



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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JUL 31 2013

Ref: EPR-N

Ms. Stephanie Howard
Bureau of Land Management
Vernal Field Office
170 South 500 East
Vernal, UT 84078

Re: Scoping Comments for Enefit Utility
Corridor Project, Utah

Dear Ms. Howard:

The U.S. Environmental Protection Agency (EPA) Region 8 has reviewed the Bureau of Land Management's (BLM) Notice of Intent to prepare an Environmental Impact Statement (EIS) for Enefit American Oil's applications for rights-of-way to construct various utilities on Federal lands. In accordance with the EPA's responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, we are providing scoping comments. These comments convey what the EPA believes are significant questions or concerns which we recommend be addressed during the NEPA process. As a cooperating agency for development of the EIS, we remain eager to work with you to develop ideas for addressing these comments in the Draft EIS.

Project Description and General Recommendations

The EIS will consider environmental impacts associated with rights-of-way (ROWs) to provide access and utilities to Enefit American Oil's "South Project," a commercial oil shale mining, retorting, and upgrading operation located on private land and minerals in Uintah County, Utah. Activities on BLM-administered land include 19 miles of water supply pipeline, 8 miles of natural gas supply pipeline, 10 miles of oil product line, 29 miles of powerlines, and 5 miles of upgrading to Dragon Road. Although approval or disapproval of Enefit's South Project is outside of the BLM's authority, impacts of mining and processing the oil shale will be analyzed and disclosed in the EIS as indirect and cumulative effects connected with the Utility Corridor Project.

In addition to looking at direct impacts in the immediate vicinity of the proposed ROWs, CEQ regulations (Section 1502.16) instruct agencies to consider other effects that are reasonably foreseeable. Thus, the EPA supports the BLM's plans to evaluate the potential impacts of Enefit's South Project in addition to considering the impacts of ROW development. The evaluation would appropriately include air emissions and greenhouse gas emissions, potential impacts to quality and quantity of water resources, and the potential related human health impacts to local communities from mining, retorting, upgrading, and waste management activities. These types of impacts are exactly the kind of reasonably foreseeable

potential impacts that NEPA was designed to address.

Key Topics EPA Believes Should Be Addressed During the NEPA Process

Based on our current understanding of the proposed project and the area, the EPA has identified the following key topics that we recommend be analyzed and disclosed in the Draft EIS so that potential impacts to public health and the environment can be fully understood: (1) air resources; (2) groundwater and surface water resources; (3) climate change; (4) environmental justice; and (5) mitigation and control measures.

(1) Air Resources

Energy development across the west can contribute to air quality impacts, and as a result, there is a need to evaluate how activities occurring under this action will affect air quality and what measures may be needed to manage significant impacts. The planning area is located in the Uinta Basin, an area where multiple exceedances of the National Ambient Air Quality Standard (NAAQS) for ozone have been monitored in recent years, and which is currently designated as “unclassifiable.” The EPA strongly recommends that the Draft EIS disclose the current air quality conditions in the area covered by the EIS, as well as potential air quality impacts associated with the proposed Utility Corridor Project and the reasonably foreseeable impacts of Enfit’s South Project.

More specifically, the EPA recommends that the Draft EIS evaluate the direct, indirect, and cumulative impacts of construction, mining, and oil shale processing activities on:

- Each of the criteria pollutants and their appropriate NAAQS (i.e., ozone, particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide and lead);
- Prevention of Significant Deterioration (PSD) increment consumption at Class I and sensitive Class II Areas;
- Projected ambient concentrations of hazardous air pollutants (i.e., formaldehyde, benzene, toluene, ethyl benzene, xylene, 1,3-butadiene, acrolein and n-hexane); and
- Air Quality Related Values (AQRVs) in Class I and sensitive Class II areas.

We recommend that the BLM consult with the Federal and State agencies in the Utah Air Resources Technical Advisory Group early in the NEPA process regarding the appropriate methods for analyzing impacts to air quality and AQRVs.

The EPA also recommends that the BLM identify mitigation measures (including control measures and design features) it would apply in the event that potential adverse impacts to air quality or AQRVs are predicted. This includes evaluating the mitigation measures and determining which ones would need to be employed to eliminate or reduce adverse impacts to air quality and AQRVs. The EPA recommends that the NEPA document describe the selected methods for protecting air quality and the regulatory mechanisms the BLM will use to ensure their implementation, where possible. We recommend that the evaluation of mitigation measures include those available for Enfit’s South Project, as described in (5) below.

Dust suppression from disturbed areas is a particularly critical mitigation consideration in the arid west. The planned surface mining will likely result in large areas of surface disturbance that may present reclamation challenges. The EPA recommends the Draft EIS include a plan for addressing dust control

for ROW construction and oil shale development. We suggest the plan include, but not be limited to: dust suppression methods and the level of required or anticipated control, inspection schedules, and documentation and accountability processes. Given the dry climate of the Uinta Basin and the associated challenges with reclamation, EPA recommends reducing surface disturbance to effectively reduce fugitive dust.

(2) Groundwater and surface water resources

A. Characterize Water Resources

We recommend that the BLM characterize existing groundwater and surface water resources within the Utility Corridor Project and South Project areas in the Draft EIS by:

- Mapping groundwater and surface water resources in the development area. This could include a summary discussion of the water resources that exist in the project area (i.e., miles of streams, acreage of lakes, acreage of riparian areas, number of springs, etc.).
- Identifying water uses within the project area, including:
 - All source water protection areas within each alternative (i.e, Drinking Water Source Protection Zones designated by the State of Utah and Municipal Watersheds).
 - Surface water and groundwater use, including the location and source identification of agricultural, domestic and public water supply wells, springs, or surface water intakes.
- Presenting baseline data on the condition and quality of surface water resources, and where appropriate and possible, reasons why these resources have been impacted (e.g., oil and gas development, mining), including:
 - Lists of any Clean Water Act (CWA) impaired or threatened waterbody segments within, or downstream of, the project area, including the designated uses of the waterbodies and the specific pollutants of concern. We recommend contacting the Utah Department of Environmental Quality to identify/validate any such waterbodies potentially affected by the project.
 - Inventories and maps of existing wetlands and waters of the U.S. within the project area, including wetlands that are regulated under Section 404 of the CWA and wetlands that are determined to be non-jurisdictional and protected under Executive Order 11990 – Protection of Wetlands (May 24, 1977), and, where applicable, acreages and channel lengths, habitat types, values, and functions of these waters.
- Discussing groundwater resources, with particular emphasis on:
 - The major aquifers in the basin, their three dimensional extent, the physical and chemical characteristics of their groundwater, estimates of the quantity of water in the aquifers and aquifer recharge rates;
 - The location and extent of the groundwater recharge areas;
 - The location of shallow and sensitive aquifers that are susceptible to contamination from surface activities; and
 - The location of existing and potential underground sources of drinking water (USDWs). Federal Safe Drinking Water Act regulations define a USDW as an aquifer or portion thereof: (a)(1) which supplies any public water system; or (2) which contains a sufficient quantity of ground water to supply a public water system; and (i) currently supplies drinking water for human consumption; or (ii) contains fewer than 10,000 mg/l total dissolved solids; and (b) which is not an exempted aquifer (See 40 CFR Section 144.3).

B. Water Quantity Impacts and Mitigation

Given the scarcity of water in the arid Southwest, water demand associated with the Utility Corridor Project and Enefit's South Project is an important consideration that will benefit from careful analysis and disclosure. The EPA recommends that the Draft EIS analyze the following:

- Anticipated water demand for the Utility Corridor Project and reasonably foreseeable water needs for the South Project;
- Anticipated sources of water for ROW and oil shale development activities; and
- Potential impacts of water withdrawals (e.g., drawdown of aquifer water levels, reductions in stream flow, impacts on aquatic life, wetlands and other aquatic resources, and agricultural conversion from transfer of water rights).

The EPA recommends that the Draft EIS include discussion of means to reduce freshwater consumption, including reusing/recycling project water or obtaining recycled water from another source.

C. Water Quality Impacts and Mitigation

We recommend that the following resource impacts be discussed for ROW development and reasonably foreseeable oil shale activities, including disclosure of which waters may be impacted, the nature of potential impacts, and specific pollutants likely to impact those waters:

- Groundwater: Potential impacts to groundwater, including USDWs, source water protection zones and other municipal or private water supplies.
- Impaired Waterbodies: Potential impacts to impaired waterbodies, including waterbodies listed on the CWA § 303(d) list and waterbodies with completed Total Maximum Daily Loads (TMDLs).
 - Project development could constitute a new nonpoint source that may result in further impairment and the potential for additional violations of surface water quality standards. We therefore request that the BLM explain in the Draft EIS how the project may impact any waterbodies with completed TMDLs and/or listed water quality impairments, if present, for the specific pollutants listed.
 - In addition, if there are permittees in the watershed discharging a pollutant of concern under the TMDL, any change to the ambient loading of the pollutant of concern may result in changes or additional permit requirements for point sources. We recommend that this potential be evaluated and discussed in the Draft EIS so that permitted facilities are aware of potential impacts of the project alternatives.
- Surface Water Quality and Sedimentation: Potential impacts to water quality from runoff associated with surface disturbance and spent shale management. Runoff could introduce sediments, as well as hydrocarbons, salts, selenium and other heavy metals into surface waters.

The EPA recommends the Draft EIS identify and discuss how surface water and groundwater quality will be protected and how significant impacts will be mitigated. To this end, the EPA recommends the Draft EIS include:

- A list of BMPs that may be required to protect surface water and groundwater resources;
- A discussion of the circumstances under which the BMPs would be applied (e.g., proximity to surface water resources, presence of erosive soils, slope, shallow water aquifers, proximity of water wells, etc.); and,

- An explanation of how the BLM or another government entity would ensure that the BMPs would be monitored and enforced (see (5) below).

The EPA recommends that the Draft EIS address how water quality monitoring in the Utility Corridor and South Project areas will occur prior to, during, and after the project to detect impacts to both groundwater and surface water resources. A thorough monitoring plan and program to track groundwater and surface water impacts associated with the project will ensure the BMPs are adequately mitigating impacts.

D. Protection of Wetlands, Riparian Areas and Floodplains

The protection, improvement, and restoration of wetlands and riparian areas are a high priority since they warrant protection under Section 404 of the CWA as well as Executive Order 11990. We suggest that the BLM analyze potential impacts from the Utility Corridor Project and South Project to the following:

- Stream structure and channel stability;
- Streambed substrate, including season and spawning habitats;
- Stream bank vegetation, riparian habitats, and aquatic biota;
- The cumulative effects of increased levels of erosion and sedimentation; and,
- Impacts to surface waterbodies from subsidence associated with underground mining.

We also recommend that the Draft EIS analyze methods to protect wetlands, riparian areas and floodplains, including the following:

- Specific mitigation requirements and BMPs applicable for construction, mining, processing and reclamation activities to prevent adverse impacts to these aquatic resources. These could include silt fences, detention ponds and other stormwater control measures; and
- Delineation and marking of perennial seeps, springs and wetlands on maps and on the ground before development to ensure identification of these resources to facilitate their protection.

(3) Greenhouse Gas Emissions and Climate Change

The EPA recommends the BLM include an estimate of the greenhouse gas emissions associated with the Utility Corridor Project and the South Project, potential climate change impacts from the emissions, reasonable alternatives and/or practicable mitigation to reduce project-related GHG emissions, and a discussion of any appropriate climate change adaptation issues. For the Draft EIS analysis, we suggest the following approach:

- Estimate the anticipated GHG emissions associated with the Utility Corridor Project and the South Project. We recommend that GHG emissions be estimated in CO₂-equivalent terms and translated into equivalencies that are more easily understood by the public (e.g., annual GHG emissions from x number of motor vehicles, see <https://www.epa.gov/RDEE/energy-resources/calculator.html>).
- We recommend that the BLM assess and identify measures to reduce GHG emissions associated with the Utility Corridor Project and the South Project, including alternatives and/or potential requirements to mitigate emissions.
- Describe any existing Regional, Tribal or State climate change plans or goals that cover the project area.
- Include a summary discussion of ongoing and projected regional climate change relevant to the Projects in the “affected environment” section of the DEIS, based on U.S. Global Change

Research Program assessments. This would enable the DEIS to identify potential impacts that may be exacerbated by climate change (e.g., reclamation could become more difficult with climate change, or the impacts of water consumption could increase). It would also enable BLM to determine whether it may be appropriate to consider reasonable alternatives to “adapt” the Projects to anticipated climate change.

(4) Environmental Justice

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” applies to federal agencies that conduct activities that substantially affect human health or the environment. Consistent with this order, the EPA recommends the NEPA analysis for the Utility Corridor Project and South Project include the following:

- Identification of any minority, low-income and tribal communities within the geographic scope of the impact area, including the sources of data and a description of the methodology and criteria utilized. The EPA recommends comparing census block group percentages (if available, or, at a minimum, census tract data) for below poverty and minority populations with the state average, and conducting the following steps if a block group percentage is greater than the state average. The EPA does not recommend use of higher thresholds.
- Perform a detailed assessment of environmental justice and other socioeconomic concerns for any environmental justice communities, to the extent information is available, including:
 - A discussion of the potential direct, indirect and cumulative environmental impacts of mineral development on the health of these communities, including air quality and water quality and quantity impacts.
 - An evaluation of the socio-economic impacts to the local communities, including the potential for any additional loading placed on local communities’ abilities to provide necessary public services and amenities.
 - A determination of whether there may be disproportionately high and adverse impacts, including cumulative impacts, on the identified communities.
- Mitigation measures to reduce any disproportionate adverse impacts. We recommend involving the affected communities in developing the measures. The EPA recognizes the need for early involvement of the local communities, and supports the meaningful participation of community representatives in the NEPA process.

(5) Mitigation and Control Measures

It would be helpful to include a section in the EIS that summarizes all of the mitigation and control measures that will be implemented for the Utility Corridor Project and are available for the South Project. We recommend including the following key information:

- Whether or not implementation of the measure is required by the BLM or any other governmental entity;
- What entity will be implementing the measure;
- All necessary permits, including mining and reclamation permits, water permits, and air permits.

Closing

Thank you for the opportunity to participate in the scoping process for the Enefit Utility Corridor Project EIS. As a cooperating agency with the BLM on this EIS, the EPA hopes to work closely with the BLM on preparation of the EIS and to assist with the development of an analysis which will adequately address potential environmental impacts and identify appropriate mitigation measures. If you have any questions about our comments, please contact me at (303) 312-6925. You may also contact Molly Vaughan, lead reviewer for this project, at (303) 312-6577 or by email at vaughan.molly@epa.gov.

Sincerely,



Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation



