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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST OF CA

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6 IN THE UNITED STATES DISTRICT COURT
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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10 CENTER FOR BIOLOGICAL
11 DIVERSITY, et al.,

No. C 00-00927 WHA

12 Plaintiffs,

**ORDER DENYING MOTION
TO CLARIFY OR MODIFY
CONSENT DECREE**

13 v.

14 BUREAU OF LAND MANAGEMENT,

15 Defendant.

16 and

17 DESERT VIPERS MOTORCYCLE
18 CLUB, et al.,

19 Defendant-Intervenors.
20

INTRODUCTION

21 This lawsuit to enforce the Endangered Species Act, 16 U.S.C. 1531, was settled by way
22 of a series of stipulations that collectively make up a consent decree. BLM now moves to
23 clarify — or in the alternative, to modify — the consent decree and the judgment. This order
24 DENIES BLM's motion in its entirety.

STATEMENT

25
26 This case began in March 2000, when plaintiffs filed a complaint alleging that BLM had
27 violated Section 7 of the Endangered Species Act, 16 U.S.C. 1536, by failing to consult with the
28 United States Fish and Wildlife Service (FWS) on the effects of the adoption of the California

1 Desert Conservation Area Plan, as amended, (CDCA Plan) on protected species. Several
2 recreation groups were given defendant-intervenor status in the action. Ultimately, the case
3 settled. The parties entered into a series of stipulations that made up a consent decree. An order
4 approving these stipulations and entering judgment on behalf of plaintiffs issued on March 20,
5 2001. The judgment was amended on April 20, 2001. By stipulation, the consent decree and
6 judgment were later modified on January 31, 2002, and on May 1, 2002. The Court has retained
7 jurisdiction for the purpose of enforcing the consent decree.

8 The consent decree calls for interim measures aimed at protecting listed species prior to
9 completion of the required consultations. Plaintiffs and BLM now dispute when one such
10 interim measure, emergency route closures in the West Mojave Plan area, expires under the
11 terms of the consent decree.¹

12 The consent decree set forth a deadline, June 30, 2003, by which BLM was to conduct
13 route designation in the West Mojave Plan area. Plaintiffs explain that the "purpose of route
14 designation is to establish a rational network of roads that provides for appropriate levels of
15 recreational and other access while at the same time protecting the resources, including listed
16 species, of the CDCA" (Opp. at 4).

17 According to BLM, it intended at one time to incorporate route designation as part of a
18 more comprehensive amendment to the West Mojave Plan. This amendment, known as the
19 Western Mojave Desert Resource Management Plan/Habitat Conservation Plan, is an
20 interagency plan being developed with San Bernardino County and the City of Barstow. It
21 became apparent to BLM that it would not be able to complete the interagency plan by the
22 June 30 deadline for route designation. When attempts to obtain an extension failed, BLM
23 decided to bifurcate route designation from the interagency plan and issue by June 30 an
24 independent plan amendment on route designation (Hansen Decl. ¶ 6).

25 On June 30, BLM issued a Decision Record for the route designation amendment to the
26 West Mojave Plan, along with the associated NEPA environmental assessment. The

27
28 ¹ The CDCA is divided into bioregional planning areas: Northern and Eastern Colorado (NECO);
Northern and Eastern Mojave (NEMO); Coachella Valley; Algodones (Imperial) Sand Dunes; West Colorado;
and West Mojave.

1 environmental assessment resulted in a finding of no significant impact (FONSI). The Decision
2 Record, which had the effect of amending the CDCA plan, stated that (*id.* ¶ 10): "All of the
3 interim measures regarding route designation identified in the Consent Decree in [the instant
4 action], and located in the Western Mojave Planning Area, are terminated with the signing of
5 this Decision Record." After plaintiffs' counsel informed BLM that plaintiffs did not agree with
6 this interpretation of the consent decree (*id.* ¶ 11), BLM filed the instant motion to clarify — or
7 in the alternative, to modify — the consent decree and judgment to reflect its expressed
8 understanding that the interim measures regarding route designation were no longer in effect.
9 Defendant-intervenors filed a response indicating that they join in BLM's motion. Plaintiffs,
10 however, maintain that under the terms of the consent decree, the interim measures regarding
11 route designation are to remain in effect until BLM conducts a plan amendment of a sufficient
12 scope to require, under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321,
13 preparation of an environmental impact statement (EIS).

14 ANALYSIS

15 1. BLM'S MOTION TO CLARIFY.

16 Interpretation of a consent decree is guided by the same principles used to interpret a
17 contract. *Thompson v. Enomoto*, 915 F.2d 1383, 1388 (9th Cir. 1990). In this case, California's
18 body of contract law applies. See *Gates v. Rowland*, 39 F.3d 1439, 1444 (9th Cir. 1994). The
19 analysis begins with an examination of the language of the agreement. *Thompson*, 915 F.2d at
20 1388. In addition, "where the terms of a consent decree subject to interpretation are ambiguous,
21 a court may use extrinsic aids to interpretation in addition to examining the express language of
22 the decree." *S.F. NAACP v. S.F. Unified Sch. Dist.*, 896 F.2d 412, 414 (9th Cir. 1990).

23 Here, the debate turns on the interpretation of the following provision of the consent
24 decree (Stipulation dated Mar. 28, 2002, approved by order dated May 1, 2002 (hereinafter
25 "Mar. 2002 Stipulation") at 4):

26 BLM agrees that the interim measures identified in the Consent
27 Decree which occur within the relevant planning areas, i.e.,
28 NEMO, NECO, Coachella Valley, Western Colorado, West
Mojave, and the Imperial Sand Dunes Recreation Area (Algodones
Dunes), will be extended from the dates established in the Consent

1 Decree and will not expire until the Record of Decision is signed
2 for each applicable plan amendment except as follows:

3 In particular, the parties dispute the significance of the term "Record of Decision." Plaintiffs
4 point out that although a "Decision Record" was signed when the plan amendment regarding
5 route designation issued, no "Record of Decision" has yet been signed. The distinction,
6 plaintiffs argue, is an important one. Under NEPA, federal agencies must prepare an EIS for all
7 "major federal actions significantly affecting the quality of the human environment." 42 U.S.C.
8 4332(2)(C). This process culminates with the issuance of a "Record of [D]ecision" for the
9 project. 40 C.F.R. 1505.2. Plaintiffs contend that under the terms of the consent decree, the
10 emergency route closures for the West Mojave Plan area should remain in effect until a plan
11 amendment takes place that is sufficient in scope to result in a Record of Decision, namely one
12 that will require an EIS. Only this will lead to the signing of a "Record of Decision." By
13 contrast, plaintiffs argue and BLM does not dispute, a "Decision Record" accompanies a FONSI
14 under BLM planning policy. A "Decision Record" and FONSI are based on a so-called
15 "environmental assessment," which is less exhaustive than an EIS. *See Hall v. Norton*, 266 F.3d
16 969, 972-73 (9th Cir. 2001).

17 In response, BLM argues that as used in the consent decree, "Record of Decision" is a
18 generic term for a decision document. As such, BLM asserts, it is interchangeable with
19 "Decision Record" in the context of the consent decree. It was not meant, BLM contends, as a
20 term of art.

21 Considering the full text of the consent decree, this order finds plaintiffs' interpretation
22 substantially more persuasive. The document deliberately uses the term "Record of Decision"
23 and "Decision Record" in different ways. For example, the consent decree states (Mar. 2002
24 Stipulation at 4) (emphasis added):

25 1. BLM agrees that the interim measures identified in the
26 Consent Decree which occur within the relevant planning areas,
27 i.e., NEMO, NECO, Coachella Valley, Western Colorado, West
28 Mojave, and the Imperial Sand Dunes Recreation Area (Algodones
Dunes), will be extended from the dates established in the Consent
Decree and will not expire until the Record of Decision is signed
for each applicable plan amendment, except as follows:

1 a. The interim measures set forth in the
2 Paragraph 9(D) of the All Further Relief Stipulation,
3 pertaining to mining plans of operation in the habitat of
4 threatened or endangered carbonate endemic plant species,
5 will expire upon the Decision Record for the Carbonate
6 Habitat Management Strategy that is to be prepared
7 pursuant to Paragraph 9(A) of the All Further Relief
8 Stipulation;

9 That a "Record of Decision" is associated with the preparation of an EIS is also evident from the
10 consent decree (*id.* at 9) (emphasis added): "The report would also be used in support of
11 information already provided in the NECO plan in preparing the Final Environmental Impact
12 Statement and Record of Decision." Lest the foregoing quotations leave any room for doubt, the
13 following language from the consent decree further discredits BLM's contention that "Record of
14 Decision" is no more than a generic term for any decision document (*id.* at 10): "Any interim
15 measure that BLM has agreed to take pursuant to this agreement shall not be deemed a
16 requirement of any subsequently issued biological opinion, Record of Decision, or other
17 decision record, unless, pursuant to"

18 Plaintiffs' interpretation finds further support in BLM's own representations as to when
19 the emergency route closures expire. BLM's environmental assessment for the West Mojave
20 route designation itself stated (Cummings Exh. B): "In addition, in 2001 as stipulated by court
21 order, BLM implemented route closures within [various] subregions. These closures were to
22 remain in effect until the issuance of a record of decision for the West Mojave Plan, currently
23 scheduled to be signed in February 2004." There is no suggestion that implementation of a

24 route designation amendment would bring an end to the emergency closures any sooner.
25 Similarly, during an April 15 public comment meeting on the proposed route designation, Bill
26 Haigh, the project manager of the West Mojave Plan said:

27 A second thing to keep in mind — and this is a little strange angle
28 of that settlement between BLM and the Center for Biological
Diversity. Although a decision — a network has to be adopted into
the West Mojave Plan by June 30th of this year, in this whole
central area — the five regions, Red Mountain, Fremont, Kramer,
Superior, and Newberry-Rodman — these are the areas about two
or three years ago, if you recall, an emergency route network was
put into effect. That emergency route network doesn't go away on
June 30th, but stays in place until the West Mojave record of
decision comes out.

1 (6) any other reason justifying relief from the operation of the
2 judgment.

3 Relief under FRCP 60(b)(6) is reserved for "extraordinary circumstances." *Liljeberg v. Health*
4 *Servs. Acquisition Corp.*, 486 U.S. 847, 864 (1988). While the standard under FRCP 60(b)(5) is
5 more liberal, the Supreme Court has explained that relief under that provision is appropriate
6 "when it is no longer equitable that the judgment should have prospective application, not when
7 it is no longer convenient to live with the terms of a consent decree." *Rufo v. Inmates of Suffolk*
8 *County Jail*, 502 U.S. 367, 383 (1992) (internal quotation marks omitted).

9 Invoking FRCP 60(b), BLM seeks modification of the consent decree and judgment here
10 in effect. According to BLM, the emergency route closures were implemented in order to
11 protect threatened or endangered species until FWS evaluated the effects of the CDCA Plan on
12 these species. BLM reasons that now that it implemented a route designation amendment that
13 FWS has evaluated in accordance with the ESA, the need for emergency route closures as an
14 interim protective measure no longer exists. After all, if plaintiffs take issue with the route
15 designation amendment, or BLM's compliance with NEPA or the ESA, plaintiffs may seek
16 judicial review in a separate action.

17 Despite the superficial appeal of BLM's argument, this order declines to modify the
18 consent decree. According to BLM, plaintiffs received the benefit of the bargain: route
19 designation by a date certain. This, however, is an oversimplification of plaintiffs' wants. As
20 plaintiffs explained at the hearing, in their view, it was important that the effects of new route
21 designation be considered not in isolation but alongside other changes to the West Mojave Plan.
22 The parties originally wanted the interim protective measures to remain in place, in accordance
23 with the terms of the consent decree, until the Record of Decision is signed for the more
24 comprehensive West Mojave Plan amendment. This is not unreasonable. There is always the
25 possibility, plaintiffs point out, that the route designations will be altered once again in
26 conjunction with such an amendment. To do away with interim protections now would
27 therefore be premature.
28

1 Indeed, the record shows that plaintiffs have a legitimate basis for concern. At the
2 April 15 public hearing, Mr. Haigh said, with regard to the route designation amendment:

3 [T]hat's not the only shot you have at influencing what the route
4 network is going to be like in the [W]est Mojave over the years.
5 Because — you have many more months over the next year, when
6 the West Mojave Plan comes out, to take another look at this
7 whole network, to go out in the field during the public review of
8 the West Mojave Plan to submit comments on that.

9 And, remember, the door doesn't close officially on the West
10 Mojave Plan and that final amendment on the desert plan until the
11 day the desert — until the day a federal decision is signed on the
12 West Mojave Plan. And that's not going to happen until early next
13 year.

14 So in a sense, whatever happens on June 30th, the decision is not
15 going to — there is still that West Mojave decision to revisit the
16 issue and make comments on the network.

17 A second thing to keep in mind . . . [is that the] emergency route
18 network doesn't go away on June 30th, but stays in place until the
19 West Mojave record of decision comes out.

20 This statement confirms that with respect to the West Mojave Plan, the route designation issue
21 has not definitively been laid to rest. The statement also calls into question BLM's assertion
22 that it would not be equitable "to require BLM to maintain a separate interim network of
23 closures over and above that which the agency has approved after public review and comment,
24 NEPA analysis, and consultation with the Fish and Wildlife Service" (Rep. at 7).

25 Finally, it bears mentioning that the more comprehensive West Mojave Plan amendment
26 is due to be completed early in 2004. Thus, to the extent any burden is imposed by the interim
27 route closures, if BLM remains on schedule, these closures will be in effect only for several
28 months.

 In short, BLM has failed to persuade the Court that there is anything "extraordinary"
about these circumstances or that it would be inequitable, rather than merely inconvenient, for
the terms of the consent decree to remain in effect. Accordingly, this order declines to modify
the consent decree and judgment under FRCP 60(b). BLM will have to live with the effects of
the stipulation to which it agreed.

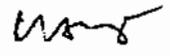
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CONCLUSION

For the foregoing reasons, BLM's motion is **DENIED** in its entirety. BLM is **ORDERED** to take immediate action to come into compliance with the consent decree.

IT IS SO ORDERED.

Dated: September 18, 2003.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court
for the
Northern District of California
September 18, 2003

* * CERTIFICATE OF SERVICE * *

Case Number:3:00-cv-00927

Center for Biological

vs

Bureau of Land Mgmt

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 18, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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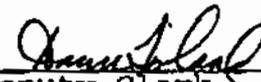
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Richard W. Wieking, Clerk

BY: 
Deputy Clerk

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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST OF CA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR BIOLOGICAL DIVERSITY, et
al.,

No. C 00-00927 WHA

Plaintiffs,

v.

ORDER RE EXCERPTS OF
TRANSCRIPTS

BUREAU OF LAND MANAGEMENT,

Defendant.

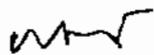
and

DESERT VIPERS MOTORCYCLE CLUB, et
al.,

Defendant-Intervenors.

The Clerk shall file this order and the appended excerpts of transcripts from two public meetings (that took place on April 15, 2003, in Ridgecrest, California, and on April 23, 2003, in Victorville, California) concerning the route designation amendment to the West Mojave Plan. These transcripts were referred to by counsel during the September 11 hearing before this Court.

Dated: September 18, 2003.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

BUREAU OF LAND MANAGEMENT PUBLIC COMMENT HEARING

ON

WESTERN MOJAVE DESERT OFF ROAD VEHICLE DESIGNATION
PROJECT

Kerr-McGee Center, Ridgecrest, California

April 15, 2003

6:00 P.M.

Reported By: Diana S. Crane, CSR No. 10030



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MENDEZ
& ASSOCIATES

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APPEARANCES:

Mr. Bill Haigh,
Project Manager, West Mojave Plan

Mr. Les Weeks,
Recreation Planner

AGENDA

Page

Opening Remarks	3
Public Comments	16
Questions at large	45

1 been to, one of these meetings, people have asked for
2 maps, actual physical maps, that they can put on a wall
3 to work with. CDs are fine if you got some way to print
4 them out and make them big and you are really adept at
5 using computers.

6 But most people like to have a nice, big visual
7 document they can work with and talk to other people
8 about. So how do we go in the next, you know -- between
9 now and your deadline on the 23rd, how do we go about
10 getting the maps in the hands of the people who want
11 them?

12 MR. HAIGH: Okay.

13 THE AUDIENCE: Those are my two questions.

14 MR. HAIGH: Sure. The first question is
15 concerning the time. For the purposes of this EA and
16 the decision that has to be made by June 30th, that
17 decision -- that date is not movable. And so we are
18 going to be locked into the review schedule we have for
19 the decision that has to be made on June 30th.

20 The second thing, though, to keep in mind is,
21 that's not the only shot you have at influencing what
22 the route network is going to be like in the west Mojave
23 over the years. Because -- you have many more months
24 over the next year, when the West Mojave Plan comes out,
25 to take another look at this whole network, to go out in

1 the field during the public review of the West Mojave
2 Plan to submit comments on that.

3 And, remember, the door doesn't close
4 officially on the West Mojave Plan and that final
5 amendment on the desert plan until the day the desert --
6 until the day a federal decision is signed on the West
7 Mojave Plan. And that's not going to happen until early
8 next year.

9 So in a sense, whatever happens on June 30th,
10 the decision is not going to -- there is still that West
11 Mojave decision to revisit the issue and make comments
12 on the network.

13 A second thing to keep in mind -- and this is a
14 little strange angle of that settlement between BLM and
15 the Center for Biological Diversity. Although a
16 decision -- a network has to be adopted into the West
17 Mojave Plan by June 30th of this year, in this whole
18 central area -- the five regions, Red Mountain, Fremont,
19 Kramer, Superior, and Newberry-Rodman -- these are the
20 areas about two or three years ago, if you recall, an
21 emergency route network was put into effect. That
22 emergency route network doesn't go away on June 30th,
23 but stays in place until the West Mojave record of
24 decision comes out.

25 So when you are talking about what changes from

1 today, what's actually going to change on the ground as
2 a result of June 30th, the real answer is, very little
3 will change. Because -- in the desert, the existing
4 route network is going to stay in place.

5 Inside of the five CDD regions, which is the
6 bulk of the rest of it, where there would be changes,
7 the interim network that was put into effect two years
8 ago, that stays in place. So the only thing on the
9 ground that June 30th is really going to change that's
10 different from today is Middle Knob and a couple of
11 areas out in Barstow.

12 Really, everything is pretty well frozen until
13 the West Mojave Plan comes out. And so in a sense, the
14 real change comes out a year from now, when West Mojave
15 is signed. And in that sense, you have all that period
16 of time to make comments, as well.

17 Right here.

18 THE AUDIENCE: What about West Rand?

19 MR. HAIGH: The proposal right now for Western
20 Rand is to take the 129-mile network that was in -- that
21 was set up ten years ago by the ACEC plan -- and that's
22 been in place, and to keep that network as it was --

23 THE AUDIENCE: It's not ACBC plan. Get it
24 right.

25 MR. HAIGH: Excuse me, Mike. You are right.

Public Meeting in Re: Extended)
30-day comment period on the)
Environmental Assessment and)
Draft Plan Amendment of the)
California Desert Conservation)
Area Plan to designate routes)
of travel within the West Mojave)
planning area.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOCATION: Best Western Green Tree Inn
14173 Green Tree Boulevard
Fairway Room
Victorville, CA 92392

DATE AND TIME: Wednesday, April 23, 2003
6:16 p.m. to 8:27 p.m.

REPORTED BY: DIANE L. MARTIN, CSR, RMR
CSR No. 8268

JOB NO.: 62288DLM

P R E S E N T

1
2
3 BILL HAIGH, Project Manager for the West Mojave Plan
4 HECTOR VILLALOBOS, BLM Field Manager, Ridgecrest
5 TIM READ, BLM Field Manager, Barstow
6 LINDA HANSEN, District Manager, California District

QUESTION FROM THE PUBLIC:

PAGE:

7	RON SCHILLER	16, 43
8	GERALD HILLYARD.....	19, 47
9	DOUG PARHAM.....	21
10	MARIE BRASHEAR.....	21, 36
11	MICHAEL CONNOR.....	27, 39, 45
12	ED WALDHEIM.....	28
13	HUGO MIETZNER.....	31
14	EDDIE PHILLIPS.....	32
15	LINDA HANSEN.....	40
16	RACHEL SCOTT.....	41
17	JOHN GINSBARGER.....	42

PUBLIC COMMENTS:

18	DR. MARK ALLEN.....	50
19	ED WALDHEIM.....	51
20	JENNY WILDER.....	55
21	ED PHILLIPS.....	59, 93
22	BILL HOWELL.....	62
23	RON SCHILLER.....	64
24	HUGO MIETZNER.....	68
25	CAROL STUBBLEFIELD.....	70
26	JENNIFER FOSTER.....	73
27	TRACY WALTER.....	74
28	GERALD HILLYARD.....	76
29	MARION ELYI.....	79
30	ROBERT MODIA.....	83
31	LEO SPALDING.....	86
32	AMY HASTON.....	87
33	JOHN GINSBARGER.....	89
34	DEAN GREENWALD.....	90

1 MR. HAIGH: As I said, we will see what
2 happens when that decision -- when that biological
3 opinion is rendered or, rather, the -- we have asked
4 for concurrence, and when they get back to us, we will
5 see what happens.

6 MR. CONNOR: What happens if they give you a
7 jeopardy opinion?

8 MR. HAIGH: We will cross that bridge when
9 we come to it.

10 Ed? Again, if you could identify yourself
11 too.

12 MR. WALDHEM: In Ridgecrest, you had
13 clarified to us what this EA really covers. Would you
14 please, for this audience, tell them what it is now,
15 not at the end of the thing. Middle Knob, the East
16 Barstow. On this EA.

17 MR. HAIGH: Okay. Again, this map over
18 here -- you can go up to it -- will be the map that
19 shows the areas that we are really focusing on. But
20 when I mentioned the revised network, the revised
21 network is in areas that we call our subregions, in
22 desert tortoise habitat that we call Fremont. And
23 that's north and east of Kramer Junction. It covers
24 Kramer, which is in the triangle between Highway 58
25 and 395 in Silver Lakes. It covers Newberry-Rodman,

1 which are public lands south of Interstate 40 and*
2 southeast of Barstow. It applies to Red Mountain,
3 which are public lands east of Highway 395, maybe 30
4 miles north of Kramer Junction, and Highway 58. It
5 applies to an area we call El Mirage subregion. Not
6 the El Mirage open area, but the El Mirage subregion,
7 which is west of Highway 395 and south of Edwards Air
8 Force Base. It applies to an area we call Coyote.
9 That is south of Ft. Irwin and north of Interstate 15
10 and northeast of Barstow.

11 The redesign network applies to an area
12 called Middle Knob, which is north of Tehachapi Pass
13 and very close to Red Rock Park. And it applies to
14 Juniper Flats, which are public lands between here and
15 the San Bernardino National Forest just to the
16 southeast of Victorville. That's the redesign area.

17 The remaining public lands, many of them up
18 in Indio County, many others beyond, out towards Las
19 Vegas, in the Afton Canyon area and the Cady -
20 Mountains, other lands scattered down in this part of
21 the desert. And, also, areas of critical
22 environmental concern, areas you might know about,
23 such as Afton Canyon, Rainbow Basin, the Rand
24 Mountains, a few others, these areas are the areas
25 where we are taking the existing route network and

1 adopting that. So those are the areas.

2 Now, as far as what's going to happen after
3 June 30th, there is still a condition -- that network,
4 the revised network, will be adopted into the desert
5 plan. In some of those areas, the interim route
6 network that was adopted two years ago pursuant to the
7 BLM, Center for Biological Diversity settlement
8 agreement, that network will continue to stay in place
9 until the West Mojave Record of Decision is signed in
10 early 2004.

11 So in a sense, the environment we have been
12 under the last two years with this interim route
13 network is going to continue beyond June 30th until
14 the signing of the West Mojave Plan.

15 Also, the current closure in the Rand
16 Mountains stays in effect until the West Mojave Plan
17 is signed. Again, that's early next year. These
18 interim route networks that were done pursuant to the
19 stipulation agreement are going to remain in effect
20 until the West Mojave Plan.

21 So from what's going on right now, when you
22 talk about the existing route network and the interim
23 closures, the real place where the June 30th decision
24 makes an immediate difference will be just in a couple
25 of subareas; in El Mirage, south of Edwards, and

1 Coyote, south of Edwards Air Force Base, and Juniper
2 Flats, and Middle Knob.

3 Okay. I am going to go across here again.
4 Just to keep track, I will go back to there and up to
5 you.

6 MR. MIETZNER: My name is Hugo Mietzner.
7 You know, your CD has got a bug in it. When you blow
8 it up, you can't print it. You put "Print" and it
9 won't print.

10 MR. HAIGH: You know, actually, give our
11 folks a call, because it printed very easily for
12 myself. You pull up Adobe Acrobat 5. If you don't
13 have 5, download that from the Web. It's very easy
14 not only to print, but you can go in, expand it,
15 print. If you have a color printer, it will print
16 full color. Acrobat 5 does it. It's a snap. I've
17 done it many times myself. I figure if I can do it,
18 any of you folks can do it. If you come into a BLM
19 office or any other office with a good computer, they
20 can do it for you just as well. But I guarantee you
21 that it's very easy to print off these documents.

22 MR. MIETZNER: I'll try it again.

23 MR. HAIGH: Yes. And, again, you ought to
24 just call up one of the BLM offices. Or I can give
25 you a name. Annette Fortini. She can give you some

United States District Court
for the
Northern District of California
September 18, 2003

* * CERTIFICATE OF SERVICE * *

Case Number:3:00-cv-00927

Center for Biological

vs

Bureau of Land Mgmt

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 18, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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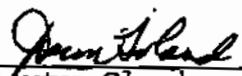
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