

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

ADMINISTRATIVE DETERMINATION

CA-069-AD8-27

**Ward Valley Ceremonial Protest Gathering**

In accordance with 43 United States Code 1732, 1733, and 1740, it is my decision to approve a proposal to conduct a protest gathering consistent with activities as reviewed in Environmental Assessments CA-069-EA8-11 and CA-069-EA7-24 and described below. Conditioned through mitigation measures, I find that this action will not result in significant impacts on the human environment and that an Environmental Impact Statement is not required. I further find this action in conformance with applicable land use plans and that it will not cause unnecessary or undue degradation. Measures mitigating impacts are formulated into the attached conditions of approval and incorporated by reference as the decision of the Bureau of Land Management regarding this action. A copy of this Decision Record and attendant Conditions of Approval shall be in the possession of the Field Contact Representative during all undertakings approved herein.

Specifically, the approved action includes a four-day public gathering by members of the Colorado River Native Nations Alliance and various other individuals and groups who are opposed to the proposed low level radioactive waste disposal facility in Ward Valley and related transfer of public lands to the State of California.

The public gathering will focus around a Native American ceremonial event occurring between June 15 and June 18, 1998 on public lands at the Ward Valley landing strip and Site A of the proposed Ward Valley low level radioactive waste facility. The activities will include a maximum of one hundred seventy five participants. Other organizations anticipated to participate in the gathering include Chemehuevi Indian Tribe, Colorado River Indian Tribe, Quechan Indian Tribe, Cocopah Indian Tribe, Mohave Elders, Indigenous Environmental Network (IEN), Timbisha Shoshone Indian Tribe, Nuclear Information and Resources Service, Alliance for Survival, Physicians for Social Responsibility, Food Not Bombs, Shundahai Network, Concerned Citizens Against Toxics, Desert Citizens Against Pollution, Desert Emergency Response Team, Desert Tortoise Council, and Greenpeace.

Gathering Activity Area/Equipment/Vehicles

The gathering will be held at two locations:

1) on a dirt landing strip located southeast of Interstate 40, adjacent to Metropolitan Water District of Southern California's (MWDSC) eastern most right-of-way, 1.2 miles from the Water Road exit, in Township 9 North, Range 19 East, Sections 26, 27, and 34, SBBM. The landing strip is 2,840 feet long and between 70 to 75 feet wide (5.17 acres).

2) at the permitted encampment (LUP# CA-37890) location at Site A within the proposed transfer site in: Township 9 North; Range 19 East; Section 27, South 1/4; Section 34. Site A is one of five cleared sites occurring within the 1,000 acre proposed land transfer area, and was created during permitted US Ecology characterization studies in 1987. The site is hard-packed and largely devoid of vegetation.

A maximum of five large vehicles will be associated with the authorized activities and will be parked on the landing strip. These vehicles include a bus towing a kitchen trailer, a large truck towing a

water tank, a flatbed truck serving as a stage, and one or two 14-foot long trailers set up with a solar powered PA system and lights. Facilities will also include a first aid tent, a maximum of seven meeting tents, and temporary shade structures.

Propane will be used as fuel in the centralized kitchen. No petroleum products or garbage will be discarded on the site. An eight-kilowatt diesel generator will provide electricity for the gathering. It will be placed on an impermeable pan with lip in order to contain any possible release of gasoline or oil.

#### Landing Strip and Site A Parking, Traffic, and Camping

A maximum of 175 passenger/recreational vehicles will be permitted to park on the landing strip. As authorized by the existing permit, a maximum of 25 campers may use the encampment, with no more than 15 individuals at Site A, 10 individuals at Site B, and/or 15 individuals at Site E. In keeping with the existing permit, 10 vehicles may park at the encampment. As a temporary measure for this action, the bus may traverse the road with tortoise fencing and park at Site A. Up to 175 people may be present at Site A from noon, June 16, 1998 to noon, June 17, 1998. In order to accommodate sufficient, safe parking for all vehicles, parking will take place as follows:

1. No participants will park on any part of the Caltrans rights-of-way including the paved off-ramp at the Water Road exit, or along the dirt access roads.
2. Vehicles will enter the landing strip at the north entrance and exit at the central exit.
3. Passenger and recreational vehicles will park next to each other along the west side of the landing strip beginning at the north end and continuing to the south until full.
4. Participants will be shuttled from the landing strip to Site A by bus.
5. Since the access roadway is 13 feet wide with steep berms, the portion between the entrance and exit of the landing strip will be signed and monitored for one-way traffic flowing to the north.
6. Between the end of the I-40 paved off-ramp and the graded landing strip access roadway, traffic will be controlled between sunrise and 10:00 p.m. with monitors on both ends to direct participants coming in and leaving. At all times, traffic will be allowed to travel in one direction only at any given time.
7. Traffic control will be managed by organizing groups equipped with hand-held radios.

Vehicle access to the landing strip will be restricted to MWDSC's easterly right-of-way maintenance road south and off of I-40.

The number of tents at Site A will increase from two to three, with the area occupied decreasing from 1600 square feet to 930 square feet. The water supply at Site A will increase from one trailer with a 300 gallon water tank to two trailers; one with the 300 gallon tank and one with two 100 gallon tanks.

#### Activities

Up to ten participants will erect two sets of four stationary banners on public land north of the fence along the westbound lane and south of the fence along the eastbound lane of I-40 near the Water Road exit. The banners will be located in Township 9 North, Range 19 East, Sections 23, 26 and 27, SBBM, which will be accessed by foot from the closest access road, not including I-40. Banners will be no greater than 6' x 10' and placed about 100 feet apart. Non-reflective

banners will be used. Banners will be secured to 4 inch x 4 inch posts which will be placed in the

ground. Within one day after conclusion of the gathering, the banners and posts will be removed. During placement and removal of banners and posts, safety and permit conformance will be maintained.

Native Americans will build a small, attended ceremonial campfire at Site A for spiritual purposes. Fire extinguishers and water will be kept near any open flame. The campfire will not exceed five feet in diameter.

Protest gathering activities will not impede or obstruct the activities of other public land users. Participants will not gather near the MWDSC substation or electric distribution towers.

### Sanitation and Litter

Sanitation will be provided by portable units and maintained by Head Quarters Sanitation or comparable firm. Head Quarters Sanitation has provided the information that one portable toilet will provide sanitation for eight people for one week or for 100 people for one day. The number of portable toilet facilities will be commensurate with the numbers of participants.

All garbage will be kept in covered containers at the landing strip and Site A until removed for disposal upon completion of the activity. Sewage and wash water from any trailer or other vehicle will be disposed of in an appropriate facility. The chemical toilets will not be considered an appropriate facility.

### Safety

The Permittee will have their own 24-hour security with trained monitors equipped with hand-held radios. The Permittee will be in contact with Bureau of Land Management (BLM) Law Enforcement Rangers (LER) and San Bernardino County Sheriff's Office (SBCSO) personnel by cellular telephone throughout the gathering. Every participant will be given guidelines when they register, including a commitment to nonviolence, information about the threatened desert tortoise, guidelines for minimum impact camping techniques, and permit conditions. The Permittee will arrange for 24-hour on-site coverage by medical personnel. Cellular phones will be available in case of an emergency.

### Liability Insurance

The Permittee will pay the full value of all injuries or damage to life, person or property caused by the holder, its employees, agents or servants, or by a contractor, its employees, agents or servants. The Permittee will indemnify or hold harmless the United States against any liability for damages to life, person or property arising from the authorized occupancy or use of the public lands under the land use authorization.

### Security Action Plan

The Peacekeeper Center Control will be located next to the Registration Tent on the landing strip and will be staffed 24 hours a day. It will have a small, temporary communications station to maintain communication with the BLM and the SBCSO. In an emergency situation, the BLM and/or Sheriff's Office will be contacted immediately. Hand-held radios will be used to maintain contact with activities located close to the end of the I-40 paved off-ramp and the landing strip entrance to ensure safe traffic flow and to keep all roadways open.

Peacekeepers will be identified by yellow armbands with the word "Peacekeeper" and will carry hand-

held radios. Peacekeepers will be in contact with on-site organizers via radio who, in turn, have cellular telephone communication with the BLM and SBCSO.

### Peacekeeping Structure

The Permittees' peacekeepers organizers will work closely and coordinate with all other individuals directing the various aspects of the event. They will direct staff and volunteers to ensure 24-hour peacekeeping is maintained. They will hold orientation meetings daily to inform arriving participants of the protest gathering structure, the guidelines for their safety and enjoyment, and each person's responsibility to comply with permit conditions.

The peacekeeper staff will be comprised of members of the participating groups. The total staff will be from 10 to 15 individuals. This number will be adjusted depending on the attendance and increased as needed for the maximum attendance authorized. The peacekeeper staff will coordinate the scheduling of all peacekeeper activities, oversee the operation of all activities, schedule themselves at key locations at busy times of the day, and recruit, train and work with peacekeeper volunteers. Special attention will be given to keep participants away from the MWDSC distribution line towers and substation, and all other authorized use areas. Warnings pertaining to these areas will be stressed to participants during orientation meetings.

The peacekeeper volunteers will be participants at the event and scheduled for 4-hour shifts. They will work with the Peacekeeper Staff in parking cars, helping new arrivals find camping locations, and staffing activities. The number of volunteers needed will be determined by the attendance, and increased for greater attendance.

Environmental Assessment CA-069-EA8-11, completed for the 10-day protest gathering to be held at the landing strip in February, 1998, and Environmental Assessment CA-069-EA7-24, for a one-year encampment to be held at the proposed land transfer area, meet the following criteria for National Environmental Policy Act compliance as it relates to the action described above. The current action is essentially the same as the previous actions, with the following modifications:

- 1) the date of the action is moved from spring to summer.
- 2) a total of 175 people may be present at site A for a period of 24 hours, whereas review previously covered a total of 50 individuals during any given day, and no more than 15 campers at that site.
- 3) the total length of the gathering is 4 days rather than the previous 10 days, with no weekend included.
- 4) The bus will be permitted to be driven down the fenced road to the encampment and will shuttle participants to Site A.
- 5) The number of tents at Site A will increase from two to three, with the area occupied decreasing from 1600 square feet to 930 square feet.
- 6) The water supply at Site A will increase from one trailer with a 300 gallon water tank to two trailers; one with the 300 gallon tank and one with two 100 gallon tanks.

An informal consultation was conducted with the Ventura Office of the U.S. Fish and Wildlife Service (FWS) on June 11, 1998. Even though FWS was satisfied with the stipulations being imposed upon the Permittee by the BLM, they were concerned about habitat degradation and compliance enforcement. They were also concerned about the possibility of a take and what actions would be taken if a take occurred. They recommended that the BLM request a formal consultation addressing all authorized actions granted by the BLM within Ward Valley (encampments, religious ceremonies, demonstrations, etc) and their cumulative effects upon the desert tortoise and its habitat.

Accordingly, the BLM will initiate cumulative impact evaluation of Ward Valley activities following issuance of this permit.

A reasonable range of alternatives was analyzed in both environmental assessments, and they apply to this action. The information and circumstances are the same. The same methodology and analytical approach were followed for both environmental assessments and apply to this action. Direct, indirect, or cumulative impacts are not significantly changed by this action. Previous public involvement was appropriately covered in both environmental assessments and is still relevant to this action.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in Title 43 Code of Federal Regulations (CFR) Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Needles Field Office, Bureau of Land Management, U.S. Department of the Interior, 101 West Spikes Road, Needles, California 92363, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition [pursuant to 43 CFR 4.21 (58 FR 4939, January 19, 1993)] (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeals is being reviewed by the Board, the petition for a stay must accompany your notice of appeal, A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Approved by:

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Field Manager, Needles Field Office

Date

## CONDITIONS OF APPROVAL AND ADVISORY:

**PROJECT:** Ward Valley Protest and Ceremonial Gathering

**CONTROL NUMBER:** CA-069-AD8-27

1. If the Permittee fails to comply with any conditions stated herein, the BLM may suspend or terminate the permit.
2. The Permittee shall designate an individual as field contact representative (FCR) who will be responsible for overseeing compliance with the protective stipulations for the desert tortoise and providing coordination with the Bureau. A list of all responsible parties involved in this action must be provided, prior to the protest gathering. This list will include name, work address, home address and telephone numbers of a responsible party for each organization involved in and/or sponsoring the gathering.
3. The FCR must be on-site during all project activities. The FCR shall have the authority to halt all project activities that are in violation of the stipulations. The FCR shall have a copy of all stipulations.
4. Authorized representatives of the Department of the Interior, other Federal agencies and State and local law enforcement personnel, and representatives of US Ecology and the Metropolitan Water District of Southern California (MWDSC) shall at all times have the right to enter the premises on official business. The Permittee shall not close or otherwise obstruct the use of roads or trails commonly in public use.
5. All activity shall be conducted in a manner that does not threaten lives, property or the environment and in compliance with all applicable Federal and State laws, and local ordinances.
6. The Permittee shall obtain and submit a property damage, personal injury, and public liability insurance certificate for this use or event in the minimum amount of: (1) \$1,000,000.00 general liability for any one person; (2) \$300,00.00 for any one occurrence; (3) \$500,000.00 for automobile liability; and (4) \$100,000.00 property damage for any one occurrence. The policy shall name the U.S. Government as co-insured and MWDSC as additional insured, and stipulate that the authorized officer of the Bureau of Land Management (BLM) shall be notified 30 days in advance of the termination or modification of the policy. The Permittee shall indemnify the United States and Metropolitan against any responsibility or liability for damage, injury, or loss to persons and property which may occur during the permitted use period or as a result of such use. The Bureau and Metropolitan shall be protected in the liability insurance coverage provided by Fort Mojave Indian Tribe, in accordance with Title 43 Code of Federal Regulations 2920.7(f)(1) through (3).
7. Actions other than those explicitly approved by the Bureau, which result in impacts upon cultural resources, shall be subject to the provisions of the *Archaeological Resources Protection Act of 1979* as amended and the *Federal Land Policy and Management Act of 1976*. These statutes protect archaeological resources for the benefit of all Americans. As property of the United States, no person shall, without authorization, excavate, remove damage, or otherwise alter or deface any historic or prehistoric site, artifact, or object of antiquity located on public lands.

Permittees shall immediately bring to the attention of the Authorized Officer any archaeological resources encountered during operations and maintain the integrity of such resources pending subsequent investigation.

8. All campers and day users are required to read and sign a copy of the Conditions of Approval attached to this permit. Copies of the Conditions of Approval to be read and signed by the campers and day users will include language indicating that the signatory agrees to abide by the Conditions of Approval and the permit. Copies of the signed permits will be kept in a central location by the field contact representative.
9. Neither Peacekeepers nor participants will interfere or obstruct any action or decision made by Bureau law enforcement rangers, San Bernardino County Sheriff's Deputies or California Highway Patrol Officers.
10. All activity shall be conducted in such a manner as to incur negligible surface disturbance, inclusive of existing vegetation.
11. There is to be no use of motor vehicles, mechanized transport, motorized equipment, or landing of aircraft within any wilderness area unless specifically excepted in writing by the Authorized Officer. (Bigelow Cholla Wilderness is located west of the landing strip).
12. All activity and vehicle use associated with this gathering will be confined to the graded landing strip, Site A, and access to those locations. No cross country travel is permitted.
13. The landing strip shall be clearly flagged at the outer boundaries. No flagging or signage shall be affixed to plants or existing facilities.
14. All participants and peacekeepers shall stay south of the freeway right-of-way fence. At no time shall any peacekeeper(s) or group of participants restrict or block the flow of traffic to any entrance or exit to public land or the freeway.
15. All participants and peacekeepers shall remain away from equipment and areas occupied by US Ecology and Metropolitan Water District of Southern California (MWDSC).
16. No vehicles shall be allowed to park or otherwise obstruct any of MWDSC's dirt or paved rights-of-way or the freeway. The roads shall be kept clear at all times to allow emergency vehicle access.
17. Parking is restricted to the permitted airstrip except for the 10 vehicles which have already been authorized to park at the encampment. Parking along any access road is not authorized. No additional parking at the encampment may occur. The authorized bus and van shall shuttle participants between the landing strip and Site A.
18. All registered vehicles operating on public lands must comply with State vehicle codes and liability insurance requirements.
19. No water will be used on any of the roads or the landing strip within the Ward Valley gathering area. Tortoise smell the water, come out to drink, and are exposed to vehicular traffic.
20. The Permittee shall advise participants of the following: The desert tortoise was listed as an

endangered species by the U.S. Fish and Wildlife Service through an emergency action in August, 1989, and is now listed as a threatened species effective April 2, 1990. It receives the same protection with its threatened status as it had as an endangered species. Handling or harassment of tortoises and destruction of critical habitat is prohibited as a result of its threatened status. Such activities not only jeopardize the tortoise's well-being, but can result in significant fines (\$25,000 and/or 6 months imprisonment).

21. A desert tortoise educational program shall be provided to all participants and cover the following topics at a minimum:
  - distribution of the desert tortoise,
  - general behavior and ecology of the tortoise,
  - sensitivity to human activities,
  - legal protection,
  - penalties for violations of State or Federal laws,
  - reporting requirements, and
  - project protective mitigation measures.
22. Only biologists authorized by the USFWS and the BLM shall handle desert tortoises. An "authorized biologist" is defined as a wildlife biologist who has been authorized to handle desert tortoises.
23. Participants shall inspect for tortoises under a vehicle prior to moving it. If a tortoise is present, participants shall wait for the tortoise to move out from under the vehicle prior to moving the vehicle. Any tortoise crossing a road will be left alone as it crosses.
24. Vehicle speeds on Water Road into the site must be kept at 15 mph or less. Vehicle speeds on other roads at the site must be kept at 10 mph or less. This will facilitate sighting any desert tortoises crossing the roads and stopping for those tortoises and will minimize generation of PM10.
25. In the event a desert tortoise is injured or killed, the field contact representative will be notified immediately, who in turn will contact the Bureau wildlife biologist in Needles at (760) 326-7014 or through the Dispatch (909) 383-5652. If he is not available, the U.S. Fish and Wildlife Service Law Enforcement Branch will be notified at (310)328-6307. The injured desert tortoise will be taken to the nearest veterinarian for treatment. Costs incurred will be the responsibility of the Permittee.
26. A litter control program shall be implemented, by the Permittee that will include the use of covered, raven-proof trash receptacles easily accessible to the participants. The trash shall be removed from the gathering activity area to the trash receptacles following the close of the day, properly disposing of the trash in an approved waste facility and properly emptying of the receptacles when full. Litter shall be controlled as to minimize wind-blown trash across the desert floor.
27. The Permittee is responsible for removing all personal and event-related property and, restoring the site to its original condition upon termination of the land use permit.
28. Pets shall be kept on leashes at all times.
29. With the exception of a permitted campfire maintained by local Native Americans, all

campfires and barbecues are prohibited. Controlled flame devices such as portable gas stoves may be utilized.

30. Generators that are vehicle mounted are approved, as are small portable home/camping generators. Plastic sheeting will be placed under generators to catch fuel/oil spills and avoid contamination/staining of soils and costly removals.
31. Soils contaminated with fuels, oils, or other wastes shall be removed from the site and disposed of in accordance with federal and state regulations. Contamination suspected as being hazardous materials, including waste oils, fuels, etc., shall be reported and dealt with as hazardous materials. Hazardous material removals shall not be conducted without the authorization of the Bureau and other required regulatory agencies.
32. No materials from Ward Valley shall be used in any fire. Wood for use in the authorized camp fire will be provided from outside sources.
33. Firearms are prohibited on site and may not be discharged within a mile of the gathering areas.
34. The BLM and the MWDSC shall be notified when the gathering has been completed and the area about to be vacated. The BLM shall inspect the site prior to releasing the Permittee from compliance stipulations.
35. As authorized by the existing permit #CA-37890, a maximum of 25 campers may use the encampment, with no more than 15 individuals at Site A, 10 individuals at Site B, and/or 15 individuals at Site E. By this permit, a total of 175 individuals may use Site A from noon, June 16, 1998 to June 17, 1998.
36. Boundaries of all use areas specified on the attached map will be flagged by the Permittee, under guidance from the Bureau, with no protest camping or meeting activity taking place outside of those boundaries. No parking or camping will be allowed in undisturbed areas.
37. No permanent structures are permitted.
38. Sanitation will be provided by portable units and maintained by Head Quarters Sanitation or comparable firm. Head Quarters Sanitation has provided the information that one portable toilet will provide sanitation for eight people for one week or for 100 people for one day. The number of portable toilet facilities will be commensurate with numbers of participants, with at least one maintained at each site that is in use.
39. No gray water is to be dumped into the surrounding desert. All gray water shall be poured into the portable toilets. If the toilet facilities or the water tanker begin to leak, they will be replaced immediately.
40. Removal or disturbance of the white-painted "R" rock alignment located south of the landing strip is prohibited.