

Desert Trails Coalition

a 501(c)(3) non-profit public benefit corporation

John R. Kalish
Field Manager, Bureau of Land Management
1201 Bird Center Drive
Palm Springs, CA 92262

September 10, 2010

Re: CACA 42965
2200
(CA-066.62)

Dear Mr. Kalish:

The Desert Trails Coalition is concerned about the potential effects of the proposed exchange on public access to the Garstin, Araby, Wildhorse, Theilman, Shannon, Berns and goat trails, as well as to a long segment of the Skyline Trail. After studying the Environmental Assessment (EA), we have the impression that the report does not fully address the potential effects of the exchange and that the land the public receives in the deal has significantly less recreational and ecological value. The BLM's report says that the proposed management agreement with the Tribe would protect public access to the land subject to restrictions that the Tribe may place on that access, but it is unclear what the restrictions may be and whether the agreement would be enforceable.

The analysis that follows sets forth our specific concerns that we believe the BLM should address before reaching a conclusion on the potential effects of the proposed exchange. The page numbers and headings correspond to those in the Environmental Assessment.

Page 4, Need for the Proposed Action:

The EA asserts that reducing the extent of "checkerboard" land ownership will facilitate the effective and efficient management of the monument, but does not explain how it facilitates it. The EA should explain what difficulties the current ownership causes that the exchange would ease. In addition, in the case of Section 36, Township 4, the exchange does not reduce the extent of checkerboard ownership. That section is contiguous along part of its boundary with Bureau of Land Management (BLM) land in Section 6 of Township 5 and if exchanged would only partly be contiguous with land owned by the Agua Caliente Band of Cahuilla Indians (Tribe.) That land is in a residential neighborhood that is not part of Indian Canyons. In addition, Section 36 is contiguous with the City of Palm Springs and public roads and that appears to make access for the sake of BLM management easy.

The EA should state more clearly what the BLM gains or loses through the proposed exchange parcel by parcel. Section 36 of Township 4 deserves special attention in this regard considering its current significant importance to people hiking, biking and riding horses and its contiguity with the City of Palm Springs.

The EA asserts that the proposed exchange will support the resource preservation goals of the Indian Canyons Master Plan of the Tribe and the effective implementation of its Tribal Multiple Species Habitat Conservation Plan, which is currently in draft form. The EA does not explain how it supports these items. The EA should state more clearly what the Tribe gains or loses through the proposed exchange, especially with respect to Section 36, Township 4.

The draft of the Tribal Multiple Species Habitat Conservation Plan figures importantly in the EA, but the EA does not discuss when the draft will be approved and whether it can be changed before or after approved in a way that would alter the assessment. It should address this.

Page 5:

Here the EA states: "The Santa Rosa and San Jacinto Mountains National Monument was established by an Act of Congress on October 24, 2000 (Public Law 106-351). In accordance with section 2(b) of the Act, its purpose is to "preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein."

Recreation is one of the stated purposes of why the monument was established, and yet in this proposed exchange the BLM is considering giving up land, Sections 36 and 16, that has irreplaceable recreation value. None of the land the BLM would receive in the proposed transaction replaces that value. The proposed management agreement provides for continued public access, but allows the Tribe to place restrictions on access, allows for termination of the agreement and provides no remedies for noncompliance. The proposed exchange and management agreement do not secure the public's "opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein." It diminishes it. The EA describes no benefits to the public that would justify such a loss of public benefit.

Page 6, Item (6):

The proposed exchange may result in the divestment of public domain lands in a manner that eliminates a significant public benefit. The EA does not show that it does not eliminate a significant public benefit, especially with respect to Section 36, Township 4. The EA should examine more closely, in great detail, the qualitative effects on the

public interest of the proposed exchange considering each parcel involved. Among those qualitative effects are the potential loss of free public access enjoyed now by people hiking, biking and horseback riding and the loss of public control over land with such important recreational and ecological values that is contiguous with the City of Palm Springs. In addition, the proposed exchange of Section 16, Township 4, contains a segment of the Skyline Trail which has gained national iconic importance to hikers because it is part of the Cactus to Clouds route. Any loss of access to these lands eliminates a significant public benefit.

The ability and responsibility of the general public to protect wild lands on the perimeter of a city, especially when used by the public for recreational purposes, will be significantly compromised by a lack of public ownership. Preservation of land requires the ongoing political support of the public. Lack of ownership by the public compromises the ability of the public to exercise that political right and responsibility. In this sense, the loss of ownership of such land represents elimination of a significant public benefit. The proposed management agreement does not mitigate this loss.

Page 7, Proposed Action:

The appraisal should reflect the unique location of Section 36, Township 4, and its significant recreational and ecological values considering its contiguity with the City of Palm Springs and the access it allows to public lands. It is not sufficient to apply the kind of appraisal techniques that one might ordinarily apply to undeveloped acreage. It is utterly unique in its location and importance to local residents, tourists and conservation.

Section 36, Township 4, has the highest recreation value of all the land in the proposed exchange because of the value of the trails it contains and their closeness to the City of Palm Springs.

In addition it seems unlikely that the value of the 1470 acres the BLM would receive is equal to the value of the 5,799 acres it would give up, especially considering the value of the trails they contain to the public and the location of Section 36, Township 4.

The EA states: “Neither the BLM nor the Tribe proposes development or other land disturbing activities on the exchange parcels at this time. The phrase “at this time” means that development could occur in the future. The development of any of the land in the proposed exchange would eliminate a significant public benefit. The mere fact that no development is currently proposed is irrelevant given the ongoing potential for development.

Pages 24, 25, 34-36 Recreation Resources:

The EA compares the number of miles of trails, but does not evaluate the qualitative factors that determine a trail's importance to the public. A trail is not a commodity; its value is not its length only. Aesthetic factors, access, variety, steepness, condition, ecology and many other characteristics determine a trail's importance to the public. The EA needs to evaluate the effects of the proposed exchange on these characteristics. It seems unlikely that a complete analysis would support a conclusion that the potential effect of the exchange of some of the lands identified in the proposed exchange would not be very significant.

The land involved in Section 36, Township 4, contains and connects to a network of trails that are valuable to residents of Coachella Valley and to visitors. They are valuable for recreational and ecological reasons. The land is beautiful and affords grand views of the surrounding mountains and adjacent cities. It provides easy free access twenty four hours a day, for people hiking, bicycling and riding horses, subject only to ecological limitations that have public support through its authorized representatives. It is public land for which the public is responsible and which the public may enjoy. To exchange this land for land less accessible can only be justified if equivalent land is received or a management agreement preserves all the rights and responsibilities now held by the public. The land that the BLM would receive in this proposed transaction is itself valuable in these respects, but not equivalent because it contains less valuable trails and is less accessible. Looking at a map, it is hard to imagine what land could replace its unique characteristics. The proposed management agreement mentions limitations on public access and does not provide full assurance that the public rights and responsibilities would be preserved. When informed about the proposed exchange, many people immediately ask what will happen to access and will a fee for use be charged. Neither the EA nor the management agreement addresses this concern.

Other qualitative considerations include:

As mentioned above, the Skyline Trail, which crosses Section 16, Township 4, is part of an iconic Cactus to Clouds route that has national importance. It has that iconic status because it involves so much elevation gain and takes one from the desert floor through several life zones to the top of Mount San Jacinto.

Section 36, Township 4, contains several trails that are important to people who ride bicycles. The Thielman Trail is a popular access route to the Wildhorse Trail, the goat trails, and to other trails south of Section 36. The Thielman Trail is also currently the only authorized access to these trails from the west. Loss of this access represents the elimination of a significant public benefit. Similarly, the portion of the Wildhorse Trail contained in Section 36 also provides important access to other trails south of Section 36.

Loss of the right to hike cross country and on social trails, and of the right to ride a bike on the trails in Section 36, Township 4, is a significant qualitative loss. The EA does not give due consideration to this loss and the management agreement does not eliminate it.

Page 27, Elements of the Human Environment

Considering the EA's lack of attention to qualitative effects of the proposed exchange, especially with respect to Sections 36 and 16, Township 4, the conclusion that the proposed action has "minor adverse effects" on Recreation Resources is unsupported. It appears likely that the adverse effects are more than minor. In addition, for the reasons described in the paragraph below pertaining to pages 28-33 it appears that the numerous "no impact" conclusions are not supported by the EA.

Pages 28-33, Discussion of Impacts:

The EA quantifies the potential effects on the wildlife mainly by counting acres. This seems to be an insufficient basis for evaluating the effects of potential development on ecology or recreation. The EA states that 221 acres are developable on the land the BLM is giving up and on the land it is receiving. The EA implies that the land the BLM is receiving could essentially not be developed, while the land it gives up might be. The implication that the land the BLM is receiving cannot be developed may not be valid. Based on the description in the EA it appears that the BLM can develop 1% of the total Monument land. Perhaps it could develop 221 prime acres it would receive in the proposed transfer. The EA needs to clarify this point. Similarly, the EA states that the Tribe can develop a percentage of its land as it determines by the rules it establishes. The EA says that the developable acreage has not been identified. The EA needs to analyze the possibilities. Without such further analysis of the rights of the BLM and the Tribe and of the qualitative effects of potential development, the EA does not support the numerous "no impact" conclusions on page 27.

The EA does not assess the economic effects of the proposed exchange. We believe it should. The following list contains some of the factors and questions the EA should address:

1. In the proposed exchange it appears that the value of the land the BLM is giving up may be worth significantly more than it receives. The acreage that the BLM gives up is nearly four times as much as it receives and nothing in the environmental assessment appears to explain the justification for that inequality. The EA says (on page 14) that the development potential of the land involved in the proposed exchange is "extremely limited." The exchange of 9+ square miles for 2.3 square miles implies that the economic value per acre of the land given up is less than the value per acre of the land received. Otherwise, how does the BLM economically justify such an unequal exchange of land? If the land the BLM is giving up has no development value, then what is the economic value of the land to the Tribe? If the Tribe is not able to develop the land it receives and is not able to recover its management costs through access fees, then it appears that management of the land is placed in jeopardy. That is a significant impact. The Tribe

may be forced to restrict public access or eliminate it to avoid letting the land the public uses deteriorate from abuse and neglect.

2. Section 36, Township 4, which the BLM gives up borders the City of Palm Springs and its location suggests that it may be especially valuable for the sake of potential development as well as for public use. This appears to add to the inequality of the exchange, unless the land the BLM receives has economic value not identified in the EA.

3. It seems likely that the BLM's cost of managing 2.3 square miles would be much less than the cost of managing 9+ square miles, especially since part of the 9+ square miles the BLM is giving up is Sections 36 and 16 in Township 4 which are the most used sections in the proposed exchange. The EA needs to assess this cost saving for the BLM and the corresponding increase in costs that would be incurred by the Tribe. The EA needs to weigh these cost savings for the BLM against the value the public stands to lose related to the 9+ square miles the exchange would take out of public hands. The EA should state how much money the BLM would save and identify the benefits the Tribe would derive that might offset the higher costs it would incur managing the land. Would the Tribe charge for access to land that is now free to the public? Would the Tribe recover its costs through development of the land? How much might the Tribe need to charge for public access if it has no other way to recover its management costs? What are the management costs that the owner of the land can reasonably expect to incur for such items as maintenance, monitoring compliance with laws and rules, patrols, rescue, signs, ecological protection, preservation and so forth?

The EA needs to address the qualitative effects and the economic effects enumerated above because they impact the public's interests.

Pages 42-46, Management Agreement:

The language of the Management Agreement and the discussion of it on pages 34-36 of the EA provide assurance that much public access would continue after the proposed exchange. Nevertheless, the language leaves much of potential consequence to future interpretation without public involvement and the remedies that either party might have in the case of unresolved noncompliance are not stated in the agreement or in the EA. Any legal remedies may be limited and ultimately unenforceable. If an exchange occurs, a binding management agreement appears vital to limiting the potential elimination of significant public benefits, especially related to Sections 36 and 16 in Township 4. The EA needs to address this factor and the management agreement may need revision.

Page 47, Finding of No Significant Impact:

For the reasons summarized above, the EA does not sufficiently assess the environmental impacts of the proposed exchange to support the finding of “no significant impact”.

Yours truly,

Gary S. Lueders
Desert Trails Coalition
Vice-President



Chuck Nisbet, President -- Bruce Maughan, Secretary -- Sue Segal, Treasurer

Members at Large: Carole Gans; Ken Garrett; Ken Linville; Jane Udall; John Lujan

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- Ø CV Hiking Club
- Ø CV Community Trails Alliance
- Ø Desert Bicycle Club
- Ø Desert Cities Track Club
- Ø Desert Trails Hiking Club
- Ø Desert Riders
- Ø Great Outdoors Palm Springs
- Ø Sun City Hikers

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