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State of New Mexico

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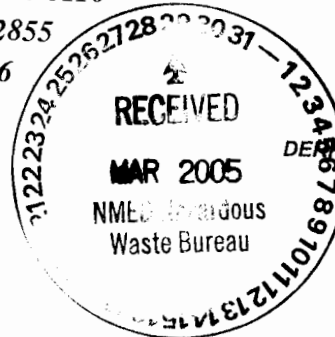
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RON CURRY
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DEBORAH WATCHMAN-MOORE
DEPUTY SECRETARY

March 21, 2005

Tom Phillips, RMPA/EIS Team Leader
Bureau of Land Management
Las Cruces Field Office
1800 Marquess
Las Cruces, N.M. 88005

Dear Mr. Phillips:

RE: MCGREGOR RANGE: DRAFT RESOURCE MANAGEMENT PLAN AMENDMENT AND ENVIRONMENTAL IMPACT STATEMENT; PREPARED FOR U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LAS CRUCES FIELD OFFICE, JANUARY 2005

This transmits New Mexico Environment Department (NMED) comments concerning the above-referenced Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS). The purpose of this document is for the Bureau of Land Management (BLM) to analyze various alternatives for managing public lands within the boundaries of the MacGregor Range.

SURFACE WATER QUALITY

Overall, potential impacts on environmental resources are anticipated to be minimal under all alternatives. The objective of the water resources program on the withdrawn public land is to maintain adequate supply of water appropriate for the livestock management program and for wildlife habitat; we agree with this approach.

Since New Mexico laws stipulate that surface water quality standards for the designated uses of livestock watering and wildlife habitat extend to all perennial and non-perennial reaches of waters of the State, McGregor Range needs to commit to the implementation of non-point source control guidance for roads, drainage crossings, and discharge from disturbances over one acre, utilizing the best available management practices.

To be noted is that the BLM identifies concerns about water quality due to high erosion rates, specifically on three watershed management plans previously identified in the 1990 RMPA for development on 86,450 acres. These need to be revisited and mitigation measures developed as appropriate, and their plans need to include follow-up monitoring.

GROUND WATER QUALITY

The alternatives considered do not include specific impacts to ground water; however, we have two general comments to make on this topic in reference to the document:

1. Section 3.8 WATER RESOURCES, 3.8.1 Groundwater, Page 3-18. When it comes to protecting ground water, no matter the future use planned at the MacGregor Range, the document should clearly state that according to New Mexico Water Quality Control Commission Regulation 6.2.3101 NMAC, ground waters with a Total Dissolved Solids (TDS) concentration of 10,000 mg/L or less are protected. If there is a discharge that threatens such ground water, then abatement may be required. The text in this section is not clearly written and implies that waters with a TDS as low as 1,000 mg/L may be classified as saline. The general definition used commonly in the literature for salinity is 10,000 mg/L, and that definition is used in the regulation cited above.

2. Section 3.15, Hazardous Materials, Page 3-39, second paragraph in the section. From a ground water perspective, there is no de minimis volume of an oil or water contaminant that is not reportable, if a discharge occurs. According to New Mexico Water Quality Control Commission Regulation 20.6.2.1203.A NMAC, "With respect to any discharge from any facility of oil or other water contaminant, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of the property, the following notifications and corrective actions are required:..." The text of Section 3.15 implies that because the chemicals stored on site are used in de minimis quantities they are not regulated; although this may be the case, if a release occurs that meets the description provided in the regulation cited above, then NMED must be notified.

HAZARDOUS WASTE

We have a number of comments concerning those portions of the above-referenced document relating to RCRA hazardous waste and contaminated environmental areas.

1. We suggest that NMED be notified before transfer of land that is part of Fort Bliss and provide information related to corrective action requirements on that land. This will ensure that Army's corrective action obligations on any land proposed for transfer will be met either before transfer or through adequate mechanisms in place to allow corrective action beyond the facility boundary after transfer, pursuant to 42 U.S.C. 6924(v) and 20.4.1.500 NMAC (incorporating 40 CFR 264.101(c)).

2. We recommend that the Army conduct a geophysical survey of the unexploded ordnance (UXO) areas and remove all detected waste military munitions prior to transfer of the property. It is important that further clearance be conducted at a specific frequency to identify and remove any potential concerns in those areas. We suggest that if the UXO property areas are transferred to BLM control that they be limited in access by fencing and that signage be placed to warn of the UXO concerns. We also recommend that an agreement be made between the Army and BLM for continued clearance of the UXO areas.

3. The document does not discuss the current RCRA Hazardous Waste Permit with regards to the solid waste management units (SWMUs) that are currently listed on the permit for RCRA investigation. The authority for corrective action for SWMUs is provided for under the RCRA Permit issued to Fort Bliss. Although some SWMUs on the Fort Bliss RCRA Permit have a no further action determination there are sites that may require further investigation and potential remedy on the McGregor Range. The SWMUs that have a no further action determination on the McGregor Range include: SWMU 21 – Inactive FFTA McGregor; SWMU 22 – Inactive Waste Drum McGregor; and SWMU 66 McGregor Drum Burial. There are still unresolved issues with regards to the sites requiring corrective action that are listed on the Fort Bliss RCRA Permit at the McGregor Range. If a petition for no further action has been requested by Fort Bliss it does not indicate that the sites are necessarily ready for a no further action determination. Further investigation or other activities may be required for these sites.

4. If property is transferred to BLM from the Army prior to cleanup and remedy of sites an agreement should be made between the Army and BLM. After the property is transferred NMED does not have authority under RCRA to require cleanup and remedy of such sites. Therefore, NMED strongly recommends that any corrective action activities at sites listed on the Fort Bliss RCRA Permit be completed prior to transfer of lands to BLM

5. Table 3-9 refers to several sites that are included on the RCRA Permit for Fort Bliss. It is difficult to identify these sites and match them to those listed on the permit. Please provide an identifying SWMU number for ease in identification so as to relate them to the current Fort Bliss RCRA Permit.

6. Finally, a map or diagram should be included to indicate the SWMUs and UXO areas.

AIR QUALITY

This project area is located in Otero County, which currently is not in nonattainment for any of the National Ambient Air Quality Standard (NAAQS). At this time, it does not appear that the proposed action would adversely impact air quality in Otero County.

In January of 2004, the New Mexico Environment Department adopted a new regulation 20.2.65 NMAC-- Smoke Management, which includes requirements for the use of prescribed fires. This regulation should be referenced in the final EIS as an applicable state requirement for maintaining air quality standards under the RMPA.

As stated in the EIS, the dust control measure should be used when feasible within the project area. Several counties within the southern region of state have experienced exceedances of the PM10 standard, including Doña Ana County. Doña Ana County is currently under a Natural Events Action Plan to help control man-made sources of windblown dust.

We appreciate the opportunity to comment on this document. Please let us know if you have any questions.

Sincerely,



Ron Curry
Secretary

NMED File No. 2024ER