Kimberly MacMillan

From: <Shaula_Hedwall@fws.gov>
Date: Thu, May 5, 2011 at 3:08 PM
Subject: Fw: Comments on the Northern Arizona Proposed Withdrawal Project Draft EIS--(Delivery of email failed 2nd try)
To: azasminerals@blm.gov
Cc: Brenda_Smith@fws.gov, Steve_Spangle@fws.gov, Cathy_Gordon@fws.gov

If you have any questions, please contact Brenda Smith at 928-226-0614 x101. Hard copy will be mailed to the District Manger Arizona Strip today.

United States Department of the Interior

U.S. Fish and Wildlife Service
Arizona Ecological Services Office
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In reply refer to:
AESO/SE
22410-2009- FA-0112

May 5, 2011

Email Transmission
Memorandum

To: District Manager, Arizona Strip District, Bureau of Land Management, St. George, Utah

From: Field Supervisor

Subject: Comments on the Northern Arizona Proposed Withdrawal Project Draft Environmental Impact Statement (DEIS)

Thank you for the opportunity to provide comments concerning the subject document. The Secretary of the Interior (Secretary) proposes to withdraw up to 1 million acres of public land in the Grand Canyon watershed, Coconino and Mohave Counties, Arizona, from entry under the Mining Law of 1872 for a period of 20 years. The DEIS was provided for public review on February 18, 2011.

The U.S. Fish and Wildlife Service (FWS) supports the Secretary's efforts to analyze mining-related impacts to the Grand Canyon region and to consider withdrawal alternatives that protect the natural, cultural, and social resources of this area. Withdrawal alternatives would also minimize impacts of mining activities to Federal trust resources. FWS is a cooperating agency in the development of the Environmental Impact Statement (EIS) for this proposal and has provided input and comments on administrative drafts of the document. Considering the high level of uncertainty inherent in this programmatic analysis, many of the potential effects to threatened and endangered species, migratory birds, and bald and golden eagles have been disclosed and appropriately analyzed.

Areas of uncertainty include the unknown specific locations of exploration activities and mines during the 20-year period of analysis, the size of ore bodies (and consequently depth, size, and duration of mining activity), the number and duration of periodic episodes of temporary closure of mines (interim management) that may occur in the future, and future activity associated with valid existing claims. There is also uncertainty in the analysis because we simply do not have long-term data nor consistent monitoring of water quality and quantity on a broad enough scale to provide a conclusive evaluation of potential risk to these resources. Lack of toxicity information and radiation hazards associated with uranium on fish and wildlife species local to this area make it difficult to meaningfully assess risk and potential impacts. Therefore, we

concur with research suggestions that USGS outlines in their report (Alpine 2010) and recommend incorporating a federally-led research and monitoring program that will in help to fill some of the data gaps identified in the "Incomplete or Unavailable Information" sections of the analysis, particularly those associated with potential impacts to water resources and chemical and radiation hazards to fish and wildlife and special status species. We also recommend incorporating a long-term and comprehensive monitoring plan focused on evaluating past, current, and future mining impacts.

For the impact analysis in Chapter 4, the DEIS relies on the assumption that state and Federal regulations have been and are being met in order to minimize environmental impacts to various resources (e.g., air quality on page 4-17, water quality and quantity on page 4-57, Compliance with Environmental Regulations and Permitting on pages 4-66 to 67). However, a recent media report (*Arizona Daily Sun*, March 11, 2011, "Three uranium mines advance") states that Arizona Department of Environmental Quality (ADEQ) did not inspect the currently-operating Arizona 1 mine until it had been open for nine months, and that four "major" violations were not addressed. In addition to testing this assumption, longer-term and comprehensive monitoring would also serve to evaluate the potential effects that may result from variations in regulatory compliance.

The document refers to standard operating procedures and conservation measures that are relatively general in nature. Because under all alternatives some level of mining activity will likely occur in the future, we recommend developing more specific conservation measures that can be carried forward into site-specific mining plans of operations to ensure both consistency in future activities and minimization of potential adverse effects to sensitive resources.

Specific Comments

Page 1-10, Section 1.4.3: We recommend including a brief description of the Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Act (BGEPA). Both of these laws are included among FWS authorities in Table 1.4-1, but are not described in this section.

Page 1-22, Table 1.5-1: A potential impact on fish and wildlife resources and special status species also includes the possible chemical (uranium and other heavy metals) and radiation contamination of these resources through ingestion of plants, uptake of water, and exposure to soils in the vicinity of mining operations.

Page 2-39, Table 2.8-1, Special Status Species: In addition to the impacts listed, there may also be direct impacts to these species resulting in disturbance, injury, or death of individuals, particularly plants, from exploration and mine-development activities.

Page 3-2, Section 3.1.2: The scientific name for Siler pincushion cactus is *Pediocactus sileri.* The scientific name for southwestern willow flycatcher is incorrect; the correct name is *Empidonax traillii extimus.*

Page 3-7, Table 3.1-1: The table does not consider potential effects to special status plants. These may include mortality or injury to individual plants from crushing or removal, and loss or modification of habitat through actions such as clearing and road construction. The proportion of habitat modified or lost is an additional indicator for the special status species population

section; the number of special status plants lost as a result of mine development is an indicator for the special status species mortality section.

Page 3-130, Table 3.8-1: The only designated critical habitat for California condor is in California; there is no critical habitat in the project area. There is no conservation agreement for this species. The California condor in the project area is designated as a nonessential experimental population under section 10(j) of the Endangered Species Act (ESA).

Page 3-130, 3-132, Table 3.8-1: Yellow-billed cuckoo and Fickeisen plains cactus are listed in the table as "Candidate w/o CH". Critical habitat is not designated until a species becomes federally-listed as threatened or endangered, so the reference to critical habitat for these candidate species should be removed.

Page 3-135, Table 3.8-1: The Virgin River chub co-exists with woundfin and Virgin River spinedace, and therefore, for consistency with these species, should also be listed as being in close proximity to the parcels.

Page 3-136, Table 3.8-1: The Mojave desert tortoise does not occur in close proximity to any of the withdrawal parcels.

Page 3-137, Table 3.8-1; Page 3-158: The Niobrara ambersnail (*Oxyloma haydeni haydeni*) is included as a federally-listed species in the table and the text in this section. The federally-endangered entity is the Kanab ambersnail (*Oxyloma hyadeni kanabensis*). The Niobrara ambersnail is not federally-listed and is not a federal candidate for listing.

Page 3-139, Table 3.8-2: The northern leopard frog should be included as "Possible" for the East Parcel. Populations occur near the boundary of the East Parcel in the House Rock Wildlife Area.

Page 3-140, Sentry milk-vetch: The species description contains a number of inaccuracies. Please refer to our recent 5-year status review of this species for more accurate information (http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/Sentry/Sentry%20Milk-Vetch%205-Year%20Review.pdf).

Page 3-143, Paradine (Kaibab) plains cactus: We recommend obtaining more recent monitoring information than what is provided here (2000), which is available from Barb Phillips, U.S. Forest Service.

Page 3-144-147, California condor: To update the information provided here, as of March 31, 2011, there are a total of 193 condors in the wild population, 73 of them in Arizona. Birds have only been released at Vermillion Cliffs (no releases at Hurricane Cliffs). Breeding activity has occurred at the locations mentioned, but not all these nests have been successful. Lead contamination from hunter-killed carcasses continues to be a major factor affecting the reintroduction program.

Page 3-147, Yuma clapper rail: The Yuma clapper rail has been found in the Virgin River above Lake Mead since 1998.

Page 3-150, Mexican spotted owl: The discussion of critical habitat should cite the 2004 Final Rule (*Federal Register* 69:53182-53298). The description in this section should include canyon-type critical habitat, which constitutes most of the critical habitat in Critical Habitat Unit CP-10, as well as in the vicinity of the proposed withdrawal.

Page 3-151, Bald eagle: The last sentence is incorrect. The bald eagle is no longer listed as a threatened species under the ESA, Federal agencies do not manage it as if it is a proposed species, and it is not afforded protection under the ESA. However, the bald eagle remains protected under the BGEPA.

Page 3-151, Peregrine falcon: Similar to the comment above, the peregrine falcon is not afforded protection under the ESA as a listed species. It remains protected under the MBTA.

Page 3-153, Desert tortoise (Mojave population): Ernst and Lovich (2009) contains a comprehensive overview of the diet of the desert tortoise. Desert annuals, particularly forbs, are the primary food source for Mojave desert tortoise, and grasses are considered to be secondary in importance.

Page 3-154, Northern leopard frog: The email cited was from Shaula Hedwall, not "Durst". The citation provided in that email is "Drost 2010". Furthermore, this paper describes the northern leopard frog as occurring along the Colorado River at Horseshoe Bend (River Mile 9) until 2002.

Page 3-155, Humpback chub: Within the Lower Colorado River Basin, critical habitat has been designated in the Little Colorado River from river mile 8 to its confluence with the Colorado River, and in the Colorado River from Nautiloid Canyon to Granite Park.

Brian Healy is a National Park Service biologist, not a U.S. Fish and Wildlife Service employee.

Page 3-155, Razorback sucker: Critical habitat for this species has also been designated in the Colorado River from the Paria River to Hoover Dam.

Page 3-156, Virgin River chub: Based on sampling conducted in 2010, the Virgin River chub currently occurs in the Virgin River in Utah and Arizona. It is occasionally documented in the river in Nevada.

Page 3-181, Resource condition indicators: Please see our comment above for page 3-7.

Page 4-116, Impacts of Alternative A: Although individually fairly small areas would be disturbed under this alternative, the number of exploration (504) and mining projects (21) anticipated for the North Parcel could result in long-term and apparent differences between the disturbed then reclaimed areas and the surrounding vegetation. Impacts are more likely to be apparent to the vegetation community overall in this parcel because of the total number and acreage of disturbances that could be distributed throughout the parcel, and because successful reclamation to the pre-disturbance community and condition is unlikely, due to the highly variable precipitation, invasive plants species, and existing land uses.

Page 4-118, Impacts of Alternative D: Similar to our comment above, impacts to vegetation within the North Parcel in this alternative would likely be similar to those in Alternative A, due to the relatively high number of exploration action (290) and mines (20) that would be concentrated across a smaller area.

Page 4-118-119, Cumulative impacts: Livestock grazing can also slow recovery of vegetation after disturbance and impact the success of reclamation, especially at sites that are near stock tanks or corrals where cattle congregate. We recommend protecting disturbed sites from grazing to improve the opportunity for successful revegetation to the pre-disturbance conditions.

Page 4-127, first full paragraph: An additional effect at mines under interim management, as well as active mines, is exposure of birds and bats to contaminated water that periodically occurs from rainfall events at mine collection ponds. Requiring netting or other protection over these ponds would reduce the chance of contamination and potential injury to migratory birds and bats.

Also, please clarify the effects to perched aquifers from mines that are in interim management mode. Water quantity (see page 4-71) and presumably water quality in these aquifers would continue to be affected during this period, while mines are not being actively operated, but have not been reclaimed.

Page 4-130, first partial paragraph: The referenced study compared small mammal populations along an interstate in Utah and a two-lane highway and an existing transmission ROW road in forested habitat in British Columbia. The results of this study have limited applicability here to the effects of new roads on larger mammals in this arid environment.

Page 4-131, first paragraph: Biological soil crusts are also important for holding soil (especially topsoil) together and preventing erosion.

Page 4-136, Migratory birds: Impacts to aquatic habitats could result in impacts to other bird species using these habitats, in addition to wading birds. Also, we could not locate the discussion about impacts to wading birds in Section 4.7.4 that is referred to here.

We recommend acknowledging the risk to migratory birds from water collection ponds within mine operation areas. Based on sampling conducted by USGS, these ponds have high levels of radiation and contamination. Measures to mitigate the risk of this exposure to migratory birds, as well as risk associated with exposure to waste rock piles and other sources of contamination, should be developed and incorporated into future plans of operations.

We also recommend including a conservation measure to add perching and nesting deterrents to any utility structures erected in or near mine sites so that large raptors, including bald and golden eagles as well as condors, are discouraged from using these facilities.

Pages 4-139 to 141, Table 4.8-1: For species with designated critical habitat, the rationale for exclusion should state that no critical habitat would be affected and include the reason(s). In addition, on December 14, 2010, FWS published a 12-month "warranted but precluded" finding for the Sonoran population of the desert tortoise. This subspecies is now a candidate for listing under the ESA.

Page 4-143, Section 4.8.3, Threatened, endangered, and candidate species: This paragraph implies that ACECs fully protect the species that are located within them. Although ACEC designation provides certain protections, mining activities can still occur within ACECs and result in impacts to these species.

Page 4-144, Impacts of Alternative A: Siler pincushion cactus could be affected in a manner similar to the other plants listed here.

Page 4-145, Impacts of Alternative A: Northern leopard frog and lowland leopard frog are not currently threatened, endangered, or candidate species and should be included with the description of impacts to sensitive species instead of in this section.

Page 4-147, Cumulative impacts: In the sentence regarding critical habitat for the Mexican spotted owl, please clarify that this habitat is withdrawn from mineral entry due to other withdrawals (such as wilderness designation). Critical habitat designation itself does not withdraw these areas from mineral entry.

The ESA requires consultation for Federal actions that may affect listed species or designated critical habitat and is intended to avoid or minimize adverse effects. However, the ESA does not require that effects result in "minor and less than significant cumulative impacts." The ESA does prohibit Federal agencies from implementing actions that would result in jeopardizing the continued existence of a listed species or adversely modifying or destroying critical habitat.

Page 4-148 to 149, California condor: We recommend adding a conservation measure that requires covering truckloads, bins, and/or piles of wet or dry uranium ore or byproducts while on site and not actively being used or monitored. The purposes would be to reduce contamination off-site from blowing dust as well as discourage perching/roosting by condors and other avian species.

Page 4-149, Mexican spotted owl standards: We recommend also conducting surveys in canyon-type habitat that may support Mexican spotted owls within 0.5 mile of proposed mining activity.

Thank you for the opportunity to comment. If you have any questions regarding these comments, please contact Brenda Smith of my Flagstaff Sub-office at (928) 226-0614 (x101).

Steven L. Spangle

cc (electronic):
Regional Director, Fish and Wildlife Service, Albuquerque, NM (Attn: Denise Baker)
Superintendent, Grand Canyon National Park, Grand Canyon, AZ (Attn: Martha Hahn)
Regional Supervisor, Arizona Game and Fish Department, Flagstaff, AZ (Attn: Andi Rogers)
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ

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Literature Cited

Alpine, Andrea E., ed., 2010. Hydrological, geological, and biological site characterization of breccia pipe uranium deposits in northern Arizona. U.S. Geological Survey Scientific Investigations Report 2010-5025. 353 pp.

Ernst, C.H., and J.E. Lovich. 2009. Turtles of the United States and Canada. John Hopkins University Press. Pages 560-563.