



May 12, 2017

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Ms. Anita Bilbao, Associate State Director
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Re: BLM Must Evaluate in a Single EIS Enefit's Rights-of-Way Applications and Utah's In Lieu Selection of a Parcel Surrounded by Enefit Lands

Dear Mr. Roberson and Ms. Bilbao:

The Bureau of Land Management (BLM) is currently reviewing two proposals, either sponsored by or pressed for by Enefit American Oil (Enefit), that are located adjacent to one another and that have the same purpose: facilitating Enefit's development of an oil shale mining and refining operation on the company's private land.

On behalf of Southern Utah Wilderness Alliance, Grand Canyon Trust, Western Resource Advocates, Center for Biological Diversity, Natural Resources Defense Council, Sierra Club and the Sierra Club's Utah Chapter, we write to urge you to comply with the National Environmental Policy Act (NEPA) by analyzing these two projects together in a single environmental impact statement (EIS).

Earlier this year, we became aware that the state of Utah had submitted to BLM an application for in lieu selection for a parcel of BLM land surrounded by land owned by Enefit. BLM is currently reviewing the State's proposal. The moving force behind the application is Enefit, which hopes state ownership will make it easier for the company to mine oil shale on some or all of the parcel.

BLM's review of this proposal is occurring at the same time as its review of Enefit's application for rights-of-way to facilitate oil shale mining and processing on private land directly adjacent to the parcel the state of Utah seeks to obtain title to. The proposed rights-of-way will impact BLM lands in close proximity to the in-lieu parcel Utah seeks to acquire.

The purpose of both proposals is the same: to facilitate Enefit's South Project. The two proposals are therefore "interdependent parts of a larger action and depend on the larger action for their justification." 40 C.F.R. § 1508.25(a)(1)(iii). They will also cumulatively have significant impacts on related or the same resources. *Id.* § 1508.25(a)(2). They are also "similar actions" that involve common timing and geography. *Id.* § 1508.25(a)(3). For these reasons, the two actions meet NEPA's definition of both "connected actions" and "cumulative actions" that must be addressed in a single EIS.

We therefore respectfully request that BLM address both actions together in the same EIS. The most efficient way to accomplish this required outcome would be to issue a supplemental draft EIS on the rights-of-way project that, for the first time, would address the potential impacts of the two projects together.

I. NEPA REQUIRES AGENCIES TO ADDRESS “CONNECTED,” “CUMULATIVE” AND “SIMILAR” ACTIONS IN A SINGLE NEPA DOCUMENT.

A. NEPA Requires Agencies to Address “Connected Actions” in a Single NEPA Document.

Regulations implementing NEPA define “connected actions” as those that “are closely related and therefore should be discussed in the same impact statement.” 40 C.F.R. § 1508.25(a)(1). Actions are connected if they “[a]re interdependent parts of a larger action and depend on the larger action for their justification.” *Id.* § 1508.25(a)(1)(iii).¹ Further, “[p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.” *Id.* § 1502.4(a).

An agency must consider all “connected actions” in a single EIS. *Great Basin Mine Watch v. Hankins*, 456 F. 3d 955, 968-69 (9th Cir. 2006). *See also Kleppe v. Sierra Club*, 427 U.S. 390, 399 (1976) (a single environmental review document is required for distinct projects when there is a single proposal governing the projects); *Alpine Lakes Prot. Soc’y v. U.S. Forest Serv.*, 838 F. Supp. 478, 482 (D. Wash. 1993) (“In its use of the word ‘shall,’ 40 C.F.R. § 1508.25 makes mandatory the consideration of connected, cumulative, and similar actions by an agency when determining the scope of an EIS.”); *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 998 (9th Cir. 2004) (“[p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement”); *Utahns for Better Transp. v. United States Dep’t of Transp.*, 305 F.3d 1152, 1182 (10th Cir. 2002), modified in part on other grounds, 319 F.3d 1207 (2003). The “purpose of this requirement is to prevent an agency from dividing a project into multiple actions, each of which individually has an insignificant environmental impact, but which collectively have a substantial impact.” *Great Basin Mine Watch*, 456 F. 3d at 969 (quotation marks omitted).

The Tenth Circuit utilizes an “independent utility test in which it concludes that projects that have independent utility are not connected actions under 40 C.F.R. § 1508.25(a)(1)(iii).” *Citizens’ Comm. to Save Our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1029 (10th Cir. 2002) (citations & quotations omitted). Where projects are interdependent, they must be reviewed together. *Id.* at 1028; *see also Thomas v. Peterson*, 753 F.2d 754, 758-59 (9th Cir. 1985) (finding agency must analyze road construction project and timber sales together because “[i]t is clear that the timber sales cannot proceed without the road, and the road would not be

¹ CEQ regulations provide three definitions of connected actions, of which the “interdependent parts” definition is one. The three definitions are to be read disjunctively. *See Blue Ocean Pres. Soc. v. Watkins*, 754 F. Supp. 1450, 1457 (D. Haw. 1991) (“The case law interpretations of the regulation have been consistent with this, having treated the separate subsections as sufficient conditions, not necessary conditions.”).

built but for the contemplated timber sales.”). The Ninth Circuit has required the Forest Service to prepare a single EIS for multiple post-fire timber sales that were planned in response to the same fire and located in the same watershed. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1214-15 (9th Cir. 1998).

B. NEPA Requires Agencies to Address “Cumulative Actions” in a Single NEPA Document.

NEPA regulations further require that agencies “shall” consider in a single EIS “[c]umulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.” 40 C.F.R. § 1508.25(a)(2). “[C]umulative actions must be considered together to prevent an agency from dividing a project into multiple actions, each of which individually has an insignificant environmental impact, but which collectively has a substantial impact.” *Wetlands Action Network v. United States Army Corps of Eng’rs*, 222 F.3d 1105, 1118 (9th Cir. 2000) (internal quotations omitted). Courts have held that “where several foreseeable similar projects in a geographical region have a cumulative impact, they should be evaluated in a single EIS.” *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1312 (9th Cir. 2001). *See also N. C. Alliance for Transp. Reform, Inc. v. U.S. Dep’t of Transp.*, 151 F. Supp. 2d 661, 684-85 (D. N.C. 2001) (ordering agency to consider in a single EIS two separate halves of a highway beltway proposal, because the two will have cumulative impacts); *Wash. Trails Ass’n v. U.S. Forest Serv.*, 935 F. Supp. 1117, 1122 (W.D. Wash. 1996) (finding agency violated NEPA when it failed to consider in a single EIS multiple proposed actions involving trails that could connect).

C. NEPA Encourages Agencies to Address “Similar Actions” in a Single NEPA Document.

NEPA regulations mandate that in evaluating the scope of an EIS, agencies “shall consider” “[s]imilar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.” 40 C.F.R. § 1508.25(a)(3).

II. ENEFIT’S PROPOSED RIGHTS-OF-WAY AND THE IN LIEU SELECTION ARE “CONNECTED ACTIONS,” “CUMULATIVE ACTIONS” AND “SIMILAR ACTIONS” THAT MUST BE ADDRESSED IN THE SAME EIS.

A. Enefit’s Proposed Rights-of-Way.

In 2012 and 2013, Enefit American Oil submitted applications to BLM seeking authorization to construct and operate 19 miles of water supply pipeline, 9 miles of natural gas supply pipeline, 11 miles of oil product line, 30 miles of single or dual overhead 138-kilovolt (kV) H-frame powerlines, and 6 miles of Dragon Road upgrade and pavement across BLM- and State-administered lands managed by the BLM Vernal Field Office. BLM, Draft Environmental Impact Statement for the Enefit American Oil Utility Corridor Project (April 2016) at ES-1

(Utility Project DEIS).² “The Utility Project area is located in the southern portion of Township 8-10 South, Range 24-25 East, Salt Lake Meridian, in Uintah County, Utah, approximately 12 miles southeast of Bonanza, Utah.” *Id.*

The purpose of the rights-of-way is to facilitate the construction of a massive mining and oil shale processing facility on thousands of acres of land owned by Enefit. The Utility Project would allow access to utilities and move processed oil from Enefit’s South Project. “The South Project is a non-federal connected action and would include development of a 7,000- to 9,000-acre commercial oil shale mining, retorting, and upgrading operation in Uintah County. The South Project is anticipated to produce 50,000 barrels of oil per day at full build out for a period of up to 30 years utilizing oil shale ore rock mined from Enefit’s private property holdings.” Utility Project DEIS at ES-1.

The rights-of-way will impact the environment through the construction of facilities and the disturbance of habitat, soils, vegetation and other resources on BLM land adjacent to Enefit’s private property. *See generally* Utility Project DEIS, Chapter 4. The approval of the rights-of-way has the potential to “result in both direct and indirect impacts on greater sage-grouse habitat,” as well as habitat for the imperiled plants, including the White River and Graham’s penstemon. *Id.* at 4-97 (sage grouse); ES-21 – ES-22 (penstemon). The rights-of-way also have the purpose and effect of making possible Enefit’s private land development of the South Project.

The rights-of-way “Project Study Area” includes Enefit’s private land upon which the company plans to build the South Project, as well as a 440-acre, Z-shaped parcel of BLM land that is entirely surrounded by Enefit’s private land. The Z-parcel is located near the northwest corner of Township 11 South, Range 25 East, Salt Lake Meridian, in Uintah County, Utah, less than two miles to the southwest of the southern terminus of the five rights-of-way. *See* Utility Project DEIS at 1-3 (Map 1-1).

BLM initiated public scoping on the rights-of-way applications on July 1, 2013. 78 Fed. Reg. 39,313 (July 1, 2013). The agency published a draft EIS in the spring of 2016, and allowed the public 60 days to comment on the draft. 81 Fed. Reg. 20,671 (April 8, 2016). BLM has not yet completed a final EIS on the project. The project is located entirely within the external boundaries of the Uintah and Ouray Reservation (a fact never once explicitly mentioned in the draft EIS).

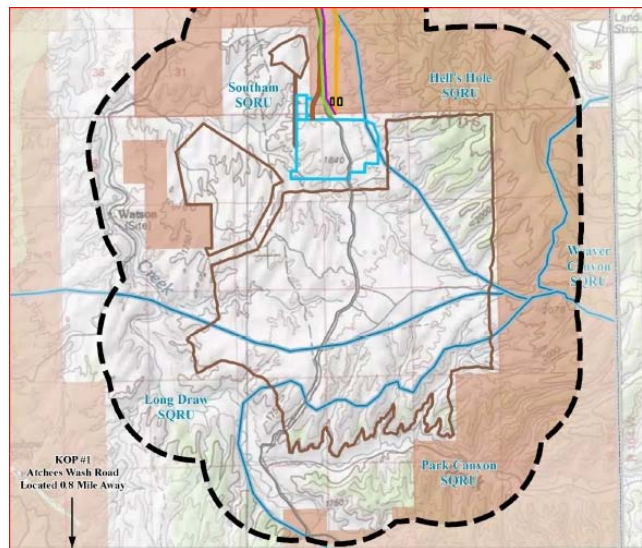
B. The State of Utah’s In-Lieu Selection of the Z-Parcel.

On August 29, 2013, the state of Utah filed with BLM a “Petition for Classification/State Application for Indemnity Selection” for the 440-acre Z-parcel of BLM land that is completely surrounded by Enefit’s private property. The State is seeking ownership of this parcel at the behest of Enefit, to which the State intends to lease the land for oil shale mining as part of Enefit’s operation for the South Project.

² Available at https://eplanning.blm.gov/epl-front-office/projects/nepa/37462/71941/78940/Enefit_American_Oil_Utility_Corridor_Project_Draft_EIS.pdf (last visited May 12, 2017).

In-lieu selections allow the State to obtain federal property in lieu of lands that the State was entitled to obtain at statehood. Utah was entitled to obtain 4 sections (mile square parcels) for each township (6 mile by 6 mile squares) of federal land, but some of the lands the state was entitled to were already held in federal “reservations” (including tribal reservations and military posts) or were otherwise unavailable. To make up for this deficit, federal law and regulations permit the State to “select” a parcel of federal lands (with some restrictions) of equal value. 43 U.S.C. §§ 851, 852; 43 C.F.R. Part 2621.

The BLM parcel that the State has proposed to select is the Z-shaped beige area on the upper left of the map below. The white area is Enefit’s private land.



Map 1. From Map A-9b, BLM, Draft EIS, Enefit Right of Way Project (2016). Dark beige indicates BLM-owned land. Dark brown lines indicate Enefit’s mine site area. The dotted black line is the utility right-of-way “project study area.”

Despite the fact that the state of Utah submitted its application for selection of the Z-parcel more than two years before preparation of the Enefit Utility Corridor Project draft EIS, the draft nowhere mentions Utah’s proposal to take title to the Z-parcel.

Rather than analyze the in-lieu selection project in the Utility Project DEIS, BLM has decided to analyze it as a separate and distinct project under NEPA. *See generally* BLM, Proposed Classification of Public Lands for State Indemnity Selection (IL 333) Surface and Mineral Estate, DOI-BLM-UT-G010-2014-0142-EA, available at <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=39206> (last viewed May 12, 2017). BLM staff indicated that the agency may release an EA in the summer of 2017, while the BLM is still considering Enefit’s rights-of-way applications.

1. The Purpose of the State’s Selection of the Z-Parcel Is to Facilitate Oil Shale Development as Part of the South Project.

As with the applications for rights-of-way, Enefit is the driving force behind Utah’s selection of the parcel. Records show that SITLA is working with, and at the behest of, Enefit in attempting to transfer the land from BLM to Utah so that the state can lease the land to Enefit for oil shale

mining as part of the company's South Project. Over a four-year period, Enefit repeatedly contacted SITLA staff to pressure BLM to move forward with the in-lieu selection process.

Enefit and SITLA repeatedly refer to the parcel's selection as part of Enefit's mine plan. Enefit GIS data from 2013 identify the Z-parcel as part of Enefit's 'preliminary mine site area.' Comparing the map below with that published in the 2016 rights-of-way EIS shows that the EIS map omits from the proposed mine site the southeast portion of Z-parcel Enefit identified in 2013 as part of the mine site.



Map 2. From admin. record, *Rocky Mountain Wild v. Walsh*, 1:15-cv-00615-WJM (D. Colo.), page 27,042. Light purple areas are labeled "EAO_PrelimMineSiteArea_04082013." Note mine site overlap with the Z-parcel, not shown in Map 1.

Enefit staff refer to SITLA's acquisition of the parcel as "part of our project" and part of "our mine plan."³ SITLA staff, in a memo explaining the in-lieu selection to the agency's board,

³ E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 6, 2016 1:13 PM) [SITLA GRAMA production at page D208-036] ("Just wanted to let you know that I will meet with the [Utah congressional] delegation in DC this week and will mention the Z parcel *as part of our project update*" (emphasis added)) (attached as Ex. 1); E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 13, 2016 10:39 AM) [SITLA GRAMA production D208-037] (discussing PowerPoint Hrenko-Browning will present to SITLA's board, stating "I will present Enefit, our activities, *and how the Z parcel fits into our mine plan...*" (emphasis added)) (attached as Ex. 2); E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 16, 2016 4:47 PM) [SITLA GRAMA production page D208-038] (complaining about BLM's unwillingness to accept certain parcels for mitigation, and stating "[I]ets [sic] make a decision after the BLM call, but try to keep moving forward *so that we have some hope of being able to include this parcel in our mine plan* (or at least can make an informed decision to remove it in a timely manner." (emphasis added)) (attached as Ex. 3); E-mail of J. Andrews, SITLA to J. Lekas, *et al.*, SITLA Board (May 11, 2016 5:02 PM) [SITLA GRAMA production page D208-

make clear that the in-lieu selection is meant to further Enefit's South Project mining operation, the same purpose as the rights-of-way:

Continued BLM ownership of the parcel would negatively impact the efficiency [sic] of [Enefit's] mine plan. [Enefit] approached SITLA about acquiring this parcel (called the "Z Parcel" due to its shape) so that it could be leased by [Enefit] to support its mining operation....

SITLA selected the Z Parcel because of its ability to support a mining project that includes other SITLA lands (see map); the ability to sell the surface to [Enefit] for cash; and the opportunity to acquire an estimated 49.3 million barrels of kerogen at what we believe will be a low cost to the trust.⁴

BLM also understands that the in-lieu parcel's selection is related to oil shale development because SITLA has told BLM as much. In a 2015 e-mail exchange, BLM assumes that the purpose of the parcel's selection is to facilitate oil shale production, but asks SITLA to provide more detail.⁵ In response, SITLA describes the in-lieu selection's purpose as related to mining on Enefit's private parcel, and tied to the proposed rights-of-way.

BLM needs to know what SITLA is planning to do with the property once we acquire it. You can basically use the following: "Upon acquisition of the subject property, SITLA intends to lease it to Enefit American Oil (EAO) for long-term future mineral development and ancillary surfaces uses, subject to terms and conditions provided by mine plan approvals issued by Utah DOGM, *and consistent with proposed operations plans submitted by EAO to BLM in*

047] ("The memo and attachments relate to a proposed in-lieu selection *associated with Enefit's oil shale proposal in Uintah County.*" (emphasis added)) (attached as Ex. 4).

⁴ Memo of John Andrews, SITLA to Land Exchange Committee & SITLA Board of Trustees (May 11, 2016) [SITLA GRAMA production pages D208-048-49] (attached as Ex. 5).

⁵ E-mail of R. Rymerson, BLM to J. Andrews, SITLA (Aug. 26, 2015 5:30 PM) [SITLA GRAMA production page D208-0115] ("Our NEPA team does not have an actual proposal from SITLA. We do have a one page description created by the BLM that summarizes what we think is the proposal but nothing definitive from SITLA. The EA assumes that certain resources will be impacted because the land will eventually become part of the oil shale development. If this is true, the EA is essentially complete but we need a proposal from SITLA stating this intent and including some details as to development, etc. If this is not the intent of SITLA for the parcel, we need to know what is reasonably foreseeable as intended use so the EA reflects those (potentially different) impacts to resources on the parcel.") (attached as Ex. 6). *See also* E-mail of L. Hunsaker, Utah to C. Cox, BLM (May 20, 2014) [SITLA GRAMA production page D208-0133] (State of Utah official telling BLM staffer characterizing the in-lieu selection: "its [sic] an oil shale transfer") (attached as Ex. 7).

connection with pending ROW approvals.” - or something like that. I assume you all know Enefit’s general plan, and I would just paste that in.⁶

2. The Environmental Impacts of the State’s Selection of the Z-Parcel May Include Harm to Imperiled Wildlife and Plants.

Enefit’s private property contains occupied habitat for several imperiled plants, including the White River and Graham’s penstemon, within 1-3 miles of the Z-parcel. *See* Utility Project DEIS, Appendix A, Map A-5b. The newspaper advertisement making public Utah’s selection of the Z-parcel stated:

Two issues taken under consideration in this proposed classification are the potential effects from this action to (1) the greater sage grouse (*Centrocercus urophasianus*) habitat, and (2) Graham’s beardtongue (*Penstemon grahamii*) and White River beardtongue (*Penstemon scariosus* var *albifluvis*) habitat.

Vernal Express, Legal Notice, Proposed Classification of Public Lands for State Indemnity Selection (IL 333) UTU-9009 (May 13, 2014) (attached as Ex. 9).

Penstemon. The 2014 newspaper notice explains:

Regarding the impacts on the beardtongue range, approximately 6.9 acres of the land located in the southwest corner of the In Lieu Parcel is currently proposed as critical habitat for the White River beardtongue. This represents less than one-tenth of a percent (0.1%) of the total critical habitat proposed for the White River beardtongue. No critical habitat for Graham’s beardtongues is proposed on the In Lieu Parcel. Although neither Graham’s nor White River beardtongues are currently known to occur within the In Lieu parcel, this parcel contains potential habitat for both species and should be surveyed prior to disposal to confirm[] species’ presence or absence. In addition, the BLM is currently a partner in developing a conservation agreement for both of these species. The BLM will further examine these issues through the public review process. Consultation with the USFWS will occur in conjunction with the NEPA process prior to a final classification decision.

Id. BLM’s November 2016 checklist of tasks necessary before the parcel can be transferred confirms that: “beardtongue surveys will need to be conducted during the flowering period which begins in May [2017].” BLM, In-Lieu (Indemnity) Selection Process, Processing Steps (Nov. 2, 2016) at 2 [SITLA GRAMA production page D208-010 – 011] (attached as Ex. 10).

Greater Sage-Grouse. The Z-parcel includes habitat for sage grouse that would be degraded or eliminated by planned oil shale development. BLM apparently delayed the initial environmental review of the selection process until the completion of the sage grouse RMP amendments

⁶ E-mail of J. Andrews, SITLA to R. Rymerson, BLM (Aug. 26, 2015 6:18 PM) [SITLA GRAMA production page D208-0116] (emphasis added) (attached as Ex. 8).

because the parcel includes sage grouse habitat.⁷ For example, a Utah Division of Wildlife Resources biologist has suspected the existence of a lek on the Z-parcel.⁸

Further, the sage grouse amendments to the applicable resource management plan (RMP) for the area designate the Z-parcel as “GHMA” (general habitat management area), which means that BLM must retain the property unless certain conditions are met. Specifically, “Lands classified as ... GHMA ... will be retained in federal management unless: (1) the agency can demonstrate that disposal of the lands, including land exchanges, will provide a net conservation gain to the [greater sage grouse] or (2) the agency can demonstrate that the disposal of the lands, including land exchanges, will have no direct or indirect adverse impact on conservation of the [greater sage-grouse].” BLM, Approved Resource Management Plan Amendment, Utah Sage Grouse (Sep. 2015) at 2-35.⁹ Any transfer of the Z-parcel to SITLA would have to comply with this RMP provision to mitigate the impacts due to the loss of sage grouse habitat.

C. The Two Proposals Are Connected Actions.

The rights-of-way applications and the transfer of the Z-parcel to the state of Utah are “interdependent parts of a larger action and depend on the larger action for their justification.” 40 C.F.R. § 1508.25(a)(1)(iii). Both of the proposals are a part of Enefit’s proposed South Project, and both depend upon the South Project for their justification. Enefit proposed the rights-of-way to facilitate its oil shale strip mining and processing facility; the company considers the parcel to be part of its mine plan; and the company is the moving force behind SITLA’s application for the Z-parcel, because the company intends to mine at least part of the parcel.

Enefit has recognized that the rights-of-way project are interrelated and interdependent, which led the company to express concern that the two NEPA processes may be “confuse[d]” by BLM.¹⁰ In one e-mail to SITLA, an Enefit staffer discloses that Enefit does not want BLM’s

⁷ E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit (Aug. 1, 2014 2:24 PM) [SITLA GRAMA production page D208-126] (“I received a call earlier in the week from Vicki Wood, BLM Vernal (435-781-4472). She indicated that word had come down from the State Office that because the selection is sage grouse habitat, the [in-lieu selection] EA should not be completed until the Sage Grouse RMP EIS was completed....”) (attached as Ex. 11).

⁸ E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit (Mar. 10, 2016 4:35 PM) [SITLA GRAMA production page D208-0062] (attached as Ex. 12). In this e-mail, Mr. Andrews quotes a UDWR biologist who has suspicions that the Z-parcel is occupied grouse habitat: “The ‘in lieu’ section of BLM land is an area where I suspected a lek for several years. We documented grouse use in late winter and early spring along the ridge that cuts through the piece. However, we never saw males strut but only observed them in the area. This area is good winter habitat with Wyoming sagebrush on the ridgelines.” *Id.*

⁹ Available at https://eplanning.blm.gov/epl-front-office/projects/lup/68351/87600/104856/Utah_ARMPA.pdf (last viewed May 12, 2017).

¹⁰ *See, e.g.*, E-mail R. Clerico, Enefit to J. Andrews, SITLA (Feb. 21, 2017 3:39 PM) [SITLA GRAMA production, pages D208-0007-0008] (“[H]ave you heard anything further from Brandon [Johnson at BLM]? I was in a meeting with him last week on our Utility Corridor EIS

review of the in-lieu parcel to slow down the federal agency's review of Enefit's rights-of-way, despite the fact that both relate to mining oil shale for the South Project.

In reading through the email chain [between SITLA and BLM], I see your suggested language for the BLM's proposed action for the [in-lieu selection] EA. While we greatly appreciate SITLA's intent regarding leasing of the Z-parcel to Enefit and are eager to move through the process as quickly as possible, *I also want to be sure that BLM doesn't confuse or mix together the ongoing EIS for our Utility Corridor Project with the SITLA In Lieu Selection EA and associated potential future mine activities on Enefit South.* We have provided BLM with a detailed plan of development for the utilities that would be crossing their land, as well as a preliminary description of the private-land activities (the South Project) for their connected action analysis in our ongoing EIS. I believe [BLM staff] are aware that we haven't submitted a formal mine plan to them (nor are we going to, since it's outside of their decision-making capacity under the utility EIS), but in case it comes up on your call [with BLM], I just wanted you to be aware.

Our Draft EIS [for the rights-of-way] is due to be out for public comment this fall, so we want to be sure this EA/land swap doesn't give BLM or others a reason to delay to the utility corridor NEPA. I certainly don't want to delay the EA or any forward progress on this, but rather *want to be sure to keep the BLM/SITLA EA action and the Enefit utility EIS action separate.*¹¹

In short, Enefit understands how interrelated and interdependent the two BLM actions are; the company's basis for urging that they be analyzed in two NEPA documents rather than one is that such an analysis might "delay" BLM's approval of one or the other decision. That is not a valid basis for BLM to separate analysis of the two projects that are without question "interdependent parts of a larger action."

Further, BLM staff initially expressed interest in understanding how the rights-of-way and in-lieu selection related to one another.¹² It is unclear why BLM apparently concluded that the two projects need not be analyzed together, as NEPA regulations require. See 40 C.F.R. § 1508.25(a)(1).

and was going to ask him about it [the in-lieu selection], but I didn't want him to confuse the two issues.") (attached as Ex. 13); E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (Feb. 9, 2016 9:32 AM) [SITLA GRAMA production page D208-0102] ("I was in DC yesterday for meetings with the BLM regarding the EIS. Linda [Lance?] did bring up the indemnity selection. We only discussed very briefly (*as I am not eager to have this issue further complicate/delay the EIS*), but clearly it is on her radar." (emphasis added)) (attached as Ex. 14).

¹¹ E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (Sep. 4, 2015 7:04 AM) [SITLA GRAMA production page D208-0119] (emphases added) (attached as Ex. 15).

¹² See E-mail of M. DeKeyrel, BLM State Office to J. Andrews, SITLA (Sep. 23, 2013 1:56 PM) [SITLA GRAMA production page D208-147] ("I know that there is an EIS process beginning for the Enefit ROW corridor project, so the Vernal Field Office will need to see how this [the in-lieu selection] relates NEPA-wise.") (attached as Ex. 16).

It is clear, however, that because the two proposals are “connected actions,” they must be reviewed in the same EIS.

D. The Two Proposals Are Cumulative Actions.

Because the rights-of-way and the in-lieu selection are both proposed actions which, when viewed together are likely to have cumulatively significant impacts, they “should therefore be discussed in the same impact statement” as cumulative actions. 40 C.F.R. § 1508.25(a)(2). The two proposals will occur in close proximity to one another. They are each being evaluated by BLM at the same time. They will impact similar soils, vegetation, habitat and wildlife populations. Each is being pushed by the same private applicant to facilitate and make possible that same private development. They will therefore have cumulative effects that may be significant, and therefore must be evaluated in a single EIS.

E. The Two Proposals Are Similar Actions.

The two proposed actions share numerous similarities including “common timing and geography.” *See* 40 C.F.R. § 1508.25(a)(3). As noted above, BLM is evaluating both projects at the same time; both projects are part of Enefit’s plan to develop the same parcel of private land during the same period; both projects involve wildlife and plant habitats across the same geographic landscape. The best way for BLM to proceed is “to treat them in a single impact statement.” *Id.* *See also San Juan Citizens’ Alliance v. Salazar*, 2009 WL 824410 at * (D. Colo. 2009) (holding that agencies must determine whether projects are “similar actions” by considering “the extent of the interrelationship among proposed actions and practical considerations of feasibility”) (citing *Kleppe v. Sierra Club*, 427 U.S. at 411). BLM therefore should evaluate the two projects in a single EIS.¹³

III. BLM SHOULD ADDRESS THE TWO PROPOSALS IN A SUPPLEMENTAL DRAFT EIS.

The most efficient way for BLM to comply with NEPA’s mandate that the rights-of-way and the transfer of the Z-parcel be addressed as connected and/or cumulative actions in a single EIS

¹³ Even if BLM concludes that it need not analyze Enefit’s proposed rights-of-way and the in-lieu selection in the same EIS, BLM must disclose the cumulative impacts of the two projects in the rights-of-way EIS. Even if actions are not “connected” or “cumulative,” and thus need not be evaluated in a single EIS, agencies have a duty to evaluate three types of impacts of a federal action: direct, indirect, and cumulative. *Colo. Envtl. Coal. v. Dombeck*, 185 F.3d 1162, 1176 (10th Cir. 1999); 40 C.F.R. § 1508.25(c). Cumulative impacts are “the impact[s] on the environment which result[] 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.” 40 C.F.R. § 1508.7. The in-lieu selection proposal is a reasonably foreseeable action that may impact cumulatively the values of the rights-of-way project area, when taken together with the impacts of the proposed rights-of-way. But the rights-of-way draft EIS nowhere mentions or describes the transfer of the Z-parcel to the State of Utah to facilitate oil shale mining, or the potential impacts of that transfer, violating NEPA.

would be for the agency to issue a supplement to its draft EIS for the rights-of-way proposal which addresses as well the in-lieu selection application.

We urge BLM to notify the public promptly that it intends to issue such a draft supplemental EIS. This will also assist BLM in addressing the other deficiencies identified by the undersigned, as well as the Environmental Protection Agency and others, in comments on the rights-of-way draft EIS.

Thank you for your attention to this matter. Please contact Mr. Zukoski at (303) 996-9622 or tzukoski@earthjustice.org if you have any questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Zukoski', with a stylized flourish at the end.

Edward B. Zukoski, Staff Attorney
Attorney for Grand Canyon Trust

Landon Newell, Staff Attorney
Southern Utah Wilderness Alliance

Amber Reimondo, Energy Program Director
Grand Canyon Trust

Rob Dubuc, Consulting Senior Counsel
Western Resource Advocates

Taylor McKinnon, Public Lands Campaigner
Center for Biological Diversity

Bobby McEnaney, Senior Deputy Director, Western Renewable Energy Project
Natural Resources Defense Council

Elly Benson, Staff Attorney, Environmental Law Program
Sierra Club

Amy Mills, Conservation Committee Co-Chair
Sierra Club - Utah Chapter

cc: Ester McCollough, Field Manager, BLM Vernal Field Office

TABLE OF EXHIBITS

- Exhibit 1. E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 6, 2016 1:13 PM)
- Exhibit 2. E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 13, 2016 10:39 AM)
- Exhibit 3. E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (June 16, 2016 4:47 PM)
- Exhibit 4. E-mail of J. Andrews, SITLA to J. Lekas, et al., SITLA Board (May 11, 2016 5:02 PM)
- Exhibit 5. Memo of John Andrews, SITLA to Land Exchange Committee & SITLA Board of Trustees (May 11, 2016)
- Exhibit 6. E-mail of R. Rymerson, BLM to J. Andrews, SITLA (Aug. 26, 2015 5:30 PM)
- Exhibit 7. E-mail of L. Hunsaker, Utah to C. Cox, BLM (May 20, 2014)
- Exhibit 8. E-mail of J. Andrews, SITLA to R. Rymerson, BLM (Aug. 26, 2015 6:18 PM)
- Exhibit 9. Vernal Express, Legal Notice, Proposed Classification of Public Lands for State Indemnity Selection (IL 333) UTU-9009 (May 13, 2014)
- Exhibit 10. BLM, In-Lieu (Indemnity) Selection Process, Processing Steps (Nov. 2, 2016)
- Exhibit 11. E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit (Aug. 1, 2014 2:24 PM)
- Exhibit 12. E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit (Mar. 10, 2016 4:35 PM)
- Exhibit 13. E-mail R. Clerico, Enefit to J. Andrews, SITLA (Feb. 21, 2017 3:39 PM)
- Exhibit 14. E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (Feb. 9, 2016 9:32 AM)
- Exhibit 15. E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA (Sep. 4, 2015 7:04 AM)
- Exhibit 16. E-mail of M. DeKeyrel, BLM State Office to J. Andrews, SITLA (Sep. 23, 2013 1:56 PM)

EXHIBIT 1

*E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA
(June 6, 2016 1:13 PM)*

John Andrews <jandrews@utah.gov>

Thu, Jun 2, 2016 at 1:08 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Rikki;

The Board held its' agenda setting call this morning. I am out of town, but will be in the office tomorrow and find out then...

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Mon, Jun 6, 2016 at 1:13 PM

To: John Andrews <jandrews@utah.gov>

Hi John,

Just wanted to let you know that I will meet with the delegation in DC this week and will mention the Z parcel as part of our project update.

I hope that BLM has now completed their field inspection such that you can agree the mitigation parcel with them and we can move forward with the valuation on the Z parcel.

Thanks!

Rikki

From: John Andrews <jandrews@utah.gov>

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Date: 06/02/2016 01:08 PM

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Mon, Jun 6, 2016 at 1:21 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

That's good. I haven't heard from BLM, but will call. On June 16, come by for our Board meeting about 9:30 am. If you have a powerpoint, please send it along and we will pre-load it on the Board computer. Thanks.

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Thu, Jun 9, 2016 at 6:06 AM

To: John Andrews <jandrews@utah.gov>

Hi John,

Any update from BLM?

I'll plan on the 16th and will send you slides early next week.

Thanks,

Rikki

Sent from my iPhone

[Quoted text hidden]



EXHIBIT 2

*E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA
(June 13, 2016 10:39 AM)*

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Mon, Jun 13, 2016 at 10:39 AM

To: jandrews@utah.gov

Hi John,

Please find a link to the slides for the meeting on the 16th - let me know if you have any problems downloading (too large of a file to send as an attachment).

http://www8.energia.ee/filesshare/files/0686d51e/EAO_SITLABoardMeeting_June162016_ZParcel.pptx

There are 3 main slides to talk to - the rest for backup visuals in case there are questions. I will present Enefit, our activities, and how the Z parcel fits into our mine plan. As previously discussed, I understand that you will explain the in-lieu selection process, need for mitigation parcels (and potential locations), etc.

Note: slides contain confidential business information and should not be made publicly available.

Thanks!

Rikki

— Forwarded by Rikki Lauren Hrenko-Browning/Energia on 06/13/2016 09:54 AM —

From: Rikki Lauren Hrenko-Browning/Energia

To: "John Andrews" <jandrews@utah.gov>

Date: 06/09/2016 06:06 AM

Subject: Re: SITLA In Lieu Selection

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Wed, Jun 15, 2016 at 3:32 PM

To: John Andrews <jandrews@utah.gov>

Hi John,

I'll plan on seeing you tomorrow around 9:30 for the board meeting - I assume it is in the 6th floor conference room? Please also confirm that you received the slides that I sent on the 13th.

Thanks,

Rikki

From: John Andrews <jandrews@utah.gov>

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Date: 06/06/2016 01:21 PM

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Wed, Jun 15, 2016 at 3:38 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Yes, see you then and there. I did receive the slides, and will have them loaded. I tried to send you something I received from BLM that complicates things somewhat, but it was too large a file. I will have a printed version tomorrow. See you then.

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Thu, Jun 16, 2016 at 4:27 PM

To: John Andrews <jandrews@utah.gov>

Thanks for the support today John.

You mentioned scheduling a call with BLM about a reality check on the mitigation parcel selection. I would like to

EXHIBIT 3

*E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA
(June 16, 2016 4:47 PM)*

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Mon, Jun 13, 2016 at 10:39 AM

To: jandrews@utah.gov

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There are 3 main slides to talk to - the rest for backup visuals in case there are questions. I will present Enefit, our activities, and how the Z parcel fits into our mine plan. As previously discussed, I understand that you will explain the in-lieu selection process, need for mitigation parcels (and potential locations), etc.

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Thanks!

Rikki

— Forwarded by Rikki Lauren Hrenko-Browning/Energia on 06/13/2016 09:54 AM —

From: Rikki Lauren Hrenko-Browning/Energia

To: "John Andrews" <jandrews@utah.gov>

Date: 06/09/2016 06:06 AM

Subject: Re: SITLA In Lieu Selection

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Wed, Jun 15, 2016 at 3:32 PM

To: John Andrews <jandrews@utah.gov>

Hi John,

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Thanks,

Rikki

From: John Andrews <jandrews@utah.gov>

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Date: 06/06/2016 01:21 PM

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Wed, Jun 15, 2016 at 3:38 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Yes, see you then and there. I did receive the slides, and will have them loaded. I tried to send you something I received from BLM that complicates things somewhat, but it was too large a file. I will have a printed version tomorrow. See you then.

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Thu, Jun 16, 2016 at 4:27 PM

To: John Andrews <jandrews@utah.gov>

Thanks for the support today John.

You mentioned scheduling a call with BLM about a reality check on the mitigation parcel selection. I would like to

participate in that discussion and hear their justification for not approving any of the other priority habitat parcels you suggested.

If they are ignoring the maps and using on the ground assessments, then we will not be willing to pay for 440 acres of mitigation. We have 3rd party surveys showing no birds or leks and stating that the habitat in the area is low quality....BLM needs to understand that the approach needs to be consistent on both sides. If simply paying into a UDWR mitigation fund is easier (and I suspect you are right, also cheaper), we may indeed want to shift to this approach. Lets make a decision after the BLM call, but try to keep moving forward so that we have some hope of being able to include this parcel in our mine plan (or at least can make an informed decision to remove it in a timely manner).

Thanks,
Rikki

From: John Andrews <jandrews@utah.gov>
To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>
Date: 06/15/2016 03:38 PM
[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>
To: jandrews@utah.gov

Thu, Jun 23, 2016 at 2:22 PM

Hi John,

Just following up regarding the call with BLM. Has this been scheduled yet? As mentioned, i would like to participate.

If we are not able to come to a solution with them, lets discuss the alternatives available and select one to move forward with.

Best,
Rikki

— Forwarded by Rikki Lauren Hrenko-Browning/Energia on 06/23/2016 02:16 PM —

From: Rikki Lauren Hrenko-Browning/Energia
To: John Andrews <jandrews@utah.gov>
Date: 06/16/2016 04:27 PM
[Quoted text hidden]

EXHIBIT 4

*E-mail of J. Andrews, SITLA to J. Lekas, et al., SITLA Board
(May 11, 2016 5:02 PM)*



John Andrews <jandrews@utah.gov>

Upcoming SITLA Board Land Exchange Committee Meeting 5/16

1 message

John Andrews <jandrews@utah.gov>

Wed, May 11, 2016 at 5:02 PM

To: "lekasj@stratanet.com" <lekasj@stratanet.com>, "Thomas W. Bachtell" <utah@windrivercompanies.com>, louie cononelos <louie.cononelos@gmail.com>

Cc: David Ure <dure@utah.gov>, "Donaldson, Timothy" <Timothy.Donaldson@schools.utah.gov>

Gentlemen;

Attached please find materials relating to one of the agenda items for the upcoming SITLA Board Land Exchange Committee meeting on webex on Monday May 16 at 10 am. The memo and attachments relate to a proposed in lieu selection associated with Enefit's oil shale proposal in Uintah County, and sage grouse mitigation being required by BLM.

Please let me know of any questions in the interim.

John Andrews

John W. Andrews
Associate Director & Chief Legal Counsel
Utah School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

(801) 538-5180 (o)

(801) 538-5118 (fax)

(801) 243-8611 (mobile)

4 attachments



Enefit Board Memo 2016-5-11.pdf

18K



UintahCounty_PLI_EAO_OilShale_11x17_05112016.pdf

2579K



UintahCounty_PLI_NCA_DWR_11x17_05112016.pdf

3038K



Rymerson Letter 2015-11-3.pdf

155K

EXHIBIT 5

*Memo of John Andrews, SITLA to Land Exchange Committee & SITLA Board of
Trustees (May 11, 2016)*

MEMORANDUM

TO: Land Exchange Committee
SITLA Board of Trustees

FROM: John W. Andrews

DATE: May 11, 2016

SUBJECT: Enefit In-Lieu Selection – Mitigation Requirement

This memorandum is to provide the Board's land exchange committee with background on a pending transaction with the U.S. Bureau of Land Management (BLM) and Enefit American Oil (EAO) involving lands in Uintah County, Utah. Although not technically a land exchange, the transaction will involve issuance of a conservation easement on school trust lands north of Dinosaur National Monument near the parcels recently proposed for transfer to the Utah Division of Wildlife Resources (UDWR) by SITLA's surface group.

EAO is currently developing a large surface mine and retort for oil shale production on mostly-private lands in Uintah County near the Colorado border. Inside EAO's mine footprint is a 440 acre parcel of BLM land that has utility to EAO both for mining and for surface use. **Map – Attachment 1.** BLM regulations currently do not permit leasing of BLM lands for oil shale. Continued BLM ownership of the parcel would negatively impact the efficiency of EAO's mine plan. EAO approached SITLA about acquiring this parcel (called the "Z Parcel" due to its shape) so that it could be leased by EAO to support its mining operation. On August 29, 2013, SITLA filed an application with BLM to select the Z-Parcel as an in-lieu selection under SITLA's remaining statehood act entitlement.

By way of background, section 6 of the Utah Enabling Act provides that if the State did not receive its full entitlement to in-place school sections, for example due to a prior conveyance of the lands, the State could select replacement lands "in lieu" of the unavailable lands. In the 1980s, the former Division of State Lands & Forestry (DSL&F) agreed with BLM to convert the remaining in-lieu entitlement to a cash ledger account, against which the school trust could make selections of BLM lands. Most of the balance was expended in the 1980s, but SITLA has about \$1.5 million in remaining selection credits.

SITLA selected the Z Parcel because of its ability to support a mining project that includes other SITLA lands (see map); the ability to sell the surface to EAO for cash; and the opportunity to acquire an estimated 49.3 million barrels of kerogen at what we believe will be a low cost to the trust.

BLM went through initial processing of SITLA's selection, but subsequently halted the selection process pending completion of BLM's Land Use Plan Amendments (LUPAs) for the Greater Sage Grouse. After the LUPAs were completed, BLM informed SITLA that it could not process the selection without additional mitigation because the Z Parcel is located in mapped habitat for the

sage grouse, and the LUPAs require that there be no net loss of sage grouse habitat in any BLM realty transaction.

Enefit has indicated its willingness to buy a conservation easement from SITLA on other sage grouse habitat owned by SITLA, to be donated to BLM in satisfaction of BLM's mitigation requirements, at no cost to SITLA.

SITLA has proposed to BLM that the conservation easement be located on section 16 of Township 3 South, Range 25 East, SLB&M in Uintah County. **Letter to BLM – Attachment 2.** This school trust section is one of five sections located within an area north of Dinosaur National Monument proposed for a National Conservation Area in Rep. Rob Bishop's Public Lands Initiative (PLI). All five sections are included in SITLA's proposal for land exchange to BLM through the PLI, and are within BLM-mapped priority sage grouse habitat. **Map – Attachment 3.** Our thinking was that these lands are going to BLM for conservation at some point anyway, and that receiving some cash compensation for the conservation easement now (with a consequent reduction in exchange value later) made sense.

BLM has not yet determined if the identified section is suitable biologically, since bad weather has kept them from viewing the property this spring, but we are likely to be able to find 440 acres of habitat somewhere in the five sections that will satisfy the biologists. After that, we will still need to complete an appraisal process with the Department of the Interior's Office of Valuation Services (OVS) for the Z Parcel, and wait for BLM to complete NEPA and any environmental appeals. Towards the end of this process, we will appraise the conservation easement based on the "before and after" value of the chosen parcel, and convey the easement to BLM at EAO's cost. We do not currently have a business deal with EAO; this will have to be negotiated once we see the appraised value of the Z Parcel.

These lands are in the same vicinity as parcel A4 that the SITLA surface group proposed for disposal to UDWR (also shown on the map), so we wanted to notify the Board Land Exchange Committee of this proposed transaction. Utah Code Ann. 53C-4-303 allows the Director to make in-lieu selections; however, there is no directly applicable rule on issuance of conservation easements, so the mineral parcel and conservation easement components of this transaction will be presented as OBA items for Board approval at a subsequent Board meeting.

Uintah County has been strongly supportive of the Enefit project, and we do not believe that they will oppose any aspect of this transaction, particularly since the proposed NCA where the conservation easement will be located was approved by the county.

Please let me know if you have any questions.

JWA

Cc: David Ure
Kim Christy
Tom Faddies
Tim Donaldson

EXHIBIT 6

E-mail of R. Rymerson, BLM to J. Andrews, SITLA (Aug. 26, 2015 5:30 PM)

John Andrews

On Fri, Jun 19, 2015 at 10:48 AM, Rymerson, Richard <rrymerso@blm.gov> wrote:
[Quoted text hidden]

--

John W. Andrews
Associate Director & Chief Legal Counsel
Utah School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

(801) 538-5180 (o)
(801) 538-5118 (fax)
(801) 243-8611 (mobile)

Rymerson, Richard <rrymerso@blm.gov>
To: John Andrews <jandrews@utah.gov>
Cc: Michelle Brown <m2brown@blm.gov>

Wed, Aug 26, 2015 at 5:30 PM

Hello John,
Our NEPA team does not have an actual proposal from SITLA. We do have a one page description created by the BLM that summarizes what we think is the proposal but nothing definitive from SITLA. The EA assumes that certain resources will be impacted because the land will eventually become part of the oil shale development. If this is true, the EA is essentially complete but we need a proposal from SITLA stating this intent and including some details as to development, etc. If this is not the intent of SITLA for the parcel, we need to know what is reasonably foreseeable as intended use so the EA reflects those (potentially different) impacts to resources on the parcel.

If you would have someone provide this info, we can move forward on the EA.

Please call if you'd like to discuss...thanks!

-Rick

Richard A. Rymerson
District Manager
Green River District
170 South 500 East
Vernal, UT 84078

435.781.4401 office
435.781.4410 fax
435.776.6691 cell
rrymerso@blm.gov

[Quoted text hidden]

John Andrews <jandrews@utah.gov>
To: "Rymerson, Richard" <rrymerso@blm.gov>
Cc: Michelle Brown <m2brown@blm.gov>

Wed, Aug 26, 2015 at 6:18 PM

Rick;

SITLA's in lieu selection application was formally filed with BLM several years ago, leading to your office's issuance of a proposed classification decision which we then published. We should schedule a conference call soon, perhaps with the

EXHIBIT 7

E-mail of L. Hunsaker, Utah to C. Cox, BLM (May 20, 2014)



John Andrews <jandrews@utah.gov>

Re: SITLA Indemnity Selection

5 messages

Kenny Wintch <kennywintch@utah.gov>

Tue, May 20, 2014 at 10:28 AM

To: "Thomas, Nathan" <nthomas@blm.gov>

Cc: Lori Hunsaker <lhunsaker@utah.gov>, "Cox, Cameron" <cdcox@blm.gov>, Christopher Merritt <cmerritt@utah.gov>

Bcc: jandrews@utah.gov

Hi guys,

Thanks to Lori (especially) and Nate for their responses to Cameron's inquiry. Cam and I just spoke on the phone and we're gonna share info... Lori's guidance is spot-on, and Nate's suggestion of a previous template (i.e., similar land swap) is perfectly in line. The obvious example/template here is the Utah Recreation Land Exchange (URLE), consummated last week (as luck would have it). I am going to try and find the Sec. 106 letter that the BLM State Office sent to SHPO for Cameron's use; Nate, if I can't find it, we'll need to turn to you (to find it in the USO files). I know I have the NEPA document (EA?) for the URLE, I will get the relevant language from that to Cam, as well.

Thanks so much to all, you guys rock!!!

Sincerely,
Kenny

Kenny Wintch
Lead Staff Archaeologist
Utah Trust Lands Administration
kennywintch@utah.gov
801-538-5168 (office)
801-386-3275 (mobile)

On Tue, May 20, 2014 at 9:56 AM, Thomas, Nathan <nthomas@blm.gov> wrote:

Cameron,

it looks like Lori jumped at your question. **Do you have any other concerns?** Would it be helpful if we tracked down a similar land swap between BLM and SITLA for you to review?

I suggest beefing up your section of the land exchange documentation that demonstrates the high likelihood that historic properties will be located within these parcel to be transferred. That way you have covered your bases and the SITLA folks know what they are acquiring. I would also add a paragraph to describe SITLA's responsibilities and how they will follow a similar Section 106 pattern that will identify, evaluate and mitigate any adverse effects to historic properties. A letter to SHPO, with the APE should be written with VFO determination of effect.

On Tue, May 20, 2014 at 8:49 AM, Lori Hunsaker <lhunsaker@utah.gov> wrote:

Hi Cameron!

Hope you are doing well and not too overwhelmed these days.

As it turns out, this isn't as difficult as you might imagine ... at least the cultural side isn't. The State of Utah has a law similar to Section 106; its Utah Code 9-8-404. Its pretty basic, short, and sweet, but similar enough that it allows Federal Agencies to transfer lands with either No Adverse Effect or No Historic Properties Effected. The primary difference that will require action on your part is Tribal consultation. To date, our law does not include consultation with Tribes or the public. Tribal consultation is a must. The public could possibly be overlooked, although given that its an oil shale transfer, you may want to brain storm with Mike and possibly the Solicitor's Office.

I carbon copied Kenny Wintch and Nate Thomas on this email so that they could see my advice. Hope that helps.

Cheers,

Lori

Sent from my iPad

On May 20, 2014, at 8:36 AM, "Cox, Cameron" <cdcox@blm.gov> wrote:

Hi Lori and Chris, please see my question below. I forgot to add you to the email list. The BLM wants to transfer land to SITLA, within the oil shale development area. Looking for some suggestions/guidance. This one is new to me.

----- Forwarded message -----

From: **Cox, Cameron** <cdcox@blm.gov>

Date: Tue, May 20, 2014 at 8:31 AM

Subject: SITLA Indemnity Selection

To: Kenny Wintch <kennywintch@utah.gov>, Nathan Thomas <nthomas@blm.gov>

Hey guys,

Any ideas on what we need to do this SITLA Indemnity Selection?

A lit review, Class 1/Recon, or ???

There are currently no cultural inventories in this area.

It's right next to the historic town site of Watson and I expect there are some significant resources there. Getting pressure from management...

T. 11 S., R. 25 E., Salt Lake Meridian

sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;

sec. 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$.

Thanks

-Cameron

Cameron D. Cox
Archaeologist
Bureau of Land Management
170 South 500 East
Vernal, Utah 84078

Email: cdcox@blm.gov

Phone: 435-781-3411

Fax: 435-781-4410



BLM Utah Archaeology

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--

Cameron D. Cox
Archaeologist
Bureau of Land Management

EXHIBIT 8

E-mail of J. Andrews, SITLA to R. Rymerson, BLM (Aug. 26, 2015 6:18 PM)

State office, to sort this out. Thanks

John Andrews

Sent from my iPhone

[Quoted text hidden]

Rymerson, Richard <rrymerso@blm.gov>

Wed, Aug 26, 2015 at 6:22 PM

To: John Andrews <jandrews@utah.gov>

Cc: Michelle Brown <m2brown@blm.gov>, Gerald Kenczka <jkenczka@blm.gov>

John,

I was not aware it was filed so long ago. Let me check with our Vernal staff...

-Rick

Richard A. Rymerson
District Manager
Green River District
170 South 500 East
Vernal, UT 84078

435.781.4401 office
435.781.4410 fax
435.776.6691 cell
rrymerso@blm.gov

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Wed, Aug 26, 2015 at 10:09 PM

To: "Rymerson, Richard" <rrymerso@blm.gov>, "jwehking@blm.gov" <jwehking@blm.gov>

Cc: Michelle Brown <m2brown@blm.gov>, Gerald Kenczka <jkenczka@blm.gov>

Rick;

Thanks. I think we may have been thinking of different things. SITLA filed its in-lieu selection application (which is a Taylor Grazing Act request for classification for disposition) quite a while ago. We have gone through the publication of the proposed classification decision. Your next steps as I understand them are issuance of a final classification decision, NEPA, and valuation (done through DOI OVS), then a final EA and ROD. For NEPA - and I think this is what you were asking about - BLM needs to know what SITLA is planning to do with the property once we acquire it. You can basically use the following: "Upon acquisition of the subject property, SITLA intends to lease it to Enefit American Oil (EAO) for long-term future mineral development and ancillary surfaces uses, subject to terms and conditions provided by mine plan approvals issued by Utah DOGM, and consistent with proposed operations plans submitted by EAO to BLM in connection with pending ROW approvals." - or something like that. I assume you all know Enefit's general plan, and I would just paste that in.

BLM's new state office realty person, Brandon Johnson, processed the last SITLA in lieu selection, that also included mineral issues, and knows the process. I don't have his email, so I am copying Joy Wehking at the USO so she can forward it.

I hope this helps clarify things. Thanks,

John Andrews

[Quoted text hidden]

Richard Rymerson <rrymerso@blm.gov>

Thu, Aug 27, 2015 at 5:14 AM

To: John Andrews <jandrews@utah.gov>

Cc: "jwehking@blm.gov" <jwehking@blm.gov>, Michelle Brown <m2brown@blm.gov>, Gerald Kenczka <jkenczka@blm.gov>

EXHIBIT 9

*Vernal Express, Legal Notice, Proposed Classification of Public Lands for State
Indemnity Selection (IL 333) UTU-9009 (May 13, 2014)*

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PROPOSED CLASSIFICATION OF PUBLIC LANDS FOR STATE INDEMNITY SELECTION (IL 333) UTU-90091

The State of Utah, School and Institutional Trust Lands Administration (State), has filed a petition for classification and an application for indemnity selection with the Bureau of Land Management (BLM) under the provisions of Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852). The purpose of the State's petition and application is to acquire the surface and mineral estate of 440.00 acres of public land in Uintah County, described below:

Salt Lake Meridian, T. 11 S., R. 25 E., sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$.

The State has selected these lands in lieu of certain school lands granted to the State under the Utah Enabling Act of July 16, 1894, because some of the lands granted under the Enabling Act were encumbered or reserved at the time of statehood and, therefore, title could not pass to the State.

A preliminary review of the application shows the lands are potentially suitable for classification for disposal by indemnity selection, being vacant, unappropriated, surveyed public land within the State of Utah. Disposal of these lands by indemnity selection would be in conformance with the Vernal Field Office Resource Management Plan (RMP) approved October 2008. The following plan provisions apply:

LANDS Pages 86-89

Goals and Objectives (p. 86) - Process applications, permits, operating plans, mineral exchanges, leases, and other use authorizations for public lands in accordance with policy and guidance. Give land exchanges with the State of Utah priority consideration to resolve inholding issues.

Management Decisions

LAR-2 (p. 86) - Acquisitions, exchanges, easements, or disposals will be considered, using Land Tenure Adjustments (LTA) criteria on a case-by-case basis, between willing buyers and sellers.

LAR-7 (p. 87) - Public lands within the VFO will be considered for disposal through methods such as sale, exchange, state indemnity selection, Airport and Airway Improvement Act, Color-of-Title Act, State Selections under the Enabling Act, Recreation and Public Purpose Act patent, other lesser-used authorities, or as directed by special regulation.

LAR-20 (p. 89) For Land Tenure Adjustments (LTAs), land ownership changes will be considered on lands not specifically identified in the Approved RMP (figure 6a) for disposal or acquisition if the changes are in accordance with resources management objectives and other RMP decisions, determined to be in the public interest. The proposal must meet at least one of the five criteria. State indemnity selection would meet criteria 1,

1. The changes are determined to be in the public interest. The public will benefit from land resources coming into public ownership, while at the same time accommodating the needs of local and state governments, including the needs for public purposes, community growth and the economy.

The disposal map (Figure 6a) in the RMP does not include the selected lands in sections 5, 6, & 8 T. 11 S., R. 25 E. It is unclear why those lands were not included on the disposal map as they appear to meet the disposal criteria identified in the RMP. However, those lands would still be available for State Selection under management decisions LAR 2, 7, & 20.

The BLM will further examine these lands for evidence of prior valid rights or other statutory constraints that could affect classification and disposal. This proposed classification is pursuant to Title 43, Code of Federal Regulations, Subpart 2450; and Section 7 of the Act of June 28, 1934.

The proposed selection meets the above-listed LTA criteria and is consistent with the RMP goals and objectives. Disposal of the In Lieu Parcel would also fulfill the intent of the Utah Enabling Act to support the State's schools through the land grant managed by the State, and would support the local economy and community growth through State school funding. Access to the In Lieu Parcel is via a Uintah County Class B and D road (as identified on Uintah County Transportation Map) across private lands.

Two issues taken under consideration in this proposed classification are the potential effects from this action to (1) the greater sage grouse (*Centrocercus urophasianus*) habitat, and (2) Graham's beardtongue (*Penstemon grahamii*) and White River beardtongue (*Penstemon scariosus* var *albifluvis*) habitat. With regard to impacts upon sage grouse habitat, the area of the In Lieu Parcel is identified as sage grouse habitat in the Utah BLM Greater Sage-Grouse Draft Land Use Plan Amendment/Environmental Impact Statement being

prepared.

Regarding the impacts on the beardtongue range, approximately 6.9 acres of the land located in the southwest corner of the In Lieu Parcel is currently proposed as critical habitat for the White River beardtongue. This represents less than one-tenth of a percent (0.1%) of the total critical habitat proposed for the White River beardtongue. No critical habitat for Graham's beardtongues is proposed on the In Lieu Parcel. Although neither Graham's nor White River beardtongues are currently known to occur within the In Lieu parcel, this parcel contains potential habitat for both species and should be surveyed prior to disposal to confirm species' presence or absence. In addition, the BLM is currently a partner in developing a conservation agreement for both of these species. The BLM will further examine these issues through the public review process. Consultation with the USFWS will occur in conjunction with the NEPA process prior to a final classification decision.

The following listed corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

1. Enduring Resources LLC, oil and gas lease, UTU-81023, affecting sections 5 and 6;
2. Chacon Sheep Company LLC, Grazing Permit; Watson BC, Allotment No. 8815; and
3. Uintah County asserted R.S. 2477 right-of-way Road Number 140201 affecting section 8

The BLM will further examine the In Lieu Parcel for evidence of any other prior valid rights or other statutory constraints that could affect classification and disposal.

The oil and gas lease would remain in effect under the current terms and conditions. Upon expiration or termination of the leases and permits, such rights shall automatically vest in the State.

The above mentioned lands are included within a BLM administered grazing permit; Watson BC, allotment number - 8815. The AUMs on this particular parcel would be managed by SITLA, the new surface administrator. After a negotiated transfer of the BLM lands, SITLA may or may not choose to manage those AUMs in accordance with the existing permit terms and conditions. Under CFR 43 §4110.4, the current BLM grazing permit may be adjusted to adequately reflect the updated percent public land if such lands are transferred from BLM administration.

State procedures provide for the offering to holders of BLM grazing permits, licenses, or leases the first right to lease lands that are transferred to the State. In accordance with Section 402(g) of the Federal Land Policy and Management Act (FLPMA) and the regulations at 43 CFR 4110.4-2(b), the BLM will provide separate official notice to holders of grazing use authorizations that such authorizations may be terminated in part upon transfer of the land described above to the State of Utah.

If you have any comments, suggestions, or objections in connection with the proposed classification you may file them with the:

BLM Vernal Field Office Manager, 170 South 500 East, Vernal, Utah 84078.

The BLM must receive your comments in writing within 30 days of this notice for them to be considered.

BLM will issue an initial classification decision either revised or as originally proposed following a review of the comments received and completion of an assessment of the State's application for transfer.

Information concerning these lands and the proposed classification and transfer to the State of Utah may be obtained from Cindy Bowen, BLM Vernal Field Office, at 435-781-4434.

April 28, 2014, Date, /s/ Jerry Kenczka, Acting Field Manager, Vernal Field Office,
Bureau of Land Management

Published in the Vernal Express May 13, 20, 27, June 3, and 10, 2014.

[Newspaper Administration](#)

EXHIBIT 10

BLM, In-Lieu (Indemnity) Selection Process, Processing Steps (Nov. 2, 2016)

In-Lieu (Indemnity) Selection Process
 UTU-90091
 Processing Steps
 Updated 11/2/2016

Action Required	Comments	UTSO	VFO	SITLA	OVS	Completion Date
File In-Lieu Application				X		8/29/2013
Land Survey Services Request	Legal land description and survey status was reviewed by cadastral survey. Determined correct legal description. Cadastral survey would not be required prior to disposal.	X	X			9/19/2013
Issue Proposed Classification Decision	Allow 30 days for comment from date decision issued.		X			Issued 4/28/2014 Comment End 5/27/2014
Issue Notice in Newspaper	Published for 5 consecutive weeks in local newspaper (Uintah Basin Standard); provide BLM with proof of publication. 60 days for comment after 1st notice published.			X		1st Notice 5/13/2014 Comment End 7/12/2014
Send ROW Notice	60 days to respond as to which option they choose from when received		X			MTP and MTR indicated no ROWs on property. So no notice needed.
Send 2-year Grazing Notice (Carter)	Permit holders have 2-years from date received before BLM can cancel permits, if right not waived.		X			Sent 8/2/16 2-years Ends 8/1/18
Complete Mineral Potential Report	Margo R. has touched base with management in Vernal and they indicated that their geologist would begin work on the report.		X			
Complete Environmental Site Assessment	From what we know of the property and discussions with BLM's Environmental Professional (EP) a Preliminary Analysis (PA) form is likely adequate. Margo indicated she could prepare the PA and the BLM EP could review and approve it. Margo and the EP plan to do a site inspection late fall or early spring. Upon completion of the inspection it can be definitively determined if any further level of analysis would be needed.	X	X			

Conduct Beardtongue Surveys	Margo checked to see if beardtongue or any other plant/wildlife surveys are needed prior to completing EA. The Vernal Biologist stated that beardtongue surveys will need to be conducted during the flowering period which begins in May.		X			
USFWS Consultation	Margo checked with biologist to see if USFWS consultation will be required, and determined that it will not be required.		X			NA
Complete Draft EA	A draft EA has been started but will need to be updated to cover sage grouse mitigation proposal to document net conservation gain and compensatory mitigation. Specifics of sage grouse mitigation will need to be coordinated between BLM & SITLA. Draft EA typically released for public comment.		X			
Complete Appraisal	Estimate 3-6 months to complete. Likely closer to the 6 month timeframe due to mineral valuation. Appraisal typically good for about 1 year.	X	X		X	
Complete NEPA Documentation & Sign FONSI/DR if Approved	Concurrent with Initial Classification Decision.		X			
Issue Initial Classification Decision	Either revised or as originally proposed (Approve or Deny Petition). Allow 30 days for comment.		X			
Address any protests	Protests could prolong schedule or preclude transfer.					
Classification Decision becomes final (unless vacated)	30 days after Initial Classification Decision is issued.					
Request Clear List	BLM VFO to BLM UTSO.		X			
Convey Lands by Clear List (if approved)	BLM UTSO will issue clear list and note the records.	X				

EXHIBIT 11

*E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit
(Aug. 1, 2014 2:24 PM)*

I will forward two emails, the last of which seemed to indicate some progress, although it was a little cryptic. I haven't called her back, but will.

John

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Fri, Aug 1, 2014 at 2:24 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Cc: "Hall, Richard" <RRHALL@stoel.com>

Rikki and Rich;

I received a call earlier in the week from Vicki Wood, BLM Vernal (435-781-4472). She indicated that word had come down from the State Office that because the selection is sage grouse habitat, the EA should not be completed until the Sage Grouse RMP EIS was completed, which she thought would be sometime in the late 4th quarter. I asked if there had been any public comments on the published notice, and she said she would check with her colleague Stephanie Howard, but I haven't heard back from her.

I am inclined to try to set up a meeting with Mike Stiewig and Jerry Kenzcka and their team to try to get more insight, perhaps in connection with the Energy Summit on September 4, or before. Thoughts? Thanks.

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Fri, Aug 1, 2014 at 5:31 PM

To: John Andrews <jandrews@utah.gov>

Thanks for the update John. Touching base around the energy summit sounds fine. I will attend and possibly be in town the day before.

Although we do want to see the process progress, my concern is that even if we could get the EA pushed forward prior to completion of the safe grouse grouse EIS, this could endanger a FONSI, and would likely have any final decision subject to the findings and conditions in the SG EIS.

I will be interested to hear if Stephanie received any comments.

Have a nice weekend.

Rikki

Sent from my iPhone

[Quoted text hidden]

EXHIBIT 12

*E-mail of J. Andrews, SITLA to R.L. Hrenko-Browning, Enefit
(Mar. 10, 2016 4:35 PM)*

John Andrews <jandrews@utah.gov>

Thu, Mar 10, 2016 at 4:35 PM

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Rikki;

UDWR replied that they thought the Z-parcel was better habitat than the parcel we were considering for a conservation easement. Mike Canning replied to me as follows:

"John,

I asked our biologist your questions, and his responses are below:

"The 'in lieu' section of BLM land is an area where I suspected a lek for several years. We documented grouse use in late winter and early spring long the ridge that cuts through the piece. However, we never saw males strut but only observed them in the area. This area is good winter habitat with Wyoming sagebrush on the ridgelines. There are a few areas along the west edge of the piece that is too steep to be suitable for sage-grouse. The SITLA piece in question has limited sagebrush cover. The topography is less suitable for sage-grouse than the 'in lieu' parcel. I would say the 'in lieu' parcel is better than the selected SITLA parcel. It would take considerable effort to improve this habitat with limited chance of success because of the cheatgrass."

"There are other options in the general area that may be suitable. I believe T 2 R 24 Sec. 32 or T 3 R 24 Sec. 32 would be suitable alternatives. Of course I am basing this off sage-grouse habitat and not parcel value."

Please let me know if you need anything else."

I would be curious whether your biologists have information that would contradict this conclusion on the Z-parcel.

I haven't heard anything more from BLM, but they are waiting to hear from us about what DWR thinks. I think I might ask BLM to have their biologist review the parcels, rather than relying on what seems to be an unfavorable recommendation from UDWR.

I agree you shouldn't pull the trigger on a cultural survey until we get this part worked out.

Let me know your thoughts.

John

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Fri, Mar 11, 2016 at 1:20 PM

To: John Andrews <jandrews@utah.gov>

Hi John,

Interesting. Formally, the BLM map shows our parcel as general habitat and the proposed easement as priority - so not sure how UDWR's comments would override what the maps say or what the process is in the case of such conflict if BLM should end up with the same view as UDWR.

I cannot comment as to the conservation easement parcel, but I'm rather surprised by that response regarding the Z-parcel. See attached for an email from UDWR biologist Brian Maxfield stating that they have surveyed the area for 5-6 years and found no strutting so it is an unconfirmed lek, and therefore has no protections. This is appendix 2.B in the SWCA report below.

The status of the lek in question is summarized in Section 3.1 of the SWCA report. I have sent this to you already - it's too large to email so has been uploaded to our FTP (will delete in 7 days): http://www8.energia.ee/files/44dc5a26/SpecialStatus_Wildlife_TechReport_7_26_13_toprint.pdf.

EXHIBIT 13

E-mail R. Clerico, Enefit to J. Andrews, SITLA (Feb. 21, 2017 3:39 PM)

Thanks John. We will certainly need to tackle the sage grouse mitigation ratio issue after the first of the year, but at least BLM has not completely forgotten about this.

From: John Andrews [mailto:jandrews@utah.gov]

Sent: Wednesday, December 21, 2016 3:45 PM

To: Ryan Clerico <Ryan.Clerico@energia.ee>; Allen Freemyer <allen@adfpc.com>

Subject: Fwd: In-Lieu UTU-90091

[Quoted text hidden]

John Andrews <jandrews@utah.gov>

Thu, Dec 29, 2016 at 1:26 PM

To: David Ure <dure@utah.gov>

----- Forwarded message -----

From: **Johnson, Kenneth (Brandon)** <kjohnso@blm.gov>

Date: Wed, Dec 21, 2016 at 3:13 PM

Subject: In-Lieu UTU-90091

To: John Andrews <jandrews@utah.gov>

Cc: Margo Roberts <mirobert@blm.gov>, Gerald Kenczka <jkenczka@blm.gov>, "Velasquez, Esther" <evelasqu@blm.gov>, Walter Phelps <wphelps@blm.gov>, Kent Hoffman <khoffman@blm.gov>

[Quoted text hidden]

--
John W. Andrews
Associate Director & Chief Legal Counsel
Utah School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

(801) 538-5180 (o)
(801) 538-5118 (fax)
(801) 243-8611 (mobile)

 **Processing_Steps UTU-90091 12.21.16.docx**
18K

Ryan Clerico <Ryan.Clerico@energia.ee>

Tue, Feb 21, 2017 at 3:39 PM

To: John Andrews <jandrews@utah.gov>

Hi John,

I know it's been a while, and I'm guessing this is not a priority for BLM at the moment, but have you heard anything further from Brandon? I was in a meeting with him last week on our Utility Corridor EIS and was going to ask him about it, but I didn't want him to confuse the two issues. The to-do list didn't seem particularly onerous, so perhaps you could check in with him and see if anything has been done?

Thanks,

Ryan

Ryan Clerico
Head of Development and Environment/Acting CEO
Enefit American Oil
307 West 200 South, Suite 4005

Salt Lake City, Utah 84101
Tel: 801 363 0206

Mob: 801 703 6983
e-post: ryan.clerico@energia.ee
Skype: Ryan.Clerico

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From: John Andrews [mailto:jandrews@utah.gov]
Sent: Wednesday, December 21, 2016 3:45 PM
To: Ryan Clerico <Ryan.Clerico@energia.ee>; Allen Freemyer <allen@adfpc.com>
Subject: Fwd: In-Lieu UTU-90091

FYI. Some signs that BLM is still thinking of us.

[Quoted text hidden]

John Andrews <jandrews@utah.gov>
To: Ryan Clerico <Ryan.Clerico@energia.ee>

Tue, Feb 21, 2017 at 3:41 PM

I'm going to see him tomorrow on another issue, and will ask.

[Quoted text hidden]

Ryan Clerico <Ryan.Clerico@energia.ee>
To: John Andrews <jandrews@utah.gov>

Thu, Feb 23, 2017 at 11:51 AM

Any word from our friend Brandon?

From: John Andrews [mailto:jandrews@utah.gov]
Sent: Tuesday, February 21, 2017 3:42 PM

EXHIBIT 14

*E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA
(Feb. 9, 2016 9:32 AM)*



John Andrews <jandrews@utah.gov>

follow-up with Linda on Z parcel

1 message

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Tue, Feb 9, 2016 at 9:32 AM

To: jandrews@utah.gov

Hi John,

I was in DC yesterday for meetings with the BLM regarding the EIS. Linda did bring up the indemnity selection. We only discussed very briefly (as I am not eager to have this issue further complicate/delay the EIS), but clearly it is on her radar. If you will be back in DC sometime soon, perhaps it would be helpful to follow-up with Linda while there seems to be some momentum?

Best,
Rikki

Rikki Hrenko-Browning
CEO

Enefit American Oil
Office: +1 435 789 4024
Cell: +1 435 219 0963

EXHIBIT 15

*E-mail of R.L. Hrenko-Browning, Enefit to J. Andrews, SITLA
(Sep. 4, 2015 7:04 AM)*

Rymerson, Richard <rmyerso@blm.gov>

Thu, Sep 3, 2015 at 3:36 PM

To: John Andrews <jandrews@utah.gov>

Cc: "Johnson, Kenneth (Brandon)" <kjohnso@blm.gov>, Gerald Kenczka <jkenczka@blm.gov>, Michelle Brown <m2brown@blm.gov>, Joy Wehking <jwehking@blm.gov>, Walter Phelps <wphelps@blm.gov>, Margo Roberts <mirobert@blm.gov>

okay, sounds good...

-Rick

Richard A. Rymerson
District Manager
Green River District
170 South 500 East
Vernal, UT 84078

435.781.4401 office
435.781.4410 fax
435.776.6691 cell
rmyerso@blm.gov

[Quoted text hidden]

Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Fri, Sep 4, 2015 at 7:04 AM

To: John Andrews <jandrews@utah.gov>

Hi John,

Thanks for the update, I was wondering how this was coming along. Glad to see you're having some success in getting the BLM to engage.

In reading through the email chain, I see your suggested language for the BLM's proposed action for the EA. While we greatly appreciate SITLA's intent regarding leasing of the Z-parcel to Enefit and are eager to move through the process as quickly as possible, I also want to be sure that BLM doesn't confuse or mix together the ongoing EIS for our Utility Corridor Project with the SITLA In Lieu Selection EA and associated potential future mine activities on Enefit South. We have provided BLM with a detailed plan of development for the utilities that would be crossing their land, as well as a preliminary description of the private-land activities (the South Project) for their connected action analysis in our ongoing EIS. I believe Brandon, Rick, et al are aware that we haven't submitted a formal mine plan to them (nor are we going to, since it's outside of their decision-making capacity under the utility EIS), but in case it comes up on your call, I just wanted you to be aware.

Our Draft EIS is due to be out for public comment this fall, so we want to be sure this EA/land swap doesn't give BLM or others a reason to delay to the utility corridor NEPA. I certainly don't want to delay the EA or any forward progress on this, but rather want to be sure to keep the BLM/SITLA EA action and the Enefit utility EIS action separate. Ryan and I will be out for the energy summit next week, and we'd be happy to have a chat then as well.

Thanks!

Rikki

From: John Andrews <jandrews@utah.gov>

To: Rikki Lauren Hrenko-Browning <Rikki.Hrenko-Browning@energia.ee>

Date: 09/03/2015 03:16 PM

Subject: Fwd: In Lieu section (Enefit)

The latest.

EXHIBIT 16

*E-mail of M. DeKeyrel, BLM State Office to J. Andrews, SITLA
(Sep. 23, 2013 1:56 PM)*



John Andrews <jandrews@utah.gov>

New In Lieu Selection in Uintah County

2 messages

John Andrews <jandrews@utah.gov>

Fri, Sep 20, 2013 at 4:10 PM

To: "Dekeyrel, Michael" <mdekeyre@blm.gov>

Mike;

In the course of another meeting this week in Vernal, I visited with Mike Stiewig of the BLM Vernal FO. It seems like they are a little uncertain about how to proceed with the selection application you recently transmitted to them - if you have a checklist or something that you could provide them with so they can get going, it would be great. Once we get a really specialist to work with in their office, perhaps a conference call would be in order. Thanks for your help.

John Andrews

--
John W. Andrews
Associate Director & Chief Legal Counsel
Utah School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

(801) 538-5180 (o)
(801) 538-5118 (fax)
(801) 243-8611 (mobile)

Dekeyrel, Michael <mdekeyre@blm.gov>

Mon, Sep 23, 2013 at 1:56 PM

To: John Andrews <jandrews@utah.gov>

Cc: Gerald Kenczka <jkenczka@blm.gov>, Michael Stiewig <mstiewig@blm.gov>

Our transmittal of the file will be sent out tomorrow.

I did speak briefly with Gerry Kenczka this morning about the classification action. Whomever is assigned the case, we can get with them and send examples of prior classification process documents done in Cedar City and St. George for State selections.

I know that there is an EIS process beginning for the Enefit ROW corridor project, so the Vernal Field Office will need to see how this relates NEPA-wise.

[Quoted text hidden]

--
Mike DeKeyrel
Realty Specialist
Bureau of Land Management
Utah State Office
Branch of Lands and Realty
440 West 200 South, Suite 500
Salt Lake City, UT 84101-1345
801-539-4105