

BLM-Kaiser Land Exchange

PRELIMINARY SCOPING INFORMATION

In 1999, the Bureau of Land Management (BLM) and Kaiser Eagle Mountain, Inc. (Kaiser) completed a land exchange in Riverside County, California. BLM transferred 3,481 acres of public land in and around the Eagle Mountain mine to Kaiser. In return, BLM acquired 2,846 acres of land from Kaiser within the Chuckwalla Bench and Dos Palmas areas. As a condition of the exchange, Kaiser relinquished their existing mining claims on the public lands they acquired. The relinquishment was conditional on the exchange.

Palm Springs-South Coast Field Office

Disturbed lands conveyed to Kaiser

Endangered species habitat acquired by BLM

Background photo: Dos Palmas



Information for Public Scoping for a Supplemental Environmental Impact Statement (SEIS) for The Eagle Mountain Land Exchange

Overview

The Bureau of Land Management (BLM) is preparing a Supplemental Environmental Impact Statement (SEIS) in response to a federal district court order directing BLM to correct deficiencies in the 1997 EIS for the Eagle Mountain Landfill and Recycling Center Project (Eagle Mountain). The 1997 EIS analyzed a land exchange in which the United States acquired private land containing critical desert tortoise habitat and rare desert riparian habitat occupied by several species listed under the Endangered Species Act of 1973. In exchange for the private land with relatively high habitat values, the BLM conveyed public land with relatively lower habitat value in and around the Eagle Mountain Open Pit Iron Ore Mine. This area has been disturbed by past mining operations and for the most part lacks legal and physical access.

BLM determined that the public interest would be well served by this exchange (1997 Eagle Mountain Record of Decision (ROD)). Although the Ninth Circuit Court of Appeals found the 1997 EIS to be deficient in certain respects, the Court also found BLM had adequately supported its determination that the exchange was in the public interest.

Introduction and Background

In an exchange completed in 1999, the BLM conveyed scattered public lands in and around an existing open pit mine on private lands to Kaiser Eagle Mountain, Inc., (Kaiser) and in return, received private lands from Kaiser containing habitat for threatened and endangered species. BLM also conveyed the federal reversionary interest in the Eagle Mountain Townsite. The Eagle Mountain Townsite consists of approximately 460 acres of land which was previously conveyed to Kaiser in 1955 for mining related purposes, including but not

limited to housing mine workers. All transactions were completed and recorded in 1999.

BLM also issued a right of way (ROW) to Kaiser for the Eagle Mountain railroad over public land and the Chocolate Mountain Aerial Gunnery Range.

Kaiser needed the public lands to develop the proposed Eagle Mountain Landfill and Recycling Project (the landfill project). Current information suggests the landfill project has been abandoned. The landfill project, which was to be located on private land in Riverside County, south of Joshua Tree National Park, was never even partially developed.

As a result of federal litigation, the exchange and ROW have been “set aside” and the BLM is under a Federal District Court Order to prepare a new EIS and ROD. With elimination of the proposed landfill, the exchange is the residual federal action.

Need for Revised Analysis Under NEPA

The May 2011 Federal District Court Order directed the BLM to prepare an EIS which addresses the deficiencies in the 1997 EIS as noted by the Ninth Circuit and prepare a ROD consistent with the Ninth Circuit’s May 19, 2010 amended opinion which found that:

1. The purpose and need in BLM’s 1997 final EIS was unreasonably focused on the landfill project proponent’s needs;
2. The alternatives in the EIS were too constrained by the purpose and need as written;
3. The analysis of landfill eutrophication impacts in the EIS was inadequate; and
4. BLM’s appraisal was flawed because it failed to consider a landfill use as the “highest and best use”.

Public Interest Finding was Appropriate

The Ninth Circuit's amended opinion also found that BLM had adequately supported the determination that the exchange was in the public interest stating:

"Though we do not necessarily agree with the BLM's public interest determination, the record as a whole establishes that the BLM's interpretation of "full consideration," as evinced by the analyses in the EIS, is permissible under 43U.S.C. § 1716(a)."

Next Steps

BLM has delayed preparing a supplemental EIS and ROD as ordered by the District Court pending the imminent acquisition of Kaiser's interest in the Eagle Mountain Landfill Project by the Sanitation Districts of Los Angeles County (Sanitation Districts). On May 22, 2013, the Sanitation Districts announced that they would no longer pursue acquisition of the Eagle Mountain Landfill Project, which effectively ended the viability of the landfill project.

The withdrawal of the Sanitation Districts from the Eagle Mountain Landfill and Recycling Center Project reduces the scope of the SEIS because the landfill is no longer a reasonably foreseeable action that needs to be addressed in the purpose and need, alternatives or environmental consequences sections of the SEIS. The SEIS will 1) revise the purpose and need to reflect BLM's objectives of acquiring land with important habitat value and disposing of public land that is difficult and uneconomic to manage and 2) revise and expand the alternatives to include those that would meet BLM's purpose and need.

Decisions to be Made

The BLM will decide whether or not to affirm the 1997 ROD or choose another alternative in the SEIS. The issues to be decided include a land exchange, a right-of-way grant, and disposal of a reversionary interest.

Anticipated Issues and Management Concerns

1. Limiting the scope of the SEIS to addressing deficiencies (other than eutrophication impacts) identified by the Ninth Circuit Court of Appeals.
2. The SEIS would not address deficiencies in eutrophication analysis identified by the Ninth Circuit of Appeals because landfill use is no longer reasonably foreseeable and, unless a nexus to some other land use is identified, further analysis would serve no meaningful purpose at this time.
3. Public scoping would be limited to issues concerning the purpose and need and range of alternatives.
4. The SEIS would consider the effects of the alternatives taking into consideration conservation designations and commitments which occurred after the exchange was completed in 1999.
 - Some of the lands acquired by the U.S. in the exchange are identified as existing conserved lands in conservation areas designated in the 2007 Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). See CSMHCP <http://www.cvmshcp.org/>
 - Under a 2006 Memorandum of Understanding, the Dos Palmas Area of Critical Environmental Concern is now the primary focus area for mitigation required for the loss of desert riparian habitat from lining of the Coachella Canal. The water conserved from lining of the Coachella Canal is key component of the Quantification Settlement Agreement (<http://www.sdcwa.org/quantification-settlement-agreement>) enabling California to abide by its allocation of 4.4 million acre-feet of water from the Colorado River and the water allocation agreement associated with the San Luis Rey River Indian Water Rights Settlement Agreement. http://www.sdcwa.org/sites/default/files/files/QSA_allocation-agreement.pdf
5. National Park Service has expressed interest in evaluating the Joshua Tree National Park boundaries in the vicinity of the exchange.

Preliminary Purpose and Need

For purposes of the SEIS, BLM has prepared the following purpose and need statement which:

1) Reflects BLM's objectives for the exchange (in 1999), and is 2) Consistent with the Court Order. The purpose and need will be re-evaluated after scoping, given its importance in the ongoing litigation and the sensitivity of the conservation commitments to the Coachella Valley Multiple Species Habitat Conservation Plan, the California Quantification Settlement Agreement, and the San Luis Rey Indian Water Settlement.

The exchange was designed to:

1. Acquire land with critical desert tortoise habitat, habitat for the Yuma Clapper Rail and desert pupfish, both listed species, and upland habitat that is important for maintaining ecosystem processes.
2. Dispose of land that is largely disturbed from previous mining operations, contains physical hazards, has relatively lower habitat value and is difficult and uneconomic to manage as part of the public lands.
3. Dispose of the federal reversionary interest in the Eagle Mountain Townsite, which is heavily disturbed, occupied by numerous buildings which have limited value and would be expensive to remediate.

The exchange was needed to:

1. Preclude incompatible development and ensure the permanent conservation of private lands in the Chuckwalla Desert Wildlife Management Area, the Dos Palmas Area of Critical Environmental Concern and conservation areas designated in the Coachella Valley Multiple Species Habitat Conservation Plan.
2. Reduce BLM's management costs associated with managing lands that generally lack legal and physical access, are encumbered by mining claims and which have been included in mining operations associated with the Eagle Mountain Mine.

3. Ensure that the federal reversionary interest in the Eagle Mountain Townsite does not obligate the U.S. to revert lands which are not suitable for management with adjacent public land.

4. Facilitate future redevelopment of the Eagle Mountain Townsite consistent with local planning and zoning unencumbered by the federal reversionary interest.

The published Notice of Intent reflects the following possible purpose and need:

1. Protect important habitat and conservation values, including critical desert tortoise habitat, habitat for the Yuma Clapper Rail and desert pupfish, and critical upland habitat that is important for maintaining ecosystem processes and resources conserved by Joshua Tree National Park and other conservation partners;
2. Ensure the permanent conservation of formerly private inholdings in the Chuckwalla Desert Wildlife Management Area, the Dos Palmas Area of Critical Environmental Concern, and conservation areas designated in the Coachella Valley Multiple Species Habitat Conservation Plan;
3. Reduce BLM's costs associated with managing lands that generally lack legal and physical access, are encumbered by mining claims, and which have been included in mining operations associated with the Eagle Mountain Mine;
4. Divest the BLM of the federal reversionary interest in the Eagle Mountain townsite, which is not suitable for management by the BLM; and
5. Facilitate adaptive re-use of the Eagle Mountain townsite, unencumbered by the federal reversionary interest, including potentially preserving this area for any cultural and historic values.

Preliminary Alternatives

1. The exchange as completed in 1999 and ROWs issued in 1998. This alternative is the same as that described in the 1997 EIS and approved in the 1997 ROD.

2. The exchange as completed in 1999, but no new ROW would be issued for the Eagle Mountain railroad. This alternative is the same as Alternative 1 except no new ROW would be issued for the Eagle Mountain Railroad.

3. Modified exchange only; no new ROW. Under this alternative, BLM would consider some version of a modified exchange, in which some of the public lands would be conveyed and some of Kaiser's private lands would be acquired.

4. The No Action Alternative from the 1997 EIS. Under this alternative the 1999 exchange would be reversed (lands reconveyed) and no new ROW would be issued. Lands would be managed as they were prior to the 1999 exchange.

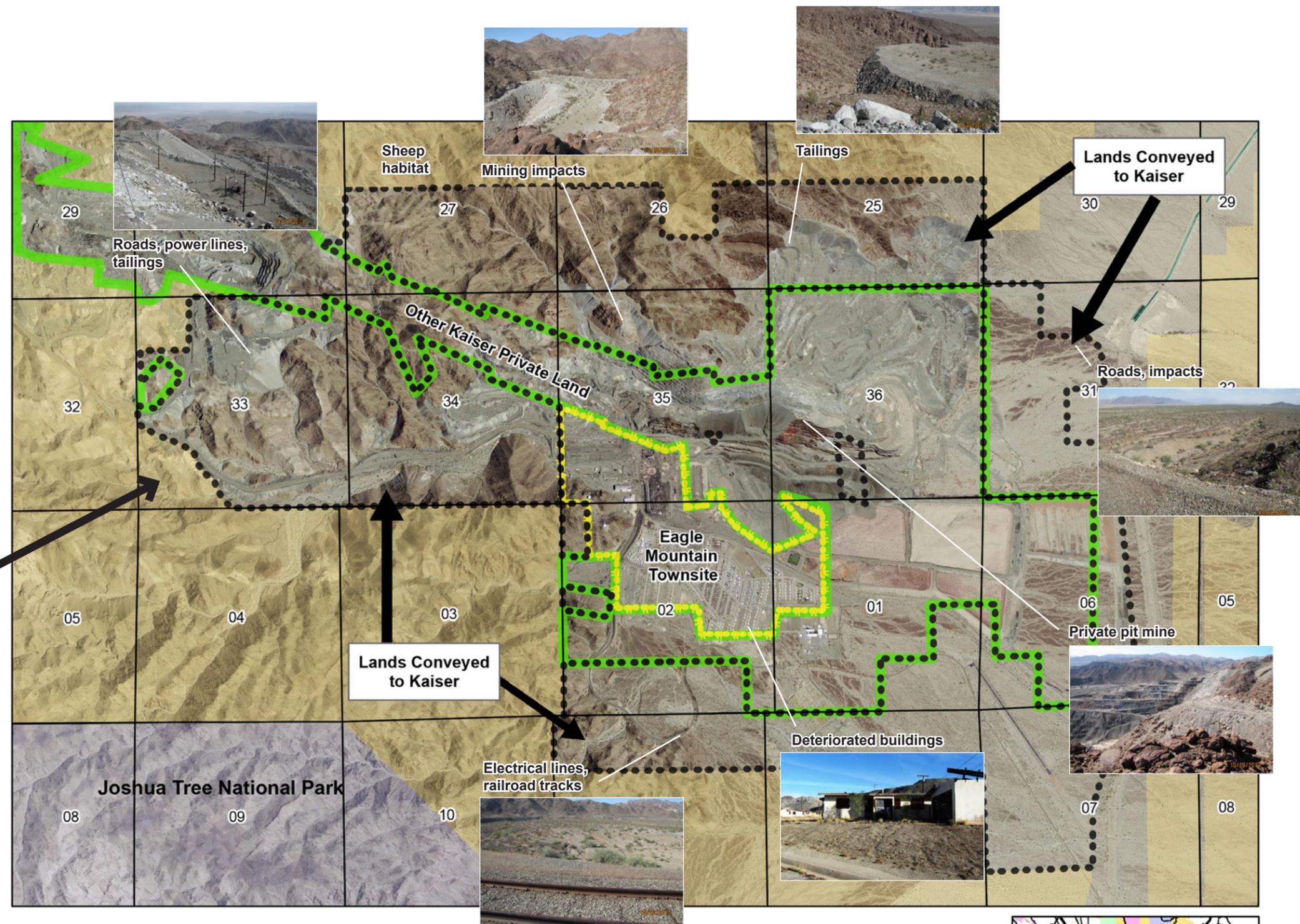
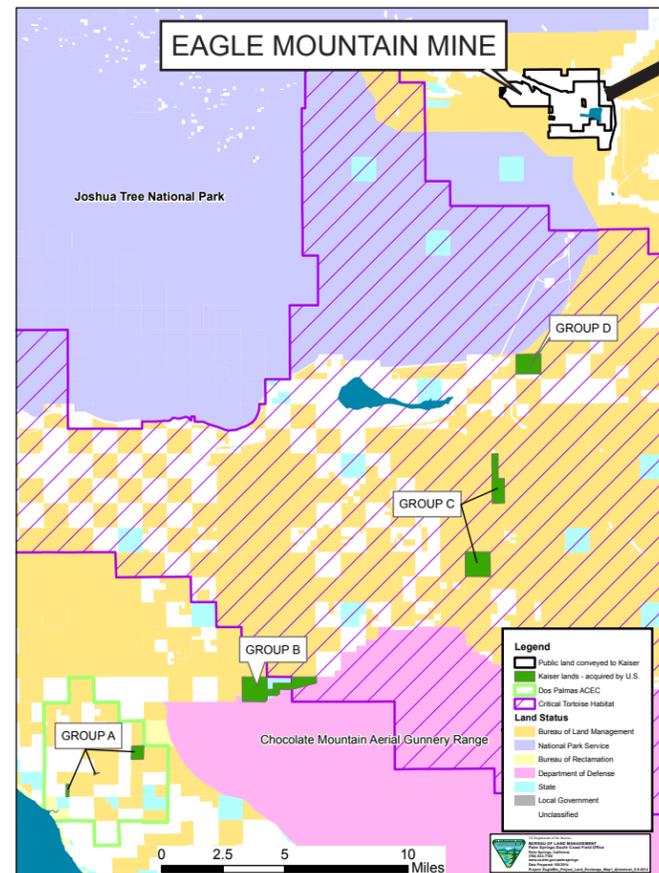
Background Information Documents

1. 1996 Draft EIS
<https://archive.org/details/eaglemountainlanch2m>
2. 1997 Final EIS
<https://archive.org/details/eaglemountainlan22ch2m> (Vol I)
<https://archive.org/details/eaglemountainlan23ch2m> (Vol II)
3. 1997 Record of Decision Map
4. Ninth Circuit Court of Appeals Amended Opinion
<http://cdn.ca9.uscourts.gov/datastore/opinions/2010/05/19/05-56814.pdf>
5. Federal District Court Order (May 2011)
6. Exchange Overview Map (showing designated critical desert tortoise habitat)
7. Exchange Overview Map (showing Bighorn Sheep Wildlife Habitat Management Areas)
8. Map of Lands Conveyed to Kaiser
9. Detailed Information on Lands Acquired by the U.S.
 - Also see Tables 4-92 and 4-97 from section 4 of the CVMSHCP showing Species occurring in the Mecca Hills/Orocopia Mountains Conservation Area and Dos Palmas Conservation Area at <http://www.cvmshcp.org/Plan%20Documents/11.%20CVAG%20MSHCP%20Plan%20Section%204.0.pdf>.
10. Detailed Information on Lands Conveyed to Kaiser
11. Map from 1997 EIS showing species survey information on lands conveyed to Kaiser
12. Memorandum of Understanding to implement environmental mitigation for lining the Coachella Canal at the Dos Palmas Area of Critical Environmental Concern.

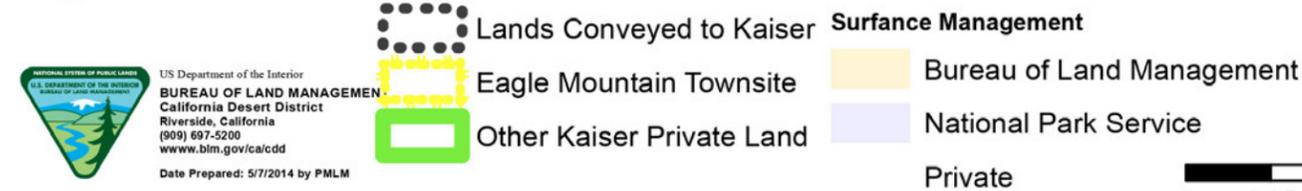
Lands Conveyed to Kaiser

□ EAGLE MOUNTAIN MINE

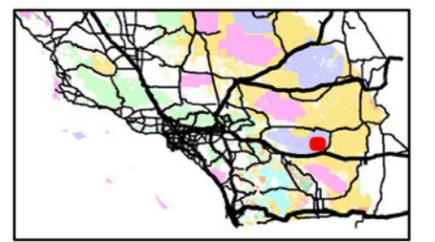
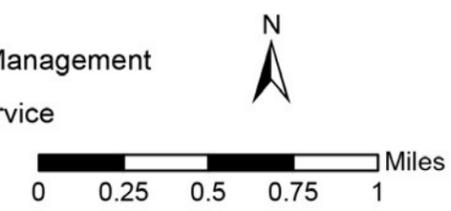
- Provided no critical habitat
- Lacked legal and physical access, and were encumbered with mining claims
- Contained mines and buildings that presented safety, stabilization, and reclamation issues
- 443 acres were encumbered by the power site withdrawal in sections 25 and 31 in the northeast portion of the project area. See the Eagle Crest map on the Eagle Mountain website
- Overall public and private land footprint of mining is about 5,000–7,000 acres



Eagle Mountain Land Exchange and Townsite



Satellite image of the Eagle Mountain mine lands conveyed to Kaiser (within black dotted line) with impact notations



Lands Acquired by BLM

GROUPS A, B, C, D

- Support management efforts
- Provide continuous critical habitat for threatened and endangered wildlife species
- Are in a substantially natural condition except for the Eagle Mountain railroad
- Provide traditionally used dispersed camping opportunities for the public and reduce impacts on adjacent sensitive areas (Group C, south parcel)
- Lands include a railroad right-of-way
- Conservation Designations and Commitments
 - Coachella Valley Multiple Species Habitat Conservation Plan (Group A)
 - Quantification Settlement Agreement—Colorado River apportionment (Group A)
 - Desert Tortoise Recovery Plan (Groups B–D)

Wildlife Impacts

- Exchanged lands with no critical wildlife habitat for lands with critical habitat for several sensitive species



Federal and State endangered desert pupfish, found in Group A



Federal and State threatened desert tortoise, critical habitat found in Groups B–D



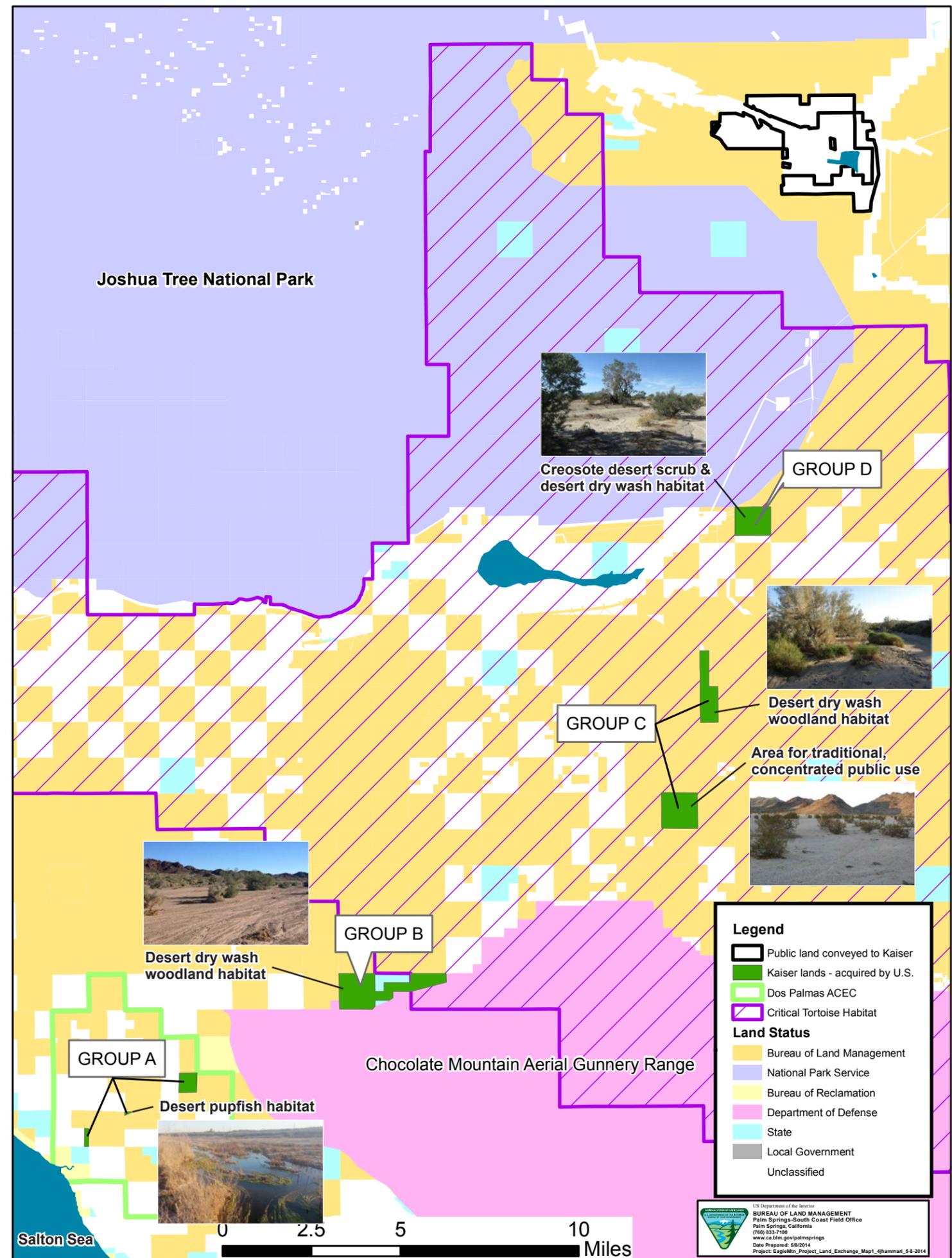
Federal endangered and State threatened Yuma clapper rail, found in Group A



BLM sensitive flat-tailed horned lizard, found in Group A



State threatened California black rail, habitat found in Group A





History

Land Use History and Context for the public lands conveyed to Kaiser

1880–1890: Gold mining.

1904–1936: Approx. 2,200 acres of patented mining claims. Kaiser eventually acquired all the patented mining claims in 1944.

1936: Joshua Tree National Monument (JTNM) established. Boundary included patented mining claims described above. Public lands within JTNM were closed to location of new mining claims. All lands were subject to valid existing rights.

1944: Kaiser acquires all patented mining claims.

1950: Lands in and around the Eagle Mountain Mine, (including the public lands conveyed to Kaiser in the 1999 exchange) are excluded from JTNM via Public Law 81-837 which reduced the JTNM boundary and opened lands closed 14 years earlier to land and mineral entry.

1950–Present: After Congress opened the lands above to mineral entry 5,200 acres were conveyed out of federal ownership, including the 460 acre Eagle Mountain Townsite and 3,481 acres of lands conveyed to Kaiser in the 1999 exchange. Around 1970, Kaiser located mining claims on approx. 2,800 acres of the 3,481 acres of public lands they later acquired in the 1999 exchange as well as 900 acres not acquired in the exchange.

1955: Kaiser acquires the 460-acre Eagle Mountain Townsite to be used for mining support. The U.S. retained a reversionary interest in the Townsite lands which was later conveyed to Kaiser in the 1999 exchange to allow the Townsite to be used to support the landfill project.

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