

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEEDLES FIELD OFFICE**

FINDING OF NO SIGNIFICANT IMPACT

**SHEEP HOLE MOUNTAINS
S.D. BIG GAME ARTIFICIAL WATER SOURCE
CA-690-EA05-25**

Proposed Action:

The action consists of the California Department of Fish and Game (CDFG) proposal to construct, operate, and maintain an artificial water source in the Sheephole Valley Wilderness, as described in the corresponding Environmental Assessment (CA-690-EA05-25).

Finding of No Significant Impact:

The proposed action, as analyzed in the Environmental Assessment CA-690-05-25, is not a major federal action, as defined in Title 40 Code of Federal Regulations (CFR) 1508.18, and would have no significant impacts on the human environment; therefore preparation of an Environmental Impact Statement (EIS) pursuant to Title 40 CFR 1508.13 is not required.

Rationale for Finding of No Significant Impact:

The primary purpose for conducting an environmental assessment is to determine whether or not a proposed action would have a significant impact on the human environment and therefore would require the preparation of an EIS. As defined in 40 CFR 1508.13, the Finding of No Significant Impact (FONSI) is a document that briefly presents the reasons why an action would not have significant effect on the human environment. The regulations further define the term “significantly” in 40 CFR 1508.27 and require that the context and intensity of impacts be considered in analyzing significance. The following provides an analysis of the significance of impacts of the proposed water developments in terms of context and intensity as defined in the regulations.

“a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend

upon the effects in the locale rather than in the world as a whole. Both short-term and long-term effects are relevant". (40 CFR 1508.27(a))

Because the proposed action is site-specific, the context for evaluating the significance of the effects is primarily the immediate locale. The proposed S.D. water development would be located on the west side of the Sheep Hole Mountains in a granitic rock matrix and sand wash. Most of the analysis focuses on the effects of the proposed actions in the immediate vicinity of the water development and along the access routes. Some effects are considered in the context of the range of the bighorn sheep and some are considered in the context of the Sheephole Valley Wilderness. Both short term and long term effects are considered in the analysis. Based on site-specific and regional impacts identified in the EA, it has been determined that, in terms of context, the effects of the proposed action are not significant either in the immediate vicinity of the proposed project nor in the broader region of the Sheephole Valley Wilderness or across the range of the bighorn sheep.

"(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:" (40 CFR 1508.27(b))

"(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial." (40 CFR 1508.27(b)(1))

Impacts of the proposed action are anticipated to be beneficial to bighorn sheep and both beneficial and adverse to wilderness resources. The benefits to the bighorn sheep within the Sheep Hole Mountains population could be considerable in terms of increased distribution of sheep and their dispersal within appropriate habitat, enhance the stability of the Sheephole deme and the South Mojave metapopulation, and sustain viable population demographic parameters. The benefits to wilderness relate to maintaining the population of a species--in this case the bighorn sheep--that is considered a special feature of wilderness. The beneficial aspect of increasing the population of a species that is considered a special feature of wilderness is anticipated to be greater than the temporary adverse effects of construction activity and the permanent nature of the artificial water source.

"(2) The degree to which the proposed action affects public health or safety." (40 CFR 1508.27(b)(2))

As indicated in the EA, there are some health and safety concerns related to gaining access to the site and constructing the facility in a remote area using heavy equipment. Measures incorporated in the site specific health and safety plan for accessing the site and working in remote areas with heavy equipment are appended to the EA and would be required for this project. By incorporating these health and safety measures, it has

been determined that the degree to which the proposed action affects public health or safety has been minimized and such effects are not significant.

“(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.” (40 CFR 1508.27(b)(3))

The proposed action is located within the Sheephole Valley Wilderness, an ecologically critical area. The EA identifies the impacts of construction and operation of this artificial water source on wilderness values. The construction activity would have a minimal short term impact on naturalness and opportunities for solitude in the immediate vicinity of the site. Following construction, due to the design of the water development, the site will be relatively low profile and over time its visibility would be reduced.

Maintenance requiring the use of motorized vehicles would also affect naturalness and opportunities for solitude; however, inspection and minor repairs would be accomplished on foot. The anticipated results would leave the wilderness such that it “generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable;” (Wilderness Act of 1964).

The BLM has been determined that there will be no significant adverse impacts to these wilderness values as a result of the proposed action. Historic and cultural resources are addressed under (8) below.

“(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.” (40 CFR 1508.27(b)(4))

Concerns expressed in public comments received on the EA focus on the installation of a new artificial water source in wilderness, the reduction of wilderness values through use of motorized vehicles and equipment, and interference with natural processes to augment a big game species.

These concerns stem from interpreting provisions of Section 103 in the California Desert Protection Act:

(e) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction of the State of California with respect to wildlife and fish on the public lands located in that State.

(f) FISH AND WILDLIFE MANAGEMENT.— Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.

Comments assert that these provisions do not allow for the construction of new facilities. While controversial, the proposed action conforms to provisions of the CDPA. The construction of the proposed facility enables the CDFG to “maintain or restore” wildlife populations. The controversy regarding the interpretation of Sections 103(e) and (f) cannot be resolved through the preparation of an Environmental Impact Statement.

“(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.” (40 CFR 1508.27(b)(5))

The effects of the proposed action on the various resource values are relatively straightforward and predictable. Accordingly, the extent and degree of uncertainty regarding impacts or unique or unknown risks is not sufficient to warrant the preparation of an EIS.

“(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration” (40 CFR 1508.27(b)(6))

This action would not establish a precedent in that numerous artificial waters exist in wilderness areas in the California desert. Permanent artificial water sources have been used as a management tool within the mountain ranges of the desert, prior to wilderness designation. The existence of artificial waters did not prevent the designation of wilderness and this proposal is for an addition to that system rather than the initiation of such a system in wilderness.

The authority to add to this system of water sources is derived from the Wilderness Act Section 4(c) “...except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act...” and longstanding regulations (43 CFR 6303.1) “As necessary to meet minimum requirements for the administration of the wilderness area, BLM may: (a) Use, build, or install temporary roads, motor vehicles, motorized equipment, mechanical transport, structures or installations, and land aircraft, in designated wilderness”.

The California Desert Protection Act affirms and extends this authority in Section 103(f) “Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.”

“(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” (40 CFR 1508.27(b)(7))

Based on current information, the assessed resources, ecosystems and human communities of concern addressed in the EA cumulative impact section do not approach conditions where additional stresses associated with the proposed action and, past, present and future foreseeable actions will have consequential cumulative effects.

“(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources” (40 CFR 1508.27(b)(8))

Historic resources occurring in proximity to the proposed action were determined not to be eligible for the National Register of Historic Places. No loss or destruction of significant scientific, cultural or historical resources would result as a consequence of undertaking the proposed action.

“(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973” (40 CFR 1508.27(b)(9))

BLM consulted with the U.S. Fish and Wildlife Service (Service) on the effects of the proposed action on the federally threatened desert tortoise; the project site is not within critical habitat. BLM requested concurrence with its determination that the proposed action is within the scope of the August 22, 1997 non-jeopardy programmatic *Biological Opinion (BO) for Small Projects Affecting Desert Tortoise Habitat in Imperial, Inyo, Kern, Los Angeles, Riverside, and San Bernardino Counties, California (1-8-97-F-17)*. The Service concurred with BLM’s determination.

The habitat is largely unsuitable to the desert tortoise, known densities of the species in this area are quite low, and terms and conditions of the BO will be made binding stipulations upon CDFG for installation and maintenance of the proposed guzzler. Therefore, the affect of this project upon the desert tortoise does not rise to the level of significance.

“(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment” (40 CFR 1508.27(b)(10))

The proposed action is consistent with all Federal, State and local laws. The BLM has consulted with the United State Army Corps of Engineers and the Colorado River Basin Water Quality Control Board; neither a Section 401 or Section 404 permit were required.

See Wilderness related legislative conformance addressed in numbers (3), (4), and (6) above.