

January 4, 2011

Iain Fisher, CPUC
Greg Thomsen, BLM
c/o Dudek
605 Third Street
Encinitas, CA 92024

Re: DOI-BLM-CA-D070-2010-0027-EIS (ECO Sub)
DOI-BLM-CA-D070-2008-0040-EIS (Tule Wind)
Comments on Joint DEIR/DEIS dated December 24, 2010

Dear Messrs. Fisher and Thomsen:

We represent the San Diego Rural Fire Protection District ("District") in its review of the Joint DEIR/DEIS listed above (the "DEIR/DEIS"). The District appreciates the opportunity to comment upon the DEIR/DEIS. All of the comments below refer to Section D.15 Fire and Fuels Management of the DEIR/DEIS.

I. DEIR/DEIS Fails to Comply with CEQA

The DEIR/DEIS fails to comply with the California Environmental Quality Act ("CEQA"). The four proposed mitigation measures with respect to Fire and Fuels Management constitute improper deferral of mitigation. There are no legal grounds to defer the measures. The mitigation measures fail to adequately address impacts as required by law. The DEIR/DEIS fails to inform the public about impacts of the proposed project on public health and safety services and deprives the public of its right to know and comment on mitigation measures.

A. Mitigation Measures MMFF-1 and MMFF-2

MMFF-1 and MMFF-2 require the submission of draft Construction Fire Prevention/Protection Plans ("Protection Plans") to the fire agencies, including the District, for comment a minimum of 90 days prior to the start of construction. There is no reason to defer these mitigation measures. The likelihood of a failure to comply with the measures increases as the planned date for construction approaches. In addition, there is no enforcement mechanism in either MMFF-1 or MMFF-2. Nowhere does it state that the project proponent shall not commence construction until all responsible fire agencies, including the District, are satisfied with and have approved the Protection Plans. This is a clear violation of CEQA and presents a fire protection safety hazard to the local community as well as to all of the responsible fire agencies. Without the Protection Plans, the

District cannot determine what resources will be necessary to appropriately respond to a project fire or other emergency. Ninety days to review the Protection Plans provides an inadequate amount of time for the fire agencies to prepare for or gather necessary resources to provide an appropriate and timely response to a fire or other emergency. The District's duties include protecting the public as well as the proposed project and these mitigation measures fail to meet even minimal fire protection standards.

B. Mitigation Measure MMFF-3

MMFF-3 completely fails to comply with CEQA. There is no time frame for compliance. There are no grounds to legally defer compliance with the measure. To date, the applicant has not submitted to the District a draft copy of a Protection Plan for review nor has there been any coordination effort on the part of the applicant. The District agrees that such a plan is essential for the project. There is no enforcement mechanism for the project's failure to comply with the mitigation measure. The measure is also faulty in that it provides for the inclusion of certain items in the proposed agreement only as agreed upon by the District, the San Diego County Fire Authority, and the applicant. Therefore, if the applicant does not agree to include an item required by either the District or the Fire Authority, the item will not be included in the agreement. That renders the proposed agreement and the mitigation measure meaningless. At a minimum, the mitigation measure should include a statement that the agreement will include those items deemed appropriate and necessary by the District or Fire Authority.

C. Mitigation Measures MMFF-4

MMFF-4 is misleading. A Protection Plan incorporating the listed features has not been submitted to the District. There is no enforcement mechanism for failure to comply. It is an unenforceable mitigation measure. The District has attempted to work with the project proponents for many months to complete a Protection Plan for the project. The project proponents have failed to cooperate or respond to the District. This mitigation measure does not provide any incentive for the applicant to comply at any time and there is no method for enforcing the measure. In addition, it should be made clear that the Protection Plan shall include those items that the District deems appropriate and necessary.

II. DEIR/DEIS Fails to Comply with NEPA

The District objects to the DEIR/DEIS on the grounds that it is inadequate and fails to meet the goals of the National Environmental Policy Act ("NEPA"), as follows:

A. The DEIR/DEIS fails to make clear that there is incomplete information available with respect to the proposed mitigation for the significant adverse impact of the major potential for wildfire ignition. Without such information, a reader cannot make an intelligent decision on the risk of project implementation nor assess the environmental impact of proposed agency decisions on the project.

B. The BLM must supplement the DEIR/DEIS with critical information regarding the contents of: a) a revised Fire Protection Plan; b) a final, binding agreement for the provision of fire protection services for the project; and c) a Prevention Plan. These items are time-sensitive and must

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be published prior to certification of the DEIR/DEIS in order to provide readers with adequate information to evaluate the proposed methods to address the most fundamental firefighting needs of the project. Despite the fact that a Prevention Plan will be necessary prior to the commencement of any project construction, a reader must have adequate information available to assess the proposed process to mitigate for the risks inherent in the construction phase of the project. The applicant's failure to respond to the District in a timely manner suggests that it will also fail to provide adequate time to allow for the consideration and involvement of all appropriate agencies in adequately addressing construction fire risks and hazards.

III. Additional Comment

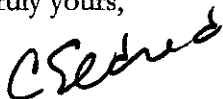
DEIR Page D-15-19: Please clarify the paragraph that refers to fire station locations and staffing as follows:

The Jacumba area is serviced by Station 43 of the San Diego Rural Fire Protection District (staff consists of volunteer firefighters). The Boulevard area is also serviced by Boulevard Fire and Rescue Department, a volunteer fire station, which is located at 39223 Highway 94 in Boulevard.

IV. Conclusion

The sections of the DEIR/DEIS that address fire protection services must be supplemented and recirculated to correct the inadequacies of the current document and allow for readers' meaningful analysis. The current draft precludes meaningful analysis in violation of CEQA and NEPA.

Very truly yours,



Cynthia L. Eldred, Esq.

THE LAW OFFICE OF CYNTHIA L. ELDRED

cc: (via electronic mail only)

San Diego Rural Fire Protection District

Patrick P. Brown, Project Planner, County of San Diego