CHAPTER 7

COMMENTS AND RESPONSES

This chapter was added to the Draft EIS (DEIS) to provide 1) a summary of the public review process for the DEIS; 2) reproductions of comment letters received on the DEIS; and 3) BLM's responses to these comments. Please see Chapter 5 for pre-DEIS consultation and coordination.

7.1 THE PUBLIC REVIEW PROCESS FOR THE DEIS

7.1.1 Publication and Mailing

The DEIS for the Ray Land Exchange/Plan Amendment was published on October 28, 1998. Over 350 copies were mailed to citizens, agencies and organizations listed in Appendix C. This mailing list is a compilation of landowners adjacent to the selected and offered lands, elected officials, tribal governments and representatives, state and federal agencies, non-governmental organizations, special interest groups, persons who attended the initial scoping meetings, and persons who requested a copy of the DEIS. Copies of the DEIS were also available at local libraries, at the BLM State and Field Offices, and at the three public hearings.

7.1.2 Notice of Availability

BLM's Notice of Availability (NOA) of the DEIS was published in the *Federal Register* on October 26, 1998. This notice indicated that the DEIS was available for public review and comment for a 90-day period through January 28, 1999.

7.1.3 Public Hearings

Public hearings to answer questions or receive comments on the DEIS were held in Kearny, Mesa and Kingman on December 9, 10, and 11, 1998, respectively. A total of 87 people attended the hearings. Each of these hearings lasted two hours. At each hearing, staff from the BLM and the third-party NEPA contractor (SWCA) were present to respond to comments and questions on the DEIS. An Asarco representative was present to answer technical questions regarding foreseeable uses of the selected lands. All comments submitted during these meetings became part of the formal record of comments received on the DEIS.

Forty-day advance notification for the three public hearings was provided in the BLM's NOA. Notices for the meetings were published in newspapers in the towns of Kearny, Superior, Mesa, Lake Havasu and Kingman.

7.2 CONSULTATION AND COORDINATION WITH AGENCIES, TRIBES AND OTHERS

USFWS. In April 1999, BLM began Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) regarding threatened and endangered species for the following species: southwestern willow flycatcher, cactus ferruginous pygmy-owl, lesser long-nosed bat, peregrine falcon, and bald eagle and the Arizona hedgehog cactus. BLM has included detailed information regarding each species in a Biological Assessment which was submitted to USFWS in June 1999. BLM has requested concurrence from USFWS on its determinations of may affect, not likely to adversely affect for southwestern willow flycatcher, lesser long-nosed bat, peregrine falcon and bald eagle and has requested a Biological Opinion on the cactus ferruginous pygmy-owl based on the determination of may affect, likely to adversely affect. The BLM has also requested concurrence on its determination of may affect, not likely to adversely affect for proposed critical habitat for the cactus ferruginous pygmy-owl.

AGFD. In April and May 1999, BLM held several project coordination meetings with Arizona Game and Fish (AGFD) to discuss issues such as bighorn sheep, access, and land exchange alternatives. Please see responses to Letters #43 and #52 in Chapter 7.

Tribes. A copy of the DEIS with hearing information was mailed to tribal governments on November 3, 1998 with a 90-day comment period. No letters from tribes have been received with comments on the DEIS. On January 25,1999, an additional letter proposing field visits to the project area was sent to 5 tribes who previously expressed interest during scoping or through separate correspondence on traditional cultural property overviews. At this point the Tohono O'odham, Ak-Chin and Hopi Tribes have participated in field visits and may revisit certain sites; and Apache representatives not yet scheduled field visits.

Silver Creek Community. The Silver Creek Community was informed of the Proposed Action and meetings with the community were held on January 28 and March 31, 1999, to give the residents more detailed information of the Proposed Action and alternatives and to discuss possible impacts. Residents identified their concerns during this meeting, which included water impacts, access routes, visual impacts and air quality impacts (see Letters #35, #44, #45, and #55 in Chapter 7).

Arizona Trail Association. BLM and the Arizona Trail Association have been involved in many coordination meetings regarding the proposed land exchange. The most recent meeting was held on February 23, 1999, to give the association more detailed information of the Proposed Action and alternatives and to discuss possible impacts and mitigation (see Letter #48 and general response no.3 in Chapter 7).

Sierra Club. A meeting was held with the Sierra Club on January 14, 1999, to give the members more detailed information of the Proposed Action and alternatives and to discuss possible impacts. Issues discussed included wilderness impacts, access, biological resources, and mining (see Letters #32 and #58 in Chapter 7).

County Line Riders. A meeting was held with the County Line Riders on November 19, 1998, to give the members more detailed information of the Proposed Action and alternatives and to discuss possible impacts to recreation and access. Members identified concerns of access, trail routes, and mining impacts (see general responses no.1 and no.3 in Chapter 7).

Mohave County Public Land Use Committee. The BLM met with the Mohave County Public Land Use Committee on December 15, 1999, to give the committee more detailed information of the Proposed Action and alternatives and to discuss possible impacts. Committee members identified concerns of future land exchanges and taxes for the County (see Letter #27 in Chapter 7).

7.3 TREATMENT OF COMMENTS AND DEVELOPMENT OF RESPONSES

7.3.1 Compilation of Comments

A total of 61comment letters or notification of no comment were received during the comment period. All responses were assigned an identification number. Specific comments within each letter were identified, numbered, and categorized into one of five response types: 1) comments on inaccuracies or discrepancies; 2) comments on the adequacy of the analysis; 3) comments which identify new impacts, alternatives, or mitigation measures; 4) comments which disagree with significance determinations; and 5) comments which express personal preferences. Comments were then grouped according to resource or other topic to facilitate preparation of a response.

7.3.2 Response Preparation

Six comments or comment themes were frequently raised. These general comment themes are listed below and a general response has been prepared for each. In responding to comments, these general responses to comments are referred to whenever practical and were used to respond to or supplement individual responses.

1) Access to White Canyon Wilderness
2) Copper Butte Alternative
3) Arizona Trail
4) Public Interest and Determination
5) Mine Plan of Operation (MPO) and Land Exchange
6) Mineral Creek/Consent Decree Work Plan Project

BLM Interdisciplinary Team (ID Team) members were assigned to prepare responses to comments within their resource specialty. Comments on inaccuracies or discrepancies were reviewed and researched and corrections made as appropriate. Comments which simply expressed a personal preference for the outcome of the EIS were noted. Comments on the adequacy of the analysis were reviewed and discussed by the ID Team to determine whether additional analysis was necessary, or if the concern could be addressed through additional clarification. Comments which identified new impacts, alternatives, or mitigation measures were reviewed by the ID Team to determine whether these suggestions required additional analysis or were within the scope of the EIS. Comments which were disagreed with significance determinations were reviewed and discussed by the ID Team.

7.4 GENERAL RESPONSES

7.4.1 General Response No.1: Access

The following general response addresses issues concerning public access from Highway 177 west to the White Canyon Wilderness, the artesian well and further west past the Coke Ovens and to the Gila River. Current physical access routes are presented on Figure 3-15. In the EIS, public access is discussed in Sections 3.2.4.3 and 4.4.3. Two alternative public access routes were identified (Route #1 and Route #2, Figure 4-1), both of which would replace public access on the existing Battle Axe Rd. (also called Mitchell Mine Rd.) alignment, as Asarco would use this road for mining at Copper Butte and public access would no longer be safe.

In March 1999, the BLM Interdisciplinary Team (ID Team) discussed Proposed access Routes #1 and #2 (Figure 4-1). BLM decided to select Route #2 (Battle Axe Road) alignment as the preferred access route from Highway 177 to the White Canyon Wilderness. Impacts associated with this route are much less than Route #1, which is too close to the White Canyon Wilderness and Silver Creek community. Impacts associated with each route are discussed in more detail in Section 4.4.3.

Asarco would redesign and construct a replacement public access road when the current Battle Axe Road is developed to support mining. As currently understood from the foreseeable use plan, unprocessed ore from Copper Butte would be hauled day and night across Highway 177 to the Ray Mine for processing. Highway 177 may have to be realigned, have an over pass constructed, or redesign of the egress/ingress point to the existing Battle Axe Road to safely accommodate haul trucks. Any such redesign and construction at Highway 177 to accommodate mine development would require the participation of and approval by the Arizona Department of Transportation (ADOT). Similarly the realignment of Battle Axe Rd. (an existing county ROW # AZA21389), would require Pinal County approval.

Beyond the Battle Axe road, current access to the White Canyon Wilderness has no *legal* access beyond BLM lands. Section 24, where the artesian well is located, is considered legal access because the State requires special use permits. Under the Proposed Action (agency preferred alternative), Asarco has agreed to purchase this Section from the State and donate approximately 480 acres to the BLM. When this occurs,

physical and legal access to the White Canyon Wilderness and artesian well would be resolved. Asarco will reserve any access needs at the time of donation. Currently Asarco has only conceptual plans to utilize a southern route between Buckeye and Copper Butte or a conveyance system to support future mining. Also included in the Proposed Action is access from the artesian well to the Coke Ovens and Gila River across Parcel CB-1. Under the exchange, BLM would be granted an easement across Section 26 (Parcel CB-1) to allow continued access to the Gila River and Coke Ovens.

7.4.2 General Response No.2: Alternatives

This general response responds to the public support of the Proposed Action and/or the Copper Butte Alternative. In March 1999, the BLM ID team considered all comment letters and revisited each of the four alternatives. The ID Team is represented by BLM staff from several offices representing management areas for both the selected and the offered lands. Chapter 5 identifies the team members who prepared or had oversight responsibilities for the EIS. Team members represent a wide variety of resource values and uses and considered these in reviewing the alternatives. Listed below is a summary of public comments in support of the Proposed Action or Copper Butte Alternative:

Comments on the Proposed Action (Agency Preferred Alternative[55]): About two dozen comments stated "support, fully support, strong support, preference or support with caveats" for the Proposed Action. Among the reasons given:

- the exchange is a win-win situation; it balances the public interests of preservation and development;
- almost an acres for acres exchange between selected and offered lands;
- BLM acquires lands on its highest priority list, allowing BLM to meet management objectives for riparian, special habitat, endangered species and cultural resources;
- Asarco gets lands for continuing mining, environmental buffering and for orderly planning for future mineral development;
- exchange allows the rural economy of Pinal County to be sustained and generates state revenue;
- the exchange, through enhancing the continuation of mining, permits the mining-dependent communities to sustain their economies and residents to continue their livelihoods;
- The future land use is mining regardless of the exchange;
- Asarco has the right to mine with/or without the exchange so why not obtain offered lands for BLM/public use; or, the BLM is coming out ahead with an exchange because Asarco will mine anyway;
- Private (offered) lands acquired by BLM would be open for public use and benefit;
- BLM can improve its management efficiency;
- The exchange will result in the greatest long term environmental benefit although short-term impacts occur to the White Canyon wilderness during mining.

Comments on the Copper Butte Alternative: Seven comments expressed support for the Copper Butte Alternative. A few letters used the language "If BLM proceeds with the land exchange, the Copper Butte alternative is the least harmful or onerous alternative". Some of the reasons cited by commentors for this alternative included:

- Preferred in efforts to retain Walnut Canyon and the Battle Axe road in public ownership;
- this alternative lessens the future mining impacts on White Canyon Wilderness Area;
- the Copper Butte alternative exchanges the least amount of land;
- the alternative minimizes the exchange impacts on potentially high value desert bighorn sheep habitat and preserves access to the Gila River;
- This alternative minimizes conflicts with scenic and natural values in the White Canyon area.

The BLM chose the Proposed Action as the Agency's preferred alternative with the agreement from Asarco that if Section 24 is acquired by Asarco from the State, Asarco would donate approximately 480 acres to

[55] To meet the requirements of 40 CFR 1502.14(e), the BLM authorizing officer chooses the preferred alternative for the agency based on FLPMA Section 106. All comments were made available to the affected managers along with responses.

BLM for special management in accordance with the White Canyon Plan Amendment/EA Decision Record (April 16, 1998, Appendix I in the DEIS). Please see the discussion in Section 2.1.1.1 regarding the Agency's preferred alternative.

7.4.3 General Response No. 3: Arizona Trail

This general response responds to the Trail groups interested in designating the Arizona Trail near the project area. During the preparation of this EIS, a number of comment letters have been received at all stages which provided specific concerns or identified proposed trail segments. Several field visits and meetings have occurred between BLM and Arizona Trail stewards and organizations, and Asarco to look at specific segments or consider possible mitigation for proposed exchange alternatives.

Detailed planning for the Arizona Trail (and the Great Western Trail) through this area will be done by the BLM Tucson Field Office in separate future efforts. The trail planning may occur as part of a coordinated management plan for the Middle Gila, which will likely include the White Canyon Wilderness or White Canyon ACEC plans, or a separate trail designation plan. The effort will involve additional public scoping and involvement to identify issues and potential trail segments. Proposed trail corridors are subject to NEPA and other federal regulations. The trail planning will also conform to the Phoenix RMP and other activity plans in the affected area. Currently, BLM has agreed to discuss future potential routes through the area and discuss the difficulties involved in planning a trail through the White Canyon area, which include some of the following:

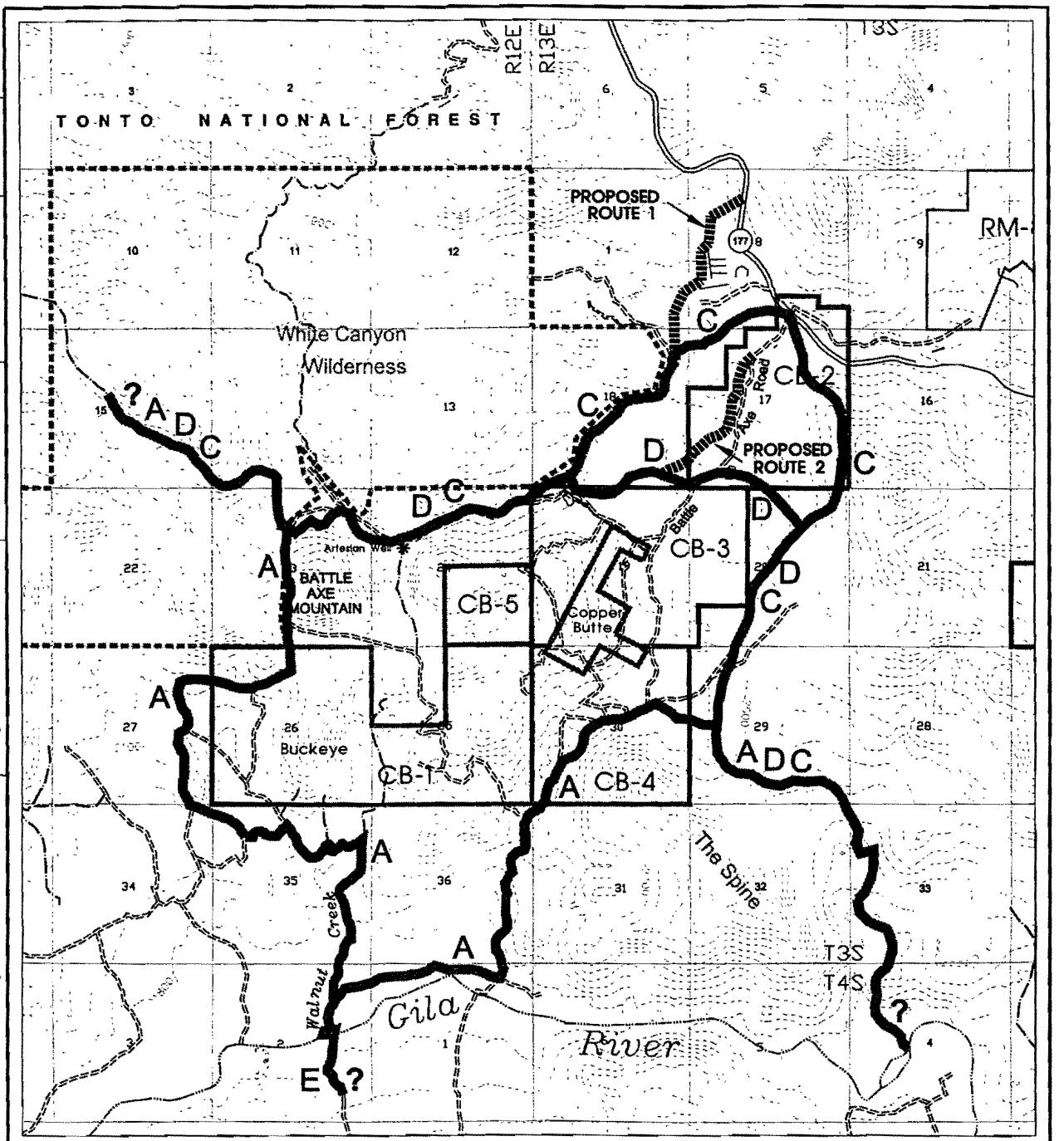
- mixed land ownership pattern of BLM, state and private;
- foreseeable land use of mining development and its associated roads, waste areas and other features;
- limited crossing sites for the Gila River;
- topographic features such as "The Spine" which prohibit economical trail-building or severely limit the construction of safe routes for people, horses and other non-motorized vehicles;
- specially designated areas including White Canyon ACEC and White Canyon Wilderness which require specific use and management;
- the presence of high value resource areas such as Walnut Creek riparian zone;
- the Arizona Trail's need for separate travel from motorized traffic.

In addition, planning for the wilderness, the ACEC and the trail have been delayed due to changing administrative boundaries, competing priorities for staff time and an unknown outcome (configuration) of this land exchange and the ultimate ownership of Section 24.

While it is outside the scope of this EIS to plan or designate the trail, the analysis of potential impacts and mitigation for the Arizona Trail are addressed even if possible trail routes are only suggestions at this point. Figure 7-1 illustrates five routes labeled A, C, D, E, and ADC, which are the trail segments analyzed in this EIS. Neither identify where the Gila River might be crossed although discussions point to the Kelvin Bridge. All assume that the White Canyon Wilderness might be crossed by the Arizona Trail although no decision has been made regarding this crossing. Note that potential routes to the west of the wilderness are not listed herein but are being discussed as well.

- Proposed Trail Segment A: This proposed segment begins from within the White Canyon Wilderness and travels south across Section 23 around Battle Axe Mountain, through Section 26 (Parcel CB-1) and traverses west to Section 27 and heads south to Section 34 and 35. The trail segment then connects with Walnut Creek and heads south following the Gila River east in Sections 2 and 1 and heads north in Sections 36 and 30 around the Spine. The trail eventually connects to Segment ADC and heads south in Section 29 to the Gila River.

- Proposed Trail Segment C: This proposed segment begins from Segment ADC within the White Canyon Wilderness west across Sections 23 and 24 near the artesian well and heads north across Section 18 and 17 up to Highway 177 crossing Battle Axe Road. The segment crosses Parcel CB-2



KEY

- SELECTED PARCELS
- STREAMS
- WILDERNESS BOUNDARY

ACCESS ROUTES

- IMPROVED
- UNIMPROVED
- EXISTING TRAIL
- APPROXIMATE ACCESS ROUTES
- PROPOSED TRAIL SEGMENTS

Scale

0 1/2 1 MILE

CONTOUR INTERVAL 100 FEET

RAY LAND EXCHANGE/PLAN AMENDMENT EIS

Pinal County, Arizona T.3S. R.12E., T.3S. R.13E., T.4S. R.13E.

PROPOSED ARIZONA TRAIL SEGMENTS

FIGURE 7-1

and heads south across Sections 17 and 20 and connects to segment ADC and approaches the Gila River.

- Proposed Trail Segment D: This proposed segment begins from segment ADC within the White Canyon Wilderness west across Sections 23 and 24 and follows the proposed Route #2 segment for Battle Axe Road. Segment D would cross the proposed Battle Axe haul road in Parcel CB-2 and connect to segment with segment C in Section 20.

- Proposed Trail Segment E: This proposed segment would stem off of segment A and cross the Gila River and head south. The exact crossing of the Gila River has not been identified at this time.

- Proposed Trail Segment ADC: This segment combines segments A,C and D in the White Canyon Wilderness and heads north toward the Tonto National Forest. The southern portion of this segment starts in Section 29 and heads south toward the Gila River.

Proposed Mitigation. Should BLM (through its planning process) designate the Arizona Trail in an alignment similar to the segments identified above, the following mitigation would apply:

- Segment A: This proposed segment would require Asarco to allow for a temporary Arizona Trail loop to cross an existing track in the southern half of Section 30 of Parcel CB-4 to connect BLM sections. Since the foreseeable use for Parcel CB-1 is mining, Asarco would need to coordinate with BLM and the Arizona Trail Steward to determine if and how a segment could be constructed off Asarco's private land or at least the area subject to mining uses. Asarco would engineer and construct this permanent loop in or around Section 30 once the temporary loop was no longer safely passable due to mining activities.

- Segments C or D: Either of these two segments would require Asarco to allow for a temporary crossing of the existing Battle Axe Road until it becomes used for mining activities and replaced by a new public access road. For a permanent segment, Asarco will work with BLM and the Arizona Trail Steward to identify, engineer and fund a suitable segment connecting the trail to the newly constructed public access. This could involve the following: crossing BLM or Asarco land to safely connect the trail to Highway 177 for a short distance before looping onto the newly constructed public access road; or, construction of an underpass as part of an overhead bridge that Asarco develops for their haul road; or, building a trail alignment paralleling Highway 177 to the west if that highway is relocated. All of these possible actions require Asarco to work with ADOT for design and approval. Additionally, for segments C and D, Asarco would construct the new public access road with an additional 24-inch trail tread to separate the Arizona Trail from motorized traffic for the length of the new road.

7.4.4 General Response No. 4: Public Interest Determination

This response addresses the issues concerning how BLM can determine whether disposing of the selected lands and the resource values therein is in the public interest. BLM's objectives and criteria for disposing or acquiring public land are identified in Table 1-4 based on the Phoenix RMP. The objectives identified fully meet the "public interest" determination identified in 43CFR2200: achieving better management of federal lands; meeting state and local needs and economies; and, securing important resource objectives.

As discussed in Chapter 1, Section 1.6.3.1, the BLM is authorized to complete land exchanges under Section 206 of FLPMA, passed by Congress in 1976. In considering a land exchange, BLM must determine, per the requirements of Federal Lands Exchange Facilitation Act (FLEFA) and FLPMA, whether the public interest is being served by the proposed exchange.

> Section 206 (a) of FLPMA states that "...when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal

ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired".

On a statewide basis in Arizona, BLM identifies specific lands or criteria for disposing public lands through resource management plans such as the Phoenix, Safford District or Kingman RMPs. These plans also identify state or private lands for acquisition. On a state-wide basis, the criteria for acquisition are: inholdings in wilderness; inholdings in ACECs; inholdings in other designated areas such as National Conservation Areas or Resource Conservation Areas; other lands with high resource values such as wildlife habitats for threatened and endangered species or for special species such as desert tortoise; highly valued riparian zones or watershed protection areas; lands which exhibit other values such as recreation or cultural resources; and last but also important, private lands which are inholdings within other public lands or parcels which acquired would improve management through consolidation.

This EIS becomes the analysis of values and uses for the public interest determination as referred to in 43 CFR 2200 by comparing the resources, habitats and values, the local and regional economies and needs, and opportunities for improving management of public lands. In Chapter 3 of the EIS, the existing values and uses on both the selected and offered lands are described. Chapter 4 provides a resource and use comparison as the land exchange consequences are identified. The EIS for the proposed Ray Land Exchange does not make a decision or public interest determination statement however it does provide the analytical basis for BLM's decision.

The Purpose and Need for Action in Chapter 1 identifies the federal management objectives that will be met to serve the public interest. In the BLM's Record of Decision (ROD), the specific interests that will be served and objectives that will be accomplished by completing or not completing the exchange will be presented as the rationale for the BLM's decision. The authorizing officer will issue the BLM's ROD after review and consideration of the potential impacts of the Proposed Action and action alternatives as disclosed in this FEIS.

7.4.5 General Response No. 5: Mine Plan of Operations (MPO) and Land Exchange

This general response addresses concerns about the Foreseeable Uses, specifically, the lack of a Mine Plan of Operations (MPO) for the exchange lands, a No Mining Alternative, and regulations pertinent to mining before and after any exchange of the selected lands (See Sections 1.6.4.1 and 2.1).

The removal of BLM from administering mining and other public land laws from the selected lands in no way exempts Asarco from regulations and permits as summarized in Tables 1-5 and E-1. Many of these, such as the Aquifer Protection Program permit, Title V air quality permit, Clean Water Act permits and Arizona state reclamation rules, require public notification and review prior to issuance of the permits. Major roles are assumed by EPA, ADEQ and the COE under their authorities to require, approve and administer these permits and regulations on federal and private lands. The State of Arizona administers the reclamation programs on private lands under Arizona Revised Statues Title 49 and Arizona Administrative Code Title 18. The Arizona State Mine Inspector has the option, however, of continuing reclamation approved by BLM under 43 CFR 3809.

There are no requirements that Asarco provide an MPO for BLM to consider or approve when evaluating a land exchange. Any new or existing MPOs filed with BLM for the selected lands are no longer binding once the land becomes private. The regulations pertinent to land exchanges, especially FLPMA and FLEFA, do require, however, the disclosure and evaluation of reasonable foreseeable uses. The foreseeable uses presented for the Ray land exchange in Chapter 2, Figures 2-7, 2-8, and 2-9, are based on planning information provided by Asarco during the preparation of the DEIS and updated in 1999 for the FEIS.

The land exchange is not required to approve mining since under the Mining Law of 1872, as amended, individuals are permitted to enter open public lands to explore and develop claims. In applying the Mining Law of 1872, BLM finds that Asarco holds 747 active mining claims on the selected lands as shown in Figures 3-12 and 3-13. These claims, subject to the provisions of 43 CFR 3809 regulations, provide Asarco with the right to utilize the public lands, exchange or no exchange. Under the 43 CFR 3809 and 43 CFR 3715 provisions, BLM would analyze any MPOs utilizing a NEPA process. Unless unnecessary or undue

degradation of the public lands as defined by 43 CFR 3809.0-5(k) and 43 CFR 3715.0-5 were found to result from the analysis, BLM must approve the MPO(s). Land exchanges are, however, discretionary decisions made under the public interest determinations under FLPMA Section 206.

7.4.6 General Response No. 6: Mineral Creek Consent Decree/Work Plan Project

This general responds addresses comments related to the Mineral Creek Consent Decree/ Work Plan Project involving the isolation of Mineral Creek from Ray Mine's Operations to ensure that water quality standards are met in Mineral Creek under the scheme established by the Clean Water Act (CWA) and pursuant to provisions stated in the Consent Decree entered into between Asarco Incorporated, the United States and the State of Arizona. Asarco intends to satisfy the requirements of the CWA and comply with the Consent Decree in stages throughout the next six years. On February 17, 1999, the Corps of Engineers released a public notice to issue a 404 permit for the Mineral Creek project. The environmental analysis currently being conducted for this project is an Environmental Assessment, which analyzes the impact of approximately 386 acres of private land and less than 12 acres of BLM land (Parcels RM-2 and RM-3). Under the Proposed Action, approximately 67.56 acres of waters of the U.S. and 27.6 acres of wetlands would be impacted.

The Mineral Creek Consent Decree/Work Plan Project and the Ray Land Exchange/Plan Amendment EIS are considered separate projects, involving different agencies. The Mineral Creek Project needs a Section 404 permit under the Clean Water Act administered by the Corps of Engineers. The Ray Land Exchange is a discretionary land exchange being evaluated by BLM. Approximately 12 acres of BLM land are involved in both projects. Should the land exchange be completed prior to the issuing of the Section 404 permit, then Asarco will own the 12 acres. If the land exchange is not completed prior to the Section 404 permit, then BLM would need to approve an MPO to use the land.

7.5 INDIVIDUAL RESPONSES

The following pages provide reproductions of comment letters received during the DEIS comment period and corresponding responses by the BLM. Individual comments in each letter have been identified by line numbers along the left margin of the comment. Table 7-1 is a list of commentors whose letters were not included in the chapter, but were in support of the Proposed Action.

Table 7-1. Commentors in support of the Proposed Action (unpublished letters)

Letter Number	Commentor
3	Robert Thompson
4	Raul Estrada
5	Steven McGhee
6	Lynn Sheppard
8	Name Withheld
12	Andy Clark
16	Thomas Heyn
23	Senon Jaurigue
24	Name Withheld

LETTER #1

NOV 3 0 1998

Mark Belles
9318 Willard Street
Rowlett, TX 75088-4403

Shela McFarlin
BLM – Arizona State Office
222 N. Central Avenue
Phoenix, Arizona 85004

25 November, 1998

Dear Ms. McFarlin,

Thank you for the prompt delivery of the Draft Environmental Impact Statement (DEIS) and the Ray Land Exchange Plan Amendment. Congratulations on a excellent document. I found it very easy to read with ample information to form an opinion.

In summary, the proposed action is a solid plan which seems to balance the public interests of preservation and development. The compensation to the public for the selected lands also appear to be fair. I support the proposed alternative.

Please retain my name on your mailing list for this process.

Thank you for the opportunity to comment,

Mark Belles

▸ Thank you for your comment.

LETTER #2

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut, attach postage, and return to BLM by January 28, 1999. For additional information, please contact

Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

① MY MAIN CONCERN IS THAT ASARCO ALREADY OWNS MORE LAND THAN THEY NEED IN THE KEARNY/RAY AREA.

② I AM SICKENED BY YOUR TAILINGS PILES BEING DUMPED ON TOP CACTIS.

Please help us keep our mailing list accurate and up to date.

Last Name O'HARA First Name JOHN Initial
Title (Optional)
Organization (if applicable)
Mailing Address 5636 JAVELINA LN.
City KEARNY State AZ Zip Code 85237-4000
Phone ( ) Fax

☑ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☑ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Your comments have been noted.

LETTER #7

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut, attach postage, and return to BLM by **January 28, 1999.** For additional information, please contact

Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I BELIEVE WE SHOULD ACT ON THIS EXCHANGE AS PROPOSED. THIS WOULD BE AN ADVANTAGE FOR THE BLM & ASARCO & ALL THE RESIDENTS OF ARIZONA.

Please help us keep our mailing list accurate and up to date.

Last Name SERVANT First Name RONALD Initial L
Title (Optional) ACCOUNTING MANAGER
Organization (if applicable) ASARCO
Mailing Address P.O. BOX 1025
City KEARNY State AZ Zip Code 85137
Phone (520) 363-7357 Fax

☒ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER # 9

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut. attach postage, and return to BLM **by January 28, 1999.** For additional information, please contact

Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I support the preferred land exchange. This alternative provides a winning situation for BLM, ASARCO & the general public. Progress & the prosperity that accompanies the continuation of ASARCO's efforts as well as the obtained prime land BLM would aquire are beneficial to the public all around. I appreciate the opportunity to be informed and participate in this process.

Chad G. Cooper

Please help us keep our mailing list accurate and up to date.

Last Name Cooper First Name Chad Initial G.
Title (Optional) Env. Eng.
Organization (if applicable) ASARCO
Mailing Address PO Box 240
City Clifton State AZ Zip Code 85532
Phone (520) 473-5158 Fax 520-356-2801

☑ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #10

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut, attach postage, and return to BLM **by January 28, 1999.** For additional information, please contact

Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I believe this exchange to be beneficial to all the parties concerned. The Ohio Lands seem to be useful to the BLM while the Swisted Lands can greatly assist the Ray Mine in its long range mining program. The communities of Kearny, Hayden, Winkelman and Superior are greatly dependent on the continued operation of the Ray Mine.

Please help us keep our mailing list accurate and up to date.

Last Name	TOON	First Name	JAMES	Initial	W.
Title (Optional)	SENIOR MINING ENGINEER				
Organization (if applicable)	ASARCO				
Mailing Address	P.O. BOX 107				
City	KEARNY	State	AZ	Zip Code	85237
Phone	(520) 356-2204 (ASARCO)	Fax	520-356-2801		

- [x] Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
- [ ] Please send me the project update, but not the Final EIS.
- [ ] Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #11

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

THANK YOU BLM! THIS WAS A VERY WELL LAID OUT AND PREPARED EIS. ALL PARTIES WERE ADDRESSED AND I FEEL MOST CONCERNS ANSWERED. (YOU JUST HAVE TO LOOK AND READ).

I CAN SEE THAT THIS LAND EXCHANGE WILL BE A "WIN-WIN" FOR ALL PARTIES. OUR FAMILIES WILL KNOW WE HAVE A FUTURE. THE PAST WILL BE PROTECTED AND THE PRESENT IS BEING ADDRESSED WITH AN EYE TO THE FUTURE. THE ENVIRONMENT WILL BE PRESERVED AND MINING WILL BE ONGOING, FULFILLING OUR MINERAL NEEDS. ASARCO IS A RESPONSIBLE-PARTNER. AFTER ALL WE LIVE HERE TOO!

THANK YOU FOR THE OPPORTUNITY TO EXCHANGE VIEWS.

Please help us keep our mailing list accurate and up to date.

MICHAEL J FALLA
Last Name First Name Initial
Title (Optional) MAINTENANCE SUPERVISOR II
Organization (if applicable) ASARCO INC
Mailing Address PO BOX 8
City HAYDEN AZ State Zip Code 85235
Phone (520) 356 7511 X 4212 Fax 520 356-4223

☑ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

- Thank you for your comments.

LETTER #13

ARIZONA DEPARTMENT OF COMMERCE

S T A T E C L E A R N G H O U S E

JANE DEE HULL
GOVERNOR

JACKIE VIEH
DIRECTOR

JONI SAAD
MANAGER

MEMORANDUM

TO AZ STATE BLM OFFICE
DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE RAY LAND EXCHANGE/PLAN AMENDMENT 15.999
AZ981030800037

FROM : Arizona State Clearinghouse

DATE November 27,1998

This sign-off letter is in response to the above project submitted to the Arizona State Clearinghouse for review, and may be filed with the original completed proposal. Please reference the State Application Identifier (SAI) Number in any further correspondence related to this project.

The appropriate review time has elapsed pursuant to the Executive Order 12372 and certain Arizona State officials and/or Regional Councils of Government have reviewed and supported this project as written. All written comments submitted by the reviewers will be enclosed with this letter, should comments of concern be written, you will be immediately informed and permitted to reply. Federal agencies have been notified of this signoff- letter; however, their review may remain in progress.

If you are a state agency and are granted federal moneys send a copy of the federal award letter with the State Application(SAI) Number assigned to that application. If you are to administer these funds (subgrants) through an application process, you are obligated to submit a notice or sample of the application to the Clearinghouse prior to the application period, and advise your applicants of Clearinghouse requirements.
Thank you.

Joni Saad,
Manager Arizona State Clearinghouse

3800 NORTH CENTRAL AVENUE • SUITE 1400 • PHOENIX, AZ 85012 • 602-280-1315 • TDD 602-280-1301

▸ Thank you for your comments.

LETTER #14

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I encourage you to vote in favor of Asarco Preferred plan. Copper is a Staple Metal in our economy. It just can't be picked out of the air. The economy of our Rural Area will be highly impacted if Asarco could not maintain a viable business.

Please help us keep our mailing list accurate and up to date.

Last Name Swingle First Name Jody Initial M
Title (Optional)
Organization (if applicable)
Mailing Address P.O. Box 752
City WINKELMAN State AZ Zip Code 85292
Phone (502) 356-6901 Fax

- [x] Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
- [ ] Please send me the project update, but not the Final EIS.
- [ ] Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #15

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut, attach postage, and return to BLM **by January 28, 1999.** For additional information, please contact

Sheila McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I WOULD LIKE TO EXPRESS MY SUPPORT FOR THE PROPOSED ACTION ALTERNATIVE.
I HAVE WORKED IN THE COPPER INDUSTRY FOR 27 YEARS AND AM EXTREMELY
CONCERNED ABOUT THE CONTINUED VIABILITY OF OUR OPERATIONS AND FUTURE
PROJECTS.

Please help us keep our mailing list accurate and up to date.

Last Name VERDUGO First Name SYLVIA Initial
Title (Optional)
Organization (if applicable) ASARCO RAY COMPLEX
Mailing Address P O BOX 1205
City KEARNY State AZ Zip Code 85237
Phone ( ) Fax

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

10 25 AM '99

▸ Thank you for your comment.

LETTER # 17

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

The communities in the area depend on Asarco for livelihood, I work for and support Asarco in their business efforts and therefore support the proposed land exchange between Asarco and the BLM.

Please help us keep our mailing list accurate and up to date.

Last Name Wilhelm First Name Joseph Initial A.
Title (Optional) Manager - Hayden Operations
Organization (if applicable) Asarco Ray Complex
Mailing Address PO Box 8 Hayden Arizona
City Hayden State Az Zip Code 85235
Phone (520) 356 3401 Fax 520 356 3803

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #18

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I WOULD LIKE TO REGISTER MY SUPPORT FOR THE PROPOSED RAY LAND EXCHANGE PROPOSAL OPTION #1. I THINK IT MAKES GOOD SENSE TO KEEP ASARCO IN THE MINING BUSINESS, KEEP 1500 ARIZONANS EMPLOYED AND AT THE SAME TIME PURCHASE PRIME LAND FOR BLM USE. WHAT A GOOD PLAN. GOOD LUCK.

THANKS
Jim Murphy
12/16/98

Please help us keep our mailing list accurate and up to date.

Last Name MURPHY First Name JAMES Initial W
Title (Optional)
Organization (if applicable) ASARCO
Mailing Address PO BOX 548
City KEARNY State AZ Zip Code 85137
Phone (520) 3625086 Fax

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☒ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

LETTER #19

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

Although I have little enthusiasm for any disposal of lands in the Copper Butte area, I would prefer the Copper Butte Alternative over the preferred alternative or the other alternatives presented by BLM. This will allow much of the trade to go forward while still retaining Walnut Canyon and the Battleaxe Road in public ownership, and minimizing conflicts with scenic and natural values in the White Canyon area. Again, I prefer the Copper Butte Alternative as the least among various evils.

Please help us keep our mailing list accurate and up to date.

Last Name Wright First Name Tom Initial
Title (Optional)
Organization (if applicable)
Mailing Address 7102 E. Oak St. #8
City Scottsdale State AZ Zip Code 85257-2144
Phone (602) 947-0155 Fax

☒ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

- Please see general response no.2, Alternatives and general response no.1, Access.

LETTER #20

GLENDALE HIKING CLUB

6043 West Willow Avenue
Glendale, Arizona 85304
(602) 412-8718

December 26, 1998

Ms. Shela McFarlin
Project Manager
Bureau of land Management
Arizona State Office
222 N. Central Ave.
Phoenix, AZ 85004

Dear Ms. McFarlin

I have received the Draft EIS for the Ray Land Exchange. After reviewing the very complete information on behalf of the Glendale Hiking Club (paid membership upwards of 125 people) and presenting it at our December meeting, I would like to make the following comments.

Due to our interest in hiking, we are especially concerned about mining operations in the proximity of the boundary of White Canyon Wilderness Area. Another concern is the hydrological integrity of the very rare artesian well located near the entry way to White Canyon. White Canyon is very special and the BLM should make an attempt to preserve its scenic, cultural and natural attributes.

To somewhat lessen the future mining impacts on White Canyon Wilderness Area, we therefore strongly urge the BLM to choose the "Copper Butte Alternative" in its Final EIS for the Ray Land Exchange. Similarly, we will urge the State Lands Department not to trade its holding in Section 23 and 24 (adjacent to the wilderness) to ASARCO.

The remaining 9,161 acres of the Copper Butte Alternative (83% of lands selected by ASARCO) should be quite sufficient for its mining purposes.

Thank you for taking our comments.

Sincerely yours,

Gabriel Zinsli
Environmental Officer
Glendale Hiking Club

- Lines 21-22. The Arizona Desert Wilderness Act, establishes the White Canyon Wilderness and denies the creation of buffer zones around any such wilderness area. According the Act, the fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses **up to the boundary** of the wilderness area. BLM agrees that foreseeable mining activities will impact areas adjacent to White Canyon Wilderness. Mining activities potentially will be seen from 42% of the Wilderness (Figure 4-2). There will be potential impacts from the residual noise, night lights, and air quality degradation onto the designated Wilderness.

- Lines 22-23. An analysis of potential impacts to the artesian well in Section 24 is not possible at this time for several reasons: 1) It is not currently known how close mining operations will be to the well; 2) The exact type of mining operations in the area are not known; and 3) Detailed hydrologic studies of the area showing the occurrence and flow of groundwater do not exist.

- Lines 27-28. Please see general response no. 2, Alternatives.

- Lines 29-30. Section 23 is not State land. If Asarco were to acquire Section 24 from the State, Asarco has agreed to donate 480 acres of Section 24 to BLM and keep the remaining 160 acres to develop Parcel CB-5 (Please see Section 2.1.1.1., agency preferred alternative).

LETTER #21

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

The proposed land exchange between the Bureau of Land Management and ASARCO should proceed.
This exchange clearly improves the BLM land holdings in environmentally sensitive areas with out sacrifice of the environment in the Ray Mine area.
This exchange of land does not alter the effective environmental control which ASARCO must adhere to in its mine operations.
The BLM gains further consolidation of its land holdings in other parts of Arizona.

Please help us keep our mailing list accurate and up to date.

Last Name McCulloch First Name Walter Initial E.
Title (Optional) Process Engineer
Organization (if applicable) Bateman Engineering
Mailing Address 1860 E River Rd Suite 300
City Tucson State AZ Zip Code 85718
Phone (520) 529-2477 Fax (520) 529-2703

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☒ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #22

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

THIS LETTER IS IN STRONG SUPPORT OF THE RAY LAND EXCHANGE. THE EXCHANGE OF THE SELECTED AND OFFERED LANDS WILL GREATLY BENEFIT ALL PARTIES INVOLVED. THE OFFERED LANDS in Mohave, La Paz, and Pinal counties are high quality and are very attractive for preservation of riparian environments and for use in recreation. THE selected lands will ensure the continued viability of Asarco as one of the primary employers in the Hayden and Kearny areas. I believe that accepting the Final EIS Plan will benefit all Copper Basin communities (Globe, Miami, San Manuel and Ray) as well as preserve high quality land for future generations.

Please help us keep our mailing list accurate and up to date.

Last Name MARSH First Name BRETT Initial R
Title (Optional) Geologist
Organization (if applicable) ASARCO, INC
Mailing Address PO Box 8
City HAYDEN State AZ Zip Code 85235
Phone (520) 356-2711 Fax 520 356 2801

- ☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
- ☐ Please send me the project update, but not the Final EIS.
- ☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #25

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

This is a win win situation. The state of Arizona has a chance to greatly benefit from this land exchange as well as the ASARCO Ray Mine. The mine potential land is so near to the existing Ray Complex that the land is basically useless to all but mining. The other land that is currently privately owned by ASARCO is near Wilderness areas and is very clean and unharmed by mining activity. This land is just beautiful and the public could truly benefit by making it public land.

BUREAU OF LAND MANAGEMENT
JAN 11 10 53 AM '99
ARIZONA STATE OFFICE
PHOENIX, ARIZONA

Please help us keep our mailing list accurate and up to date.

Last Name FRANDSEN First Name DAN Initial K
Title (Optional) Electrical General Foreman
Organization (if applicable) ASARCO Inc
Mailing Address PO Box 8 Hayden AZ
City Hayden State AZ Zip Code 85235
Phone (520) 356-2556 Fax

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☒ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #26

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I support the land exchange, as written. The ~~[illegible]~~ proposed exchange will satisfy the delicate balance of key land preservation ~~[illegible]~~ as well as land development for economic purposes.

Please help us keep our mailing list accurate and up to date.

Last Name MOSS First Name MICHAEL Initial D
Title (Optional) MAINTENANCE GENERAL SUPERVISOR
Organization (if applicable) ASARCO RAY COMPLEX
Mailing Address PO BOX 8
City HAYDEN State AZ Zip Code 85239
Phone (520) 356-2340 Fax 520-356-2806

- ☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available
- ☐ Please send me the project update, but not the Final EIS.
- ☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #27

MOHAVE COUNTY PUBLIC LAND USE COMMITTEE

P.O. Box 7000 ✦ Kingman, Arizona 86402-7000
3675 E. Highway 66 ✦ (520) 757-0903 ✦ FAX 757-3577 ✦ TDD (520)753-0726
Michael Kondelis, Chairman James Butcher, Vice Chairman

January 13, 1999

Ms. Shela McFarlin, Project Manager
Bureau of Land Management
222 North Central Avenue
Phoenix, AZ 85004

RE: BLM/AZ/PL-98/0013, Ray Land Exchange/Plan Amendment DEIS

Dear Shela:

Members of the Mohave County Public Land Use Committee have reviewed the Ray Land Exchange DEIS and do not have any detailed questions or comments pertaining to the draft. In general, it appears that the parcels in the exchange will benefit both parties involved.

One concern we do have is that private land and tax revenue in Mohave County is lost to an exchange in another county. There must be some balance to this equation and in future exchanges Mohave County should realize an offsetting gain.

Again, thank you for the opportunity to comment. I appreciate the time you have taken to attend the PLUC meetings and keep the committee informed.

Sincerely,

Michael J. Kondelis P.E.
Chairman

SUBCOMMITTEE CHAIRPERSONS:

Don Van Brust *Air Quality & Hazardous Materials*	Jim Butcher *Business & Industry*	Anita Waite *Grazing*	Mike Kondelis *Mining*	Bryan Corbin *Recreation*	Truman Puchbauer *Timber*	Phil Strittmatter *Transportation*	Elno Roundy *Water*	Don Martin *Wilderness, Wildlife &. Endangered Species*

- Lines 20-21. Thank you for your comment.
- Lines 23-24. Please see text changes in Section 4.6.2.3, Taxes.

LETTER #28

To: Ms. Shela McFarlin, Project Manager
Ray Land Exchange
AZ State Office - Bureau of Land Management USDI
222 N. Central Ave.
Phoenix, AZ 85004

Jan. 11. 1999

Dear Ms. McFarlin:

I would like to voice my support for the Proposed Ray Land Exchange. This method of exchanging mineral important lands for environmentally sensitive private lands offers the citizen's of this country a great opportunity. We can have our cake and eat it too! We can produce the copper minerals so vital to our economy and way of life; while protecting the valuable natural resources we all treasure. Through this exchange process the federal government will attain ownership and protection of valuable riparian and sensitive wildlife habitat that may otherwise be lost. ASARCO will get the already mining impacted lands it needs for the expansion and future development of the Ray Mine Complex. This is the best of both worlds.

It is not often in these days of land-use debates that a "win - win" program can be implemented. Most often it is an "all or nothing" battle. Usually those with the greatest political clout are the winners. In this case everyone wins; the taxpayers of AZ, Gila & Pinal Counties; the environmental community; the mining company; and society as whole. From this Ray Land Exchange valuable copper will be produced to advance and sustain our society, taxes will be paid to local governments to provide vital services, and payrolls will be provided to sustain hundreds of local families. All this is made possible because a few acres of valuable mineral lands that have already been impacted by mining will be exchanged for lands that contain very sensitive riparian and wildlife habitat values. I can't think of a better allocation of our natural resources.

Thank you for this opportunity to express my thoughts on the Ray Land Exchange. If you have any questions, or if I can assist in this endeavor in any way, please contact me.

Stu Bengson
8900 N. Camino de Anza
Oro Valley, AZ 85737

Stu Bengson

Thank you for your comments.

LETTER #29

Marlene A. O'Hara
58636 Javelina Lane
Kearny AZ 85237-4000
19 December 1998

U.S. Representative J.D. Hayworth
1017 S Gilbert Road
Mesa AZ 85204

Dear Representative Hayworth,

It is with a sad heart that I am writing this letter. I recently attended a meeting at which I learned that BLM intends to swap nearly 11,000 acres of awesome public land with some acreage offered by ASARCO. The "offered lands", supporting desert tortoise populations, were purchased by ASARCO on the recommendations of BLM, according to their statement, specifically to be used for swapping. I find these sorts of shenanigans appalling! This proposed action has me deeply concerned, as the environmental disaster that has already occurred with open pit mining in the Kearny area is heartbreaking. With the vast amount of land that ASARCO presently owns in the vicinity of the Ray Mine, I fail to understand why they require an additional 11,000 acres of public land to use as a "buffer" around the mine area.

Looking out the window, as I am writing this, is some of the most incredibly beautiful scenery you could imagine. Saguaro, Palo verde, creosote bushes and all the varied fauna range from the valley areas to the tops of the mountains. This part of the Sonoran Desert is so breathtaking that it brings tears to ones eyes. It is prime area for typical Arizona outdoor activities, which will be lost forever if this land exchange is allowed. BLM is accepting comments from the public until 28 January 1998 but I would wager that there are few citizens aware this proposal is even on the table. Whether or not you are able to help save this exquisite area for posterity, I implore you to please try to do something!

I have enclosed copies of the Ray Land Exchange/Plan Amendment DEIS Fact Sheet in the event you have not seen it.

Thank you, Representative Hayworth, for any help you are able to offer.

Sincerely

Marlene A. O'Hara

- Lines 15-22. As discussed in Chapter 1 (Purpose and Need), Asarco intends to consolidate its land holdings within and adjacent to areas of ongoing mining-related operation. The uses of these lands are described in Table 2-6, which include uses such as expansion of rock deposition areas, haul/access roads, buffer zones, and copper/silica flux development.
- Lines 28-30. Section 5.2 details the public participation process for all phases of the land exchange process. The information presented in this section should address the concerns noted here.

LETTER #30

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
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Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

I FULLY SUPPORT THE RAY LAND EXCHANGE. IT SEEMS TO ME TO BE A WIN-WIN SITUATION. WITH THE TRADED LAND, THE MINE CAN STAY OPEN WHICH WILL DIRECTLY AFFECT 1500 + JOBS. THE BLM WILL RECEIVE QUALITY LAND THAT CAN BE USED BY THE PUBLIC, AND THAT WILL HELP MAINTAIN THE ENVIRONMENT.

Please help us keep our mailing list accurate and up to date.

Last Name JARVIS First Name SCOTT Initial B
Title (Optional)
Organization (if applicable)
Mailing Address PO BOX 201
City KEARNY State AZ Zip Code 85237
Phone (520) 363-7763 Fax

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available.
☑ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

▸ Thank you for your comment.

LETTER #31

Marlene A. O'Hara
58636 Javelina Lane
Kearny AZ 85237-4000
(520)363-9824
22 January 1999

To Whom It May Concern:

I am still trying to understand how BLM can even consider exchanging nearly 11,000 acres of the most awesome Sonoran Desert to ASARCO to use as a "buffer zone" for their Ray Mine operation. They already control such a vast amount of land in this area that the necessity of additional acreage evades me. For BLM to have advised ASARCO to purchase desert tortoise land near Kingman in order for the land exchange to occur is absolutely galling! I cannot believe the citizens of our state would condone such shenanigans if they were aware of them. The Ray open-pit mine is an environmental disaster and how BLM can even consider allowing ASARCO to encroach even further onto OUR land is alarming!

Please reconsider this horrible plan and leave this incredibly beautiful land to be enjoyed by the people of Arizona.

Marlene A. O'Hara.

- Lines 16-17. Please see response to Letter #29.
- Lines 19-20. BLM advised Asarco to purchase desert tortoise land near Kingman because these parcels are on BLM's *statewide* acquisition list and acquiring these parcels would comply with BLM's desert tortoise habitat management rangewide plan (Appendix F of the DEIS).

LETTER #32

SIERRA CLUB

Rincon Group

738 North 5th Avenue #214
Tucson, Arizona 85705 (520) 620-6401

January 21, 1999

Sheila McFarlin
Project Manager
BLM - Arizona State Office
222 N. Central Avenue
Phoenix, AZ 85004

Re: DEIS Ray Land Exchange/Plan Amendment

Dear Ms. McFarlin,

The Rincon Group of the Sierra Club is strongly opposed to this land exchange and change in land tenure classification from retention to disposal. The 10,339 acres of affected land have high resource values and have been designated as a Resource Conservation Area, indicating that they are important natural areas. The plan amendment goes against the intent of the Resource Management Plans (Phoenix and Safford), and is unwarranted and frivolous. Justifying it as necessary in order to consider the land exchange is likewise frivolous and absolutely indefensible. This action does not need to occur prior to evaluating the merits of the proposed land exchange. It could occur later, if the exchange was approved. This action serves no one but Asarco who would gain free reign over these lands, and the BLM staff who wouldn't have to manage a mine (e.g. less work for them).

The selected lands are valuable areas. The White Canyon ACEC is listed as having outstanding scenic, wildlife and cultural values (Phoenix RMP/FEIS, Dec. 1988, Table 2-3). The entire RCA was considered to have high resource values, and identified for retention and protection in the 1988 RMP/FEIS. Why have these values suddenly become non-important and these lands suitable for disposal?

Asarco's arguments regarding the mineral and economic values (Phoenix RMP & FEIS, Dec. 1988) are irrelevant. The copper that might be recovered from Copper Buttes and Buckeye is inconsequential to the long term economy or standard of living in Pinal County, or Arizona. The value of White Canyon and Copper Buttes, however, as wild, natural open space is priceless and will last into perpetuity. It has become widely accepted and recognized that the majority of people, including those in Arizona, place a high value on natural open space, especially when close to urban areas as these lands are. Furthermore, tourism provides more for the economy and is more sustainable than mining. Tourists from all over the world visit Arizona for the spectacular scenery - red rock canyons, sky island mountains, Sonoran Desert vegetation - not to see copper mines.

Most of the offered lands are indeed desirable lands, however, are they in danger of being developed or degraded under their present status? What is the rush to acquire these lands? If acquired, all of the offered lands should be withdrawn from mineral entry to prevent any degradation. Why aren't the Sacramento Valley and McCracken Mountains parcels proposed for withdrawal from mineral entry? Both have high category 1 desert tortoise habitat and should be protected if acquired.

The DEIS states that mining could occur through patenting under the Mining Law of 1872. (Has BLM verified the validity of all of Asarco's mining claims?) This is a misleading statement. Patenting has been suspended for the last several years through a congressional moratorium that is expected to continue for the foreseeable future. Furthermore, it is likely that the Mining Law of 1872 will be reformed soon, at which time

- Lines 18-23. The Ray Land Exchange EIS process combines the plan amendment process under BLM regulations 43 CFR 1600 with the NEPA analysis required to analyze the proposed exchange. Under 43 CFR 1610.5-5, a resource management plan may be changed through amendment as initiated by a number of changes in circumstances or 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. Since the land exchange would represent a change in decisions made regarding land tenure in the Phoenix and Safford District Resource Management Plans (RMPs), a plan amendment must be considered. As a results of protests on the White Canyon Plan Amendment (Decision Record provided in the Ray Land Exchange DEIS), BLM agreed to combine both processes into one EIS-level analysis.

- Lines 24-26. If BLM decides to change the land tenure from retention to disposal by exchange, this will be done through the Proposed Plan Amendment combined within the Ray Land Exchange EIS. The Phoenix RMP (1988) identifies the criteria for when a land exchange will be considered for the White Canyon RCA and other public lands covered by the plan. Since this RMP was completed, the following changes have occurred or continue to be define the management situation: BLM can no longer enter into exchanges with the State of Arizona to exchange large blocks of land within the White Canyon RCA (as discussed in Section 1.3); the Arizona Desert Wilderness Act passed in 1990 designated the White Canyon Wilderness with strict management guidelines; the White Canyon ACEC was reconsidered and re-designated in 1998 through a separate plan amendment; and, Asarco proposed the Ray Land exchange for consideration. No changes are proposed to the White Canyon ACEC.

- Lines 28-32. The economic consequences of copper mining to Pinal County are addressed in Section 3.2.6.2. Taxes paid by Asarco as a result of operations at Copper Butte are expected to maintain an even balance to make up for the Ray Mine's decrease in mining activities as discussed in Section 4.6.2.3.

LETTER #32 (continued)

the patenting process will be eliminated or dramatically altered. Stating in the DEIS that Asarco would be able to mine by patenting is intentionally misleading to the public, giving the impression that the probability of mining is greater than it actually is.

The DEIS also notes that Asarco does not need the land exchange to mine the selected lands. It would seem then, that Asarco is pursuing this land exchange for a specific reason: to avoid federal and public oversight of its mining operation. Mining on private land has advantages over mining on public land, including weaker reclamation standards (in Arizona), and no public review or required periodic updates. Asarco has a bleak environmental record. In fact, it has one of the worst histories of environmental pollution and violations of environmental regulation in Arizona. It is no wonder it wants to take the easiest route.

One of the primary reasons for disposing of lands through a land exchange is to make land management easier and more economic. Most of the selected lands in this land exchange are adjacent to or surrounded by public lands and will be used for mining related activities. Wouldn't it be the least difficult and most economic to manage these lands as public lands, given the foreseeable use? Once the BLM and the public have no oversight of the mining activity, the environmental protection of the surrounding areas is drastically reduced. This is especially critical given that mining has a proven record of causing degradation to land and water resources both on-site and off-site.

Because of Asarco's dismal environmental history, we would like to see some stipulations place on this land exchange, if granted. For example, since the majority of the selected parcels are adjacent to or nearby wilderness areas or resource conservation areas, we suggest that Asarco be required to comply with higher standards of environmental protection (with respect to air and water quality) than the minimum requirements usually achieved by the mining industry.

Asarco has usually tried to divert attention from its dismal record by claiming to be a good neighbor to the community (by building playgrounds or libraries, for example). We would like to see Asarco show some real commitment to nearby communities by complying with higher environmental protection standards such as better leak detection systems, more frequent and longer-term water quality monitoring, and stronger reclamation and site restoration goals. This is especially important since most (about 75%) of the selected land would be used for peripheral non-mining uses: dumps ("overburden deposition areas" or "solution-extraction rock deposition areas"), tailings deposition areas, refuse dumps, or for toxic operations (copper/silica flux development). These areas are more prone to toxic releases.

Land exchanges of public land should also be for the benefit of the public, not just the management convenience of the BLM. Asarco should be required to provide detailed information on how it intends to use the selected public lands. Otherwise how can meaningful comments and decisions be made regarding the value of the offered lands in comparison to the lands we are losing?

In conclusion, we are opposed to the plan amendment and land exchange. However, of the alternatives offered, we prefer the Copper Buttes alternative. It exchanges the least amount of land. Only 320 of offered lands are south of Phoenix (Gila River Parcel at Cochran), making this exchange a net loss of approximation 4000 acres of public land in Southern Arizona. In addition, we object to parcel RM-18 being included in the selected lands. This area contains important desert springs and is Class II desert tortoise habitat, and should remain in public ownership for optimal protection.

Sincerely,

Lainie Levick

Lainie Levick
Mining Issues Chairperson

- Lines 34-37 (previous page). Table 2-4 describes the potential disposition for each offered land parcel should the land exchange not be approved. Asarco intends to sell certain parcels for development or hold the Gila River parcel for mitigation. The Tomlin Parcel #4 will be withdrawn from mineral entry. The Sacramento Valley parcel has low potential for metallic mineral deposits. There is a moderate potential for salable mineral in the Sacramento parcel, such sales are discretionary decisions by BLM. The McCracken Mountains parcels are covered in ACEC guidance within the Kingman RMP. Tortoise mitigation and possibly compensation would also be required for any disturbance to tortoise habitat.
- Lines 38-40 (previous page). See response to Lines 3-4 on next page.
- Lines 3-4. As discussed in Section 1.6.3.4, BLM has verified that all of Asarco's mining claims are currently active claims. Validity examinations occur during the patent process. BLM is currently processing a first half final certificate application (to which the moratorium does not apply) for approximately 387 acres in the Copper Butte/Buckeye area.
- Lines 6-9. Asarco does not need the land exchange to mine the selected lands as prescribed under the General Mining Law. However, by conducting the land exchange, the BLM gains public lands which would otherwise be lost without the exchange. Table 1-5 summarizes the required permits and approvals that Asarco must obtain before they can begin mining on the selected lands. In addition, Table E-1, compares Federal and State mine land reclamation standards that will need to be met if Asarco mines the selected lands.
- Lines 11-15. As discussed in Section 3.2.4.2 and 4.4.2, BLM's management responsibilities would be expected to increase if mining were regulated under 43 CFR 3809.

LETTER #33

RAY LAND EXCHANGE AND PLAN AMENDMENT
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC COMMENT SHEET
PLEASE SUBMIT COMMENTS BY JANUARY 28, 1999

Please share your ideas, comments and concerns in the space provided below (or you may send your comments on a separate form to the address below). Fold this form, staple it shut, attach postage, and return to BLM by **January 28, 1999.** For additional information, please contact

Shela McFarlin, BLM Arizona State Office
222 North Central Avenue, Phoenix, Arizona 85004
(602) 417-9568

We are Concerned about Our Roads to Come in and go out which we presently use, will be re-routed. Any other option would be very unsafe and on rainy season, very impractical Our creek fills up with water and further up we have erosion.

We also fear Asarco with its high rise dumps obstructs Our View and also the dust and noise would be very bad for Our health. We are mostly senior citizens and a few children here.

Please help us keep our mailing list accurate and up to date.

Last Name Caldera First Name Margarita Initial C
Title (Optional)
Organization (if applicable)
Mailing Address Kearny
City (Silver Creek Area) State AZ Zip Code 85237
Phone ( ) Fax

☐ Please send me a copy of the Final EIS/Plan Amendment when it becomes available
☐ Please send me the project update, but not the Final EIS.
☐ Please take my name off the mailing list.

- Lines 17-19 (previous page). For Asarco to continue mining at the Ray Mine or to develop new areas, the company must acquire a number of permits (identified in Table 1-5 and Appendix E). These permits and reclamation plans are outside BLM's jurisdiction since these are administered by other federal, state and county agencies. As appropriate, these agencies will determine what stipulations, design modifications or operating standards are required under various environmental laws.

- Lines 21-26 (previous page). BLM is required to comply with those laws and regulations listed in Table 1-3 for processing a land exchange. Although the selected lands would become privately owned by Asarco under the Proposed Action, potential future mining projects on these lands would still be subject to the COE and/or EPA's federal jurisdiction through their respective permitting authorities under the Clean Water Act. Furthermore, other federal laws such as the Clean Air Act would also likely trigger federal involvement in such future activities.

- Lines 28-29 (previous page). Please see general response no. 4, Public Interest Determination.

- Lines 31-32 (previous page). Please see general response no.2, Alternatives

- Lines 15-27. BLM has determined that Route #2 would be the preferred public access road- south of the Silver Creek community. Route #2 would provide public access adjacent to the existing Battle Axe Road to the White Canyon Wilderness. South of Route #2, Asarco would construct a haul road to be used for mining only. While operations can be expected to be 24 hours a day, each shift (3) will be required to run water trucks to control dust levels. Dust levels will also be monitored and contained based on weather conditions (e.g., blowing dust) according to Mine Safety and Health Administration (MSHA), ADEQ and air quality permits. Please see general response no. 1, Access.

LETTER #34

Rec'd 1/27/99
#34

"Managing and conserving natural, cultural, and recreational resources"

Arizona State Parks

Jane Dee Hull
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General Fax:
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Director's Office Fax:
602-542-4188

January 25, 1999

Shela McFarlin
Bureau of Land Management
222 N Central Avenue
Phoenix, Arizona 85004

RE RAY LAND EXCHANGE DEIS COMMENTS

Dear Shela:

These comments are in response to the BLM/ASARCO Land Exchange/Plan Amendment proposed in the October 1998 Draft Environmental Impact Statement (DEIS). The primary concern with the exchange is future recreational access and a continuous Arizona Trail to the White Canyon Wilderness Area and BLM lands north of the Gila River.

It is imperative that the Arizona Trail is guaranteed access from the Kelvin bridge on the Gila River to existing trail northwest of the Wilderness Area (refer to attached map). The combination of land ownership and rugged terrain (such as the Spine, Walnut Canyon, and Battle Axe Butte) have hindered locating a route for this segment of trail. Designation of an Arizona Trail route through this area has been on hold in anticipation of the Ray Land Exchange.

The proposed exchange of BLM land in Sections 24 (CB-5), 25 (CB-1), and 26 (CB-1) and the proposed ASARCO mining operations in Sections 19 (CB-3) and 30 (CB-4) are directly in the path of the proposed Arizona Trail route. In order to assure continued access for the future route of the Arizona Trail, we have relocated the proposed route to circumnavigate those lands affected by the exchange. We are now proposing that the Arizona Trail cross (south to northwest) Sections 20, 17, 18, 24, and 23 in an effort to follow Battle Axe Road to the Wilderness Area.

Regardless of which alternative is chosen, the EIS and Plan Amendment must address the proposed Arizona Trail route. To ensure safe passage through this area by hikers, equestrians, and mountain bikers, the Arizona Trail would require:

a) an easement from ASARCO through Section 17 to include an agreed upon crossing of the mining operations access road;
b) a separated pathway alongside the rerouted Battle Axe Road from Sections 17 or 18 to Section 23; and
c) a trailhead alongside Battle Axe Road (parking and horse trailer access in Sections 17/18 and/or Sections 23/24).

- Lines 19-20. It is beyond the scope of this EIS to address trail access across the Gila River and/or designate trail routes.
- Lines 24-37. Please see general response no.3, Arizona Trail.

LETTER #34 (continued)

We look forward to working with the BLM and ASARCO to further define the route and finally construct the Arizona Trail in accordance with required environmental compliance. While we do not expect to complete this segment of the Arizona Trail by our goal of the year 2000, we would like to begin working towards completion as soon as possible. If there are any questions about these proposed additions to be included in the EIS/Plan Amendment, please contact me at (602) 542-7120. Thank you for the opportunity to comment.

Sincerely,

Cynthia A. Lovely
Arizona Trail Steward

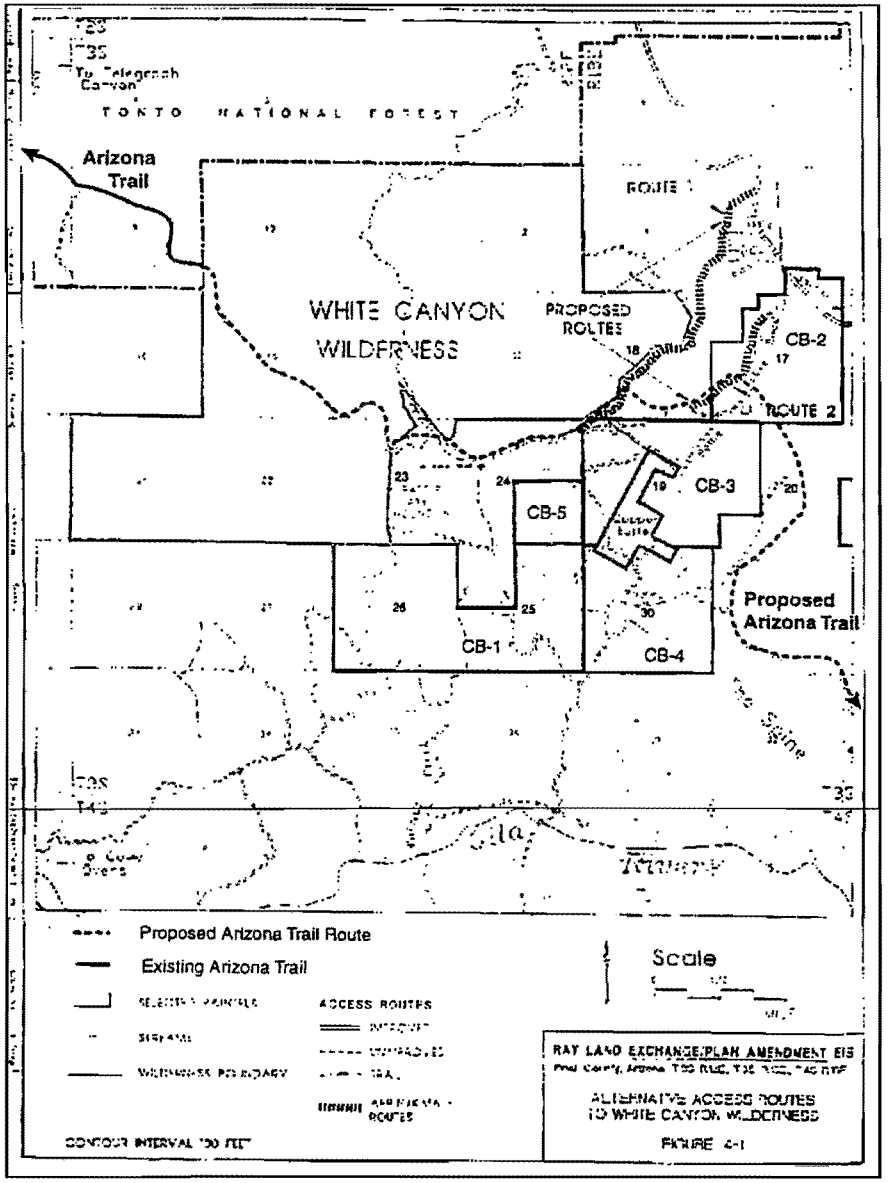
cc: Jan Hancock, President, Arizona Trail Association
Larry Snead, Executive Director, Arizona Trail Association
Steve Saway, Board of Directors, Arizona Trail Association
Jim Martin, Board of Directors, Arizona Trail Association

CAL

Enclosure

▸ Thank you for your comment.

LETTER #34 (continued)



▸ Please see Figure 7-1 under general response no.3, Arizona Trail.

LETTER #35

Jan 26 1999

Dear Mrs McLaslin

Thank you for coming out to the Calderas home and addressing our community's concerns. I do have lots of concerns about the access road. First I got alot of confusion about the road who it was for and how it would run I think we need better maps detailing this, especially for the people out here that they would affect. There was confusion as to what it would be for - the community to get home - as closing off our existing road? Asarco's Big dump trucks etc. I understood as it to be for the recreation access. I have concerns about the dust - our water well and just the over all beauty of the scenery. Please keep our small happy community in mind while all you people that do not live around here make your decisions. Please do not let a wrong decision ruin our happy quiet lives

Thank you

Samantha Solo

48205 E Battle Ax St

Kearny Az 85237

- Lines 9-21. BLM has determined that Route #2 would be the preferred public access road- south of the Silver Creek community. Route #2 would provide public access adjacent to the existing Battle Axe Road to the White Canyon Wilderness. South of Route #2, Asarco would construct a haul road to be used for mining only. While operations can be expected to be 24 hours a day, each shift (3) will be required to run water trucks to control dust levels. Dust levels will also be monitored and contained based on weather conditions (e.g., blowing dust) according to Mine Safety and Health Administration (MSHA), State Mine Inspector and air quality permits.

- Line 25. The water well would not be impacted, it is adjacent to Route #1. Route #2 has been identified by BLM as the preferred route. If Route #1 were chosen, extensive mitigation would be required by Asarco to ensure the road is safe and the water well is not impacted. Please see general response no.1, Access.

- Lines 25-27. Based on knowledge of Asarco's Copper Butte mining, of the 26 residents of the Silver Creek Community, less than 8% will have a direct view of the mine as rock is removed. The remainder of the community could probably be able to view some, but not all of the mining operation.

LETTER #36

Ms. Shela McFarlin
BLM Arizona State Office
222 North Central Avenue
Phoenix, Arizona 85004

RE: Ray Land Exchange and Plan Amendment EIS

Dear Ms. McFarlin:

I am writing to state my support for the proposed Ray Land Exchange (Proposed Action) between ASARCO Incorporated and the Bureau of Land Management (BLM). I attended the Mesa Public Meeting, reviewed the Draft EIS, and concur with the BLM that the Proposed Action is a "win-win" for all parties involved.

First, the exchange of offered and selected lands are similar on an acre per acre basis. This means that Asarco is able to secure lands adjacent to its existing Ray Mine to support and expand current and future mining-related operations, and to improve security and environmental buffers. The BLM, on the other hand, is able to acquire a similar acreage of high resource valued lands on their "priority list of acquisition" for better managing of habitat, cultural resources, public access, and overall managing efficiency. If the land exchange were not approved, the BLM would not acquire any land, yet Asarco could still use the "selected" lands for future mining as allowed per the General Mining Law of 1872.

Second, acquisition of the selected lands by Asarco has a positive benefit to the local rural economy. Not only does the transfer of the public lands to private ownership generate more taxes for the local economy, but it fortifies Asarco's presence in the area. Mining began in the area before the turn of the century; Asarco intends to continue mining activities well into the next century. During this time, Asarco will continue providing excellent paying jobs (presently, the Ray Complex employees about 1,600 people) and supporting the local communities including Kearny, Winkelman, Hayden and Superior both directly and indirectly.

Finally, as was stated in the Public Meeting, it is important for the public to understand that Asarco must still comply with all local, state and federal environmental regulations even after the land exchange. Contrary to what some people may believe, the proposed land exchange does not give Asarco an "out" for complying with environmental regulations. Asarco must still secure all applicable local (i.e., Pinal Air Quality Permit), state (i.e., Aquifer Protection Permit, Reclamation), and federal (i.e., NPDES, 404 Permit) permits before any future mining activities may occur on the selected lands.

Once again, I strongly support the Proposed Action alternative. Thank you for allowing me to comment.

Sincerely,

Derek Cooke

► Thank you for your comments.

LETTER #37

Neil A. Gambell
P. O. Box 471
Kearny, Arizona 85237

January 27, 1999

Ms. Shela McFarlin, Project Manager
Native American Minerals/Arizona Land Exchange Teams
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

RE: ASARCO - BLM LAND EXCHANGE

Dear Ms. McFarlin:

Regrettably, I was unable to attend any of the Public Hearings on the Draft Environmental Impact Statement for the Ray Land Exchange/Plan Amendment and, therefore, appreciate the opportunity to provide written comments.

I strongly support the Proposed Action Alternative. This is a balanced alternative from the standpoint of property values, riparian habitat and species management. Asarco will be acquiring the land it needs to maintain a viable copper mining operation in the Ray area while providing for future expansion. and the BLM would be getting lands which the public desires such as Southwest Willow Flycatcher habitat, wilderness access and inholdings, and desert tortoise habitat. Additionally, outside of the exchange, Asarco has gone the "extra mile" in trying to clear up a difficult land problem for the BLM. This problem relates to the White Canyon Area of Critical Environmental Concern (ACEC). A portion of the ACEC and the access to the southern side of the White Canyon Wilderness area is across state land which Asarco has made application to purchase and has agreed to donate the ACEC portion to the BLM upon the successful conclusion of the land exchange.

I understand there is a lot of concern about the environmental impacts of mining, and would like to reinforce the fact that Asarco is required by law to comply with state and federal environmental permitting requirements prior to any expansion of the mining operation. This is true if Asarco acquires the land by this exchange or expands under the Mining Law.

Finally, Asarco and its predecessors in the Ray Mine have been important to the nation and the people of the local communities since the turn of the century. The proposed action alternative would assist Asarco in going forward with this important economic base.

Sincerely,

Neil A. Gambell

▸ Thank you for your comments.

LETTER #38

Judy A. Buttery
HC1 Box 3637
Winkelman, Arizona 85292

January 27, 1999

Ms. Shela McFarlin, Project Manager
Native American Minerals/Arizona Land Exchange Teams
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

Dear Ms. McFarlin:

I am writing in support of the proposed Ray Land Exchange (Proposed Action) between ASARCO Incorporated and the Bureau of Land Management (BLM). I attended the Kearny Public Meeting, reviewed the Draft EIS, and concur with the BLM that the Proposed Action is in the best interests of all parties involved.

First, the exchange of offered and selected lands are similar on an acre per acre basis. It allows Asarco to secure lands that are adjacent to the existing Ray Mine for current and future mining-related operations as well as improve environmental and security buffer zones. The exchange also allows the BLM to acquire lands that is on its "priority list of acquisition." If the land exchange were not approved, the BLM would not acquire any land and Asarco could still use the "selected" lands for future mining as allowed per the General Mining Law of 1872.

Second, the acquisition of the selected lands by Asarco would be very positive for our local rural economy. The transfer of public lands to private ownership generates more taxes for the local economy and strengthens Asarco's presence in our area. Mining has been in this area over 100 years, and Asarco plans to continue mining well into the next century. During this time, Asarco will continue to provide excellent paying jobs and support the local communities directly and indirectly. These communities include Kearny, Winkelman, Hayden, Superior, as well as Mammoth, Oracle and other outlying communities where the employees live.

Finally, it is important that the public be aware and understand that Asarco still must comply with all local, state and federal environmental regulations even after the land exchange. Apparently some people have had the false impression that the proposed land exchange would give Asarco an "out" for complying with environmental regulations. As was stated at the Public Meeting, Asarco must still secure all local, state and federal permits BEFORE any future mining activities can occur on selected lands.

I appreciate the opportunity to comment on this and again reiterate my support of the Ray Land Exchange Proposed Action.

Sincerely,

Judy A. Buttery

Judy A. Buttery

▸ Thank you for your comments.

LETTER #39

phelps dodge Corporation
2600 N. Central Avenue, Phoenix, AZ 85004-3014 • (602) 234-8241
Fax: (602) 234-8067

Cynthia M. Chandley
Senior Counsel
Director, Land & Water Resources

January 27, 1999

Ms. Sheila McFarlin, Project Manager
Bureau of Land Management
Arizona State Office, 222 N. Central Avenue
Phoenix, AZ 85004

Dear Ms. McFarlin:

Phelps Dodge Mining Company (PDMC) has reviewed the Draft Environmental Impact Statement (DEIS) for the Ray Land Exchange/ Plan Amendment and is pleased to provide the following comments in support of the proposed land exchange.

The proposed land exchange would allow the Bureau of Land Management (BLM) to acquire approximately 7,300 acres of environmentally sensitive lands in exchange for 10,976 acres of public and mineral estate lands adjacent to Asarco's existing mining operation in Pinal County.

Land exchanges of this nature are a "win-win" opportunity for the public and resource developers. If the proposed action is approved, the BLM will acquire lands that are of significant riparian, cultural and ecological value. In addition, the acquired or "offered lands" also provide valuable habitat for the desert tortoise, bald eagle, American peregrine falcon, and the southwestern willow flycatcher.

In exchange, Asarco will have the opportunity to consolidate its land holdings within areas of ongoing mineral development. It is important to note that the "selected" lands within the Asarco district could be developed, in accordance with the applicable environmental statutes, absent a land exchange under the 1872 mining law. Asarco's decision to expand their operations pursuant to a land exchange is an environmentally sound approach to mineral development and should be commended.

In addition to the aforementioned environmental benefits, the proposed action has financial benefits for the BLM and Pinal County. The BLM would acquire valuable lands at no cost and future mining administration costs would be eliminated with respect to the "selected lands". The economic benefits to Pinal County include well paying jobs and general financial support to the local economy.

- Thank you for your comments.

LETTER #39 (continued)

The DEIS estimates that the total direct wages and salaries paid during full scale production would average $1,882,000 each year at the Copper Butte/Buckeye operation and $3,877,000 at the Casa Grande site.

- The DEIS estimates increases in sales for local businesses in Pinal County to be $5,300,000 as a result of the Copper Butte Mine operations and $11,638,000 from the operations at Casa Grande. In comparison, the direct economic loss to Pinal County from displacement of current activities on selected lands is estimated at only $122,000 per year.

Finally, pursuant to NEPA requirements, the DEIS adequately examines and documents the impacts to surface water, groundwater, air emissions, wildlife and cultural resources and discusses prospective mitigation alternatives to offset the minimal impacts to those resources.

Phelps Dodge Corporation appreciates the opportunity to provide comments on this land exchange and looks forward to reviewing the final environmental impact statement and record of decision for this project.

Sincerely,

LETTER #40

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

JAN 28 1999

Gordon Cheniae, Field Director
Native American Minerals/Arizona Land Exchange Teams
Bureau of Land Management
222 North Central Avenue
Phoenix, AZ 85004-2208

Dear Mr. Cheniae:

The U.S. Environmental Protection Agency (EPA) has reviewed the Ray Land Exchange Draft Environmental Impact Statement (DEIS). Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA implementation regulations at 40 CFR 1500-1508, and Clean Air Act Section 309. Our comments also reflect comments we previously made to you regarding the scoping notice (February 9, 1995, and June 30, 1995, letters from David Farrel, EPA); to Sheila McFarlin of your staff regarding the Preliminary DEIS (January 19, 1998, letter from Jeanne Geselbracht, EPA); and to you, your staff, and Asarco in several other letters, meetings, and conference calls between December, 1997, and October, 1998.

Asarco Incorporated (Asarco), a mining company, has proposed to trade private lands ("offered lands") for public lands ("selected lands") administered by the Bureau of Land Management (BLM) near Asarco's Ray Complex facilities and other areas in Pinal and Gila counties, Arizona. Asarco wishes to acquire 8,196 acres of federal surface and mineral estate and 2,780 additional acres of federal mineral estate in exchange for 7,300 acres of land currently owned by Asarco, which would be acquired by BLM. Asarco's project purpose is to consolidate its land holdings within and adjacent to areas of ongoing mineral development at the Ray Complex and the Santa Cruz In-Situ Copper Mining Research Project. BLM's project purpose is to acquire lands containing important natural resources and other values and move toward achieving its land tenure adjustment objectives, as stated in the Phoenix and Kingman Resource Area Resource Management Plans.

Over the past several decades, approximately one billion tons of material have been excavated at the Asarco Ray complex. The proposed action would enable Asarco to excavate and process approximately three billion more tons of material over the next 40 years. In several meetings, letters, and conference calls with BLM since scoping for this project began in 1994, EPA has recommended that the DEIS provide certain information that we believe would be useful and relevant in a NEPA analysis for a land exchange where the foreseeable future uses of mining are known. In our comment letter on the preliminary DEIS, we stated that the document did not appear to have evaluated all reasonable alternatives and strongly

- Lines 35-36. The Proposed Action does not enable Asarco to mine over the next 40 years. Under the General Mining Law of 1872, Asarco may already pursue mining through BLM's 43 CFR 3809 regulations. Please refer to Section 1.6.4.1 and to general response no.5, MPO.

- Lines 36-38. All EPA comments received have been considered throughout the EIS process individually and collective with other agency and public comments by the interdisciplinary team, individual specialists and through several EPA/BLM conference calls. As one example of the consideration, BLM developed the Copper Butte alternative as a direct result of discussions with EPA in February 1998.

LETTER #40 (continued)

recommended that additional information regarding the alternatives be included in the DEIS. In that letter and several others to BLM, we also recommended that the potential impacts of the land exchange and the foreseeable future mining be discussed in much greater detail in the DEIS and specifically outlined the needed information.

Although BLM has not received an acceptable mine plan of operations (MPO) from Asarco, it appears that Asarco has fairly specific plans for the selected parcels. We believe that additional detailed information regarding geology, geochemistry, hydrogeology, and biological resources is relevant and necessary for this analysis to constitute full disclosure under NEPA. It is also evident that all reasonable alternatives have not been evaluated and that impacts of foreseeable activities on the selected lands have not been sufficiently addressed in the DEIS. We are extremely dismayed that BLM has ignored most of our recommendations in finalizing the DEIS and are particularly troubled that the DEIS was published at a time when our headquarters office was still discussing the issues with BLM headquarters and the two agencies had not yet come to a resolution.

We have rated this DEIS as EO-2 – Environmental Objections-Insufficient Information. We have strong objections to the proposed project because we believe there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives. The scope of alternatives and the impacts analysis are not sufficient to present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public, as required by 40 CFR 1502.14. Therefore, the most appropriate alternative cannot be determined at this time without additional information. In addition, we believe that the proposed action and its presentation in the DEIS sets a precedent for future actions that collectively could result in significant environmental impacts. We continue to contend that a substantial amount of information should be added to the EIS for BLM to meet its public disclosure obligations.

Our specific comments are enclosed and include reiterations of comments we have made in the past regarding this project, as well as more specific comments regarding issues that did not receive the level of detailed analysis in the DEIS which we believe is necessary for a sufficient environmental analysis. We urge BLM to reconsider our comments and substantially revise this document. One way to accomplish this would be to circulate a revised DEIS rather than a Final Environmental Impact Statement (FEIS). We recommend that BLM seriously consider this option. The Revised DEIS or FEIS should include additional information regarding other alternatives, the affected environment, and environmental consequences, including indirect and cumulative impacts. The Revised DEIS or FEIS should address in much greater detail site geology and geochemistry, hydrology and hydrogeology, existing and potential future water and air quality, riparian and aquatic resources, facilities design, minerals and land management, environmental justice, and mitigation measures.

- Lines 4-5. The FEIS contains updated information supplied by Asarco in March 1999 for the Foreseeable Use Plan.
- Lines 13-16. Discussions between the EPA Headquarters, the CEQ staff and the U.S.D. I. Office of the Solicitor resulted in the errata printed in the front of the DEIS. The BLM suspended printing the DEIS for 90 days while reviews and discussions were held and final wording for Section 2.1.5 (DEIS) was provided by the Office of the Solicitor. Please see Section 2.3.7 of this EIS.
- Lines 18-28. Your comment and rationale for the EPA rating are noted. Refer to Section 1.3 for purpose and need, Section 1.4 for the two decisions to be made, general response no.4 and Section 1.6.3.1 for what constitutes the public interest determination for a land exchange decision.
- Lines 30-40. BLM issued this FEIS document in complete form rather than abbreviated to fully respond to agency and public comments, to update and correct information and to improve mitigation language.

LETTER #40 (continued)

Please send three copies of the Revised DEIS or FEIS to this office at the same time it is officially filed with our Washington, D.C., office. We wish to discuss these issues further with you. We will contact you to schedule a conference call between our agencies. In the meantime, if you have any questions, please call me at (415) 744-1566, or have your staff contact Jeanne Geselbracht at (415) 744-1576.

Sincerely,

Deanna M. Wieman, Deputy Director
Cross-Media Division

002356

Enclosures: (1) EIS Rating Definitions
(2) EPA Comments

cc: Dick Sanderson, EPA HQ, Office of Federal Activities
Ellen Athas, Council on Environmental Quality
John Leahy, Department of Interior, Office of the Solicitor
Marjorie Blaine, U.S. Army Corps of Engineers - Tucson
Lt. John P. Carroll, U.S. Army Corps of Engineers - Los Angeles
Dennis Turner, Arizona Department of Environmental Quality
Nancy Wrona, Arizona Department of Environmental Quality
Tom Scartiocini, Asarco
Don Gabrielson, Pinal County Air Pollution Control District
Pat Mariella, Gila River Indian Community
Shela Mc Farlin, BLM - Phoenix

LETTER #40 (continued)

Cumulative Impacts

In May, 1998 the United States, Arizona, and Asarco entered a consent decree regarding that company's multiple violations of Section 402 of the Clean Water Act (CWA) at the Ray mine. That consent decree requires that Asarco provide remedial actions to comply with CWA Section 402. During a February 2, 1998, meeting between Asarco, BLM and EPA, EPA staff indicated that the nexus between the impendent consent decree and the proposed land exchange would need to be addressed in this DEIS.

We disagree with BLM's response in the DEIS (p. 1-18) to our previous statements that the Section 402 and 404 Clean Water Act actions at the Ray mine are connected and relevant to the land exchange and its impacts. The DEIS states that the land exchange and foreseeable mining activities that will require Clean Water Act permits are not connected, cumulative, or similar actions as defined at 40 CFR 1508.25. We believe this statement is completely erroneous under NEPA and strongly recommend it be deleted from the EIS. The foreseeable actions resulting from the land exchange and compliance with the Consent Decree would indeed result in both indirect and cumulative impacts, as defined by the regulations, and should be included in the scope of the EIS as defined at 40 CFR 1508.25. Indirect impacts are defined as impacts that "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." [40 CFR 1508.8]. "'Cumulative impact' is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." [40 CFR 1508.7].

According to the DEIS, Asarco seeks to consolidate its land holdings within and adjacent to areas of ongoing mineral development at the Ray site and other sites, and to use the selected lands to support and expand current mining-related operations. In addition, Asarco has submitted to EPA a preliminary engineering plan for compliance with the consent decree. Many of these options involve use of the selected lands from the land exchange, constituting a direct link between the Consent Decree and the land exchange. For example, at least two small Selected Land parcels (RM- 2 and RM-3) are located near upper Mineral Creek between Big Box Dam and the tunnel intake. One of Asarco's Consent Decree alternatives would involve fill of most of a 34-acre wetland in this area, plus all of the area that has already been approved for fill in the existing Ray 404 permit. This alternative also involves extending the Mineral Creek diversion tunnel further up the creek to the southeast corner of section 34. RM-2 and RM-3 would be filled as an indirect impact of the extended tunnel diversion if the diversion ultimately allows for filling of the entire wetland. Because some of the actions

- Lines 7-9. BLM agreed in February 1998 to include the Consent Decree settlement/404 permitting in the FEIS and has done so to the degree that information is now available on the 404 permit. Please see general response no.6.

- Lines 10-11. The nexus between the land exchange action and the consent decree/404 permit being processed by COE is simply that two federal estate parcels (RM-2 and RM-3) totaling less than 12 acres and one split-estate parcel (RM-7), are proposed for the land exchange and have been identified in the 404 permit proposed action. Approving the land exchange is not required for the 404 permit to be approved or implemented. These parcels (or other BLM managed lands) are available through 43 CFR 3809 for mining related uses or other land use permits as applicable.

- Lines 18-27. The land exchange does not authorize proposed mineral development; mining exploration, nor development and processing. (See Section 2.1.5). Direct and indirect impacts of the land exchange and of the foreseeable uses are presented in Table 2.7 in summary form and in Chapter 4. Cumulative impacts are presented in Section 4.7 and include cumulative impacts both from the exchange as proposed and the foreseeable uses. Actions resulting from the Consent Decree settlement especially the 404 permits require separate and appropriate levels of NEPA analysis by the federal agencies with jurisdiction involved in these actions.

- Lines 29-39. Please see general response no.6, Mineral Creek Consent Decree/Work Plan Project.

LETTER #40 (continued)

needed will require further CWA permitting, specifically under Section 404 of the CWA, Asarco has also begun discussing possible alternatives with the U.S. Army Corps of Engineers (COE), which administers that Section of the CWA.

Furthermore, on February 2, 1998, Asarco indicated that if upper Mineral Creek could be filled with mine material, Asarco might not need all of the Selected Land parcels in the proposed action. Under the Consent Decree, Asarco needs to take action that will bring the current Ray mine operations into compliance with the Section 402 of the Clean Water Act (CWA) and Asarco must assure that all future expansions will be in compliance with CWA Section 402. Inasmuch as the expansion of the Ray mine onto selected lands is both (1) the proposed action for the land exchange, and (2) considered in the alternatives for compliance with the consent decree, these actions appear to be connected and cumulative, as defined at 40 CFR 1508.25, and should be addressed appropriately in the EIS.

We believe that, in order for the impacts of the land exchange to be appropriately addressed in the EIS, the Consent Decree and its relationship to the land exchange should be thoroughly discussed. The discussion should disclose a reasonable range of options for compliance with the Consent Decree, as well as the potential impacts commensurate with those options (e.g., filling of 34-plus acres of wetlands in upper Mineral Creek). This information is needed so that the public, agencies, and decisionmaker are aware of the cumulative impacts associated with the land exchange and other related or unrelated actions, and can determine which alternatives would result in less environmental degradation.

In a February 9, 1998, letter to Sheila McFarlin, BLM, Jeanne Geselbracht, EPA, asked for projections of tonnage of material to be moved over the mine life as well as the acreage the company would need to accommodate that material. Asarco has produced maps depicting various site alternatives for placing mined material in the future, including filling upper Mineral Creek. It is unclear what alternatives exist for keeping both the fill out of Mineral Creek and preventing the mine material on the slopes above Mineral Creek from leaching into the creek. The Revised DEIS or FEIS should provide estimates of mine material tonnage and acreage to accommodate it in order for different scenarios to be sufficiently developed to predict the potential impacts to Selected Land parcels for the land exchange EIS, as well as to determine the least environmentally damaging practicable alternative (LEDPA), in accordance with CWA 404(b)(1), and a preference for complying with the Consent Decree.

Alternatives Analysis

The Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of NEPA require that an EIS "provide full and fair discussion of significant environmental impacts and shall inform the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment....It shall

- Lines 6-13. Alternatives for the land exchange were not developed based on the Consent Decree settlement which is a later action that did not involve BLM as a discussant or signing party. Under FLPMA Section 206 and FLEFA Section 2, land exchanges are discretionary actions considered under the public interest determination that implement better management of public lands, meet the needs of state and local residents and economies, and secure important resource objectives. An appropriate range of land exchange alternatives was developed which reflect both Asarco's and BLM's purpose and needs as well as the required equalization of monetary values (Please see Section 1.6.3.3).

- Lines 16-22. Developing a reasonable range of options for the compliance of the consent decree actions or permits is within the jurisdiction of the federal agencies approving or implementing the Consent Decree settlement. BLM has not received an application for the use of public lands for the Consent Decree/404 permit, which reflects the COE's public notification for the 404 permit. This MPO modification will be processed once the COE has established the 404 Proposed Action. BLM will then analyze impacts at the appropriate NEPA level either independently or as a cooperating agency issuing a separate decision. The analysis of alternatives for the 404 permit does not determine which lands are in the land exchange nor is completing the exchange a requirement to authorize public lands for other uses.

- Lines 24-33. Developing mining scenarios for a land exchange is not required for BLM to process a land exchange; instead, in accordance with BLM policies and the Land Exchange Handbook (H-2200-1), reasonably foreseeable impacts of the exchange must be considered. The Foreseeable Use Plan with its five major categories of use/disturbance. (As shown in Section 2.2.2) was developed as the basis for considering reasonably foreseeable impacts

be used by Federal officials in conjunction with other relevant material to plan actions and make decisions." [40 CFR 1502.1].

Furthermore, in accordance with 40 CFR 1502.14, the EIS should "present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public." EPA believes that the DEIS does not include an appropriate alternatives analysis. It appears that all reasonable alternatives have not been rigorously explored and objectively evaluated as required by 40 CFR 1502.14(a).

EPA believes that a true No Action Alternative should be evaluated in the EIS. The DEIS assumes that if the land exchange does not occur, the selected lands will, nevertheless, be used by Asarco for mining purposes under a BLM-managed mine plan of operations (MPO). We agree that the EIS should analyse the predictable or potential consequences of "no action" by the BLM (See CEQ's 40 Questions Memorandum, Q#3). We do not agree, however, that no action (i.e., no land exchange) would necessarily lead to MPOs on all of the parcels. It is likely that Asarco would seek MPOs for many selected land parcels, but its allowable activities could be somewhat different under an MPO than under a land exchange after which BLM has no further management authority. These differences should be described and discussed in more detail in the Revised DEIS or FEIS. For example, just as an MPO EIS would include a No Action Alternative (i.e., no MPO alternative), we believe that such a no action alternative should also be included in this land exchange EIS for purposes of providing a benchmark in order to compare the magnitude of environmental effects of the action alternatives.

Alternatives including the No Action Alternative may also depend on the validity of mining claims on the Selected Lands. The DEIS (p. 1-18) states that " Asarco has filed mining claims to nearly all of the selected lands and has indicated its intent to pursue mining activities on these lands regardless of the outcome of the land exchange." Elsewhere, the DEIS (p. 4-20) states, "Under current mining laws, Asarco could utilize existing claims to pursue the foreseeable mining uses on all of the selected lands except Parcel CH-5 and portions of the Chilito/Hayden parcels." This last statement, however, may not be accurate. The EIS should identify the lode and mill site claims that are included in the proposed project and discuss their validity. According to BLM's Mineral Report on the Selected Lands, Asarco has five lode claims and 61 millsite claims in parcels CB-2, CB-3, and CB-4. This is not possible under the 1872 Mining Law because only one millsite claim up to five acres in size may be associated with each lode claim. The Revised DEIS or FEIS should discuss the alternatives in the context of the validity of existing claims and BLM's authorities under the 1872 Mining Law as amended, the Federal Land Policy and Management Act, and other relevant statutes and regulations.

of mineral development on exchange lands. These uses and categories have been carried through the EIS in direct, indirect and cumulative analysis. Under its jurisdiction from the CWA, the COE determines the least environmentally damaging practical alternative (LEDPA) for the 404 permit and evaluates all impacts. The land exchange configuration does not depend on COE's evaluation of alternatives. For any BLM land included in COE's LEDPA, BLM would be required to approve the land use whether or not BLM were a cooperating agency with COE.

- Lines 6-10. The land exchange alternatives considered the purpose and need of both Asarco and BLM. BLM's needs stem from FLPMA Section 206 and FLEFA Section 2 as well as the planning documents and land acquisition decisions made in the identified resource management plans.

- Lines 12-24. The EIS evaluates a "true" No Action Alternative for the land exchange/plan amendment. The CEQ guidance referred to defines No Action both as a continuation of present conditions (as in planning documents) and for externally-generated proposals where the agency approves or disapproves an action. The "true" No Action Alternative referred to in the comment was not analyzed by BLM because: 1) the decision to be made by BLM is whether or not to approve a plan amendment and land exchange, not whether to authorize mining; and 2) is addressed under Section 2.3.7, the No Mining Election Alternative. Additionally, disagreement exists as to whether a true No Action alternative exist under the General Mining Law of 1872. See 1996 *United States District Court of the District of Arizona Dan Zobel et al. vs. Charles R. Bazan et al and Carlota Copper Company*-- in this case, the Court concluded ..."a true "no action" alternative under NEPA is, as a practical matter, not available to the [defendant] as a consequence of the mining laws..." The No Mining alternative was not considered a reasonable alternative as a consequence of the existing mining laws.

LETTER #40 (continued)

Several action alternatives may also exist for the offered and selected lands which meet the stated project purposes. We believe that, in addition to the Buckeye and Copper Butte alternatives, there may be other selected land parcels that could be deleted from the proposed package based on the potential environmental impacts of foreseeable future uses on those parcels. However, the DEIS lacks sufficient information to determine the impacts of those uses on resources or to allow for a comparison of resources on selected lands and offered lands. Until more information is provided in the EIS regarding potential environmental impacts and their significance, the full spectrum of reasonable alternatives cannot be determined.

Additional reasonable alternatives to the offered lands packages currently in the DEIS should be developed and included in the EIS based on prioritization and comparison of the offered land parcels, and commensurate with the additional selected land alternatives that we recommend be developed. Developing alternatives that involve deletion of certain parcels, based on the significance of potential impacts of foreseeable future uses of those parcels, is consistent with 40 CFR 1502.14. For example:

- Neither BLM's Mineral Report nor the DEIS describe the mineral potential or the type of claims (millsite or lode claims) that Asarco has on parcel CB-5. It is unclear, therefore, that CB-5 is really a necessary parcel to carry out Asarco's stated project purpose. It is unclear why BLM does not obtain the entire section 24 from the State of Arizona for inclusion in the White Canyon Area of Critical Environmental Concern (ACEC).

- The DEIS should discuss why the New Water Mountain parcel was eliminated from the proposal rather than the Tomlin parcels.

- The Hackberry Alternative was eliminated from further consideration in the DEIS because Asarco already has plans to use Hackberry Gulch as a tailings impoundment. EPA believes this is not an appropriate reason for eliminating this alternative. Asarco has plans for *all* of the selected land parcels, but this does not exempt all parcels from deletion from Asarco's selected land package.

- As stated on page 2 above, Asarco is currently discussing the requirements for a Clean Water Act Section 404 permit with COE for filling upper Mineral Creek with leachable rock. If Asarco is permitted to do so, it would not need as much of the Selected Land. This is not discussed anywhere in the DEIS. The Revised DEIS or FEIS should describe the acreage that such a facility would use in this case and the reduction in acreage of Selected Land that would be needed by Asarco. The potential impacts associated with such an alternative should be described and discussed in the Revised DEIS or FEIS.

- Lines 27-39 (previous page). Section 3.2.3.2 describes the mineral rights on selected lands, 99.5% of which are held by Asarco as active claims. Active claims are those which are properly filed and maintained; these do not require validity examinations under the General Mining Act of 1872 to be utilized in mining activities. Validity examinations are only required in the case of patent application processing or to resolve resource conflicts on a case by case decision. BLM considers the lode and mill site ratio in the patent process and under MPOs only if unacceptable resource conflicts apply. In these cases, careful considerable is given to defining what the project area includes and to all past and current claims connected with the patent application or with the mining activities under an MPO. If a completed MPO were filed for Copper Butte, the ratio would be applied to the appropriate area at that time which would probably include the Ray Complex where processing would occur. Of the Asarco claims filed on the selected lands, the overwhelming number are lode claims. See also Figures 3-12 and 3-13.

- Lines 5-11. Under Section 206 of FLPMA and Section 2 of FLEFA, BLM may consider land exchanges based on a number of considerations as identified in Section 1.6.3.1 and general response no. 4, Public Interest. Table 1-4 defines BLM's objectives and criteria for considering disposing lands and acquiring new lands; and identifies specific parcels to dispose of or to acquire under land exchanges, through sales and other authorities. BLM agreed to include all parcels identified by Asarco for evaluation in the EIS (including Parcel RM-18 and CB-5) because these support BLM objectives and criteria under FLPMA and FLEFA. Two ensure comparison of values on selected and offered lands, two other alternatives were identified for evaluation based on scoping comments including EPA's.

- Lines 19-23. In April 1998, BLM signed a decision record on the White Canyon Plan Amendment (DEIS Appendix I) that indicates it will seek to acquire 480 acres of Section 24 to be managed as part of the ACEC from the state or subsequent land owners. Section 24 cannot be obtained by BLM through exchange since no

LETTER #40 (continued)

Environmental Impacts

EPA's past scoping comments to BLM on the Ray Land Exchange recommended providing as much information as possible in the EIS regarding the effects of mining activities on the selected lands. The DEIS lacks the specificity of impacts which we believe is necessary in order to provide a clear basis for choice among options by the decisionmaker and the public. The DEIS (p. 1-19) states, "Until a detailed mine plan is prepared by Asarco, BLM's attempt at describing anticipated detailed mining activities, suitable for a specific analysis, would be highly speculative." We are disappointed by Asarco's unwillingness to provide the information needed, and puzzled as to why BLM has not more diligently pursued this information from Asarco. Sufficient information for a more meaningful NEPA analysis would not have to be in the form of a complete mine plan. BLM is expected to work with the mining company to obtain information necessary for the NEPA analysis. We believe that Asarco has very specific plans for the selected lands at this time, including mining rates it hopes to attain within the first nine years of the Ray expansion as well as the Copper Butte project. For example, the socioeconomics section of Chapter 4 of the DEIS indicates that Asarco has an expected rate of production at the Copper Butte mine over a nine-year period (pp. 4-39-42).

Furthermore, Asarco is evaluating best available demonstrated control technology (BADCT) for purposes of meeting Arizona groundwater standards that would be included in its Aquifer Protection Program (APP) permit for the Ray complex. Arizona BADCT, however, does not necessarily ensure that water quality standards will be met because the definition of BADCT is not based on water quality. In fact, at the February 2, 1998, meeting, Asarco indicated that they might not be able to line the leach pads because of steep slopes on some of the selected parcels. In addition, at a January 15, 1998, meeting, Derek Cooke of Asarco stated that, assuming one pinhole per acre on a lined leach pad, the amount of copper seeping into groundwater and into Mineral Creek would result in an exceedence of water quality standards. Moreover, the tailings impoundment in Elder Gulch, which is a fairly new facility using current technology in Arizona, is already adversely affecting groundwater with contaminated seepage. Asarco intends to use parcel RM-18 for another tailings impoundment. The Revised DEIS or FEIS should indicate whether heap leach and tailings facilities would be lined, to what extent, and what general liner thickness and construction procedures would most likely be followed to provide for stability and prevent leakage. The Revised DEIS or FEIS should also discuss the specific potential impacts that a tailings impoundment in RM-18 could cause should seepage occur. The document should discuss BADCT and how it would apply to the various foreseeable actions and whether it would be protective of groundwater quality.

We urge BLM to obtain more detailed information from Asarco for this Revised DEIS or FEIS. Pursuant to 40 CFR 1502.22(a), "[i]f the incomplete information relevant to

current exchange authority exists with the state, and because Asarco has applied to purchase the land from the state. If Asarco obtains Section 24 at the completion of the state's sale process, under the preferred agency alternative, Asarco has agreed to donate the 480 acres to BLM. Parcel CB-5 was added to the land exchange in 1997 since this is a split-estate parcel with Asarco mining claims in place. Figure 3-12 has been corrected to show the claims on Parcel CB-5.

- Line 26 (previous page). At the conclusion of the appraisal process, to equalize values between the offered lands and the selected lands, certain parcels were dropped from further consideration in the Ray Land Exchange: the New Waters and three Tomlin parcels. Please see Tables 1-4 and 2-3 for parcel descriptions and parcel priority.

- Lines 28-31 (previous page). The Hackberry Alternative was eliminated because the alternative did not meet the public lands management objectives discussed under Section 1.3, Purpose and Need.

- Lines 33-39 (previous page). Please see general response no. 6, Mineral Creek Consent Decree/Work Plan Project.

- Lines 5-18. The decisions that BLM will make based on the EIS are provided in Section 1.4. The impacts of the land exchange have been fully described in Table 2-7 and Chapter 4. Mining activities are projected under the reasonably foreseeable use which is the same for all action alternatives providing the decision-maker the same level of knowledge for all alternatives. BLM requested that Asarco update the Foreseeable Use Plan but revisions resulted in only slight changes. Additionally, BLM reviewed detailed drawings made available for the alternative analysis for the Consent Decree/404 permit; existing MPOs for the Ray Mine, and mineral potential reports.

LETTER #40 (continued)

reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement." In addition, agencies shall ensure the professional integrity, including scientific integrity, of the discussions and analyses in EISs, as well as identify any methodologies used (40 CFR 1502.24). A discussion of BADCT required for the proposed project should be included in the Revised DEIS or FEIS. The discussion should include an analysis of any shortcomings inherent in a system that permits groundwater pollution control technology, even if it is not 100 percent effective.

Under the Consent Decree, Asarco is also currently analysing alternatives for filling waters of the U.S. for the purpose of obtaining a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers. BLM stated in a March 12, 1998, meeting (see meeting minutes) that by the time the final EIS is filed, the selected alternative for the 404 fill action should be known and would be discussed in greater detail in that document. The Revised DEIS or FEIS should include this information pursuant to 40 CFR 1500.2(c) and 1502.25(a).

The DEIS (p. 1-18) states that issuance of a National Pollutant Discharge Elimination System (NPDES) permit by EPA to Asarco would constitute a federal action subject to NEPA and, thus, future actions would be analysed at the time of permitting. This is true in the case of the Copper Butte or Buckeye sites, as they would be considered new sources. Any future expansions of the Ray complex, however, would not be analysed under NEPA because renewed NPDES permits for existing sources are not subject to NEPA analysis. Furthermore, the U.S. Army Corps of Engineers has informed us that they do not circulate draft environmental assessments for public review. We are not confident, therefore, that future NEPA analyses conducted by COE for a Clean Water Act Section 404 permit for the proposed project would undergo public scrutiny to the degree we believe is necessary for the magnitude of the potential impacts associated with this land exchange. We recommend that paragraph five on page 1-18 of the DEIS be revised to more accurately reflect the situation.

Water Resources

EPA believes that much more detailed information regarding affected environment and environmental consequences is needed in the Revised DEIS or FEIS. For example, the Revised DEIS or FEIS should include detailed sections on geology, hydrogeology, and hydrology. How much groundwater and surface water is Asarco using? Is there a cone of depression? Will there eventually be pit lakes at Ray and Copper Butte? Is there any flow toward the Gila River? How would the Ray complex and future mining at Copper Butte affect Mineral Creek, Walnut Creek, the Gila River, and other waters of the U.S.? Describe and discuss the hydrogeology in the Casa Grande area. We are aware that data on groundwater in the Ray complex area are being collected as part of the APP permit for this project. Baseline information on groundwater and surface water, as well as modelling to

- Lines 21-37 (previous page). This discussion is outside the scope of the land exchange EIS, as explained in Section 1.8.2. A discussion of BADCT is simply not required for the land exchange and is outside BLM's jurisdiction to approve, monitor or enforce under land exchange regulations.
- Lines 4-10 Please see response on previous page.
- Lines 12-16. See general response no.6, Mineral Creek Consent Decree/Work Plan project.
- Lines 18-27. The 404 permit processing by COE or other NPDES processing by EPA is not within BLM's jurisdiction and these permits are not required for the land exchange.
- Lines 31-39. BLM has addressed water quality issues with the detailed analysis at the level required for BLM to make a decision on the proposed land exchange. No decision is being made to authorize mining activities. See also water issues under Section 4.7, cumulative impacts.

LETTER #40 (continued)

predict future impacts to surface waters and groundwater are necessary in the Revised DEIS or FEIS.

The Revised DEIS or FEIS should include geochemical characterizations of the rock that would be excavated from or deposited on selected lands. The Revised DEIS or FEIS should also analyse the potential geochemical reactions and interactions that could result from the foreseeable future actions on the selected lands, including actions at waste rock piles, leach pads, tailings impoundments, and open pits. Acid-base accounting should be conducted, including kinetic testing if necessary, to predict the acid generation potential associated with activities on selected lands. The Revised DEIS or FEIS should discuss how the APP would be expected to affect the prevention of groundwater contamination.

Asarco has four different process materials that could affect groundwater and surface water chemistry. These are (1) barren waste rock (no copper--but may have sulfide and/or toxic leachable constituents); (2) run of mine ore (ROM) which is low grade ore, both oxide and sulfide, which Asarco plans to leach without any crushing or preparation; (3) oxide ore, most of which will be crushed and agglomerated (what percentage?); and (4) tailings. In its geochemical characterization Asarco should provide estimated percentages of the three rock types and tailings at Ray and Copper Butte, and provide the geochemistry requested, including leach tests. The character of the interstitial fluids in the tailings should also be provided along with any Arizona Aquifer Protection Program (APP) data or Clean Water Act violation-related data with regard to the existing tailings facilities. EPA has requested a copy of the geochemistry reports but has never received them.

The Revised DEIS or FEIS should include a discussion of potential threats to groundwater and surface water quality of Mineral Creek and the Gila River from seeps related to the proposed barren rock, ROM, and Oxide heaps. The discussion should also address whether and how potential threats to surface waters from the foreseeable actions would be entirely and satisfactorily mitigated by provisions of the consent decree, the NPDES permit, and the APP. The document should also describe what is needed for any proposed facilities in addition to those provided for in the consent decree. It should also discuss potential impacts, including ecological risks from the tailings facility to Mineral Creek and the Gila River.

Asarco has indicated that all waste rock, such as that proposed for placement in RM-17, is potentially leachable. If this is the case, we would recommend that all waste rock and potentially leachable material be placed on properly engineered, lined heap leach pads to ensure complete capture of pregnant solution. The Revised DEIS or FEIS should discuss whether areas can be assigned for placing different kinds of rock (e.g., leachable sulfidic waste rock, non-leachable sulfidic waste rock, non-leachable oxide waste rock, potentially leachable ROM, oxide ore to be leached, etc.) and whether this would make a difference in the potential impacts to surface water and groundwater.

- Lines 5-11. This discussion is outside the scope of the land exchange EIS, as explained in Section 1.8.2. A discussion of geochemical characterizations of rock would have no bearing on BLM's decision regarding the land exchange and is outside BLM's jurisdiction to approve, monitor or enforce under land exchange regulations.
- Lines 14-23. This discussion is outside the scope of the land exchange EIS, as explained in Section 1.8.2. A discussion of groundwater and surface water chemistry is not required for the land exchange and is outside BLM's jurisdiction to approve, monitor or enforce under land exchange regulations.
- Lines 25-32. See cumulative impacts discussion in Section 4.7.
- Lines 34-39. This discussion is outside the scope of the land exchange EIS, as explained in Section 1.8.2. A discussion of waste rock would have no bearing on BLM's decision regarding the land exchange and is outside BLM's jurisdiction to approve, monitor or enforce under land exchange regulations.

LETTER #40 (continued)

Under Section 1431 of the Safe Drinking Water Act, it is unlawful to discharge a contaminant to an underground source of drinking water (USDW) via injection wells, surface impoundments, or in any other manner if that discharge may pose an imminent and substantial endangerment to the health of persons. Endangerment is considered imminent and substantial if contaminants could migrate to a current or future supply of groundwater (i.e., USDW) in a concentration that could cause an exceedence of a primary drinking water standard (MCL as described at 40 CFR 141 and 142), or otherwise affect the health of persons. A USDW is generally defined as any aquifer that 1) currently supplies any public water system, OR 2) contains a sufficient quantity of water to supply a public water system (25 or more persons), AND currently supplies drinking water for human consumption or has a total dissolved solids (TDS) content of less than 10,000 ppm. The Revised DEIS or FEIS should identify the USDWs in the affected area, provide current groundwater quality data from drinking water wells in the vicinity of the Ray complex, and discuss how impacts to water quality would be prevented by Asarco's foreseeable actions.

The Revised DEIS or FEIS should provide the hydrogeologic parameters and character of fracture permeability in the affected area, as we previously requested. The groundwater system should be modelled for baseline conditions, future conditions, and ultimate equilibrium conditions; including cones of depression, transport and fate of leachate from "waste rock" (leachable or potentially leachable material) deposition areas under BADCT conditions, prediction of pit lakes at Ray and Copper Butte, and effects of groundwater flow direction near the Ray pit on groundwater supply to the Gila River. Bedrock underlying RM-17 is mostly granitics with low permeability, but characterization of weathered granite and fracture permeability still must be provided. The DEIS implies that with proper mine design for the Ray expansion and Copper Butte, potential significant impacts (aside from visual, noise and air impacts to the wilderness area) could probably be mitigated to less than significant. The Revised DEIS or FEIS should provide assurances and specific information for this.

The DEIS (p. 1-19) states that the Gila River Indian Community holds rights to approximately 1.6 million acre-feet per year of water from the Gila River. Elsewhere, the DEIS (p. 4-15) states that groundwater quantity may be depleted if mining operations require local groundwater withdrawals. The Revised DEIS or FEIS should discuss whether this would affect BLM's federal trust responsibilities to protect the tribe's water interests, as well as associated environmental justice implications under Executive Order 12898 and the Department of Interior environmental justice strategy.

Riparian and Aquatic Habitat

The Revised DEIS or FEIS should include an estimate of acres and functions of surface waters, including wetlands, springs, riparian zones, and ephemeral streams in the affected

- Lines 3-27. These comments pertain to permits and decisions issued by other agencies with jurisdiction over these Acts and regulations. BLM considers this detailed analysis as beyond the scope of this EIS since BLM has no jurisdictions over such permits.

- Lines 30-36. The land exchange does not approve mining nor does it change water rights on the Gila River. Asarco and the Gila River Indian Community have a 1992 U.S.D.I. approved agreement for Asarco's purchase of the tribe's water for the Ray Mine, if needed. This is not an environmental justice issue for the proposed land exchange nor a trust issue.

environment, and historical waters that have already been disturbed. The Revised DEIS or FEIS should also describe the specific plans for foreseeable uses on parcels with surface waters and discuss how these waters could be affected, including estimated acreages and functions. The document should describe and discuss aquatic resources, including native fisheries, that could be affected, and estimate the acreage or riparian habitat that could be affected. Impacts to both surface water and groundwater quality should be discussed.

We suggest that some of this information may be available if the Phoenix field office has implemented BLM's *Riparian-Wetland Initiative for the 1990's* (1991) and its *Riparian Area Management: Process for Assessing Proper Functioning Condition* (1993). Another method of achieving a planning level inventory is to gather aerial photography of the various sites. If the larger sites contain segments of different geomorphological character, each segment should be analysed separately. A person familiar with interpretation of aerial photography should make estimates of the length, width, and type (perhaps Cowardin classification, or some other standard classification system) of all streams and wetlands on the parcels. These estimates should have some degree of ground-truthing to establish the validity of the estimates (a rough estimate of variance). The ground-truthing could be done in concert with currently ongoing surveys, and/or by using delineations of waters done in the past. Ground truthing need not be done on each unit, if there is reason to believe that several units have very similar characteristics, including gradients, stream frequencies, and stream types.

In addition to an inventory, there should be a functional assessment of the waters found on the various parcels. Use of the Cowardin system would facilitate that assessment since it is based on habitat types. This section can be simply descriptive, as long as it carefully describes habitat functions, water quality functions, and flood flow characteristics.

Waters of the U.S. and Clean Water Act Section 404 process

The discussion should make clear that this inventory would be refined into a more precise delineation of waters of the U.S. at the time of Clean Water Act Section 404 permitting. Definitions of ordinary high water, wetland boundary, and the lateral extent of waters should be included in the discussion.

The Revised DEIS or FEIS should also include information on maximal areas of waters of the U.S. that Asarco could need in the future, including a discussion of waters and wetlands in Mineral Creek below Big Box Dam. The Revised DEIS or FEIS should discuss the 404 permitting process in some detail, making clear to the reader that a decision about the eventual uses of many of the selected parcels will be made during that permitting process. The discussion should note the differences between the Corps' NEPA evaluations and those done by the BLM. Concepts such as "least environmentally damaging practicable alternative,"

Lines 3-40. An inventory and analysis of the waters of the U.S. is beyond the scope of this EIS. Please see Sections 3.2.1.2 and 3.2.2 for a discussion of riparian and water resources. As noted in Table 2-7, the net gain is 118 acres, which is consistent with BLM standards for improving and acquiring riparian resource values.

LETTER #40 (continued)

"avoidance," "minimization," "compensatory mitigation," "in-kind mitigation," "functions and values," "BSA Section 7 coordination," "106 co-ordination," and "401 certification" should be developed as part of the discussion.

Floodplains

The DEIS states that floodplains are not considered a major issue. According to page 4-51, however, approximately 180 acres of selected lands are located within the 100-year floodplain. Pursuant to Executive Order No.11988, Section 3(d), when property in floodplains is proposed for disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State, or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance. The Revised DEIS or FEIS should address this issue in more detail by including a map with floodplains in the selected lands, as well as identifying all applicable Federal, State, and local floodplain regulations, and any actions that BLM would need to take in order to comply with this Executive Order.

Air Quality

The DEIS does not sufficiently describe the potential air pollutant emissions for the foreseeable future projects and analyse the impacts of those emissions. The DEIS states that no increase in PM10 emissions would be allowed under current regulations. In a February 2, 1998, meeting, however, Asarco indicated that expanding the Ray Complex would require major modifications to its Ray Mine Title V permit. It is unclear how the continuation of excavating and processing Ray ore along with the excavation, haulage and processing of Copper Butte ore would not increase air emissions, particularly PM10 emissions. The Revised DEIS or FEIS should provide more detailed information on the potential impacts of each alternative to air quality, including haul distances and estimated emissions from the expanded Ray/Copper Butte area.

The DEIS does not provide sufficient information regarding existing air quality on the Selected Lands. PM10 is the only criteria pollutant for which ambient concentrations are provided for the Ray Complex, Copper Butte/Buckeye, Chilito/Hayden area and Casa Grande. According to the DEIS (p. 3-31), however, ADEQ also collects air quality data for lead in Hayden; sulfur dioxide in Hayden, Winkelman and Chilito; and carbon monoxide and ozone in Casa Grande. In addition, we understand that a report on the results of a fugitive particulate emissions study at the Asarco Hayden Smelter was prepared in 1995, and could provide this information. The Revised DEIS or FEIS should include this information. The Revised DEIS or FEIS should also identify air toxics, (e.g., lead, arsenic, and selenium) monitored at the Hayden smelter, mill, and tailings impoundments, where copper originating from the Ray

- Lines 8-17. The following will be in the conveyance documents if this land exchange is approved per Executive Order 11988, Section 3b: "Lands purchased in the exchange area is subject to restrictions which may be imposed by the Pinal County Floodplain Administrator in accordance with the Floodplain ordinance for Pinal County, Arizona."

- Lines 22-29. As discussed in Section 4.2.4, BLM analyzed air quality impacts associated with the foreseeable uses. If there were to be significant emission increases which exceed the current permit, then the proponent would be legally obligated to modify its permit. To the extent possible, BLM can only assume that emissions would likely increase at the Copper Butte operations, based on an increase in haulage distance. Emissions at the Ray Complex would likely remain constant with expansion onto adjacent parcels. Parcel RM-18 would be an expansion of the Elder Gulch facility resulting in few additional miles of haulage, as the same with Parcels RM-1, RM-8, RM-12, RM-13 and RM-17 (POS use parcels). The remaining parcels would be used later in time and/or would not result in increased emissions, and therefore are not compared at this time.

- Lines 32-40. Relevant, available data on sulfur dioxide, carbon monoxide, ozone and lead has been added to Section 3.2.2.4.

Complex would continue to be processed. The Revised DEIS or FEIS should provide existing and projected emissions data for these other pollutants, discuss their impacts on human health, and include a map depicting sampling locations.

As stated on page 2 above, BLM is obligated to pursue information necessary for the NEPA analysis, regardless of the company's willingness to cooperate and provide the information. We believe that Asarco has very specific plans for the selected lands, including mining rates the company hopes to attain within at least the first ten years of the Ray expansion, as well as the Copper Butte project. Based on Asarco's short-term and long-term goals for operations at the Ray Complex, Copper Butte, and Chilito/Hayden, the Revised DEIS or FEIS should provide estimates of air emissions for all criteria pollutants, in addition to relevant air toxics, at all Selected Lands sites. Simply stating that no increase in PM10 emissions would be permitted does not provide information on expected emissions for PM10 or criteria pollutants, their effect on the State Implementation Plan (SIP), or how they would affect Prevention of Significant Deterioration increments in the attainment area that constitutes part of the selected lands (i.e., Copper Butte area) or in nearby Class I areas. This information should be provided in the Revised DEIS or FEIS.

Environmental Justice

The DEIS (pp. 3-61,62) provides some low-income and minority population information for the counties where the selected lands are located. No site-specific analysis is provided, however, for either the affected environment or in the context of the environmental consequences. In an April 21, 1998, meeting, BLM stated that Battle Axe Road is near an "environmental justice" community. However, the potential impacts to this community are not evaluated with respect to its low-income or minority status. The conclusion on page 4-42 that there would be no disproportionate adverse human health or environmental effects on minority and low-income populations is not analyzed and, therefore, unjustified in the DEIS. Additional information is needed in the Revised DEIS or FEIS in order to justify such a statement. The revised DEIS or FEIS must be consistent with Executive Order 12898, Department of Interior's environmental justice strategy, and the Council on Environmental Quality's environmental justice guidance to Federal agencies.

Minerals and Land Management

BLM's stated project purposes are to improve resource management efficiency by: 1) disposing heavily encumbered, isolated and difficult-to-manage public lands; 2) acquiring lands that will consolidate ownership patterns within wilderness and special management areas; and 3) acquiring lands with fewer encumbrances and higher resource values. In light of these objectives, EPA urges BLM to withdraw the offered lands from mineral entry, especially for *all* parcels that have at least a moderate mineral potential.

- Lines 15-17. The effects on Prevention of Significant Deterioration increments of future actions on the selected lands cannot be analyzed prior to development of the MPO which is not required under a land exchange action such as this. The consumption of increments is the responsibility of the respective air quality regulatory authority which track this issue when new permits or permit modifications occur. In this case, increment consumption would be the responsibility of the Pinal County Air Pollution Control District.

- Lines 21-31. The BLM met the Executive Order 12898 by: 1) identifying Silver Creek as a low income, minority community; 2) meeting with residents and identifying issues for analysis and possible mitigation steps; and 3) found that BLM's preferred alternative access route did not cause significant disproportionate adverse impacts to Silver Creek. Please see Sections 3.2.6.1.1 and Section 7.1 for BLM discussions with the Silver Creek community and general response no. 1, Access.

- Lines 36-40. All the offered lands have low or moderate potential for mineral development as discussed in Section 2.1.1.1 and 3.3.3.1. The BLM will petition to withdraw the Gila River Parcel at Cochran as well as the Tomlin #4 Parcel.

LETTER #40 (continued)

We understand that BLM intends to withdraw Tomlin parcel #4 from mineral entry if the land exchange is completed. According to BLM's Mineral Report for the offered lands, Tomlin parcel #3 also has a moderate potential for metallic minerals. We recommend that this parcel also be withdrawn from mineral entry.

Section 25 in the McCracken parcels also exhibits moderate mineral potential (DEIS, p. 2-3). We recommend that this parcel be withdrawn from mineral entry.

We recommend that BLM commit to closing the Sacramento Valley parcel to salable minerals (e.g., decorative rock boulders).

According to the 1993 Kingman Resource Area Resource Management Plan (RMP) final EIS, one of the objectives of the RMP is to achieve proper functioning condition for riparian areas (DEIS, p. H-10). The RMP EIS illustrated this need by identifying several areas of severe/critical erosion, including the Big Sandy River and Sacramento valleys. In order to meet this objective, BLM indicated that it would prepare/revise activity plans involving riparian-wetland areas prescribing actions to meet management objectives. It is unclear whether the activity plan has been developed for the Kingman Resource Area. If so, for the purpose of cumulative impact analysis, the Revised DEIS or FEIS should include a summary of the plan and discuss how effective it has been thus far. The Revised DEIS or FEIS should also discuss how management of the offered parcels would be consistent with the RMP objectives and describe the methods that would be used to improve riparian areas (e.g., exclosure fencing around riparian zones, piping of water outside to grazing animals, rotation of livestock). We previously recommended (April 12, 1991, DEIS comment letter from Deanna Wieman, EPA, to Elaine Marquis, BLM) on the RMP that these areas be closed to livestock grazing. Depending on the success of the activity plan, this may still be a desirable option.

In addition, the 1988 Phoenix District RMP indicated that an activity plan for the Gila River Riparian Management Area would be developed (DEIS, p. H-5). If this plan exists, for the purpose of cumulative impact analysis, the Revised DEIS or FEIS should include a summary of it and discuss how management of the Gila River parcel would be consistent with it. What methods would be used to improve riparian areas (e.g., exclosure fencing around riparian zones, piping of water outside to grazing animals, rotation of livestock)?

The specific potential impacts of routes #1 and #2 to replace Battle Axe Road are not discussed in the DEIS. It appears, however, that Route #1 would have a greater adverse environmental impact than Route #2 because it would be located in Walnut Canyon wash and adjacent to the White Canyon Wilderness boundary for approximately 1.3 miles. Route #2 would be further removed from the wilderness, which would reduce noise, air quality, odor, flora and fauna, and visual impacts to the wilderness area and would not be located in a wash.

- Lines 3-10. Please see response on previous page.
- Lines 13-26. The proper functioning for riparian areas, monitoring and evaluation of specific management objectives is outside the scope of this land exchange EIS. As discussed in Section 2.1.2.1, the Mohave County offered lands would be subject to the RMP objectives and future or existing activity plans for the areas containing the parcels. Currently, the Kingman Field Office applies riparian objectives during allotment planning, or grazing permit renewals or where high riparian values and T&E species exist.
- Lines 29-33. The Gila River Riparian Management Area Activity Plan has not been developed. As mentioned in Section 2.1.1.1, the Gila River acquired parcel would be managed in accordance with the RMP and plan amendment decisions for that area This would include activity-level management plan which might consider fencing, monitoring or other specific prescriptions.
- Lines 36-40. Please see general response no.1, access.

LETTER #40 (continued)

The Revised DEIS or FEIS should discuss these impacts, as well as any other impacts that could result from building routes #1 or #2. The Revised DEIS or FEIS should also discuss the impacts associated with using Battle Axe Road for mining operations. We recommend that BLM seriously consider developing Route #2 to replace access to the wilderness area, with a design sufficient to prevent any safety problems.

Mitigation of Impacts

The DEIS does not discuss mitigation measures for many potential indirect impacts from the land exchange. For example, the DEIS (p. 4-51) indicates that federal reserved water rights would be irretrievably lost. It also appears that there would be a net loss of waters of the U.S., including wetlands, as well as floodplains, and groundwater quality could be adversely affected down-gradient of certain mining facilities even though aquifer water quality standards are met at specific point of compliance wells (DEIS, p. 4-15). The proposed alternative would cause impacts to: eight roosts providing potential habitat for Townsend's big-eared bat, California leaf-nosed bat and cave myotis on Parcels RM-1, RM-8, RM-10 and RM-18; desert tortoise habitat; 1,150 acres of potential habitat for chuckwalla; longfin dace in Walnut Creek; and 40 acres of potential habitat for Western burrowing owl on CG-3; and eliminate an artificial pond containing lowland leopard frog (DEIS, p. 2-24). The DEIS states that BLM would acquire habitat for ten special status wildlife species, including thousands of acres for Category I and II desert tortoise habitat. It does not, however, specifically indicate how the impacts to other species would be mitigated on the Offered Lands or elsewhere. Pursuant to 40 CFR 1502.14(f) and 1502.16(h), the Revised DEIS or FEIS should discuss means to mitigate adverse environmental impacts. The Revised DEIS or FEIS should identify and discuss appropriate provisions that could be included in the land exchange in order to mitigate or offset potential direct, indirect, or cumulative impacts of the proposed project and alternatives.

A matrix table, similar to Table 2-7 in the DEIS, with mitigation measures associated with potential impacts would be extremely useful in the Revised DEIS or FEIS.

Lines 15-33. Please see Section 4.10 for a full discussion of mitigation and general responses no.1, Access, general response no.2, Alternatives, and general response no. 3, Arizona Trail. The land exchange itself is designed to offer compensatory, off-setting or improved resource values. Chapters 3 and 4 discuss the values lost and gained in detail.

LETTER #41

January 27, 1999

To: Shela McFarlin, Project Mgr., BLM, Az. State Office
From: Frank Welsh, Maricopa Audubon Society
Re: Ray Land Exchange

Thank you for your presentation on the Ray exchange at the Sierra office and the additional info you provided by phone. In general we are opposed to the proposed exchange since we do not believe the "public interest" will be served (FLPMA & FLEFA @ 1-8 DEIS).

First let me note that the exchange of 10,970 acres of our land for 7,300 acres from ASARCO does not on its face make economic sense. Most of the selected land is in central Arizona near the Phoenix-Tucson corridor while the offered lands are in Mohave County with Kingman and Las Vegas as the nearest cities.

It appears that the selected lands contain more than 170,000 tons of High Potential HD copper resources on approximately 40 acres in CB-1, CB-3 & 4, and RM-6&4. Another 72 acres of H/C & H/B high potential ore exists on RM-10, while 72 acres of Moderate Potential M/D ore is on CB-1, 3 & 4. This 112 to 184 acres is apparently the most valuable and the remaining 10,800 acres could remain in the public domain.

The offered lands are primarily in Mohave county, where land with roads is being sold in 40 acre parcels for $400/acre. The 160 acre Knisely parcels have no access apparently, & this is the case with most of the 6,384 acre McCracken group & the 320 acre Tomlin parcels. Only about 200 acres along the Big Sandy & 146 acres of the Gila parcel are riparian. Table 1-4 at page 1-9 has riparian habitat for its prime criteria for BLM acquisition.

This Society is most concerned about riparian habitat, especially in the desert. BLM's second criteria is wildlife habitat. The DEIS at p. 3-9 notes that 60% of all wildlife in Az. depends upon riparian and aquatic habitats (we note that this % is higher in the desert). You also note that only 0.5% of Arizona is riparian/aquatic and needed to support 28 priority species, further buttressing both your criteria.

Yet we appear to be giving up more than 1 1/2 miles of riparian deciduous forest and getting only 1 1/2 miles of the Gila & Big Sandy. The latter do not appear to be riparian deciduous. The former appear to be intermittent and Mineral Creek (Page 3-21)

Page 2 - Welsh

and at least 0.5 acres of RM-10 are perennial (although the location is not shown on RM-10 in fig. 3-11.

Based upon your own riparian and wildlife criteria, the riparian deciduous forest should remain under BLM while the Gila and Big

- Lines 8-9. Your comment has been noted. Please see general response no. 4, Public Interest Determination.
- Lines 10-13. The appraisal value of the lands are equal, although the acreages are not.
- Lines 15-19. The mineralized properties are analyzed using a mineral income approach. If this does not yield a value exceeding the value of the surface, mineral development is not the current highest and best use (economic) and the land is valued at the higher surface value. The income approach considers the resources present value weighed against the cost to exploit them. The mere presence of minerals does not automatically translate into a mineral value. Fair market value is the legally mandated standard, and the market considers the cost to extract the minerals.
- Lines 15-19. A similar alternative, the Production Lands Alternative (Section 2.3.6), was considered by the interdisciplinary team. A proposed alternative that only the high mineral potential lands be exchanged does not meet the purpose and need of the project identified for Asarco and for BLM's land tenure program. The selected parcels identified are already available for mining under the Mining Law of 1872 and Asarco already holds active claims on most of the selected lands for mining exploration and development.
- Lines 21-25. BLM's acquisition list has a variety of parcels with different resources. The two offered land parcels (Cochran and Tomlin #4) are in this exchange for their unique water resources as well as riparian habitat.
- Lines 33-40. Portions of the Gila Parcel at Cochran is considered to have Sonoran Riparian Deciduous Forest vegetation and this correction has been made. This vegetation community was not directly comparable to the vegetation communities on the selected lands and therefore was not calculated.

LETTER #41 (continued)

Sandy parcels could be exchanged for some of the high copper potential parcels. The RM 7, 10, 18 and CB-1 and 4 and CH-1 parcels are potentially the most important riparian areas from a wildlife perspective since the 6 parcels are dispersed, intermittent or perennial or with perennial pools or springs. The Gila and Big Sandy are generally overgrazed and this practice is expected to continue.

The DEIS makes much ado about desert tortoise habitat for the offered lands. This habitat also exists on the selected lands. Next to development, the major problem with the tortoise is competition from cattle. If the BLM is concerned about that reptile, they should reduce or eliminate grazing on land under their control. This will do more for the tortoise than acquiring the 120 acre category 1 Sacramento parcel. How much of this and the McCracken parcels are category 1? The selected lands contain 3,276 of category II and 3,082 acres of category III land so we doubt the tortoise will be helped by this trade.

The Sacramento parcel appears most likely for development but it is not clear where it is and how close to paved roads. Also why will it remain open to mineral entry if "metallic" potential is low? The other parcels are quite remote & unlikely to be developed in the near future & mineral potential appears low.

I would suggest that riparian areas be noted in miles rather than acres. Otherwise one must determine whether we are addressing the 10 or 100 year floodplain. The presence of leopard frogs and longfin dace along Walnut Creek (p. 3-14) indicates perennial pools at least, not an ephemeral stream (p. 3-21). The Gila and Big Sandy Rivers minimum flows should be noted (0.1 cfs at Kearney and probably 0 on Big Sandy). It is difficult to find the Gila at "Cochran" on maps. A Mohave County location map, similar to the color plate of selected lands, would be helpful. Generally I would consider this DEIS as more of a sales tool for ASARCO than a disclosure statement for public involvement.

Should your agency decide to proceed with the exchange, we strongly favor the Copper Butte Alternative.

Sincerely,

Frank Welsh
Conservation Committee
Maricopa Audubon Society

- Line 7. Under the Proposed Action, improved grazing management would be implemented on the offered lands in an effort to meet Arizona's Standards for Rangeland Health in accordance with 43 CFR 4180.
- Lines 9-16. The Sonoran population of desert tortoise typically occupy hillsides dominated by rocks and boulders, which may not be as accessible to livestock. BLM's mandate is to manage under the multiple use concept while meeting the objectives of the BLM Desert Tortoise Rangewide Management Plan (Appendix F in the DEIS). Desert tortoise habitat on the McCracken Mountains Parcels is discussed in Section 3.3.1.4.2, which includes approximately 6,384 acres of Category I habitat.
- Lines 18-21. The Sacramento Valley Parcel is open for mineral entry because it has low potential for metallic mineral deposits.
- Line 23. Vegetation community descriptions are provided in acres for both upland and riparian communities. The lengths of the major riparian habitats (Big Sandy, and Gila River) can be delineated in miles off Figures 2-1 and 2-3.
- Lines 24-27. Section 4.9 of the EIS discusses floodplains as required by Executive Order 11988. The text of Section 3.2.2.1 of the FEIS has been slightly modified to acknowledge that isolated, perennial pools may exist in Walnut Creek. The description of the flow of the Gila River and Big Sandy River in Section 3.3.2.1 was reviewed and is considered accurate and no changes have been made.
- Lines 29-32. The Gila River Parcel at Cochran is shown on Figure 2-1 at a scale of 1:2,000 feet for purposes of highlighting specific features on the parcel (e.g., railroad, Gila River). The parcel can be seen at a 1:24.000 scale on the 7.5' USGS North Butte, Arizona quadrangle. The parcels in Mohave County can also be seen at 1:24,000 scale on the Mount Nutt, Greenwood Peak, Groom Spring, Dutch Flat, and Mt. Tipton quadrangles.
- Line 34. See general response no.2, Alternatives.

LETTER #42

Pinal County Air Quality Control District

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(520) 868-6760 Fax: (520) 868-6754

January 28, 1999

Shela McFarlin, Project Manager
Native American Minerals/Arizona Land Exchange Teams
Arizona State Office
United States Department of the Interior, Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

Re: Comment on Draft EIS for Proposed "Ray Land Exchange"

Dear Ms. McFarlin:

I am the Director of Pinal County's Division of Air Quality Control, an operating division of the County's Department of Health and Human Services.

This letter pertains to the responsibility of the Bureau of Land Management ("BLM") to address the air quality consequences of the proposed land exchange. Specifically, those consequences include the air quality impacts of Asarco's proposed mining operations on attainment areas lying within or adjacent to the Copper Butte/Buckeye areas identified in the draft EIS. The affected areas specifically include the White Canyon Wilderness ("WCW"), and adjoining "areas of critical concern" ("ACEC").

One of the BLM's stated principal objectives in considering this exchange is to minimize that agency's ongoing regulatory involvement with regard to future mining activities. Specifically, the BLM has expressed a wish to avoid having to approve and administer a "mining plan of operations" ("MPO"), which requirement would otherwise prevail if Asarco elected to commence mining under the Mining Law of 1872.

Generally, state-level regulation of air quality reflects the minimal standards defined by the EPA regulations implementing the requirements of the Clean Air Act ("CAA").

LETTER #42 (continued)

Under the scheme of the CAA, states have an obligation to formulate a generally applicable "state implementation plan" ("SIP"). The generally applicable or "attainment area" SIP needs to provide for protection of the national ambient air quality standards ("NAAQS").[1] In addition, where an area falls subject to a "nonattainment" designation, the state must formulate and implement a curative "nonattainment area plan."

The generally applicable SIP also must provide for preservation of "maximum allowable increases" or "increments" in attainment areas.[2] In Pinal County, corresponding short-term and long-term "increments" for particulate matter have been approved as elements of the generally applicable attainment area SIP.[3] In the attainment areas affected by the proposed exchange, emissions from all sources must be considered in determining whether the relevant "increment" has been "consumed".[4] Here, parcels CB-1 and CB-5 lie within an PM_{10} attainment area,[5] and thus fall subject to "increment" limitations.

While "increments" clearly constitute mandatory limitations on the degree to which ambient air quality may be degraded, the EPA has not offered a complete regulatory definition of the local actions required to effectively prevent violation of those limitations.[6] As a result, the prevailing permit-regulation scheme in Arizona defines increments as limitations, but at least arguably allows substantial loopholes in actually applying those limitations to non-PSD class sources. In effect, permitting agencies in Arizona have clearly defined "increments" as limitations, but have only developed a marginally effective regulatory mechanism for actually implementing those limitations.

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[1] Generally, see CAA §110 and 40 CFR Part 51.

[2] See CAA §§161 and 163, which explicitly requires that the applicable attainment area SIP expressly contain "measures assuring that maximum allowable increases ... shall not be exceeded."

[3] See PCAQCD Code §2-5-160, approved as a SIP-element at 61 FR 15717 (4/9/96).

[4] After the "minor source baseline date," emissions from all sources count toward increment consumption. 40 CFR §51.166. In Pinal and Gila Counties, the "minor source baseline date" has long since been triggered. See PM-affected permit applications received by the EPA with regard to ABC Manufacturing (2/1/79) and Cyprus Casa Grande (4/18/88).

[5] See Figure 3-11 of the Draft EIS.

[6] While 40 CFR §51.166(k) requires an increment-related "PSD" permitting program for major emitting sources and major modification at such sources, the generic "catch all" standard (*i.e.* 40 CFR §51.166(c)) merely requires that as to other sources, the "plan shall contain emission limitations and such other measures as may be necessary to assure that" the increments are not violated.

Lines 8-12. Under any of the alternatives, Asarco would be obligated to meet the restrictions on new emissions within the non-attainment area, and to meet the State Implementation Plan.

LETTER #42 (continued)

In addition, requirements that befall the states, certain other requirements under the CAA apply directly to Federal agencies, such as the BLM. For example, in certain situations, no agency of the Federal Government shall license or permit any activity that does not conform to an applicable implementation plan.[7] That requirement is generally known as the "General Conformity Requirement." In relevant part, the General Conformity Requirement arises where the agency action will enable a source located in a nonattainment area to emit particulate emissions in excess of certain numerical thresholds.[8]

The General Conformity Requirement defined under CAA §176(c) makes the "assurance of conformity to such an implementation plan ... an affirmative responsibility of the head of [the affected Federal] department, agency or instrumentality." That is, the affected Federal agency has an obligation to verify compliance with the substance of SIP-approved limitations regarding ambient air quality. And that requirement applies, without regard to the adequacy of local permitting requirements to effectively achieve that goal.

Accordingly, to the extent that the lands affected under this proposed exchange lie partly or wholly within a nonattainment area, and assuming that the reasonably anticipated aggregate emissions would exceed the numerical thresholds defined in 40 CFR §93.153, then retention of administrative authority would require the BLM to perform a conformity analysis at the time a specific MPO was presented for review and approval. And to the extent that the BLM proposes to transfer these lands simply to avoid the administrative burden of reviewing and acting upon such an MPO, the proposed action constitutes a deliberate abdication of the BLM's affirmative responsibility as defined under CAA §176(c).

To the extent that the BLM finds that the "General Conformity" requirements as discussed above do not apply, then I repeat the request of my prior scoping-period comment letter of August 5, 1997, asking that the EIS "at least make clear that actual development of such a facility may well escape any need to demonstrate whether or not [the anticipated attainment area ambient air quality] impact complies with the seeming unequivocal requirement of CAA §163."

Lines 5-16. The action of the land exchange itself is exempt from conformity determination requirement under 40 CFR 93.153 c (2) (x) and (xiv). Please see general response no. 5, MPO.

LETTER #42 (continued

Letter to Sbela McFarlin
January 28, 1999
Page 4

Lastly, even if the BLM exchanges part or all of the lands in question, the BLM will retain administrative dominion over the WCW and its associated ACEC. Accordingly, I also request that in the final EIS the BLM expressly address its apparent fiduciary responsibility to protect and preserve air quality within the WCW and associated ACEC.

I appreciate your consideration of my comments.

Sincerely yours,

Donald P. Gabrielson
Director

cc: N. Gambell, Asarco
N. Wrona, ADEQ

Lines 16-19. Discussion of air quality in the White Canyon Wilderness can be found on in Section 4.2.4.1. Any increases in emissions for any regulated air pollutant beyond the state's existing significance levels will result in an application by Asarco to modify their Title V permit and a visibility analysis of potential impacts to Class I airsheds.

LETTER #43

E STATE OF ARIZONA

GAME & FISH DEPARTMENT

2221 West Greenway Road, Phoenix, Arizona 85023-4399 (602) 942-3000
www.gf.state.az.us

Governor
Jane Dee Hull

Commissioners:
Chairman, Herb Guenther, Tucson
Michael M. Golightly, Flagstaff
William Scriar, Tucson
M. Jean Hassell, Scottsdale
Dennis D. Manning, Alpine

Director
Duane L. Shroufe

Deputy Director
Thomas W. Spalding

January 28, 1999

Ms. Shela McFarlin, Project Manager
Bureau of Land Management
Arizona State Office
222 North Central Avenue
Phoenix, Arizona 85004

Re: Draft Environmental Impact Statement for the Ray Land Exchange and Plan Amendment

Dear Ms. McFarlin

The Arizona Game and Fish Department (Department) has reviewed the above-referenced draft Environmental Impact Statement (EIS). ASARCO Incorporated (ASARCO) proposed the Ray Land Exchange to acquire approximately 10,976 acres of public lands in Pinal and Gila Counties. In exchange, the Bureau of Land Management (BLM) would acquire approximately 7,304 acres in Pinal and Mohave Counties. As you know, our agency has provided substantial comments to BLM regarding this project in previous Department comment letters and during meetings or telephone discussions. The Department would appreciate BLM's consideration of those comments, as well as the following comments, during preparation of the final EIS.

The Department could not completely and accurately assess potential impacts to fish and wildlife resources as a result of the Proposed Action without a more complete description of the type, location and size of the proposed mining facilities. For example, without a Mining Plan of Operations (MPO), the Department could not evaluate and determine whether constructing an open-pit mine at Copper Butte will result in surface water contamination or if groundwater pumping for mining use will impact surface flows of the Gila River.

We understand that ASARCO will be required to mitigate impacts to water resources when applying for federal and state mining permits after acquiring the Selected Lands. However, ASARCO would not be required to mitigate impacts to habitat for non-federally protected species, such as bighorn sheep and the Sonoran desert tortoise, or to maintain existing public access to adjacent public lands. The lack of consideration of impacts to wildlife resources and public access in the EIS is of concern to the Department.

- Lines 29-33. Please see general response no. 5, MPO.
- Lines 35-40. Acquisition of the offered lands mitigates for the loss of tortoise habitat on the selected lands with a net increase in quality and quantity of desert tortoise habitat (BLM Desert Tortoise Compensation Policy (IM AZ-932-46) and Supplement relating to Land Exchanges); therefore compensation would not be required as a result of the exchange. There is no comparable compensation plan for desert bighorn sheep.
- Line 40. Impacts to wildlife is analyzed in Section 4.1.3 and access is discussed in Section 4.4.3. Please see general response no.1, Access.

LETTER #43 (continued)

Riparian Habitat

The Department believes that the EIS does not adequately address the potential mining impacts to riparian areas adjacent to the Selected Lands. Mining uses could result in unmitigated impacts to surface water quality in Mineral and Walnut Creeks, and the Gila River. In our scoping letter to BLM, dated August 4, 1997, we recommended Walnut Canyon be excluded from the proposed land exchange due to the environmental importance of riparian areas to fish and wildlife. Walnut Canyon is removed from foreseeable mining uses in the Buckeye and Copper Butte Alternatives, but not the Proposed Action. This portion of Walnut Canyon included in the Proposed Action would not be subject to direct mining activity, but would link the "Production Operation and Support" areas with "Long-range Prospects", and could potentially be impacted by mine development and associated support facilities.

The Department believes potential impacts to water quality, riparian plant communities, wildlife habitat, and wildlife populations occurring adjacent to Selected Lands should be thoroughly analyzed in the EIS. For example, the EIS should address potential impacts to riparian habitat in Walnut Canyon adjacent to parcels CB-5 and CB-1. Special status species, such as the lowland leopard frog and longfin dace found in Walnut Creek, could be negatively impacted by mining operations. Fragmentation of Walnut Creek may hinder movements of native fishes and other wildlife species between the Gila River and the Walnut/White Canyon watershed.

Desert Bighorn Sheep

The Department believes that the Proposed Action does not provide adequate mitigation for cumulative impacts to bighorn sheep habitat. The EIS refers to an evaluation completed by the Department for the Dripping Springs Mountains (3-10). However, the EIS does not discuss potential sheep habitat of the Picketpost/Copper Butte area. On page 3 of the BLM's 1994 Biological Evaluation (BE), it states: "These parcels are part of a contiguous block of potential sheep habitat from Picketpost Mountain south to the Gila River." The Department's habitat evaluation of this area identified high quality bighorn sheep habitat, including extensive areas of escape terrain and potential lambing areas around Picketpost Mountain and White, Wood, and Walnut Canyons. This area is considered a priority for future bighorn sheep transplants.

Offered Lands

The Sacramento Valley parcel is a 120-acre parcel located in Mohave County, adjacent to the Warm Springs Wilderness. The heading on page 2-3 states that the Offered Lands have important bighorn sheep values. The same heading on page 3-68 claims the parcel is adjacent to high

- Lines 6-7. The BLM agrees with the general statement that future mining uses could result in impacts to Mineral Creek, Walnut Creek, and the Gila River. However, analyzing specific impacts to these streams and their associated riparian areas is not possible at this time as discussed in Section 4.2.1.1 of the FEIS.
- Lines 9-10. Walnut Canyon is not removed from the foreseeable mining uses under any alternatives since the foreseeable use plan (Figure 2-7) represents current knowledge of future mining activities under any of the alternatives.
- Lines 10-14. Based on a field visit by BLM in April, 1999, it was determined there was no riparian habitat along Walnut Creek on Parcel CB-1. Also, the BLM ID Team considered the Buckeye and Copper Butte Alternatives, but decided to keep the entire package of offered and selected lands. Please see general response no. 2, Alternatives.
- Lines 16-23. This FEIS has been modified to include additional information on riparian and water resources. Please see Section 4.1.2, environmental consequences to biological resources and physical resources.
- Lines 22-23. Fragmentation of Walnut Creek is not expected to occur as an impact of the land exchange, but could occur under the foreseeable uses. The ownership pattern surrounding Walnut Creek is already fragmented between BLM and the State. Asarco would need to obtain a 404 permit from the COE in order to conduct any modifications to the creek.

LETTER #43 (continued)

value bighorn sheep habitat in the Black Mountains. This parcel has little topographic relief and no water sources, and is approximately one mile from the Black Mountains. This parcel is adjacent to an area the BLM and the Department have classified as medium value sheep habitat (Kingman Resource Area Proposed Resource Management Plan and Final EIS: page 179). Although the parcel contains high value desert tortoise habitat (BLM Category I) and Wilderness values, we recommend that statements referring to bighorn sheep habitat on the Sacramento Valley parcel be deleted. The McCracken Mountains parcels heading on page 3-68 should identify the offered lands within this mountain range as low value bighorn sheep habitat

Wild Horse and Burro

The Special Management Area heading of section 3.3.4.2 (page 3-78), states that the Black Mountains Herd Management Area contains an estimated 890 burros. Within the last year, the Department and BLM have conducted burro census and removal operations, and numbers should now be more consistent with the herd management level documented in the Black Mountain Ecosystem Management Plan.

The Knisely Ranch parcels are part of the Cerbat Herd Area and have approximately 70 wild horses which utilize these offered lands. The Department suggests including this information under the "Special Management Area" or "Grazing" heading within section 3.3.4.3 on page 3-79.

Desert Tortoise

The EIS should address the issue that most existing protections for desert tortoise on the Selected Lands would be removed. In addition, the EIS does not include parcels CH-1 through CH-5, which are classified as Category 2 desert tortoise habitat.

Public Access

The Proposed Action identifies two new public access routes to replace current access to the White Canyon Wilderness. However, existing access to the Gila River and the Coke Ovens could be lost through section 26, which should be addressed in the EIS.

General Comments

The acreage figures in Table 2-7 (page 2-24 through 2-26) do not appear to be accurate. For Upland Plant Communities, the Proposed Action claims that BLM will acquire 7,148 acres, but the No Action lists 7,300 acres would remain in private ownership. Within the Wildlife/Wildlife Habitats section, it states the BLM would acquire 7,300 acres of wildlife habitat for both the Proposed Action and the Buckeye Alternative, even though a section of Offered Lands is excluded from the Buckeye. Similarly, the Special Status Species row

- Lines 25-35 (previous page). In May 1999, BLM discussed this issue with Region 5 of AGFD in a series of meetings. The EIS has been corrected to recognize that Region 5 AGFD considers Picketpost Mountain (Mineral Mountains) as their highest priority reintroduction site for desert bighorn sheep and that a statewide ranking for the site is still pending. The EIS has also been corrected to include impacts to the reintroduction proposal from foreseeable uses and the land exchange based on the limited information that is currently available.
- Lines 4-11. Section 2.1.1.1 (DEIS, page 2-3), correctly states that the Sacramento Valley Parcel offers important bighorn sheep values. This acquisition is part of BLM's effort to improve bighorn sheep habitat in the Black Mountains. Over the past decade, through exchanges, BLM has acquired approximately 13,640 acres of bighorn sheep habitat, mostly in the Black Mountains. Approximately 9,320 acres are considered high value habitat, 3,840 acres considered medium value, and 480 acres low value, all of which is in conformance with the Kingman Resource Area RMP.
- Lines 17-18. The updated burro number is 478. This change has been made to Section 3.3.4.2.
- Lines 21-22. This information has been included in Section 3.3.4.3.
- Lines 25-27. Your comment has been noted and the change has been made in Section 3.2.1.4.2.
- Lines 30-32. Please see general response no. 1, Access.
- Lines 35-40. The acreage associated with wildlife habitat in Table 2-7 also combines the riparian and upland habitat acreage.

LETTER #43 (continued)

states the BLM would acquire 6,680 acres of desert tortoise habitat in the Proposed Action, but the No Action Alternative includes 7,144 acres of tortoise habitat within the Offered Lands. The Department recommends altering these figures to correct any discrepancies. Under the Surface Water row, the draft EIS shows that BLM would acquire surface water features, including a Department wildlife catchment [McCracken Mountains #1 (412)]. The Department would like to discuss with BLM the issue of ownership and maintenance of this wildlife water catchment.

The Department appreciates the opportunity to review and provide comments on the draft EIS. Again, the opportunity to review a complete description of the mining facilities and the MPO would assist in our efforts to fully evaluate this project. The Department would appreciate an opportunity to review more detailed information regarding the mining proposal (MPO), and additional review of the EIS after the public review period and prior to distribution of the final EIS. This would allow for a more complete, Department-wide, review of the EIS and further discussion between our agencies, if needed, prior to distribution of the final EIS. We look forward to continued cooperation with BLM on this proposed land exchange. Please contact me at (602) 789-3602 if you have any questions regarding this letter.

Sincerely,

John Kennedy
Project Evaluation Program Supervisor
Habitat Branch

JK:bb

cc: Duane Aubuchon, Habitat Program Manager, Region III, Kingman
Joan Scott, Habitat Program Manager, Region V, Tucson
Russ Haughey, Habitat Program Manager, Region VI, Mesa

AGFD# 10-26-98(01

- Lines 4-5. Table 2-7 has been corrected in the FEIS.
- Lines 7-9. AGFD would continue to own and maintain the catchment once the parcel becomes public land. As landowner, BLM would then file an application with ADWR for a surface water right for wildlife purposes to legally protect the water development.

LETTER #44

Jan 26 1999.

Dear Mrs. McFarlin,

I want to voice my concerns about the proposed access roads I would like a better description of the proposed roads as #1 will run just above my house and its affects on our water well.

Thank you.

48135 E Battle Ax St.
Kearny Az 85237

Two roads have been identified as possible alternatives to reach public lands. Route #1 is not a preferred alternative route and would require extensive mitigation by Asarco to address concerns of access and impacts to the water well in the Silver Creek community. Please see general response no.1, Access.

LETTER #45

Jan 26, 1999

Dear Mrs McFarlin,

I was unable to attend the meeting at the Caldera's because I had to work. But I do want to voice my concerns about the access road, and there effects on our community, our water well, and also the traffic that will be traveling through the new access Road. As we have Children and we are concerned about theire safty.

John M. Solis

18205 E Battle Axe St.
Kearny Az 85237

Two roads have been identified as possible alternatives to reach public lands. Route #1 is not a preferred alternative route and would require extensive mitigation by Asarco to address concerns of access and impacts to the water well in the Silver Creek community. Please see general response no. 1, Access.

LETTER #46

PAGE LAND & CATTLE CO.
ESTABLISHED 1910
1715 WEST NORTHERN, ROOM 104
PHOENIX, ARIZONA 85021
(602) 870-4800
FAX (602) 870-9636

STEPHEN M. BROPHY
PRESIDENT

Battle Axe Ranch, L.L.C.

Jan 29 9 46 AM '99

January 26, 1999

Ms. Shela McFarlin
Project Manager
Bureau of Land Management
Arizona State Office
222 North Central Avenue
Phoenix, Arizona 85004

Re: ASARCO Ray Draft EIS

Dear Ms. McFarlin:

This is to thank you for having delivered to us a copy of the above, and to comment on its contents.

I am writing on behalf of Battle Axe Ranch, L.L.C., which holds a BLM grazing permit known as the "Battle Axe", which permit will be affected by each of the proposed alternatives other than the "No Action" one.

I am personally very familiar with selected land parcels CB-1 through CB-5; only slightly familiar with other selected parcels at Ray and Hayden; not at all familiar with the Casa Grande selected parcels; and not familiar with the offered land. Therefore, my comments as to specifics will be directed only to selected land parcels CB-1 through CB-5. I ask that you entertain my general comments, below, as applying to the entire proposed exchangé.

GENERAL Comments

1 Battle Axe Ranch supports each of the 'action' alternatives, without an opinion as to one over the other, for the following reasons:

a) The selected land in general adjoins existing copper mining operations where the dominant land use for years to come (mining) is fairly obviously established.

LETTER #46 (continued)

b) The infrastructure necessary to conduct copper mining operations, on the selected land, including mills, roads, railroads, water supply, and a base of skilled employees, is already in place and in use, and won't have to be replicated.

c) The selected land is already encumbered by mining claims owned, in large part, and presumably exercisable by, the proponent with or without the exchange.

d) The selected land appears to have high resource value for copper mining. Such resource values are scarce, and as a matter of common sense, proper land use, and public policy, should, in our view, be developed.

2. The consequences to the natural environment of expanding an existing copper operation onto nearby land without having to replicate supporting infrastructure are much less than starting a mine de novo.

3 The rural economy of the areas in which the selected land is located will be positively affected, probably significantly so, by the 'action' alternatives. These effects are sometimes inadequately considered in an EIS which concentrates on natural consequences of an action. In areas such as Hayden, Ray, and Kearny, however, these economic consequences are very significant – and can mean the difference between a family being able to live and work in a more pleasant rural environment, or having to join the teeming hordes of us who crowd ever more tightly into the Salt River Valley and Tucson.

SPECIFIC Comments

1 If an 'action' alternative is chosen involving parcels CB-1 through CB-5, we ask that the BLM give more consideration to re-routing the Battle Axe Road along "Route 1" (see Figure 4-1, DEIS) instead of Route 2, for the following reasons:

a) The exchange of parcels CB-1 through 5 will, in time, terminate our use of and access to the corrals located on parcel CB-3. These corrals are central to our ability to get the numbers of cattle that we handle into and out of the Battle Axe. The next best alternative site for us, given the way the ranch works, is either at the headquarters in Section 8, T3S-R13E or the adjoining State section (Section 1). In either case, access for large

- Thank you for your comments.

- Lines 31-40. With the exchange, BLM would work with the grazing lessee on the relocation of any facilities and access routes necessary for the operation of the ranch that may be displaced by the mining operation facilitated by this land exchange. The loss of existing improvements will be compensated bu Asarco in accordance with the Bureau's grazing regulations..

LETTER #46 (continued)

a) (Cont'd.) cattle trucks or heavily loaded gooseneck trailers to either location on existing roads is presently unworkable due to the terrain. This problem would be solved by Route 1, but not, we believe, by Route 2.

b) Access for any vehicle from Battle Axe Road onto Highway 177 at present (given existing line-of-sight at the intersection) is dangerous. It appears to us (from Figure 4-1) that access onto Highway 177 by means of Route 2 would have the same problem. Based on where it joins Highway 177 (again from Figure 4-1) Route 1 appears to be a safer alternative.

c) Use of Route 1 by recreationalists visting White Canyon seems to us to come less into contact (visually, from noise, or physically) with mine operations – a benefit, in our view, to both.

d) Parts of the old alignment of Highway 177 appear to follow the proposed Route 1.

Thank you for the opportunity to comment

Very truly yours,

SMB:gm

Stephen M. Brophy

Lines 8-25. Your comments have been noted. Please see general response no.1, Access.

LETTER #47

NLY MEMORIES

HUACHUCA HIKING CLUB

LEAVE ONLY FOOT

PO Box 3555
Sierra Vista AZ 85636

January 27, 1999

533 Suffolk Drive
Sierra Vista, AZ 85635

Shela McFarlin
Project Manager
Bureau of Land Management
Arizona State Office (AZ-917
222 North Central Avenue
Phoeniz, AZ 85004

Dear Shela:

The Huachuca Hiking Club has reviewed the Draft Environmental Impact Statement (DEIS) for the Ray Land Exchange/Plan Amendment. We have been participating in the NEPA process for this action since early 1995 when the Plan Amendment was initially proposed. Throughout this process, our paramount concern has been to ensure the integrity and continuity of the Arizona Trail. The White Canyon Resource Conservation Area is a critically important public lands corridor that will link Arizona Trail segments already completed (Tonto National Forest segment on the north) or underway (Pinal County segment south of the Gila River). We have accomplished our review with full knowledge that copper mining in this area will continue for the foreseeable future and will narrow the range of viable trail alignments. However, we believe that Arizona Trail and recreation can co-exist with copper mining through careful planning and cooperation of all parties concerned. Thus, our intent is to support the BLM preferred alternative, with the caveat that certain conditions are agreed to that will support the Arizona Trail Association's (ATA) proposed Arizona Trail corridor through the area and thus ensure the integrity and continuity of the Arizona Trail.

Specific comments are as follows:

▸ Lines 22-38. Please see general response no.3, Arizona Trail.

LETTER #47 (continued)

1. On page 4-47, under paragraph "Foreseeable Uses Recreation:", the DEIS states the following: Foreseeable mining uses on the proposed exchange parcels will still allow for viable alternatives for routing the Arizona Trail through the area. Therefore, no cumulative impacts on these trails are anticipated." We are encouraged by the above statement, however, we believe the DEIS should specifically address and examine ATA's proposed corridor for the Arizona Trail through the exchange area and indicate that it is viable and has BLM and ASARCO concurrence (subject to future NEPA analysis for the White Canyon Wilderness Plan).

2. The ATA proposal will route the Arizona Trail from the Kelvin Bridge on the Gila River to connect to the existing trail segment in Tonto National Forest northwest of the White Canyon Wilderness (see attached map). In order to avoid the mining areas, the proposed Arizona Trail alignment would cross (south to northwest) Sections 20, 17, 18, 24, and 23 in an effort to follow Battle Axe Road to the Wilderness Area. Regardless of which alternative is chosen, the EIS and Plan Amendment must ensure recreational access and a continuous Arizona Trail route. To ensure safe passage through this area by hikers, equestrians, and mountain bikers, the Arizona Trail would require:

a) an easement from ASARCO through Section 17 to include an agreed upon crossing of the mining operations access road;

b) a separated pathway alongside the rerouted Battle Axe Road from Sections 17 or 18 to Section 23; and

c) a trailhead alongside Battle Axe Road (parking and horse trailer access in Sections 17/18 and/or Sections 23/24).

3. By specifically reviewing this proposal, we believe the Final EIS would allow BLM decision makers to make an informed decision on the Ray Land Exchange and Plan Amendment, while having performed adequate NEPA analysis of the impact on recreation and the Arizona Trail. A decision to change land status from retention to disposal by exchange must logically consider these impacts. This would also assure the general public that BLM and ASARCO have in fact accommodated a suitable alignment corridor for the Arizona Trail throughout the exchange area, subject to future NEPA analysis for the White Canyon Wilderness Plan.

▸ Lines 4-40. Your comments have been noted. Please see general response no. 3, Arizona Trail.

LETTER #47 (continued)

In summary, we offer our support of the BLM preferred alternative, but request the ATA proposed Arizona Trail corridor be included in the Final EIS to provide assurance that the Ray Land Exchange and Plan Amendment will not harm the integrity and continuity of the Arizona Trail.

Thank you for the opportunity to provide these comments. Please keep us informed as this action moves forward.

Sincerely,

Steve Saway
President
Huachuca Hiking Club

Thank you for your comments. Figure 7-1 shows proposed Arizona Trail routes through the Copper Butte/Buckeye area and planning for a route through this area will continue with the Tucson BLM Field Office and trail groups.

LETTER #48

Arizona Trail ASSOCIATION

January 27, 1999

Shela McFarlin, Project Manager
Bureau of Land Management
Arizona State Office (AZ-917)
222 North Central Avenue
Phoenix, AZ 85004

RECEIVED BUREAU OF LAND MANAGEMENT
JAN 29 9 43 PM '99
ARIZONA STATE OFFICE PHOENIX, ARIZONA

Dear Shela:

The Arizona Trail Association (ATA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Ray Land Exchange/Plan Amendment. We have been participating in the NEPA process for this action since early 1995 when the Plan Amendment was initially proposed. Throughout this process, our paramount concern has been to ensure the integrity and continuity of the Arizona Trail. The White Canyon Resource Conservation Area is a critically important public lands corridor that will link Arizona Trail segments already completed (Tonto National Forest segment on the north) or underway (Pinal County segment south of the Gila River). We have accomplished our review with full knowledge that copper mining in this area will continue for the foreseeable future and will narrow the range of viable trail alignments. However, we believe that the Arizona Trail and recreation can co-exist with copper mining through careful planning and cooperation of all parties concerned. Thus, our intent is to support the BLM preferred alternative, with the caveat that certain conditions are agreed to that will support our defined Arizona Trail corridor through the area and thus ensure the integrity and continuity of the Arizona Trail.

Specific comments are as follows:

1. On page 4-47, under paragraph "Foreseeable Uses Recreation:", the DEIS states the following: Foreseeable mining uses on the proposed exchange parcels will still allow for viable alternatives for routing the Arizona Trail through the area. Therefore, no cumulative impacts on these trails are anticipated." We are encouraged by the above statement, however, we believe the DEIS should specifically address and examine ATA's proposed corridor for the Arizona Trail through the exchange area and indicate that it is viable and has BLM and ASARCO concurrence (subject to future NEPA analysis for the White Canyon Wilderness Plan).

2. We plan to route the Arizona trail from the Kelvin Bridge on the Gila River to connect to the existing trail segment in Tonto National Forest northwest of the White Canyon Wilderness (see attached map). In order to avoid the mining areas, we propose that the Arizona Trail

- Your comments have been noted. Please see general response no.3, Arizona Trial.

LETTER #48 (continued)

cross (south to northwest) Sections 20, 17, 18, 24, and 23 in an effort to follow Battle Axe Road to the Wilderness Area. Regardless of which alternative is chosen, the EIS and Plan Amendment must ensure recreational access and a continuous Arizona Trail route. To ensure safe passage through this area by hikers, equestrians, and mountain bikers, the Arizona Trail would require:

a) an easement from ASARCO through Section 17 to include an agreed upon crossing of the mining operations access road;
b) a separated pathway alongside the rerouted Battle Axe Road from Sections 17 or 18 to Section 23; and
c) a trailhead alongside the Battle Axe Road (parking and horse trailer access in Sections 17/18 Sections 23/24).

3. By specifically reviewing this proposal, we believe the Final EIS would allow BLM decision makers to make an informed decision on the Ray Land Exchange and Plan Amendment, while having performed adequate NEPA analysis of the impact on recreation and the Arizona Trail. A decision to change land status from retention to disposal by exchange must logically consider these impacts. This would also assure the general public that BLM and ASARCO have, in fact, accommodated a suitable alignment corridor for the Arizona Trail throughout the exchange area, subject to future NEPA analysis for the White Canyon Wilderness Plan.

In summary, we offer our support of the BLM preferred alternative, but request our proposed Arizona Trail corridor be included in the Final EIS to provide assurance that the Ray Land Exchange and Plan Amendment will not harm the integrity and continuity of the Arizona Trail.

Thank you for the opportunity to provide these comments. Please keep us informed as this action moves forward.

Best regards,

Arizona Trail Association
Board of Directors

Jan Hancock
President

▸ Please see general response no.3, Arizona Trail

▸ Thank you for your comments. Figure 7-1 shows proposed Arizona Trail routes through the Copper Butte/Buckeye area and planning for these routes will continue with the Tucson BLM Field Office and trail groups.

LETTER #49

G.M. Fehr
8927 N. Veridian Dr.
Tucson, AZ 85743

January 28, 1999

Ms. Shela McFarlin, Project Manager
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, AZ 85004

Dear Ms. McFarlin:

I am writing to express my support for the agency preferred alternative concerning the Ray Land Exchange / Plan amendment.

While there seems to be a small discrepancy in the total acreage of lands being exchanged, I feel that the offered lands fit well into the BLM's acquisition plans. The offered lands will preserve habitat for several species native to the desert.

The selected lands provide a buffer and needed lands to preserve an operation that provides needed jobs and tax dollars to maintain the economy of the immediate and surrounding area.

It appears to me that this is a win win situation for both the people of Arizona and the local community for which this operation provide economic wealth.

Sincerely,

G M Fehr

G. M. Fehr

JAN 29 9 57 PM '99

AZ STATE OFFICE
PHOENIX, ARIZ. BA

▸ Thank you for your comments.

LETTER #50

Ms. Sheila McFarlin
Arizona State Office (AZ-917)
Bureau of Land Management
222 N. Central Avenue
Phoenix, AZ 85027

Dear Ms. McFarlin:

Ray Land Exchange
Support of Proposed Action

I am taking this opportunity to express my support of the Proposed Action as described in the October 1998 BLM "Draft Environmental Impact Statement Ray Land Exchange/Plan Amendment."

Federal ownership of the Offered Lands will protect important environmental habitat and help to consolidate Federal land holdings in environmentally sensitive areas. Private ownership of the Selected Lands will help ASARCO Incorporated's mining operation which benefits Asarco employees, the local communities, the Arizona economy, and consumers of copper.

Sincerely yours,

Hank Kreis

Henry G. Kreis

JAN 29 9 57 PM '99
ARIZONA STATE OFFICE
PHOENIX, ARIZONA

- Thank you for your comments.

LETTER #51

Ms. Sheila McFarland
Native American Minerals/AZ Land Exchange Teams
AZ State Office
BLM
222 N. Central
Phoenix, AZ 85004

Dear Ms. McFarland:
I am in support of the Proposed Action Alternative in the Asarco/BLM Land Exchange. This exchange will allow for private lands obtained by BLM to be open for public use and I love to 4-wheel.

Thanks,

Larry Hagy

JAN 25 9 55 PM '99
ARIZONA
STATE OFFICE
PHOENIX, ARIZONA

- Thank you for your comment.

LETTER #52

ARIZONA DESERT BIGHORN SHEEP SOCIETY
P.O. Drawer 7545
Phoenix, Arizona 85011
(602) 854-8950 • (602) 854-8966-fax

JAN 29 9 55 PM '99

January 28, 1999

Shela McFarlin, Project Manager
Bureau of Land Management, Arizona State Office
222 N. Central Ave.
Phoenix, AZ 85004

Re: Draft Ray land Exchange Environmental Impact Statement (BLM/AZ/PL98/0013)

Dear Ms. McFarlin

The Arizona Desert Bighorn Sheep Society, Inc. (ADBSS) has reviewed the above referenced document and would like to offer the following comments as part of the official public record.

The ADBSS is concerned about the loss of potential bighorn sheep habitat in portions of the selected lands. Picketpost Mountain, together with areas in and adjacent to Walnut Canyon, Copper Butte, White Canyon and Wood Canyon, comprises a large area that appears to offer great potential for future introductions of desert bighorn sheep. Our observations about the quality of this habitat have been confirmed by a recent habitat evaluation of the area by the Arizona Game and Fish Department, which rated the area as the best sheep habitat in all of the department's Region 5. There was a substantial sheep population in the area prior to their extirpation around the year 1900, and there have been some recent instances of sheep from the Superstition Mountains entering the area and taking up residence. The comment in the EIS that desert bighorns have not been observed on any of the selected lands, while probably true, is misleading.

One of our specific concerns is sheep access to water. There is an artesian well on state land in Walnut Canyon, and we are concerned that mining activity in the vicinity would deny future sheep populations in the area access to that water.

Another area of concern is public access to the Gila River, which will not be preserved by the proposed alternative.

In addition, we would like to point out that the Sacramento Valley parcel in the Black Mountains, which is one of the lands offered by Asarco, is approximately a mile from the nearest mountains. While it may be used occasionally by desert bighorns, it in no way compensates for the loss of potential high quality sheep habitat that is posed by the proposed exchange.

- Lines 21-27. Thank you for your comments. BLM has been coordinating with the Arizona Game and Fish Department (AGFD) regarding the issue of future introductions of bighorn sheep near the selected lands. Please see response to AGFD's Letter #43.
- Lines 28-29. The discussion of bighorn sheep has been clarified in the text, please see Section 3.2.1.3.
- Lines 32-33. Asarco has committed to BLM that if Asarco were to purchase Section 24(T3S, R12E) from the State of Arizona, they would donate approximately three-quarters (480 acres) to BLM. Please see Section 2.1.1.1 and 4.10 regarding the Proposed Action and Mitigation.
- Lines 35-36. Please see general response no.1, Access.

LETTER #52 (continued)

When the Morenci land exchange was made a few years ago, the BLM gave up about 900 acres of sheep habitat and received about 280 acres along Eagle Creek in return. In the Silverbell land exchange with Asarco, the BLM gave up about 3,135 acres of sheep habitat and received no sheep habitat in return. Furthermore, Asarco has not granted any significant conservation easements in the Silverbells despite the fact that a large portion of the lands it acquired were identified as important ram habitat by the Arizona Game and Fish Department. In the Ray land exchange, BLM proproses to give up about 2,500 acres of high quality sheep habitat, while receiving 120 acres of marginal sheep habitat in return. It appears that there has been a huge net loss for bighorn sheep in recent land exchanges, and this exchange will only make that loss even larger.

The ADBSS would like to see no land exchange occur, but we realize that if there were no exchange, Asarco would probably mine the selected lands under the auspices of the General Mining Act of 1872. For that reason, we support the Copper Butte Alternative, which minimizes the exchange's impacts on potentially high value desert bighorn sheep habitat and preserves access to the Gila River. Additionally, we encourage the Bureau to work closely with Asarco to discourage mining activities in parcels CB-1, CB-2, and CB-3, so they can be preserved as habitat for desert bighorn sheep.

Sincerely,

Ignacio Beltram

Ignacio Beltram
President

- Lines 3-12. Over the past decade through exchanges, BLM has acquired a total of approximately 13,640 acres of bighorn sheep habitat, mostly in the Black Mountains where the offered lands for this project are located.
- Lines 10-11. The AGFD bighorn sheep habitat assessment is incomplete but preliminary data supplied by Region V shows approximately 560 acres of "excellent" habitat on Parcel CB-1and approximately 453 acres of "good" habitat on Parcels CB-1 and CB-5.
- Lines 16-20. Your comment is noted, however BLM cannot discourage mining activities. Please see general response no.2, Alternatives.
- Lines 20-22. Please see revised impact analysis in Section 4.1.4.2.

LETTER #53
(Larry Sibala, BIA)

Surface water rights in the area of the Ray Mine are adjudicated and decreed under the Globe Equity Decree No. 59. These are appropriated rights for which the Gila River Indian Community has the earliest priority. The Gila River Water Commissioner, Mr. Don Weesner administers the distribution of water in the upper Gila, by priority using a Call system approved by the Federal Court.

Groundwater in Arizona is not owned by the State as stated in this paragraph. Drilling for wells to use groundwater requires a well-drilling permit issued by the Department of Water Resources.

- Lines 6-11. Your comment has been noted and the text has been modified in Section 3.2.2.3 to include reference to the Globe Equity Decree
- Lines 14-16. The text is correct as written. Please refer to Title 45, Section 45-401 of the Arizona Revised Statutes which states that groundwater is owned by the people of the State of Arizona and managed by ADWR.

LETTER #54

January 28, 1999

Ms. Sheila McFarland
Native American Minerals/AZ Land Exchange Teams
AZ State Office
BLM
222 N. Central
Phoenix, AZ 85004

Dear Ms. McFarland:
I am in support of the Proposed Action Alternative in the Asarco/BLM Land Exchange. This exchange will allow Asarco to acquire lands for continued environmental buffering while BLM will acquire high priority lands.

Sincerely,

Ed Riege

Thank you for your comment.

LETTER #55

Silvercreek
1-27-, 1999

RECEIVED
BUREAU OF
LAND MANAGEMENT

FEB 1 10 09 PM '99

Bureau of Land Management
222 N. Central ave
Phoenix, Az 85004

Dear Mrs. Mac Farlain

My name is Irene Lechuga and I am sorry I didnt speak up soon at the meeting we had at Mrs Caldera's house. But I was waiting for someone else to ask the question I wanted answer.

The only thing I am worried about is about the road being to near of our house.

You see we live on the corner of Millpond ave and teapot St and the road coming from the mountain is to near of our house and from what I understood at the meeting, they want the road to come down on teapot St. So we are afraid of all the traffic coming too near of our house.

and also there a waterline passing accross the road to Mrs. Mrs Martonez house.

Sincerely

Mr & Mrs. Pascual Lechuga

- Thank you for your comments. Two roads have been identified as possible alternatives to reach public lands. Route #1 is not the preferred alternative route and will require extensive mitigation by Asarco to address concerns of access to the Silver Creek community. Please see general response no.1, Access.

LETTER #56

Ms. Shela McFarlin, Project Manager
Native American Minerals/Arizona Land Exchange Teams
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

RE: ASARCO - BLM LAND EXCHANGE

Dear Ms McFarlin:

I attended the Public Hearing on December 8, 1998, in Kearny, AZ, on the Draft Environmental Impact Statement for the Ray Land Exchange/Plan Amendment and take this opportunity to commend you, and other participants, on the presentation of the Plan.

Having received a copy of the EIS, I admit that the volume of information was a challenge to review. However, the Public Hearing on the Proposed Action Alternative clarified the important details, and I can honestly say that now I have a clear understanding, and I fully support the proposal. It is a responsible plan for all of the agencies, the riparian habitat and endangered species, Asarco and the Copper Basin existing communities.

Sincerely,

Marlene B. Plaster

Marlene B. Plaster
115 Johnston Drive, P.O. Box 517
Kearny, Arizona 85237-0517

▸ Thank you for your comments.

LETTER #57

Ms. Shela McFarlin, Project Manager
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

FEB 10 06 PM '99

Dear Ms. McFarlin:

I would like to take this opportunity to express support for the Ray Land Exchange / Plan Amendment.

The Exchange balances the involved parties interests. BLM's objective with respect to management, and public acquisition of T & E habitat for the bald eagle, American peregrine Falcon, and Southwest willow flycatcher. Private ownership of Category II and III desert tortoise habitat will be exchanged for Category I and II (public).

The exchange will allow an orderly progression of the present mining activities and continue the benefits to the rural economy of the area. Selected lands will enhance the environmental buffering.

Public access to the White Canyon Wilderness will continue to be available. When the Wilderness boundary was drawn the future mining potential at Copper Butte was considered.

Although the alternative access route in the proposed action is proposed route 2, route 1 might in the long term be the better route for all parties (access to the wilderness and other public land users).

The completed exchange will not in anyway compromise the permitting, oversite and area protection that will be necessary for the ultimate mining of the area. It will facilitate the overall objective in these areas.

Sincerely,

T. E. Scartaccini

T. E. Scartaccini

TES/mck

▸ Thank you for your comments.

LETTER #58

SIERRA CLUB

Grand Canyon Chapter · Arizona

812 N. 3rd St.
Phx., Az. 85004

Jan. 28, 1999

Shela McFarlin
Project Manager
BLM, Arizona State Office
222 N. Central Ave.
Phoenix, Az. 85004

Regarding: Ray Land Exchange

Dear Shela McFarlin,

Thanks for the opportunity to comment on your Draft Environmental Impact Statement for the proposed Ray Land Exchange/Plan Amendment. We appreciate the offer of land exchanges rather than mining BLM land as allowed under existing law without compensation to the public, and appreciate combining the Plan Amendment with the DEIS for the exchange. We continue to have many concerns regarding this exchange, however, especially lands selected by ASARCO in the Copper Butte/Buckeye area west of Highway 177 that would negatively impact the White Canyon Wilderness. Below are listed some of our concerns.

1. Consideration of a land exchange appears to be premature and ill-timed.

Despite over a decade of discussion regarding mining Copper Butte and the Buckeye area along Walnut Creek, no Mining Plan of Operations has as yet been submitted by the exchange proponent. Lack of a MPO makes adequate analysis of environmental impacts (water supply, water quality, air quality, storm water management, location of rock dumps, noise, night lighting, etc.) virtually impossible in the DEIS, and defers proper analysis until after the existing Management Plan is amended to change tenure of lands in question from retention to disposal when the Final EIS is approved. Reliance on limited NEPA analysis by other agencies should not justify going forward with BLM's EIS at this time without a detailed MPO that would enable the public to determine the extent to which ASARCO will protect natural resources on and near its selected lands. If a MPO is not made available for the Copper Butte/Buckeye area, the BLM should infer that the proponent is not in a position to mine this area in the near future, which makes validity of the proposed exchange questionable.

Additionally, the exchange seems particularly ill-timed. Demand for copper has dropped dramatically in the past year due

▸ Lines 27-40. Please see general response no.5, MPO.

LETTER #58 (continued)

to economic problems in other countries and over-production. The possibility exists that the current over-production of copper could become chronic as mining in South America is projected to increase, and several new mines and mine expansions are being proposed for Arizona. Over 50 years of ore is projected to remain at the existing Ray mine east of H177. The Final EIS should attempt to examine projected market conditions for copper and describe under Purpose and Need why an exchange and plan amendment are justified at this time.

2. The exchange does not appear to be in the public interest as mandated by Section 206(a) of the Federal Land Policy and Management Act.

ASARCO has selected 10,976 acres for acquisition to be used for mining, but offers only 7,300 acres in exchange. To be in the public interest, offered lands should at least match selected lands in size.

The proposed exchange will essentially gut the White Canyon Resource Conservation Area (RCA) that was established in BLM's Resource Management Plan of 1988 (Phoenix Resource Management Plan and Final EIS, p. 41). This, as well as other RCA's, were established to ensure retention of large, consolidated blocks of BLM land in federal ownership to protect the natural resources of these areas. Approximately 2,500 acres (23 perimeter miles) in the Copper Butte/Buckeye area, the heart of the RCA, is being considered for exchange, most of which would likely be barred from public access(3-40). The 2,500 acres border the 5,800 acre White Canyon Wilderness to the north, and the smaller Area of Critical Environmental Concern at the confluence of White Canyon and Walnut Creek. The selected lands are also in close proximity to Battle Axe Butte, the Spine and Granite Mountain, areas all popular with recreationists.

While BLM might argue that the offered lands are of equal value to the selected lands in terms of natural resources, the offered lands do not appear to be proper compensation for lands lost to the public in the exchange. The foreseeable uses of the Copper Butte/Buckeye area, according to BLM, is mining, and mining will cast a long shadow on the remaining RCA. According to the DEIS, over 8,000 acres within an area studied by BLM will be visually affected by mining activity, including almost half of the White Canyon Wilderness and most of the Spine and Granite Mountain area (4-32). The exchange does not take into account such visual degradation of remaining public lands.

The DEIS contains few descriptions of the natural resource attributes of the White Canyon RCA. No visual resource rating is included to convey to the reader the scenic beauty of the large, still intact landscape west of H177 that includes White Canyon, Battle Axe Butte, the Spine, Granite Mountain, etc. The FEIS

- Lines 3-5. It is not within the scope of this EIS to examine projected market conditions for copper.
- Lines 10-14. Please see general response no.4, Public Interest Determination. The RCA consist of approximately 132,400 acres; and less than 7% would be transferred under the exchange.
- Line 16-26. Your comments are noted, however BLM cannot prevent mining in the RCA. The Proposed Action would not impact the Wilderness, ACEC or public access on the remaining public lands. Please see general response no.1, Access.
- Lines 28-32. The BLM has not agreed that the lands are of equal value from a natural resource standpoint. Mining will have impacts on adjacent lands, with or without a land exchange. Therefore any visual degradation, if any, will occur anyway. Also see general response no. 5, MPO.
- Lines 33-36. Impacts to visual quality is discussed in Section 4.4.6 and on Figure 4-2. According to Figure 4-2, portions of the Copper Butte and Buckeye mines would be visible from different portions of surrounding areas including the Wilderness, Spine and Granite Mountain. BLM has determined that some degree of visual impact is likely and have discussed this issue in the EIS.
- Lines 37-40. The White Canyon RCA is described in the Phoenix RMP (1988) which has no visual quality classification. For the selected lands within the RCA that are proposed for this exchange, Chapter 3 provides details on a parcel by parcel basis. The land exchange does not impact visual resources but foreseeable uses could. Please see Figure 4-3 which shows the potential visual impacts of the foreseeable uses.

LETTER #58 (continued)

should include such a description so the reader more fully understands what is being traded away.

The selected lands also include some areas of sonoran riparian deciduous forest and are immediately adjacent to similar riparian areas; the offered lands appear to have no such riparian deciduous forests. Almost half of the riparian deciduous forest in Walnut Creek is expected to be impacted by mining (4-4).

The selected and immediately adjacent lands at the Copper Butte/Buckeye area are popular with recreationists, the offered lands located primarily in western Arizona are less frequented.

The exchange does not involve lands in the same Resource Conservation Area or BLM planning area as recommended in BLM handbooks and federal law.

The Copper Butte/Buckeye area is rich in cultural sites (3-59). It is not clear if the offered lands are equal in value in this respect.

The DEIS anticipates that 3,173 acres at the Copper Butte/Buckeye area would be impacted by future mining activities. The selected lands in the Copper Butte/Buckeye area make up less than 1/5 of ASARCO's total selected lands, yet the total offered lands are barely double the land impacted near the White Canyon Wilderness. The 7,300 acres of offered land seems small even when just compared to the amount of land that will be degraded in this one area.

Few special status or Threatened and Endangered wildlife species exist on the offered lands; no federally endangered plants exist and there is no critical habitat (3-70-74). BLM has emphasized the acquisition of Class 1 habitat for the desert tortoise which is commendable, but tortoise is also found in the White Canyon RCA and habitat could be protected if mining and livestock grazing were better controlled.

Grazing activity will continue on offered lands in the same manner as in the past if the exchange is completed. Some areas of offered lands are admittedly in overgrazed condition (3-81). The FEIS should explain why improved grazing management is not possible if these parcels are exchanged.

Offered lands will continue to be open to mining unless BLM successfully petitions the Secretary of Interior to segregate these lands from mineral entry. It does little good to exchange lands for their resource values if they remain open to mining. The FEIS should speculate on the likelihood of these lands being segregated.

The Cochran parcel on the Gila River is touted in the DEIS

Lines 5-8. As a result of recent field work, Figure 3-2 has been corrected to show there is no riparian vegetation occurring south of the White Canyon ACEC boundary along Walnut Canyon.

Lines 9-10. Levels of recreation use on the offered land parcels, or on public lands surrounding those parcels, has never been studied or documented. The Arizona Mohave Final Wilderness EIS (2/89) estimated visitor use to be between 400 and 800 visitor days per year in the area now known as the Mount Tipton Wilderness. Field observation, along with public inquiry and comments, bear witness to the popularity of the locations containing the Knisely Ranch parcels. The remainder of the offered lands in Mohave County are estimated to be only lightly used for dispersed recreation activities such as hiking, hunting and rockhounding.

Lines 12-13. In Arizona, BLM manages land exchanges on a statewide basis, but lands are identified for disposal or listed for acquisition in each of the resource management plans completed. As exchanges are proposed by the public or other agencies, the acquisition of high value resource lands is considered on a statewide basis rather than within individual units. As priority lands are acquired and as future exchanges are configured, BLM will look at county and community needs, specially designated areas and resource values in keeping with FLPMA and FLEFA.

Lines 15-16. Because the selected lands have been fully surveyed, and the offered lands have not, it is difficult to compare the cultural resource values of the two areas. In addition, there can be great variation in the quality of informational and cultural values associated with different sites. Therefore, a higher number of archaeological sites in one area does not necessarily indicate that the area has higher cultural resource values. Among the selected lands, the Copper Butte/Buckeye parcel does contain many archaeological sites, as described in Section 3.2.5. Among the offered lands, as described in Section 3.3.5, the Gila River parcel at Cochran contains many sites and is part of a rich archaeological zone along the river. In addition, the Tomlin #4 parcel and the Knisely Ranch parcels have high potential for the presence of cultural resources.

LETTER #58 (continued)

for its sonoran riparian values but could be turned into a reservoir if Twin Buttes dam immediately downstream is ever built. The FEIS should address the likelihood of such a scenario given the huge, unresolved water demand posed by the anticipated agricultural expansion on the nearby Gila Indian Reservation (Final: Programmatic Environmental Impact Statement - Pima/Maricopa Irrigation Project, 1997).

3. Land and mineral potential appraisals are not available in DEIS.

Although appraisal information is not included in the DEIS, one can surmise from previous exchanges that the value of the selected lands, including mineral potential on a few hundred acres, is probably two to three million dollars. Lands near existing mines like the Ray mine typically appraise very low as such lands are degraded from previous mining and not of interest to anyone but mining companies. Additionally, these areas are not subject to open bidding but are "claimed" as allowed under the 1872 mining law which chills any outside interest and devalues the land further. Offered lands, on the other hand, can be of interest to various parties, and hence valuation is often higher, often resulting in lopsided exchange ratios whereby the public loses overall acreage.

The FEIS should divulge basic appraisal information and in particular inform the public of the valuation assigned to the mineral potential of selected lands. The FEIS should explain how the mineral potential of the Buckeye area is not figured into the appraisal because of the speculative nature of that project, and the FEIS should speculate as to the inherent inequities of the strict valuation process now in use and possible solutions to the problem.

4. Alternatives

The Copper Butte Alternative is the least onerous of all the alternatives, but still allows 652 acres to be exchanged in the Copper Butte/Buckeye area. The alternative should be amended to allow no lands to be exchanged in this area. If this change is not made, the FEIS should explain why this land needs to remain in the exchange.

The DEIS repeatedly makes the assumption that the foreseeable uses of the selected lands is expected to be the same under all alternatives - mining. We do not necessarily agree. The only thing certain about the future is its uncertainty. Large scale mining on environmentally sensitive land has come under much attack in recent years, and several projects that seemed inevitable have been postponed or permanently withdrawn. A few examples are the New World and McDonald Mines in Montana and the Newsboy Gold Mine in Arizona. Mining at Copper Butte is

- Lines 18-23 (previous page). The acreages are not equal, but he appraisal values are.
- Lines 25-29 (previous page). Please see Sections 4.1.5.2 and 4.1.6, which identifies the Gila River Parcel at Cochran as proposed critical habitat for the cactus ferruginous pygmy-owl and occupied southwestern willow flycatcher habitat
- Lines 30-33 (previous page). If these areas come into public ownership, improved grazing management will be implemented if it is determined that due to current livestock grazing these allotments are not meeting or making significant progress towards meeting Arizona's Standards for Rangewide Health in accordance with 43 CFR 4180.
- Lines 35-38 (previous page). The Sacramento Valley Parcel has low potential for metallic mineral deposits. There is a moderate potential for salable minerals in the Sacramento parcel, although such sales are discretionary actions. Mineral development in the McCracken Mountains parcels are covered in ACEC guidance. The FEIS states that the BLM will petition to withdraw two parcels from mineral entry due to potential mineral development. It is up to the Secretary of the Interior to decide on closing public lands to mineral entry.
- Lines 3-6. The Twin Buttes Dam is considered unlikely at this time and is outside the scope of this EIS. Also, if future uses of the Gila River Parcel at Cochran are requested, they are subject to federal public land use stipulations and other environmental laws.
- Lines 11-24. Appraisals are available for public examination, and copying, once they are complete, reviewed and accepted by BLM. If the appraisal contains proprietary geologic or financial information protected under 43 CFR 2.13, only that information is not available for public inspection, in keeping with the legal rights of others under the Freedom of Information Act. Also, the appraisal disregards the mining claims and the considerable cost the holders incurred obtaining and holding these claims because claims are relinquished at the moment of transfer. The full title to the land is the estate appraised.
- Lines 27- 30. Your comment is noted. Please see general response no.2, Alternatives.

LETTER #58 (continued)

not projected for at least 6 to 8 years, and the Buckeye area for perhaps 20 years. Much can happen during that time, mining may well occur but it is not inevitable. The FEIS should amend statements such as at 4-1 in the DEIS to read: "Given existing laws, favorable public opinion, and demand for copper, the foreseeable uses of the selected lands are expected to be similar under all alternatives."

5. Access route to southern end of White Canyon Wilderness

The FEIS should admit that no suitable alternative exists for access from H177 to the confluence of Walnut Creek and White Canyon. The first alternative discussed in the DEIS uses Walnut Creek wash itself as a road which skirts the eastern boundary of the Wilderness. The second route would closely parallel Battle axe road which would probably provide recreationists with views of rock dumps and ore trucks. The FEIS should consider additional mitigation for degraded access to the Wilderness.

6. Arizona Trail and Great Western Trail

The FEIS should include all known information regarding proposed routes of these trails through the White Canyon RCA area and describe the impacts mining activity west of H177 would have on these proposed routes.

7. The FEIS should speculate on the effects the proposed exchange and/or future MPO could have on any future expansions of the White Canyon Wilderness.

8. The FEIS should explain that royalties, if ever initiated on hardrock mining on public lands, would never be collected if the exchange was finalized.

9. It is difficult to understand BLM's enthusiasm for acquisition of 480 remaining acres of Section 24 when the area will be surrounded by mining activity (3-40). The FEIS should speculate as to the long term ecological viability of this area after the surrounding lands are degraded by mining.

10. It is true that the Arizona Desert Wilderness Act did not provide for buffer zones around wilderness boundaries and other uses are allowed up to those boundaries (3-56). However, degrading the primeval character of a wilderness and loss of opportunity for solitude and quiet is a legitimate issue for discussion and should be treated as such in the EIS process. The FEIS should further analyze the anticipated impacts on the White Canyon Wilderness in terms of noise from blasting and machinery, night lighting, and air quality. The FEIS should also explain why ASARCO is operating at the Ray mine with so many unissued permits (3-32).

- Lines 3-7. The foreseeable use statement on page 4-1 is accurate as written. The foreseeable uses are not subject to public opinion (only the land exchange is) and BLM cannot predict the demand for copper nor changes in the Mining Law.
- Lines 10-15. Please see general response no. 1, Access.
- Lines 18-20. Please see general response no. 3, Arizona Trail.
- Lines 22-23. Speculating the effects of the proposed action to any future expansions of the White Canyon Wilderness is out of the scope of this EIS. Congress alone has the authority to establish or expand Wilderness areas and there are no known plans to expand the White Canyon Wilderness.
- Lines 25-27. This is correct. The lands, if exchanged, would not be subject to future changes in the mining law, including royalty collections.
- Lines 29-31. Acquiring Section 24 allows BLM to expand and manage the already designated White Canyon ACEC, which is discussed in more detail in Section 3.2.4.7. Further, it will allow BLM to establish legal access to the Wilderness where none exists now.
- Lines 31-33. Congress alone has the authority to establish or expand Wilderness areas. There are no known plans to expand White Canyon Wilderness.
- Lines 33-39. Please see response to comment letter #20. There will be no impacts from the land exchange/plan amendment on air quality, noise levels, or the wilderness. Impacts from the foreseeable uses (mining) are described to the level of current knowledge.
- Lines 39-40. Asarco's current operations are outside the scope of this EIS.

11. Cumulative effects.

The FEIS should further discuss cumulative effects of additional mining at the Ray Pit in the Mineral Creek watershed and projected mining in the Walnut Creek watershed and the effects on surface water quality in the Gila river, already in partial support of its designated uses and water quality limited for arsenic, copper and turbidity (3-21). The FEIS should conduct air modeling studies to determine effects on nearby Wilderness areas.

Thanks again for the opportunity to comment

Don Steuter
Conservation Chair
Palo Verde Group

Lines 4-9. The FEIS cumulative impacts section considers regional impacts with regard to the proposed actions: a plan amendment and a land exchange. Further, Section 4.7 also looks at mining activities within 50 miles in terms of the foreseeable uses for the selected lands. Surface water quality and air quality are discussed in this regional context only. The Mineral Creek Consent Decree/Section 404 permit has been added to the discussion in Section 4.9. Without an MPO for mining around Walnut Creek, insufficient information exist for detailed analysis. Please see general response no.5, MPO.

LETTER #59

ASARCO

Copper Operations
Tucson Office

January 28, 1999

Ms. Shela McFarlin, Project Manager
Arizona State Office
Bureau of Land Management
222 North Central Avenue
Phoenix, Arizona 85004

Dear Ms. McFarlin:

The following listed comments reflect ASARCO Incorporated's reasoning and support for the proposed Asarco - BLM Land Exchange.

The proposed action alternative will have the following affects:

- The BLM acquires lands on its highest priority list
- This is almost an acre for acre exchange.
- Allows BLM to meet its management objectives
  - a) Protection of cultural resources.
  - b) Protection of riparian resources.
  - c) Protection of endangered species.
- Asarco gets mining lands for continued environmental buffering.
- This exchange allows the rural economy of Pinal County to be sustained and generates state revenues for schools, etc.
- Future land use is mining regardless of the exchange.
- Asarco has the right to mine with/or without the exchange.
- Land exchange would allow the orderly planning for future land uses.
- Private lands acquired by BLM would be open for public use and benefit
- This is a win-win situation.

The exchange will be a benefit to all parties involved.

Sincerely,

T. E. Scartaccini

T. E. Scartaccini

TES/mck

▸ Thank you for your comments

LETTER #60

United States Department of the Interior
Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 W. Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
(602) 640-2720 Fax (602) 640-2730

In Reply Refer To:
AESO/FA

January 26, 1999

MEMORANDUM

TO: Project Manager, Bureau of Land Management, Arizona State Office, Phoenix, Arizona

FROM: Field Supervisor

SUBJECT: Draft Environmental Impact Statement for the Ray Land Exchange/Plan Amendment

The Fish and Wildlife Service has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed Ray Land Exchange/Plan Amendment prepared by the Arizona State Office and Tucson Field Office of the Bureau of Land Management (BLM) to fulfill responsibilities under the National Environmental Policy Act (NEPA). ASARCO Inc. proposes to acquire approximately 10,976 acres of BLM administered lands in Pinal and Gila counties in exchange for 7,300 acres of privately owned lands located within Pinal and Mohave counties. The Service offers the following comments for your consideration.

General Comments

We believe the purpose and need for the proposed action has not been appropriately identified, the scope of analysis has been too narrowly defined, the alternatives analysis has dismissed reasonable alternatives that should receive more thorough consideration, potential impacts on biological resources including listed species have not been sufficiently analyzed, and the totality of project related impacts have not been adequately assessed.

We believe foreseeable management activities on selected lands, as well as indirect and cumulative effects, should be more thoroughly described and potential impacts to biological resources assessed. We believe the DEIS should identify mitigation measures that provide mitigation for impacts to vegetation communities, wildlife communities, and water resources.

Specific Comments

Section 1.3, Purpose Of And Need For Action: This section states the purpose of the Ray Land Exchange/Plan Amendment is to exchange ownership of federal lands for private lands. We believe the proposed land exchange is the subject federal action. We believe the purpose of this action is to allow ASARCO to consolidate its land holdings within and adjacent to areas of ongoing

▸ Lines 38-40. The purpose and need statement in Section 1.3 includes your statement and reflects both FLPMA and FLEFA.

LETTER 60 (continued)

mineral development and to use the selected lands to support and expand current and future mining related operations. We recommend the purpose and need statement be modified accordingly.

Section 1.8.2. Mining Issues: We disagree with the statement that current regulations applicable to the proposed project do not require analysis of less environmentally damaging alternatives to development of the Copper Butte/Buckeye ore body. We also disagree with the statement that development of a mining plan of operation (MPO) cannot be evaluated in this DEIS. One of the main purposes of NEPA is to provide an evaluation of all reasonable alternatives that could be implemented and still meet the underlying purpose and need for the proposed action, including those not within the jurisdiction of the lead agency. This section of the DEIS further states that BLM has determined that analysis of the impacts of the land exchange and the foreseeable land uses do not require analysis of effects on geochemistry, groundwater, and wetlands as requested by the Environmental Protection Agency (EPA). The NEPA directs federal agencies to consider the effects of proposed actions, including indirect impacts such as changes in foreseeable land uses and effects on biological resources. We believe the analyses requested by EPA are critical for determining the effect of the proposed action on biological resources. We recommend that BLM compile and assess this information prior to making a decision on the proposed action.

Section 1.8.4. Other Issues: We are concerned with the statement that current and past environmental practices of ASARCO are beyond the scope of this DEIS and will not be analyzed. This section also states that it is the responsibility of several other federal and state agencies to ensure compliance with environmental laws and regulations. We believe an uncoordinated regulatory approach unnecessarily burdens the regulatory agencies and ASARCO. The EPA and U.S. Army Corps of Engineers (Corps) have responsibility under Sections 402 and 404 of the Clean Water Act related to ASARCO's Ray Mine. As you are aware, ASARCO is required to implement a work plan at the Ray Mine in accordance with a consent decree entered into with the United States and the State of Arizona. Cumulatively, at least three federal agencies are currently involved in three separate but related actions at the Ray Mine. We believe a coordinated regulatory approach would be more appropriate and result in a more adequate analysis of project related impacts. We recommend that BLM contact the Corps and EPA to work cooperatively to assess the cumulative impact of federal involvement and mining activity at the Ray Mine. The feasibility of preparing a joint NEPA document should be evaluated.

Section 2.2. Actions Common To All Alternatives: This section states that mining on the selected lands would occur regardless of which action is approved because ASARCO has indicated that in the future it would submit a MPO if the no action alternative were chosen. However, in Section 1.8.2 the DEIS states that an MPO alternative does not exist and cannot be evaluated in the DEIS. We believe these two statements are inconsistent and recommend that BLM clarify whether the development of a MPO is a viable alternative or not. If an MPO is not an alternative, we believe that under the no action alternative the expansion of mining operations would not occur.

Section 2.3.4. Mining Plan of Operations Alternative: This section states that BLM rejected this alternative from further consideration because ASARCO has not submitted a MPO. We do not

- Lines 5-16. Please see general response no.5, MPO. Please see responses to Letter #40 concerning an alternatives analysis for a land exchange.
- Lines 19-20. Current and past environmental practices of Asarco are incorporated into Section 4.7 of this EIS. Current environmental practices including the Mineral Creek Project are discussed, as well as 1993 activities relating to pollution control along Mineral Creek. See general response no.6, MPO. BLM has requested cooperating agency status for the Mineral Creek Consent Decree/Work Plan Project and will process any requested uses of public lands related to this project.
- Lines 33-38. Please see general response no. 6, MPO. Please see Section 2.7.3 for the Solicitor's opinion on the likelihood of no mining.

LETTER #60 (continued)

believe the submittal of a MPO is necessary to analyze this alternative. We recommend that this alternative be more fully analyzed as it represents a reasonable alternative that would still meet the underlying purpose and need for the proposed action.

Section 4.1.5. Federally Threatened and Endangered Species: This section states that no federally listed species are known to occur on any of the selected lands and implementation of the exchange or the foreseeable mining uses are not expected to impact listed species. We believe the DEIS has not fully analyzed potential impacts to listed species, especially those resulting from indirect effects of the proposed action. BLM's analysis of effects should not be limited to direct impacts occurring on the selected lands. Effects on listed species resulting from future actions that would not be subject to a future section 7 consultation should be considered. Exchange lands, once in private ownership, may be used for a variety of purposes that under current BLM management may not occur. The BLM should evaluate the potential effects of these possible activities on listed and proposed species and critical habitat in all areas potentially affected by the proposed action. Of particular concern are possible effects to the southwestern willow flycatcher and cactus ferruginous pygmy owl. It may be prudent to coordinate with the Corps and EPA as they also have section 7 responsibilities related to the Ray Mine.

Section 4.2.2. Groundwater: This section states the foreseeable mining uses on the selected lands will likely affect groundwater but it is not possible to describe the impacts because ASARCO has not developed detailed mining plans that describe the type, location, and size of mining facilities. We believe this does not allow the assessment of potential project related impacts to water supplies and biological resources. We believe ASARCO should develop a mining plan that not only describes the type, location, and size of mining facilities, but also includes a hydrologic analysis of the impact of groundwater pumping on local water supplies, including springs and the Gila River. We recommend that BLM not approve a land exchange until this information has been provided and the necessary assessments have been performed.

Section 5.2.3. Coordination with State and Federal Agencies: This section states that BLM will continue to coordinate with the Service regarding potential impacts to threatened and endangered species. In June of 1997 our office received a letter from the BLM in which we were invited to attend public scoping meetings. We responded by providing BLM with a list of endangered, threatened, proposed, and candidate species. To date, we have not received a biological assessment or evaluation containing species analyzes nor BLM's determinations of effect.

The Service appreciates the opportunity to provide comments on the DEIS If you have any questions or concerns please contact Mike Martinez or Don Metz.

David L. Harlow

David L. Harlow

- Lines 6-17. Direct, indirect and cumulative effects on potential habitat for T& E species occurring on the selected and offered lands are discussed in the Biological Assessment, submitted June, 1999 to USFWS.

- Lines 19-27. Requiring ASARCO to produce a detailed mining plan with exact locations and specifications for each mining facility is beyond the scope of a land exchange (please see general response no. 5, MPO). In addition, an analysis of specific impacts to surface water sources based on initial proposed engineering designs of mining facilities would not be accurate. This is because the environmental permitting process for any new mining facilities, required by the Clean Water Act (CWA) and State of Arizona, will likely modify the initial proposed engineering designs of mining facilities so as to reduce impacts to surface water and groundwater. For these reasons, Section 4.2.1.1 of the EIS discusses general impacts to surface water sources after ASARCO obtains the required CWA and Aquifer Protection Permits.

- Lines 29-33. A Biological Assessment was submitted to USFWS in June, 1999 and BLM intends to continue coordination with USFWS regarding potential impacts to T&E species. Following our understanding of the USFWS's preference for Section 7 consultation, the BA was not submitted until the Preferred Agency alternative was fully identified. Please see BLM's determinations for the BA under Section 4.1.5.

LETTER #61

SOUTHWEST CENTER
FOR
BIOLOGICAL DIVERSITY

Western Land Exchange Project

January 28, 1999

Shela McFarlin
Bureau of Land Management
Arizona State Office
222 N. Central Avenue
Phoenix, AZ 85004

SUBJECT: Comments on Ray Land Exchange/Plan Amendment

Dear Ms. McFarlin:

The Southwest Center for Biological Diversity is a non-profit conservation organization with over 4,000 members dedicated to the protection and recovery of threatened and endangered species and their habitats within the American Southwest and northern Mexico. The Western Land Exchange Project (WLXP) is a non-profit, membership organization conducting research, outreach, and advocacy toward reform in federal land exchange policy. This letter comprises our joint comments on the Draft EIS for the Ray Land Exchange/Plan Amendment.

The Southwest Center and WLXP are opposed to all of the action alternatives for this project.

The Ray project is part of a larger phenomenon that threatens public lands throughout the West. Each year, more than 300 land exchanges take place between the federal government and private interests. The law requires that they be implemented only where they serve the public interest, but it is increasingly evident that many land swaps are of questionable benefit to the public and ultimately better serve the private entities involved.

In the Southwest, mining companies are pursuing land exchanges with alacrity, because outright acquisition of the public lands on which they wish to operate allows them to avoid federal mining regulations. Acquisition through land trades-where the companies exchange private inholdings to the public-creates the illusion that they are acting in partnership with the government toward a public good. These trades can be made to appear as much in the public interest as they are in the interest of mining company expansion and profit. In reality, they are most often initiated by the private parties and they are driven by corporate objectives.

Our comments address concerns we have regarding federal land exchange policy that are relevant to the Ray proposal.

▸ Lines 34-38. It is true that some mining companies are proposing land exchanges, and were successful, which does relieve them of one federal layer of management. However, numerous permitting actions apply regardless of land ownership (see Table 1-5).

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In the Federal Land Policy and Management Act of 1976 (FLPMA), "Congress declares that it is the policy of the United States that...the public lands be retained in Federal ownership, unless...it is determined that disposal of a particular parcel will serve the national interest (43 USC 1701(a)." The public interest is the central issue in land swaps, yet this seemingly simple concept is easily lost in the complexities of land exchange proposals. It is very difficult for citizens to evaluate the public benefits of these actions. The tradeoffs and impacts associated with land trades can rarely be assessed with confidence, because agencies generally do an inadequate job of analyzing and disclosing ecological impacts.

Moreover, a large number of BLM land exchanges yield a net loss of public lands. Despite FLPMA's clear intent that decisions favor the retention of public lands, the BLM continues to dispose of public lands at an alarming rate. Trades such as the Ray proposal, in which the public receives considerably less acreage than the private party, are very common.[1]

Data recently obtained by the Western Land Exchange Project indicate that in fiscal years 1990 through 1997, BLM land exchanges with private parties resulted in a net loss of 37,721 acres of public land in all the states for which data were available. During that time period, Arizona had the third-highest gain in BLM acreage, but this trend may change if current exchange proposals are any indication. Three land swaps currently proposed in Arizona (Ray,Dos Pobres/San Juan, and Morenci) would yield a net loss of 19,376 acres of public land.

While land exchange regulations require that the public interest be "well-served," they also define land exchanges as "real estate transactions between the Federal and non-Federal parties." This business relationship between the two parties may inherently conflict with the public interest, because the conditions of an agreement beneficial to the public is unlikely to meet the economic demands of the non-federal party.

Regulations state that the agency "shall reserve such rights or retain such interests as are needed to protect the public interest or shall otherwise restrict the use of Federal lands to be exchanged, as appropriate (43 CFR Ch. II 2200.0-6 (i))." However, even where deed restrictions could greatly improve a land exchange and protect values on public land to be traded, the agency seldom attaches conditions to land swaps, usually protesting that this would alienate the interests of the private party. The bottom line as to what constitutes an acceptable proposal is almost always established by the private proponent.

FLMPA regulations also require the BLM to consider a number of specific factors in determining whether or not a proposed exchange is in the public interest. These factors include: the need to achieve better management of federal lands, the needs of state and local residents, protection of fish and wildlife habitats, cultural resources, watersheds, and wilderness and aesthetic values, enhancement of recreation opportunities and public access, consolidation of lands, and promotion of multiple use values. In addition, the intended use of the selected lands may not "significantly conflict with established

[1] Other land exchanges with mining companies in Arizona include:

(1 Dos Pobres Land Exchange (Phelps Dodge)-17,000 public/3,858 private (public net loss, 78 percent).

(2) Morenci Land Exchange (Phelps Dodge)- 3,758 public/960-1,200 private (public net loss, 69 percent)

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- Lines 3-8. Please see general response no.4, Public Interest Determination.
- Lines 10-12. It is true that exchanges are rarely balanced for acreage. Nowhere in FLPMA is it stated that acres acquired through exchange must be greater than acres disposed.
- Lines 14-18. Please see Table 4-20.
- Lines 20-23. Please see general response no.4, public interest determination.
- Lines 25-29. Please see Table 4-21 in Section 4.10.

LETTER #61 (continued)

management objectives on adjacent Federal lands and Indian trust lands." Both of these requirements must be documented by written findings and supporting rationale.

The stated purpose and need for the proposed exchange is primarily for Asarco to consolidate its holdings around mineral development areas at the Ray Mine. The BLM would acquire some desirable lands that meet objectives in the Kingman and Phoenix RMPs. However, the lands to be traded to Asarco are not identified for disposal in the Safford and Phoenix RMPs, so the proposal actually requires an RMP amendment.

As is now typical of federal land exchanges, it was Asarco, not the BLM, that initiated this proposal, and Asarco will reap the benefits.

Asarco has already profited immensely under patenting and lax mining laws and regulations. While this land exchange may allow further and greater profits, such private profits do not necessarily translate into the benefit for the public interest required by FLPMA and its implementing regulations.

This land exchange will facilitate expansion of an open pit copper mine, which will have disastrous impacts on both people and wildlife.

Appraisal Process/Equal Value

The appraisal process is the most controversial aspect of the land exchange program. Under the Freedom of Information Act, the BLM shields private parties from releasing full appraisal information. Land values are not released to the public until a decision notice is issued for the exchange, leaving little time for citizens to evaluate the assumptions used in the appraisal, review the final values, or challenge a decision on that basis.

While we strongly believe that the agency's practice of withholding private land values should cease, the short-term solution is for private parties to land exchanges to open appraisal records to the public as soon as appraisals are complete. Any entity wishing to exchange property with the public should consider this part of the protocol, and should be willing to demonstrate to citizens that the appraisal is fair and accurate. The public should, and will, continue to demand that appraisal criteria and results be available for review throughout the planning process. In the case of mining-related exchanges, data released to the public must include mineral reports and valuation.

There is a solid basis for concern about the integrity of the appraisal process. Both the Department of Interior Inspector General's Office and the General Accounting Office have found faulty appraisals to be an ongoing problem in land exchanges. Agency appraisers often assign overly low values to public lands to be traded and inflated values to private lands, resulting in the loss of millions of dollars to the public. Other aspects of land exchange negotiation have given the non-federal parties various advantages that render the trades unequal.[2]

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2 These findings are documented in reports from the General Accounting Office (GAO), the Department of the Interior Office of Inspector General (OIG), and USDA OIG listed below.

(a) GAO Report # GAO/RCED-87-9, "Federal Land Acquisition: Land Exchange Process Working But Can Be Improved," February 1987.

- Lines 7-8. The EIS is a combined plan amendment and land exchange analysis per 43 CFR 1600 planning regulations.
- Lines 15-16. The land exchange does not approve mining which is the foreseeable use under all the alternatives.
- Lines 20-35. Appraisals are available for public examination, and copying, when they are complete, and reviewed and accepted by BLM. If the appraisal contains proprietary geologic or financial information protected under 43 CFR 2.13, only that information is not available for public inspection, in keeping with the legal rights of others under the Freedom of Information Act.

LETTER #61 (continued)

Due to BLM's policy of making exchange appraisals public knowledge only when a decision notice is issued, it very difficult for the public to cover all substantive issues on this or any other land exchange. However, based on the information contained in the DEIS, we are very concerned that the federal government is not entering into a fair and equal exchange as required by Federal Land Policy and Management Act regulations at 43 C.F.R. § 2200.6 (c).

While we understand that federal exchanges must obtain equal value rather than equal acreage, we are concerned about the fact that the public would acquire 2,876 fewer acres than Asarco. This obviously means that a lower per-acre value has been assigned to the land in the mining area. Land exchange regulations require that appraisals be based on the "highest and best use of the land." What has been determined to be the highest and best use of the selected land? Does this appraisal take into account the millions of dollars that Phelps Dodge will save by acquiring this land?

Conflict of Interest

Environmental analysis, surveys, appraisals, and other data collection may be tainted by undue influence on the part of the private proponent. It is standard practice for the non-federal party to pay at least half the cost of processing the exchange. The BLM Handbook actually advises staff to get "maximum funding from the proponent." Under these policies, the private traders assume a sort of "ownership" of the land exchange process. Any component of the project that they fund has the potential to be weighed in their favor.

Worse, the Western Land Exchange Project learned last year that the salaries of Arizona BLM land exchange staff (including those assigned to this project) are paid by Asarco and the other private parties working on land exchanges with the agency. At the very least, this creates the appearance of conflict of interest, as staff may have a built-in incentive to decide in the interest of the private party funding their positions.

Purchase Alternative

Purchase of lands through Land & Water Conservation Fund (LWCF) money is an alternative to be considered in any federal land exchange, yet in the rare environmental analysis that mentions an LWCF alternative, it is invariably dropped from thorough evaluation. The BLM has an LWCF "mantra" which says that funding is too uncertain for purchase to be seriously considered as an alternative to land exchange. This self-fulfilling prophecy prevents the public from being able to compare the benefits of purchase to the drawbacks of exchange.

(b) GAO Report # GAO/RCED-90-5, "Federal Land Management: Chandler Lake Land Exchange Not in the Government's Best Interest," October 1989.
(c) OIG Audit Report No. 91-I-968, "Land Exchange Activities, Bureau of Land Management," June 1991.
(d) OIG Audit Report No. 92-I-833, "Department of the Interior Land Acquisitions Conducted With the Assistance of Nonprofit Organizations," May 1992.
(e) USDA OIG Audit Report No. 08003-02-SF, "Forest Service, Humboldt-Toiyabe National Forest Land Adjustment Program, Fiscal Years 1990 to 1997, Sparks, Nevada." August 1998. (These Forest Service exchanges also involved the Bureau of Land Management).

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- Lines 7-11. The highest and best use of the selected lands is addressed extensively in the appraisals. It varies by parcel, but includes mine support property for the lands that are not mineralized or valuable for mineral extraction, and mineral development for the properties with economically viable mineral resources.
- Line 11. Phelps Dodge is not involved in the Ray Land Exchange.
- Lines 21-23. BLM has set up a contribution fund paid by Asarco for salaries and other costs related to the exchange under a Memorandum of Agreement. The ID Team independently reviews all baseline studies and draft EIS documents for acceptability.
- Lines 27-31. The ID Team considered whether offered lands could be acquired by LWCF funding given the availability of LWCF funds and the overall priority list for such funding. If the exchange is not approved, the offered lands may be re-considered for LWCF funding provided that parcels have not already been sold by Asarco.

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We believe that if the BLM provided citizens with this clear choice, LWCF would have a growing constituency among Americans. Indeed, the 1998 congressional budget appropriated $699 million of the approximately $900 million LWCF, the highest appropriation since 1978.

Moreover, the Clinton Administration has recently announced a Lands Legacy initiative that would appropriate one billion dollars for land protection, including more than $413 million for fedeal land acquisition. Rather than treat the Fund as a lost cause, the BLM should actively promote LWCF purchase as an alternative to land swaps.

Regulatory Impacts of the Land Exchange

The DEIS operates under the false assumption that no environmental impacts will result from the proposed land exchange. Because Asarco has the right to mine this area under the 1872 mining law, the argument goes, the land exchange will not create any effects that wouldn't occur under the No Action alternative.

Table 1-5 on page 1-11 outlines permits and approvals that would be required once Asarco acquired the federal lands. However, the DEIS soft-pedals the removal of protection found in BLM's mining regulations at 43 CFR § 3809. Even a cursory comparison of these regulations with Arizona's state mining regulations demonstrates that the effect will be significant.

Following is a list of requirements and prohibitions found at 43 CFR § 3809 which would no longer apply to Asarco's mining operations if the land exchange were completed:

- The overriding purpose behind § 3809, "to prevent unnecessary or undue degradation of Federal lands."
- Plan of operations to ensure unnecessary or undue degradation does not occur, including reclamation requirements. This plan must be approved by a federal official before mining can commence.
- Amendments to the plan of operations which are required when a significant modification to the approved plan is necessary. NEPA public participation under required for plan amendments would also be lost.
- Reclamation requirements.
- Financial guarantees such as bonding, to ensure that proper reclamation occurs.
- Noncompliance penalties, including fines and jail time
- Periodic inspections to ensure compliance by federal officials.
- Maintenance of data on the mine, accessible to the public through the Freedom of Information Act (FOIA).

It is clear that the land exchange would fundamentally shift the legal framework surrounding mining

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Lines 11-37. In the absence of detailed mining plans and environmental permits, which are not required for a land exchange, the level of environmental protection that will occur in the Ray Mine area with and without BLM oversight is highly speculative. As a result, such a discussion is limited to Chapter 1.

Reclamation of private lands is regulated by the Arizona State Mine Inspector through the Mined Land Reclamation plan. Table E-1 in Appendix E, provides a comparison of federal and state standards including approval and compliance, site reclamation standards, acres, timing and bonding on financial assurance. In addition to state reclamation regulations, key federal laws will continue to apply to mining operations, permit processing and approvals under major environmental laws such as the CAA, CWA and will continue to be under the jurisdiction of these agencies. Additionally, under private land, local county and state regulations such as APP still apply as these do currently. The loss of BLM regulations does not reduce the other federal and state regulatory provisions to mining on private lands.

An example of how such differences will result in tangible, on-the-ground effects pertains to reclamation requirements. While federal regulations at 43 CFR § 3809 are fairly comprehensive, Arizona's reclamation laws have been largely written by the mining industry and are actually more of a "safety" than an "environmental" act. Acceptable post-mining land uses under state law include: grazing and other agricultural land use objectives, developed water resources and water management projects, fish and wildlife habitat, forestry, tourism, or mining or re-mining. In addition, mining operators are frequently granted variances from reclamation if they don't fall into any of the above categories.

Unreclaimed mining operations can have devastating effects upon wildlife: the number of birds alone that would be killed by acid generating pit lakes and cyanide heap leach piles is staggering. Yet none of the environmental effects of using state rather than federal mining regulations are discussed in the DEIS. This failure constitutes a serious violation of NEPA.

Conclusion

We do not believe that the Ray Land Exchange would serve the public interest. We are opposed to the net loss of public land that would result from this proposal. We do not believe bringing the "offered" lands into public ownership justifies relinquishing ownership and federal land management authority on the "selected" lands.

Federal mining laws are archaic and regulations are inadequate. However, outright acquisition of the public lands by Asarco would allow the company to operate under state mining regulations that are even less protective of the environment. The DEIS fails to address the significant impacts of reduced regulation on the lands proposed for trade and does not provide sufficient rationale for exchanging public lands to Asarco.

Yours truly

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Senator John Kyl
Secretary of Interior Bruce Babbitt
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BLM Arizona State Director Denise Meredith

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