



***Bureau of Land Management
Director's Protest Resolution Report***

**Morongo Canyon at Highway 62
Multi-Tenant Wireless Broadband
Communications Site Proposed
Land Use Plan Amendment and
Final Environmental Assessment**

May 1, 2026

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Acronyms

Term	Definition
BLM	Bureau of Land Management
BMP	best management practice
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
DOI	U.S. Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EJ	environmental justice
FLPMA	Federal Land Policy and Management Act
FONSI	Finding of No Significant Impact
FR	<i>Federal Register</i>
IBLA	Interior Board of Land Appeals
LUPA	Land Use Plan Amendment
Morongo Proposed LUPA/Final EA	Morongo Canyon at Highway 62 Multi-Tenant Wireless Broadband Communications Site Proposed Land Use Plan Amendment and Final Environmental Assessment
NEPA	National Environmental Policy Act
PRMPA	Proposed Resource Management Plan Amendment
RMP	Resource Management Plan
ROW	right-of-way
SRMA	Special Recreation Management Area
U.S.C.	United States Code
VRM	Visual Resource Management

Introduction

The Bureau of Land Management (BLM) Palm Springs - South Coast Field Office released the Morongo Canyon at Highway 62 Multi-Tenant Wireless Broadband Communications Site Proposed Land Use Plan Amendment (LUPA) and Final Environmental Assessment (EA) (herein referred to as the Morongo Proposed LUPA/Final EA) on February 12, 2026. The Morongo Proposed LUPA/Final EA considers both implementation-level decisions and land use planning decisions. Only the proposed land use planning decisions under consideration are subject to protest. During the subsequent 30-day protest period, which ended on March 16, 2026, the BLM received 57 unique protest letter submissions. At the time the BLM issues a decision to authorize implementation-level action of the proposed action analyzed in the Morongo Proposed LUPA/Final EA, any party to a case adversely affected by that decision may appeal such decision to the Interior Board of Land Appeals.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest on proposed land use planning decisions. The BLM received 57 protest letters from 70 protesting parties and evaluated all submissions to determine which protest letters were complete and timely, and which parties have standing to protest. All 57 letters were timely, although three submissions did not include the contact information required in 43 CFR 1610.5-2 and therefore were not considered complete. A total of 60 protesting parties had standing to protest. Six letters contained valid protest issues, and 46 letters did not contain any valid protest issues because they only included comments or opinions, or raised issues not germane to the planning decisions under consideration. Therefore, 51 letters were dismissed, as shown in the *Protesting Party Index* below. The BLM has documented the responses to the valid protest issues and recorded the protest decision in writing along with the reasons for the decision in this protest resolution report. No changes to the Morongo Proposed LUPA/Final EA have been identified as necessary to address the valid protest issues received.

The BLM's Assistant Director for Resources and Planning addressed the protest letters received and has issued this protest resolution report to protesting parties and posted the report on the BLM's website. The decision was sent to the protesting parties by certified mail, return receipt requested. Consistent with the BLM Delegation of Authority Manual (MS-1203, *Delegation of Authority*), resolution of protests is delegated to the BLM Assistant Director for Resources and Planning, whose decision on the protest is the final decision of the U.S. Department of the Interior (DOI) (43 CFR 1610.5-2(b)).

Protesting Party Index

Letter Number	Protestor	Organization	Determination
PP-CA-MC-EA-26-01	Jane Fawke	--	Dismissed: Incomplete
PP-CA-MC-EA-26-02	Jennifer Floryan	--	Dismissed: Comments Only
PP-CA-MC-EA-26-03	Lin Spur	--	Dismissed: Comments Only
PP-CA-MC-EA-26-04	Arch McCulloch	California Native Plant Society Mojave Desert Chapter	Dismissed: Comments Only
PP-CA-MC-EA-26-05	Lisa Kordich	--	Dismissed: Comments Only
PP-CA-MC-EA-26-06	Hac West	--	Dismissed: Comments Only
PP-CA-MC-EA-26-07	Volker Risto	--	Dismissed: Comments Only
	Nikki Pollak	--	
PP-CA-MC-EA-26-08	Kimberly Rogers	--	Dismissed: Comments Only
PP-CA-MC-EA-26-09	Jeff Boyd	--	Dismissed: Comments Only
PP-CA-MC-EA-26-10	Jane Gray	--	Dismissed: Comments Only
PP-CA-MC-EA-26-11	Jim Piccioni	--	Dismissed: Comments Only
PP-CA-MC-EA-26-12	Karen Lowe	--	Dismissed: Comments Only
PP-CA-MC-EA-26-13	Brittney Fernandez	--	Dismissed: Comments Only
PP-CA-MC-EA-26-14	Dorene Quinn	--	Dismissed: Comments Only
PP-CA-MC-EA-26-15	Aaron Adamski	--	Dismissed: Comments Only
PP-CA-MC-EA-26-16	Arch McCulloch	--	Dismissed: Comments Only
PP-CA-MC-EA-26-17	Sharon Dove	--	Dismissed: Comments Only
PP-CA-MC-EA-26-18	Emilia Lindgren	--	Dismissed: Comments Only
	Angelina Rowan	--	Dismissed: No Standing
PP-CA-MC-EA-26-19	Minakshi Sharma	--	Dismissed: No Standing
PP-CA-MC-EA-26-20	Eric Weston	--	Dismissed: Comments Only
PP-CA-MC-EA-26-21	Bonnie Largent	--	Dismissed: Comments Only
PP-CA-MC-EA-26-22	Robert Woolling	--	Dismissed: Comments Only
PP-CA-MC-EA-26-23	Janice Tharp	--	Dismissed: Comments Only
PP-CA-MC-EA-26-24	Steve Bardwell	Morongo Basin Conservation Association	Dismissed: Comments Only
	Joani Tremblay	Morongo Basin Conservation Association	
PP-CA-MC-EA-26-25	Evan Hoffman Jastermsky	--	Dismissed: Comments Only
PP-CA-MC-EA-26-26	Kimberly Keilbach	--	Dismissed: Comments Only
PP-CA-MC-EA-26-27	Roger Keilbach	--	Dismissed: Comments Only
PP-CA-MC-EA-26-28	Anya Goldstein	--	Dismissed: Comments Only
PP-CA-MC-EA-26-29	Kim McClinton	--	Dismissed: Comments Only
PP-CA-MC-EA-26-30	Eric Windes	--	Dismissed: Comments Only
PP-CA-MC-EA-26-31	Yvonne Buchanan	--	Dismissed: Comments Only
PP-CA-MC-EA-26-32	Kaylee Adamski	--	Dismissed: Comments Only
PP-CA-MC-EA-26-33	Alison Plesset	--	Dismissed: Comments Only

Letter Number	Protestor	Organization	Determination
PP-CA-MC-EA-26-34	Cheryl Hoffman	--	Dismissed: Comments Only
PP-CA-MC-EA-26-35	Ilima Segoviano	--	Dismissed: Comments Only
PP-CA-MC-EA-26-36	Meg Foley	--	Dismissed: Comments Only
PP-CA-MC-EA-26-37	Annette Deyhle	--	Denied
	James Carsella	--	
	Charles Greenwood	--	
	Donna Yerman	--	
	John Foster	--	
PP-CA-MC-EA-26-38	Robin Kobaly	The SummerTree Institute	Dismissed: Comments Only
PP-CA-MC-EA-26-39	Pamela Kenney	--	Dismissed: No Standing
	Roseanne McLuane	--	
	Kimberly Cabiness	--	
	Claudia Thompson	--	
PP-CA-MC-EA-26-40	Brian Sanchez	--	Dismissed: Comments Only
	Frank Rodriguez	--	
PP-CA-MC-EA-26-41	Stephen Weaver	Weaver Land Law	Denied
PP-CA-MC-EA-26-42	Francis May	--	Dismissed: Comments Only
PP-CA-MC-EA-26-43	Daniel Sall	--	Denied
	Claudia Sall	--	
PP-CA-MC-EA-26-44	Ann Garry	--	Dismissed: No Standing
PP-CA-MC-EA-26-45	Zoe Dagan	--	Dismissed: Comments Only
PP-CA-MC-EA-26-46	Ross Plesset	--	Dismissed: Comments Only
PP-CA-MC-EA-26-47	Sara Fernandez	Residents Against Tall Towers	Denied
PP-CA-MC-EA-26-48	Karen McKendrick	--	Denied
PP-CA-MC-EA-26-49	Eric Hallmann	--	Dismissed: Comments Only
PP-CA-MC-EA-26-50	Catherine Adamski	--	Dismissed: Comments Only
PP-CA-MC-EA-26-51	Jessica Lawson	--	Denied
	Matthew Caron	--	
PP-CA-MC-EA-26-52	Krystal Kennedy	--	Dismissed: Comments Only
PP-CA-MC-EA-26-53	Not Provided	--	Dismissed: Incomplete
PP-CA-MC-EA-26-54	Not Provided	--	Dismissed: Incomplete
PP-CA-MC-EA-26-55	Evan Hoffman Jastermsky	--	Dismissed: Comments Only
PP-CA-MC-EA-26-56	Andrea Jensen	--	Dismissed: Comments Only
PP-CA-MC-EA-26-57	Catherine Louise Penney	--	Dismissed: Comments Only

CEQ NEPA Implementing Regulations

Meg Foley

Issue Excerpt Text: NEPA Violation: 40 CFR §1502.16(c) requires identification and discussion of inconsistencies with other plans.

Annette Deyhle, James Carsella, Charles Greenwood, Donna Yerman, and John Foster

Issue Excerpt Text: This project is “highly controversial” within the meaning of 40 C.F.R. § 1508.27(b)(4), independently triggering the EIS obligation. Substantial expert dispute exists as to every major FONSI finding: propagation coverage, biological baseline, human health significance, property value analysis, EJ Screen coordinates, and VRM conformance. Under *Bark v. United States Forest Service*, 958 F.3d 865 (9th Cir. 2020), one disputed significance factor requires an EIS. Here, all ten § 1508.27(b) significance factors are in dispute.

Issue Excerpt Text: BLM did not provide mandatory individual notice to prior commenters under 40 C.F.R. § 1506.6(b)(1).

Jessica Lawson and Matthew Caron

Issue Excerpt Text: The FONSI also acknowledges that the project would be the “first development on the undeveloped lands” and “could serve as a precedent” reducing barriers to future development. (AR FONSI at Visual Resources.) Precedent effects are a recognized significance factor under 40 C.F.R. § 1501.3(d). Given the site’s high visual sensitivity (proximity to the San Geronio Wilderness and Pacific Crest Trail), this admission—combined with the concession that BMPs cannot achieve Class II conformance—requires a reasoned, objective, criteria-based explanation for why significant effects are not present. No such explanation exists in the record.

Summary:

Protestors claimed various National Environmental Policy Act (NEPA) process violations under 40 CFR 1500–1508 including 40 CFR 1502.16(c), asserting the Morongo Proposed LUPA/EA allegedly failed to identify and discuss inconsistencies with other plans; 40 CFR 1508.27(b)(4), asserting the project is “highly controversial” with substantial expert dispute over Finding of No Significant Impact (FONSI) findings, which they argue trigger preparation of an Environmental Impact Statement (EIS); and 40 CFR 1506.6(b)(1), asserting an inadequate public comment period was provided. They also contended that, because multiple 40 CFR 1508.27(b) significance factors are disputed, NEPA requires an EIS rather than an EA/FONSI.

Response:

The Council on Environmental Quality’s (CEQ) NEPA implementing regulations at 40 CFR 1500–1508 have been formally rescinded and are no longer in effect. On February 25, 2025, CEQ issued an interim final rule removing all NEPA implementing regulations from the CFR, effective April 11, 2025, pursuant to Executive Order 14154, *Unleashing American Energy*. CEQ subsequently adopted that interim rule as a final rule on January 8, 2026, confirming the complete removal of all iterations of CEQ’s NEPA regulations from the CFR. As a result, CEQ no longer maintains government-wide NEPA regulations, and Federal agencies are no longer required or permitted to rely on or apply the rescinded CEQ regulatory provisions.

The CEQ NEPA regulations cited by the protestors had already been rescinded and removed from the CFR when the BLM issued the Morongo Proposed LUPA/Final EA. Therefore, they had had no legal force or effect and the BLM is not obligated to adhere to the requirements because they no longer exist as operative regulations. Accordingly, this protest issue is denied.

Inadequate Impacts Analysis: Visual

Annette Deyhle, James Carsella, Charles Greenwood, Donna Yerman, and John Foster

Issue Excerpt Text: the VRM Class II-to-III downgrade violates multiple independent legal standards. It is not supported by an adequate visual impact analysis, uses arbitrarily narrow Key Observation Points, and contradicts BLM’s own IB-CA-2009-005 policy, FLPMA §§ 102(a)(8) and 302(b), and directly applicable IBLA precedent. Independent spatial analysis identifies more than two hundred improved residential parcels where the tower would intrude upon the natural skyline as a dominant vertical feature, permanently altering the visual relationship between residential areas and the San Jacinto and San Gorgonio wilderness landscapes — an analysis BLM never conducted. The downgrade is irreversible. (Sections 7, 7.5–7.6).

Daniel and Claudia Sall

Issue Excerpt Text: High Visual Sensitivity of SRMA Not Properly Weighed. The project lies within a high-sensitivity Special Recreation Management Area. The EA does not explain how reducing visual protection in a high-scenic-value area is consistent with FLPMA’s mandate to protect scenic resources.

Summary:

Commenters stated that the proposed Visual Resource Management (VRM) downgrade in the LUPA from Class II to Class III or IV is unsupported legally and by policy because it is not grounded in an adequate visual impacts analysis, relies on arbitrarily narrow observation points, and conflicts with the BLM’s own VRM guidance and Federal Land Policy and Management Act (FLPMA)–based planning standards.

Response:

Courts have determined that NEPA requires the BLM to take a “hard look” at the environmental impacts of a proposed action and ensure that environmental information available to decision-makers and the public is of high quality (42 United States Code [U.S.C.] 4332(2)(C)). As described in Section 1.5 of the DOI NEPA Handbook, the BLM is required to analyze the reasonably foreseeable effects of the proposed action and any alternatives in the EA (see NEPA Handbook §1.5(b)(1)(iii)) and specifically to analyze any environmental effects that may be significant (see NEPA Handbook §1.5(c)(1)). Visual resource design techniques and best management practices (BMPs) are incorporated into proposed projects or activities to better integrate them into the landscape, reducing the effects on scenic values as required by FLPMA. The BLM uses the contrast rating process to evaluate the effects on visual resource values from proposed projects or activities, to focus development of design features to minimize visual contrast, and to determine conformance with VRM class objectives (BLM Handbook H-8431-1).

The visual resource analysis in Section 3.7 of the Morongo Proposed LUPA/Final EA (pp. 3-35 to 3-42) applied the BLM’s established VRM methodology, including visual resource inventory factors and contrast rating procedures. The Morongo Proposed LUPA/Final EA explained that the VRM system consists of (1) inventorying scenic values, (2) assigning management objectives, and (3) evaluating conformance using contrast rating.

To evaluate potential visual effects, the Morongo Proposed LUPA/Final EA identified multiple key observation points representing public viewpoints, including highways, residential areas, and recreation settings including from the Sand to Snow Special Recreation Management Area (SRMA), and analyzed visibility and contrast from each location (Morongo Proposed LUPA/Final EA Section 3.7 and Appendix G). Appendix G of the Morongo Proposed LUPA/Final EA provided the completed

Visual Contrast Rating Worksheets for each key observation point that used guidance from BLM Manual 8431 and evaluated changes in form, line, color, and texture for landscape features and project components. The Morongo Proposed LUPA/Final EA’s contrast rating analysis evaluated the anticipated visual change associated with the proposed project under Alternatives B, C, and D relative to VRM class objectives and provided an adequate basis for determining consistency with VRM Class III or IV management direction (BLM Handbook H-8431-1; Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42).

The effects analysis of the alternatives, summarized in Table 3-8 through Table 3-10 (Morongo Proposed LUPA/Final EA pp. 3-38 to 3-39), showed that visual effects would range from no contrast to moderate contrast across the key observation points, with no locations exhibiting strong contrast. The Morongo Proposed LUPA/Final EA noted that the applicant will incorporate BMPs from the “Common Elements” section of the *Best Management Practices for Reducing Visual Impacts of Renewable Energy Facilities on BLM-Administered Lands* (BLM 2013) that apply to communications towers, which would help minimize visual contrast created by implementation of Alternative B, C, or D (Morongo Proposed LUPA/Final p. 3-42 and Appendix D, p. D-12). The EA disclosed that under Alternatives B, C, and D, while the tower would be visible and, in some locations, would attract attention or introduce moderate contrast, the degree of visual change varies by topography and existing development, and in several viewpoints the facility would be minimally visible or not attract attention (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42). Based on this analysis, the Morongo Proposed LUPA/Final EA concluded that the proposed project under Alternatives B, C, and D would not meet VRM Class II objectives but would be consistent with VRM Class III or Class IV objectives, which allow a moderate level of change while partially retaining the existing landscape character or allow for major modifications to the existing landscape character (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42).

The BLM appropriately established visual resource methodology, evaluated visual effects from representative public viewpoints, and provided a reasoned basis for concluding that the proposed project would not conform to VRM Class II but would be consistent with VRM Class III or IV objectives (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42). The Morongo Proposed LUPA/Final EA discloses the effects on scenic value based on visible change and visibility to attract attention (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42). Accordingly, this protest issue is denied.

Inadequate Public Participation Periods

Annette Deyhle, James Carsella, Charles Greenwood, Donna Yerman, and John Foster
Issue Excerpt Text: First, the comment and protest period was procedurally invalid. BLM ... did not use its required interest list under 43 C.F.R. § 1610.2(d), and failed to make the EA and PRMPA accessible for 21 of the 30 days of the comment window — a 70 percent denial of the review time § 1610.2(e) mandates. The 30-day clock runs from effective notice and continuous document availability. It has not run. The remedy is a full restart after proper individual notice — not an extension of the defective period. (Section 1).

Summary:

A protestor stated that the public comment and protest periods were procedurally invalid because the BLM did not use its interest list required under 43 CFR 1610.2(d) and did not make the Morongo Proposed LUPA/Final EA available for 21 of the 30 days of the protest period.

Response:

The planning regulations require the BLM to maintain a list of interested and affected parties “and those on the list shall be notified of public participation activities” (43 CFR 1610.2(d)). The regulations do not specify the manner in which the BLM must notify the parties on the list. The BLM is required through internal policy to publish all NEPA compliance documents to the BLM’s National NEPA Register, known as ePlanning, at eplanning.blm.gov (IM 2024-039).

The BLM published the *Notice of Intent to Amend the California Desert Conservation Area Plan for the Morongo Highway 62 Communication Site Project, San Bernardino County, California* (87 Federal Register [FR] 9376) on February 18, 2022. The BLM also published a news release on BLM.gov, posted a public notice in the *Hi-Desert Star*, and mailed postcards to local residents in February 2022 informing the public of the Notice of Intent publication. These communications all directed interested parties to the project’s ePlanning page for additional information, including the dates and locations of scoping meetings and future public participation periods. Consistent with modern planning practice, these notices advised interested parties to monitor the project’s ePlanning page for posted notices, documents, and updates. As described in Section 1.5.1 of the Morongo Proposed LUPA/Final EA (p. 1-6), the 30-day public scoping period was initiated on February 18, 2022, with publication of the Notice of Intent (87 FR 9376) and ended on March 21, 2022. The BLM also hosted a scoping meeting on March 17, 2022, and directed interested parties to the project’s ePlanning webpage for more information related to the project. Subsequently, the BLM also provided a 30-day public comment period upon publication of the Morongo Draft LUPA/EA, which began on August 16, 2024, and was set to end on September 16, 2024, but the BLM extended the comment period through October 7, 2024, resulting in a 52-day comment period. The BLM provided notice for this comment period on the project’s ePlanning website as well as through a BLM national press release, a local news release, and postcards mailed to Morongo Valley residents (Morongo Proposed LUPA/Final EA p. 1-8). The BLM also held a public meeting on September 5, 2024.

The BLM published the Morongo Proposed LUPA/Final EA on the project’s ePlanning website on February 12, 2026, on the same day in which the protest period and Governor’s Consistency review period began: <https://eplanning.blm.gov/Project-Home/?id=BFCE71B3-A7F2-F011-8407-001DD803D7D3>. The protest period ended 30 days later on March 16, 2026. The Morongo Proposed LUPA/Final EA was immediately available upon publication on February 12, 2026. The BLM received the first two protest letters on February 13, 2026, and continued to receive protest letters throughout the first 21 days of the protest period on February 26 and 27 and March 2–4, 2026, which confirms the accessibility of the published documents throughout this time.

The BLM has complied with procedural requirements for public notification and availability of the Morongo Proposed LUPA/Final EA. Accordingly, this protest issue is denied.

Level of NEPA

Residents Against Tall Towers

Sara Fernandez

Issue Excerpt Text: Where substantial questions exist regarding whether a project may significantly affect scenic resources within a sensitive landscape setting, NEPA requires preparation of an Environmental Impact Statement rather than reliance on an EA.

Summary:

Protestors stated that NEPA requires the preparation of an EIS rather than an EA when a proposed project including an LUPA may significantly affect scenic resources within a sensitive landscape setting.

Response:

Per the BLM's planning regulations, "a resource management plan may be changed through amendment" and "an amendment shall be made through an environmental assessment of the proposed change, or an environmental impact statement, if necessary" (43 CFR 1610.5-5). When determining whether to prepare an EIS instead of an EA for a plan amendment, the BLM must have confidence that the reasonably foreseeable effects from the proposed planning action are not likely to be significant or the significance of the effects are unknown (DOI NEPA Handbook §1.2(a)(5)(i)). To determine whether the effects are significant enough to warrant preparation of an EIS, the BLM should consider: (1) both short- and long-term effects; (ii) both beneficial and adverse effects; (iii) effects on public health and safety; (iv) economic effects; and (v) effects on the quality of life of the American people (DOI NEPA Handbook §1.2(b)(2)(i)-(v)). The BLM must also consider the potentially affected environment and should consider, as appropriate to the proposed action, any connected actions, the scope of the affected area (national, regional, or local), reasonably foreseeable trends and planned actions within that area, and the affected area's natural and cultural resources (DOI NEPA Handbook §1.2(b)(1)).

Section 1.4 of the Morongo Proposed LUPA/Final EA explained that the proposed LUPA is limited in scope and intended to address a site-specific right-of-way (ROW) application for a multi-tenant communications facility, rather than to revise or replace existing land use allocations more broadly (Morongo Proposed LUPA/Final EA pp. 1-4 to 1-6). The BLM determined that an EA-level plan amendment is appropriate because the amendment applies to a discrete area, does not introduce new resource management programs, and builds upon existing land use plan decisions while accommodating telecommunications infrastructure consistent with the BLM's multiple-use mandate (Morongo Proposed LUPA/Final EA pp. 1-3 to 1-6).

The environmental effects analysis presented in Chapter 3 of the Morongo Proposed LUPA/Final EA evaluated potential impacts on affected resources, including scenic and visual resources, biological resources, and special area designations, among others, within the context of the existing State Route 62 transportation corridor and surrounding landscape setting (Morongo Proposed LUPA/Final EA pp. 3-1 to 3-46). The analysis in Section 3.7, *Visual Resources* (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42), and supported by the visual simulations in Appendix G of the Morongo Proposed LUPA/Final EA, recognized that implementation of the proposed project under any of the action Alternatives, B, C, and D would result in visual contrast and would not conform with existing VRM Class II objectives, thereby necessitating a plan amendment; however, it further concluded that while the tower would be visible and, in some locations, would attract attention or introduce moderate contrast, the degree of visual change varies by topography and existing development, and in several viewpoints the facility would be minimally visible or not attract attention (Morongo Proposed LUPA/Final EA pp. 3-39 to 3-42).

As documented throughout Chapter 3, the Morongo Proposed LUPA/Final EA found that no resource area would experience impacts of a magnitude, duration, or intensity that would rise to the level of significance. Based on the limited scope of the amendment, the absence of substantial changes to existing land use management across the planning area, and the conclusions of the effects analysis demonstrating no significant environmental impacts, the BLM determined that preparation of an EA is the appropriate level of NEPA review for the proposed LUPA. Accordingly, this protest issue is denied.

Irreversible and Irretrievable Commitment of Resources

Annette Deyhle, James Carsella, Charles Greenwood, Donna Yerman, and John Foster

Issue Excerpt Text: Approving irreversible infrastructure before the governing management framework is complete forecloses options the planning process exists to consider, violating *Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000)’s prohibition on irreversible resource commitments made in advance of required planning processes. (Proclamation 9396; 54 U.S.C. § 320301).

Summary:

A protestor contended that the VRM downgrade and the establishment of a long-term ROW are irreversible commitments of resources and that the BLM cannot lawfully approve these before completion of the Sand to Snow National Monument management planning framework.

Response:

Pertaining to an irreversible and irretrievable commitment of resources, courts have interpreted this as requiring agencies to prepare NEPA documents, such as an EA or an EIS, “before any irreversible and irretrievable commitment of resources” (*Conner v. Burford*, 848 F.2d 1441, 1446 (9th Cir. 1988); see also *EDF v. Andrus*, 596 F.2d 848, 852 (9th Cir. 1979)). The violation of this legal interpretation found in *Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000) reflected the agency having entered into a contract with the applicant prior to considering the environmental effects of the action through an EA or EIS.

The BLM began considering the environmental effects of the proposed LUPA through an EA on February 18, 2022, with the release of the Notice of Intent (87 FR 9376, February 18, 2022) and start of the public scoping period, continued environmental review and disclosed the analysis in the Morongo Draft LUPA/EA on August 15, 2024, and further considered effects and disclosed revised analysis in the Morongo Proposed LUPA/Final EA on February 12, 2026. The BLM identified in the purpose and need for the implementation action that the analysis was being conducted “to respond to [InterConnect Towers LLC]’s ROW application to construct and manage a communications facility on BLM-managed land” (Morongo Proposed LUPA/Final EA p. 1-3), identifying that the BLM had not entered into a contract with the applicant prior to considering the environmental effects of the action prior to the EA.

The BLM satisfied legal standards for considering the environmental effects of the action before any irreversible and irretrievable commitment of resources through the preparation of the Morongo Proposed LUPA/Final EA prior to issuing an authorization or entering into a contract with the applicant. Accordingly, this protest issue is denied.

Limitations on Actions During the NEPA Process

Annette Deyhle, James Carsella, Charles Greenwood, Donna Yerman, and John Foster

Issue Excerpt Text: BLM cannot approve a permanent VRM downgrade or 30-year ROW grant within the Sand to Snow National Monument’s SRMA boundary while the Proclamation-mandated monument management plan remains unfinished. The Forest Service confirmed in March 2025 that both agencies “will next work on” the plan.

Summary:

Protestors contend the BLM cannot lawfully approve an irreversible VRM downgrade or long-term ROW grant before completion of the Sand to Snow National Monument management planning framework, because doing so would foreclose planning alternatives.

Response:

DOI NEPA procedures limit actions that can be undertaken during a NEPA process to direct the BLM to take no action that “(i) limits the choice of reasonable alternatives; or (ii) is not independently justified and accompanied by an adequate environmental review” (DOI NEPA Handbook §1.3(b)(1)(i)-(ii)).

The BLM has not released any notice initiating planning for the Sand to Snow National Monument and so is not limited to taking actions that could limit any choice of reasonable alternatives for a NEPA process that has not started. Furthermore, as explained in the Morongo Proposed LUPA/Final EA, the proposed project Sites 1 and 2 are 0.5 mile outside the boundary of the Sand to Snow National Monument (Morongo Proposed LUPA/Final EA p. 3-1) and therefore are not subject to the protections of the national monument designation, nor would they be within the planning area for a future Sand to Snow National Monument Resource Management Plan.

The proposed project Sites 1 and 2 are within the Sand to Snow SRMA. Therefore, the Morongo Proposed LUPA/Final EA properly analyzed the effects of the proposed action and alternatives on the SRMA, identifying that activities and experiences for which the SRMA was established would be preserved under all alternatives (Morongo Proposed LUPA/Final EA pp. 3-28 to 3-30).

The BLM complied with NEPA procedures in developing the Morongo Proposed LUPA/Final EA. Accordingly, this protest issue is denied.

Amending Land Use Plan to Address Non-Conforming Project***Daniel and Claudia Sall***

Issue Excerpt Text: Unlawful RMP Amendment to Accommodate a Nonconforming Project. The EA admits the project does not meet VRM Class II objectives, yet proposes downgrading the VRM classification to Class III rather than ensuring plan compliance—contrary to FLPMA. An RMP amendment cannot lawfully be used to legitimize a single nonconforming proposal.

Residents Against Tall Towers***Sara Fernandez***

Issue Excerpt Text: Sections 1 and 2 of the Final EA do not demonstrate that the proposed communications facility is necessary, consistent with governing land use plans, or supported by reliable technical evidence. The administrative record reflects that:

- the proposed tower does not conform to the existing Visual Resource Management (VRM) Class II designation governing the project area
- approval would require amendment of the governing land use plan
- the asserted telecommunications need relies primarily on applicant-prepared propagation modeling
- substantial telecommunications infrastructure development is already occurring within the Highway 62 corridor

Where a proposal conflicts with an existing land use plan and the record does not demonstrate an overriding public necessity supported by reliable evidence, the appropriate outcome under the Federal

Land Policy and Management Act (FLPMA) is denial of the project—not amendment of the governing plan to accommodate it.

Issue Excerpt Text: The Final EA reflects a decision framework in which the proposed project drives modification of the governing land use plan rather than demonstrating how the project conforms to existing management direction. This approach reverses the planning hierarchy established under the Federal Land Policy and Management Act (FLPMA), under which land use plans guide project approvals and implementing decisions must conform to those plans.

Issue Excerpt Text: The proposed communications facility does not conform to the governing land use plan, and the EA does not provide a reasoned basis for amending that plan to accommodate the project.

Under FLPMA, the BLM must manage public lands in accordance with approved land use plans. 43 U.S.C. §1732(a). Implementing actions such as right-of-way authorizations must conform to the applicable Resource Management Plan. 43 C.F.R. §1610.5-3(a).

The project area is managed under the California Desert Conservation Area Plan as amended by the Desert Renewable Energy Conservation Plan Land Use Plan Amendment and lies within the Sand to Snow Special Recreation Management Area, where the landscape is currently managed under Visual Resource Management Class II.

VRM Class II areas are managed to retain the existing character of the landscape so that management activities do not attract the attention of the casual observer. The EA acknowledges that the proposed 196-foot communications tower would not meet this objective. Rather than modifying the project to comply with the existing management direction, the EA proposes to amend the land use plan to downgrade the VRM classification.

Issue Excerpt Text: The EA’s analysis also reverses the analytical sequence required under FLPMA and NEPA. The appropriate inquiry is whether the proposed project is consistent with the governing land use plan. If a proposal cannot meet the applicable Visual Resource Management objectives, the BLM must evaluate whether the project should be modified, relocated, or denied. Instead, the EA assumes that the project should proceed and then proposes to amend the governing VRM designation in order to accommodate the resulting visual impacts. Using a land use plan amendment primarily as a mechanism to authorize a project that conflicts with existing visual management objectives undermines the planning framework established under FLPMA, in which land use plans guide project-level decisions rather than being revised to legitimize individual proposals.

Karen McKendrick

Issue Excerpt Text: The EA admits the project does not meet VRM Class II objectives, yet proposes downgrading the VRM classification to Class III contrary to FLPMA. An RMP amendment cannot lawfully be used to legitimize a single nonconforming proposal.

Jessica Lawson and Matthew Caron

Issue Excerpt Text: The FONSI itself acknowledges that “due to the proposed position of the tower on the skyline, implementation of BMPs would not be able to effectively reduce the contrast into VRM Class II conformance.” (AR FONSI at Visual Resources.) This is a candid concession that the project fails VRM Class II standards on its merits. The plan amendment does not cure this failure—it simply reclassifies the site downward to manufacture conformance. BLM Manual 8400 and BLM IB-CA-2009-005 establish that VRM classes are management objectives, not flexible targets to be lowered to accommodate an applicant’s preferred design.

Summary:

Protestors argue the Morongo Proposed LUPA/Final EA does not conform to the existing land use plan VRM Class II standards, and that proposing a VRM downgrade to Class III or IV within a plan amendment is project-driven, inconsistent with FLPMA, and sets a harmful precedent, suggesting the BLM should evaluate reasonable alternatives or deny the proposed project rather than amend the land use plan to downgrade the VRM class.

Response:

The BLM is required to develop, maintain, and, when appropriate, revise land use plans (FLPMA 202 (a)). The BLM's regulations governing procedures for changing established land use plans include allowance to change a land use plan through amendment (43 CFR 1610.5-5). These regulations specifically identify that amendments are initiated by the need to consider, among other things, "a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan" (43 CFR 1610.5-5). These regulations further specify that "[i]f the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously" (43 CFR 1610.5-5).

The Morongo Proposed LUPA/Final EA disclosed that the InterConnect Towers LLC's ROW application to construct and manage a communications facility would not conform to the California Desert Conservation Area Plan for VRM (Morongo Proposed LUPA/Final EA pp. 1-4 to 1-5). The Morongo Proposed LUPA/Final EA's purpose and need explained that the BLM would consider whether to amend the 1980 California Desert Conservation Area Plan to respond to the project proposal (Morongo Proposed LUPA/Final EA p. 1-3). The BLM conducted the analysis for the LUPA in the same EA considering effects to respond to the application by describing the LUPA in each applicable alternative (Morongo Proposed LUPA/Final EA pp. 2-3, 2-5, and 2-6) and disclosing the effects of the change of visual management for the project area in each applicable alternative (Morongo Proposed LUPA/Final EA pp. 3-35 to 3-42).

The BLM appropriately complied with regulatory procedures for considering changes to land use plans in accordance with FLPMA. Accordingly, this protest is denied.

Purpose and Need***Residents Against Tall Towers******Sara Fernandez***

Issue Excerpt Text: The Purpose and Need statement in the Final EA frames the BLM's objective as responding to the applicant's right-of-way request and, if necessary, amending the governing land use plan to allow construction of the proposed telecommunications facility...NEPA requires agencies to define the purpose and need for action in a manner that allows meaningful consideration of reasonable alternatives and does not predetermine the outcome of the analysis. A purpose statement that assumes approval of a specific project configuration—or assumes that existing land use protections may be modified in order to authorize that project—improperly narrows the range of alternatives that can be considered...Because the purpose and need statement presupposes the acceptability of a plan amendment, it constrains the range of alternatives evaluated in the EA and undermines the objectivity required under NEPA.

Summary:

Protestors argue the Morongo Proposed LUPA/Final EA violates NEPA by defining the purpose around the applicant’s ROW request.

Response:

NEPA requires agencies to analyze of a reasonable range of alternatives that are feasible and meet the purpose and need of a proposed action (42 U.S.C. 4332(2)(C)(iii)). A reasonable range of alternatives includes that which are “technically and economically feasible, meet the purpose and need for the proposed action, are within the jurisdiction of the bureau, and, where applicable, meet the goals of the applicant” (DOI NEPA Handbook §6.1(v)). The BLM develops a purpose and need for a proposed action based on applicable statutory authority and, when concerning the BLM’s duty to act on an application for authorization, will also be informed by the goals of the applicant (DOI NEPA Handbook §1.5(b)(1)(i)).

Sections 1.2, 1.3, and 1.4 of the Morongo Proposed LUPA/Final EA (pp. 1-3 to 1-6) explained the purpose and need for the project is “to respond to [InterConnect Towers LLC]’s ROW application to construct and manage a communications facility on BLM-managed land and, if necessary, amend the applicable land use plan” (Morongo Proposed LUPA/Final EA p. 1-3). The Morongo Proposed LUPA/Final EA identified the decision to be made as including “to approve, approve with modifications, or deny the ROW application as submitted by [InterConnect Towers LLC]” (Morongo Proposed LUPA/Final EA p. 1-4). The Morongo Proposed LUPA/Final EA analyzed a range of reasonable alternatives, including an alternative denying the application (Alternative A) and three alternatives (B, C, and D) authorizing the ROW with modifications to the application and an amendment to the land use plan (Morongo Proposed LUPA/Final EA pp. 2-1 to 2-6).

The purpose and need in the Morongo Proposed LUPA/Final EA did not impermissibly limit the range of alternatives considered for the proposed project and LUPA. Accordingly, this protest issue is denied.

Reasonably Foreseeable Effects

Weaver Land Law

Stephen Weaver

Issue Excerpt Text: NEPA requires agencies to analyze the reasonably foreseeable full buildout authorized by the decision. The limited visual simulations appear to depict antenna arrays only near the top of the structure and do not clearly represent the intended capacity at full tower lease-up given the maximum capacity of two 20’ X 40’ equipment buildings (previously specified as accommodating up to 8 tenants each in the Draft EA). Under H-8431-1, all project features must be evaluated for contrast in form, line, color, and texture. By failing to evaluate the maximum authorized buildout scenario, the EA understates or omits considerations of vertical massing, visual clutter from stacked antennas, an increased silhouette density. The EA also does not consider the scope of activities and operations required to maintain the tenant operations, including vehicle usage to and from the site stemming from day-to-day operations, emissions from any industrial uses that are accessory to the principal uses, or equipment transport, tenant turnover.

Daniel and Claudia Sall

Issue Excerpt Text: Failure to Analyze Full Eight-Tenant Buildout (NEPA Violation). The tower is designed for up to eight tenants, but visual simulations appear to depict only partial antenna installation. NEPA requires analysis of the maximum authorized buildout. By failing to evaluate full lease-up conditions, the EA understates vertical massing, clutter, and silhouette density.

Summary:

Protestors argued that the Morongo Proposed LUPA/Final EA understates impacts by failing to evaluate full, reasonably foreseeable buildout of a multi-tenant tower and the cumulative scenic degradation that could follow from downgrading VRM protections in a highly sensitive SRMA. They contend NEPA requires analyzing the maximum authorized scenario (e.g., eight potential tenants with varying tower and antenna heights).

Response:

NEPA requires agencies to evaluate the reasonably foreseeable environmental effects of a proposed action (42 U.S.C. 4332(2)(C)). Effects analysis is limited to changes to the human environment from the proposed action that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or action alternatives (DOI NEPA Handbook §6.1(k)). Effects do not include those effects that would need to be initiated by a third party: a “but for” causal relationship is insufficient to make an agency responsible for a particular effect under NEPA (DOI NEPA Handbook §6.1(k)(2)).

The Morongo Proposed LUPA/Final EA considered the reasonably foreseeable effects on visual resources based on the range of carrier tenants in the action alternatives of four under Alternatives B and C and five under Alternative D (Morongo Proposed LUPA/Final EA pp. 2-2 to 2-6). Any addition of carrier tenants to the site would require initiation of such an application by a third party as well as additional NEPA analysis for those applications and are not reasonably foreseeable.

Section 3.7.2 of the Morongo Proposed LUPA/Final EA discussed the reasonably foreseeable future actions for visual resources (p. 3-42). Specifically, the Morongo Proposed LUPA/Final EA analyzed three pending ROW applications within 1 mile of the proposed project sites, which are the reasonably foreseeable projects known in the project vicinity. The Morongo Proposed LUPA/Final EA evaluated potential effects from the proposed project combined with the impacts of these reasonably foreseeable future actions and concluded that, while the intensity and magnitude of the impacts would depend on factors such as the extent and location of the ROW infrastructure, impacts of the proposed project combined with those of other reasonably foreseeable actions would involve some loss of the undeveloped nature of the area (Morongo Proposed LUPA/Final EA p. 3-42).

The BLM has adequately analyzed reasonably foreseeable effects of visual impacts in the Morongo Proposed LUPA/Final EA. Accordingly, this protest issue is denied.

References

Bureau of Land Management (BLM). 2013. *Best Management Practices for Reducing Visual Impacts of Renewable Energy Facilities on BLM-Administered Lands*. First edition. Available: https://blmwyomingvisual.anl.gov/docs/BLM_RenewableEnergyVisualBMPs_LowRes.pdf.