

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEEDLES FIELD OFFICE**

PRELIMINARY FINDING OF NO SIGNIFICANT IMPACT

**Installation of New Game Guzzlers - Sheep Hole, Calumet Mountains
CA-690-EA01-32**

October 15, 2002

Proposed Action:

The California Department of Fish and Game (CDFG) proposes to install two big game guzzlers in the Sheephole Valley Wilderness. Both proposed water developments would consist of a small dam, a pipeline, a buried 10,000-gallon storage tank, and a wildlife accessible subterranean drinker. Installation of the water developments would require the use of motorized vehicles and equipment within the Sheephole Valley Wilderness. Representatives of the Society for the Conservation of Bighorn Sheep (SCBS) would monitor the new artificial water sources twice each year for water level and quality. Other monitoring would consist of pellet transect, photographic data, and guzzler operation. The proposed water development system is anticipated to require little maintenance after the initial construction. Installation of these water developments is proposed to be completed in the Spring of 2003.

The CDFG has indicated that the two new water sources are needed immediately based on sheep utilization of the ranges, inadequate capacity of the current systems, and unpredictable rainfall patterns that may or may not fill existing systems or natural tanks.

Preliminary Finding of No Significant Impact:

The proposed action, as analyzed in the attached Environmental Assessment CA-690-01-32, is not a major federal action, as defined in Title 40 Code of Federal Regulations (CFR) 1508.18, and will have no significant impacts on the human environment; therefore preparation of an Environmental Impact Statement (EIS) pursuant to Title 40 CFR 1508.13 is not required.

Rationale for Finding of No Significant Impact:

The primary purpose for conducting an environmental assessment is to determine whether or not a proposed action will have a significant impact on the human environment and therefore will require the preparation of an EIS. As defined in 40 CFR 1508.13, the Finding of No Significant Impact (FONSI) is a document that briefly presents the reasons why an action will not have significant effect on the human environment. The regulations further define the term "significantly" in 40 CFR 1508.27 and require that the context and intensity

of impacts be considered in analyzing significance. The following provides an analysis of the significance of impacts of the proposed water developments in terms of context and intensity as defined in the regulations.

“a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short-term and long-term effects are relevant”. (40 CFR 1508.27(a))

Because the proposed actions are site-specific, the context for evaluating the significance of the effects is primarily the immediate locale. The proposed Upper Surprise water development is located in a sandy wash in the Calumet Mountains. The proposed S.D. water development is located on the west side of the Sheep Hole Mountains in a granitic rock matrix and sand wash. Most of the analysis focuses on the effects of the proposed actions in the immediate vicinity of the water developments and along the access routes. Some effects are considered in the context of the range of the bighorn sheep and some are considered in the context of the Sheep Hole Valley Wilderness. Both short term and long term effects are considered in the analysis. Based on site-specific and regional impacts identified in the EA, it has been determined that, in terms of context, the effects of the proposed actions are not significant either in the immediate vicinity of the proposed actions nor in the broader region of the Sheephole Valley Wilderness or across the range of the bighorn sheep. There are also no significant impacts to society as a whole or to affected interests as a result of these proposed projects.

“(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:” (40 CFR 1508.27(b))

“(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.” (40 CFR 1508.27(b)(1))

Impacts of the proposed action are anticipated to be beneficial to bighorn sheep and both beneficial and adverse to wilderness resources. The benefits to the bighorn sheep within the Sheep Hole Mountains population could be considerable in terms of avoiding die-offs due to lack of water. The benefits to wilderness relate to maintaining the population of a species – in this case the bighorn sheep - that is considered a special feature of wilderness. Based on a review of the impacts identified in the EA, adverse effects of the proposed action have been found to be insignificant. Based on case law, significant beneficial effects alone do not justify the preparation of an EIS [Friends of Fiery Gizzard v. Farmers Home Administration, 61 F.3d 501 (6th Cir. 1995)].

“(2) The degree to which the proposed action affects public health or safety.” (40 CFR 1508.27(b)(2))

As indicated in the EA, there are some health and safety concerns related to gaining

access to the sites and constructing the sites in a remote area using heavy equipment. Standard health and safety measures for accessing the sites and working in remote areas with heavy equipment are identified in the EA and will be required for this project. By incorporating these standard health and safety measures, it has been determined that the degree to which the proposed action affects public health or safety has been minimized and such effects are not significant.

“(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.” (40 CFR 1508.27(b)(3))

The proposed action is located within the Sheephole Valley Wilderness, an ecologically critical area. The EA identifies the impacts of construction and operation of these guzzlers on wilderness values. The construction activity will have a minimal short term impact on naturalness and opportunities for solitude in the immediate vicinity of the site. Following construction the site will be relatively low profile and overtime its visibility will be reduced. On-going maintenance and operations will also affect naturalness and opportunities for solitude primarily due to road use. However, the anticipated results would leave the wilderness such that it “generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable;” (The Wilderness Act of 1964). Based on a review of the EA, it has been determined that there will be no significant adverse impacts to these wilderness values as a result of the proposed action. There are no other unique characteristics of the geographic area that are affected by the proposed action.

“(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.” (40 CFR 1508.27(b)(4))

There is some controversy regarding biological effects and impacts to wilderness. There is disagreement within the scientific community regarding artificial waters, specifically their benefits to and effects upon the bighorn sheep population. The conservative position is that construction of the artificial waters is not likely to have significant adverse effects upon the bighorn sheep whereas prolonged drought without additional artificial waters could have a severe effect. There is also disagreement regarding the anticipated impacts on the wilderness resource, specifically the reduction of wilderness resources and values through use of motorized vehicles and equipment, installation of permanent structures, and interference with natural processes to augment a hunted big game species. The EA has acknowledged and identified those impacts. Much of the controversy regarding this proposed action revolves around whether the proposed projects are appropriate for or legally consistent with the wilderness designation. Controversy over the legality of an action, however, does not constitute a basis for the preparation of an EIS. In summary, although the proposed project is controversial, it has been determined that the focus of that controversy has been on the legality of the projects rather than the effects on the quality of the human environment.

“(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.” (40 CFR 1508.27(b)(5))

The effects of the proposed action are relatively straightforward and easily predicted for most of the resource values. There is some uncertainty as to the effect of the proposed artificial waters on biological resources and on their effectiveness in achieving the desired results for bighorn sheep. The EA acknowledges that some of the potential impacts to biological resources are speculative in nature because there are no data or studies which specifically address these issues. Significant impacts on other biological resources have not been observed as a result of the existing water developments in the Sheephole Valley Wilderness or other similar mountain ranges. There still remains some uncertainty, however, and the EA has proposed vegetation monitoring to provide information on unanticipated changes if any in other biological resources. Over time, this monitoring will provide useful information for assessing the impacts on the other wildlife populations and habitat. It has been determined, therefore, that the extent and degree of uncertainty regarding impacts or unique or unknown risks is not sufficient to warrant the preparation of an EIS.

“(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration” (40 CFR 1508.27(b)(6))

This action will not establish a precedent in that numerous artificial waters exist in wilderness areas in the California desert. Permanent artificial water sources have been used as a management tool within the mountain ranges of the desert, prior to wilderness designation, as part of an effort by California Department of Fish and Game to reverse the downward population trend of desert bighorn sheep. The existence of artificial waters did not prevent the designation of wilderness and this proposal is for an addition to that system rather than the initiation of such a system in wilderness. Also, this action does not represent a decision in principle about any future consideration.

“(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” (40 CFR 1508.27(b)(7))

The California Department of Fish and Game has installed two big game guzzlers in the Sheephole Valley Wilderness in the past and proposes two new ones with this proposed action. There are also three existing small game guzzlers, and three tinajas in the Sheephole Valley Wilderness, which have been re-enforced. Additional existing disturbances - including illegal motorized vehicle use; military, BLM and CDFG aircraft use in the area; monitoring and maintenance of existing water developments; and other bighorn sheep management activities by the CDFG (e.g., population census) – are on-going. The CDFG has also indicated the need and identified potential locations for four additional artificial waters to support and expand bighorn sheep populations in the Sheep Hole and Calumet Mountains.

The cumulative effects of artificial water developments was a major concern identified by the BLM when first approached by the CDFG in October, 2000, requesting authorization for six new water developments in the Sheephole Valley Wilderness. Initially, the BLM

indicated that a meta-population plan for the bighorn had to be completed which identified species population targets, water development needs and other management actions before any additional artificial waters could be considered. The CDFG agreed that a meta-population plan was needed, however, due to current sheep utilization of the ranges, inadequate capacity of the current systems, and unpredictable rainfall patterns, immediate action was necessary to avoid extensive die-offs of bighorn sheep.

The CDFG determined that a minimum of two additional water developments were immediately necessary to avoid the potential die-offs. The BLM agreed to consider the two critical water developments (the S.D and Upper Surprise), however, the BLM affirmed that no further developments would be considered until a meta-population plan had been completed. Such a plan would address the additional four water developments already identified as necessary as well as any other future developments and management actions for this meta-population of bighorn sheep.

It is, therefore, the BLM's finding that the cumulative impacts of the existing water developments and the two proposed new water developments as considered herein are not significant. Any developments beyond the two considered herein, however, may result in significant cumulative impacts. Furthermore, future artificial water developments will not be considered without taking into account all of the potential water developments as set forth in a bighorn sheep meta-population plan for this region. It is recognized that consideration of any future developments beyond those considered herein may necessitate the preparation of an EIS.

“(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources” (40 CFR 1508.27(b)(8))

No listed sites are in the vicinity. Historic resources are in proximity to the proposed action, however they were determined not to be eligible for the National Register of Historic Places. There will be no loss or destruction of significant scientific, cultural or historical resources as a result of this proposed action.

“(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973” (40 CFR 1508.27(b)(9))

The desert tortoise (*Gopherus agassizii*) which is listed as threatened under the Endangered Species Act of 1973, is found in the vicinity of the proposed action. The habitat, however, is not identified as critical by the U.S. Fish and Wildlife Service (FWS). Based on the biological assessment prepared by the BLM, no significant adverse affects are anticipated on the desert tortoise or its habitat. The BLM has initiated formal consultation with the FWS under Section 7 of the Endangered Species Act and a final finding with respect to the effect of the proposed action on the desert tortoise will reflect the biological opinion (BO) received from the FWS.

“(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment” (40 CFR 1508.27(b)(10))

It is the BLM’s position that the proposed action is consistent with all Federal, State and local laws. A number of individuals and organizations have submitted comments indicating their belief that the proposed action is in violation of the Wilderness Act of 1964 and the Desert Protection Act of 1994. Although the Wilderness Act of 1964 generally prohibits motorized access and permanent structures and facilities in units of the National Wilderness Preservation System, Congress has explicitly allowed certain uses in designated wilderness areas that do not conform with the Wilderness Act’s general management guidance. The California Desert Protection Act of 1994 that established the Sheephole Valley Wilderness contained the following provisions that allow for management activities to maintain and restore the wildlife populations in wilderness areas:

“TITLE I, SEC. 103. (f) FISH AND WILDLIFE MANAGEMENT.-- Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.” (P.L. 103-433)

The BLM believes that the proposed water developments for maintaining the bighorn sheep population are “management activities to maintain or restore....wildlife populations” consistent with the intent of Congress as stated in the California Desert Protection Act of 1994. In summary, it is BLM’s finding that the action does not violate any Federal, California State, or local law or requirements imposed for the protection of the environment.