrowing of compacted soils.
- l. Implementation of a monitoring program to verify revegetation results, based upon the goals for diversity and density:
  - (1) The revegetation bond for any specific area will not be released until the Operator demonstrates, based on a full 10 years of monitoring of the revegetation of that area, including at least one full year in which the vegetation is completely self-sufficient, that the density and diversity standards set forth in Stipulation No. 21(c) have been met.
  - (2) Upon the completion of the monitoring period set forth in Stipulation No. 21(1)(1) for each specific area to be revegetated, the BLM/County shall determine the extent to which the density and diversity standards set forth in Stipulation

No. 21(c) have been met. If the Operator has not met the standard for density, the BLM/County shall retain an amount from the reclamation bond equal to .5 percent of the funds allocated in such bond for such specific area for every .05 percentage point contained in such standard by which the Operator has not met such standard. If the Operator has not met the standard for diversity, the BLM/County shall retain an amount from the reclamation bond equal to .5 percent of the funds allocated in such bond for such specific area for every .05 percentage point contained in such standard by which the Operator has not met such standard. The balance of the funds contained in the reclamation bond and allocated to such specific area shall be returned to the Operator. [See Attachment 2 for illustration of how this stipulation would be applied.]

22. Baseline vegetation measurements shall be completed as part of the revegetation research program prior to surface disturbing activities. [FEIS Section 3.2.1.]
23. The Operator shall annually provide to the BLM a detailed description of the experiments performed and results achieved in connection with its revegetation research program and will further describe the progress of all revegetated areas.
  - a. As a result of its review of the information provided by these reports, the County or BLM may adjust the revegetation standards.
  - b. If the BLM determines that such adjustment is warranted, it will provide notice.
  - c. By May 1 of the seventh and tenth years of mining operation, the BLM will issue a public notice of its determination as to whether or not adjustment of the revegetation standards is warranted, providing its rationale for this determination.
24. The Operator is contemplating the establishment of a Revegetation Review Committee. Within 30 days following receipt of all permits and approvals, the Operator shall advise the BLM of its decision regarding the establishment of a Revegetation Review Committee. If such a group is established, the Operator shall prepare a detailed plan describing the structure, membership selection procedures, and functions of the Committee that will be mutually agreeable to BLM, the County, the operator, California Division of Mines and Geology and three representatives of the environmental community. The plan would incorporate the following:

- a. The Committee would consist of three technical experts, including an arid lands revegetation expert, a geologist/hydrologist and an arid lands ecologist; three representatives of the environmental community; and one representative each of the County, the BLM, the State Division of Mines and Geology, and the Operator.
  - b. The Committee would confer annually to discuss the annual revegetation reports filed by the Operator, in order to: interpret the information contained in these reports; advise the County and BLM of actions they might take to increase the success of revegetation efforts and adjustments which should be made to the revegetation standards.
  - c. The Committee would produce a written report by June 1 of each year.
  - d. The Operator would make provision for the reimbursement to Committee members of the costs associated with participation in the Committee.
25. Revegetation efforts shall be initiated as soon as practicable during the project operation period, as use of specific disturbed areas is completed. [DEIS p. 6.4-3.]
  26. The project revegetation program shall collect and provide data on revegetation and recovery of the on-site desert grassland unusual plant assemblages (UPA) and provide such data to BLM to supplement UPA monitoring and planning strategies. [DEIS p. 6.4-3.]
  27. Vegetation considered unnecessary for reclamation shall be made available for public collection through plant salvages conducted by BLM. [DEIS p. 6.4-3.]
  28. Vegetation within areas of temporary disturbance (such as for well construction) shall be crushed, instead of bulldozed, to enhance recovery. [FEIS Section 3.2.1.]
  29. Concerning the on-site location of the Stephen's Beardtongue (*Penstemon stephensii*) population the following measures shall be required: [FEIS Section 3.2.1.]
    - a. Flag, fence, sign, or otherwise delineate the on-site population, or other discovered populations to ensure avoidance during project construction and operations.
    - b. Monitor the known population and other individuals/populations that are found during project operations.

- c. If individuals do not appear elsewhere on-site, collect and broadcast seed from the known population to other on-site areas, or transplant individuals to another location, before reclaiming mine exploration drill roads.
30. Road segment A of the Mitigated Access Route shall, to the extent possible, use the existing alignment of the YKL Ranch water pipeline maintenance road for access to Nevada State Route 164. [FEIS Section 3.2-1.]
31. Fencing shall be used to exclude livestock from revegetated areas until termination of the project and maturation of the revegetated areas, such that grazing can be accommodated. The Operator shall be responsible for removing these fences following reclamation, as determined by BLM. [DEIS p. 6.4-3; FEIS Section 3.2.1.]
32. A program to educate employees about area wildlife shall be implemented by the Operator in connection with the safety program. The program shall acquaint personnel with laws protecting vegetation and wildlife, the characteristics of desert wildlife, and proper procedures if wildlife is encountered. Drivers shall be educated about potential hazards of desert road driving, driving at proper speeds, and the importance of not harassing or interfering with wildlife, especially the desert tortoise. Employees shall comply with BLM open/closed area designations and road regulations. [DEIS p. 6.5-2.]
33. An environmental specialist or contracted consultant shall be employed by the Operator to monitor the effectiveness of wildlife mitigation measures and the revegetation program. Results shall be reported to BLM and County monthly as concerns wildlife measures and annually concerning the revegetation program. [DEIS p. 6.5-2; SDEIS p. E-24.]
34. Measures to isolate cyanide processing solutions from wildlife have been incorporated into project design plans. Specific measures to be employed shall be tested for their effectiveness in an ongoing evaluation program after commencement of operations. [DEIS p. 6.5-3; SDEIS p. 3-28; and FEIS Section 3.2.1.]
- a. The Solution Storage Area shall:
- (1) Utilize steel storage tanks.
  - (2) Be designed so that solutions are unavailable to wildlife.

- (3) Include fencing of and netting over the emergency storage basin, designed to preclude access by birds and bats.
- (4) Employ hazing techniques if process solution enters the stormwater storage basin.
- (5) If avian entanglement becomes a problem, the operator will replace the netting over the emergency storage basin with a different type of net or will implement another method to prevent entanglement.

b. Heap Leach Piles

- (1) Active heap leach pads shall be surrounded by chain-link fencing.
- (2) Drip irrigation methods shall be used to distribute solution directly on the heaps, including both the tops and sides, in order to minimize potential ponding of water available to birds or other animals.

c. Solution Handling

The cyanide solution system shall be operated as a closed circuit, with solution transported from heap piles to storage tanks, to processing plant, and back to the heap piles in a system of pipes, rather than open ditches. Open ditches will be used only to carry heavy storm run-off.

35. Employees shall not bring domestic cats to the site. Dogs must be kept on a leash at all times. [FEIS Table 3.1.]
36. The Operator shall locate and flag on-site tortoise burrows before initiating surface disturbing activities. Flagged areas shall be avoided whenever possible. If occupied burrows are within areas designated for project facilities or activities, relocation of tortoises shall be coordinated with BLM and FWS. [DEIS p. 6.5-3.]
37. The Operator shall inform project personnel that only authorized personnel shall handle tortoises and of the tortoises' protected status. [DEIS p. 6.5-3; FEIS Appendix G, and Biological Opinion, p. 9.]
38. A project sponsored program of bus/van pooling to the project from locations in the Las Vegas valley shall be implemented. [DEIS p. 6.5-3.]



39. The easterly segment of the Mitigated Access Route shall use an alignment along the western flank of Piute Valley known as the YKL Ranch Maintenance Road. Any tortoise burrows located within the alignment of new road construction shall be flagged and if tortoises are present, they shall be removed according to procedures acceptable to BLM and FWS. [FEIS Table 3.1, p. 3-14.]
40. Project waste shall be properly managed and the site monitored to control refuse that could attract ravens. Prior to landfill disposal, refuse shall be kept in containers designed to exclude wildlife. [DEIS p. 6.5-5.]
41. Power lines shall be constructed in a manner to discourage raven nesting/roosting. [FEIS Section 3.2.1, and Table 3.1.]42. As part of the on-site biological monitoring, raven populations in the project vicinity shall be monitored by the project environmental specialist. Results shall be reported to BLM annually to assess if unusual increases in raven population numbers are occurring. [DEIS p. 6.5-5.]
43. Subject to BLM approval of reclamation procedures and completion of public road abandonment procedures to be implemented by Clark County, Nevada, the Operator shall reclaim County Road A68p for use as an equestrian trail. The Operator shall berm and fence both terminus points of County Road A68p to deter vehicular access. [SDEIS Section 3.2.1.4; FEIS Section 3.2.2.]
44. The Operator shall comply with the Reasonable and Prudent Measures and the implementing Terms and Conditions set forth in the U. S. Fish and Wildlife Service's Biological Opinion. [FEIS Section 3.2.1, Appendix G.]
45. Outdoor lighting for the mine pits and other areas of nighttime activities shall be shielded to direct lighting to the area of activity. [DEIS p. 6.5-4.]
46. The wildlife guzzler (#B-79) located northwest of the project site shall be relocated in an appropriate location as determined by BLM. [FEIS Section 3.2.2.]
47. An examination of former mine shafts and adits shall be completed prior to earth moving activities in the area to estimate whether they are occupied by bats or other species. The evaluation shall be completed during the winter hibernating period by an ecologist familiar with bat fauna. If a colony is found, or substantial use by individual bats is indicated, blasting or heavy equipment use shall be restricted at or adjacent to the roost sites during the identified period of occupation. If the habitat used by a colony will be required for project development, a mitigation program shall be completed. [DEIS p. 6.5-5.]

48. To allow access to abandoned mine workings used as habitat by bats and other animals, adits and shafts on the project site that do not pose a hazard to people shall be left open or barricaded in a manner acceptable to BLM to permit animal ingress/egress. [DEIS p. 6.5-5.]
49. Design and construction of electric power distribution poles shall incorporate provisions for raptor safety. (DEIS p. 6.5-5.)
50. Project fencing shall be constructed according to BLM specifications designed to prevent potential bighorn sheep entanglement. [FEIS Section 3.2.1.]
51. A number of measures shall be incorporated into the project design to control the generation of PM10 particulates. They include: [DEIS p. 6.6-1; SDEIS p. 3-29.]
  - a. Haul roads within the site boundary shall be surfaced with durable gravel and shall be well maintained.
  - b. Water or surface binding agents shall be applied to haul and access roads within the site boundary as needed, depending on traffic volumes, ambient wind, and climatological conditions.
  - c. Speed restrictions of 35 mph or less shall be enforced on mine roads to minimize surface disturbance of the roadways.
  - d. Vehicle travel shall be restricted within the site boundary to minimize surface disturbance of the roadways.
  - e. Vehicle travel to and from the project site shall be reduced by the promotion of van pools/busing for workers.
  - f. During all drilling operations, air drilling equipment shall be shrouded with standard debris collection devices and/or wet drilling techniques. Manufacturer specifications for all shrouding devices shall be submitted to the SBCAPCD for review before use. The debris collecting devices shall have a minimum design efficiency of 90 percent.
  - g. The live storage portion of the coarse ore stockpile shall be covered to minimize windblown dust.
  - h. Blasting during high winds shall be minimized or curtailed to minimize windblown dust.



- i. The primary, secondary, and tertiary crushers, screens, and all transfer points shall be completely enclosed or shrouded to minimize exposure to wind and, at a minimum, shall use spray bars to control fugitive dust emissions. Conveyors shall be enclosed in selected areas where the moisture content and/or consistency of the material would allow generation of wind blown dust.
  - j. Dust suppression for secondary/tertiary ore crushing operations shall be controlled using baghouses constructed to specifications acceptable to the SBC-APCD.
52. Revegetation efforts for completed portions of the overburden pile and decommissioned heap leach piles shall be initiated during the operational period rather than deferring revegetation until operations are completed. [DEIS pp. 3.2-48 to 3.2-53.]
  53. As required by the SBC-APCD, PM10 concentrations shall be monitored at several locations near the project boundaries. The monitoring data shall be routinely submitted to the SBC-APCD to demonstrate that the project is not violating ambient air quality standards. [DEIS p. 6.6-2.]
  54. Permanent on-site power shall be generated using propane or natural gas generators. [SDEIS p. 3-29.]
  55. Emissions from mobile equipment and vehicular engines shall be controlled by:
    - a. Using only low sulfur fuels.
    - b. Implementing a routine maintenance program to avoid operating inefficiencies.
    - c. Using busing/van pooling.
  56. Hydrogen cyanide shall be routinely monitored at the processing facilities as a requirement of the employee health and safety plan implemented according to MSHA Regulations. In addition, the Operator shall periodically perform airborne HCN surveys to verify that potential public exposure to cyanide is inconsequential. [DEIS p. 6.6-3.]
  57. A spill prevention, control, and countermeasures plan shall be developed to establish procedures for spill prevention and cleanup. [DEIS p. 6.7-1.]
  58. A vehicle shall be on-site for emergency response in the event of an accident. The Operator shall maintain first aid and fire suppression equipment on-site. Procedures for emergency response shall be developed for use in the event of an accident. [DEIS p. 6.7-2.]

59. Personnel trained in security shall be on-site on a 24 hour basis to deter entry to potentially hazardous areas by unauthorized persons. [DEIS p. 6.7-2.]
60. Training programs shall be implemented to familiarize personnel with their specific jobs, handling of hazardous substances such as cyanide, and first aid procedures. [DEIS p. 6.7-2.]
61. Explosives shall be stored in a secured powder magazine constructed and maintained in accordance with Federal and local requirements. Only personnel holding valid blasting certificates shall be allowed to initiate blasting. [DEIS p. 5.7-1.]
62. The Project shall comply with applicable MSHA standards to achieve a safe working environment. Rules and regulations of County Department of Environmental Health Services (DEHS) shall be followed to assure that no significant public health hazard would be created. [DEIS p. 5.7-1.]
63. Fences, and earthen berms to block vehicular access into open pit areas, shall be erected around potentially hazardous areas to preclude entry by unauthorized personnel or visitors. [DEIS p. 5.7-7.]
64. Domestic sewage shall be disposed of in leach fields acceptable to DEHS. Portable toilet waste shall be removed off-site by a contracted hauler. [DEIS p. 5.7-5.]
65. Non-hazardous waste materials generated on the site shall be disposed at approved facilities. Waste oils shall be recycled. Other hazardous wastes shall be disposed off-site, using services and procedures approved by the California Department of Health Services and the U. S. Environmental Protection Agency. [DEIS pp. 6.7-1, 6.7-2.]
66. Trucks containing hazardous chemicals shall be properly labeled and equipped to Interstate Commerce Commission specifications. [DEIS p. 5.7-5.]
67. Drivers shall receive training in proper handling and spill cleanup measures for hazardous materials. [DEIS p. 5.7-6.]
68. Lime, sodium hydroxide, or other alkaline material shall be added to the cyanide solution to reduce the potential for emitting hydrogen cyanide. [DEIS p. 5.7-2.]
69. The Operator shall provide road improvements and implement a regular maintenance program along the Mitigated Access Route in a manner acceptable to BLM. A maximum speed limit of 35 miles per hour will be posted. [DEIS p. 6.7-2; FEIS Section 3.2.]

70. Transport of hazardous materials shall be limited to daylight hours, Monday through Friday. [DEIS p. 6.7-2.]
71. To minimize the degree to which they are seen from sensitive viewpoints: a) the overburden pile shall be located on an outwash slope bounded by small hills; and b) heap leach piles shall be constructed as low mesas consistent with alluvial terrace landforms near the valley floor. [DEIS p. 6.8-1.]
72. Operation structures and the solution storage tanks shall be painted to blend with the predominant background as viewed from surrounding roads. Colors used shall be selected by BLM and County. [DEIS p. 6.8-2.]
73. Water and dust inhibiting agents shall be employed as needed to reduce the potential visual impact of fugitive dust during the operational period. [DEIS p. 6.8-2.]
74. Upon Project completion the Operator shall remove all operating facilities, including structures, equipment, transmission lines, and fencing, in conformance with the Reclamation Plan requirements. [DEIS p. 6.8-2.]
75. Site reclamation shall include modification of final overburden and heap leach pile shapes to reduce the impact of straight line geometrics and potential contrast in form and line. [DEIS p. 6.8-2.]
76. Rock staining solutions shall be used on the upper mine pit walls. These solutions shall be specifically colored to reduce the contrast between the pit walls and the surrounding undisturbed slopes. [DEIS p. 6.8-2.]
77. Revegetation shall include some areas within the project boundary and along access roads that were disturbed by the actions of third parties before reclamation of such disturbances was required under the Federal Land Policy Management Act (FLPMA) and the California Surface Mining and Reclamation Act (SMARA). Clay pits shall be reclaimed using overburden, with rock staining of the upper pit wall of the clay pit on Big Chief Hill. The Operator shall incorporate reclamation of the adjacent North Clay Pit, located off-site, into the Reclamation Plan. [DEIS p. 6.8-2; FEIS Sections 3.2.1, and 3.2.2.]
78. The Operator shall comply with all of the reclamation requirements set forth in the Reclamation Plan including, but not limited to, instituting the required revegetation program. Revegetation shall use native plants common to the area. [DEIS p. 6.8-2.]

79. Field work, laboratory studies, and documentation of research results shall be conducted for the five aboriginal sites (CA-SBR-5705,-5706,-5707, 5708, and -6055) located in the vicinity of the Mitigated Access Route and the project operations area. Comments submitted by local Native American representatives pertaining to these sensitive areas shall be considered in the evaluation process and artifacts of religious value made available through the BLM to qualified Native Americans for religious ceremonies. Pursuant to State and Federal law, recovered resources shall be curated at specific institutions, including the University of California at Riverside and the Nevada State Museum in Carson City, or its designate. [DEIS p. 6.9-1; and FEIS Appendix H.]
80. The Operator shall construct a chain link fence, with no gate, around the Hart townsite cemetery and post a descriptive sign within the fence. [DEIS p. 6.9-3.]
81. The Operator shall implement an informational program for employees to increase their awareness of the value of cultural resources and the need for their preservation. This program shall be achieved by providing a section on the prehistory and history of the project area in the employee manual. The section shall stress the fragility of the archaeological record and the responsibility of employees in preserving these resources. The manual shall be updated, as necessary to reflect new research findings which may occur relative to the history and prehistory of the area. [DEIS p. 6.9-3.]
82. Access roads to areas of high cultural resource sensitivity in the project's vicinity shall be closed or rerouted. [DEIS p. 6.9-3.]
83. The Operator shall construct and maintain fencing to restrict cattle from operational areas and access roads where required by BLM. [DEIS p. 6.10-1.]
84. Grazing lessees shall be compensated by the Operator for livestock killed or injured by vehicles driven by project employees. [DEIS p. 6.10-2.]
85. Cattleguards shall be installed and maintained by the Operator at points where cattle control fences cross the access roads. [DEIS p. 6.10-2.]
86. If project activities inhibit use of watering facilities by cattle, the Operator shall provide alternate water sources, in accordance with BLM requirements. [DEIS p. 6.10-2.]
87. At the discretion of BLM, the abandoned tank, troughs, and corral in Section 23 shall be removed and disposed of by the Operator. [DEIS p. 6.10-2.]

88. The Operator shall provide a viewpoint at the Castle Mountain Project site, describing past and present gold mining operations in the area. The interpretive site will be located at a point overlooking both the old Hart Townsite and the Lesley Ann Pit. The site shall include descriptive information about the permitting process, agencies involved in that process, measures taken to protect the environment, current mining operations, and the history of the Hart Mining District. This descriptive information shall be approved by the BLM. [DEIS p. 6.10-2.]
89. An historical marker shall be placed along the Mitigated Access Route at a location where the railroad bed of the former Barnwell and Searchlight Railroad is noticeable. The marker shall include a brief description of the history of the railroad. [DEIS p. -6.10-2.]
90. Project site access routes shall be limited to the Project's operational period. Public use shall be discontinued following road reclamation.
91. Vehicular access to the pit rims shall be prevented by constructing berms at all locations along the pit perimeter that would otherwise be accessible to vehicles. [DEIS p. 5.7-8]
92. At project decommissioning, final slopes shall be 2:1 (horizontal to vertical) overall for the overburden pile and 2.5:1 overall for the heap leach piles. Final slopes shall be contoured as provided for in the Reclamation Plan sections 1.8 and 1.10.
93. Pit walls shall be constructed in accordance with the standards of the Mine Safety and Health Administration.





## ILLUSTRATION OF BONDING REQUIREMENTS, STIPULATION

The revegetation component of the bond for each specific area would be split into two equal parts, one-half to be associated with the density goal, the other half to be associated with the diversity goal. In other words, the two goals would be treated separately, rather than combined. For each 0.05 percentage point that the actual result fell short of achieving the density or diversity goal for a specific area, an amount equal to 0.5 percent of the funds allocated for that area would be forfeited. The following illustrates how these requirements would be implemented under various assumptions. The calculations are based on data from the Reclamation Plan as follows:

Density goal 21% (see Recl. Plan page 1-24)  
 Diversity goal 15%  
 Revegetation bond \$1,500 per acre (see Recl. Plan page 3-5, item 13)

Assuming a parcel of land covering 10 acres, the revegetation component of the bond would be:

10 acres @ \$1,500/acre = \$15,000, of which:  
 Density portion: \$7,500  
 Diversity portion: \$7,500

Case A: After the monitoring period for this parcel, if revegetation of this specific area had only achieved 17% for density, and 12% for diversity, the amount of bond money forfeited would be:

Density:  $\$7,500 \times 0.005/0.0005 \times (0.21 - 0.17) = \$3,000$   
 Diversity:  $\$7,500 \times 0.005/0.0005 \times (0.15 - 0.12) = \$2,250$

Case B: After monitoring period for this ten acres, if revegetation of the specific area had only achieved 12% for density, and 9% for diversity, the amount of bond money forfeited would be:

Density:  $\$7,500 \times 0.005/0.0005 \times (0.21 - 0.12) = \$6,750$   
 Diversity:  $\$7,500 \times 0.005/0.0005 \times (0.15 - 0.09) = \$4,500$

Case C: After the monitoring period for this parcel, if revegetation of the specific area had achieved 15% for density, but only 4% for diversity, the amount of bond money forfeited would be:



Density:  $\$7,500 \times 0.005/0.0005 \times (0.21 - 0.15) = \$4,500$   
Diversity:  $\$7,500 \times 0.005/0.0005 \times (0.15 - 0.04) = \$8,250^*$

\* The diversity component forfeited would be limited to \$7,500, the amount posted for revegetation bonding for the diversity goal for this specific parcel.

Forfeited amounts would be retained by BLM and the County under their joint bonding arrangement.

**Appendix 13**

**Example Document: Federal Register Notice**



Example Federal Register Notice Manuscript:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

**Billing code:** 4310-40-M

[CA-010-01-4311-10]

**Subject Heading:** Management Framework Plan Amendment, Nevada County, CA.

**Agency:** Bureau of Land Management, Folsom Resource Area, Bakersfield District, California.

**Summary:** The Bureau of Land Management proposes designating 1,388 acres of public land on the North San Juan Ridge, Nevada County, California, as an Area of Critical Environmental Concern (ACEC), pursuant to the authority in the Federal Land Policy and Management Act of 1977 (Sec. 2020).

**Supplementary Information:** These public lands, known as the Inimim Forest, are managed under a cooperative stewardship program agreement between the Yuba Watershed Institute, the Timber Framers Guild of North America, and the Bureau of Land Management. The Yuba Watershed Institute submitted a community generated proposal and request to the Bureau of Land Management to provide increased management attention and protection for the historic, cultural, botanical, fish and wildlife values of the area through ACEC designation. Analysis by the Bureau of Land Management confirms the importance of relevance of the environmental resources of the area, and supports designation of the Inimim Forest as an ACEC.

**Dates:** Comments and recommendations will be received for a period of 30 days from publication of this notice in the Federal Register. Interested parties may request a copy of the environmental assessment on or before 45 days from the date of this notice. Comments on the environmental assessment should be submitted within 105 days from publication of this notice.

**For Comments and Further Information Contact:** District Manager c/o Area Manager,  
Folsom Resource Area, 63 Natoma Street, Folsom, California 95630.

**Dated:** July 16, 1991.

<Authorized Officer's Signature>

D.K. Swickard,  
Area Manager

**Appendix 14**

**Model Memorandum of Understanding**





# MEMORANDUM OF UNDERSTANDING

Between

(Project Proponent),

The County of \_\_\_\_\_

and

U.S. Department of the Interior  
Bureau of Land Management  
\_\_\_\_\_ District

## I. INTRODUCTION AND PURPOSE

Project Proponent (hereinafter "\_\_\_\_\_") is proposing (Indicate project) (hereinafter "project") to be located on public land within the boundaries of land administered by the U.S. Department of the Interior, Bureau of Land Management, \_\_\_\_\_ District (hereinafter "BLM"), and County of \_\_\_\_\_, California (hereinafter "the \_\_\_\_\_ County").

BLM has determined that an Environmental Impact Statement (EIS) is required. The EIS must comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., and related requirements, including the Council on Environmental Quality (CEQ) Regulations, 40 CFR 1500-1508 and BLM NEPA Handbook H-1790-1. The EIS will need to be prepared before a decision on the Project can be made.

\_\_\_\_\_ County has determined that an Environmental Impact Report (EIR) is required. The EIR must comply with the California Environmental Quality Act (CEQA), California Public Resources Code Division 13 and all other applicable laws and regulations.

The purpose of this Memorandum of Understanding (hereinafter "MOU") is to set forth the understanding between BLM, the County, and the Project Proponent (hereinafter "Parties") pertaining to conditions and procedures to be followed in preparing and completing a joint EIS/EIR, including the environmental and technical information collection, analysis and reporting necessary to fully comply with the NEPA and CEQ regulations, CEQA, and guidelines pertaining thereto.

## II. GENERAL RESPONSIBILITIES

- A. The BLM shall be responsible for ensuring compliance with all requirements of NEPA and CEQ regulations, and shall be responsible for the scope and content of the EIS.
- B. The County shall be responsible for ensuring compliance with all requirements of CEQA and shall be responsible for the scope and content of the EIR.
- C. Project Proponent shall, as needed and appropriate, enter into a contract(s) with an independent consultant(s), hereinafter collectively referred to as "Contractor," selected by the BLM and the County for appropriate baseline data collection, scoping project impact assessment and preparation of the EIS/EIR. Any retained consultant(s) may employ such other consultants and experts, with the approval of BLM, County, and (the Project Proponent) as are required for adequate data collection, analysis and EIS/EIR preparation.

- D. As required, BLM shall be responsible for consulting with U.S. Fish and Wildlife Service for a Section 7 Consultation and the California State Historic Preservation Officer for a Section 106 Consultation. At the discretion of BLM, Contractor shall furnish such data on information required to accomplish such consultation.

### III. OBTAINING A CONTRACTOR

- A. BLM and the County shall develop, in consultation with (the Project Proponent) the evaluation criteria to be used for selecting the contractor for preparation of the EIS/EIR documents. The evaluation criteria shall contain, but not be limited to, the following factors:
1. Expertise in data gathering and analysis in appropriate areas of environmental concern, such as biology, visual resources, soils, water and air resources and quality, threatened and endangered species and other wildlife and vegetation, cultural and historic resources and social and economic analyses.
  2. Demonstrated ability to understand and perform environmental analyses through expertise and experience.
  3. Ability to produce thorough, concise, readable and informative documents.
  4. Evidence of a good working knowledge of NEPA, CEQA, and other applicable Federal, State and local laws, regulations and administrative requirements.
  5. Demonstrated experience and ability to prepare and complete environmental documents, including draft and final EISs/EIRs, on similar or related projects within a reasonable established time schedule.
- B. Prospective contractors will be asked to submit expressions of interest in preparing the EIS/EIR. BLM, the County, and (the Project Proponent) shall identify the contractors who potentially meet the evaluation criteria from the list of those prospective contractors expressing interest in preparing the EIS/EIR.
- C. BLM, and the County in consultation with (Project Proponent), shall evaluate the qualifications of the prospective EIS/EIR contractors based on the evaluation criteria. BLM and the County shall have mutual responsibility for the final selection of the consultant. The contractor shall not be involved in preparing the engineering plans and construction designs. The contractor shall not have any financial or economic interest in the planning, design, construction, or operation of the proposed project. Prior to the execution of the contract(s) between (Project Proponent), and the contractor shall execute a Statement of Financial Interest (SOFI), prepared by BLM in accordance with 40 CFR 1506.5(c), specifying that the contractor has no financial or other interest in the outcome of the project.
- D. (Project Proponent) shall prepare and execute a contract(s) with the approved contractor for preparation of an EIS/EIR which is consistent with the MOU and is agreeable to BLM and the County. All costs incurred pursuant to the contract shall be the sole responsibility of (Project Proponent).

- E. The contract shall provide that the contractor agrees to hold harmless and indemnify BLM and the County with respect to any and all claims, demands, cause(s) of action, and liabilities which may arise from the contractor's performance, purchases or services utilized in the preparation of the EIS/EIR.
- F. The contract shall provide that the contractor shall cooperate in defense of any suit involving the legality or adequacy of BLM's or the County's compliance with NEPA or CEQA with regard to this EIS/EIR.
- G. (Project Proponent) shall require the full cooperation of the contractor with respect to participation in public meetings required by BLM and the County to foster public familiarity and participation with respect to the NEPA/CEQA process.
- H. If, for any reason, a change in the contractor or subcontractors becomes necessary, the BLM and the County will engage in the same selection procedure provided above, and apply the same standards to the selection of such subsequent contractor or subcontractors.

#### IV. GENERAL PROVISIONS

- A. The Parties shall make every effort to comply with the time schedule to be established during Preparation Plan development as identified in Section V.C.
- B. Subject to the confidentiality requirements in paragraph V.Q., in all instances involving questions as to the content or relevance of any material (including all issues, data, analyses, conclusions and wording) in the EIS/EIR, BLM shall make the final determination on the inclusion, deletion or revision of the material, and shall have the ultimate responsibility of ensuring compliance with the requirements of NEPA. The County shall make the final determination with regard to compliance with CEQA.
- C. (Project Proponent) agrees to hold harmless and indemnify the BLM, and the County its officers, agents, and employees, with respect to any and all judgments or settlements arising from claims, demands or causes of action in connection with any failure by (Project Proponent) to pay for the employment of the contractor or which may arise from the termination of performance of the Consulting Contracts or from any other failure by (Project Proponent) to pay the contractor for their services or purchases of materials utilized for the development and preparation of the EIS/EIR, or from termination of this MOU. This indemnification by (Project Proponent) does not extend to suits by third parties (other than the contractor against the BLM or the County involving the legality or adequacy of compliance with NEPA, or CEQA. In addition, (Project Proponent) agrees to hold harmless a indemnify BLM (etc.) with respect to all judgments or settlements arising from any and all claims, demands or causes of action in connection with any portion or element of work to be performed by the (Project Proponent) or any contractor as contemplated by and, or connection with this MOU.

D. Parties agree:

1. For the purpose of coordinating the responsibilities of the parties for the preparation of an EIS on the Project, the persons listed below are the designated representatives of the parties. Actual delivery of written notice to the following representatives or such substitute representatives as the respective parties may hereinafter designate, shall constitute notice to that organization.:
  - a. (Project Proponent) designates:
  - b. BLM designates:
  - c. County designates:
2. The Representatives named above shall:
  - a. Devote such time and effort to coordinating and reviewing the contractor's and others' work contemplated by this MOU to reasonably maintain the schedule to be established in the preparation plan as identified in Section V.5.
  - b. Review all substantive phases of the preparation of the EIS/EIR.
  - c. Have their respective representatives attend necessary public meetings and meetings necessary with Federal, State, Regional and local agencies for the purpose of increasing communications and receiving comments, as the same may be necessary, desirable, or required by law, and insofar as such meetings are relevant to the development and preparation of the EIS/EIR. To the extent practicable, the parties will consolidate meetings with interested agencies and organizations in order to minimize the number of such meetings and the costs associated with such meetings.
  - d. Ensure coordination of effort and exchange of data and information.

V. PROCEDURES

- A. BLM shall prepare environmental assessment to document the need to prepare an EIS/EIR.
- B. BLM and the County shall jointly designate any other lead or cooperating agencies.
- C. BLM shall prepare and publish a Notice of Intent (NOI) in the Federal Register as soon as practicable after completion of the EA.
- D. The County shall prepare and issue a Notice of Preparation (NOP).
- E. The contractor shall submit to BLM and the County for approval a detailed Preparation Plan to guide the preparation of the EIS/EIR and define the organization, scheduling and content of the EIS/EIR. The Preparation Plan will be prepared in accordance with BLM NEPA Handbook H-1790-1 (Chapter V. Section B).

- F. The contractor shall prepare an initial Scoping Document that details the plan to obtain and fully consider public input for identifying issues, concerns, and opportunities relating to the Project. The results of this scoping process will determine the significant issues and concerns relevant to the project as well as reasonable alternatives and potential impacts to address, will help establish the level of detail needed for baseline studies for completion of the EIS/EIR and will be detailed in a final Scoping Document.
- G. The contractor shall prepare a detailed Study Plan which includes a description of the Baseline Data Collection Program. This description will describe the scope of the intended baseline study needs for each environmental category pertinent to preparing the EIS/EIR. The baseline data collection needs for each environmental category will identify the specific types of data to be collected and the methodologies to be followed during data collection activities.
- H. Once approved by BLM, and the County and concurred with the (Project Proponent), the Preparation Plan, Scoping Document and Study Plan shall establish the scope of work required in the acquisition of environmental data and the development and preparation of the EIS/EIR.
- I. The approved Preparation Plan, Scoping Document, and Study Plan may be modified at the request of either BLM or the County, subject to concurrence by the other party. BLM and the County shall inform (Project Proponent) in writing of any such changes.
- J. The contractor will be responsible for conducting scoping meetings with the public and other agencies at the beginning of the process. These meetings will be held to determine the areas of public and agency concerns pertaining to the proposed project, and to guide the parties in scoping the EIS/EIR, BLM, and the County in consultation with (Project Proponent), shall determine the final scope of the EIS/EIR.
- K. Subject to paragraph U of this section, the contractor shall have primary responsibility for writing or rewriting all sections, parts, or chapters of the EIS/EIR consistent with the overall time schedule developed in the Preparation Plan.
- L. Generally, joint meetings of the parties shall be held to coordinate EIS/EIR preparation. BLM staff or the County staff may at times work directly with the contractor without the participation of the other party, but the other party shall be informed of such meetings and be given the opportunity to participate. All significant meetings or conversations will be summarized in writing if mutually agreed upon, for the benefit of all parties.
- M. Contact or communication between (Project Proponent) and the contractor shall be the minimum necessary to carry out the purpose and objectives of this MOU. Participation of (Project Proponent) in any private meetings, discussion, or working sessions shall be at the discretion of BLM and the County.
- N. BLM and the County shall monitor the work of the contractor to ensure NEPA and CEQA requirements are satisfied. The contractor will report to BLM, the County and (Project Proponent) on the progress of the work, problems encountered, recommendations for modifications to the Scoping Document, Study Plan, and Preparation Plan and suggested changes in methodology or schedules for completion of the EIS/EIR on a regular basis. Working papers or documents shall be transmitted simultaneously to BLM, the County and (Project Proponent) for review. BLM and the County will determine the need for review by concerned governmental agencies, or other interested parties, and solicit their comments as appropriate.



- O. The contractor shall produce a preliminary draft EIS/EIR for review by BLM and the County. The preliminary draft shall include all text, maps, appendices, tables, charts, and other materials that will be incorporated in the Draft EIS/EIR. As determined by BLM and the County, a reasonable number of copies shall be provided by the contractor to each party to meet internal review needs. Concurrently, additional copies shall be provided to (Project Proponent).
- P. BLM and the County shall review the preliminary draft EIS/EIR and provide comments to the contractor in writing. Efforts shall be made to provide comments within two weeks of receipt of the completed preliminary draft. BLM and the County may request a meeting with contractor and (Project Proponent) to discuss comments and necessary revisions of the preliminary Draft EIS/EIR acceptable BLM and the County. BLM and the County may request revision of the preliminary draft with further agency review if comments are substantial. Additional review may be required.
- Q. On written direction of BLM and the County, the contractor shall prepare and submit a Draft EIS/EIR for approval by the BLM State Director and the authorized County Official before printing and distribution to the public.
- R. The printing and mailing of the Draft EIS/EIR shall be the responsibility of the contractor. BLM and the County will provide a mailing list to the contractor for distributing the EIS to the public and to other Federal, State and local agencies as required by law. BLM will file the Draft EIS/EIR with the Environmental Protection Agency (EPA) and publish a Notice of Availability of the document in the Federal Register.
- S. BLM, the County and the contractor shall jointly schedule and conduct public meetings to receive comments on the Draft EIS/EIR during the public review period. BLM shall receive and log written comments submitted on the Draft EIS/EIR during the public review period. Copies of the comments will be submitted to the contractor to prepare preliminary responses. BLM and the County shall review the responses for accuracy and identify any necessary revisions before they are incorporated into the Final EIS/EIR. The Final EIS/EIR will be prepared and reviewed in the same manner as the Draft EIS/EIR.
- T. BLM and the County shall have final authority to determine the final text of the Final EIS/EIR. Upon acceptance and approval of the Final EIS/EIR, BLM shall authorize the release of the Final EIS/EIR to the public and to other Federal, State and local agencies. The contractor shall be responsible for printing and mailing the Final EIS/EIR, and BLM and the County shall be responsible for keeping the mailing list current. BLM will file the Final EIS/EIR with EPA and publish a Notice of Availability in the Federal Register.
- U. BLM and the County reserves the right to prepare, at its option and independent of the contractor, selected sections of the Draft and/or Final EIS/EIR. As appropriate, BLM will provide such prepared material in a time and manner consistent with the agreed upon schedule established during the scoping period to ensure its integration into the Final EIS/EIR.
- V. (Project Proponent) and the contractor will, upon request, provide BLM and the County all procedures and underlying data used in developing submitted sections of the Draft and/or Final EIS/EIR including, but not limited to, final reports, subcontractor reports, and interviews with concerned private and public parties, whether or not such information may be contained in the working papers or the Draft and/or Final EIS/EIR. BLM and the County shall maintain the confidentiality of all information, documents or materials which (Project Proponent) or the contractor designate as confidential in accordance with Federal laws, regulations and policies.

- W. BLM and the County will notify (Project Proponent), and the contractor if appropriate, of any pertinent meetings that are scheduled. BLM and the County reserves the right to consult directly, without notice or report (Project Proponent), with other Federal, State, and local officials during the preparation of the EIS/EIR to ensure objectivity and compliance with NEPA and CEQA. BLM and the County will immediately notify (Project Proponent) if matters discussed at any such consultation will require significant changes in Plan of Operations that (Project Proponent) has filed with the BLM or the County, or require (Project Proponent) to incur significant additional costs pursuant to this MOU or the Consulting Contract.
- X. With respect to all analyses, including review, drafts and final copies of the EIS/EIR (Project Proponent) and the contractor shall be responsible for stenographic, clerical, graphics, layout, printing and like costs. (Project Proponent) shall be solely responsible for the costs of preparing and providing to BLM and the County, sufficient copies of the Draft and Final EIS/EIR and modifications as well as a copy of supporting technical documents prepared in conjunction with the Draft and/or Final EIS/EIR by the contractor.
- Y. For the duration of the Project (Project Proponent) and the contractor will not enter into any other contracts or agreement resulting in the contractor's provision of services to (Project Proponent) related to the Project.
- Z. Any and all media release, public mail-outs, or formal/public discussions shall be made with the approval and at the direction of BLM and County.

#### VI. TERMINATION

- A. Any party to this MOU may terminate the same upon 30 days written notice to the other party. During the 30 day period, the parties will actively attempt to resolve any disagreement.
- B. In the event of termination of the MOU and if the preparation of an EIS/EIR is still required, it is agreed as follows:
1. BLM, the County and (Project Proponent) shall have access to all documentation, reports, analyses, and data developed by the contractor, but (Project Proponent) shall own and possess the same.
  2. Liability to the contractor for termination shall be in accordance with Section IV.C.

#### VII. MODIFICATION

This MOU may be modified by the parties hereto by mutually agreed upon written amendment.

#### VIII. MISCELLANEOUS

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit arising from it. However, this clause does not apply to the agreement to the extent that it is made with a corporation for the corporation's general benefit.



IX. Assignment of this Memorandum of Understanding may be made by (Project Proponent) only with consent of the BLM and the County.

This MOU will be effective as of the last date signed below:

By \_\_\_\_\_

\_\_\_\_\_, Inc.

Date: \_\_\_\_\_

By \_\_\_\_\_

District Manager, Bureau of Land Management

Date: \_\_\_\_\_

By \_\_\_\_\_

County of \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix 15**

**Lands and Rights-of-Way Checklist**



## Lands and Right of Way Technical Information Checklist

The items on this list, along with any other pertinent factors, should be considered when analyzing all lands and right of way actions. Any factors which are present on the land or bear on the decision should be documented in the decision document. Consideration and documentation of the items listed below is in addition to the guidance provided in Handbook H-1790-1 and other requirements.

Acquisition actions require different considerations than use authorizations and disposals. Use authorizations require adherence to specific legal and regulatory requirements. The specific guidance for each action should always be reviewed, and all pertinent factors documented in the decision document.

Consider and document if affected:

1. Ownership and administrative jurisdiction of the subject land.
2. Ownership and administration of adjoining lands.
3. Physical and legal access requirements of the action regardless of ownership.
4. Presence of mineral leases, sales, and locations. Mineral potential or character for disposal actions.
5. Presence and compatibility of other authorizations and encumbrances (e.g. withdrawals, rights of way, ACECs, WSAs, grazing allotments, conservation easements, classifications, public land orders, etc.).
6. Legal ability of the proponent to hold the authorization or interest sought, or in acquisitions, to convey the interest to be transferred to the United States.
7. Financial and technical ability and past performance record of the proponent relevant to the proposed action.
8. Standard operating procedures appropriate to the activity.
9. Statutes, regulations, and policy under which the activity would be authorized and administered.
10. Adequacy of maps and surveys; adequacy of detail of mapping for the situation (e.g. a temporary permit in remote, unsurveyed lands may not require the level of detail needed for easement acquisition within an area of developed small parcels).
11. Adequacy, readability, realism, and enforceability of the plan of development.
12. Needs for bonding.
13. Appropriate method of valuation.
14. Appropriate cost recovery.
15. Type, term, and conditions of authorization or disposal.
16. For acquisitions, the purpose of the acquisition and interest to be acquired.

## Recommended Decision Document Format for Lands and R/W Actions

1. Name of action/project, Casefile Number, EA Number.
2. Specific description of the decision and action authorized.
3. Citation of statute/regulation authorizing the action.
4. Legal description of the lands involved, including acreage, city, county, and state jurisdictions involved.
5. Basis, schedule, formulae, or rationale for valuation determination.
6. Term (length) of authorization.
7. Citation of relevant withdrawals, executive, or public land orders.
8. Detail of any segregative or classifying effect.
9. List, or inclusion by reference of a list of all stipulations, including mitigation, standard procedures, performance requirements, and enforceable design features of the plan of development.
10. Monitoring plan.

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