



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240

<http://www.blm.gov>



In Reply Refer To:
3500 (I-27512, I-01441)

SEP 18 2008

Ms. Lisa Evans
Earthjustice
21 Ocean Avenue
Marblehead, MA 01945

Dear Ms. Evans:

On July 21, 2008, the Bureau of Land Management (BLM) received your Request for Reconsideration of the BLM's (Idaho Falls District) denial of your Petition to Correct Information, submitted pursuant to the Information Quality Act. The BLM had previously denied your petition in a letter dated June 3, 2008.

In accordance with BLM's Information Quality Guidelines, I formed an executive panel to review your Request for Reconsideration. In consultation with the panel, I have determined that the BLM denial of the Petition to Correct Information in the *Smoky Canyon Mine Panels F and G Final Environmental Impact Statement (EIS)* and a support document, *Final Modeling Report, Groundwater Flow and Solute Transport (2007)*, were appropriate and responsive to the petition. The BLM denial letter and attached staff memo demonstrated that:

- The identified memorandum - which Earthjustice alleges was not considered by the BLM - was appropriately considered and referenced in the analysis.
- The identified memorandum did not rule out the inclusion of selenium attenuation in the groundwater impact analysis performed in support of the Final EIS.
- The groundwater impact analysis conducted in support of both the Draft EIS and the Final EIS used the best science available at the time of release of those documents.
- Updated empirical, site-specific data was appropriately included in the Final EIS. This data was carefully considered by the BLM, United States Forest Service (USFS), and Idaho Department of Environmental Quality (IDEQ) prior to approving the inclusion of selenium attenuation in the groundwater analysis.
- The Final EIS and support documents appropriately disclose the rationale used to support the inclusion of selenium attenuation.

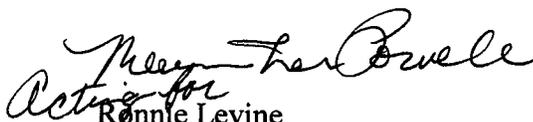
I did not find that the memorandum produced in 2005 to evaluate the potential for cadmium and selenium attenuation at Panels F and G, and the inclusion of chemical attenuation in the Final EIS were mutually exclusive or inconsistent.

The Request for Reconsideration provided additional points to consider that were not entirely consistent with the petition language. The request alleges that the denial letter and attached staff memo do not explicitly provide the BLM's rationale for including selenium attenuation; however, they provide references to the Final EIS where this information can be found. References were also made with two other support documents, therefore they could be provided to the petitioners through the proper disclosure channels.

The BLM maintains that including a range of selenium attenuation of 15 to 25 percent, reflects the predicted impacts to water quality based on the best available science. The BLM did not conduct a final reconciliation between the memorandum and the rationale in the Final EIS. However, the empirical evidence provided in the Final EIS adequately supports the groundwater impact analysis. The groundwater impact analysis was conducted with varying degrees of selenium attenuation from 0 to 30 percent. The Final EIS provides full disclosure of potential impacts.

After consideration of your petition, a decision was made with regard to the *Smoky Canyon Mine, Panels F and G* as analyzed in the EIS. Please keep in mind that there are separate measures in place to challenge that decision. I find the analysis conducted in the Final EIS related to selenium attenuation was consistent with the BLM's Information Quality Guidelines. It used sound analytical methods by using reliable timely data collected by accepted methods. I have decided to uphold BLM's denial of your Petition to Correct Information.

Sincerely,


Acting for
Ronnie Levine
Chief Information Officer



United States Department of the Interior

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- The identified memorandum did not rule out the inclusion of selenium attenuation in the groundwater impact analysis performed in support of the Final EIS.
- The groundwater impact analysis conducted in support of both the Draft EIS and the Final EIS used the best science available at the time of release of those documents.
- Updated empirical, site-specific data was appropriately included in the Final EIS. This data was carefully considered by the BLM, United States Forest Service (USFS), and Idaho Department of Environmental Quality prior to approving the inclusion of selenium attenuation in the groundwater analysis.
- The Final EIS and support documents appropriately disclose the rationale used to support the inclusion of selenium attenuation.

As the Director is recused from decision-making on this matter, I was asked to review this Information Quality Act petition reconsideration that is obviously of great interest to Earthjustice. In the interest of expediting this matter, I have also conducted my review of this Information Quality Act petition reconsideration.

After consideration of your petition, a decision was made with regard to the *Smoky Canyon Mine, Panels F and G* as analyzed in the EIS. Please keep in mind that there are separate measures in place to challenge that decision. In the course of my independent review of this petition I too, find the analysis conducted in the Final EIS related to selenium attenuation was consistent with the BLM's Information Quality Guidelines. It used sound analytical methods by using reliable timely data collected by accepted methods. It also used the best available science. I have therefore decided to uphold BLM's denial of your Petition to Correct Information.

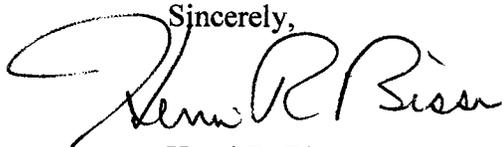
In accordance with BLM's Information Quality Guidelines, if you are dissatisfied with this response, you may appeal to:

Assistant Secretary for Policy, Management, and Budget
U.S. Department of the Interior
1849 C Street, NW #5113
Washington, DC 20240

The following four elements should be included in a challenge to information:

1. Specific reference to the information being challenged.
2. Statement specifying why you believe the information fails to satisfy the standards in the BLM, DOI, or OMB guidance.
3. How you are affected by the challenged information.
4. The name and address of the person filing the complaint.

Sincerely,



Henri R. Bisson
Deputy Director

cc:

BLM, Tom Dyer, Idaho State Director
BLM, Scott MacPherson, Deputy Director - Information Resources Management
DOI, Sid Sharma, Data Quality Manager
OMB, Margo Schwab
USFS, Chief Information Officer
USFS, Larry Timchak, Forest Supervisor

Enclosure