

FINAL

**Supplemental
Environmental Impact Statement/
Program Environmental Impact Report
for the Sale of NPR-1**

**Sale of Naval Petroleum Reserve No. 1
(Elk Hills)
Kern County, California**

DOE/SEIS/PEIR-0158-S2

October 1997



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**FINAL
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/
PROGRAM ENVIRONMENTAL IMPACT REPORT**

Lead Federal Agency: U.S. Department of Energy
Washington, DC

Lead State Agency: County of Kern
Bakersfield, California

Proposed Action: Sale of Naval Petroleum Reserve Number 1 (Elk Hills)
Amendment of Kern County General Plan
Kern County, California
DOE/SEIS/PEIR-0158-S2

Location: The proposed site is located in Kern County, California, about 25 miles southwest of the City of Bakersfield and approximately 100 miles north of Los Angeles, in a predominantly rural area.

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Abstract:

The Proposed Action is the sale of all right, title and interest of the United States in Naval Petroleum Reserve Number 1 (NPR-1) in accordance with the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106). The Proposed Action is also DOE's Preferred Alternative. DOE has determined that the sale of NPR-1 as required by Public Law 104-106 constitutes a major Federal action which may have a significant impact upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA) and Kern County has determined that the sale could have a significant effect on the environment under the California Environmental Quality Act of 1970 (CEQA). Significant impacts may occur because private-sector operation of the NPR-1 oil field could result in accelerated levels of development and different types of activities than under continued government ownership. This SEIS/PEIR assesses the potential environmental impacts from the Proposed Action, a No Action Alternative under which NPR-1 would continue to be operated by DOE, and an Alternative to the Proposed Action under which some form of government control would be maintained.

This document assesses the environmental impacts on: geology and soils; hazardous materials and waste management; air; water; biology; cultural and historical resources; land use; noise; socioeconomics; risk assessment; energy conservation; and environmental justice.

Pursuant to §1503.4(c) of the CEQ NEPA regulations, DOE is not revising and recirculating the full text of the DSEIS/PEIR as a FSEIS/PEIR. CEQA does not require the recirculation of the DPEIR.

Document Date:

October 1997

Public Comments:

In preparing the Draft SEIS/PEIR, DOE and Kern County considered both written comments submitted during the scoping period and oral comments received at the public scoping sessions on April 16, 1996.

The period for submission of public comments on the Draft SEIS/PEIR was 45 days from July 27, 1997, until September 8, 1997. Public hearings were held on the Draft SEIS/PEIR on August 26, 1997. In preparing the Final SEIS/PEIR, DOE and Kern County considered all public comments received, including comments received after September 8, 1997, as well as the oral comments made during the public hearings.

No Action Period:

No action will be taken with respect to the alternatives described in this document until the Record of Decision is published in the Federal Register, which can occur no earlier than 30 days after the Environmental Protection Agency's Notice of Availability of this Final SEIS/PEIR document appears in the Federal Register.

SUMMARY

INTRODUCTION

On February 10, 1996, the President signed into law the National Defense Authorization Act for Fiscal Year 1996 (DAA; P.L. 104-106). Title 34 of the DAA directed the Secretary of Energy to sell Naval Petroleum Reserve Number 1 (NPR-1) by February 10, 1998, unless the Secretary advised Congress that another course of action would be "in the best interests of the United States."

DOE determined that the sale of NPR-1 as required by P.L. 104-106 is a major Federal action that may have significant impacts on the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). Further, the Kern County (California) Planning Department determined that the sale could have a significant effect on the environment within the meaning of the California Environmental Quality Act of 1970 (CEQA). Accordingly, DOE and Kern County prepared a draft Supplemental Environmental Impact Statement/Program Environmental Impact Report (DSEIS/PEIR) to address the requirements of NEPA and CEQA.

DOE and Kern County distributed approximately 300 copies of the DSEIS/PEIR to members of Congress, Federal, state and local agencies, Native American organizations, environmental groups, businesses and interested individuals. On July 25, 1997, the U.S. Environmental Protection Agency published a notice in the Federal Register (62 FR 40074) announcing the availability of the DSEIS/PEIR and the start of a 45-day public comment period which ended on September 8, 1997. As part of the public comment process, DOE and Kern County held two public hearings on August 26, 1997, in Bakersfield, California.

During the public comment period, DOE received written comments from 29 parties and oral comments at the public hearings from seven parties. This document addresses the issues raised by all commenters. Since the responses to comments do not require extensive and substantive changes to the DSEIS/PEIR, DOE has decided not to republish the entire document as provided in 40 CFR 1503.4(c). Instead, this final SEIS/PEIR incorporates the DSEIS/PEIR by reference and includes as errata those changes to it resulting from DOE's and Kern County's responses to the public comments.

Chapter 1 of this document describes events since issuance of the DSEIS/PEIR, describes the current situation, and summarizes and responds to the major issues raised by all commenters. Chapter 2 contains the full text of the public comments on the DSEIS/PEIR received by DOE. It includes transcripts from the public hearings, written comments, and comments received via "e:mail." Chapter 3 contains detailed responses to each of the comments. Chapter 4 contains the detailed errata and addenda to the text of the DSEIS/PEIR.

EVENTS SINCE ISSUANCE OF THE DSEIS/PEIR

On May 21, 1997, DOE announced the start of the "commercial" sales process that ended on October 1, 1997, with the submission of bids for the purchase of NPR-1. The Purchase and Sale Agreement provided to prospective bidders during this period contained three optional provisions designed to incorporate environmental mitigation into the sale of NPR-1 in a manner that did not impair DOE's ability to maximize proceeds from the sale. These provisions included:

- (1) An offer to transfer the Biological Opinion (including the incidental take permit) issued to DOE by the U.S. Fish and Wildlife Service;
- (2) A request for bidders to identify mitigation measures (contained in the DSEIS/PEIR) that they would be willing to commit to, without reducing their offering price; and
- (3) A guarantee that small and independent refiners in the region would be guaranteed access to up to 25% of NPR-1 oil production for three years following the sale.

At the start of the sales process, prospective purchasers also were notified that a sale could not be finalized until:

- the NEPA process is completed and a Record of Decision is published;
- the Justice Department completes an antitrust review; and
- Congress completes a 31-day review of the terms of sale.

On October 6, 1997, DOE identified Occidental Petroleum Corp. (Occidental) as the firm submitting the highest bid for NPR-1. In its offer to purchase NPR-1, Occidental chose to accept the transfer of the Biological Opinion and agreed to submit to DOE, within ten (10) business days following the publication of the Final SEIS/PEIR, a list of additional mitigation measures Occidental would implement after closing. DOE anticipates that this list of additional mitigation measures will be incorporated in its Record of Decision.

METHODOLOGY

DOE and Kern County reviewed all comments on the DSEIS/PEIR and, in response to many, corrected, clarified or otherwise revised the text of the final SEIS/PEIR. Each comment was reviewed for content and relevance to the environmental analyses and data contained in the DSEIS/PEIR and addressed accordingly.

Many commenters raised similar issues, and trying to answer each similar comment would result in needless duplication of responses. In order to facilitate the review of the comment responses, Chapter 1 of this document identifies and discusses the major issues raised by multiple commenters.

Oral comments at the public hearings were recorded by a court reporter, and a verbatim transcript was produced (see Public Hearing Transcripts in Chapter 2 of this document). The written comments and transcripts were reviewed and individual comments and questions were identified and assigned an alpha-numeric designation. Chapter 3 of this document contains the responses to each comment and question identified, along with any necessary changes to the text of the DSEIS/PEIR. The responses in Chapter 3 appear in the same order as the comments contained in Chapter 2 and are coded with the same unique alpha-numeric identifier. If a letter or transcript raised the same comment or question more than once, it is responded to the first time and subsequent comments and questions are cross referenced to this first response.

Some comments raised topics that are not pertinent to the EIS. In those cases, DOE answered the questions or addressed the concerns; but no change to the text was made. Some comments indicated an agreement or disagreement with specific alternatives or with certain aspects of an analysis. DOE acknowledged these comments, but these comments did not result in changes in the text.

DOE's PREFERRED ALTERNATIVE

DOE did not identify a Preferred Alternative in the DSEIS/PEIR. DOE has now selected the Proposed Action as its preferred alternative. The environmental impacts resulting from DOE's Preferred Alternative would be based on the future development of NPR-1 by a private entity. This development and the associated impacts are analyzed in the DSEIS/PEIR under the Proposed Action/Commercial Development Case.

MAJOR ISSUES and RESPONSES

The major issues raised by commenters and summarized in Chapter 1 include:

- **DOE's Preferred Alternative**

--Whether DOE should prefer an alternative that would maintain government ownership or management of NPR-1.

Although the outright sale of NPR-1 results in greater environmental impacts than other options, DOE is required to complete the sale in a manner that maximizes proceeds to the Federal government, unless DOE determines that another course of action is in the best interests of the United States. The Proposed Action is the only alternative that meets this Congressional directive. However, DOE has structured the sales process to mitigate potentially significant environmental impacts.

- **Relationship of DSEIS/PEIR Alternatives to the Biological Opinion**

--Whether alternatives considered should have focused exclusively on those that were consistent with the terms and conditions contained in the Biological Opinion issued by the U.S. Fish and Wildlife Service (FWS) on November 8, 1995.

There is no reason to believe that FWS would not issue a permit to the new owner if consistent with the Endangered Species Act. Increased levels of development had already been anticipated when the Biological Opinion was issued. Greater development of petroleum resources is a reasonable outcome under most alternatives; limiting production would simply prevent the government from realizing the maximum economic benefit of the field.

- **Need for Reconsultation under the Existing Biological Opinion**

--Whether DOE should reconsult with FWS to address potentially significant long-term impacts to threatened and endangered species.

DOE has received a letter from the Department of the Interior Regional Solicitor clarifying the terms and conditions under which the incidental take permit would be transferred to a new owner, which confirms DOE's view that this step supersedes any requirement to reconsult with FWS. In addition, the section 10 permitting process would allow the FWS to impose additional measures sufficient to mitigate the impacts of any activities beyond those considered in the 1995 Biological Opinion.

- **Loss of Affirmative Federal Obligation to Protect Threatened and Endangered Species**

--Whether transfer of ownership of NPR-1 from Federal to private hands would jeopardize threatened and endangered species in future years.

Current mitigation measures are likely to remain in place for the reasonably foreseeable future, given the mitigation measures that may be imposed on the new owner under the CEQA mandatory mitigation process, the California Endangered Species Act, and the section 10 permit process under the Endangered Species Act. The DEIS/PEIR does identify means to mitigate losses should the property not convert to a conservation area at the end of the field's useful life.

- Protecting Native American Cultural Resources

--Whether removal of Federal control of NPR-1 would result in the desecration of Native American burial sites on NPR-1 or cause damage to culturally sensitive sites.

Since the DSEIS/PEIR was prepared archaeologists have completed their review, identifying those sections of NPR-1 likely to contain prehistoric resources. DOE and SHPO are negotiating a Programmatic Agreement—with Native American involvement—for protection of cultural resources. DOE hopes to identify a Federal agency that can join the USFWS in negotiating the location of land to be included in the conservation set aside required by the 1995 Biological Opinion to maximize the inclusion of archaeological sites, as well as address concerns related to the native American Graves Protection and Repatriation Act (NAGPRA).

- Mitigation Implementation Process

--Whether mitigation measures should be included as a requirement of the sales contract for NPR-1.

Mitigation measures identified in the Record of Decision and accepted by the new owner will be included in the sales contract, as will those measures contained in the 1995 Biological Opinion.

--Whether reliance on other permitting processes for implementation of mitigation will prove effective.

DOE will prepare a Mitigation Action Plan (MAP) that will explain mitigation measures to be implemented as a result of the transfer of the Biological Opinion (accepted by Occidental), those committed to by Occidental as part of its purchase, and those implemented by DOE prior to closing date of the sale (primarily relating to cultural resources). Further, Occidental has proposed to negotiate mitigation measures with the California Department of Fish and Game and submit a list of those measures to DOE.

--Whether there is sufficient information available for DOE to develop appropriate mitigation measures.

The DSEIS/PEIR includes detailed mitigation measures based on the best available information. This includes extrapolated biological mitigation measures that might be imposed should production at NPR-1 exceed current limits in the Biological Opinion, with

consideration for the NPR-1 Protected Species Conservation Plan and the Valley Floor Habitat Conservation Plan. Commenters suggested no alternative approach to developing mitigation that would meet the requirements of NEPA and CEQA. Future regulatory actions by the appropriate Federal and state agencies may well impose additional or different mitigation requirements.

- Socioeconomics

--Whether appropriate consideration has been given to the socioeconomic impacts that would occur at the state and regional levels depending upon the nature of the purchaser(s) of NPR-1.

DOE recognizes the importance of small and independent refiners and their need for access to NPR-1 light crude. However, analyzing the effects of this sale on a state or regional basis is beyond the scope of the DSEIS/PEIR. Such an analysis would be speculative, at best. In addition, other factors that are unrelated to the sale of NPR-1 are likely to have a greater impact on the viability of this group.

--Whether the future denial of access to NPR-1 crude oil by small and independent refiners would have an impact on socioeconomics at the state and regional levels.

To mitigate concerns about access to diluent, DOE had proposed a condition that the new owner offer 25% of the crude oil for sale to small independent refiners for at least three years at a fair market price. Although Occidental, the winning bidder, has chosen not to accept this condition, there is no reason to believe that small and independent refiners would have any less access to NPR-1 crude oil than they currently do under DOE operation. Occidental does not refine oil and would not need the production from NPR-1 for its own purposes. There is no reason to believe that small and independent refiners would be discriminated against when Occidental offers the production from NPR-1 for sale.

- Future Uses of the NPR-1 Property after the Completion of Oil and Gas Activities

--Whether restrictions should be placed in the NPR-1 sales contract limiting the future use of NPR-1 lands after completion of oil and gas operations.

Under Federal ownership the NPR-1 land would most likely convert to a wildlife conservation area at the end of its field life—40 to 60 years or more from now. Private ownership could result in significant impacts in the distant future, but this is not certain. Even if Occidental chooses to retain the land's economic potential, there are a number of factors limiting development, including lack of regional infrastructure. In addition, there would likely need to be an amendment to the Kern County General Plan. Under Federal and state compensation provisions of the permitting process, it is possible the land may be sold to other entities having habitat compensation obligations, or that new development would require the establishment of conservation areas. Congressional direction to maximize revenues from the sale of NPR-1 precludes further steps to mitigate this potential impact.

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Appendix

LIST OF ACRONYMS AND ABBREVIATIONS

μG/m ³	Microgram per cubic meter
AAQS	Ambient Air Quality Standards
ACE	Army Corps of Engineers
ACHP	Advisory Council on Historic Preservation
AML	Above Mean Sea Level
ANSI	American National Standards Institute
API	American Petroleum Institute
ARPA	Archaeological Resources Protection Act
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
ATC	Authority to Construct
BACT	Best Available Control Technology
Bcf	Billions of cubic feet
BLM	Bureau of Land Management
BLS	Bureau of Labor Statistics
BO	Biological Opinion
BOE	Barrel of Oil Equivalent
BP	Years Before Present (used in archaeological dating, instead of BC and AD)
BPD	Barrels per Day
BPOI	Bechtel Petroleum Operations, Inc.
CA	California
CAA	Clean Air Act
CAAA	Clean Air Act Amendments
CAAQS	California Ambient Air Quality Standards
CARB	California Air Resources Board
Cal-OSHA	California Occupational Safety and Health Administration
CCCOGP	Conservation Committee of California Oil & Gas Producers
CCP	Corrosion Control Program
CCR	California Code of Regulations
CDFG	California Department of Fish and Game
CDMG	California Division of Mines and Geology
CEC	California Energy Commission
CEPA	California Environmental Protection Agency
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CH ₄	Methane
CNEL	Community Noise Equivalent Level
CO	Carbon Monoxide
COE	Corps of Engineers
COH	Coefficient of Haze
CRWQCB	California Regional Water Quality Control Board
CUSA	Chevron U.S.A.
CWA	Clean Water Act
DGZ	Dry Gas Zone
DOE	United States Department of Energy
DOGGR	California Division of Oil, Gas and Geothermal Resources

LIST OF ACRONYMS AND ABBREVIATIONS (continued)

DOI	Department of the Interior
DSEIS/PEIR	Draft Supplemental Environmental Impact Report/Program
	Environmental Impact Report
DTSC	Division of Toxic Substances Control (Cal-EPA)
EA	Environmental Assessment
EPA	United States Environmental Protection Agency
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EO	Executive Order
EOR	Enhanced Oil Recovery
ERCs	Emission Reduction Credits
ESD	Environmental Services Department at NPR-1
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FHWA	Federal Highway Administration
FRP	Facility Response Plan
FSEIS/PEIR	Final Supplemental Environmental Impact Report/Program
	Environmental Impact Report
FWS	Department of the Interior Fish and Wildlife Service
FY	Fiscal Year
GIS	Geographical Information System
HAPs	Hazardous Air Pollutants
HC	Hydrocarbons
HDDT	Heavy Duty Diesel Truck
HGOR	High Gas to Oil Ratio
H ₂ S	Hydrogen Sulfide
IC	Internal Combustion
Inc.	Incorporated
I-O	Input-Output
ISC3ST	Industrial Source Complex Short Term - version 3
KCAPCD	Kern County Air Pollution Control District
KCDEHS	Kern County Department of Environmental Health Services
KCWA	Kern County Water Agency
L _{dn}	day-night sound level
LACT	Lease Automatic Custody Transfer Meter
LAER	Lowest Achievable Emission Rate
LPG	Liquefied Petroleum Gas
LRP	Long Range Plan
LTS	Low Temperature Separation
MAOP	Maximum Allowable Operating Pressure
MBB	Main Body B Reservoir
MBD	Thousands of Barrels per day
MMBOE	Millions of Barrels of Oil Equivalent
MCFD	Thousands of Cubic Feet per day
MED	Maximum Economic Development
MER	Maximum Efficient Rate
MMB	Million Barrels
MMBO	Million Barrels of Oil
MMCF	Million Cubic Feet
MMCFD	Million Cubic Feet Per Day

LIST OF ACRONYMS AND ABBREVIATIONS (continued)

MMG	Million Gallons
MSDS	Material Safety Data Sheet
NAAQS	National Ambient Air Quality Standards
NACE	National Association of Corrosion Engineers
NAGPRA	Native American Graves Protection and Repatriation Act
NEPA	National Environmental Policy Act
Neph	Nephelometer
NFPA	National Fire Protection Academy
NGL	Natural Gas Liquid Products
NHPA	National Historic Preservation Act
NO ₃	Nitrate
NO _x	Nitrogen Oxides
NOP	Notice of Preparation
NORM	Naturally Occurring Radioactive Materials
NOSR	Naval Oil Shale Reserves
NPDES	National Pollutant Discharge Elimination System
NPR-1	Naval Petroleum Reserve Number 1
NPR-2	Naval Petroleum Reserve Number 2
NPRC	Naval Petroleum Reserves California
NPV	Net Present Value
NRC	National Response Center
NRHP	National Register of Historic Places
NSR	New Source Review
O ₃	Ozone
OCS	Outer Continental Shelf
OES	Office of Emergency Services (Kern County)
O&M	Operations and Maintenance
OPA	Oil Pollution Act
OSCP	Oil Spill Contingency Plan
OSHA	Occupational Safety and Health Administration
PAH	Poly Aromatic Hydrocarbons
Pb	Lead
PCB	Polychlorinated Biphenyls
PG&E	Pacific Gas and Electric Company
PM _{2.5}	Particulate Matter (2.5 microns or smaller)
PM ₁₀	Particulate Matter (10 microns or smaller)
PPM	Parts per Million
PSD	Prevention of Significant Deterioration
PTO	Permit to Operate
RCRA	Resource Conservation and Recovery Act
RIMS	Regional Input-Output (I-O) Modeling System
ROG	Reactive Organic Gases
SARA	Superfund Amendments and Reauthorization Act
SCAQMD	South Coast Air Quality Management District
SCS	Soil Conservation Service
SEIS/PEIR	Supplemental Environmental Impact Statement/Program Environmental Impact Report
SHPO	State Historic Preservation Officer
SIPs	State Implementation Plans
SJVAB	San Joaquin Valley Air Basin

LIST OF ACRONYMS AND ABBREVIATIONS (continued)

SJVUAPCD	San Joaquin Valley Unified Air Pollution Control District
SPCC	Spill Prevention Control and Countermeasures
SO ₂	Sulfur Dioxide
SO ₄	Sulfate
SO _x	Sulfur Oxides
SOZ	Shallow Oil Zone
SPCC	Spill Prevention, Control and Countermeasure
TDS	Total Dissolved Solids
THC	Total Hydrocarbons
TRI	Toxic Release Inventory
TSCA	Toxic Substances Control Act
TSP	Total Suspended Particulates
UIC	Underground Injection Control
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USGS	United States Geological Survey
USLE	Universal Soil Loss Equation
VFHCP	Kern County Valley Floor Habitat Conservation Plan
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Compounds
WKWD	West Kern Water District

CHAPTER 1

Introduction

Since the publication of the DSEIS/PEIR in July 1997, several events have occurred in the NPR-1 sales process. This chapter provides an update of those major events and explains their relevance to the NEPA process. Also contained in this chapter are the eight Major Issues that were identified through the public comment process. The comments related to each of the Major Issues are summarized within a "box." A discussion and response to each of these issues follows immediately after each box.

Status of Sales Process for NPR-1

The National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) was signed by the President on February 10, 1996. Section 3412 of the Act directed the Secretary of Energy to enter into a process that would result in the sale of NPR-1 by February 10, 1998, unless the Secretary advised Congress that another course of action would be "in the best interest of the United States." The Act further directed that the sales process should be conducted "*...in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government...*" The "commercial" sales process began on May 21, 1997, and ended on October 1, 1997, with the submission of bids by prospective purchasers.

In order to comply with the DOE's statutory obligation under P.L. 104-106, DOE implemented a sales strategy designed to maximize the proceeds to the Federal government. However, in order to comply with DOE's further obligations under NEPA to consider appropriate mitigation measures for adverse environmental impacts, DOE structured the sales process to incorporate mitigation in a manner which does not impair the ability of DOE to maximize the proceeds from the sale of NPR-1. Specifically:

- (1) DOE offered to transfer the Biological Opinion (and incidental take permit) issued by the U.S. Fish and Wildlife Service to the purchaser(s) of NPR-1. If accepted, the purchaser(s) would be legally bound by all terms, conditions and mitigation measures presently employed by DOE;
- (2) The purchaser(s) were asked to identify additional mitigation measures (contained in the DSEIS/PEIR) to which they would be willing to commit, to the extent that such commitment would not cause them to reduce the amount of their bid(s); and
- (3) The draft Purchase and Sale Agreement for NPR-1 contained an optional provision that would guarantee small and independent refiners in the region continued access to NPR-1 crude oil for a period of three years following the sale.

At the start of the sales process, prospective purchasers were notified that, even after bids are submitted and a "highest offer" is identified, DOE could not enter into a sales contract until:

- (1) the NEPA process is completed and DOE publishes a Record of Decision;

- (2) the Justice Department completes an antitrust review of the terms of sale; and
- (3) a 31-day Congressional review period expires with no adverse Congressional action.

On October 6, 1997, DOE identified Occidental Petroleum Corp. (Occidental) as the firm submitting the "highest offer" for the purchase of NPR-1. However, because of the requirements in P.L. 104-106 for Congressional review and DOE's obligations under other Federal statutes, DOE did not sign a sales contract at that time. Rather, a Grant of Option Agreement was executed establishing an irrevocable offer by Occidental to purchase NPR-1 and an agreement by DOE that it would not sell NPR-1 to any other potential purchaser until the expiration of the Option Agreement. By signing the Grant of Option Agreement, DOE also agreed that it would sign the sales contract promptly after expiration of the 31-day Congressional review period:

"...provided that...the environmental review process under NEPA regarding the proposed sale...has been completed and Owner [DOE] has determined that no additional environmental mitigation measures are required to be incorporated into the Purchase Agreement as a result of such environmental review..."

The conditional results of the sales process as it relates to these mitigation measures is discussed in the responses to the Major Issues. In most instances throughout this document, discussions of the mitigation measures continue to be conditional, since DOE cannot take final action on any aspects of the sale until completion of the NEPA process, the Justice Department review, and the 31-day Congressional review.

Major Issues

Public comments on the DSEIS/PEIR raised eight topics of broad concern that are described in text boxes in this chapter. These topics, categorized as "Major Issues" and responded to in this chapter, are:

- 1.1 DOE's Preferred Alternative.
- 1.2 Relationship of DSEIS/PEIR Alternatives to the Biological Opinion.
- 1.3 Need for Reconsultation under the Existing Biological Opinion
- 1.4 Loss of Affirmative Federal Obligation to Protect Threatened and Endangered Species.
- 1.5 Native American Cultural Resources and Values
- 1.6 Mitigation Implementation Process
 - 1.6.1 Implementation through the Sales Contract
 - 1.6.2 Implementation through Other Permitting Processes
 - 1.6.3 Sufficiency of Information for Mitigation

1.7 Socioeconomics

1.7.1 Scope of the Socioeconomic Analysis

1.7.2 Continued Access to NPR-1 Crude Oil

1.8 Future Uses of the NPR-1 Property after the Completion of Oil and Gas Activities

1.1. DOE's Preferred Alternative

Although DOE did not identify a Preferred Alternative in the DSEIS/PEIR, many comments appeared to be based on the assumption that the Proposed Action would become the Preferred Alternative. These commenters pointed out that the Proposed Action was not the least environmentally damaging alternative and claimed that many of the impacts to biological resources that would result from the Proposed Action could not be mitigated to a level that would be less than significant. These commenters suggested that DOE should choose its Preferred Alternative based on minimizing environmental impact. Generally, commenters supported an alternative that maintained some form of Government ownership or management of surface rights.

The DOE preferred alternative is the Proposed Action: the sale of all right, title, and interest of the United States in NPR-1 to one or more entities by February 10, 1998, as required by the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106). On October 6, 1997, DOE announced that Occidental Petroleum Corp. (Occidental) had submitted the highest bid for the purchase of NPR-1. Therefore, pending completion of the NEPA process, the Justice Department review, and the 31-day Congressional review period, the Preferred Alternative would result in the sale of NPR-1 to Occidental by February 10, 1998.

P.L. 104-106 requires any sale to be conducted in a manner consistent with commercial practices and in a manner that maximizes the proceeds to the Federal government. The Proposed Action is the only alternative that meets this Congressional direction and, therefore, DOE has selected it as its Preferred Alternative. Chapter 4 of this document contains the detailed revisions to Chapters 1 and 2 of the DSEIS/PEIR to identify the Proposed Action as the Preferred Alternative.

DOE recognizes, and the DSEIS/PEIR indicates, that its Preferred Alternative does not result in the least environmental impacts when compared to the other alternatives analyzed in detail in the DSEIS/PEIR. The alternative with the least environmental impacts is the No Action Alternative: continued government ownership and operation. However, this alternative would not be in compliance with the statutory direction contained in P.L. 104-106. The alternative resulting in the least environmental impacts while still achieving the overall intention of P.L. 104-106 (removing the Federal government from the operation of commercial oil fields) is the Alternative to the Proposed Action: commercial development of the mineral resources with retention of government ownership of the surface rights. This alternative would result in slightly higher environmental impacts than the No Action Alternative because of the higher levels of projected oil and gas production due to commercial development.

In order to comply with the Congressional direction in P.L. 104-106, DOE implemented a sales strategy designed to maximize the proceeds to the Federal government. In compliance with DOE's obligations under NEPA to consider appropriate mitigation measures for adverse

environmental impacts, DOE structured the sales process to incorporate mitigation in a manner which does not impair the ability of DOE to maximize the proceeds from the sale of NPR-1. The process of incorporating mitigation into the sales process is discussed in Major Issue 1.6.

The commenters who contended that the significant impacts to biological resources resulting from the Proposed Action could not be mitigated to less than significant did not present information to support this claim. Furthermore, as part of its offer to purchase NPR-1, Occidental has agreed to accept the 1995 Biological Opinion (see more detailed discussion in Major Issues 1.2 and 1.6.1) and to identify and implement additional mitigation measures after consulting with the U.S. Fish and Wildlife Service (FWS) and the California Department of Fish and Game (CDFG). DOE and Kern County believe that these actions, coupled with the corresponding rigorous enforcement by the relevant state and Federal regulatory agencies, will ensure that these impacts are mitigated to less than significant. Therefore, DOE and Kern County have not changed the DSEIS/PEIR's general conclusion that the significant impacts of the proposed action can - and are likely to be - mitigated to less than significant.

1.2. Relationship of the DSEIS/PEIR Alternatives to the Biological Opinion.

Several commenters noted that all of the alternatives considered in the DSEIS/PEIR assumed future development of NPR-1 that exceeded the terms and conditions contained in the Biological Opinion issued to DOE by the U.S. Fish and Wildlife Service (FWS) on November 8, 1995. These commenters suggested that DOE should limit its consideration of alternatives only to those that are consistent with the operating and development assumptions upon which the Biological Opinion was predicated.

The current SEIS/PEIR is a supplement to the 1993 Supplemental Environmental Impact Statement, which analyzed the continued operation of NPR-1 based upon production at maximum efficient rate ("MER") as that term is defined in the Naval Petroleum Reserves Production Act. The "MER" development case was the Proposed Action in the 1993 SEIS and, as the Reference Case in the current SEIS/PEIR, forms the baseline against which the impacts of the current Proposed Action and alternatives are analyzed.

The Biological Opinion issued to DOE by FWS on November 8, 1995, was also based upon the "MER" development case and production levels analyzed in the 1993 SEIS. The Biological Opinion provides that any development of the facility above those levels requires reconsultation between DOE and FWS. In addition, the Biological Opinion also sets limits on the number of additional acres that can be disturbed and the number of individual animals of threatened and endangered species that can be taken under the incidental take permit.

DOE and Kern County believe, as the DSEIS/PEIR states, that likely future development and production at NPR-1 would be above the levels upon which the 1995 Biological Opinion was based and believe that the alternatives considered in the DSEIS/PEIR should not be limited to those that do not exceed the development and production levels contained in the 1995 Biological Opinion.

The scope of this SEIS/PEIR includes all reasonably foreseeable oil and gas production operations and activities for the next half century. The three alternatives considered in the DSEIS/PEIR (the Proposed Action, No Action Alternative, and the Alternative to the Proposed Action) were each analyzed at two different levels of development: Government Development

and Commercial Development. Both levels of development assume oil and gas production levels that are higher than those in the Reference Case. The details of each of these levels of development are provided in the Appendices to the DSEIS/PEIR.

NEPA requires the consideration of reasonable alternatives, and the analysis of reasonably foreseeable impacts resulting from implementing those alternatives. In order to develop NPR-1 at production levels above those contained in the 1995 Biological Opinion, however, DOE would need to reconsult with FWS under section 7 of the Endangered Species Act (ESA) and a private owner would need to obtain a permit from FWS under section 10 of the ESA, as discussed in the DSEIS/PEIR. There is no reason for DOE and Kern County to believe that FWS would not issue such a permit if DOE or a private applicant otherwise complied with all of the requirements of the ESA and its relevant regulations. The 1995 Biological Opinion itself anticipates the possibility of increased levels of development by DOE by providing for reconsultation in the event that DOE wished to alter the development assumptions and production levels upon which the Biological Opinion is based.

One of the reasons often cited for the divestiture of NPR-1 is that the Federal appropriations process and the procurement regulations under which the government is required to operate NPR-1 result in sub-optimum development of the petroleum resources, thus preventing the government from realizing the maximum economic benefits from the field. Therefore, the development of NPR-1 at levels beyond those described in the 1995 Biological Opinion is reasonably foreseeable under any of the alternatives.

1.3 Need for Reconsultation under the Existing Biological Opinion

Several comments expressed a need for DOE to reconsult with the FWS to address the potential significant long-term impacts to endangered species associated with the transfer of NPR-1 ownership. Concern was expressed that the 1995 Biological Opinion does not take into account the increased levels of activity that are likely to occur at NPR-1 under private ownership and that the mitigation measures required by the 1995 Biological Opinion will prove insufficient in protecting endangered species once Federal management of NPR-1 is lost.

Although the 1995 Biological Opinion issued by FWS provides that DOE must reconsult with FWS under Section 7 of the ESA if DOE undertook to sell NPR-1. DOE interpreted the authority contained in P.L. 104-106 to transfer DOE's incidental take permit as superseding the reconsultation requirement of the Biological Opinion. DOE conducted numerous discussions with the Department of the Interior (DOI), Office of the Solicitor in considering this matter. Subsequent to the issuance of the DSEIS/PEIR, DOE received a letter from the DOI Regional Solicitor dated August 6, 1997, interpreting P.L. 104-106 (referred to as the DAA in the letter) as it pertains to the transfer of the 1995 Biological Opinion and clarifying the terms and conditions that would transfer to the new owner of NPR-1 as a condition of the sale. A copy of that letter is provided in the Appendix to this FEIS/PEIR. That letter states in part:

"The statute contains two operative provisions. The first sentence authorizes the Secretary of Energy to transfer the permit 'in effect on the effective date' [of the DAA] ... This provision has the effect of nullifying the need to reinstate consultation prior to sale, as term and condition 3(a) [of the Biological Opinion] would otherwise require. This is so since a subsequent consultation and new incidental take statement would serve no purpose."

This interpretation, provided by DOI, supports DOE's conclusion that no reconsultation with FWS is required of DOE prior to the sale of NPR-1.

To the extent that the new owner of NPR-1 continues to operate the facility consistent with the project description contained in the 1995 Biological Opinion, there is no basis upon which to conclude that the mitigation measures contained in the 1995 Biological Opinion would be insufficient in protecting endangered species; there would be no change in the operation of NPR-1 and the same mitigation measures presently required of DOE would be employed by the new owner. Those same mitigation measures may prove insufficient to mitigate the impacts caused by activities at NPR-1 that go beyond those which formed the basis of the 1995 Biological Opinion. However, the impacts caused by those unknown, incremental activities and the measures deemed appropriate to mitigate them would be addressed in subsequent discussions between the new owner of NPR-1 and FWS. This issue also was addressed in the letter from the DOI Regional Solicitor which states:

"If the purchaser(s) proposes to modify any of its activities at NPR-1 in a manner that departs from the activities conducted by DOE and described and evaluated in the biological opinion...the purchaser(s) would have to obtain from the [Fish and Wildlife] Service an ESA section 10(a)(1)(B) permit prior to instituting the new or modified activity."

Through the section 10 permitting process, FWS would be able to impose those mitigation measures it deemed sufficient to mitigate the impacts of any activities beyond those considered in the 1995 Biological Opinion.

1.4 Loss of Affirmative Federal Obligation to Protect Threatened and Endangered Species

Many comments expressed a concern that, by transferring ownership of NPR-1 to a private entity, the affirmative Federal obligation to protect and conserve threatened and endangered species (established by Section 7(a)(1) of the ESA) would be lost. These comments explained that the requirements of Federal agencies regarding threatened and endangered species are more stringent than those for private entities and that by transferring ownership the species of concern located on NPR-1 would lose the protection of the current Federal conservation efforts and be placed in greater jeopardy. Some comments, however, questioned the significance of the loss of the Federal obligation because, even under private ownership, activities at NPR-1 would still be subject to the jurisdiction of the same Federal, state and local government agencies.

The DSEIS/PEIR recognizes that one of the environmental impacts of the divestiture of NPR-1 would be the loss of the affirmative obligation of the Federal government to protect and conserve threatened and endangered species on NPR-1. This loss occurs because of the difference between the obligations imposed on Federal agencies by section 7 of the Endangered Species Act and the obligations imposed on private owners by section 10 of the Act. The former are imposed on the Federal agency as operator of the field and are implemented in consultation with FWS. The latter are implemented through the FWS's regulatory authority and the permitting process. There are two key differences between section 7 and section 10: (1) section 7 obligates Federal agencies to help species recover, whereas section 10 focuses merely on take avoidance by a private owner; and (2) the obligation of the Federal government to protect threatened and endangered plants is not imposed on private owners under section 10.

Although DOE and Kern County believe that the loss of the affirmative Federal obligation is an impact of the Proposed Action, they do not believe that, after consideration of the mitigation measures that may be imposed on the new owner, it can reasonably be concluded that such impact would be a significant one. Numerous mitigation measures would be imposed on any private owner. Specifically, the proposed purchaser of NPR-1, Occidental, has elected to accept the transfer of the 1995 Biological Opinion and to be bound by all of its terms, conditions and mitigation measures as long as it continues to operate the field within the parameters contained in the Biological Opinion. Additionally, Occidental included a provision in the sales contract whereby it will negotiate with FWS and the CDFG to determine additional mitigation measures it will implement after the closing date of sale of NPR-1. A list of these additional measures will be submitted to DOE within ten days after publication of this final SEIS/PEIR. (These measures are discussed in more detail in Major Issue 1.6.1) Beyond that, other mitigation measures are likely to be imposed on Occidental through the CEQA mandatory mitigation process, the California Endangered Species Act permit process, and the section 10 permit process under the ESA. Other than the measures contained in the Biological Opinion and the additional measures Occidental agrees to implement after consulting with FWS and CDFG, it cannot be predicted with certainty which mitigation measures would be implemented through these other regulatory processes. However, in large measure the current threatened and endangered species protection programs at NPR-1 are likely to remain in place for the reasonably foreseeable future.

There do appear to be two major elements of the Federal affirmative obligation that may be lost under the Proposed Action. The first is the potential loss of the likelihood that the Federal government would convert the property to a conservation area at the end of the field's useful life, as discussed in Major Issue 1.8. However, the DSEIS/PEIR identifies a number of means of mitigating that loss. The second element, for which the document does not identify mitigation, is the possibility that, if additional mitigation measures over and above those currently being implemented are needed (i.e., because agreed upon mitigations are insufficient to protect the species), under section 7 of the ESA DOE would have been obligated to undertake those measures if the reserve were not sold. Occidental, even if complying with the current section 7 permit, would not be so obligated under section 10 of the ESA. Given that such an event is unknown and speculative at this time, it cannot be reasonably concluded that the loss of that responsibility would constitute a significant impact. However, the additional measures that Occidental agrees to implement (through negotiation with FWS and CDFG) may prove sufficient to mitigate this loss of Federal responsibility.

1.5 Protecting Native American Cultural Resources.

Several comments noted that there are locations on NPR-1 where human remains have been found on prehistoric archaeological sites. Commenters were concerned that an archaeological inventory of the entire facility has not been completed to identify additional burial sites and other culturally sensitive areas.

Desecration of burial sites also was identified as a major concern. One commenter spoke of the psychological toll extracted by the ongoing devastation of Native American ancestral lands. Commenters said that Federal control has effectively limited access to the facility and minimized the need for Native American oversight of areas on the facility. They fear that removal of Federal control of the land will open these areas to casual visitors who may desecrate suspected burial sites and that the activities of the new owners may damage culturally sensitive sites. Suggestions for protection of culturally sensitive areas included excluding them from sale or protecting them following the sale by placing these sites under control of some other Federal agency.

Several commenters sought opportunities for Native American involvement in decisions about the culturally sensitive areas. Referring to the conservation set-aside required in the 1995 Biological Opinion, one person asked if Native Americans would have an opportunity to have input into the selection of lands to be set aside. One commenter asked if Native Americans would have some opportunity to provide input to the ongoing consultations with the State Historic Preservation Officer (SHPO) regarding the significance of the archaeological finds in the recently completed evaluations of the prehistoric resources conducted by DOE.

Since the DSEIS/PEIR was prepared, archaeologists have completed a review of all previously recorded prehistoric sites. This review included an evaluation of their location on the NPR-1 landscape. As a result of this review, the archaeologists were able to identify the remaining sections of NPR-1 (approximately 3000 acres) likely to contain prehistoric sites with characteristics similar to those recorded to date. DOE's analysis indicates that no sites found within these additional 3000 acres are similar to those sites where human remains have been found or are predicted as likely. Therefore, DOE believes that all culturally sensitive areas that reasonably can be identified by archaeological survey and testing have been identified.

DOE shares the concern of Native Americans about the potential for desecration of burial sites and other culturally sensitive areas, knowing that it has happened on sites near the NPR-1 boundary and even inside the boundary, in spite of limited public access. Mitigation options such as fencing sites or providing their locations to new private owners (in order that they may be avoided by future development plans) have been discussed by DOE contractors with Native Americans, who generally have said that these measures are more likely to lead to vandalism than to protection.

DOE and the SHPO are negotiating a Programmatic Agreement for the treatment of cultural resources that exist at the NPR-1 site. This agreement will include commitments by DOE to undertake various measures designed to mitigate the impacts of the sale of NPR-1 on historic and prehistoric properties. The agreement also will include measures specifically designed to address the impacts on resources of particular concern to Native Americans. One of these measures will be for DOE to inform the new owner and the California Department of Conservation, Division of

Oil, Gas and Geothermal Resources of the fact that sites of this type are known to exist in the area, although without providing specific locations.

The DSEIS/PEIR evaluated two alternatives that assumed continuing Federal control of all of the facility or of surface soils. These would be more protective of culturally sensitive sites and more responsive to the suggestions of commenters about keeping these areas under Federal protection. However, as explained in response to Major Issue 1.1, the Proposed Action is the only alternative identified that meets the objectives of P.L. 104-106.

DOE hopes to identify a Federal agency that can join the U.S. Fish and Wildlife Service in negotiating the location of the land to be included in the conservation set aside area required under the terms of the 1995 Biological Opinion and that will represent the interests of Native Americans in maximizing the inclusion of areas that archaeologists and Native Americans have identified as known or likely to contain human remains. The SHPO has indicated to DOE that the Programmatic Agreement that will define mitigation of impacts to the prehistoric archaeological resources must also address concerns related to the Native American Graves Protection and Repatriation Act (NAGPRA). DOE will provide for involvement and comment by Native Americans, both from tribes on the NAGPRA list and from others with traditional ties to Elk Hills, as DOE develops the Programmatic Agreement with the SHPO.

1.6 Mitigation Implementation

1.6.1 Implementation through the Sales Contract: Many comments questioned the process for implementing mitigation measures identified in the DSEIS/PEIR, particularly in the area of biological resources. A major concern was that there was no apparent mechanism for enforcing the implementation of mitigation measures. Commenters expressed concern that there was no assurance that the new private owner(s) of NPR-1 would implement any of the mitigation measures to protect sensitive biological resources. To help minimize the impacts on biological resources, commenters suggested that several biological resource mitigation measures and recommendations identified in the DSEIS/PEIR should be included as a requirement of the sales contract. In addition, some commenters stated that DOE should implement an environmental compliance provision in the sales contract because the compliance practices for habitat and ecological preservation contained in the Biological Opinion expire after 2035.

1.6.2 Implementation through Other Permitting Processes: Commenters also took issue with DOE's reliance on processes other than the sales contract for implementing mitigation measures. Concern was expressed that the DSEIS/PEIR relied on the processes of obtaining state and Federal authorizations for incidental take to provide mitigation for impacts of the Proposed Action, rather than identifying and requiring the implementation of mitigation measures within the CEQA and NEPA process.

1.6.3 Sufficiency of Information for Mitigation: Concern was also expressed that insufficient information was available upon which to base any analysis of future impacts and, consequently, it is not possible to identify the appropriate mitigation measures for rendering these impacts less than significant. In contrast, other commenters stated that after privatization, NPR-1 would be legally subject to all applicable Federal, state and local environmental statutes and regulations.

1.6.1. Implementation through the Sales Contract

P.L. 104-106 requires that DOE conduct the sale of NPR-1 in a manner that maximizes the proceeds to the United States, unless DOE determines that another course of action is in the best interest of the United States. Consistent with this objective, DOE has sought to ensure inclusion of mitigation measures in the Purchase and Sale Agreement for the sale of NPR-1 in a manner that does not reduce the eventual sales price.

First, those mitigation measures contained in the 1995 Biological Opinion will be included in the final sales contract pursuant to section 3413(d) of P.L. 104-106. That section of the Act provides that:

"The Secretary [of Energy] may transfer to the purchaser or purchasers...the incidental take permit...issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date [of the Act] if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer."

DOE determined that the transfer of the incidental take permit would serve to maximize the value of the sale of NPR-1 to the United States. Accordingly, DOE included a provision in the draft Purchase and Sale Agreement for NPR-1, that was made available to all prospective purchasers, which would transfer the 1995 Biological Opinion (including the incidental take statement) to the purchaser(s) of NPR-1. That provision was carried forward in the highest and best offer submitted by Occidental. By accepting the transferred Biological Opinion, Occidental:

"...assumes and agrees to be bound by and perform all of the Seller's [DOE's] obligations under the Biological Opinion, including the on-going monitoring requirements set forth in the Biological Opinion and the obligation to establish the conservation area specified in the Biological Opinion."

Thus, Occidental will assume all of the terms, conditions, and mitigation measures contained in the 1995 Biological Opinion and presently performed by and committed to by DOE through a provision of the sales contract.

The second step taken by DOE to incorporate mitigation into the sales contract was the inclusion of the following guidance to prospective bidders for NPR-1:

You are advised that the draft Supplemental Environmental Impact Statement/Environmental Impact Review {sic} (SEIS/PEIR) relating to the Elk Hills' sale was issued July 24, 1997 {sic}, and is available for your review. You should review the potential mitigation activities identified in that document in connection with submitting your Offer. To assist DOE in complying with its statutory obligations under the National Environmental Policy Act, DOE requests that you consider including in your Purchase and Sale Agreement commitments to undertake mitigation activities such as those

identified in the SEIS/PEIR provided that such commitments do not negatively impact your offered price(s) so DOE can comply with its statutory obligation to maximize sales proceeds.

In response to this provision, Occidental's offer for NPR-1 contains the provision that it will:

"...work with Seller in good faith to deliver a list of mitigation measures to be implemented by Buyer after Closing...Buyer agrees to negotiate in good faith with the U.S. Fish & Wildlife Service and the California Department of Fish and Game (or other relevant Governmental Authorities) prior to determining the specific mitigation measures it will take...and to provide to Seller, within ten (10) business Days after Seller's issuance of the FSEIS, a list of such mitigation measures."

DOE anticipates that the mitigation measures submitted to DOE as a result of the above offer by Occidental will be made a part of the Record of Decision.

1.6.2. Implementation through Other Permitting Processes

To the extent that the ROD contains DOE mitigation commitments, DOE will prepare a Mitigation Action Plan (MAP). The MAP will explain how the corresponding mitigation measures, designed to mitigate adverse environmental impacts associated with the course of action directed by the ROD, would be planned and implemented. These mitigation measures are likely to fall principally into three categories: those to be implemented through the transfer of the Biological Opinion (Occidental's offer to purchase NPR-1 includes acceptance of the Biological Opinion); those that will be committed to by Occidental as part of its offer of purchase; and those to be implemented by DOE prior to closing date (primarily mitigation of cultural resource impacts).

In addition, Kern County will prepare a mitigation plan containing additional mitigation measures, including mitigation tracking measures, as required by the CEQA process. This CEQA plan will identify which mitigation measures will be implemented by state or local agencies, and will assign responsibility to the appropriate agency for assuring that the mitigation measures are implemented. The plan will be approved by the Kern County Board of Supervisors prior to its implementation, which will be primarily through the state permitting processes.

It is important to note that the CEQA aspect of this SEIS/PEIR is a Program EIR because not all of the possible future state actions with respect to development of NPR-1 can be anticipated. A Program EIR contemplates at least the potential for additional future CEQA analysis, if actions that cannot be clearly identified at this time are expected to be proposed in the future. If future development of the NPR involves a state action not adequately analyzed in the SEIS/PEIR that potentially could be significant, then additional analysis under CEQA would be required.

It cannot be specified at this time what, if any, additional mitigation measures may be required as part of the CEQA process. However, in comments submitted on the DSEIS/PEIR, the California Department of Fish and Game (CDFG) provided a draft of a Memorandum of Understanding (MOU) which identified numerous terms, conditions, and mitigation measures (subject to revision) that could form the basis of authorization for incidental take under California Fish and Game code section 2081. The terms and conditions of this MOU were based on the project

revision) that could form the basis of authorization for incidental take under California Fish and Game code section 2081. The terms and conditions of this MOU were based on the project description and activities identified in the Biological Opinion issued to DOE by FWS on November 8, 1995, and, generally, are consistent with the terms, conditions, and mitigation measures presently employed by DOE in the operation of NPR-1. Further, as discussed in Major Issue 1.6.1 above, Occidental has proposed to negotiate mitigation measures with CDFG and to submit a list of those measures to DOE.

As discussed in the DSEIS/PEIR, CEQA declares it to be state policy not to approve projects if alternatives or mitigation measures are available to lessen the significant impacts of a project, unless specific economic, social or other conditions make the adoption of those mitigation measures infeasible.¹ In addition, the California Guidelines for the implementation of CEQA require that the mitigation measures be described in the PEIR.² The lead state agency for an action requiring a review under CEQA is often required to implement all of the mitigation measures identified through the CEQA process, including those measures unrelated to the lead agency's mission or area of responsibility. With respect to the Proposed Action, that agency is likely to be the California Department of Conservation, Division of Oil, Gas and Geothermal Resources since that agency has regulatory jurisdiction over many oil field development activities. This means that any of that Division's specific permitting processes can become the implementation and enforcement mechanism for all mitigation measures.

With respect to the DSEIS/PEIR's reliance on statutory and regulatory standards and the permit process to mitigate environmental impacts to levels that are less than significant, DOE and Kern County believe that CEQA and its guidelines require discussion of all mitigation regardless of whether it arises from separate statutory authority or sound environmental practices.

1.6.3 Sufficiency of Information for Mitigation

Where the DSEIS/PEIR identified significant impacts, it also identified measures that could mitigate those impacts to levels that are less than significant. In many cases, the DSEIS/PEIR does not attempt to specify detailed mitigation, particularly where the potential for adverse impacts is uncertain and where appropriate mitigation would be required by Federal or state regulations under the jurisdiction of the relevant Federal and state agencies, once detailed information on future operations becomes available. However, the DSEIS/PEIR provides very detailed mitigation measures that DOE and Kern County believe could reduce the impacts of the Proposed Action on Biological Resources. These mitigation measures were developed from those currently being implemented at NPR-1. The primary documents from which these measures were drawn are the 1995 Biological Opinion and the NPR-1 Protected Species Conservation Plan.

As all three of the alternatives involve levels of development that could exceed the levels of development upon which the 1995 Biological Opinion is based, the DSEIS/PEIR projects what additional mitigation measures might be required to mitigate those additional impacts to less than significant. DOE and Kern County are unable to predict with specificity which of these measures might be adopted or required by the relevant Federal and state agencies having jurisdiction over this issue. Some of these are alternative measures which will be left up to the discretion of the new owner to implement. The proposed purchaser, Occidental, has included a

¹ California Public Resources Code, Division 13, Chapter 1, §21002

² Title 14 California Code of Regulations, Chapter 3, Article 9, §15126.

Mitigation Action Plan and incorporated in the Record of Decision. Beyond that, the NEPA and CEQA processes are attempting to identify a set of possible mitigation measures that could mitigate the anticipated adverse impacts to levels that are less than significant. Future regulatory actions by the appropriate Federal and state agencies may well impose additional or different mitigation requirements not included in the DSEIS/PEIR.

DOE believes that NEPA, independent of the CEQA obligations discussed above, requires that the document attempt to describe mitigation measures based on the best available information. Therefore, the DSEIS/PEIR includes extrapolated biological mitigation measures that might be imposed should production at NPR-1 exceed the current limits in the Biological Opinion. These extrapolated mitigation measures were based on the 1995 Biological Opinion and the NPR-1 Protected Species Conservation Plan, with some minor consideration of the mitigating measures in the Valley Floor Habitat Conservation Plan. DOE and Kern County believe that the impact information available forms a sufficient basis for the extrapolated measures. The information included numerous studies of the impact of oil and gas development on protected species at NPR-1 undertaken by DOE over an extended period of time. Those commenters that criticized the methodology for extrapolating mitigation measures suggested no alternative methodologies that would allow DOE and Kern County to better fulfill their obligation to present mitigation measures for the sale of NPR-1.

1.7. Socioeconomics

1.7.1 Scope of the Socioeconomic Analysis: Several commenters thought that the socioeconomic analysis was inadequate because it did not fully consider the impacts on the region and the State of California of the possible loss of small and independent refiners. That is, commenters suggested that, depending on the type and number of the successful purchaser(s) of NPR-1, many or all of the small and independent refiners in the region could be forced out of business if they were denied access to the light crude oil produced by NPR-1. Commenters suggested that such an event could result in multiple economic and socioeconomic impacts at the regional or state level.

1.7.2 Continued Access to NPR-1 Crude Oil: Several commenters expressed concern that, once the sale of NPR-1 is completed, small refiners may not have access to Elk Hills crude oil or that they might have to pay more than fair market price. These commenters noted that Section 7430 of the Naval Petroleum Reserve's Production Act (Act) currently prohibits any person from obtaining control, directly or indirectly, over more than 20 percent of estimated annual United States' share of petroleum produced from Elk Hills. In addition, commenters noted that the Act provides for twenty-five percent of oil production to be set aside for small refiners, which DOE has continually upheld. These commenters expressed concern that the regional socioeconomic makeup could be significantly altered if small and independent refiners are denied access to Elk Hills crude oil in the future. One commenter also noted that producers in the San Joaquin Valley are dependent upon Elk Hills crude to move their product into the Los Angeles Basin because it is necessary to blend heavier crudes with a lighter crude oil to move it through the existing network of pipelines. According to several commenters, Elk Hills petroleum is their only available supply source for large volumes of high quality light crude oil that is not controlled by a major oil company.

1.7.1 Scope of the Socioeconomic Analysis

Currently, under the Naval Petroleum Reserves Production Act (P.L. 94-258), twenty five percent of oil production is set aside for sale to small refiners. DOE recognizes the important role that independent refiners play in meeting the nation's energy needs. For that reason, in structuring the sale of NPR-1, DOE has undertaken several steps to enhance the opportunity of small and independent refiners currently receiving NPR-1 crude oil to assure themselves of continued access. These steps are discussed in further detail in the following sub-heading.

The issue is whether the DSEIS/PEIR can reasonably analyze the largely socioeconomic impacts that might occur if, despite DOE's efforts to assure continued access, the small refineries are unable to continue to obtain NPR-1 crude oil. It is DOE's and Kern County's belief that such events are speculative because there are numerous factors affecting the continued operation of independent refiners and analyzing them is beyond the scope of the DSEIS/PEIR. One of those factors is the nature of the proposed purchaser of NPR-1. The operational structure of the purchaser will have an effect on whether it would sell a portion of its production share to refiners in the region. In fact, the proposed purchaser, Occidental, has an operational structure similar to DOE: it is an exploration and production company with no refining capability. Since Occidental would not need to reserve its share of production from NPR-1 for its own refineries, there is no reason to believe that small and independent refiners in the region would have any less access to NPR-1 production than other refiners.

However, even if these small refiners were denied access to NPR-1 crude and, as some commenters suggested, were forced out of business, there is no way of knowing whether or not their facilities would be purchased and operated by other companies resulting in no net reduction in refinery capacity in the region. Thus, any socioeconomic analysis that considers such unknown events would become highly speculative.

In addition to the loss of access of NPR-1 crude being speculative, a number of other issues are likely to have a greater impact on the continued viability of the small refiners currently acquiring NPR-1 crude oil. As noted by some commenters in other contexts, there is presently a consolidation taking place in the oil industry. This consolidation is caused by factors unrelated to access to NPR-1 crude, since small and independent refiners presently do have access to NPR-1 crude. Factors affecting consolidation include: increased imports of refined product; declining domestic production (including at NPR-1); increasingly stringent environmental controls; limited access to pipelines; greater access to imported crude oil; increasing foreign investment in the domestic oil and gas industry; and decreased world oil prices. DOE does not have any existing data or analysis that indicates to what extent the loss of access to NPR-1 crude would, by itself, contribute to this ongoing consolidation and the potential loss of the independent refinery capacity in the region. Conducting such an analysis is beyond the requirements for preparation of an EIS. Further, any analysis of the environmental impacts (the principal objective of NEPA and CEQA) of the potential loss of access, would be so speculative as to provide little meaningful information to DOE and California decisionmakers. Therefore, DOE and Kern County did not expand the analysis of socioeconomic impacts beyond that contained in the current DSEIS/PEIR.

1.7.2 Continued Access to NPR-1 Crude Oil

DOE understands that Elk Hills crude oil is a valuable asset to small and independent refiners in the region because of its light characteristics. This crude is important in the San Joaquin Valley

because access to this crude gives small refiners and independent marketers the ability to negotiate with major oil companies on a more level playing field and provides a competitive alternative to Alaska North Slope crude oil.

Because DOE recognizes the importance Elk Hills crude oil has in the regional petroleum refining markets, the DOE strategy for the sale of NPR-1 contained elements that addressed the concerns expressed by the small and independent refiners. An optional provision (Article 15.1(a)) of the NPR-1 draft Purchase and Sale Agreement stated that:

“(F)or a period of three years from and after the Closing Date, buyer will Offer Eligible Small Refiners twenty-five (25%) percent of its share of crude oil produced from the Assets (“ESR Volume”) provided however, that the actual ESR Volume shall never exceed the ESR Volume calculated based on gross production from the Assets of 45,000 barrels of oil per day (the “ESR Set Aside”).”

Article 15.1 (b) of the Purchase and Sale Agreement (also an optional clause) addressed the fair market price of NPR-1 crude oil sold to small refiners by stating that:

“... the price for crude oil sold by Buyer to any Eligible Small Refiner shall be negotiated as a premium to or discount from the Base Price ... and shall be no less favorable to Buyer than the higher of (i) the price offered by any other third party offers at the time of negotiation for the portion of production then under negotiation, or (ii) the price that is then in effect for other production volumes at the Elk Hills Lands being sold in arms-length third party contracts.”

In addition, the DSEIS/PEIR discusses the fact that DOE offered NPR-1 for sale in segments rather than as a single asset. The largest single segment was an operating interest representing approximately 74 percent of the Federal government’s interest in NPR-1. The remainder of the government’s share of NPR-1 was offered in 2-percent segments. Interested parties were able to bid for one or more of these segments. A 2-percent interest in NPR-1 is sufficiently small that a small independent refiner or a consortium of refiners could have acquired the interest. Successful bidders would have been assured of future access to NPR crude oil.

Between these two elements of the divestiture strategy, DOE believes that it took all the steps possible - consistent with DOE’s obligations under P.L. 104-106 to maximize proceeds from the sale of NPR-1 - to mitigate the potential loss to local small refiners of their current assured access to NPR-1 crude oil.

Occidental has chosen not to accept the condition in the Purchase and Sale agreement that would guarantee small refiner access to NPR-1 oil for a period of 3 years. However, since Occidental does not refine oil and would not need the production from NPR-1 for its own purposes, there is no reason to believe that small and independent refiners would have any less access to NPR-1 crude oil than they do under DOE operation of NPR-1. Neither is there reason to believe that small and independent refiners would be discriminated against when Occidental offers the production from NPR-1 for sale on the open market.

1.8 Future Uses of the NPR-1 Property after the Completion of Oil and Gas Activities

Many comments addressed the potential uses of the NPR-1 site after the completion of oil and gas activities. The major concern was that the DSEIS/PEIR did not emphasize the long term consequences privatization could induce. The commenters stressed the fact that rapid depletion of oil and gas reserves might result in the loss of the use of NPR-1 land as habitat for endangered species in favor of other land uses by the new private owner once production ends. It was requested that the new owners of NPR-1 be required to rehabilitate the land in a manner approved by FWS and CDFG after the depletion of oil and gas reserves. The need for restrictions limiting future land use and development was also expressed.

The DSEIS/PEIR recognizes as one of the potential significant impacts of the Proposed Action the greater likelihood that under private ownership, as opposed to Federal ownership, NPR-1 would be converted at the end of its productive life to some use that would involve greater destruction of habitat than oil and gas development. The DSEIS/PEIR estimates the life of the field to be at least 40 years and under full development it is likely to be 60 years or more. Predicting that far into the future is somewhat speculative. However, the section 7(a)(1) obligations of Federal agencies and the importance of NPR-1 habitat to a number of threatened and endangered species are likely to continue. Therefore, it would appear likely, but not certain, that under Federal ownership NPR-1 would be converted to a wildlife conservation area at the end of its useful life. This is less likely to happen under private ownership.

DOE and Kern County believe that this potential impact of the Proposed Action is significant, although one that is likely to be remote in time, unless the proposed purchaser (Occidental) is willing to commit in advance to establishing a conservation easement over most of NPR-1 as part of the sales process. However, if the Congressional objective of maximizing revenues to the Federal government from the sale, and selling all right, title, and interest in NPR-1 are to be achieved, DOE cannot undertake any further steps to mitigate this potential impact

Nonetheless, there are a number of considerations discussed in the DSEIS/PEIR that may tend to reduce the loss of Elk Hills habitat to other development at the end of its productive life. First, the DSEIS/PEIR identifies as a measure to mitigate this impact setting aside the NPR-1 lands in perpetuity under a conservation easement. This could be one of the mitigation measures that the proposed purchaser, Occidental, could choose to adopt under the sales process discussed above. However, even if Occidental wishes to retain the development potential of the land because of its perceived value, a number of factors may limit such development. First, Western Kern County currently lacks the infrastructure to support intensive post-oil and -gas development at Elk Hills. Further, if the land were converted to some other use, there would likely need to be an amendment to the Kern County General Plan. This would trigger additional analysis under CEQA with the requirement to mitigate impacts to levels that are less than significant. In addition, as noted by a number of comments, the second highest and best use of this land is as a habitat. Under the compensation provisions of the Federal and California endangered species permitting processes, it is possible the land may be sold to other entities having habitat disturbance compensation obligations. Finally, any development of NPR-1 will generate compensation obligations that will require the establishment of conservation areas in the region consistent with FWS guidelines. Currently, these guidelines for the NPR-1 region require a ratio of three acres of compensation for every acre disturbed.

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FEDERAL GOVERNMENT AGENCIES

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United States
Department of
Agriculture

Natural
Resources
Conservation
Service

Soil Survey Office
1601 New Stine Road, Suite 260
Bakersfield, CA 93309
(805) 861 - 4133

Date: August 11, 1997

To: Mr. Anthony J. Como
NEPA Document Manager
U. S. Dept. of Energy, Fossil Energy (FE-27)
Room 3H-087
1000 Independence Ave. SW
Washington, DC 20585

Subject: SEIS-Elk Hills NPR

I have some comments to make regarding section 3.1.6 Soils of the SEIS for the sale of Naval Petroleum Reserve No.1 (Elk Hills). The initial paragraph should be revised to more accurately describe the soil conditions at the NPR. The opening sentence states that the soils on the west side of the valley are alkaline, fine powdery gypsum to medium-grained gravels. This is not accurate and disagrees with page 3.1-1 which states that the Tulare formation lies at the surface of Elk Hills and consists of alternating beds of gravel, sand, silt and clay. Gypsum is not soil. It is a salt which sometimes occurs in soil.

The SEIS also states that many areas on the west side of the valley include hardpan or hardpan under a shallow overburden of one to five inches. If this was true, most of the area would be poorly suited or unsuited to farming. The soils in the southern part of the San Joaquin Valley are usually very deep, light colored, loamy and calcareous with most irrigated areas being prime farmland. Some areas of dark colored clayey soils occur in the valley trough near Buttonwillow.

AGR-1

The soils at Elk Hills are composed of highly stratified deposits which vary greatly in their proportions of gravel, sand, silt and clay. Some strata are gravelly sands, some are clayey and some have a loamy texture with a mixture of sand, silt and clay that is poorly sorted. A few areas have a soil layer that is chemically cemented hardpan.

Many areas of Elk Hills contain loamy surface soils that are underlain by mottled clayey former lake deposits. Some of the subsurface layers contain gypsum crystals and other salts which commonly accumulate in arid regions.

The opening paragraph of section 3.1.6 seems to be describing soils using geology terminology. This generally doesn't work very well - just as describing rocks using soils terminology doesn't work very well either.

James F. Regal
James F. Regal
Soil Scientist

The Natural Resources Conservation Service,
formerly the Soil Conservation Service,
is an agency of the
United States Department of Agriculture.

AN EQUAL OPPORTUNITY EMPLOYER



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

August 27, 1997

Planning Division

Mr. Anthony J. Como, Document Manager
U.S. Department of Energy, Fossil Energy (FE-27)
Room 3H-087, 1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Como:

We have reviewed the Draft Supplemental Environmental Impact Statement (SEIS)/Program Environmental Impact Report (PEIR) for the Sale of Naval Petroleum Reserve Number 1 (NPR-1; Elk Hills)DOE/SEIS/PEIR-0158S, provided with your July 18, 1997, letter.

ACE-1

The proposed plan will not conflict with any project or other programs within our jurisdiction. If we can be of further assistance, please call Ms. Donna Garcia, Acting Chief of our San Joaquin Basin Branch. Her telephone number is (916) 557-6782.

Thank you for coordinating with us.

Sincerely,

Walter Yep
Walter Yep
Chief, Planning Division



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

AUG 4 1997

MEMORANDUM FOR: Susan B. Fruchter
Acting NEPA Coordinator

FROM: Captain Lewis A. Lapine, NOAA
Director, National Geodetic Survey

SUBJECT: DEIS-9707-05--Sale of Naval Petroleum
Reserve No. 1 (Elk Hills) Kern County,
California

The subject statement has been reviewed within the areas of the National Geodetic Survey's (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

All available geodetic control information about horizontal and vertical geodetic control monuments in the subject area is contained on the NGS home page at the following Internet World Wide Web address: <http://www.ngs.noaa.gov>. After entering the NGS home page, please access the topic "Products and Services" and then access the menu item "Data Sheet." This menu item will allow you to directly access geodetic control monument information from the NGS data base for the subject area project. This information should be reviewed for identifying the location and designation of any geodetic control monuments that may be affected by the proposed project.

If there are any planned activities which will disturb or destroy these monuments, NGS requires not less than 90 days' notification in advance of such activities in order to plan for their relocation. NGS recommends that funding for this project includes the cost of any relocation(s) required.

For further information about these monuments, please contact John Spencer; SSMC3, NOAA, N/NGS; 1315 East West Highway; Silver Spring, Maryland 20910; telephone: 301-713-3169; fax: 301-713-4175.



UNITED STATES DEPARTMENT OF COMMERCE
Office of the Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

August 6, 1997

Mr. Anthony J. Como
Document Manager, DOE
Fossil Energy, (FE-27)
Room 3H-087
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Como:

Enclosed are comments on the Draft Environmental Impact Statement for Sale of Naval Petroleum Reserve No. 1 (Elk Hills) Kern County, California. We hope our comments will assist you. Thank you for giving us an opportunity to review the document.

Sincerely,

Susan B. Fruchter
Susan B. Fruchter
Acting NEPA Coordinator

Attachment





United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
600 Harrison Street, Suite 515
San Francisco, California 94107-1576

September 19, 1997

ER 97/0432

Mr. Anthony Como
NEPA Document Manager, (FE-27)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-0350

Dear Mr Como:

The Department of the Interior (Department) has reviewed the Draft Supplemental Environmental Impact Statement/Environmental Impact Report (DSEIS/R) for the Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills), Kern County, California. The following comments are provided for your information and use when preparing the Final Supplemental Environmental Impact Statement/Environmental Impact Report (FSEIS/R).

These comments should be substituted for those contained in the Department's letter to your office of September 3.

FISH AND WILDLIFE RESOURCES

GENERAL COMMENTS

Endangered and Threatened Species The Department continues to be concerned with the process which the Department of Energy (DOE) is employing for the sale of the National Petroleum Reserve Numbered 1 (NPR-1) as the process relates to addressing agency responsibilities under the Federal Endangered Species Act of 1973, as amended (ESA). The NPR-1 provides habitats of significant importance to several listed species and recovery efforts for several ESA listed threatened and endangered San Joaquin Valley species. The U.S. Fish and Wildlife Service (FWS) has recommended the DOE initiate consultation under section 7 of the ESA on the proposed action as called for in the November 8, 1997, biological opinion (BO) (1-1-95-F-102) addressing the effects of continued NPR-1 oil and gas development at the Maximum Efficient Rate (MER). The DSEIS/R argues such consultation is meaningless since the Congress provided for transfer of the terms and conditions of the biological opinion.

However, as the DSEIS/R demonstrates, anticipated impacts from the proposed action would likely exceed those addressed in the biological opinion. The purpose of consulting on the sale of the NPR-1 would be to address additional provisions that could be included as conditions of the

Mr. Anthony Como, NEPA Document Manager

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DOI-1 sale. These provisions plus those included in the earlier biological opinion on operations could both promote the protection, conservation, and recovery of listed species while reducing the regulatory burden on the new owners. Conservation measures could include ultimate disposition of the property in favor of conserving listed species when the mineral resources have been removed. In summary, the new BO could complement the prior BO which does not include an analysis of the NPR-1 sale.

DOI-2 Based on its review of the DSEIS/R, the Department believes that the Alternative Actions of 1) discontinuing DOE operations but continuing Federal Ownership and 2) continuing DOE ownership and operation offer the best long term protection and conservation opportunities for federally listed threatened and endangered species inhabiting the NPR-1. These species include the San Joaquin kit fox (*Vulpes macrotis mutica*), blunt-nosed leopard lizard (*Gambelia silus*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), Hoover's woolly-star (*Eriastrum hooveri*), and Kern mallow (*Eremalche kerneris*). Another option, dedication of the property to listed species conservation once the oil and gas reserves have been exploited, could also assist in the recovery of these species. Specific issues should be resolved through additional meetings among the involved agencies. Although we encourage initiating consultation to address listed species, our subsequent comments assume the DOI-3 DOE may not undertake further consultation. In the absence of further consultation and to insure applicability of the BO, the FSEIS/R should include the prescription of operations, addressed in the BO, as a condition of the proposed NPR-1 sale.

DOI-4 **Alternatives** The range of alternatives for analysis in the DSEIS/R is inadequate. The range should include an alternative to keep the activities within the limits proscribed by the BO on the operation of NPR-1. The transfer of the BO's incidental take statement with its terms and conditions is a central feature of the proposed sale. All of the alternatives considered provide for more disturbance than is allowed by the BO. When those limits are reached, the new owner of the NPR-1 would have to apply to the FWS for additional take authorization under the ESA through the section 10 process. The DSEIS/R seems to imply the BO's limits could be exceeded and the new owner would negotiate with the FWS at some time in the future. The DOE needs to meet these BO conditions in the FSEIS/R.

DOI-5 All of the impact analyses provided in the DSEIS/R are based on the additional level of take. The FWS has not analyzed these impacts, and consequently, cannot provide an informed analysis of the impacts without additional information. Even though the DOE has made these analyses without sufficient information, it has predicted future fish and wildlife mitigation requirements based on a simple extrapolation of what is required now. The Department disagrees with this methodology, and reiterates that the BO is the standard which must be used for mitigating impacts. Extending the impact analysis to another level higher is not justified and probably provides an erroneous impact assessment.

Mr. Anthony Como, NEPA Document Manager

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DOI-6 The Department does not concur the DOE's preferred alternative is the least environmentally damaging alternative. The DSEIS/R does conclude the best outcome for endangered species would be for the land to remain in Federal ownership. However, an alternative which was rejected was proposed. It stated the land could remain in Federal ownership and the mineral rights could be leased through the Bureau of Land Management. This alternative is preferred by the FWS. In addition, the value of the land surface is very low at NPR-1, and the primary values are associated with the subsurface mineral rights. Retaining the surface but leasing the mineral rights would have little monetary impact over the outright sale of all assets, and would retain Federal oversight and the important and valuable conservation values of the property.

DOI-7 Loss of Federal Ownership The DSEIS/R discusses the impacts that may occur to endangered species from the loss of Federal ownership in a number of places. Although we agree the loss of the protective provisions of section 7(a)(1) of the ESA is significant, we disagree this loss would be fully mitigated or mitigated to a less than significant level. The change in ownership of the land would bring several changes in how compliance with the ESA is accomplished. A new owner would not have to carry out programs for the conservation of listed species specified in section 7(a)(1) of the ESA. In addition, a private owner would not be required to consult with the FWS to ensure no listed species is jeopardized or critical habitat adversely modified as required by section 7(a)(2). Instead, a new owner merely must avoid taking listed species. In addition, protection for listed plants would also be lost. The NPR-1 provides habitat for two federally listed plant species.

DOI-8 Use of the Valley Floor Habitat Conservation Plan (HCP) In a number of locations, the DSEIS/R mentions a new owner may utilize the Kern County Valley Floor HCP (VFHCP) process to obtain incidental take authorization and to address mitigation requirements of the ESA or to mitigate the loss of Federal ownership of the NPR-1. We disagree participation in the VFHCP would mitigate for the loss of Federal ownership. The VFHCP has been eight years in negotiation, and has been finely structured to meet the needs of the HCP permit applicants. The area of NPR-1 was specifically excluded from this plan. Inclusion of NPR-1 into the HCP could not be done simply by the request of a new owner of NPR-1. The request would require the approval of the permit applicants and analysis of the conservation implications of this proposed action. The proposed participation would also be unlikely to occur since it would be easier or at least no more difficult for the new owner to just propose its own HCP as suggested in the DSEIS/R.

DOI-9 Habitat Restoration In numerous locations, the DSEIS/R mentions the habitat restoration program that has been conducted at NPR-1 for a number of years. It further states this program has helped to reduce impacts to an insignificant level. The FWS disagrees with this conclusion. While there were expectations that the habitat program would provide a higher quality habitat than that which naturally re-established on a disturbed site, this has not been the case. DOE studies have shown that the quality of restored sites is approximately equal to that of sites naturally re-vegetating after about seven to eight years. The restoration program is not a program

Mr. Anthony Como, NEPA Document Manager

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DOI-9 the FWS would require in future consultations or as a mitigation requirement because the program calls for the site to naturally revegetate itself.

DOI-10 Transfer of the Terms and Conditions of the Incidental Take Statement Throughout the DSEIS/R, a reference is made that Congress has authorized the transfer of the terms and conditions of the BO and the incidental take authority associated with it. The DOE consistently has stated that a new owner would have to abide by all of these conditions to remain in compliance with the ESA. We agree with this assessment but also remind the DOE that the terms and conditions of the BO were based upon a project description supplied to the FWS by the DOE through the MER program. For the terms and conditions to remain in effect, the new owner would have to abide by the project description as provided to the FWS. The MER program specified how much, when, and where disturbance was anticipated to occur. The new owners must follow the MER program. Deviations, even though in compliance with other parts of the opinion, would require that the new owner enter negotiations with the FWS for new incidental take authority under section 10 of the ESA.

SPECIFIC COMMENTS

DOI-11 Page 3.7-3, Section 3.7.3.3, Water Banking This section is out-of-date and should be revised in the FSEIS/R. The State of California has not owned this property for several years. The property, now called the Kern Water Bank, is the subject of an HCP application, and will be managed for water recharge and endangered species. No other water districts are expected to join, as the Kern Water Bank Authority is a joint powers entity created by the participating water districts.

DOI-12 Page 4.5-1, Section 4.5.1.1, NPR-1 Impacts The summary states the three alternatives analyzed could jeopardize the continued existence of the San Joaquin kit fox, reduce the potential for recovery of listed species, and increase the potential for listing of additional species. These are very significant potential impacts. Since they do not adhere to the proposed project and would exceed the level of take allowed in the BO through the incidental take statement, the DOE should analyze only those alternatives that would be allowable under the existing BO in the FSEIS/R. Also, the loss of Federal oversight and obligations required under the ESA is significant, and has been previously addressed.

DOI-14 This section also suggests the quickest way for the new owner to gain state endangered species take authorization from the California Department of Fish and Game (CDFG) is to adopt the requirements of the BO and then negotiate with the CDFG regarding activities beyond what is allowed by the Federal opinion. We do not believe this would be a useful strategy for the following reasons: 1) the gaining of State authorization does not preclude obtaining Federal authorization and 2) the new owner would not know what conditions that have been negotiated with the CDFG would be acceptable to the FWS. We suggest that the new owner simultaneously negotiate with both agencies to develop a finished product that is acceptable to both agencies.

Mr. Anthony Como, NEPA Document Manager

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- DOI-14 | This is the current procedure employed for developing HCPs and conducting section 7 consultations in the San Joaquin Valley for jointly listed species.
- DOI-15 | Page 4.5-5, Section 4.5.1.3, Cumulative Impacts We do not agree that if the new owner of NPR-1 participated in the VFHCP, it would mitigate for the cumulative impacts of the sale of NPR-1. However, we do agree that the impact would be mitigated by the use of properly structured mitigation measures.
- DOI-16 | Page 4.5-5, Section 4.5.2, Methodology This section states that the operation of NPR-1 has been mitigated through the adoption of the mitigation measures provided in the series of BOs. The DOE proposes a 7,075 acre conservation area to fully mitigate for past activities and for the future activities allowed by the 1995 BO. Since the conservation area has not yet been established, the FSEIS/R should note that the DSEIS/R should not have stated the operation of NPR-1 has been mitigated.
- DOI-17 | Page 4.5-6, Table 4.5-2. This table reports disturbance of habitat associated with the No Action (Government Development) and the Proposed Action and Alternative Action Commercial Development would exceed the amount addressed in the BO. As previously stated, only the level of anticipated take of listed species associated with the amount of habitat disturbance addressed in the BO is authorized. Accordingly, the FEIS should make it clear any increase in take resulting from the increased habitat disturbance reported in this Table 4.5-2 is not authorized under the BO.
- DOI-18 | Page 4.5-7, Section 4.5.2.2, Standards of Significance This section states that the DSEIS/R assumes significant adverse impacts if those actions result in unauthorized taking of threatened or endangered species (i.e. in excess of permit limitations). Since 1) all of the alternatives provide for take of listed species from the loss of habitat in excess of what is allowed by the BO and 2) there is no basis for determining what might be authorized by the FWS or what mitigation would be required, the FSEIS/R should conclude, by the DOE's own standards, that each of the proposed alternatives would have significant adverse impacts to endangered and threatened species.
- DOI-19 | CULTURAL AND HISTORICAL RESOURCES
- DOI-19 | The SDEIS/PEIR supplements a 1979 EIS that analyzed the oil production impacts on the preserves and a 1993 EIS supplement that analyzed additional oil exploration and production within NPR-1 and adjacent NPR-2. The subject document describes and analyzes the Proposed Action by DOE to sell NPR-1 and the Alternative Action to discontinue DOE operation of NPR-1 but continue federal ownership and a No Action Alternative of continued DOE operation of NPR-1 in the case minimum sale bid requirements are not met. Possible actions related to the future transfer or sale of NPR-2 are also discussed in the SDEIS/PEIR.

Mr. Anthony Como, NEPA Document Manager

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As required by the National Historic Preservation Act (NHPA) NPS is responsible for reviewing proposed actions to identify potential impacts to eligible and listed sites on the National Register of Historic Places (NRHP). NPS also reviews proposed projects and comments on potential impacts to resources protected under the Native American Grave Protection and Repatriation Act (NAGPRA) and the Archeological Resource Protection Act (ARPA).

The SDEIS/PEIR indicates 57 prehistoric sites and 35 prehistoric isolates within NPR-1. In addition, four other sites have been determined as NRHP eligible by DOE. The SDEIS/PEIR indicates future development of NPR-1 by potential operators, who may disturb sites that are NRHP listed or eligible. The subject document also states that both NPR-1 and NPR-2 sale scenarios would add to on-going impacts of significant resources and Native American values.

To identify historic and cultural resources within NPR-1 and 2, DOE hired pre-historic and historic archaeologists to conduct surveys with a target completion date of August 1997. Information obtained through the survey will be submitted to the State Historic Preservation Office (SHPO) to assist in NRHP eligibility determinations. The SDEIS/PEIR indicates that when NRHP eligibility has been determined for NPR-1 and 2 sites, DOE will develop a Programmatic Agreement with the SHPO that specifies mitigation measures for sites that may be impacted by the proposed action.

The SDEIS/PEIR also states that DOE contractors have contacted Native American groups with traditional ties to Elk Hills (Yokuts, Paiute, Kitanemuk and inland Chumash) to identify their concerns and possible mitigation measures.

LAND MANAGEMENT

- DOI-20 | Page ES-2., last line: Should be "...849,000 to 1,225,000 million barrels of oil equivalent per year from 1997 through 2034."
- DOI-21 | Page ES-5, para. 2: This should also be "...730,000 million barrels of oil equivalent (including oil, gas, and other non-gas liquids) per year..."
- DOI-22 | Page ES-7, para.3: We're not familiar with the term "reservoir" wells. This should say drilling and completing rather than drilling and installing. LACT is lease automatic custody transfer.
- DOI-23 | Page ES-8, item 2: This alternative is not clear. It should state "...and then transfer surface management of the existing leases to BLM." What is meant by "BLM would continue to manage the NPR-2 leases as DOE currently does..." Would DOE continue to manage the leases as they do now if mineral rights were sold? Does DOE permit new wells currently, as BLM does, or does the California Division of Oil, Gas and Geothermal Resources do the permitting?

Mr. Anthony Como, NEPA Document Manager

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- DOI-24 Page ES-11, para. 3: States "The sale of NPR-1 and transfer of NPR-2 are likely to have significant impacts on threatened and endangered species and on archaeological resources. This holds true for the same reasons that individual impacts are considered significant -- increased development activity and the loss of the affirmative Federal obligation to protect those resources." However, management by BLM will still assure the same level of federal protection for those resources for NPR-2. Is the last sentence referring to buying a percentage of Elk Hills production or buying some of the oil from Elk Hills as a diluent? Please clarify this.
- DOI-25
- DOI-26 Page 2.3-3, para. 1: States BLM would collect royalty revenues from NPR-2 production. Royalty collection on all leases managed by BLM are collected by Department of the Interior's Minerals Management Service.
- DOI-27 Page 2.3-5, section 2.3.3.2: Should say "Like the purchasers of the smaller non-operating interests in Sales Scenario 1 of the proposed NPR-1 action, the buyers of the remaining mineral rights would not control how future development of reserves would occur unless the buyer were the same as the existing lessee of a given tract of land."
- DOI-28 Page 2.4-1, last para.: Do the 89 wells referred to include expected new wells in both NPR-1 and NPR-2? We assume new wells in NPR-2 might be more on the order of 5 or 6 per year.
- DOI-29 Page 2.4-3, last line: This states the Midway-Sunset oil field had an expected life of 9.4 years in 1993. This is an underestimation since production is still going strong.
- DOI-30 Page 2.4-6, para. 1: BLM is not a producer but is a federal land manager.
- DOI-31 Page 3.2-3, Table 3.2-1: The lease containing the "Section 20 potential abandoned waste site" was sold by ARCO to Vintage. The site was a trash dump and ARCO cleaned it up this year.
- DOI-32 Page 4.5-37, Mitigation measures: This text should be replaced with "Mitigation measures under BLM management would be virtually identical to those under the "No action - continued DOE leasing" alternative since both are federal agencies and have the same requirements under the Endangered Species Act."
- DOI-33 Page 4.5-39: The symbols in this table should be identical for the "Continued DOE leasing" and "Transfer to BLM" columns. In two cases they are different.
- DOI-34 Page C.2-1, para 1: States the number of active wells, tank settings and sumps. Please include the number of idle wells. The second sentence should read "Continued production and development of known reserves at NPR-2 would require drilling and completing new wells commonly known as infill and offset wells." Infill wells aren't "converted to" production wells. Perhaps you could instead say infill wells are completed as production wells.

Mr. Anthony Como, NEPA Document Manager

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- DOI-35 Page C.2-1, para. 5: The "health and the environment" bullet is not a complete statement. We're not sure what is meant here.
- DOI-36 Page C.2.2: Mobil Oil Corporation has become Aera Energy.
- DOI-37 Page C.2-3, para. 2: Normally natural gas liquids are expressed in gallons, not barrels.
- DOI-38 Page C.2-3, Valley Waste Disposal: States "Valley Waste plans to remediate Broad Creek-3 by 1994." Was this done? This section states "Valley Waste currently accepts produced water from NPR-2 leasees (Phillips Petroleum and Vintage Petroleum)". The following section on Vintage Petroleum says produced water is transported by pipeline to injection wells or directed to sumps and removed by vacuum truck. It does not mention the use of the Valley Waste Disposal site.

SUMMARY COMMENTS

- DOI-39 1. The FSEIS/R needs to accurately reflect the actual impacts from the sale of the NPR-1.
- DOI-40 2. The alternatives must be revised to reflect only activities that are authorized by the BO. The activity levels that are analyzed by the several alternatives all exceed the incidental take limits of the BO and, if followed, could put the new owner at risk of violating section 9 of the ESA.
- DOI-41 3. The DSEIS/R claims the elevated take levels in the alternative analysis are all mitigable to a very low level. The FSEIS/R needs to provide further information for the Department to conduct an analysis of those assessments. In addition, we do not agree that the preferred alternative is the least environmentally damaging. However, we do agree with the overall conclusion that any of the alternatives may potentially jeopardize the San Joaquin kit fox, reduce the likelihood of recovery of listed species, and increase the potential for listing additional species.
- DOI-42
- DOI-43 4. The Department believes the loss of Federal oversight and the protective provisions contained in sections 7(a)(1) and 7(a)(2) of the ESA have not been adequately assessed. They need to be revisited in the FSEIS/R.
- DOI-44 5. The use of the VFHCP as a mitigation method is not justified, and should not be included in the FSEIS/R.
- DOI-45 6. The transfer of the terms and conditions of the current BO are contingent on the new owner following the activities proposed within the project description that was provided to the FWS. The information given in the project description is the basis for the consultation and the resulting BO. If the proposed program is not followed, the protective assurances regarding section 9 of the ESA would lapse.

Mr. Anthony Como, NEPA Document Manager

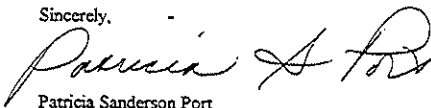
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D01-46

7. The SDEIS/PEIR clearly sets forth DOE efforts to accomplish pre-survey Native American consultation to survey historic and cultural resources in the project area and SHPO consultation regarding NRHP-eligibility determinations. We recommend continued consultation with Native American groups of Elk Hills regarding mitigation of historic and sacred resources protected by ARPA and NAGPRA. The National Park Service also recommends that SHPO consultation continues in the development of mitigation strategies for disposal of NPR-1 and 2.

Thank you for the opportunity to comment on this project.

Sincerely,



Patricia Sanderson Port
Regional Environmental Officer

cc:

Director, OEPC, w/original incoming
Regional Director, FWS, Portland
Regional Director, NPS, San Francisco
State Director, BLM, Sacramento



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

September 8, 1997

SEP 11 6 1997

Tony Como
NEPA Project Manager (FE-27)
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Como:

The U.S. Environmental Protection Agency (EPA) has reviewed the Supplemental Draft Environmental Impact Statement/Report (SDEIS/R) for the Sale of Naval Petroleum Reserve Number 1 (Elk Hills), Kern County, California. Our comments on the SDEIS/R are provided pursuant to the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508). We provided written scoping comments to the Department of Energy (DOE) on the Notice of Intent on May 17, 1996 and had subsequent discussions with the DOE regarding our scoping comments. We also provided a copy of our May 1996 scoping comments to the Kern County Planning Department on December 12, 1996 in response to the Notice of Preparation.

Public Law 104-106 (February 10, 1996) directs the Secretary of Energy to enter into one or more contracts "for the sale of all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1" (NPR-1) no later than two years after the effective date of P.L. 104-106. The Proposed Action assessed in this SDEIS/R is the sale of the Federal Government's interests in NPR-1. The SDEIS/R assesses three alternatives: the Proposed Action (sale of all government interest); the No Action Alternative (continued DOE ownership and operation of NPR-1); and the Alternative to the Proposed Action (transfer involving retention of some government ownership at commercial development production levels). Based upon a conversation you had on August 28 with David Tomsovic of my staff, we understand that the Proposed Action identified in the SDEIS/R is the DOE's "preferred alternative" [40 CFR 1502.14(c)].

EPA-1 We have assigned the DEIS/R a rating of EC-2, Environmental Concerns - Insufficient Information. Three key issues form the basis for our rating, as follows:

EPA-2

1. It is unclear whether the Proposed Action is consistent with the State Implementation Plan because of the air quality violations projected in 2001. It is also unclear whether new or revised permits could be issued to the new owner(s) unless consistency with the State Implementation Plan is clearly demonstrated. These issues should be clarified in the

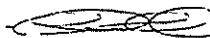
EPA-2 Final EIS/R (FEIS/R).

EPA-3 2. Although we recognize that the terms and conditions of the 1995 Biological Opinion would become binding on the facility's new owner(s), we are concerned that the Proposed Action may nonetheless have a variety of adverse consequences for biological resources at NPR-1, particularly Federally-listed species. To help minimize such impacts, we believe that of the several biological resource mitigation measures and recommendations identified in the SDEIS/R should also be included as conditions of the sale. These measures, which could be carried out at a relatively low cost, should be discussed with the U.S. Fish and Wildlife Service.

EPA-4 3. We are concerned with the disposition polychlorinated biphenyls (PCBs) currently in storage or in use at NPR-1. The FEIS/R should discuss the future disposition of PCBs subject to EPA regulatory jurisdiction. Specifically, the FEIS should address whether EPA-regulated PCB materials would be shipped to another DOE facility or if they would become the property of the new owner(s).

EPA-5 Please refer to the attached "Summary of Rating Definitions and Follow-up Action" for an explanation of EPA's rating system and to the attached comments which discuss our concerns in greater detail. One copy of the FEIS/R should be sent to my attention (code: CMD-2) at the letterhead address when the document is filed with EPA's Washington, D.C. office. If you have any questions, please call me at 415-744-1584 or Mr. Tomsovic at 415-744-1575.

Sincerely,



David J. Farrel, Chief
Federal Activities Office

Attach: 1. Detailed EPA Comments
2. Rating Summary

cc: Glen Barnhill, Kern Planning Dept, Bakersfield, CA
Wayne White, FWS, Sacramento, CA
Merle Richmond, FWS, Portland, OR

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

U.S. EPA COMMENTS ON SUPPLEMENTAL DRAFT EIS/EIR FOR SALE OF NAVAL PETROLEUM RESERVE NUMBER 1 (ELK HILLS), KERN COUNTY, CALIFORNIA.

AIR QUALITY

1. Table 4.3-1 of the Supplemental Draft Environmental Impact Statement/Report (SDEIS/R) projects the stationary source emissions at NPR-1 in 2001 under the Proposed Action, and compares those emissions to the 1995 stationary source emissions under the Reference Case. The stationary source emissions are presented in pounds per hour for PM10, CO, SOx, NOx and ROG. This table projects a significant rise in the stationary source emissions in 2001, e.g., the data provided indicates that stationary source NOx emissions would rise from 453.44 lb/hr in 1995 to 1,331.98 lb/hr in 2001 ("an exceedence of Federal ambient air quality standards..."). Similarly, SOx emissions would rise from 8.97 lb/hr in 1995 to 71.23 lb/hr in 2001, ("exceeding state standards"). PM10 emissions are also, according to the documentation provided "estimated to exceed state standards." The SDEIS/R correctly notes that for any alternative where the permitted emission levels would need to expand to accommodate increased production levels or the installation of new equipment, "air quality regulations require the owner(s) or operator(s) to obtain a new or revised construction and operating permit." (pp. 4.3-1 and 4.3-2 of SDEIS/R).

Based on data suggesting air quality violations in 2001, it is unclear whether the Proposed Action would be consistent with the State Implementation Plan. Similarly, it is unclear whether new or revised permits could be issued by the air pollution control district unless consistency with the State Implementation Plan is clearly demonstrated. We recommend that these issues be discussed in further detail in the Final EIS/R (FEIS/R). In particular, the FEIS/R should clearly portray whether the Proposed Action would be consistent with the State Implementation Plan and applicable air quality standards.

2. The SDEIS/R does not provide a clear depiction of total annual emissions of criteria air pollutants associated with No Action and the Proposed Action (in 2001) from stationary and mobile sources at NPR-1. Rather, stationary source emissions are presented in pounds per hour for both the Reference Case and the Proposed Action. It is unclear whether the total stationary source emissions should be calculated at 24 hours, 365 days per year, or a figure less than 24 hours per day (since the equipment and facilities do not necessarily operate, and emit, for a full 24 hours per day). It would be helpful if DOE would project, and present, daily and annual emissions based on the anticipated operation of the facilities under existing and anticipated production rates. Mobile source emissions are similarly presented in pounds per day. While we assume that the annual emissions would be calculated at 365 days (or some lesser figure, if Sundays and holidays are excluded), daily and annual emission projections are not provided in the EIS. At minimum, we recommend that the total annual emissions for 2001 (Proposed Action and No Action) be presented in the FEIS/R. Total annual emissions for the 1995 Reference Case should be portrayed as well, so that the 1995 emissions may be contrasted with the projected emissions in 2001.

BIOLOGICAL RESOURCES

The SDEIS/R indicates that one of the most significant impacts from future developments at NPR-1 would be to biological resources. Page ES-8 indicates that the Proposed Action and the Action Alternative would have a greater impact on threatened and endangered species because private development would be more intense and the level of mitigation required of private industry in regard to listed species are less than those required of the United States Government. However, as a condition of the sale, the 1995 Biological Opinion and its terms and conditions would become binding upon the new owner(s), in accordance with Section 3413(d) of Public Law 104-106. In order to expand the current level of exploration and production at the facility, the new owner(s) would have to obtain a permit under Section 10 of the Endangered Species Act, as well as complying with State endangered species requirements.

Table 4.5-3 lists the 28 terms and conditions of the current Biological Opinion for NPR-1, including the establishment of a 7,075-acre conservation area and habitat management program by November 1998 (BOM-1.1, p. 4.5-13). Also listed are "Biological Opinion Conservation Recommendations" and several mitigation measures for biological resources. We recognize that the recommendations and mitigation measures identified in these two tables are not legally binding on the Department of Energy (unlike the 28 measures in the 1995 Biological Opinion), nor would these recommendations and mitigation measures be binding upon the new owner(s) of the facility.

To the extent that these recommendations and mitigation measures are not inconsistent with Section 3412(e)(1) of P.L. 104-106 or other provisions of that law, we encourage the Department of Energy to work with the U.S. Fish and Wildlife Service to craft biological resource mitigation options for the facility that would protect such resources while still maximizing the sale proceeds to the United States. As one example, Biological Resources Mitigation Measure 10 (BRM 10) is designed to "Restrict pest management programs to areas in and immediately surrounding occupied facilities to the extent practical." This is a relatively low-cost mitigation measure that would have a practical benefit to biological resources, in particular Federally- or State-listed species that may be subject to accidental pesticide or herbicide mortality. Another Biological Resource Measure (BRM 15) is to adjust the facility's fire suppression program to avoid or minimize adverse habitat impacts, which may also be a relatively low-cost measure that would have a practical benefit to listed species.

We strongly recommend that the FEIS/R discuss whether the mitigation measures referenced earlier (especially those involving little or no cost) can be integrated into the sales contract(s) for NPR-1, while still maximizing the sale proceeds to the United States. We believe that it may be feasible to expand the biological mitigation opportunities for NPR-1 at no detriment to the sale proceeds to the United States, such as the measures found in BRM 10, BRM 15 and possibly other measures as well.

TOXIC SUBSTANCES - PCBs

- EPA-11 In the context of the No Action Alternative, page 4.2-2 discusses polychlorinated biphenyls (PCBs) in liquids such as waste oil, hydraulic fluids, and heat transfer fluids, as well as in transformers, capacitors and light ballast. However, there is no discussion regarding how the Proposed Action may affect PCBs that are either in use or in storage at NPR-1 or the Department of Energy's future plans for PCB materials at NPR-1 that are subject to EPA regulatory jurisdiction. You should note that EPA's PCB regulations govern PCBs that are presently in use or in storage by the owners or operators of a facility. Upon the transfer of ownership of NPR-1 to a private owner or owners, the PCBs in use or in storage would transfer from Federal to non-Federal ownership. The FEIS/R should recognize that PCBs in use or in storage at NPR-1 would become the legal responsibility of the new owner(s) unless the Department of Energy removes the EPA-regulated PCB units or PCB materials from NPR-1 prior to the change in ownership.
- EPA-12 We recommend that the FEIS/R discuss whether the Department of Energy intends to remove any EPA-regulated PCBs presently in use or in storage from the facility prior to a change in ownership, or whether these regulated materials would become the property and legal responsibility of the new owner(s). We further request that the Department of Energy provide formal notification to EPA Region IX, Toxics Section once a decision is made regarding the disposition of EPA-regulated PCBs in use or in storage (i.e., transferring the PCBs to another DOE facility or having the PCBs become the property of the new owner(s)).
- EPA-13

STATE GOVERNMENT AGENCIES

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

DEPARTMENT OF CONSERVATION

DIVISION OF ADMINISTRATION
 DIVISION OF MINES AND GEOLOGY
 DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES
 DIVISION OF RECYCLING



801 K Street
 Sacramento, CA 95814-3528
 Phone (916) 445-8733
 FAX (916) 324-0948

September 2, 1997

Mr. Anthony J. Como, Document Manager
 U.S. Department of Energy
 Fossil Energy (FE-27), Room 3H-087
 1000 Independence Avenue, SW
 Washington, D.C. 20585

Dear Mr. Como:

Subject: Draft Supplemental Environmental Impact Statement/Program
 Environmental Impact Report for the Sale of Naval Petroleum Reserve
 Number 1 (NPR-1), (Elk Hills), Kern County - SCH #97071058

The Department of Conservation's (Department) Division of Oil, Gas, and Geothermal Resources (Division) has reviewed the above referenced document for the sale of the NPR-1. The Division supervises the drilling, operation, maintenance and abandonment of oil, gas, and geothermal wells in California. The Department submits the following comments for your consideration.

- UDC-1 1. Page ES-10: Under the heading "Water Resources", it may be worthwhile to note that the local water quality is typically nonpotable due to high Total Dissolve Solids (TDS) content.
- UDC-2 2. Page 2.2-1: Last paragraph, last sentence should also mention "environmental compliance" as a primary requirement.

If you have any questions, please contact Randy Adams at the Division district office in Bakersfield. The address is 4800 Stockdale Highway, Suite 417 Bakersfield, CA 93309-2694, phone (805) 322-4031.

Sincerely,

Jason Marshall
 Assistant Director

cc: Randy Adams Division of Oil, Gas, and Geothermal Resources, Bakersfield
 Mike Stettner, Division of Oil, Gas, and Geothermal Resources, Sacramento

STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

DEPARTMENT OF CONSERVATION

DIVISION OF ADMINISTRATION
 DIVISION OF MINES AND GEOLOGY
 DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES
 DIVISION OF RECYCLING



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September 9, 1997

Mr. Anthony J. Como, Document Manager
 U.S. Department of Energy
 Fossil Energy (FE-27), Room 3H-087
 1000 Independence Avenue, SW
 Washington, D.C. 20585

Dear Mr. Como:

Subject: Draft Supplemental Environmental Impact Statement/Program
 Environmental Impact Report for the Sale of Naval Petroleum Reserve
 Number 1 (NPR-1) (Elk Hills), Kern County-SCH #97071058

The Department of Conservation's (Department) Division of Oil, Gas, and Geothermal Resources (Division) has reviewed the DOE/SEIS/PEIR-01585 for the sale of the NPR-1. The Department previously provided comments on September 2, 1997 (enclosed), but would like to submit the following additional comments for your consideration.

- CCV-1 1. Page 2.2-2: The first paragraph should note the \$50,000 bond is required for a commercial Class II injection well (project).
- CCV-2 2. Page 2.2-2: In the fourth paragraph, an amplifying sentence should be added, "The DOGGR's discretionary Permit to Conduct Well Operations could include conditions used for environmental mitigation required in the NEPA/CEQA process."
- CCV-3 3. Page 2.3-3: It should be note that if NPR-2 (Buena Vista) is transferred to BLM, operation will be under the terms agreed to in the BLM/Division Memorandum of Understanding. In that case, the Division would not be issuing Permits to Conduct Well Operations, except for Underground Injection Control Class II wells.
- CCV-4 4. Page 2.4-2: Elk Hills is not the third largest producing field in the state. It is the fourth largest field, after Midway-Sunset, Kern River, and South Belridge.
- CCV-5 5. Page 2.4-3: Buena Vista is not the tenth largest producing field in the state.

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The Department appreciates the opportunity to provide additional comments. If you have any questions, please contact Randy Adams at the Division district office in Bakersfield. The address is 4800 Stockdale Highway, Suite 417 Bakersfield, CA 93309-2694, phone (805) 322-4031.

Sincerely,


Jason Marshall
Assistant Director

Enclosure

cc: Randy Adams Division of Oil, Gas, and Geothermal Resources, Bakersfield
Mike Stettner, Division of Oil, Gas, and Geothermal Resources, Sacramento

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor



DEPARTMENT OF FISH AND GAME

REGION 4

1234 East Shaw Avenue
Fresno, California 93710
(209) 243-4014

September 5, 1997

Mr. Anthony Como
NEPA Document manager (FE-27)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0350

Dear Mr. Como:

Sale of Naval Petroleum Reserve Number 1 (Elk Hills)
Kern County General Plan Amendment
Draft Supplemental Environmental Impact Statement and
Program Environmental Impact Report
(DOE/SEIS/PEIR-01588)

We have reviewed the Draft Supplemental Environmental Impact Statement and Program Environmental Impact Report (SEIS/PEIR) referenced above. The proposed actions under review (the Project) are (1) the Department of Energy's sale of the Naval Petroleum Reserve Number 1 (NPR-1), and (2) a concurrent Kern County General Plan Amendment. The Project will result in transfer of ownership of approximately 47,000 acres in western Kern County from the U.S. Department of Energy (DOE) to the private sector; and in an amendment of the Kern County General Plan Use, Open Space and Conservation Element from "State or Federal Ownership" to "Mineral or Petroleum" designation.

CFC-1 The NPR-1 comprises a major portion of the remaining relatively undeveloped lands in the southern San Joaquin Valley, and has been noted in endangered species recovery planning efforts as a significant area. The pending transfer of ownership has great implications for the State's efforts to manage and conserve natural resources in the southern San Joaquin Valley, and also for the U.S. Fish and Wildlife Service's (USFWS) program to conserve and recover Federally endangered and threatened plants and animals.

CFC-2 The Department of Fish and Game (Department) has previously commented on the Project in early scoping sessions and in response to the Notice of Preparation. In summary, NPR-1 is of major importance to the conservation and recovery of a number of State- and Federally-listed Endangered, Threatened or other special status plants and animals. Federal

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CFG-2 ownership of NPR-1 has resulted in ongoing conservation efforts, and has also maintained the prospect for continued or enhanced conservation in the future. Transfer of the surface of NPR-1 to a private party would result in the loss of current conservation actions and future potential for conservation uses. This loss is a significant impact under the California Environmental Quality Act (CEQA), and requires adoption of feasible mitigation or substantiated Findings of Overriding Consideration. Feasible mitigation exists to mitigate this impact to a less-than-significant level. Adoption of the mitigation measures proposed in the SEIS/PEIR (with some modifications, as discussed in our detailed comments below) would reduce impacts to a less-than-significant level.

CFG-3 Several Alternatives are evaluated in the SEIS/PEIR, but our assumption is that the Proposed Alternative will be implemented, and our comments reflect that assumption. The document is generally well written, and we concur with many of its conclusions. However, there are significant errors or inadequacies that require correction if the SEIS/PEIR is to be adequate. Our major concerns center on the importance of the NPR-1 to regional conservation, including the management and recovery of Threatened and Endangered species, other rare plants and animals, and even common wildlife, including harvest species. Our comments follow.

Project Description

CFG-4 The description of the proposed action is generally adequate with the notable exception that the locations of future (and current) activities are not specified. It is not possible to evaluate the relative impacts of Project-induced activities on sites with different initial conditions, including the extent of existing and potential development, and importance to conservation of rare plants and animals. This limits impact evaluation and mitigation design to a general approach. As a result, significant impacts could be overlooked, and precise mitigation measures cannot be developed.

CFG-5 The Project Description and subsequent impact analyses are based on production scenarios that are only estimates. It must be recognized that the Project does not establish any limits to the scope, extent, or intensity of the new owner's actions. Also, the scope of the Project Description, and subsequent impact analyses are limited to only oil and gas production and associated actions within the boundaries of NRP-1; the SEIS/PEIR clearly does not address other uses, even though these uses may be legitimate under the General Plan Amendment, or may be sought with subsequent General Plan Amendments. Thus, the scope of potential impacts that could be caused by the Project is greater than that covered in the SEIS/PEIR, unless additional conditions or mitigation measures provide suitable limits.

Water Resources

CFG-6 The discussion of applicable regulations should include Fish and Game Code §1600 *et*

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CFG-6 *seq.*, requiring notification of the Department and Streambed Alteration Agreements for work in the bed bank or channel of lakes, ponds, rivers or streams. The seasonal drainages present on NPR-1 are generally under the Department's jurisdiction.

Biological Resources

CFG-7 The evaluation of existing biological resources is a reasonably good summary. It is important to note that NPR-1 is a soon-to-be-unprotected expanse of natural land with regional significance to conservation of a number of plants, animals and their habitats. Also, a point not well analyzed in the SEIS/PEIR is that the NPR-1 provides significant wildlife habitat for common native plants and wildlife, and contributes to regional populations of some harvest species.

CFG-8 A significant resource of the NPR-1 that should be included as part of the description of existing conditions is the ongoing biological research and monitoring programs. These have contributed significantly to maintenance of biological values on the NPR-1, and also to the regional management and recovery of several Threatened or Endangered plants and animals. Reductions in these programs, and the loss of potential future programs as a result of the proposed action, are significant impacts.

Impacts

CFG-9 The main impacts of interest to the Department are the loss of ongoing and potential conservation values on the NPR-1; potential impacts of off-site related activities; and the potential impact of long-term land-use changes following privatization. All of these are significant, and mitigable.

CFG-10 The impacts discussed in the EIR/EIR are generally well-categorized, although the inadequacies in the Project Description result in inadequacies in the disclosure and evaluation of Project impacts. The potential impacts disclosed or evaluated are only those resulting from the specified ranges of oil and gas development on the NPR, evaluated over the NPR-1 as a whole. Thus, other potential uses of the NPR-1 that could logically follow from the Project (such as mining and agriculture) are not evaluated. Related impacts outside of the boundaries of NPR-1 are largely not evaluated (for example, seismic testing programs and pipeline construction). The evaluation of impacts is limited by reliance on the assumptions regarding oil and gas development as defined in the scenarios, and is further constrained by the lack of treatment of any subareas within NPR-1.

CFG-11 The evaluations of significance for many of the identified impacts should be revised. As presented in Table 4.5-1, Habitat Loss (Plant Communities) and Plant Community Loss should be categorized as Significant (S), rather than as Less than Significant (L). Habitat Loss (Animal

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- CFG-11 Communities), Animal Loss, and Shelter Loss should also be categorized as Significant. Program Funding Loss should be categorized as Significant for scenarios 1 and 2. Table 4.5-9 presents a different and more realistic evaluation of significance for these same impacts.
- CFG-12 The impact evaluations rely heavily on assumptions regarding the possible requirements of State or Federal authorizations to take listed species, either under permits specific to the Elk Hills Unit Operator, or under regional plans. This is a fundamental error, for the impacts should be evaluated in the absence of mitigating effects that are undetermined at this time, and that are not part of the Project under review. At the least, the evaluations of the significance of impacts should be revised accordingly. There are additional comments on this in our discussion of mitigation.
- Mitigation, General**
- CFG-13 The lack of analysis of any subareas within the NPR-1 makes it important to implement mitigation measures that can apply broadly to the NPR-1 as a whole, and can also be adapted as necessary over time to deal with variations in site conditions. The limited scope of impact disclosure and evaluation makes it important to require mitigation measures or other controls that limit the Project's impacts to those areas; otherwise the SEIS/PEIR would be grossly inadequate.
- CFG-14 The SEIS/PEIR is seriously flawed by consideration of a regional Habitat Conservation Plan, the Kern County Valley Floor (VFHCP) as mitigation for impacts occurring from the sale of NPR-1. This approach is inadequate for several reasons. First, the NPR-1 is outside of the VFHCP boundary, and was not included in the extensive planning and analysis conducted for that HCP. Significant additional planning and analysis would be necessary to include the NPR-1 in that plan, and would most likely lead to substantial revision in the proposed VFHCP. Second, the VFHCP is not yet active, and has not been executed, so it cannot be relied upon to provide mitigation as required by this SEIS/PEIR. Third, the VFHCP has been designed as an impact mitigation program, and as such, would not address the significant impacts of the loss of current and potential conservation values that extend beyond the immediate physical impacts of surface development.
- All sections of the SEIS/PEIR that reference the VFHCP as mitigation should be stricken from the Final SEIS/PEIR. A revised evaluation of impacts should be provided that does not rely upon the VFHCP.
- CFG-15 Similarly, the SEIS/PEIR relies extensively on State and Federal authorizations for take to provide mitigation for impacts of the proposed actions, in lieu of providing explicit mitigation measures in the context of CEQA and the National Environmental Policy Act (NEPA). It is simply not adequate to assess impacts on the basis of possible regulation by entities that are not parties to the proposed action, under laws and procedures that do not guarantee fulfillment of the mitigation that the SEIS/PEIR assumes would come from State or Federal take authorization.

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- CFG-15 Moreover, it cannot be assumed that these take authorizations would provide consequential mitigation for impacts to non-listed species such as harvest species, whose habitat is also affected adversely by the Project actions.
- CFG-16 All sections of the SEIS/PEIR that reference the potential requirements of State or Federal take authorizations as mitigation should be deleted from the Final SEIS/PEIR. A revised evaluation of impacts should be provided that does not assume these potential requirements.
- Proposed Mitigation Measures**
- CFG-17 In general, mitigation measures for this Project must be broad in scope, and have a well-structured and flexible implementation with ongoing oversight by responsible and trustee agencies. Measures should be included that limit the effects of the Project to those activities and impacts addressed in the SEIS/PEIR.
- The proposed mitigation measures should be re-stated as measurable and enforceable conditions, and upon final acceptance should direct, rather than advise, actions. They should state clear requirements, include consequences for non-compliance, and provide financial security for implementation in the event of a default. Kern County, the Department, and the USFWS should be included in all notification, reporting and inspection/access requirements. Additional details should be provided in a Mitigation Monitoring and Implementation Plan (MMIP) enabling monitoring and enforcement. Some mitigation measures may not be readily enforceable by the County or DOE, and should also be established as contract terms in the sale agreement and in a separate mitigation agreement that allows for easily obtainable remedies. Our specific comments on the proposed mitigation measures are:
- Measures BOM-1.1 through BOM-1.28: Require. These provide basic, widely accepted, impact reduction and mitigation measures for planned oil and gas activities.
- Measures BOEM-2 and 3: Revise and Require. These mitigate loss of habitat by requiring replacement habitat. The habitat replacement ratios in BOEM 2 and 3 should be stated as minimum requirements, and include the requirement for adequate funding to perpetually manage the mitigation lands.
- Measures BOCR-4 through 8: Require. These would tend to reduce a broader level of impacts resulting from privatization, if they were required of new owner/operators. As stated in the SEIS/PEIR, it is not clear that they would be required under the Proposed Action.
- Measures BRM 9 through 15: Require. These provide for the continuation of some impact reduction measures, expand the scope of measures in place to include additional species, and allow for the use of new information in some mitigation measures.

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Measures BRM-16 through 20: Revise and Require. These measures attempt to deal with the loss of the Federal affirmative obligation to protect biological resources, and uncertainty of development under private ownership. Some of these re-iterate requirements of other mitigation measures (such as inclusion of measure to avoid take of San Joaquin antelope squirrel), and others offer mitigation alternatives.

BRM-16, 17, and 17.1: Require.

BRM 17.2: Revise and Require. This measure should be revised to state 3:1 and 1:1:1 habitat replacement ratios as minimum requirements, and to include suitable management funding for mitigation lands. The amount of surface disturbance addressed should be equal to that covered by the 1995 USFWS Biological Opinion.

BRM-18: Delete. Development of an HCP for the Elk Hills Unit, or inclusion in an existing HCP, are speculative, and do not provide defined mitigation.

BRM 19, 19.1: Delete. These are not relevant in the context of the other mitigation measures as discussed here.

BRM 19.2: Require.

BRM 19.3: Require.

BRM 19.4: Require.

BRM 20: Revise. Replace with a measure that limits surface disturbance to that authorized in the 1995 USFWS Biological Opinion, unless modified by the USFWS with concurrence from the Department.

Findings

It is the responsibility of both Lead Agencies to realistically disclose potential impacts and incorporate reasonable mitigation. Under CEQA, a Lead Agency must provide feasible mitigation or make substantiated Findings of Overriding Consideration. In this case, such Findings would be difficult to support, as the impacts of privatization would be associated with significantly greater economic return to the new operator, which should offset the cost of mitigation activities at least at the level of those now in effect on the NPR-1. Also, the loss of conservation values on the NPR-1 could adversely affect efforts to conserve and recover listed and rare species in the southern San Joaquin Valley, resulting in greater burdens on other citizens and agencies.

Outside of CEQA or NEPA, the Department of Energy has an affirmative obligation as a

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CFG-20 federal agency to further the recovery and conservation of Federally-listed species. Requiring the recommended mitigation would be a reasonable and responsible manner in which to meet that obligation.

Authorization to Take California Threatened or Endangered Species

CFG-21 Several prospective bidders have inquired regarding the process for obtaining State authorization for take of California Threatened or Endangered species. It is almost certain the Elk Hills Unit Operator would cause some eventual take of State-listed species. This take could be authorized under California Fish and Game Code §2081. Such authorization would be obtained through consultation with this office. We are prepared to commence preparation of such authorization as soon as possible, and might be able to provide authorization for take upon transfer of the NPR-1 in February.

Descriptions of covered activities and species, levels of take, actions to offset take, and other requirements of the authorization would be embodied in a Memorandum of Understanding (MOU) between the Department and the Elk Hills Unit Operator. A draft MOU, subject to change, is attached. This draft provides substantially the form and content of the document that we would use to authorize take on the Elk Hills Unit, although some revisions should be expected.

Should you have any questions or require further information about either our comments or the authorization for take of State-listed species, please contact Dr. Jeffrey Single, Environmental Specialist III, or Mr. Dale Mitchell, Environmental Services Supervisor, at the address or phone number listed on the letterhead.

Sincerely,


George D. Nokes
Regional Manager

cc: Mr. Ted James
Kern County Planning Department
2700 M Street, Suite 100
Bakersfield, California 93301

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**CALIFORNIA ENDANGERED SPECIES ACT
MEMORANDUM OF UNDERSTANDING AND
MANAGEMENT AUTHORIZATION**

by and between

"THE ELK HILLS UNIT OPERATOR"
acting on behalf of the Elk Hills Unit Participants

and

THE CALIFORNIA DEPARTMENT OF FISH AND GAME

regarding

**THE PRIVATE OPERATION OF THE ELK HILLS UNIT
FORMERLY KNOWN AS NPR-1**

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between the Elk Hills Unit Operator ("EHUO") and the California Department of Fish and Game (the "Department"), collectively "the Parties."

The EHUO proposes to undertake a project that may cause the take of species of wildlife protected by the California Endangered Species Act, California Fish and Game Code §2050, et seq. ("CESA"). This CESA MOU prescribes management measures for the species that are to be incorporated into the proposed project. The management measures are designed to avoid, minimize, and mitigate adverse impacts to the species and to ensure that the project will not destroy or adversely modify habitat essential to the species' continued existence. If the management measures are duly implemented, the proposed project can be completed in compliance with CESA.

AGREEMENT

The Parties agree to the following recitals of fact, definitions, terms, conditions, and other provisions:

1.0 DEFINITIONS

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The following definitions shall govern interpretation of this CESA MOU:

1.1 *"Wildlife"* means all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability, as provided in Fish and Game Code §711.2.

1.2 *"Take"* means to hunt, pursue, catch, capture, or kill an individual of a listed species, or to attempt any such act. *"Take"* includes any act that is the proximate cause of the death of an individual of a listed species, or any act a natural and probable consequence of which is the death of any individual of a listed species.

1.3 *"Management measure"* means any action deemed necessary by the Department to sustain a species within a natural ecological system. *"Management measures"* include legal, biological and administrative measures.

1.4 *"Elk Hills Unit" ("EHU")* means the privatized property previously known as NPR-1 the sale of which is defined in Public Law 104-106 and the related SEIS/PEIR.

1.5 *"Elk Hills Unit Operator" ("EHUO")* means the operator designated by the owners of the Elk Hills Unit to manage daily operations as specified under the Unit Operating Agreement.

1.6 *"Elk Hills Unit Participants" ("EHUPs")* means the private entities who possess interest in and to the right to explore for, develop, produce, extract, and remove oil, gas and other hydrocarbon substances on and from lands within the Elk Hills Unit.

1.7 *"Implementation Agreement"* means an implementation agreement reached by and between the Elk Hills Unit Operator and the California Department of Fish and Game which details implementation procedures for the mitigation commitments and requirements of this CESA MOU.

1.8 *"Unit Operating Agreement" ("UOA")* means the operating agreement entered into among the interest owners of the Elk Hills Unit.

1.9 *"Maximum Efficient Rate" ("MER")* means "the maximum sustainable daily oil or gas withdrawal rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to ultimate recovery" as provided in the USGS report to the U.S. Department of Interior "The Use of Maximum Efficient Rate (MER) as a Regulatory Tool" dated January 1976.

1.10 *"Special Status Species"* means taxa designated by the State of California as endangered, threatened, rare, candidate, or species of special concern.

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2.0 RECITALS

2.1 The State of California endangered blunt-nosed leopard lizard (*Gambelia sila*), giant kangaroo rat (*Dipodomys ingens*), and Tipton kangaroo rat (*Dipodomys nitratoideus*); the State of California threatened San Joaquin kit fox (*Vulpes macrotis mutica*), and San Joaquin antelope squirrel (*Ammospermophilus nelsoni*); the State of California endangered California jewelflower (*Caulanthus californicus*); the federally endangered (State of California species of concern) Kern mallow (*Eremalche kernensis*), and San Joaquin woolly-threads (*Lembertia congdonii*); the federally threatened (State of California species of concern) Hoover's woolly-star (*Eriastrum hooveri*); and the State of California protected raptor Burrowing Owl (*Athene cunicularia*); together referred to as the "Covered Species" are known to exist at, or in the vicinity of the EHU which is to be operated at "maximum efficient rate" ("MER"), and is located near the town of Tupman in Kern County, California. A summary life history of the Covered Species is attached as Exhibit 1. The EHUO proposes to avoid, minimize and mitigate adverse impacts to the Covered Species that may result from the Project, and has requested Authorization for Management of the Covered Species from the Department, pursuant to Fish and Game Code §2081.

2.2 The Department is trustee for the fish and wildlife resources of the State of California and has jurisdiction over the conservation, protection, and management of fish, wildlife and native plants, and the habitat necessary for biologically sustainable populations thereof, pursuant to Fish and Game Code §1802. Under the objectives and policies of CESA, it is the Department's goal to conserve, protect, restore, and enhance the Covered Species and the Covered Species' habitat.

2.3 This CESA MOU is the result of a cooperative effort by the Parties to ensure that the Project may proceed as proposed to the extent it is consistent with CESA.

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Generally, impacts to the Covered animal species include: destruction of burrow systems during construction activities or by traffic; removal of food sources during construction activities; alteration of soil conditions, accidental oil spills or wastewater discharge; disturbance; vehicle impacts; loss of habitat; accidental death or injury resulting from trapping and research activities; and accidental entrapment in well cellars.

Individuals of the Covered Species that are displaced may escape direct injury, but will have to compete for food and living space in adjacent areas. Relocated individuals will be more vulnerable to disease, predation, and accidental death. Disturbance of the existing habitat will temporarily reduce the prey base and/or foraging area for individuals residing in the Elk Hills and vicinity.

Generally, impacts to Covered plant species include destruction of plants and plant habitats during construction; crushing of individual plants and plant populations due to off-road vehicle use and seismic surveys; inundation of plant populations from spills or other releases; destruction of populations due to man-caused fires and fire control; and vehicular traffic dust which can reduce plant productivity.

5.0 MANAGEMENT AUTHORIZATION

Subject to the terms and conditions of this CESA MOU, specifically including this provision of the CESA MOU and pursuant to Section 2081 of the Fish and Game Code, the Department authorizes any take of Covered Species that is incidental to the Project as described in Section 3.0. Take of the Covered Species that is deliberate or that otherwise results from an act outside the scope of the Project as defined in Section 3.0 is not authorized.

5.1 Project Representative.

At least thirty (30) days before initiating ground-disturbing activities, the EHUO shall designate a representative responsible for communications with DFG and for overseeing compliance with this CESA MOU. DFG shall be notified in writing of the representative's name, business address and telephone number, and shall be notified in writing if a substitute representative is designated.

5.2 Exclusion Zones and Other Pre-Construction Measures.

The following terms and conditions are based on measures considered necessary by the U.S. Fish and Wildlife Service in the 1995 biological opinion on NPR-1 MER operations.

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3.0 PROJECT DESCRIPTION

The Naval Petroleum Reserve Number 1 ("NPR-1", also called "Elk Hills") was created by an Executive Order issued by President Taft in 1912. Elk Hills, a long narrow ridge oriented generally east-west in the southern San Joaquin Valley comprised of approximately 74 square miles, was not developed until Congress passed the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258). The law directed the development of the oilfield to its full economic potential (MER).

Since 1976, Elk Hills has functioned as a commercial operation with production development occurring at various levels in 90 percent of the 78 sections that lie partially or entirely within its boundaries. Ownership of Elk Hills prior to privatization was approximately 78 percent federal government (37,149 acres), and approximately 22 percent Chevron U.S.A. ("CUSA", 10,360 acres).

In 1996, Title 34 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) directed the Secretary of Energy to sell NPR-1 by February 10, 1998 unless another course of action was in the best interests of the United States. The purpose of this direction was to remove the federal government from a non-federal function.

Upon final sale of the federal government's interests in NPR-1, EHU operations which are focused on the continued exploration and development of the EHU at MER, will commence. It is intended that the UOA will obligate all EHUPS to the terms of this MOU as administered by the EHUO.

The Project actions covered by this CESA MOU are oil and gas extraction, transport, and related activities as described in the November 8, 1995 biological opinion issued by the U.S. Fish and Wildlife Service, "Reinitiation of Formal Consultation Concerning Oil Production at Maximum Efficient Rate on Elk Hills Naval Petroleum Reserve, Kern County" and the Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of NPR-1 (SEIS/PEIR) prepared by the U. S. Department of Energy and Kern County. This CESA MOU covers actions by the EHU and its contractors or designated agents within the boundaries of the Elk Hills Unit.

4.0 IMPACTS TO COVERED SPECIES

4.1 The Project will result in the temporary impact of up to approximately 30 acres, and the permanent loss of approximately 450 acres of potential habitat for the Covered Species resulting from EHU development. The area of habitat covered under this CESA MOU is intended to equal that covered under Federal authorizations to take for this Project.

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They are consistent with mitigation measures proposed in the Draft SEIS/PEIR. The potential for harm or mortality to state and federally listed wildlife shall be minimized by implementing the following procedures:

- (a) The EHUO shall conduct pre-activity surveys prior to all surface disturbing activities within the EHU. Surveys shall be conducted by suitably experienced biologists with training in the taxa and methods involved. Survey methods, including appropriate timing, and period of validity, shall be approved by the Department.
- (b) Biological monitors shall be present, or readily available, on EHU construction sites during all critical construction activities occurring within or adjacent to sensitive endangered species habitat as identified during pre-activity surveys. Examples of activities for which such monitors may be present include surveys or flagging necessary to determine and delineate specific construction areas, pipeline alignments, and location of access routes and storage areas; grading and trenching activities; checking of pipes, pipeline trench segments, and similar structures for entrapped wildlife; backfilling pipeline trench segments; den and burrow excavations; and other activities as determined by monitoring biologists to be necessary.
- (c) The areas disturbed by construction related activities and routine day-to-day operation within the EHU shall be minimized to the maximum extent practicable. All EHUO and Contractor vehicles shall be confined to existing roads or to project areas which have received a pre-activity survey.
- (d) All spills of oil, liquids contaminated by oil, hazardous materials within the EHU shall be cleaned up in a manner consistent with the Elk Hills Spill Prevention, Control and Countermeasure Plan.
- (e) Speed limits in all construction areas shall not exceed 25 mph.
- (f) A litter control program shall be implemented during project activities. This program shall include daily collection of trash, especially that which is food-related, disposal in covered receptacles, and regular removal from project sites.
- (g) Construction activities (but not drilling, operations, maintenance, or any other activities) between dusk and dawn shall be minimized.
- (h) Personnel performing pre-activity surveys, wildlife handling, kit fox den excavations, and monitoring activities are to be qualified to perform these duties. One supervisory biologist will be appointed as a training officer who will be given

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responsibility over all trainees, with full authority to deny or grant trainees the ability to perform permitted activities. This will provide some level of consistency regarding qualifications and employee certification.

5.3 Final Pre-Construction Notice.

The EHUO shall notify the Department fourteen (14) days before initiating ground-disturbing activities. The Department may specify other notification timing at its discretion.

5.4 Biological Monitor.

5.4.1 A knowledgeable, experienced biologist shall be present during all construction activities in areas of Covered Species habitat to help avoid the take of individual animals and to minimize disturbance to the habitat. The biological monitor shall conduct daily inspections of the Project site and shall ensure compliance with the management measures provided in this CESA MOU.

5.4.2 The biological monitor shall have authority to stop immediately any activity that is not in compliance with this CESA MOU, and to order any reasonable measure to avoid the take of an individual of a Covered Species.

5.4.3 Neither the biological monitor, nor the Department shall be liable for any costs incurred in complying with the management measures, including cease-work orders.

5.5 Delineation of Project Area.

5.5.1 The EHUO shall clearly delineate the boundaries of the Project site by posting stakes, flags, and/or rope or cord, as directed by the Department, and shall post signs and place fencing as necessary to exclude vehicle traffic unrelated to Project construction.

5.5.2 All Project-related parking and equipment storage shall be confined to the construction site or to previously disturbed off-site areas. Undisturbed areas and off-site Covered Species habitat shall not be used for parking or equipment storage. Project related vehicle traffic shall be restricted to established roads, construction areas, storage areas, and staging and parking areas. The EHUO shall post signs and shall erect traffic restraints to minimize the disturbance of the Covered Species habitat and shall enforce a twenty-five (25) m.p.h. speed limit on the Project site.

5.6 Employee Orientation.

The EHUO shall conduct an orientation program for all persons who will work

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on-site during construction. The program shall consist of a brief presentation from a person knowledgeable about the biology of the Covered Species, the terms of the CESA MOU and CESA. The education program shall include a discussion of the biology of the Covered Species, the habitat needs of these species, their status under CESA, and the management measures provided in this CESA MOU. A fact sheet containing this information shall also be prepared and distributed. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures. These forms shall be filed at Applicant's offices and shall be made available to the Department upon request.

5.7 Management Measures During and After Construction.

The potential for inadvertent entrapment of state and federally listed wildlife species during and after construction activities shall be minimized by implementing the following procedures:

- (a) The EHUO shall make every reasonable effort to avoid damage or destruction of San Joaquin kit fox dens, giant and Tipton kangaroo rat burrows, Burrowing Owl nests and burrows, and burrows potentially utilized by blunt-nosed leopard lizards during proposed MER activities within the EHU. Such avoidance measures may include minor relocation of project facilities and minimization of construction impacts to the least possible area.

Exclusion zones shall be established to protect dens, nests and burrows as necessary. Exclusion zones may vary from site to site, but shall be of a size that effectively minimizes the impacts of disturbance, or risks of destruction, shall be based on best available scientific information and industry standards, and shall be subject to the approval of the Department.

- (b) Known San Joaquin kit fox dens shall not be damaged or destroyed by project related actions unless written or verbal concurrence is obtained from the Department prior to such effects. If concurrence cannot reasonably be obtained in a timely manner (e.g., on weekends), destruction of known kit fox dens may proceed only if qualified personnel determine that the den cannot reasonably be avoided and if the Department is verbally notified as soon as possible after the fact. Any known kit fox den that must be destroyed shall first be monitored visually and with tracking medium for three consecutive nights, or completely inspected using video or fiber-optic probe, by qualified personnel to ensure that it is not occupied by kit foxes. It may then be excavated by or under the direct supervision of qualified personnel and backfilled to preclude later use by kit foxes. Destruction of all known kit fox dens shall be documented in the annual report.

Potential San Joaquin kit fox dens may be excavated without prior notification to

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the Department, provided that qualified personnel have determined that the den is not a known kit fox den. Alternately, excavation of potential kit fox dens need not be conducted prior to construction activities, provided that no evidence of kit fox use of such dens is observed after three consecutive nights of monitoring, and that construction operations over such dens occur no more than 24 hours after such dens are last determined to be unoccupied. In the event the Department modifies the procedures for monitoring dens prior to excavation, EHUO shall adopt the revised procedures, so as to be in compliance with this term and condition.

- (c) San Joaquin kit foxes, blunt-nosed leopard lizards, San Joaquin antelope squirrels, giant and Tipton kangaroo rats may from time to time be captured and relocated from construction sites as deemed necessary after consultation with the Department provided: (i) that burrows of these animals cannot reasonably be avoided during construction activities; (ii) that associated conditions and actions deemed appropriate by the Department are satisfied; (iii) that verbal or written approval from the Department is obtained prior to any such capture and removal; and (iv) that any person or persons conducting capture and relocation activities possess an appropriate scientific collection permit issued by the Department or are otherwise qualified to conduct such activities, as determined by the Department in writing.
- (d) At the end of each day during all major EHU construction projects, all open pipeline trench segments and other steep-walled holes or trenches greater than two feet deep shall either be covered with plywood or similar materials, or shall be equipped with escape ramps constructed of wooden planks, earth fill, or similar materials and spaced no further than 500 feet apart.

In situations of enhanced risk of take (for example, high rainfall events, or construction in areas with dense populations of blunt-nosed leopard lizards or kangaroo rats) the Department may require escape ramps at closer intervals, or on shallower trenches.
- (e) If entrapped wildlife is observed, said wildlife shall only be removed by qualified personnel.
- (f) The EHUO will continue administrative and operating guidelines currently implemented at Elk Hills which include: prohibitions on public access by maintaining a perimeter fence; prohibitions on uncontrolled public uses; continued prohibitions on grazing unless future research indicates that controlled grazing is beneficial; continued prohibition of domestic pets on-site.
- (g) The EHUO will restrict pest management programs to areas in and immediately

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surrounding occupied facilities to the extent practical. Only those pesticides, herbicides, and rodenticides approved for use within the range of the Covered Species are to be used.

- (b) At sites likely to support blunt-nosed leopard lizard, the EHU shall evaluate potential for take of that species before conducting ground-disturbing work. If there is a likelihood of take, the EHU shall modify the project, or employ relocation or other take-avoidance measures subject to the Department's written or verbal approval.
- (i) The EHUO will implement a management plan for the Covered Species and their habitats on the EHU. The main purposes of this plan will be to monitor habitat quality and Covered Species populations on the EHU unit, maintain conservation values for the Covered Species on at least undeveloped portions of the EHU, and implement the impact reduction and mitigation measures in this CESA MOU. The plan shall employ a responsive or adaptive management approach.

An initial draft plan shall be submitted for Department review within 4 months of the transfer of NPR-1, and an initial working plan within 10 months. The plan shall be reviewed annually, and revised as necessary to best meet its objectives and incorporate current information. Revisions are subject to Department approval.

- (j) A complete floristic survey of the EHU will be completed.
- (K) EHU shall reclaim and restore all disturbed surface areas as part of closure and decommissioning.

Disturbed areas shall be revegetated within two years from the cessation of disturbance, given normal rainfall for two consecutive years. EHU shall facilitate the revegetation of temporarily disturbed sites by surface preparation, and stockpiling and spreading topsoil. Seeding, herbicide, or other treatments may be required by the Department if at closure on restored sites is not at least 70% of that found on adjacent similar areas.

5.8 Notification Regarding Dead, Injured or Entrapped Animals.

If the EHUO, its employees, contractors or agents kills or injures an individual of a Covered Species, or finds any such animal dead, injured, or entrapped, the EHUO shall immediately notify the Department. All reasonable efforts shall be made to allow any entrapped animals to escape. Any dead or injured animal shall be turned over to the Department and a

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written report detailing the date, time, location and general circumstances under which it was found must be submitted to the Department no later than three (3) business days following the incident.

5.9 Compliance Inspections and Report.

For specific construction projects, the EHUO shall conduct compliance inspections once a week during construction. The Department may require summary compliance reports on a monthly or longer basis for long-term projects, and may require a final compliance report within 45 days of project completion. Compliance inspections shall assess compliance with all management measures provided in this CESA MOU, specifically including the creation and maintenance of exclusion zones.

For all activities covered by this CESA MOU, the EHUO shall submit to the Department on a quarterly basis, or less if so determined by the Department a summary of all activities, applied mitigation measures, and assessment of compliance. The report shall be prepared by a knowledgeable, experienced biologist and shall include the following: (1) construction dates; (2) verification that management measures were fully implemented; (3) identification of management measures, if any, that were not fully implemented; (4) description of effects on Covered Species and Covered Species habitat; and (5) any other pertinent information.

The EHUO shall also submit an summary annual report, covering all above information, information on areas of impact and mitigation, and implementation of the management plan.

5.10 Access to Project Site.

The EHUO shall allow the Department representatives access to the Project site to monitor compliance with the terms and conditions of this CESA MOU, subject to such reasonable restrictions as the EHUO requests.

5.11 Habitat Management Lands.

5.11.1 Acquisition and Transfer of Habitat Management Lands

5.11.1.1 The EHUO shall provide Habitat Management (HM) lands to offset take and other temporary and permanent impacts to the Covered Species. The EHUO shall provide 3 acres of HM lands for each acre of permanent disturbance and 1.1 acres of HM lands for each acre of temporary disturbance.

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The EHUO shall provide HM lands prior to disturbances. This may be effected by provided an amount of HM lands equal to the average expected annual disturbance, then reconciling actual disturbances and mitigation on an annual basis; or providing HM lands for the entire authorized take area immediately, or some other approach approved by the Department.

Net disturbances and mitigation obligations shall be determined on an annual basis, and reported to the Department within the first quarter of the following year. Upon the Department's approval of the records of disturbance and HM land requirements, the EHUO shall transfer fee title or conservation easement, and any required management funds, to the Department or its designee.

The HM lands shall be on or adjacent to the EHU, and the Department may require that they be adjacent to other protected lands.

5.11.1.2 The required HM lands acreage is based upon a biological assessment of the Project's impact on the Covered Species and an estimate of the acreage required to provide for adequate biological carrying capacity at a replacement location. The biological suitability of the HM lands is subject to the approval of the Department.

5.11.1.3 The EHUO agrees to provide a recent preliminary title report and initial hazardous materials survey report for the HM lands to the Department. All documents conveying the HM lands and all conditions of title are subject to the approval of the Department, the Department of General Services and, if applicable, the Fish and Game Commission.

5.11.2 Initial Protection and Enhancement of Habitat Management Lands

Prior to the transfer of HM lands to the Department, the EHUO will inspect the HM lands and remove any debris located thereon. A biologist acceptable to the Department will be contracted to recommend suitable protection for the HM lands. These recommendations will be subject to the approval of the Department.

Alternatively, the EHUO may fund the Department's initial protection and enhancement of the HM lands by providing to the Department a check in an amount to be determined on a case-by-case basis, drawn from a banking institution located within California.

5.11.3 Endowment

If fee title to the HM lands is transferred to the Department or to an approved non-profit corporation, the EHUO agrees to provide to the Department or the non-profit corporation, as applicable, a check in an amount to be determined by an analysis of the scope of management, but at least \$375/acre, drawn from a banking institution located within California for use as

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principal for a permanent capital endowment. Interest from this amount shall be available for the operation, management and protection of the HM lands. Operation, management, and protection activities may include reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands. The endowment principal shall not be drawn upon unless such withdrawal is deemed necessary by the Department or non-profit corporation to ensure the continued viability of the species on the HM lands. Monies received by the Department pursuant to this provision shall be deposited in a special deposit account established pursuant to Government Code §16370. The Department may pool the endowment with other endowments for the operation, management and protection of HM lands for local populations of the Covered Species.

5.11.4 Associated Project-Induced Expenses

The EHUO agrees to reimburse the Department for reasonable expenses incurred as a result of the approval and implementation of the Project, including costs of title and documentation review, expenses incurred from other state agency reviews, Department costs directly related to administration of this CESA MOU, including travel, personnel, and overhead. The Parties estimate that this Project will create an additional cost to the Department of no more than \$3,000.00 annually.

6.0 ESTIMATED COSTS

The Parties agree to the following estimated costs. The EHUO shall not be released from any duty or obligation under this CESA MOU if actual costs exceed estimated costs.

6.1 Acquisition and transfer of suitable HM lands approximately \$2,000/transaction (the HM lands are assumed to be within the EHU property boundary).

6.2 Initial protection and enhancement of the HM lands will cost at least \$ 100 /acre.

6.3 Long-term management of the HM lands will require a capital endowment of at least \$375 /acre.

6.4 Annual incidental costs to for other State agency reviews, Department administration, overhead, etc., of no more than \$3,000/year.

7.0 DEPARTMENT'S DUTIES

7.1 The Department, its designee or successor shall hold title to and protect all HM lands conveyed in fee title under this CESA MOU solely for the purposes of conservation, protection, restoration, and enhancement of the Covered Species. This covenant shall run with

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the land, and no use of such land shall be permitted by the Department or any subsequent titleholder or assignee which is in conflict with the stated conservation purposes of this CESA MOU. If the Department or a subsequent transferee uses or threatens to use such HM lands for purposes not in conformance with the conservation purposes of this CESA MOU, the California Attorney General, California residents, and California corporations shall have standing to seek injunctive relief to prevent such nonconforming uses.

7.2 The Department, its designee or successor shall record on each deed a statement that the HM lands described in the deed of record have been conveyed to the Department, its designee or successor for purposes of conservation, protection, restoration and enhancement of the Covered Species. Such statement shall be substantially as provided in Exhibit 2.

8.0 DEPARTMENT FINDINGS

The Department finds that the Project will not result in jeopardy to the continued existence of the Covered Species if the terms and conditions of this CESA MOU are fully implemented and adhered to. In addition, through the protective measures, and acquisition and protection of habitat lands pursuant to this CESA MOU, the Covered Species may be afforded protection from further degradation.

9.0 DEFAULT

In the event the EHUO defaults on any of its material obligations under this CESA MOU, the Department shall have all rights with respect to any security provided pursuant to this CESA MOU and all remedies available at law or in equity, including specific performance, injunction, and without limitation, all rights of a secured party pursuant to the California Uniform Commercial Code.

10.0 NOTICES

All notices and other communications required or permitted by this CESA MOU shall be in writing. Such writing shall be delivered personally, by courier, by telecopy, or by first-class or certified mail, return receipt requested. All default notices shall be sent certified mail, return receipt requested. Notices or transmittals shall be deemed delivered upon the earlier of actual receipt or three days after posting by certified mail, if delivered to the following addresses:

The Elk Hills Unit Operator	To be determined
DEPARTMENT	GENERAL COUNSEL Legal Affairs Division California Department of Fish and Game

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1416 Ninth Street, Twelfth Floor
Sacramento, California 95814

REGION

California Department of Fish and Game
South Sierra-San Joaquin Valley Region
1234 E. Shaw Ave.
Fresno, CA 93720
Attn: Region Representative

11.0 ASSIGNMENT

Any sale or assignment of this CESA MOU or any of the rights or obligations hereunder is void absent the written consent of the Parties; provided, however, that no consent shall be required for assignment or pledge made by the EHUO (a) to any company that shall succeed by purchase, merger or consolidation to the properties of the EHUO; or (b) as security for a debt under the provision of any mortgage, deed of trust, indenture, bank credit agreement, or similar instrument.

12.0 ENTIRE AGREEMENT

This CESA MOU comprises the entire agreement and understanding between the Parties concerning the Project. This CESA MOU supersedes all prior and contemporaneous agreements, representation or understandings, whether oral or written.

13.0 GOVERNING LAW

This CESA MOU shall be governed by the laws of the State of California. Actual or threatened breach of this CESA MOU may be prohibited or restrained by a court of competent jurisdiction.

14.0 BENEFIT OF CESA MOU

This CESA MOU is solely for the benefit of the People of the State of California by and through the Department.

15.0 FURTHER ACTIONS

From time to time, the Parties shall by mutual agreement execute such instruments and other documents, and take such other actions, as may be reasonably necessary to carry out the terms of this CESA MOU. This CESA MOU cannot be amended or modified in any way except by a written instrument duly executed by the Parties. Any proposal for amendment or

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modification must be delivered for review and approval by the Director of the Department.

16.0 TERMINATION

This CESA MOU shall terminate 40 years from the date of execution or upon completion of all terms and conditions. In the event this CESA MOU terminates by law or judicial action prior to the full performance of the management duties and obligations, title to any security provided by the EHUC shall inure to the Department by operation of law on the date of termination.

17.0 DISCLAIMER

This CESA MOU contains the Department's requirements for the Project pursuant to CESA; barring material unforeseen circumstances, the Department shall not request additional mitigation or avoidance measures for the Project for the Covered Species. The EHUC understands and recognizes that this CESA MOU does not constitute or imply compliance with other applicable state or federal laws and regulations and does not create an entitlement to proceed with the Project.

18.0 EFFECTIVE DATE

This CESA MOU shall be immediately effective upon execution by the Parties.

19.0 EXHIBITS

This CESA MOU includes and incorporates the following:

- EXHIBIT 1: LIFE HISTORY OF COVERED SPECIES
- EXHIBIT 2: CERTIFICATE OF PUBLIC PURPOSE

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*IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS MOU
TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.*

THE ELK HILLS UNIT OPERATOR

By: _____ Date: _____
(Title)

CALIFORNIA DEPARTMENT OF FISH AND GAME

By: _____ Date: _____
Jacqueline E. Schafer, Director

APPROVED AS TO FORM:

By: _____ Date: _____
CRAIG MANSON, General Counsel

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STATE OF CALIFORNIA—THE RESOURCES AGENCY

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-2512

PETE WILSON, Governor



September 8, 1997

Mr. Anthony J. Como
NEPA Document Manager
U.S. Department of Energy
Fossil Energy (FE-27), Room 3H-087
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Como:

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Statement (SEIS)/Program Environmental Impact Report (PEIR) for the sale of Naval Petroleum Reserve Number 1 (NPR-1) as directed by Public Law 104-106. As California's primary energy policymaking agency, the California Energy Commission (CEC) has reviewed oil development activities in the state and understands potential impacts from oil development on biological resources. Additionally, CEC staff has been involved in several land protection strategies and extensive studies of threatened and endangered species in the southern San Joaquin Valley in connection with oil production and power plant development in this area. The following text provides comments regarding biological resources for your use when preparing the final EIS/EIR. In summary, our comments are:

- CEC-1 • We concur that the existing mitigation requirements under the current Biological Opinion (BO) to conduct exploration activities on NPR should be transferred to the new owner(s). In addition, the new owner(s) should adopt additional mitigation measures that are approved by U.S. Fish and Wildlife Service (USFWS) to compensate for development levels that exceed those allowed under the current BO.
- CEC-2 • The final EIS/EIR should include provisions through a contract of sale that ensures the mitigation measures to avoid or reduce impacts to sensitive species at NPR are implemented by the new owner(s).
- CEC-3 • The contract of sale should require the new owner(s) to carry out the purchase of 7,075 acres of habitat that the U.S. Department of Energy (DOE) previously committed to establish in the BO to compensate for habitat lost from past and predicted future activities. In addition, future habitat loss, predicted to be 764 or 1,014 acres over the allowed disturbance under the BO, should be compensated at ratio of 3:1 as described in the SEIS/PEIR.
- CEC-4 • The contract of sale should require the new owner(s) to rehabilitate the land to preproject conditions once the oil and gas reserves are depleted. The area

Mr. Anthony J. Como
September 8, 1997
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CEC-4 should then be placed into a conservation status in perpetuity. Funds should be made available to establish an endowment for long-term management and monitoring.

- CEC-5 • We view the alternative to transfer surface property of NPR to the Bureau of Land Management for lease of mineral rights as the best alternative for sensitive species in the long-term. We disagree with the conclusion that this alternative does not involve sufficiently different outcomes to justify it as a separate alternative. The latter is the alternative preferred by USFWS. The final EIS/EIR should provide an extensive review of this alternative.

BIOLOGICAL RESOURCES:

General Comments

- CEC-6 The 47,409 acres at NPR-1 represent the largest contiguous block of public lands in the San Joaquin Valley proper. The area is important habitat for six listed species and 28 species of special concern. It is considered critical habitat for four federal or state listed species and the only known location for oilseed straw, a plant species of special concern. NPR-1 and adjacent lands, NPR-2, Buena Vista Valley, and the Lokern Natural Area, comprise the Western Kern County core area, considered essential for the long-term survival and recovery of the San Joaquin kit fox and possibly of the San Joaquin antelope squirrel.

Under the current federal land status, NPR has operated under three Biological Opinions (BO) issued by USFWS in 1980, 1987, and 1995 related to oil and gas production at Maximum Efficiency Rate (MER). Several mitigation measures were specified in these BO's to reduce impacts and avoid jeopardy to the listed species on NPR. Implementation of these measures by DOE provided assurance that highly essential habitat was protected and that mortality and injury to species of concern was minimized.

- CEC-7 The sale of NPR-1 and transfer of NPR-2 will result in accelerated levels of development from the current MER to Maximum Economic Development (MED), resulting in habitat loss and disturbance beyond the levels addressed in the 1995 BO. Additionally, the proposed action would result in the loss of the affirmative obligations of federal agencies to protect listed species and ensure that their actions do not jeopardize the continued existence of listed species. The levels of mitigation required of private industry are lower than those required of the federal government. Under the requirements of the National Environmental Quality Act (NEPA), it is sufficient to identify mitigation measures for the proposed action but private owners can make the

Mr. Anthony J. Como
September 8, 1997
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CEC-7 decision not to implement them. Therefore, there is no assurance that the sensitive biological resources on NPR will be protected in the future. As discussed in the SEIS/PEIR, differing objectives of the private sector, to maximize production and seek maximum profits in the shortest time possible, provide different incentives to implement mitigation measures (Sec 2.2.3.1., pg. 2.2-11; Sec. 4.5.3.2, pg. 4.5-25). Accelerated depletion of oil and gas reserves may also result in the complete loss of lands as habitat for endangered species to other land uses once production ends.

CEC-8 Consistent with the objectives of P.L. 104-106 to maximize the value of NPR to the federal government and to ensure this action be in the best interest of the United States, it is imperative that existing mitigation requirements of DOE, to avoid or reduce impacts to sensitive species at NPR to less than significant levels under the current BO, be transferred to the new owner(s) (Table 4.5-3, pg 4.5-13-16). We strongly concur with the recommendations in Section 4.5 of the SEIS/PEIR to transfer the BO to the new owner(s) subject to its terms and conditions. Of particular importance is the assurance that the 7,075-acre preserve, along with provisions for additional compensation at a ratio of 3:1 for habitat losses above the 828 acres accounted for in the BO, be established within a short time frame (BRM 16 - 19.2, Table 4.5-8, pg. 4.5-31).

CEC-9 All the alternatives considered, however, will result in impacts that exceed those allowed in the 1995 BO. Therefore, we also concur with the adoption of both the BO Extrapolated Mitigation Measures (Table 4.5-4, pg 4.5-17) and the additional private owner mitigation measures (Table 4.5-8, pg 4.5-31, 32). The BO, however, only remains in effect until 2035. At that time, the new owner(s) are under no federal obligation to consult with the USFWS, and will only be subject to avoidance measures. The final EIS/EIR should include provisions for a contract of sale with the new owners to re-initiate consultation with the USFWS once the current BO has expired.

CEC-10 The proposed action to sell NPR would have a significantly greater impact on listed species than the level of development currently existing. Further, there are lesser requirements of private industry to comply with the Endangered Species Act than on the federal government. Consequently, we view the loss of affirmative federal obligations to protect, conserve and help recover listed species and the potential for the substantial loss of listed species habitat as consequences that could likely result in jeopardy towards the continued existence of several species. To ensure that the proposed action would result in less than significant impacts through the implementation of mitigation measures provided in Tables 4.5-3 through 4.5-6, we recommend the new owner(s) be subject to an explicit program that guarantees compliance with these measures. Such a compliance program should be developed

Mr. Anthony J. Como
September 8, 1997
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CEC-10 by a Memorandum of Understanding between USFWS and CDFG and the new owner(s). This measure would also be consistent with the California Environmental Quality Act (CEQA) that requires assurances that mitigation measures will be implemented before any state or local agency can approve a project.

CEC-11 Cumulative impacts will be significant. The sale will result in the loss of the largest block of public lands in the valley. Reduced protection and mitigation levels at NPR could result in reduced recovery potential of listed species as well as in increased potential to list additional species (Sec. 4.5.5., pg 4.5-40). To achieve recovery goals for several listed species, it is entirely possible that the federal government will be required to purchase land within NPR back from the private sector. The loss of federal protection of the vital sensitive species habitat at NPR could also "...increase the burden on the private sector by placing additional importance on private lands as necessary for species survival and recovery." (Sec. 4.5.5.4., pg 4.5-46). This could lead to more jeopardy decisions and/or higher compensation ratios for other proposed projects in the area. Once the oil and gas reserves are depleted, the new owner(s) of NPR should be required to rehabilitate the land as listed species habitat in a manner approved by USFWS and CDFG and comparable to what has been required by CEC for temporarily disturbed areas. The area should then be placed in a conservation status and managed by habitat management entity in perpetuity. Funds to manage and monitor these lands as sensitive species habitat should be established through an endowment fund.

CEC-12 Finally, we agree with USFWS's assessment that the preferred alternative is the least environmentally damaging alternative. We believe the best alternative for the long-term conservation of listed species, that the land remain in federal ownership and the mineral rights be leased to private interests, was not thoroughly reviewed in the SEIS/PEIR. Retaining federal ownership would assure federal obligation to protect listed species and implement necessary mitigation measures. The final EIS/EIR should include a detailed analysis of this alternative.

If you have any questions regarding these comments please direct them to Jim Brownell in our Environmental Protection Office at (916) 654-4169

Sincerely,


ROBERT L. THERKELSEN, Deputy Director for
Energy Facilities Siting and
Environmental Protection

LKS/RLT:nwb

LOCAL GOVERNMENT AGENCIES

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RAYMOND C. BISHOP
DIRECTOR OF AIRPORTS

Meadows Field
1401 Skyway Drive, Suite 200
Bakersfield, CA 93308-1697
Phone: (805) 393-7990
FAX: (805) 861-3322



SYSTEM AIRPORTS
Elk Hills-Buttonwillow
Kern Valley
Lost Hills
Meadows Field
Poso
Taft
Wasco



4 August, 1997

Mr. Anthony J. Como
Document Manager
U.S. Department of Energy
Fossil Energy (FE-27), Room 3H-087
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Como:

Subject: Environmental Impact Statement for the Sale of Naval Petroleum Reserve No. 1
(Elk Hills) Kern County, California

DOA-1

We appreciate the opportunity to review the above referenced document in regard to potential impacts on the Kern County Airports System. We have no comment at this time.

Respectfully,

Raymond C. Bishop
Director

RCB\cm

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GEN AD 11300

PRINTED ON RECYCLED PAPER

August 20, 1997

Mr. Anthony J. Como
Document Manager, U. S. Department of Energy
Fossil Energy (FE-27), Room 3H-087
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Como:

KCM-1

I have reviewed the Draft Supplemental Environmental Impact Statement / Program Environmental Impact Report for the Sale of Naval Petroleum Reserve Number 1 (NPR-1; Elk Hills) (DOE/SEIS/PEIR-0158S) and the historical impacts would appear to be of no significance based on the report to date. I look forward to reviewing the Final EIR.

Sincerely,

Carola Rupert Enriquez
Director

Kern County Museum • 3801 Chester Avenue • Bakersfield, CA 93301
Voice* (805) 861-2132 Fax: (805) 322-6415 *TTY Relay 1-800-735-2929



KERN COUNTY WASTE MANAGEMENT DEPARTMENT

Daphne H. Washington, Director
2700 "M" Street, Suite 500
Bakersfield, CA 93301
(805) 862-8900
(800) 552-KERN (option 6)
Fax: (805) 862-8901

September 5, 1997

SEP 17 1997

Ms. Carol Borgstrom
Director, Office of NEPA Policy and Assistance (EH-41)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Dear Ms. Borgstrom:

**SUBJECT: Draft Supplemental Environmental Impact Statement - (SEIS)
Sale of Elk Hills Naval Petroleum Reserve DOE/SEIS/PEIR - 01585
Kern County and Taft, California**

We are in receipt of the Draft SEIS for the sale of the Elk Hills Naval Petroleum Reserve. We commend the DOE for developing such a well written, comprehensive report. We concur that this project has many benefits to Kern County. Our comments will be limited to solid waste matters under the management of this department.

The Kern County Waste Management Department operates the Taft Sanitary Landfill. This facility accepts Class III municipal solid waste. Kern County owns this 100-acre facility located in the NE1/4 of Section 25, T31S, R23E; MDB&M. This landfill serves the communities of Taft, Ford City, Maricopa, Valley Acres, Dustin Acres, Fellows, McKittrick, Derby Acres, Buena Vista, and Tupman. The approximate landfill service population is 20,000 persons.

The Taft Sanitary Landfill is within Naval Petroleum Reserve No. 2. Maps such as 3.9-9 in the Draft SEIS might be in error because they appear to indicate the Taft Sanitary Landfill is outside the Reserve.

The landfill is 600 feet west of Elk Hills Road (a county public road). Land owned by USA (APN No. 298-190-19 and T 31S, R24E, Section 30, MDB&M) is between Elk Hills Road and the Taft Sanitary Landfill. Access over USA land to the landfill was granted by a special revocable permit (NOD - 9262 - Memorandum No. 2 dated July 11, 1972). With the sale of this land, we are concerned with future legal access rights from Elk Hills Road to the landfill. The area we are discussing is small, about 600 feet by 60 feet, located along an east/west mid-section line.

We understand this project includes establishing a 7,075-acre conservation area and habitat management program. The Draft SEIS should show this Department's Habitat Conservation Plan (HCP) for the Taft Sanitary Landfill. The landfill is not subject to any other HCP.

The report says there are several dump sites within Elk Hills. It may be prudent to show the location of any dump sites on Elk Hills land. We suggest including any sites within one-mile radius of our landfill.

Ms. Carol Borgstrom

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September 5, 1997

KCW-5

Is it possible for DOE to reaffirm means of legal vehicular access from Elk Hills Road to the Taft Sanitary Landfill prior to Elk Hills land transfer?

If you have any questions regarding this correspondence, please contact Mel Krause at (805) 862-8928. When the Final SEIS is complete, please provide a copy to our office: Kern County Waste Management Department at 2700 "M" Street, Suite 500, Bakersfield, California 93301-2445.

Sincerely,

DAPHNE H. WASHINGTON, Director

By: Nancy L. Ewert, P.E.
Technical Resources Manager

NLE:GGR:am

FILETTERSLS2225GRAM

cc: Glenn Barnhill, Kern County Planning Department
County Council
Mr. Anthony Combs, U.S. Department of Energy, 1000 Independence Ave, S.W., Washington, DC 20585
File
GGR: End of Review Period: September 8, 1997



San Joaquin Valley Unified Air Pollution Control District

September 5, 1997

Mr. Anthony J. Como
Document Manager
U.S. Department of Energy
Fossil Energy (FE-27), Room 3H-087
1000 Independence Avenue, SW
Washington, DC 20585

Draft Supplemental Environmental Impact Statement (SEIS)/Program Environmental Impact Report (PEIR) for the Sale of Naval Petroleum Reserve Number 1 (NPR-1; Elk Hills) (DOE/SEIS/PEIR-0158S).

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the documentation for your SEIS/PEIR and has the following comments and concerns.

The District is encouraged to see the thorough review of air quality concerns in your document. This detail is important in satisfying the need for public disclosure as is the spirit of CEQA. However, from our viewpoint, this project, in itself, will not have a significant adverse effect on the environment with regards to air quality.

While it is true that the table (Table D.3-2) seems to show a significant increase in stationary source emissions with this project, in truth, the emissions from this source will more probably remain fairly equal. What is presented in the table as Base Year Emissions are this facility's "actual" emissions and those presented as Future Year Emissions are it's "potential" emissions. In reality, the same "potential to emit" exists with the current owner/operator as would exist with any future owner/operator, disregarding other outside influences.

The District sees no more effect from the sale of NPR-1 than a "Change in Ownership", which happens somewhat regularly in our area. Whereas the new owner/operators may, indeed, operate this facility at a higher rate than the current owner/operator, the new owner/operator will still be under the same guidelines and therefore, overall, there will not be any significant changes in this facility's allowable emissions.

David L. Crow

Executive Director/Air Pollution Control Officer

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Draft Supplemental Environmental Impact Statement (SEIS)/Program Environmental Impact Report (PEIR) for the Sale of Naval Petroleum Reserve Number 1 (NPR-1; Elk Hills) (DOE/SEIS/PEIR-0158S).

Mr. Anthony J. Como

September 5, 1997

Page 2

UAP-3

In addition, whereas the air quality evaluation in the documentation is a comprehensive dissertation of the air pollution problems, it does contain some inaccuracies. Therefore, in order to present a better understanding to readers of this SEIS/PEIR, the District would also suggest the following textual modifications: *(please note that, I will only be referring to the location of these modifications in the Appendix D, many of the changes should also be made in its appropriate location in the main document.)*

UAP-4

- Page D.2-3 – The table representing the Federal and State Ambient Air Quality Standards need some modifications:
 - the 8 hour State standard for CO should be 9.0, not 9
 - the 1 hour standard for NO₂ is listed twice
 - the µg/m³ for the 1 hour standard for NO₂ should be 470, not 131
 - the 1 hour standard for SO₂ is missing
 - the µg/m³ for the 24 hour standard for SO₂ could include the µg/m³ level also, which is 105
 - the text describing the State standard for Visibility-reducing Particles should say "In sufficient amount ...", not "Insufficient amount ..."

UAP-5

- Page D.2-4 – Table 4.2-2 should reflect the following changes; a) the attainment status for the State standard for Ozone should read Severe Nonattainment and b) the City of Bakersfield is now Attainment for the State Standard for Carbon Monoxide.

UAP-6

- Page D.2-10 – the last paragraph reflect the following changes; a) the Bakersfield Golden State Highway site was the location of the measured exceedance of the Annual NAAQS, not Arvin (there is no PM₁₀ monitoring in Arvin) and b) all four stations (again no monitoring in Arvin) exceeded the Annual CAAQS.

UAP-7

- Page D.2-11 – all mention of a classification of "transitional nonattainment" should be eliminated. When Bakersfield became attainment for CO that statement was no longer valid.

UAP-8

- Page D.3-9 – I question the use of the assumption of 140 days per year of average precipitation unless fog is part of the factor.

UAP-9

- Page D.3-10 – In the first paragraph, in the Vehicle Activity Emissions section, why was there staff reductions? In the absence of any better explanation, it seems that staff may increase for the facility, as a whole, if it were to change to multiple ownership.

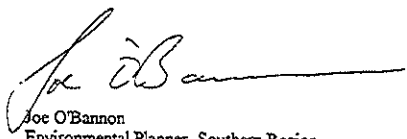
Draft Supplemental Environmental Impact Statement (SEIS)/Program
Environmental Impact Report (PEIR) for the Sale of Naval Petroleum Reserve
Number 1 (NPR-1; Elk Hills) (DOE/SEIS/PEIR-0158S).

Mr. Anthony J. Como

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Page 3

The District appreciates the opportunity to comment on this SEIS/PEIR. If you have any questions, please do not hesitate to contact me at (805) 862-5200.



Joe O'Bannon
Environmental Planner, Southern Region

APCD Ref #: S970161

NATIVE AMERICAN ORGANIZATIONS

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THE TINOQUI-CHALOLA COUNCIL
of
Kitanemuk and Yowlumne Tejon Indians

SEP 11 1997

September 8, 1997

Mr. Anthony J. Corno, Document Manager
U.S. Department of Energy
Fossil Energy (FE27), Room 3H-087,
1000 Independence Ave, SW
Washington, D.C. 20585

Dear Sir:

re: DRAFT Supplemental Environmental Impact Statement/Program Environmental Impact Report
for the Sale of NPR-1 Sale of Naval Petroleum Reserve No. 1 (Elk Hills) Kern County, CA

- 3.12 Environmental Justice
- 3.12.2 Demographics
- 3.6 Cultural Resources
- 4.12 Environmental Justice
- 4.12.1 Summary of Impacts

My name is Della (Dee) Dominguez, a Native American, Kitanemuk/Yowlumne-Yokuts, Chumash-Emigdiano-Ventureño of the Southern San Joaquin Valley, Kern County.

I am on the list of Most Likely Descendent MLD list with the State of California, Native American Heritage Commission.

TCC-1

As a Native American Monitor/Consultant and Most Likely Descendent on the MLD list with the State of California, Native American Heritage Commission, I have personally observed the still highly evident cultural materials lying atop the soil of NPR-1.

I have also observed and reburied partial human remains on the same NPR-1.

TCC-2

After review of the Draft Supplement dated July 1997 DOE/SEIS/PEIR-0158S, I note not all the previous archaeological surveys have been reviewed and included including the current surveys being conducted.

TCC-3

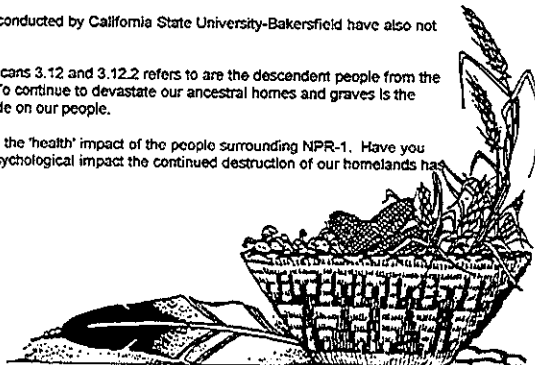
Other surveys very recently conducted by California State University-Bakersfield have also not been included.

TCC-4

The references Native Americans 3.12 and 3.12.2 refers to are the descendent people from the Buena Vista Lake villages. To continue to devastate our ancestral homes and graves is the continued practice of genocide on our people.

TCC-5

References are also made to the 'health' impact of the people surrounding NPR-1. Have you considered the permanent psychological impact the continued destruction of our homelands has on the descendent people.



Page 2 of 2
NPR-1

TCC-6

The United States Government, Department of Energy must set aside its continued involvement in profiting from Indian ancestral homelands, human remains and the psychological effects it has on the descendent people.

TCC-7

Further study is needed in order to fully comprehend the permanent impact of human interference in the land surface and subsurface of this historical area.

TCC-8

Also note, I have written letters to letters to the County of Kern regarding vandalism, and pothunters in this same area and have not received any response. I have mailed copies of those same letters to the State of California Native American Heritage Commission.

Sincerely,

Della Dee Dominguez
DELLA DEE DOMINGUEZ
CHAIR

981 N Virginia
Covina, Ca 91722

(818) 339-8785

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PRIVATE INDUSTRIES

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Vinson & Elkins

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September 5, 1997

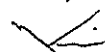
Mr. Anthony Como
NEPA Document Manager, (FE-27)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Re: DOE/SEIS/PEIR-01585

Dear Mr. Como:

On behalf of Aera Energy LLC, we are pleased to submit the attached comments on the Department of Energy's and Kern County's Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of NPR-1. We appreciate this opportunity to comment and look forward to the final impact statement.

Sincerely,



Kevin A. Gaynor

VE\WAS01.35674.1
09/05/97.3.16pm

HOUSTON DALLAS WASHINGTON, D.C. AUSTIN MOSCOW LONDON SINGAPORE

COMMENTS OF AERA ENERGY LLC ON THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/ PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE SALE OF NPR-1

Aera Energy LLC ("Aera") submits the following comments on the Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report ("SEIS/PEIR") for the sale of the Naval Petroleum Reserve Number 1 ("NPR-1"). The proposed action considered by the Department of Energy ("DOE") and Kern County in the SEIS/PEIR is the sale of all of DOE's interest in NPR-1 as directed by Title 34 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106). Aera appreciates this opportunity to submit comments on the SEIS/PEIR and applauds the DOE and Kern County for their thorough environmental review consistent with the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA").

AER-1 Both NEPA and CEQA require a "detailed statement" of the environmental impact of the proposed action and an evaluation of alternatives. 42 U.S.C. § 4332(C); 40 C.F.R. § 1502.14(a); Cal. Pub. Res. Code § 21100. Given the complexity of the proposed action, Aera believes that DOE and Kern County have done a commendable job identifying and analyzing the environmental impacts of the proposed action and reasonable alternatives. Consistent with the requirements under NEPA and CEQA, the SEIS/PEIR sets forth a detailed statement of the environmental impacts of the proposed action, doing so from the perspective of three different sale scenarios. In addition, the SEIS/PEIR rigorously evaluates the environmental impacts associated with an alternative to the proposed action - retention by DOE of some ownership of NPR-1. The SEIS/PEIR also identifies additional alternatives that were considered but not analyzed and provides an explanation for why such alternatives were eliminated. The SEIS/PEIR reflects a strong commitment on the part of DOE and Kern County to comply with the letter and spirit of NEPA and CEQA.

AER-2 Aera concurs with the SEIS/PEIR that any environmental impacts associated with the proposed action may be mitigated to levels below significant. With respect to impacts to threatened and endangered species, the transfer of the biological opinion to the buyer of NPR-1 ensures the same level of protection of threatened and endangered species under private ownership of NPR-1 as there has been under federal ownership. Similarly, the degree of impacts to other resources will be no higher under private ownership of NPR-1 than under federal ownership because private owners must comply with the same state and federal environmental regulations as does DOE.

AER-5 Aera also wishes to comment on the proposed divestiture of Naval Petroleum Reserve Number 2 ("NPR-2"), addressed in the SEIS/PEIR as part of its cumulative impacts analysis. P.L. 104-106 directed the Secretary of Energy to study options for enhancing the value of other NPRs, including NPR-2. In a report to Congress, the Secretary recommended the transfer of NPR-2 to the Bureau of Land Management ("BLM") for management of NPR-2 in accordance with the Federal Land Policy Management Act. This recommended action is considered in the SEIS/PEIR as well as several alternatives. Aera supports the recommended action.

AER-6

According to the November 8, 1995 biological opinion issued by the United States Fish and Wildlife Service ("FWS"), NPR-2 contains significant habitat suitable for threatened and endangered species. Because production of petroleum at NPR-2 is winding down, NPR-2 now represents a valuable conservation resource. For this reason, FWS has indicated that portions of NPR-2 could be included in a conservation area that would form part of the 7,075 acre conservation area required under the biological opinion to compensate for disturbances to habitat on NPR-1. Availability of high quality habitat on NPR-2 provides the buyer with maximum flexibility in choosing contiguous areas of habitat to include in the conservation area, along with areas on the northeast and southwest periphery of NPR-1 recommended by FWS for placement in conservation areas. Management of NPR-2 by BLM would ensure the availability of these lands for conservation purposes, and Aera supports this action.



September 8, 1997

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NEPA Document Manager, (FE-27)
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Room 3H-087
1000 Independence Avenue, S.W.
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Mr. Glenn Barnhill
Special Projects Division Chief
County of Kern Planning Department
2700 "M" Street, Suite 100
Bakersfield, California 93301

*Draft Supplemental Environmental Impact Statement/Program
Environmental Impact Report for the Sale of NPR-1
DOE/SEIS/PEIR-0158S*

Gentlemen:

As an owner of the Naval Petroleum Reserve No. 1 (NPR-1), Chevron is pleased to provide the following comments to the Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report (Draft SEIS/PEIR).

In general, we find the Draft SEIS/PEIR to be a thorough document. Included below are Chevron's comments. There are some major issues which include: (1) definition of the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) projects; (2) whether the sale will result in a loss of the Federal government's affirmative obligation to protect the environment; and (3) the future rate of production. The major comments for these three issues serve as the basis for many of our detailed comments (attached) and are often included as part of those comments by reference.

GENERAL COMMENT 1

The Proposed Action

CEV-1

The Draft SEIS/PEIR is a joint document designed to satisfy the purposes of the NEPA and the CEQA. Being a joint document, the project descriptions for NEPA and CEQA are slightly

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Fax No. 805 633 4319

Mr. Anthony Como
U. S. Department of Energy, Fossil Energy
Mr. Glenn Barnhill
County of Kern Planning Department
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different. Also, certain elements of the document only apply to the NEPA process because they were eliminated from further CEQA consideration by Kern County during the Initial Study, pursuant to CEQA guidelines. Our understanding of the project follows.

The sale of NPR-1 as directed by Public Law 104-106 is both the NEPA Proposed Action and the CEQA Project. The joint NEPA/CEQA document refers to this as the Proposed Action.

The Department of Energy (DOE) has determined that the sale of NPR-1 may have significant impacts on the environment within the meaning of NEPA. Kern County, in response to the sale of NPR-1, is making an amendment to the Kern County General Plan Land Use, Open Space and Conservation Element. This is a discretionary action which Kern County has determined is subject to CEQA.

CHV-1 DOE has also included discussion and analysis in the document regarding the NPR-2 Recommended Action which proposes Congressional action (i.e., legislation), therefore, no scoping process is needed for NPR-2. Under the NPR-2 Recommended Action, oversight for most of NPR-2 would be transferred from DOE to the Bureau of Land Management (BLM), while approximately 17 acres of land within Ford City would be sold. Such a sale, if legislated, would be subject to CEQA as it would also necessitate an amendment to the Kern County General Plan Land Use, Open Space and Conservation Element. While DOE may consider the NPR-2 Recommended Action to be part of the NEPA document, such an action is a portion of the cumulative impact analysis for the CEQA Project; the sale of NPR-1. The NPR-2 Recommended Action is not part of the CEQA Project because it was not included in the CEQA Notice of Preparation (NOP). We do not view this as a problem since the county will have to address the NPR-2 General Plan Amendment for the 17 acres in a later CEQA review. Minor labeling changes have been suggested in our detailed comments to reflect the status of the NPR-2 action with respect to CEQA.

GENERAL COMMENT 2

The Affirmative Federal Obligation

CHV-2 The Draft SEIS/PEIR states that commercial development would include the loss of the "affirmative Federal obligation to mitigate the consequences of government actions", while continued government development under the No Action alternative would maintain the obligation. Although the commercial development case includes the loss of DOE operation of NPR-1, Chevron does not believe that the sale will result in a loss of the Federal government's

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U. S. Department of Energy, Fossil Energy
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County of Kern Planning Department
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Page 3

CHV-2 obligation to mitigate the environmental impacts of its activities. Rather, the privatization of NPR-1 will result in the supplementing of the Federal obligation with the State of California's obligation to do the same.

The Federal government's obligation to mitigate environmental impacts at NPR-1 is advanced through two separate roles; (1) regulator and (2) operator. In the first role, the Federal government upholds its statutory obligation to protect the environment through various departments and agencies which derive their authority from various statutes. Generally, this obligation is outlined in NEPA, which states:

The Congress...declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote general welfare, to create and maintain conditions under which man and nature can exist in harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.¹

CHV-3

In order to carry out the policy...it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may -

- (1) fulfill the responsibilities of each generation as trustee of the environment for each succeeding generation;*
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;*
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;*
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain whenever possible, an environment which supports diversity and variety of individual choice;*
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and*

¹ NEPA §101 (a)

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Page 4

CHV-3 (6) *enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.*²

CHV-4 This mandate, as regulator, to protect the environment applies to all Federal agencies, many of which will continue to have regulatory authority over private oil and gas operations at NPR-1. These agencies include the Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), the Army Corps of Engineers (USACE), the Occupational Safety and Health Administration (OSHA), among the most prominent. After privatization, these agencies will continue regulating NPR-1 activities under the authority of numerous Federal environmental statutes.

The Federal Government's second obligatory role at NPR-1 is operator. DOE operates NPR-1 according to DOE Order #5400.1 - General Environmental Protection Program. This order establishes environmental protection program requirements, authorities, and responsibilities for DOE operations for assuring compliance with all applicable Federal, state and local environmental protection laws and regulations, Executive Orders, and internal DOE policies. Under DOE ownership and control, NPR-1 has been a Federal-exclusive facility that would not otherwise have been required to comply with many state and local laws and regulations.

CHV-5 Under private ownership and control, NPR-1 will be legally subject to all applicable Federal, State and local environmental protection laws, regulations, and rules. A significant addition to the list of statutes applicable to private parties at NPR-1 is CEQA. CEQA requires state and local agencies to consider environmental impacts prior to making any discretionary decision. The State of California has expressed its affirmative obligation to protect the environment in CEQA.

The Legislature finds and declares as follows:

- (a) *The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.*
- (b) *It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.*
- (c) *There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.*

² NEPA §101 (b)

Mr. Anthony Como
U. S. Department of Energy, Fossil Energy
Mr. Glenn Barnhill
County of Kern Planning Department
September 8, 1997
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(d) *The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.*

(e) *Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.*

(f) *The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.*

(g) *It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.*³

The Legislature further finds and declares that it is the policy of the state to:

(a) *Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.*

(b) *Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.*

(c) *Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.*

(d) *Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions.*

(e) *Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.*

(f) *Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.*

(g) *Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term*

³ California Public Resources Code §21000

Mr. Anthony Como
U. S. Department of Energy, Fossil Energy
Mr. Glenn Barnhill
County of Kern Planning Department
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benefits and costs and to consider alternatives to proposed actions affecting the environment.⁴

CHV-5 CEQA prohibits the approval of projects if there are feasible alternatives or mitigation measures available which would substantially lessen the environmental effects of the project. We view this CEQA approval requirement as being more inclusive than the Federal government's obligation under NEPA.

CHV-6 NEPA is essentially procedural; it does not require the federal agency to adopt the environmentally preferred alternative or mitigate significant impacts. It should be noted that CEQA "[a]s a practical matter, ... can impose more significant substantive and procedural requirements for environmental review than NEPA....."⁵

CHV-7 A private party operating in the State of California faces significant legal and financial factors which necessitate proactive environmental policy with greater obligation since private interests cannot obviate the law. Federal, state and local environmental laws include permitting requirements which are backed by substantial criminal, civil and administrative penalties. The implementation of these state and local laws supplement the Federal government's affirmative obligation to protect the environment which remains, regardless of the obligation to mitigate the environmental impacts its acts invite. This affirmative obligation of the Federal government will continue through the responsible agencies (i.e., EPA, USFWS, USACE, etc.).

CHV-8 The Draft SEIS/PEIR also notes that many private operators have found economic benefits from waste minimization/pollution prevention and environmental awareness programs. Not only are such programs economically viable, but they have become a management requirement for responsible business.

CHV-9 The importance of proactive environmental compliance to oil and gas exploration and production companies is reflected in industry-wide initiatives, including the American Petroleum Institute's (API) STEP program: Strategies for Today's Environmental Partnership. The STEP program has been ratified by over 300 API-member companies, some of which may become working interest owners. The Chemical Manufacturers Association has developed its own proactive environmental initiative called Responsible Care. Chevron's shareholders have

⁴ California Public Resources Code §21001

⁵ CEQA Handbook, "Coordination with the National Environmental Quality Act (NEPA)"

Mr. Anthony Como
U. S. Department of Energy, Fossil Energy
Mr. Glenn Barnhill
County of Kern Planning Department
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Page 7

emphasized the need for a proactive environmental program by adopting Policy 530 - Protecting People and the Environment. Most other oil and gas companies have similar corporate policies in place.

CHV-9 We are concerned that imposition of activities that either duplicate state and local efforts or obligates the state or local agencies to carry out unwarranted management practices, some of which have yet to be implemented or funded by DOE, without providing Federal compensation, represent an adverse socioeconomic impact (unfunded mandates)⁶.

CHV-10 The Federal government, absent DOE's presence, will continue to affirmatively implement national environmental policy at the privatized NPR-1 as it does at all other private facilities; through Federal agencies with regulatory oversight and authority. Additionally, the privatized NPR-1 will also be legally bound to state and local laws which are equivalent to, or more stringent than, Federal law. As such, the commercial development case should result in environmental impacts which are equivalent to the government development case discussed in the Draft SEIS/PEIR since both the No Action Alternative and the Proposed Action are subject to the same mitigation measures through the joint NEPA/CEQA document.

GENERAL COMMENT 3

Maximum Efficient Rate

CHV-11 Maximum efficient rate (MER) has traditionally been used in regulatory settings as a term to define the concept of using best engineering practices in combination with conservation and market considerations to achieve maximum benefit from extractive natural resources. The Reference Case is based on DOE's historical interpretation of MER.

The No Action Alternative, which states that the government would deplete the reserves located at NPR-1 at "Maximum Economic Development" (MED) rates (which precludes prudent application of conservation practices,) appears to be in conflict with the concept of the affirmative Federal obligation. It is difficult to conceive that Congress intended to direct DOE to disregard conservation practices. MED appears to represent a design consideration normally used to establish a production boundary for MER during a given engineering review.

⁶ CEQA Handbook, Coordination With The National Environmental Quality Act (NEPA)

Mr. Anthony Como
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Page 8

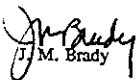
CHV-12 The driving environmental policies of NEPA state that government action should "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences," additionally, such actions should "enhance the quality of renewable resources and approach the maximum recycling of depletable resources."⁷ Therefore, conservation of the depletable resource is most likely to be included in any responsible production development schedule applied by DOE.

CHV-13 In the Proposed Action, the operator will be required to comply with California Public Resources Code Title 14 which involves adherence to the practice of MER. The difference between the No Action Alternative and the Proposed Action appears to be greater access to capital which could accelerate the development and is not an issue of MED versus MER. This issue is also reflected in the overlap of the Proposed Action, the No Action Alternative and the Reference Case (see Page 2.2-5), all of which are MER design cases. Any of the production/development scenarios are possible under any of the described actions as long as the budget and conservation practices allow it; it is reasonable to expect that under certain conditions, the post-sale unit operator would follow the development plan used to define the impacts for the No Action alternative (lower bound government case). The mitigation measures described in the NEPA/CEQA document should be viewed by the public as mitigations addressing the various possible MER production cases.

CHV-14 Although Chevron recognizes that DOE has a NEPA obligation to review alternatives, it is important that the synthetic origin of these alternatives is not forgotten and that the relative impacts not be overstated. Chevron views no significant difference between the impacts related to the various production cases proposed in the Proposed Action or alternatives.

Chevron appreciates the opportunity afforded under NEPA and CEQA to participate in the public review and to provide comment on this significant document. Our detailed comments are attached.

Sincerely,


J. M. Brady

⁷ NEPA §101

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

Executive Summary

NPR-1 Proposed Action: Sale of All Government Interest as Directed by P.L. 104-106

Page ES-4, paragraph 1

CHV-15 With respect to the sale of NPR-1 to two or more entities, the document states that the "buyers of the smaller segments would own the oil and gas produced but have no input into operation decisions." This statement may not reflect the future Elk Hills Unit operating agreement. Working interest owners generally vote on the operation of the unit regardless of their percentage of ownership.

NPR-1 No Action Alternative: Continued DOE Ownership and Operation

Page ES-5, paragraph 1

CHV-16 Under the analyzed No Action Alternative, continued DOE ownership and operation, CEQA would not be applicable. The Draft SEIS/PEIR should be revised to note this fact.

Page ES-5, paragraph 1

CHV-17 The SEIS/PEIR states "However, under the No Action Alternative, continued DOE operation would not necessarily follow the development plans..." Please refer to General Comment 3, "Maximum Efficient Rate."

Possible NPR-2 Actions

Page ES-6, paragraph 1

CHV-18 The Draft SEIS/PEIR includes an analysis of DOE's Recommended Action for NPR-2. Under this action, oversight for most of NPR-2 would be transferred to the U.S. Bureau of Land Management, while approximately 17 acres of land within Ford City would be sold. Such a sale, if legislated, would be subject to CEQA as it would necessitate an amendment to the Kern County General Plan Land Use, Open Space and Conservation Element.

Please refer to General Comment 1, "The Proposed Action." Some clarification would assist the reader.

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Principal Environmental Issues and Comparison of Environmental Impacts

Page ES-8, Paragraph 1, sentences 3-4

CHV-19

The Draft SEIS/PEIR states that commercial development would "include the loss of the affirmative Federal obligation to mitigate the consequences of government actions", while continued government development under the No Action Alternative would "maintain the affirmative Federal obligation to mitigate the consequences of government actions." Please refer to General Comment 2 under the topic heading "The Affirmative Federal Obligation." Please clarify.

Biological Resources

Page ES-8, paragraph 2, sentence 4

CHV-20

The document states that the Proposed Action and the Alternative Action "would have a greater impact on threatened and endangered species, because commercial development would be more intense, and the levels of mitigation required of private industry with respect to endangered species are lower than those required of the Federal government."

Although Endangered Species Act (ESA) regulations might appear to require more mitigation of a Federal operation than a private operation, the Proposed Action would also be subject to the California Endangered Species Act (CESA). CESA requires the California Department of Fish and Game (CDFG) to, whenever possible, adopt the U.S. Department of Fish and Wildlife Service (USFWS) Biological Opinion issued under ESA. Please clarify the situation concerning mitigation levels for NPR-1 under DOE ownership and control which have already been established under the 1995 USFWS Biological Opinion and that this opinion will be adopted by CDFG in the issuance of a 2081 agreement or equivalent. The commercial operation of NPR-1 will be subject to the same mitigation. The impacts in the Draft SEIS/PEIR should be revised to reflect this situation.

Page ES-8, paragraph 2, sentences 5-6

CHV-21

The document states that "NPR-1 would most likely be preserved as habitat following depletion of the reserves and the end of oil and gas production."

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CHV-21

NPR-1 is expected to continue as an operating oil and gas field for approximately 50 years. Currently, there is no regulatory, legislative or other mandate which would compel DOE to preserve the whole of NPR-1 as habitat for endangered species. Additionally, there is no precedent of the Federal government undertaking such an action that would suggest it might occur at NPR-1. There is no way to predict what the ultimate disposition of NPR-1 will be after the depletion of reserves under either the commercial or government development case. Future Federal actions that are not considered under NEPA could result in greater impact than those allowed under CEQA, if California were given jurisdiction. See General Comment 2.

Page ES-8 & ES-9, paragraph 3

CHV-22

The SEIS/PEIR states "Further, the impacts from future development ... NPR-1 would most likely be preserved as habitat." See comment to page ES-8, paragraph 2, sentence 4, and comment to page ES-8, paragraph 2, sentences 5-6.

Cultural Resources

Page ES-9, paragraph 2

CHV-23

The State of California has jurisdictional authority which supplements the Federal jurisdiction under California Public Resources Code 21083.2. Any activities which may disturb archeological sites have been identified in the Draft SEIS/PEIR.

Additionally, California Public Resources Code §15151 addresses standards for adequacy of an EIR and states "[a]n EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." Case by case studies which will further define unique archeological resources will continue as part of the programmatic CEQA review and will be managed by Kern County with assistance from those California agencies involved in overseeing oil and gas exploration and production activities. Mitigation measures are defined to preserve those archeological resources which are deemed unique in the Draft SEIS/PEIR. The document should be clarified because it is a "Program" EIR.

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Air Quality

Page ES-10, paragraph 1

The document states that the "third major impact from future development of NPR-1 would be the possibility that ambient air quality standards for nitrous oxides, sulfur dioxides and particulate matter could be exceeded on site, but not off site, under the Proposed or Alternative Action."

This statement should be revised to reflect and agree with Section 4.3.1 of the document, which states that "offsite particulate concentrations (PM₁₀) under all cases are estimated to exceed state ambient air quality standards for both years." The document should be revised to thoroughly reflect the information in Section 4.3.1. Federal and state air quality regulations, including new source review and the general conformity rule, will prohibit the construction and operation of activities which could cause exceedances of the ambient air quality standards. Since existing regulation mechanisms will prevent significant impacts to air quality, it is not necessary to propose additional mitigation for the Proposed Action. Please revise accordingly. Also, reference to "nitrous oxides" should be replaced with the term "nitrogen oxides;" an inclusive term for all oxides of nitrogen (NO_x).

Oil Spills

Page ES-10, paragraph 2

The document states that the "probability of a spill would be roughly proportional to the production level."

The probability of oil spills is not solely dependent on the production level. In a private operation, capital improvement budgets are tied directly to production and market price; therefore increased availability of capital combined with increased production should result in accelerated replacement of aging pipelines and tanks. 85% of the total oil volume spilled at NPR-1 during 1996 was related to pipeline corrosion¹. It is reasonable to expect that the commercial development case will actually result in fewer spills than the government development case due to access to capital. The statement should be revised to reflect private sector incentives toward capital improvements to improve production.

¹ BPOI Memorandum, G. Emsurack to D.C. Lefler, re: 1996 Oil Spills, April 8, 1997.

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CHV-25 efficiency, which in turn lowers the probability of spills for a given production level.

Other Resources

Page ES-11, paragraph 3, sentence 3

CHV-26

Please refer to General Comment 2.

Page ES-11, paragraph 3, sentence 5

CHV-27

Under the No Action Alternative and the Proposed Action, commodity prices will determine the availability of Elk Hills light crude oil to the market. The light crude will then be used in the development of the projects based on normal market demand for their product, which no reasonable seller will ignore. Premature loss of production from these projects will not result from production practices of NPR-1 but rather the broader crude market.

§1.0 Purpose and Need for Agency Action

§1.2 - NEPA and CEQA Process

Page 1.2.1, paragraph 4

CHV-28

Refer to General Comment 2. As noted in the Draft SEIS/PEIR, CEQA declares it to be state policy not to approve projects if alternatives are available to lessen the significant impacts of the project. CEQA requires these proposed mitigation measures be included in the Draft Environmental Impact Report. The CEQA Mitigation Monitoring Plan must also identify the proposed mitigation measures independently of legal/regulatory requirements.

§1.2.2 EIR Notice of Preparation

Page 1.2-5, paragraph 1

CHV-29

During the CEQA Initial Study, Kern County determined the Proposed Action did not have the potential to significantly affect certain environmental issues. Some of these issues which were eliminated from further CEQA consideration (focused out) are discussed in the Draft SEIS/PEIR.

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As detailed in the Initial Study, the following elements of the document are required for CEQA.

- Geologic Resources (as specified below)
 - (1) Fault rupture
 - (2) Seismic ground shaking
 - (3) Seismic ground failure, including liquefaction
 - (4) Landslides or mudslides
 - (5) Erosion, changes in topography, or unstable soil conditions from excavation, grading or fill
 - (6) Subsidence of land
 - (7) Expansive soils
- Water (as specified below)
 - (1) Changes in adsorption rates, drainage patterns, or the rate and amount of surface runoff
 - (2) Exposure of people or property to water related hazards such as flooding
 - (3) Discharge into surface waters or other alternation of surface water quality
 - (4) Change in quantity of groundwaters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations, or through substantial loss of groundwater recharge capability
 - (5) Impacts to groundwater quality
 - (6) Substantial reduction in the amount of groundwater otherwise available for public water supplies
- Air Quality (all)
- Biological Resources (all)
- Hazards (as specified below)
 - (1) Risk of accidental explosion
 - (2) Possible interference with an emergency response or evacuation plan
 - (3) Exposure of people to existing sources of potential health hazards
 - (4) Increased fire hazard in areas with flammable brush, grass, or trees
- Public Services (as specified below)
 - (1) Fire protection
 - (2) Police protection
- Utilities and Service Systems (as specified below)
 - (1) Storm water drainage
 - (2) Solid waste disposal

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- (3) Local or regional water supplies
- Cultural Resources (as specified below)
 - (1) Paleontological resources
 - (2) Archeological resources
 - (3) Historical resources

Any mitigation measures associated with the above topics will be included in the CEQA Mitigation Monitoring Plan. The CEQA Mitigation Monitoring Plan will identify the proposed mitigation measures independently of legal/regulatory requirements.

Discussion of the following topics is not required for CEQA as they have been eliminated from further CEQA consideration pursuant to the Initial Study. It is our understanding that the following topics are only included in fulfillment of NEPA requirements.

- Land Use and Planning (all)
- Population and Housing (all)
- Geologic Resources (as specified below)
 - (1) Seiche, tsunami or volcanic hazard
 - (2) Expansive soils
 - (3) Unique geologic or physical features
- Water (as specified below)
 - (1) Changes in the amount of surface water in any water body
 - (2) Changes in currents, or the course or direction of water movements
 - (3) Altered direction or rate of flow of groundwater
- Transportation and Circulation (all)
- Energy and Mineral Resources (all)
- Hazards (as specified below)
 - (1) Creation of any health hazard or potential health hazard
- Noise (all)
- Public Services (as specified below)
 - (1) Schools
 - (2) Maintenance of public facilities, including roads
 - (3) Other governmental services
- Utilities and Service Systems (as specified below)
 - (1) Power or natural gas
 - (2) Communications systems
 - (3) Water treatment
 - (4) Sewer or septic tanks
- Aesthetics (all)
- Cultural Resources (as specified below)

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- CHV-30
- (1) Potential to cause a physical change which would affect unique ethnic cultural values
 - (2) Restrict existing religious or sacred uses within the potential impact area
 - Recreation (all)
 - Fiscal (all)

The document may be clarified to the reader by citing these NEPA/CEQA differences.

§2 Alternatives including the Proposed Action

§2.1.1 NPR-1 Overview

Page 2.1-2, Table 2.1-1

CHV-31 (bullet 4) The term "affected environment" has a specific meaning within NEPA that is not shared under CEQA. This should be explained in the document. Please add a definition as a footnote.

CHV-32 (bullet 5) As explained in General Comment 2, the sale of NPR-1 will not result in the loss of the affirmative Federal obligation to mitigate environmental consequences as it will be maintained by other Federal agencies which will continue to have regulatory authority over Elk Hills operations. This includes USFWS which has the same mandate under NEPA and ESA as DOE. In addition, Elk Hills will now be legally required to comply with state and local environmental laws and regulations which are usually more restrictive than Federal law.

CHV-33 (bullet 6) As explained in General Comment 3, the timing and pace of development under commercial operation will not necessarily be more rapid and intense than under continued government operation. According to the Draft SEIS/PEIR, the commercial and government development cases in fact overlap. Also, it is speculative to depict that timing is a factor that will adversely affect cultural resources. Generally, impacts to cultural resources are not dependent on time, but rather disturbance related activities. Timing would only be a factor on the continued viability of cultural resources if they were degrading over time, were they not found and catalogued, in which case increased development would actually serve to enhance the value of the resource through recordation, collection and/or preservation.

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CHV-34 (bullet 7) There is no substantive evidence presented in the Draft SEIS/PEIR to support statements that biodiversity is threatened by the continued development of NPR-1. References to biodiversity could be removed from the document. Also, please define and reference terms such as biodiversity if such are used.

Page 2.1-3 thru 5, paragraph 4

CHV-35 (bullet 4, top of 2.1-5) It should be recognized that the future price of oil will govern the production rate under both the commercial development case as well as the government development case.

§2.2 NPR-1 Proposed Action and Alternatives

Page 2.2-1, paragraph 3, sentence 4

CHV-36 The document states "(t)he existing zoning for property within NPR-1 is either Limited Agricultural or Exclusive Agricultural."

The existing zoning for NPR-1 is "non-jurisdictional."

Page 2.2-1, paragraph 4, sentence 4

CHV-37 The Draft SEIS/PEIR states "These requirements include financial...." This sentence should be revised to state as follows: "These requirements include financial responsibility, well activity approval, well closure approval, and proper conservation activities of the natural resource." This inclusion of conservation will allow the explanation carried out on page 2.2-4 to be more meaningful to the reader.

Page 2.2-3 through Page 2.2-7

CHV-38 Please see General Comment 3.

Page 2.2-4, paragraph 2

CHV-39 Our understanding of the "riskd unproved probable reserves" is that they are the same as the reserves cited in the "unriskd unproved probable reserves." Risk factors are generally applied to the economic value of reserves rather than to the reserves themselves. Further clarification may be appropriate.

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Page 2.2-4, footnote #5

Reference to "CCOGP" should be corrected to "CCCGRP."
§2.2.2 NPR-1 No Action Alternative

§2.2.2.2 Government Development Case

Page 2.2-7 thru 9

As discussed in General Comment 3, the Reference Case, which is an interpretation of MER, falls within the range of design cases and overlaps the other development cases.

§2.2.3.3 Sale Scenarios Resulting in the Commercial Development Case

Page 2.2-13, paragraph 1, sentence 2

Please see comment to page ES-4, paragraph 1.

§2.2-4.1 NPR-1 Alternative to the Proposed Action: Divestiture Involving Retention of Some Government Ownership with Commercial Production (Requires Additional Legislation)

Page 2.2-15, paragraph 4

The document states that "[t]he greater the governmental control, the lesser the expected environmental impacts."

As explained in General Comment 2, privatization of NPR-1 will not result in a loss of the Federal government's obligation to protect the environment. Privatization of NPR-1 will result in the operations becoming subject to state and local jurisdiction. In certain instances, governmental control may actually increase under the commercial development case. Furthermore, to state that environmental impacts are dependent upon governmental control could confuse the reader when compared with other statements within the Draft SEIS/PEIR that indicate that certain environmental impacts are only dependent on the level of oil and gas production. This sentence requires greater clarification.

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§2.2.4.2 Divestiture Scenarios Resulting in Commercial Development Case

Page 2.2-16, paragraph 2, sentence 3-4

This scenario contemplates transfer of ownership from DOE to BLM, with mineral rights subsequently leased to private parties. The Draft SEIS/PEIR notes that if "ownership of the property is retained by the Federal government, this scenario would require compliance with Section 7 of the Endangered Species Act."

Under private control, NPR-1 operators would be required to comply with ESA, taking the form of a Section 10 permit which includes a Section 7 consultation, and a CESA 2081 agreement or equivalent. Thus, this BLM scenario is represented by the commercial development case except that socioeconomics would be represented by the government development case. All cases will require USFWS involvement; sentence 3 of the this section should be revised accordingly or possibly deleted.

§2.4 Cumulative Impacts

§2.4.2 Cumulative Oil and Gas Projects

Page 2.4-6, paragraphs 1 thru 7

The statements regarding ownership/control of neighboring producing properties need to be clarified. DOE may contact DOGGR for current information. However, since the ownership of these properties is subject to change and is not necessary for the analysis of cumulative impacts, it is recommended that references to ownership be removed from this section of the Draft SEIS/PEIR altogether.

§2.5 Comparison of Environmental Impacts

Page 2.5-1, paragraph 5, sentence 1

The document states that "[w]hat will change is the timing and pace of development (commercial development will occur sooner and be more intense) and the loss of the affirmative obligation to mitigate the environmental consequences of its actions."

As explained in General Comment 2, the privatization of NPR-1 will not result in a loss of the Federal government's obligation for either its actions

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CHV-46

or to protect the environment. Privatization of NPR-1 will result in the operations becoming subject to state and local jurisdiction in addition to Federal as a matter of law and not policy. As such, any environmental impacts resulting from a hypothetical increase in development under the Proposed Action will, in most cases, be reduced to a less than significant level by applicable legal and regulatory requirements, were such as increase allowed by good conservation practice. CEQA mitigation measures have been included in the Draft SEIS/PEIR to reduce impacts to "less than significant."

Page 2.5-1, paragraph 6, sentence 2

CHV-47

This sentence refers to the presence of the Tipton kangaroo rat on NPR-1. It is generally accepted that the Tipton kangaroo rat does not reside west of the California Aqueduct. Nearly all of NPR-1 is west of the aqueduct; with only minor portions of Sections 23S, 24S and 25S being situated to the east. The document may be amended to note that only these small portions of NPR-1 represent likely Tipton kangaroo rat habitat.

Page 2.5-1, paragraph 6, sentence 4

CHV-48

This sentence states that "[t]he levels of protection required of private industry with respect to endangered species is lower than that required of the Federal government."

The commercial development case results in NPR-1 being regulated under both ESA and CESA. Please see the comment to page 2.2-16, paragraph 2 and General Comment 2.

Page 2.5-1, paragraph 6, sentences 6-7

CHV-49

The Draft SEIS/PEIR states that "[i]f NPR-1 remained in the hands of the government, either under the No Action Alternative or under the Alternative Action, it would most likely be preserved as habitat at the end of oil and gas production."

Please see the comment to page ES-8, paragraph 2, sentences 5-6 and General Comment 2.

Page 2.5-2, paragraph 1

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This paragraph states that mitigation measures could reduce impacts to endangered species to a less than significant level. The first suggested measure is the transfer of the 1995 Biological Opinion to the new owner. The document also states that additional mitigation would be necessary because "they would not reflect a Federal agency's continuing affirmative obligation to conserve and restore threatened and endangered species."

CHV-50

As explained in General Comment 2, the Federal government's obligation to protect the environment will be implemented through the efforts of other Federal agencies and supplemented by state and local jurisdiction which legally take effect upon privatization. Specific to endangered species, these efforts will be advanced by USFWS and CDFG. As explained in the previous comments (to paragraphs 5 and 6 of page 2.5-1), the level of endangered species protection at NPR-1 under the commercial development case will be at least as stringent as the current program.

CHV-51

The Valley Floor Habitat Conservation Plan (HCP), as proposed, does not require site specific compensation and mitigation measures for oil and gas activities in the same way as the current biological opinion. Although it is suggested as an alternative mitigation measure, the Valley Floor HCP has not been completed as of this draft and the 1995 Biological Opinion requires that a 2081 agreement be obtained from CDFG upon privatization.

Page 2.5-2, paragraph 2

CHV-52

Please see the comment to page ES-9, paragraph 2.

Page 2.5-3, paragraph 3

CHV-53

The draft document states that the "third most significant impact from the proposed impact is the possibility under the upper bound of the Commercial Development Case to exceed ambient air quality standards on site (but no significant impacts offsite) for nitrous oxides, sulfur dioxides and particulate matter."

Please see the comment to paragraph 1 of page ES-1. Federal and state air quality regulations would preclude exceedances from occurring under any development scenario. Therefore, it should be stated that regulatory requirements will prevent the Commercial Development Case from exceeding Federal or state ambient air quality standards. The Proposed Action, as well as the No Action alternative, will have a less than

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- CHV-53 significant impact on air resources and no additional CEQA mitigation measures are necessary.
- CHV-54 Page 2.5-4, paragraph 1
- Please see the comment to paragraph 2 of Page ES-10 regarding the likelihood and potential impacts associated with oil spills.
- §3.0 Description of Existing Environment**
- §3.2 Hazardous Materials and Waste Management**
- §3.2.1 Applicable Regulations**
- CHV-55 Page 3.2-1, paragraph 5
- NPR-2 is operated by private oil companies who are not currently subject to reporting requirements under SARA Section 313 - Toxic Release Inventory. The document should be revised to reflect this fact.
- §3.2.3 Updated Status of Waste Facilities**
- CHV-56 Page 3.2-2
- Chevron recommends that the document include a table which summarizes waste facility status for NPR-1, as was done for NPR-2 in Table 3.2-1.
- §3.3 Air Resources**
- §3.3.1 Applicable Regulations**
- CHV-57 Page 3.3-1, paragraph 4, sentence 4
- The document states that the "[o]nly permitted emission limits that apply to these sources are limits on SO₂ emissions for the fixed roof tanks, and limits on particulate emissions for the Internal Combustion (IC) engines." Please provide a footnote reference for this statement. SJVUAPCD would be an appropriate source of such information and may provide additional clarification.

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- Page 3.3-1, paragraph 7
- CHV-58 Under SJVUAPCD rules, Authorities to Construct (ATCs) are not transferable. A new owner can only apply for issuance of a similar ATC based on the original application inasmuch as it satisfies SJVUAPCD rules.
- Page 3.3-2, paragraph 3, sentence 2
- CHV-59 The document states that "[m]ultiple permits are normally used to keep independent operations separated and sheltered from each other's potential compliance issues." Title V permits are issued for each "major" "stationary source" as those terms are defined under SJVUAPCD Rule 2201. Under this rule, light oil, heavy oil and gas processing operations are considered separate stationary sources. Please clarify or delete this sentence.
- Page 3.3-3, paragraph 3
- CHV-60 The document notes that SJVUAPCD Rule 4701 will limit future emissions from internal combustion engines and that "[t]he larger engines at NPR-1 already appear to meet SJVUAPCD limits required by 2001."
- Rule 4701 includes both Federal Reasonably Available Control Technology (RACT) limits and state Best Available Retrofit Control Technology (BARCT) limits. Although the Federal Facility Compliance Agreement resulted in the modification of the larger IC engines to levels equivalent to RACT, many of the engines at NPR-1 do not currently meet the BARCT standard; required by 2001. The document should be amended to clarify this matter.
- Page 3.3-3, paragraph 4 (continues on page 3.3-4)
- CHV-61 Earlier this year, the SJVUAPCD modified its definition of VOC to exclude ethane. In this connection, VOC ERC certificates were rescinded, discounted to adjust for the removal of ethane, and reissued. As a result, NPR-1 was reissued certificates for VOC in the total amount of 559.5 tons/year. The Draft SEIS/PEIR should be revised to reflect this new figure.

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Page 3.3-4, paragraph 1

CHV-62

The document states that the "new owner(s) would also be required to submit an application to transfer ERC certificates at the time of the sale." ERC certificates are currently considered NPR-1 unit property. Ownership of the NPR-1 ERC certificates may remain unit property and be managed by the Unit Operator after the privatization of NPR-1. Please revise to include the fact that ERC's may remain with the unit under Unit operator management.

§3.3.2 Baseline Meteorology and Air Quality

Page 3.3-5, paragraph 2, sentences 1-3

CHV-63

The document states that "measured ambient concentrations of ozone, fine dust (PM₁₀) and carbon monoxide (CO) in Kern County have exceeded the state and national ambient air quality standards (AAQS)" and that "(a)s a result, Kern County is nonattainment for these three pollutants." As correctly noted by the third sentence, only the metropolitan area of Bakersfield is designated nonattainment for CO. Thus, the second sentence of this paragraph should be revised.

Page 3.3-6, paragraph 1

CHV-64

The document should be amended to state that the proposed national standard for PM_{2.5} was finalized in July.

§3.3.3 Atmospheric Emissions at NPR-1

Page 3.3-9, paragraph 2, sentences 2-3

CHV-65

Please see comment to page ES-10, paragraph 1. Existing regulatory requirements of the Federal and state air pollution laws will preclude any exceedance of the Federal or state standards. Mitigations which forbid violation of the law are simple restatements. Therefore, no CEQA mitigation will be necessary.

§3.4 Water Resources

§3.4.1 Applicable Regulations

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Page 3.4-1, paragraph 3

CHV-66

Potentially navigable waterways that fall under the Clean Water Act appear to exist on NPR-1. A discussion on NPR-1's status as it pertains to compliance with Storm Water Pollution Prevention Permit requirements may offer clarification.

§3.5 Biological Resources

§3.5.1 Applicable Regulations

§3.5.1.1 Federal Endangered Species Act

Page 3.5-1, paragraph 2

CHV-67

This section should include a discussion of ESA Section 9 which prohibits the "take" of threatened and endangered species. Also, it should be noted that a Section 7 consultation is conducted by USFWS prior to the issuance of any Section 10 permit. Please add a discussion on ESA Section 9; this will help avoid inclusion of mitigations that duplicate law or regulation.

§3.5.1.2 California Endangered Species Act

Page 3.5-2, paragraph 1

CHV-68

The document states that "[p]ublic agencies must evaluate impacts of proposed projects and consult with CDFG to ensure that proposed projects will not jeopardize the continued existence of endangered or threatened species."

This sentence should be rephrased as follows: "State lead agencies under CEQA must evaluate impacts of proposed projects and consult with CDFG to ensure that proposed projects will not jeopardize the continued existence of endangered and threatened species."

Page 3.5-2, paragraph 1

CHV-69

This section should include a discussion of Section 2080 which prohibits "take" of endangered and threatened species.

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Page 3.5-2, paragraph 1, bullet 1

CHV-70

In June of this year the California Supreme Court issued a stay of the Court of Appeals decision in the Planning and Conservation League et al. v. Department of Fish and Game case. Since that action, CDFG has stated that it will continue issuing 2081 agreements until further action. This section should be revised to reflect this.

§3.5.2 Plant Communities on NPR-1

Page 3.5-3, paragraph 1

CHV-71

The plant communities discussion should include mention of valley saltbush scrub; an important plant community on NPR-1.

§3.5.3 Animal Communities on NPR-1

Page 3.5-3, paragraph 4

CHV-72

The document states "[b]oth the western toad and Pacific treefrog occur on NPR-1...." This sentence should be revised to state "both the western whiptail and side-blotched lizard occur" While the desert toad and Pacific treefrog occur on NPR-1, they are neither common or characteristic of the desert animal community at NPR-1.

§3.5.4 Threatened and Endangered Species

Page 3.5-4, paragraph 2

CHV-73

California Public Resources Code 21080 precludes speculation. These comments appear combined out of context. Please expand and clarify these statements.

Page 3.5-4, paragraph 3

CHV-74

The document defines "species of concern" to include "California state designated species of concern." However, the species listed in Tables 3.5-2 and 3.5-3 appear to include species in addition to those designated as California state species of concern (e.g., California Native Plant Society inventory) or species otherwise protected under the California Fish and Game Code. This point should be clarified in the Draft SEIS/PEIR. Please verify that the appropriate species are listed.

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§3.5.4.2 Listed Plant Species and Plant Species of Concern on NPR-1

Page 3.5-7, Table 3.5-2 (Special Status Plant Species...)

CHV-75

As discussed in the comment to page 3.5-4, paragraph 3, the term "special" under state status needs to be more clearly defined. Please provide the definition as a footnote.

Page 3.5-8, paragraph 1

CHV-76

The scientific name for Kern Mallow is inconsistent with Table 3.5-2.

Page 3.5-8, paragraph 4

CHV-77

The term "species of concern to the State of California" needs to be defined. Please provide definition as a footnote.

§3.5.4.3 Listed Animals Species and Animal Species of Concern on NPR-1

Page 3.5-11, Table 3.5-3 (Special Status Animal Species ...)

CHV-78

This table should be revised to note that raptors, while in some cases being designated as California species of special concern, are also protected under California Fish and Game Code. Also, the term "special" under state status needs to be more clearly defined. Please provide definition as a footnote.

Page 3.5-15, paragraph 6

CHV-79

Information on potential effects of NPR-1 operations on biological resources should be discussed in Section 4.5. "Environmental Consequences" (impacts) and not in Section 3.5 "Description of Existing Environment" (background).

Page 3.5-17, paragraph 4

CHV-80

Information on potential effects of NPR-1 operations on biological resources should be discussed in Section 4.5.

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Page 3.5-20, paragraph 1

CHV-81

Information on potential effects of NPR-1 operations on biological resources should be discussed in Section 4.5.

Page 3.5-22, paragraph 1

CHV-82

Information on potential effects of NPR-1 operations on biological resources should be discussed in Section 4.5.

Page 3.5-22, paragraph 5

CHV-83

The term "species of concern" needs to be consistent with previous definitions in the Draft SEIS/PEIR. Also, the reference to Section 3.5.1 should be corrected to refer to Section 3.5.4.

§4.2 Hazardous Materials and Waste Management**§4.2.1 Summary of Impacts for NPR-1**

Page 4.2-1, paragraph 4

Please see General Comment 2.

The document states that waste minimization/pollution prevention programs may not continue on the same level under the Proposed or Alternative to the Proposed Action, depending on the environmental practices of the future operator.

CHV-84

It is reasonable to expect that waste minimization/pollution prevention activities will continue at the same or greater extent after the privatization of NPR-1. As an example, in California, the Hazardous Waste Source Reduction and Management Review Act² requires that companies employ waste minimization/pollution prevention programs. Please revise this statement to reflect industry practices and the level of regulation in California.

² California Health & Safety Code Section 25244 et seq.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

§4.2.3 NPR-1 Impacts**§4.2.3.1 No Action Alternative**

Page 4.2-4, paragraph 1

CHV-85

This paragraph of the Draft SEIS/PEIR references Table 3.2-1 for a description of the current waste facility status at NPR-1. The referenced table is actually a description of the current waste facility status at NPR-2. As recommended in the comment to page 3.2-2, Chevron recommends that a table which summarizes waste facility status for NPR-1 be included; also the caption for Table 3.2-1 should be corrected.

§4.2.3.2 Proposed Action

Page 4.2-4, paragraph 6

CHV-86

Please see comment to page 4.2-1, paragraph 4. It is expected that waste minimization/pollution prevention activities will continue after the privatization of NPR-1.

Page 4.2-5, paragraph 4

CHV-87

Please see General Comment 2 and the comment to page 4.2-1, paragraph 4. Privatization of NPR-1 will not result in a loss of the Federal government's obligation to protect the environment. Privatization of NPR-1 will result in the operations becoming subject to state and local jurisdiction. Also, it is expected that waste minimization/pollution prevention activities will continue after the privatization of NPR-1.

§4.2.3.3 Alternative to the Proposed Action

Page 4.2-6, paragraph 1

CHV-88

The document states that "the overall impacts for both divestiture scenarios of the Alternative to the Proposed Action (transfer to BLM, or creation of a Federally-owned corporation) would be identical to those of the No Action Alternative" because "the Federal government would retain an ownership interest at NPR-1 under the Alternative to the Proposed Action." The document should note that under the Alternative to the Proposed Action, DOE Orders would not necessarily apply to the operator.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

§4.3 Air Impacts

§4.3.1 Summary of Impacts for NPR-1

Page 4.3-1, paragraph 3 and 5

Please see comment to page ES-10, paragraph 1. Existing regulatory requirements of the Federal and state air pollution laws will preclude any exceedance of the Federal or state standards. CEQA advises against the use of mitigations which forbid violation of the law since they are simple restatements and only serve to confuse the lead agency regarding appropriate mitigations for the issuance of discretionary permits. Therefore, no CEQA mitigation will be necessary.

§4.3.2 Methodology

Page 4.3-2, paragraph 3

The Draft SEIS/PEIR states that "emission estimates for the Proposed Action in 2001 are based on the maximum potential operating conditions or the maximum allowable emissions from permit limits. To account for proposed new facilities that could be operating under the Proposed Action in 2001, additional equipment is included in the calculations."

Please clarify the extent to which emission estimates for internal combustion engines, or other types of equipment, account for regulatory requirements (e.g., BARCT, RACT) with future compliance deadlines. For example, some of the larger IC engines may require emission controls/modifications to comply with SJVUAPCD Rule 4701 BARCT emission limitations by the 2001 deadline. If these mandated emission reductions were not considered, the air modeling may result in conservative future emissions and impacts to ambient air quality. The Draft SEIS/PEIR may want to include a brief summary of the conservative elements utilized in the analysis.

Page 4.3-2, paragraph 4 (top of page 4.3-3)

The document states that "[i]n 1995, a total of 237 engines rated at greater than 50 horsepower or greater operated on site."

Although NPR-1 holds PTOs for approximately 200+ internal combustion engines, all of the engines rated less than 200 horsepower are presently inoperable (please check the 35R stock). As such, they did not operate in

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

1996 and there are no plans to reinstall these engines. Please clarify whether or not these engines were included in the air modeling. If so, their inclusion may result in a very conservative (overly large) estimate of future emissions and impacts to ambient air quality. Please refer to the preceding comment.

§4.3.3 NPR-1 Impacts

§4.3.3.1 No Action Alternative

Page 4.3-4, paragraph 3 and 4

Please see comment to page ES-10, paragraph 1. Existing regulatory requirements of the Federal and state air pollution laws will preclude any exceedance of the Federal or state standards. Mitigations that prohibit violation of the law are simple restatements. Therefore, no CEQA mitigation will be necessary.

§4.3.3.2 Proposed Action

Page 4.3-5, paragraph 4

Please see comment to page ES-10, paragraph 1. Existing regulatory requirements of the Federal and state air pollution laws will preclude any exceedance of the Federal or state standards. Mitigations that prohibit violation of the law are simple restatements. Therefore, no CEQA mitigation will be necessary.

§4.3.3.4 Comparison of Impacts

Page 4.3-9, paragraph 1

Please see comment to page ES-10, paragraph 1. Existing regulatory requirements of the Federal and state air pollution laws will preclude any exceedance of the Federal or state standards. Therefore, no CEQA mitigation will be necessary.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

§4.4 Water Resources

§4.4.1 Surface Water

§4.4.1.3 NPR-1 Impacts

Page 4.4-3, paragraph 6

This paragraph states that "[t]hree potentially navigable waterways at NPR-1, which fall under the provisions of the Clean Water Act, are Sandy Creek, Broad Creek and Buena Vista Creek.

CHV-95

This statement does not agree with page 3.4-1, which states that "[p]otentially navigable waterways ... include, apart from the Kern River and the California Aqueduct, the Buena Vista Creek and the McKittrick Valley Tributary No. 1."

The Draft SEIS/PEIR should be revised to clarify the potential navigable waterways.

Page 4.4-3, paragraph 7, sentence 2

This sentence states that produced water is injected into controlled sumps only during abnormal conditions, such as injection well shutdowns, pressure relief, and emergency conditions. Several sumps, including those in Section 10G, are believed to be continually used by DOE as the current operator for the storage and/or disposal of produced waters.

CHV-96

Please review the current practice and verify that the No Action Alternative and Alternative to the Recommended Action reflect current practice.

§4.4-2 Groundwater

§4.4.2.1 Summary of Impacts

Page 4.4-8, paragraph 4

The document states that the Tulare Zone is an "exempt aquifer" with no beneficial use.

CHV-97

The Tulare Zone is exempted for UIC Class II activities. Please clarify; the DOGGR can provide additional information on this issue.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

Page 4.4-15

§4.4.2.3 NPR-1 Actions

Page 4.4-13, paragraph 3, sentence 4

The document states that "[i]f an idle well is abandoned, it is fully plugged with a cement slurry to prevent any movement of fluids within the well."

CHV-98

Wells are abandoned in accordance with DOGGR requirements, which often do not require fully plugging the well with cement. It might be better to describe the abandonment procedure as preventing the movement of fluid between zones and preventing contamination of potential sources of drinking water of United States.

Page 4.4-15, paragraph 1

The Draft SEIS/PEIR states that "the aquifers penetrated by the injection wells are in underground injection control (UIC) exempt aquifers, and the groundwaters at risk are not suitable for use for potable water supplies.

CHV-99

Please refer to comment to page 4.4-8, paragraph 4.

Page 4.4-15, paragraph 5

The document states that "[o]ccasionally, during abnormal situations, such as injection well system shutdowns, pressure relief, and emergency conditions, produced water may be disposed in surface sumps."

CHV-100

Please see comment to page 4.4-3, paragraph 7, sentence 2. Several sumps are currently in continual use at NPR-1.

Page 4.4-16, paragraph 3, bullet 9 (top of page 4.4-17)

The Draft SEIS/PEIR states that "measures designed to mitigate impacts to groundwater quality would include...prohibiting produced water discharges to surface sumps."

CHV-101

The Regional Water Quality Control Board (RWQCB) regulates water quality under the authority of California law and Federal law, as delegated by EPA. DOE, as operator of NPR-1, currently utilizes surface sumps as permitted under waste discharge requirements (WDR) issued by the

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

CHV-101

RWQCB. These sumps have been, and continue to be, used on a constant basis for the storage and disposal of produced waters. It is the responsibility of the RWQCB to review and issue new WDR's for sumping activities at NPR-1 after the sale. The RWQCB's obligation under their legislative mandate is to protect the quality of the waters of the state of California. Sumping activities will not be permitted if they would impact, or threaten to impact, groundwater. Therefore, no additional CEQA mitigations proscribing RWQCB oversight are appropriate.

Page 4.4-19, paragraph 5

Please see General Comment 2.

CHV-102

The Draft SEIS/PEIR states that most of the measures currently employed by DOE would be required of a new owner "because they are driven by Federal, state and local requirements.... Two potential exceptions ... are the continued implementation of the SPCC plan and Groundwater Management Protection Plan currently implemented by DOE."

The SPCC plan is required under Federal Clean Water Act regulations and will continue to be implemented at NPR-1 after privatization. Also, DOGGR regulations CCR Title 14 §1722(b) requires an "Oil Spill Contingency Plan." The Groundwater Management Protection Plan is contained in the Mitigation Action Plan to the 1993 SEIS to which this document is a supplement and therefore, is required of the new owner. Therefore, these are not potential exceptions. The Draft SEIS/PEIR should be revised to reflect this.

Page 4.4-20, paragraph 3

CHV-103

The Draft SEIS/EIR states that there will be a higher risk of spills under the Commercial Development Case. As explained in the comment to page ES-10, paragraph 2, the increased availability to capital under the commercial case should actually result in a decrease in the volume of oil spilled at NPR-1 after privatization.

Page 4.4-21, paragraph 3

CHV-104

The document references the Tulare Zone as an UIC exempt aquifer. Please see comment to page 4.4-8, paragraph 4.

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§4.5 Biological Resources

§4.5.1 Summary

§4.5.1.1 NPR-1 Impacts

Page 4.5-1, paragraph 3

The Proposed Action would be subject to Section 9 prohibitions against "take". The stated impacts could not occur in the presence of an applicable Biological Opinion or ESA Section 10 permit, either of which cannot allow jeopardy to the species. The existing 1995 Biological Opinion resulted in a "no jeopardy" decision and subsequent Section 10 permit would be subject to the same standards during USFWS' internal Section 7 consultation.

CHV-105

Regarding the last sentence, any land set aside as compensation under a Section 10 permit would be conserved in perpetuity, mitigating the loss of listed species habitat during the project. Speculating that the Federal government will set aside the lands at NPR-1 at the end of its productive life as an oil and gas field is beyond the scope of the Draft SEIS/EIR project as discussed in comment to ES-8, paragraph 2.

Page 4.5-1, paragraph 3

CHV-106

With respect to the affirmative Federal obligation, please see General Comment 2.

Page 4.5-4, paragraph 2

CHV-107

The document states that "[a]dditional mitigation measures would be required to assure that impacts to biological resources" from increased exploration and production "are mitigated to less than significant."

The current Biological Opinion, which may be transferred to the private party owner of NPR-1 under the Proposed Action, includes consideration of future disturbance resulting from development activities. Should the actual disturbance level under the Commercial Development Case approach the threshold allowed in the Opinion, the permit holder will be required to reinitiate consultation with USFWS. At that time, USFWS will have discretion as to whether additional conservation measures beyond those specified in the 1995 Opinion are necessary.

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- CHV-108 | Page 4.5-4, paragraph 5
Please see comment 3.5-2, paragraph 1.
- §4.5.1.3 Cumulative Impacts
- CHV-109 | Page 4.5-5, paragraph 2
The mention of critical habitat in the paragraph implies that "critical habitat" has been designated for the listed species of this area. If so, documentation should be referenced so that the "significant percentage" which is represented by NPR-1 and NPR-2 can be evaluated.
- The last sentence should read: "However, even that impact could be mitigated to less than significant levels within the meaning of CEQA by the adoption *and implementation* of a regional HCP..."
- §4.5.3.1 No Action Alternative
- CHV-110 | Page 4.5-8, paragraph 3
The Draft SEIS/PEIR presents no evidence that a loss of habitat would result in a loss of biodiversity in plant communities. Please refer to comment Page 2.1.2, Table 2.1-1 (bullet no. 6).
- CHV-111 | Page 4.5-9, paragraph 1
Please see comment to page ES-10, paragraph 2
- CHV-112 | Page 4.5-9, paragraph 7
The Draft SEIS/PEIR presents no evidence that a loss of habitat would result in a loss of biodiversity in animal communities. Please refer to comment Page 2.1.2, Table 2.1-1 (bullet no. 6).
- CHV-113 | Page 4.5-12, paragraph 4
Please refer to the General Comment 2 concerning the requirement of a private company to comply with Federal, state, and local laws. Also, please refer to the comments to page ES-8, paragraph 2.
- The sale legislation, as previously discussed in the Draft SEIS/EIR allows for the transfer of the 1995 Biological Opinion. The 1995 Opinion

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- CHV-113 | contains conservation measures, as well as the condition that upon the privatization of NPR-1, a 2081 agreement be obtained from CDFG. If the private party chooses not to accept the transfer of the 1995 Opinion, then that party will be required by law to consult and obtain a Section 10 permit from USFWS and a 2081 agreement, or its equivalent, from CDFG.
- Both ESA and CESA provide for protection of threatened and endangered species, as well as state listed species and species of concern, particularly within the CEQA process. The proposed mitigation measures, detailed in Tables 4.5-3, 4.5-4, 4.5-5, 4.5-6, and 4.5-8, are confusing and include odd redundancies (i.e., including some measures from the 1995 BO and not others). Please remove or reference the origin of those measures set forth in the previous SEIS and the 1995 Biological Opinion.
- §4.5.3.2 Proposed Action for NPR-1
- CHV-114 | Page 4.5-17, paragraph 3
Please see the comment to page 4.5-12, paragraph 4.
- CHV-115 | Page 4.5-19
This table represents a restatement of items discussed in the previous SEIS which addressed the issuance of the subject Biological Opinion which will be transferred at the discretion of the Secretary of Energy. It appears that these mitigations are being reconsidered without explanation regarding their historical review.
- Please revise the title to reflect the table's origin.
- CHV-116 | Page 4.5-20
See comment above.
- CHV-117 | Page 4.5-21, paragraph 4
Please see General Comment 2, "The Affirmative Federal Obligation."
- Regarding "Federal Protections Loss": Section 9 "take" prohibitions would apply to a private owner at NPR-1 and are enforceable by USFWS, a Federal agency. The existing Biological Opinion includes "Conservation Recommendations" which are intended to further long-term conservation and recovery goals for the listed species at NPR-1; the Biological Opinion

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	has been in place for nearly two years and only BOCR 5 has been partially implemented.
CHV-117	The statement that "[i]t is more likely that the government would decide to convert the field to a species conservation area..." is speculation and disregards the fact that privately-owned mitigation banks/preserve areas already exist in areas which were formerly managed for oil production (e.g. Coles Levee Ecosystem Preserve).
	Page 4.5-22, Table 4.5-7 (Habitat Revegetation)
CHV-118	Although revegetation is optional under Section 10 of ESA, DOGGR requirements call for reclamation of wellpads and other oilfield facilities.
CHV-119	Additionally, the statement "[i]t is not performed for species conservation of recovery purposes, although the results of revegetation may have some benefit..." should describe what those benefits would be. If DOE has been performing habitat reclamation there should be some data regarding the benefits of this activity and as such this data should be presented in this discussion.
	Page 4.5-23, Table 4.5-7 (Habitat Management)
CHV-120	Endowment funding required under Section 10 permits is expected to provide for long term management of compensation lands. Lands currently being managed for species conservation pursuant to Section 10 compensation are actively managed by third parties such as the Center for Natural Lands Management.
	Page 4.5-25, paragraph 5 (Sales Scenarios 1 and 2 Mitigation Measures)
CHV-121	Please see the comment to page 4.5-12, paragraph 4.
	Page 4.5-26 thru 4.5-27
CHV-122	Please see General Comment 2.
	Page 4.5-31, Table 4.5-8
CHV-123	This table appears to create mitigation measures that extend beyond that which is feasible. Some proposed mitigations reflect the current wisdom defined in the USFWS Biological Opinion and as such they will be carried

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CHV-123	in the CDFG 2081; others appear to forego the rights of property owners and the jurisdiction of the state of California. Please see General Comment 2. Additionally, the final dispensation of Federal lands has never been a foregone conclusion.
CHV-124	No mitigations should obligate parties to an action that serves special interests (third parties) or precludes the right of the state to consider the highest and best use of a given resource at the appropriate time. CEQA will continue to provide statutory governance in the granting of discretionary permits, including post-sale activities. CEQA will continue to apply beyond the life of the field.
	Page 4.5-35, Table 4.5-9
CHV-125	This table needs to be revised to reflect actual CEQA definitions (these definitions could be located in the footnotes). Also, the impacts for the No Action Alternatives should be the same (all development cases could be MER). Please see General Comments 2 and 3.
	§4.6 Cultural Resources
	§4.6.1 Summary of Impacts
	Page 4.6-1, paragraph 4
CHV-126	The document states "[h]owever, preliminary results indicate that there may be impacts to five or more significant prehistoric sites under the NPR-1 Proposed Action or NPR-2 Alternative Action."
	Please refer to the comment on page ES-9, paragraph 2.
	§4.6.2 Methodology
	Page 4.6-1, paragraph 5
CHV-127	The Draft SEIS/PEIR states that the "California State Historic Preservation Officer (SHPO) has indicated that the sale or transfer of Federal land is considered to be an undertaking that may have an adverse effect on cultural resources."
	California Public Resources Code Section 5024.6 states that the "State Office of Historic Preservation shall serve as the staff of the State Historical Resources Commission and will also recommend properties of

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CHV-127

historical significance for nomination by the commission for the National Register of Historic Places, for registration as historical landmarks and points of historical interest, and for listing in the California Register." The SHPO will retain the same amount of control of historic resources after the implementation of the Proposed Action. Please refer to the comment on page ES-9, paragraph 2.

§4.6.3 NPR-1 Impacts and Mitigation

Page 4.6-3, paragraph 3

CHV-128

The document states "[o]ne other site, CA-KER-3077, may also be NRHP eligible under Criterion D." This site has been declared "not eligible" by the SHPO. Please clarify.

§4.6.3.1 No Action Alternative

Page 4.6-3, paragraph 4

CHV-129

The document states "[t]here would be no effect on archaeological resources if DOE continues its current procedures of pre-activity survey and consultation with the SHPO to prepare treatment plans when historic properties or CEQA-important sites cannot be avoided."

Please refer to the comment to page ES-9, paragraph 2.

§4.6.3.2 Proposed Action

Page 4.6-4, paragraph 2

CHV-130

The document states "[f]urthermore, at least two of the sites contain human remains, which makes them significant for Native Americans."

There has been poor documentation of one site, CA-KER-50. It is unknown if this site is actually on NPR-1. Please clarify.

Page 4.6-4, paragraph 2

CHV-131

The document states that "[h]owever, under the Proposed Action, some of these sites might be disturbed or destroyed as a result of oil production or related activities."

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CHV-131

The SHPO has commented in the past that it is unlikely that any sites will be found in the High Production Area that retain any integrity. In the past if a site was in doubt as to its importance the proposed development was relocated with little effort. There is no reason to believe that the Proposed Action will have different results and impacts. Please refer to the comment on Page ES-9, paragraph 2.

§4.9 Socioeconomics**§4.9.1 Summary of Impacts for NPR-1**

Page 4.9-1

CHV-132

This section could be amended to note that one impact from the sale may be that "approximately 9% of the proceeds from the sale of NPR-1 (the Proposed Action) will go to the California Teachers Retirement Fund."

§4.10 Hazards Risk Assessment**§4.10.1 Summary of NPR-1 Impacts**

Page 4.10-1, paragraph 3

CHV-133

The paragraph states that "it is expected there could be an increase in the incidence of oil spills corresponding to increased production levels for other government and commercial development."

Please see comment to page ES-10, paragraph 2. Increased access to capital and the market value of any oil that might be lost under the commercial development case should result in a decrease in oil spill volume at the privatized NPR-1.

§4.10.3 NPR-1 Impacts

Page 4.10-2, Table 4.10-1 (Summary of Estimated Number of Spills...)

CHV-134

For reasons explained in the comment to page ES-10, paragraph 2, the table includes a conservative estimate of the number of spills which could be expected under the commercial development case. A brief statement as to the conservative nature of the estimates may be appropriate.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

- CHV-135 Page 4.10-4, Table 4.10-4 (Hazard Scenario Risk Ranking Matrix)
- This table appears to be incomplete. Some clarification may be necessary. (Is it shaded lightly?)
- CHV-136 Page 4.10-4
- §4.10.3.1 (No Action Alternative Impacts)**
- This document understates the impacts related to the Government Operation. Studies have been performed that indicate a need to improve the current practices at NPR-1 to bring the performance of operations at NPR-1 up to private industry's performance. Please reference any studies used to establish that the No Action Alternative would result in less impact.
- §4.10.3.2 Proposed Action**
- CHV-137 Page 4.10.6, paragraph 3
- This paragraph discusses the estimated number of future spills under the Proposed Action. Please see comment to page 4.10-2, Table 4.10-1.
- CHV-138 Page 4.10-7, paragraph 1, sentence 5
- This sentence states that there will be "elevated spill levels under the upper bound of the Commercial Development Case."
- Please see comment to page ES-10, paragraph 2. Increased access to capital under the commercial development case should result in a decrease in oil spill volume at the privatized NPR-1.
- §4.11 Energy Conservation**
- §4.11.5 Cumulative Impacts**
- CHV-139 Page 4.11-4, paragraph 4
- Please refer to the comment on page ES-11, paragraph 3, sentence 5.

CHEVRON'S COMMENTS ON THE DRAFT SEIS/PEIR

§5.0 Unavoidable Adverse Impacts**§5.2 Proposed Action**

Section 4 "Environmental Consequences" appears to satisfy 40 CFR 1502.16, therefore, it is assumed that Section 5 "Unavoidable Adverse Impacts" is intended to address CEQA related issues. We suggest that Section 5 be retitled "Significance Determinations for CEQA", and that the significance levels be specifically defined as shown below.

- Less Than Significant (LS): Results in no substantial adverse change to existing environmental conditions.
- Significant (S): Constitutes substantial adverse change to existing environmental conditions that can be mitigated to less than significant levels by implementing specified mitigation measures.
- Significant and Unavoidable (SU): Constitutes substantial adverse change to existing environmental conditions that cannot be fully mitigated by implementing all feasible mitigation measures.

The term "unavoidable adverse impacts" has a conceptual meaning under CEQA concerning requirements for overriding considerations as findings addressing approval of a project which will cause significant unavoidable adverse impacts. Overriding considerations must be based on significant project impacts that may remain after requiring all feasible mitigation measures. The title of this section implies that the Draft SEIS/PEIR has not established all necessary and feasible mitigations; the impact analysis in Section 4 reflects residual impacts which are Less Than Significant (LS) with the feasible mitigations adopted. The text of this section appears to simply be a general discussion of residual impacts which are "Less Than Significant" and needs to be revised to reflect CEQA's more definitive guidelines or deleted as repetitive.

CHV-140



Kern Oil & Refining Co.

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VIA AIRBORNE EXPRESS

September 5, 1997

Mr. Anthony Camp
NEPA Document Manager, (FE-27)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-0350

Re: Draft Supplemental Environmental Impact Statement/
Program Environmental Impact Report for the Sale of NPR-1

Dear Mr. Camp,

Kern Oil & Refining Co. (Kern) hereby submits comments concerning the proposed sale of Naval Petroleum Reserve Number 1 (Elk Hills). Our comments are prefaced, however, by a description of Kern.

KERN'S REFINERY IS UNIQUELY SUITED TO RUN ELK HILLS CRUDE

Kern owns and operates a 21,400 barrel per day petroleum refinery in Bakersfield, California, approximately 35 miles east of Elk Hills. Kern is designed and over the last 20 years has been further modified to operate at maximum efficiency charging light, sweet Elk Hills type crude oil. Elk Hills is the only sufficient source of this high quality crude oil that is reasonably accessible to Kern's refinery. The other California fields that produce light, sweet crude oil have very limited production, to a large extent are logistically inaccessible to Kern, and are under control of the major oil companies.

KERN HAS MADE MAJOR REFINERY INVESTMENTS TO BE A RELIABLE SUPPLIER OF CRITICAL PRODUCTS

Kern has invested millions of dollars, not only to enable it to charge Elk Hills type crude oil, but to process Elk Hills crude oil into environmentally superior products. Kern is the only small refiner producing both California specification reformulated gasoline and California Air Resources Board certified diesel fuel and one of only two refiners (Texaco

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being the other) producing California reformulated gasoline between Los Angeles and the San Francisco Bay area. Kern has some 55 gasoline customers and over 70 diesel customers. Kern is also the only West Coast producer of certain highly refined aliphatic solvents used in the aerospace, adhesives, and coating industries. In addition, Kern has produced large quantities of jet fuel for California's military installations.

KERN IS AN IMPORTANT EMPLOYER

Kern employs over 100 people, the majority of which have been with Kern for many years. The average tenure of Kern's employees is over 12 years and many (approximately 20%) have been with the company for 20 or more years. These people would have a very difficult time finding comparable employment if Kern were to cease operations due to lack of crude oil supply. In addition to the over 100 Kern employees, another 500 - plus employees of local suppliers and customers depend upon Kern's operation for their employment. A recent California Chamber of Commerce analysis lists the petroleum industry as having a job multiplier of 6.36, the highest of any industry.

In addition to its impact on local employment, Kern and its products have a very large fiscal impact on California and local tax revenues. Kern's products annually generate approximately \$25 million in California motor vehicle fuel taxes and \$11 million in California sales and use taxes, along with \$30 million in federal fuel taxes. Kern will also pay millions of dollars in state and federal income taxes this year. Added to that are substantial payroll taxes, property taxes, and environmental fees, all of which help to support federal, state and local governments.

IMPACT OF PETROLEUM INDUSTRY CONSOLIDATION COMBINED WITH LOSS OF ACCESS TO ELK HILLS CRUDE OIL

As pointed out above, Kern's presence as a viable petroleum business is extremely important to the economy of Central California and the San Joaquin Valley. And the major key to Kern's continued viability is access to Elk Hills crude oil. There is just not enough light, sweet crude oil available to Kern from other resources to sustain Kern's operation.

If Kern loses its access to Elk Hills crude oil, which has been its life's blood for many years, the great likelihood is that Kern's refinery will be mothballed and its employees laid off. This has been the case with far too many of the smaller refineries that once provided active competition in downstream petroleum markets. As stated above, Kern is the only California small refiner still producing gasoline and diesel. As the Department of Energy is aware, there have been and continue to be a number of large consolidations and mergers in both the upstream and downstream sides of our industry since the U.S.

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KOR-3

Government announced its plan to sell Elk Hills. These recent mergers and acquisitions include Shell and Mobil, Shell and Texaco, Tosco and Unocal, Ultramar and Diamond Shamrock, and most recently Texaco and Monterey Resources. If the government had known that such a substantial consolidation of the West Coast petroleum markets was about to take place, it might well have reconsidered the sale of Elk Hills or the timing of the sale.

KERN'S COMMENTS CONCERNING THE PROPOSED SALE OF ELK HILLS

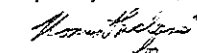
KOR-4

Kern submits that its continued viability and that of other small refiners is extremely important to both the national security and to the fuel-consuming public as an alternative supply source to that of the major oil companies. The presence of a viable independent refining sector is essential to the stabilization of product prices, especially in an area such as Central California in which only one major oil company operates a refinery.

For the reasons stated herein, Kern strongly supports the small refiner crude oil access provision incorporated in the Elk Hills Purchase & Sale Agreement. The San Joaquin Valley, the entire state of California and the nation stand to benefit if Kern continues to operate and fulfill its environmental and socio-economic role.

Kern greatly appreciates the opportunity to submit these comments. If you have any questions, please contact me.

Respectfully submitted,



Alan Kornicks
Vice President - Crude Oil Supply

atd

Pacific Gas and Electric Company

Kern Division
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SEP 15 1997

September 9, 1997



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1000 Independence Avenue, S.W.
Washington, DC 20585-035093301

RE: Sale of Naval Petroleum Reserve No. 1 (Elk Hills)
Kern County, California

Dear Mr. Como:

Thank you for the opportunity to review the Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of NPR-1.

PGE-1

PG&E owns and operates electric transmission facilities which are located within the Naval Petroleum Reserve No.1 (Elk Hills). To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities.

PGE-2

Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocation's require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.

PGE-3


We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments and any potential environmental issues associated with extending utility service to the proposed project. This will assure the project's compliance with CEQA and reduce potential delays to the project schedule.

PGE-4

Expansion of the distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines.

PG&E remains committed to working with the Department of Energy to provide timely, reliable and cost effective and electric service to the new owner of Elk Hills. Please Contact Gerard J. Rodriguez, (805) 398-5933 if you have any questions regarding our comments. We would also appreciated being copied on future correspondence regarding this subject as this project develops.

Sincerely,


Gerard J. Rodriguez
Land Agent

elkhillltr



Pennzoil Exploration and Production Company
P.O. Box 22967 • Houston, Texas 77252-22967 • (713) 546-4000 • FAX (713) 546-8887

September 8, 1997

Mr. Anthony Como
NEPA Document Manager
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0350

Dear Mr. Como:

This letter is in response to the request by the U. S. Department of Energy to comment on the draft Environmental Impact Statement prepared by ICF Kaiser in conjunction with the Department of Energy and Kern County to address the sale of the Federal Government's share in Naval Petroleum Reserve No. 1 ("Elk Hills"), Kern County, California.

Pennzoil's comments will address primarily the draft's section 4.9 "Socioeconomics", which is fundamentally flawed by its failure to recognize or address the differences in the socioeconomic impact of the Elk Hills sale depending on the nature of successful bidders. Specifically, the socioeconomic impacts related to this sale and thus, quality of the bid, could be substantially different depending on (1) whether or not the successful bidder is a large integrated oil company operating in California, and (2) whether or not the successful bidder currently has significant upstream oil and gas production operations in California and/or Kern County. The draft EIS completely ignores these considerations, therefore, its conclusions concerning these matters are incorrect.

From the outset of the proposed sale, Department of Energy officials and others have expressed concern this sale may adversely affect independent oil producers and refiners in California. This concern stems from the extremely high concentration in the California oil market in both its production and refining sectors, and the related factor of the California petroleum market's physical isolation from other U.S. or international oil markets, resulting in California oil prices being determined to a large degree by regional rather than world or even U.S. market conditions.

In a Department of Commerce 1989 report, the trend was recognized toward greater dominance of the California oil market by the large integrated oil companies and its potential for adverse socioeconomic impact. In its "Report to Congress on U.S. Oil Exports", the U. S. Department of Commerce sounded the following alarm:

The increased presence of the large integrated producers has resulted in a reduction in the independent producers share of private sector crude oil production. The independents, which accounted for 29 percent of the

state's private sector oil production in 1973, have consequently seen their share drop to 19 percent of the market in 1988 and an estimated 14 percent in March of 1989. (This includes ARCO's 1988 acquisition of Tenneco's oil production.) If this trend persists, and the integrated firms continue to acquire independent producers, oil production in the state will become even more concentrated. This could threaten the viability of the independent producing sector. (Emphasis added.)¹

Not surprisingly, that trend has continued, with the independent's share of production declining further to 13 percent of California production in 1995.

The 1989 report also provides an excellent description of the manner in which the independent producers are disadvantaged by the large integrated oil companies. First, the report notes that "the independent producer's income is dependent on the price obtained for its crude oil sold to refiners."² Inasmuch as the integrated oil companies control 72 percent of refining capacity in California, "the price the integrated refiner is willing to pay for crude oil in most instances determines the income earned by the independent producer."³ These purchase prices are published by the integrated refiners as "posted prices" and, as recent U.S. Department of Interior auditors have proved, were set below market value to reduce their royalty payments on oil produced from properties leased from the Federal government and, coincidentally, reduced income to the independent producers.

PEN-2 Further, the report notes the existence of only one common carrier pipeline for use by the independent producers that transports crude oil from Kern County to the Los Angeles Basin. "If an independent producer does not have access to this pipeline, it is forced to sell directly to integrated firms, taking the price posted by the integrated refiner."⁴

The report concludes these factors -- restricted market access and income at less than market value -- have forced independent producers to:

1. "Defer maintenance work on existing wells;
2. Shut in and/or abandon production, including shipper wells;
3. Postpone bringing on stream new production; and
4. Defer new exploration."⁵

Ultimately, these factors have caused independent producers to sell out to the large integrated companies. This fact is magnified by the recent announcement of Monterey Resources Inc. being purchased for \$1.4 billion by Texaco.

The report also addresses the similar plight of the California independent refiner as the integrated companies control 72 percent of California's refining capacity. The report notes on pages ES-5 and ES-6, for example, that independent refiners must pay a premium for the crude oil they purchase as they lack proprietary crude oil supplies and must purchase crude oil from traders as well as integrated and independent producers -- often at prices above postings due to higher transportation costs charged by private pipeline carriers.

These higher prices and other factors put pressure on the small independent refiners. This pressure has driven many out of business further consolidating California refining into a few

major companies. Between 1990 and 1996, some 370,000 barrels per day of refining capacity was shut down. This figure represents nearly 17 percent of the industry's capacity in California.

PEN-2 The growing concentration of the California oil market, with less market for the independent producers and less supply for the independent refiners, is jeopardizing the financial viability of both independent producers and refiners. This report notes: "If integrated firms continue to acquire some of the remaining independent producers, it would have a negative impact on the competitiveness of the West Coast petroleum market."⁶

PEN-3 Of course, the sale of Elk Hills represents the largest divestiture of independent Government's crude oil supply in history. It is patently obvious, therefore, that the socioeconomic impacts related to the Elk Hills sale differ markedly depending on whether or not the successful bidder is a large oil company with integrated petroleum operations in California. In fact, the U.S. Government's own report makes it clear that the sale of Elk Hills to a large integrated petroleum company in California will have a negative impact on the competitiveness of the West Coast petroleum market and, thus, have a significant adverse socioeconomic impact on the region. In order for the EIS to not misrepresent the facts, it is imperative that this adverse impact be addressed in the EIS concerning the Elk Hills sale.

PEN-4 The draft EIS completely ignores these significant local, regional and state-wide socioeconomic impacts and any mitigation measures which may be needed to avoid such dire possibilities. Potential impacts associated specifically with the sale of Elk Hills to an integrated oil company in California include failure of independent refiners with a loss of employees, taxes and refining capacity; added stress on the California petroleum market, with increased price volatility and higher average gasoline prices; and failure of independent producers with loss of employees. These impacts are a significant omission that must be addressed.

The draft EIS also fails to differentiate between the socioeconomic impacts between a successful bidder who already has significant upstream oil and gas production operations in the California and/or Kern County and a successful bidder who does not. For example, Table 4.9-2 in the draft EIS reflects a loss of 300 jobs when Elk Hills is sold. In fact, this loss is significantly overstated if the successful bidder currently has no significant upstream oil and gas production operations in California.

PEN-5 For the draft EIS job loss estimates to be realistic, the EIS must assume the successful bidder will already have significant upstream oil and gas production operations in California and/or Kern County and, thus, be able to absorb into its current organization a large share of administrative and technical positions now filled at Elk Hills.

If such a bidder is not successful, a much larger number of the Elk Hills' employees would continue to be needed for the Elk Hills operations. Thus, the degree to which the successful bidder already has significant oil and gas production operations in California will mean large differences in employment levels at Elk Hills and translate into hundreds of millions of dollars earned and spent in Kern County.

PEN-6 In summary and on these bases, Pennzoil believes it is essential that the Final Environmental Impact Statement address the very different socioeconomic impacts which could result from the Elk Hills sale depending (1) on whether or not the successful bidder is a large integrated California oil company, and (2) whether or not the successful bidder has significant upstream oil and gas production operations in California and/or Kern County. Depending on the category of the successful bidder, there could be significant differences in employment levels, income and property taxes, gasoline and other petroleum product prices, housing market values, and other socioeconomic barometers of consequences. The total socioeconomic impact of the area will be measured in many hundreds of millions of dollars over the life of this project.

PEN-7 In addition to these comments regarding significant omissions in the draft EIS, there are a few technical and factual concerns. The draft EIS states, for example, on page 4.9-3 that "only 25 percent of the total NPR expenditures would be spent directly in Kern County. This assumption is based on a standard industry/local expenditures ratio." This ratio is clearly inapplicable to the NPR expenditures as payments for employee wages alone probably account for 25 percent of the total expenditures, or higher.

PEN-8 Also, the analysis assumes "baseline NPR expenditures were \$169.6 million, which was obtained from the NPR-1 1995 LRP (DOE 1995)." Records obtained from the Department of Energy reflect significantly lower actual expenditures. Thus, the socioeconomic impacts between current Elk Hills activity and activity anticipated by the successful bidder could be significantly understated.

PEN-9 It appears, also, that the draft EIS is stating incorrectly on page 4.9-3 both that 75 percent of expenditures are for "well drilling and workover equipment" and that this service is not available by companies in Kern County. Those assertions lack a basis in fact.

The following comments address other concerns with the draft EIS.

4.3.3.

PEN-10 The San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4701 requires a compliance plan be filed by December 1997. The environmental impact statement (EIS) fails to recognize the potential impact that failure to file a compliance plan will have on a subsequent operator's ability to operate. Failure to file the required compliance plan in a timely fashion may result in enforcement action or other restrictions on operations by the SJVUAPCD.

PEN-11 The EIS fails to recognize the impact that the July 1997 promulgation of new National Ambient Air Quality Standards (NAAQS) for ozone and $PM_{2.5}$ will have on operations at Elk Hills. These new standards will likely result in a higher priority for promulgation and enforcement of dust control regulations in Kern County. In turn, a more stringent dust control program will impact Elk Hills.

PEN-12 The EIS fails to recognize ancillary environmental benefits that will result from the planned set-aside of 7075 acres for habitat conservation, as well as any additional voluntary acreage set-asides that a subsequent operator may make. From an air emissions perspective, these ancillary environmental benefits include reduced PM emissions because there will be no unpaved roads or vehicular traffic in the set-aside areas.

PEN-13 The EIS fails to recognize the reduced air emissions that will result from the replacement and rationalization of plants and equipment that will be performed by the subsequent operator. Reduction, replacement, and reconfiguration of facilities will result in fewer, and more modern facilities with lower emissions.

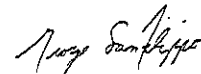
4.5.1.

PEN-14 The EIS fails to recognize the impact on operations in Elk Hills if the current incidental take authority cannot be transferred to the subsequent operator. If there is no operative incidental take authority at the time of the change of control of Elk Hills, then it would be difficult, at best, for the subsequent operator to conduct operations in Elk Hills.

PEN-15 The EIS fails to recognize the delays or disruptions to operations that may result from negotiating the terms of a California Endangered Species Act §2081 permit. California endangered species requirements will apply to a private sector operator, and a §2081 permit with state incidental take authority will have to be negotiated. Until agreement on the terms of the state permit is reached, there may be restrictions on the scope of operations at Elk Hills. This same scenario may also exist for the situation where the subsequent operator seeks to operate under §10 of the federal Endangered Species Act, rather than §7 requirements, which currently apply to Elk Hills.

PEN-16 In conclusion, the complexity of the socioeconomic impacts surrounding the disposition of Elk Hills will have a significant affect on how the value to the Federal Government is maximized. It must be revised to accurately reflect the substantial differences in impact relative to the nature of the successful bidder. This value can easily rival the value of the bid. Ignoring this value clearly misrepresents the true value this sale has to the Federal Government. Pennzoil appreciates the opportunity to provide comments on the draft EIS and looks forward to further development of this important document.

Sincerely,



George SanFilippo
Elk Hills Project Manager

Footnotes:

1. "Report to Congress on U.S. Crude Oil Exports", U.S. Department of Commerce, August 1989, p. III-15.
2. Ibid, p. ES-5.
3. Ibid, p. ES-5.
4. Ibid, p. ES-5.
5. Ibid, p. ES-5.
6. Ibid, p. ES-6.

ASSOCIATIONS

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California Native Plant Society

September 8, 1997

SEP 15 1997

Anthony J. Como
NEPA Document Manager
U.S. Department of Energy (FE-27), Room 3H-087
1000 Independence Avenue SW
Washington, D.C. 20585

RE: SEIS/PEIR for the sale of NPR-1

Dear Mr. Como:

We conducted a brief review of the SEIS/PEIR for the sale of NPR-1. In part, this document describes the conservation actions that DOE is required to undertake to protect listed and candidate plants under the Biological Opinion for NPR-1. As described, these measures would contribute to the recovery of Hoover's woolly-star, maintain populations of the very rare oil neststraw, and identify populations of any other rare plants at NPR-1 so they may be avoided. We heartily endorse these measures. However, we are concerned that nothing in the SEIS/PEIR guarantees that these conservation actions will be continued by the new owners. We suggest that these and other important elements of the Biological Opinion be incorporated into the sales contract in order to ensure that the new owners continue at least the current level of protection for rare and threatened plant species.

Respectfully,

Graciela Hinshaw
Graciela Hinshaw
California Native Plant Society - Kern County Chapter



Dedicated to the preservation of California native flora



CONSERVATION COMMITTEE of CALIFORNIA OIL and GAS PRODUCERS

5300 Lennox Avenue, Suite 302 Bakersfield, CA 93309-1662
Phone (805) 635-0556 Fax (805) 635-0558
M. G. Mafford - Executive Director

July 22, 1997

U. S. Department of Energy
ATTN: Mr. Anthony Como
NEPA Document Manager (FE-27)
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0350

Dear Mr. Como:

Thank you for providing us an opportunity to review and comment on the draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of NPR-1 dated July 1997.

We will limit our comments to those areas where the Conservation Committee of California Oil and Gas Producers is mentioned in the draft report as follows:

- Page 2.2-2 ¶ 4 line 7 should be rewritten to more accurately represent the CCCOGP as follows (changes underlined):
- CC1-1 "In carrying out its authorities, DOGGR is advised by the Conservation Committee of California Oil and Gas Producers (CCCOGP), a unique, industry supported, tax exempt organization that was created in 1929 and that pursuant to state statute has administered a voluntary hydrocarbon resource conservation program for the DOGGR since 1955."
- Page 3.11-1 ¶ 3 and 4 should be rewritten as follows (changes underlined):
- CC1-2 The Conservation Committee of California Oil and Gas Producers (CCCOGP) is a unique, industry-supported, tax exempt organization in that was created in 1929 and that pursuant to state statute has administered a voluntary hydrocarbon resource conservation program for the DOGGR since 1955. CCCOGP represents the oil and gas industry before the DOGGR on matters related to oil and gas conservation.

CC1-2

Comprised of both majors and independents, membership accounts for over 80-percent of California production, excluding Elk Hills. It is funded by a millage on production of large producers and by a fixed membership fee of \$60 per year for very small producers.

CC1-3

Comment: To compare the CCCOGP to the Texas Railroad Commission is misleading since the DOGGR is, in fact, a more accurate counterpart to the TRC. Therefore, the first sentence of the 4th paragraph should be deleted or amended as follows:

"The Committee's conservation efforts have been compared to the Texas Railroad Commission's production proration program with the significant exception that it is operated by the industry rather than the state."

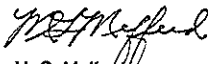
CC1-4

Comment: The CCCOGP no longer collects, compiles and publishes production statistics. Therefore, the last sentence of the 4th paragraph should be deleted or amended as follows:

"The Committee collects, prints, and distributes information on oil and gas operations in the state."

I have enclosed a pamphlet outlining the CCCOGP's activities and history for your information. Again, thank you for allowing us to comment on the draft report. If you have any questions regarding these comments, please do not hesitate to contact me.

Regards,



M. G. Mefford
Executive Director

MGM:clp

Enclosure

P:\HOMEP\PROFIT\LETTERS\COMO.DOC

The MER concept made it necessary for the Committee to classify all the pools in the state as to their geologic characteristics and reservoir dynamics.

With the close of war in 1945 federal control of the oil industry came to an end. The Committee's activities in the post war period were primarily defensive from its pre-war preoccupation with Mr. W. C. Wardner, Jr. (General Manager from 1942 to 1982) and the Conservation Committee continued to set MERs and make recommendations that there rates be observed. In 1955 the importance of the Committee's efforts were recognized by the California Legislature, giving the Committee quasi-regulatory status as the designated advisor to the State Oil and Gas Supervisor on matters involving maximum efficient rates of production and conservation of State oil and gas resources. The Ward Bill also gave State sanction to the recommendations of the Committee since these rates of production are in the interest of conservation of oil and gas and required that these recommendations be delivered to the State Oil and Gas Supervisor and made open to public inspection. The Committee's name was changed in 1988 to the Conservation Committee of Oil and Gas Producers in recognition of the strong commitment of the Dry Gas Producers to conservation and resource management.

Today the CCCOGP continues to set, monitor, and recommend the MERs for California's scheduled oil and gas pools to the State Oil and Gas Supervisor.

The CCCOGP acts as a clearing house in gathering, compiling and disseminating information on oil and gas operations in the state. The CCCOGP also compiles a comprehensive personnel directory of California oil and gas producers, associated agencies, consultants, and petroleum services.

Further, the CCCOGP acts as a forum for the dissemination of new technology, clarification of industry problems and concerns, and other topics relevant to the state's oil and gas producers.

In 1995 the CCCOGP underwent a major restructuring, downsizing and streamlining of its activities to improve communication and liaison with its Members and the California Division of Oil Gas, and Geothermal Resources. The Committee's reorganization culminated with the relocation of its office from Los Angeles to Bakersfield.

Why You Should Be A Member Of The CCCOGP

As established before, the CCCOGP administers a voluntary oil and gas conservation program for the California Division of Oil Gas and Geothermal Resources (DOGGR) and supports and advises the DOGGR on oil and gas issues and conservation efforts. This relationship is unique and has been recognized by the California Legislature, allowing producers some operational discretion. In an often frustrating governmental environment, your participation is not only important to this organization, but essential if we are to maintain the CCCOGP's strength and ability to foster a reasonable and workable production environment for oil and gas operators in California. Over 200 companies representing over 80% of the production in the state are currently members of the CCCOGP.

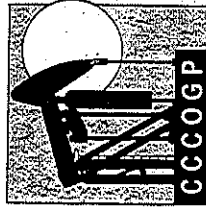
In addition to its production and conservation activities, the CCCOGP conducts specialized surveys on financial and operating costs, drilling and completion costs, even information on technology costs. These reports are all free to participating members. The CCCOGP facilitates an industry Orphan/Wide Well Committee that meets regularly with DOGGR and BLM representatives. The CCCOGP also publishes a comprehensive Personnel Directory of California Oil and Gas Producers as a service to members.

To keep our members informed of new technology or other petroleum related issues, we have four function-business meetings a year. These meetings provide members an opportunity to meet and discuss petroleum related issues with their counterparts in the industry. A newsletter is also provided to members three times a year to keep them informed of CCCOGP activities and relevant petroleum conservation issues.

And finally, the CCCOGP has a wealth of information and experience at its members' disposal. If we don't have the information you are looking for, chances are we know who does.

If you are interested in learning more about the CCCOGP, don't hesitate to call me at (805) 635-0356 or send me a note at 5300 Lennox Avenue, Suite 302, Bakersfield, CA 93309.

M. G. Mefford
Executive Director
Rev: 7/97



Conservation Committee of California Oil and Gas Producers

What Is the CCCOGP?

The Conservation Committee of California Oil and Gas Producers (CCCOGP), in business since 1955, is an industry supported tax exempt, 501(c)(6) non-profit organization that administers a voluntary program of production and conservation control. California's sustained production and extended economic producing life has been due in large measure to the work of the CCCOGP and its predecessor organizations. The industry, acting through the CCCOGP Engineering Board, continues to promote advanced production practices to maximize the ultimate recovery of oil and gas from California fields.

Since 1955, the CCCOGP, pursuant to Sections 3450 and 3451 of the Public Resources Code, is the designated advisor to the State Oil and Gas Supervisor on maximum efficient rates of production and for the intra pool distribution of such maximum efficient rates of production with respect to the State oil, gas and condensate resources.

What Is Our Mission?

The CCCOGP shall develop and provide, in an efficient and effective manner, appropriate recommendations to the State Oil and Gas Supervisor, the state's oil and gas operators and other regulatory agencies on all petroleum conservation matters pursuant to Sections

3450 and 3451 of the California Public Resources Code and other information, pertinent to petroleum conservation issues as determined appropriate by the CCCOCP Board of Directors.

The Core Activities of the CCCOCP are:

- Maintain an Engineering Board under the oversight of the Executive Director and contribute the maximum effort to the concept which was developed by the CCCOCP.
- Perform the organizational tasks as set out in the CCCOCP Bylaws.
- Provide impartial representation on how proposed legislation and other governmental laws and regulations affect petroleum resource conservation in the State of California.
- Conduct the London business method, as a frequency determined by the Board of Directors, at which time the Engineering Board reports will be reviewed and new technology or other timely subjects discussed.
- Facilitate cooperation with the State and other regulatory agencies affecting petroleum operations, such as an annual industry regulatory agency meeting.

Who can be a Member?

There are two distinct types of membership in the CCCOCP. Classification of membership is determined by the following criteria:

A Member of the CCCOCP can be any "operator" of an oil and/or gas well as defined by Section 3009 of Article 1, Chapter 1, Division 3, of the "California Laws for Conservation of Petroleum and Gas," that is currently contributory to and is in good standing with the CCCOCP.

A contributing member is entitled to participate in and receive free copies of any minutes or reports compiled and/or published by the CCCOCP. They are also encouraged to attend the regular business meetings of the CCCOCP and are eligible to be elected to the CCCOCP Board of Directors and the District Committees.

A Subscribing Member is not by definition an "operator" of an oil and/or gas well but is generally involved in a business that is related to oil and/or gas services for the oil and gas industry. The subscribing member fee is \$60 annually. A subscribing member receives the Personnel Directory, Newsletters and free attendance at lunch business meetings of the CCCOCP. CCCOCP but is not eligible to be elected to the CCCOCP Board of Directors and the District Committees.

How are We Funded?

Support for the CCCOCP work comes from over 200 contributing companies that account for over 80% of the State's production, excluding E&K Hills.

Funding for the Committee is generated by a voluntary assessment on the oil and gas produced by each member company. Associated or wet gas is not assessed. The mileage rate per barrel of oil and 10 MCF of gas is established each year and is based on the approved budget of the Committee. Operators who produce less than 30,000 BOC annually are assessed a fee rate of \$60 per year. One barrel of oil equivalent "BOE" is equal to one barrel of oil or 10 MCF of gas. A more detailed explanation of the current CCCOCP assessment is available from the headquarters office.

How are We Organized?

Administration of the CCCOCP is handled by a seven member Board, elected from the membership, which includes a Chairman, Vice Chairman, Secretary and Executive Director. The Executive Director is responsible for maintaining an office, office staff and the administration of its day to day activities. The Board is further responsible for:

- Recommending the voluntary contribution fee (a per barrel/MCF basis) to the operating members that will provide the funds necessary to meet the budgeted expenditures of the CCCOCP.
- Authorization of expenditures for the Executive Director's office, approval of an annual budget and the annual audit of those expenditures.
- Providing a report of the financial status of the CCCOCP at each regular meeting and recommending changes it might deem desirable to improve the administration of the CCCOCP.

All elected officers (except the Executive Director) serve without pay.

What is Our History?

The origin of the CCCOCP goes back to 1929. During the 1920's there had been several unsuccessful attempts to curtail the vastfield overproduction of oil and gas in California. By the summer of 1929 oil production exceeded demand by over 200 thousand barrels a day and more than 800 million cubic feet of natural gas was being vented to the air daily. Finally on October 21, 1929, the price of oil fell from \$1.25 to \$0.60 per barrel. This price cut spurred producers to action. Operators in the Long Beach and Santa Fe Springs fields set up an organization that utilized an "impulse" for their operations. By February 1930, the General Committee for California Oil Containment was established to broaden curtailment of production in California. This group was successful in expanding the curtailment movement, and statewide production was voluntarily cut by over 30% during 1930.

Meanwhile, the California Legislature had passed the Oil Control Act (the Sharkey Bill) which would have brought oil and gas production under State control. The act was vigorously opposed by independent oil and gas producers and was rejected by the voters in a May 1932 referendum.

The possibility of state control unified the major and independent companies, enabling them to reorganize the Committee in 1933. State wide elections were held and the name was changed to the Central Committee of California Oil Producers.

During the Depression years 1933-1935, the Committee was affiliated with the Federal Petroleum Administration office created by the National Industrial Recovery Act (NIRA). After the demise of the NIRA, the Central Committee reverted back to its status as the directing body for voluntary curtailment and, in recognition of its conservation efforts, was reorganized in 1941 as the Conservation Committee of California Oil Producers.

The nation's oil industry was again subject to federal control during WW II. In California, the Conservation Committee coordinated the production efforts to meet military and necessary civilian demands for petroleum. It was during this period that the concept of Maximum Efficient Rate (MER) of production was implemented. MER is defined as "the highest daily rate of production which can be sustained economically from a particular pool, from existing wells and facilities, for a reasonable period without loss of economically recoverable ultimate production of oil from such pool."



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YEARS

September 12, 1997

Mr. Anthony J. Como
Document Manager
US Dept. of Energy
Fossil Energy (FE-27)
Room 3H-087
1000 Independence Avenue, SW
Washington, DC 20585

Via fax: 202-287-5736

Re: Draft Supplemental Environmental Impact Statement for the Sale of NPR-1

Dear Mr. Como:

The Environmental Defense Fund submits these comments in response to the above referenced draft environmental impact statement. These comments solely address the draft EIS's analysis of endangered species impacts. We have not been able, in the time allowed, to address other issues, and no inference should be drawn with respect to those issues.

The draft EIS understates the magnitude of the likely adverse effects upon endangered species, particularly the San Joaquin kit fox, of the sale of NPR-1, and overstates the likely effects of mitigation measures that *may* be required of the purchaser. The basic conclusion of the draft EIS with respect to endangered species that occur on NPR-1 is that "simple adoption of take-avoidance measures typically required to minimize taking on private lands would result in a substantial reduction in prospective opportunities to achieve recovery goals of the federal ESA, goals that federal agencies are obligated to support" (DSEIS, page 4.5-21). This conclusion is correct, but it fails to reveal other, more serious, consequences of the proposed action on such species.

Section 4(f)(3) of the Endangered Species Act requires the Secretary of Interior to report periodically to Congress on the status of all threatened and endangered species for which recovery plans exist. In its periodic reports to Congress, the Secretary assigns each species to one of the following categories: improving, stable, declining, or unknown. In his most recent (1995) report to Congress, the Secretary concluded that *all four* of the listed animal species that occur on NPR-1 (the kit fox, the giant and Tipton kangaroo rats, and the blunt-nosed leopard lizard) are declining (see US Dept. of Interior, Report to Congress, Recovery Program: Endangered and Threatened Species, 1994 (1995)).

National Headquarters

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EDF-2

Although the draft EIS discusses the status of these species on NPR-1, it fails to make any mention of their overall status. In light of the fact that all four listed animal species on NPR-1 are already declining, the significant differences between the degree of protection currently afforded to these species and that which would likely be afforded after sale of the property add up to far more than just the reduced likelihood of achieving recovery goals that the draft EIS discloses. Rather, what that reduced protection virtually assures is a continued decline and an increased likelihood of the extinction of all four of these species. The failure of the draft EIS to disclose this impact is a significant omission.

EDF-3

The above conclusion would stand even if the draft EIS accurately described the differences between the current levels of protection and those that would be required of a private landowner. However, it does not accurately describe those differences. Rather, it significantly understates them. The real differences are more striking and significant than the draft EIS discloses. First, Table 4.5-7 and the accompanying discussion wrongly characterize the nature of a private party's "mitigation, compensation and conservation responsibilities pursuant to Section 10 of the ESA" (DSEIS, page 4.5-21). Section 10 imposes on private parties a duty only to "mitigate" the impacts of taking endangered species; it imposes no obligation with respect to compensation or "conservation" (a term that the ESA defines to mean recovery). Second, a private party is only obliged to mitigate for the taking of listed species. He or she has no duty to mitigate for impacts to habitat unless the landowner's action "actually kills or injures wildlife" (see the definition of "harm" at 50 C.F.R. 17.3). There are a whole host of actions that can detrimentally (and dramatically) increase the likelihood of eventual species extirpation from an area that do not fall within the scope of the ESA's prohibition against taking endangered species. Destruction of currently unoccupied habitat, severing of dispersal corridors that link existing populations, fragmentation of habitat, and "insularization" of remaining habitat patches all portend serious negative consequences for endangered species, yet without "actual death or injury" to an endangered species, none of these triggers either the Act's taking prohibition or its mitigation requirements. These threats are currently being addressed as part of the affirmative federal agency duties of Section 7(a)(1) of the ESA. There is no assurance that they will be addressed through section 10 once the NPR-1 is transferred. Thus, the conclusion in Table 4.5-7 that there is likely to be "no significant impact" resulting from privatization with respect to "habitat compensation" is clearly erroneous. Major diminution of habitat quantity and quality is virtually assured, and its mitigation under Section 10 is unlikely.

EDF-4


EDF-5

Similarly, the conclusion that the effects of reduced population monitoring following privatization will be "less than significant" are clearly erroneous. In order for Section 10 to operate at all, there has to be an endangered species "taking" (defined in the limited way set forth above), in order to impose any mitigation requirement. Given, however, that there must be actual death or injury to an endangered species, some minimal level of monitoring to ascertain that endangered animal species are present (and where they are present) is essential to determine when the taking prohibition (and thus the mitigation requirement) is likely to be triggered. Even with a reduced monitoring effort,

EDF-5

that basic information will almost assuredly continue to be available while NPR-1 remains in federal ownership. When transferred to private ownership, however, that will not necessarily be the case. Ignorance about the location of endangered species is rewarded by the fact that it makes enforcement nearly impossible, and the burdens of mitigation much lower for private landowners. The draft EIS's discussion of the impacts of the proposed action fails to disclose these practical realities.

Respectfully submitted,



Michael J. Bean
Senior Attorney

SIERRA CLUB KERN-KAWEAH CHAPTER

Arthur D. Unger
2815 La Cresta Drive
Bakersfield, CA 93305-1719
(805) 323-5569

Mr. Anthony J. Como
NEPA Document Manager (FE-27)
U.S. Department of Energy
1000 Independence Avenue SW
Washington DC 20585-0350

August 25, 1997

Dear Mr. Como:

We should look at the sale of the Elk Hills Naval Petroleum Reserve through the eyes of our posterity, decades and centuries from now. Those who founded this nation, and set aside our National Parks and "Forest Reserves" took that long view. Just as we benefit from their vision, our heirs must benefit from our vision.

Looked at with the eyes of the future, endangered species are the only important management consideration for NPR 1 and 2. Those people will not think it necessary for a national government that spends about \$1,600 billion a year to make a one time sale of \$2.5 billion for a piece of what could be critical habitat. A tiny reduction in our recent tax cut could net \$2.5 billion. Those people will not think it necessary for Kern County to earn \$25 million a year in property taxes on this habitat. The adverse economic impact of loosing perhaps 300 jobs, and creating only 60, partly offsets this \$25 million a year loss. If there is a legal or moral reason why government entities located near exploitable natural resources are entitled to receive property tax from these resources, the federal government could provide payments in lieu of taxes.

Just how important habitat like this is to local endangered species was the subject of a study by the San Joaquin Valley Endangered Species Recovery Program, which (founding director) Dan Williams and staff completed for the USFWS. I do not have information from this study, do you?

The map in figure 2.5-1 (page 2.5-3) and the text of section 3.7.3.4 (page 3.7-3) do a good job of showing that the Elk Hills Naval Petroleum Reserves are one of the largest of the linked parcels of somewhat natural land that will compose a major fraction of the critical habitat for several sensitive species. The 6,000 acre Coles Levee Ecosystem Preserve should be included in section 3.7.3.4. Elk Hills may also become linked to preserves to the north.

SC1-3 It is possible for a Kit Fox to travel along the Kern River from these parcels through central Bakersfield where an inner city child might experience it.

SC1-4 In view of the unfortunate disposition of this land that the Congress and the President have made, we favor "Scenario 1: Transfer of NPR 1 to BLM for Lease of Mineral Rights with BLM Management of Surface Property."

SC1-5 We concur with the recommendation for NPR 2 mentioned on page 2.1-1 and hope that, after their petroleum is exhausted, both NPR 1 and NPR 2 are used only for conservation purposes.

Thank you for the opportunity to comment,

Arthur D. Unger
Arthur D. Unger

PS Here are a few concerns from previous letters to you. I did not see these addressed in the SEIS/PEIR.

SC1-6 The short nosed kangaroo rat (*Dipomiedes nitratus brevinus*) deserves further study. There is evidence that there are almost none outside of Elk Hills. The only SEIS/PEIR reference to this rat that I found was over ten years old. One wonders how this and other small mammals whose population has plunged in recent years will withstand the impact of additional drilling. Before any of Elk Hills is sold, the status of this sub-species, and a decision to list or not, should be made.

SC1-7 The SEIS should state how long the oil in the Reserve could last our nation, if it were our only source of fossil fuel for that period, if it is taken out at a rate that would enable all the oil to be extracted (maximum efficient rate). This should be compared to how long the oil would last if it is extracted at maximum economic rate. See page 3.1-4.

SC1-8 As I understood him 4 16 96, an Independent Oil Producer said that a major use of Elk Hills oil is to dilute local oil so that the local oil is not too viscous for pipeline travel. Would extraction at maximum economic rate mean that some Elk Hills oil would be shipped without being used as a diluent for local oil? If so, would the consequent absence of diluent increase costs to local Independent Oil Producers? If such costs are increased, the increase should be included in the calculation of the cost of the maximum economic rate.

Thomas A. Unger, Author

WIRA

WESTERN INDEPENDENT REFINERS ASSOCIATION

Executive Director: Craig A. Meyer, 801 S. Grand Avenue, 10th Floor, Los Angeles, California 90017
Phone: (213) 624-8407 Fax: (213) 624-0174



September 5, 1997

VIA FEDERAL EXPRESS

Mr. Anthony Cuomo
NEPA Document Manager, (FE-27)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-0350

Re: Comments to the Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of Naval Petroleum Reserve No. 1 (Elk Hills)

Dear Mr. Cuomo:

The Western Independent Refiners Association (WIRA) submits the following comments to the Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report (EIS) for the Sale of Naval Petroleum Reserve No. 1 (Elk Hills) (referred to in the EIS as NPR-1). In sum, WIRA believes that the EIS underestimates the potential impacts that could occur as a result of the Proposed or Alternative Actions (Actions) for Elk Hills. Specifically, WIRA believes significant economic or social changes, as well as effect the surrounding physical environment, will result if the Actions do not ensure that small and independent refiners, who historically have been the purchasers of Elk Hills crude oil, continue to have access to twenty five percent (25%) of Elk Hills crude oil.

Small And Independent Refiners Constitute An Important Source of Competition In The Sale Of Petroleum Products

Although the ranks of the West Coast small and independent refiners have been decimated by closures over the last several years, fourteen small and independent refiners remain on the West Coast representing a crude oil capacity in excess of 350,000 barrels per day. The refiners that have survived have endured tremendous changes in the regulatory arena, in environmental regulations, in fuel specifications and in the marketplace. While these refiners are viable entities with high probabilities of survival, the availability of Elk Hills crude oil is critical to their viability.

Small and independent refiners remain a potent pro-competitive force. Historically, small and independent refiners

Mr. Anthony Cuomo
September 5, 1997
Page 2

have supplied all of the asphalt in Southern California, over 50 percent (50%) of the asphalt in Northern California, over 15 percent (15%) of the diesel fuel supplied in the state of California and a substantial percentage of gasoline and military jet fuel as well.

WIR-2 Congress, the Federal Trade Commission, the California Air Resources Board and others have acknowledged the importance of small and independent refiners as a source of competition in the sale of petroleum products. Although each individual small and independent refiner represents a relatively small share of the market, cumulatively their impact is substantial and decidedly pro-competitive. Small and independent refiners are also substantial suppliers to independent marketers. Small and independent refiners act as a check on the ability of the major, integrated oil companies (who control an increasingly large percentage of California crude oil production and refining capacity) to manipulate the supply of various petroleum products in order to increase prices and, thus, their profit margins.

WIR-3 Additionally, small and independent refiners are an important factor in the specialty petroleum product market, both geographically (in areas not served by major oil companies) and with respect to certain refined products which are not supplied by major oil companies. Small and independent refiners on the West Coast also pay hundreds of millions of dollars in various taxes and employ thousands of people. Refiners have one of the highest employment multiplier effects documented.

WIR-4 Small and independent refiners also produce less stationary source emissions per barrel of crude oil produced than major integrated oil refineries. Thus, if small and independent refiners are denied continued access to Elk Hills crude oil, the result will be higher overall stationary source emissions for the Kern County area. Clearly, this would have a negative effect on the surrounding physical environment.

Availability of Elk Hills Crude Oil Is Critical To The Viability Of Small And Independent Refiners Who Historically Have Been The Purchasers Of Elk Hills Crude Oil

WIR-5 Anything that affects access to any part of the California crude oil market affects access to the rest of the California crude oil market. Elk Hills is one of the largest sources of crude oil in California, and, indeed, on the entire West Coast. This is even more significant when viewed in light of the fact that the California crude oil market is geographically separate from the rest of the country (i.e., crude oil pipelines carry crude oil out of California, not into California).

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Page 3

WIR-5

Elk Hills is also the only source of substantial volumes of high quality light crude oil not already controlled by major oil companies. Even if fields producing light crude oil, such as Lost Hills and Belridge, were available to small and independent refiners, and it is anything but clear that they are, the volumes (4,000 - 6,000 bbls per day) and accessibility pale in comparison to Elk Hills. Alternative light crude oil supplies, particularly, but not exclusively, for landlocked San Joaquin Valley refiners, are not available. Such light crude oil is also needed to move heavy crude oil into the Los Angeles Basin across the San Joaquin Valley.

WIR-6

Additionally, Elk Hills crude oil is similar to Alaska North Slope crude oil, which is controlled by major oil companies. Thus, if small and independent refiners have access to Elk Hills crude oil, they have the ability to negotiate with major oil companies on a more level playing field and can trade Elk Hills crude oil for Alaska North Slope crude oil.

WIR-7

Recognizing the importance of Elk Hills crude oil to small and independent refiners, Congress enacted two provisions of law specifically to ensure the availability of Elk Hills crude oil to small and independent refiners, who do not have their own crude oil production. Section 7430 of the Naval Petroleum Reserves Act prohibits any person from "obtaining control, directly or indirectly, over more than 20 percentum of the estimated annual United States share of petroleum produced from Elk Hills. Additionally, up to 25 percent (25%) of Elk Hills crude oil was set aside for small and independent refiners. The Department of Energy has consistently used its discretion to mandate this access, thereby acknowledging how critical it is to small and independent refiners. This small and independent refiner "set-aside" has not been a price subsidy, but instead has merely ensured the crude oil is made available at fair market value to small and independent refiners.

The Sale Of Elk Hills Should Ensure That Small and Independent Refiners Continue To Have Access To Elk Hills Crude Oil At Fair Market Value

WIR-8

Congress has mandated that the Department of Energy maximize the value associated with the sale of Elk Hills. WIRA believes this mandate can be achieved while assuring that small and independent refiners continue to have access to the crude oil produced from Elk Hills. Indeed, the value of the sale of Elk Hills, from the perspective of the national economy and the California economy, can only be maximized in the long run if the competitive vitality of small and independent refiners is preserved; for, if not preserved, the result will be higher consumer prices for all of the products they produce. Continuing

Mr. Anthony Cuomo
September 5, 1997
Page 4

the status quo of allowing small and independent refiners access to the crude oil produced at Elk Hills at fair market value will preserve the viability of these refiners.

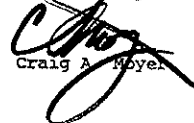
WIR-8

Continuing to allow small and independent refiners access to Elk Hills crude oil will also ensure that the sale of Elk Hills does not disrupt the national and California petroleum marketplace, thereby resulting in a significant economic or social change. Since Congress authorized the sale of Elk Hills in 1996, numerous mergers and "strategic alliances" among large oil companies have been announced. Specifically, Congress approved the sale of Elk Hills prior to the announcement of the mergers among Shell, Texaco, and Aramco on downstream activities, between Shell and Mobil with regard to crude oil production and before the acquisition by Tosco of Unocal's refining and marketing assets. As a result, the oil and gas industry is in the midst of vast consolidation, especially on the West Coast (PADD V). Viewed in the context of the industry-wide consolidation, the sale of Elk Hills raises grave concerns to small and independent refiners, and ultimately, has the potential to adversely affect the California consumer. These activities together increase the implications of the sale of Elk Hills on the viability of small and independent refiners by making their ability to compete even more fragile.

WIR-9

WIRA thus urges that the Actions for Elk Hills be structured consistent with the Congressional mandate and in a manner that will ensure that small and independent refiners will have continued access to at least 25 percent (25%) of Elk Hills crude oil; for, if not, such actions could result in significant economic, social change to the California petroleum market place, as well as causing a negative effect on the surrounding physical environment.

Respectfully submitted,


Craig A. Meyer

CAM:kel



THE WILDLIFE SOCIETY

5410 Grosvenor Lane • Bethesda, MD 20814-2197
Tel: (301) 897-8770 • Fax: (301) 530-2471
E-mail: tws@wildlife.org

SEP 11 1997

8 September 1997

Mr. Anthony J. Como
NEPA Document Coordinator
Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

COMMENTS ON THE SEIS FOR THE SALE OF NAVAL PETROLEUM RESERVE NO. 1

Dear Mr. Como:

The international office of The Wildlife Society fully supports the views of the San Joaquin Chapter of The Wildlife Society (copy attached), concerning the draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the sale of Naval Petroleum Reserve No. 1 (NPR-1) in Kern County, California. The Wildlife Society is the association of professional wildlife biologists dedicated to excellence in wildlife stewardship through science and education.

The Wildlife Society specifically shares the chapter's concern that the Department of Energy (DOE) has decided not to conduct a consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service (FWS) regarding the significant long-term impacts to endangered species associated with transferring NPR-1 from federal to private ownership. Our second concern is the lack of assurance regarding which, if any, mitigation measures will be implemented by the new owner of NPR-1.

We urge DOE to give serious consideration to the concerns expressed by our national office as well as local wildlife professionals. Thank you for the opportunity to provide comment on the SEIS.

Sincerely,

Thomas M. Franklin

Thomas M. Franklin
Wildlife Policy Director

Cc: Steven Juarez, President, San Joaquin Chapter, TWS
Richard Williams, Section Rep., TWS



San Joaquin Valley Chapter
The Wildlife Society
P. O. Box 14046
Pinedale, CA 93650

SEP 11 1997

8 September 1997

Mr. Anthony J. Como
NEPA Document Coordinator
Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

COMMENTS ON THE SEIS FOR THE SALE OF NAVAL PETROLEUM RESERVE NO. 1

Dear Mr. Como:

On behalf of the San Joaquin Chapter of The Wildlife Society, I am submitting the following comments concerning the draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the sale of Naval Petroleum Reserve No. 1 (NPR-1) in Kern County, California.

We have 2 significant concerns and a request. First, we are concerned that the Department of Energy (DOE) has decided not to conduct a consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service (FWS) regarding the significant long-term impacts to endangered species associated with transferring NPR-1 from federal to private ownership. NPR-1 encompasses habitat that is considered extremely important to the conservation and potential recovery of several endangered species. The enabling legislation for the sale of NPR-1 (P.L.104-106) also authorized the transfer of the existing incidental take permit (i.e., Biological Opinion) to the new owner(s), and this would potentially mitigate impacts from on-going oil and gas production activities (assuming that adequate mitigation measures were indeed implemented - see below). However, this will not mitigate the long-term impact to listed species associated with reduced conservation measures required of a private owner, or the lack of assurance that any listed species' habitat on NPR-1 will be conserved in perpetuity once the oil field is depleted. The SEIS acknowledges that the transfer of NPR-1 to a private owner may have significant adverse long-term impacts on listed species, and we believe that this issue should be addressed through a Section 7 consultation with FWS.

Our second concern is the lack of assurance regarding which, if any, mitigation measures will be implemented by the new owner of

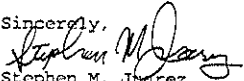
SWS-2 NPR-1. The SEIS thoroughly describes numerous potentially significant adverse impacts to endangered species. It also lists numerous possible measures that, if implemented, would potentially mitigate the impacts. However, there is no mechanism identified to ensure that appropriate mitigation measures will be implemented. The strategy proposed in the SEIS is to transfer the requirements in the existing Biological Opinion to the new owner thereby placing any oversight or enforcement responsibility on FWS. This strategy appears to evade DOE's federal responsibility as a steward of the sensitive biological resources on its lands. We strongly recommend that DOE institute some mechanism to ensure that adequate mitigation measures are indeed implemented by the new owner. Such a mechanism might include legally binding language in the sale contract. We are particularly concerned about the establishment of an on-site conservation area. DOE has chosen to not fulfil this requirement prior to the sale, and we strongly feel that some assurance is needed that such an area will indeed be established by the new owner.

SWS-3

Our request is that the comment period be extended. Several of our members requested copies of the SEIS for review and as yet, have not received them. It would seem to us that an extension is in order.

We urge DOE to give serious consideration to the concerns expressed above. Thank you for the opportunity to provide comment on the SEIS.

Sincerely,


Stephen M. Juarez
President, San Joaquin Chapter
of The Wildlife Society

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CONCERNED CITIZENS

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Mr. Anthony Como
NEPA Document Manager, (FE-27)
U. S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585-0350

Sept. 6, 1997

Dear Mr. Como:

The following comments are presented for your use and consideration in review of the draft supplemental EIS for the proposed sale of NPR-1, Elk Hills, Kern County, California.

In response to my phone request to you over two weeks ago a copy of the subject EIS was postmarked on Aug. 25, 1997 and arrived at my residence the afternoon of Sept. 4, 1997. In consideration of the volume of material that the EIS attempts to address, I respectfully request a 30 day extension of time for submission of detailed comments. Please respond as soon as possible to this specific request.

Enclosed you will find copies of my multiple correspondence with Patricia Fry Godley of DOE, including her response of Jan. 26, 1996 which refers to my previous request to be placed on a mailing list for all documents prepared prior to approval of the proposed sale. I protest the failure of Ms. Godley to honor my request. This proposal to divest the public interest in NPR-1 is and will continue to be a lengthy process. The DOE must improve the communication with interested parties. It is unlikely that I am the only person who has been omitted in the notification process.

The draft supplemental EIS fails to clearly describe the proposed action. The document acknowledges in several places the idea stated on page 4.5-30 "There can be little dispute that the loss of the affirmative Federal obligation to protect biological resources would have some impact on those resources in the future.". This is the fundamental issue to consider regarding recovery of endangered species. While some tables and narrative claim that this impact can be mitigated, the details or description of proposed mitigation are missing. This is a serious omission and causes the EIS to inadequately address the endangered species recovery issue.

S_F-1

Several of the claims in the draft EIS are false. The statement that future private landowners will have to follow the existing Section 7 permit only addresses the short term activity of mineral extraction. The existing permit does not and will not address future unknown land use after oil production has ceased. Future activities will most certainly impact resident endangered species. Chevron and other large landowners surrounding Bakersfield have become residential and agricultural land developers. Who would have predicted the impacts from intensive development and human population growth on Kit fox and other native wildlife in 1912 when President Taft created NPR-1? Who can predict what economic development will be pursued by future unknown landowners 85 years from now? It is imperative that the surface land rights currently held by the federal government be held for the public trust. The economic and policy changes that Congress desires can be accomplished by getting DOE out of the oil business while retaining surface land rights. I request that the alternative of having NPR-1 transferred to the BLM be fully described in the final EIS. Failure to do so will put this proposal at risk of lengthy litigation for inadequacy.

S_F-2

If this property were sold to a private landowner they would be able to use it as a mitigation bank. This is not just an economic value which the draft EIS has failed to adequately address, it is also a major flaw in the true need to protect listed species. It is a false premise to take protected endangered species habitat out of public ownership and then let the new private landowner use the guise of setting aside "new" protected acreage in lieu of or in mitigation for destroying critical or occupied habitat at another location. The result will surely be a net loss of thousands of acres of critical habitat.

S_F-4

Several other economic issues must be addressed. The first is related to endangered species recovery. It is a false economy to sell this federal property whose value is primarily associated with oil deposits that the government is already selling. After a potential sale the US Fish and Wildlife Service will conclude that this property, which has some of the highest population densities of endangered species in the San Joaquin Valley, is a high priority for land acquisition. Has the DOE considered selling the mineral rights and transferring surface rights to the US Fish and Wildlife Service? It is current government policy for public land to relieve private land owners of primary endangered species obligations.

S_F-5

3 of 4

- S_F-6 Another economic issue is the value of the property in question. The detailed third party appraisal is not going to address the issue of future scarcity of oil reserves. The longer the time period that this unique property is held in public ownership the more valuable the mineral reserves will become. This point was proven in 1973 and is surely to be proven again. If Congress mandates a sale at this time it is imperative that the true value of an irreplaceable resource be paid to the current owners. The larger the property the smaller the number of potential qualified buyers. Selling NPR-1 intact will automatically limit the potential maximum return to the government. Has DOE considered selling NPR-1 in smaller parcels over a long period of time?
- S_F-7 Recently, environmental groups have demonstrated a willingness to buy timber sales offered by the US Forest Service at fair market value to obtain natural resource benefits. Given enough time The Nature Conservancy and other non-government organizations could provide as much revenue to the Federal treasury as Chevron Oil company while assuring the long term survival of resident wildlife. In the absence of such innovative approaches it is imperative that when the property is sold, it must be encumbered with deed restrictions to limit surface land uses and future development. While conservation easements will have an impact on value, they will be very small because the majority of the value in the sale of NPR-1 is oil. How will conservation easements be addressed in the preferred alternative?
- S_F-9 Some media reports have called this proposal a "fire sale". As a tax payer I request that the sale be modified to remove the February 10, 1998 deadline. This time frame is unreasonable and compounds the issue raised above that limits the number of potential buyers resulting in a low return to the government. The era of robber barons is supposed to have ended long ago. This proposal is corporate welfare of the worst possible kind. Please have your independent economist evaluate the potential increased revenue possible from installment or incremental sales. While the EIS
- S_F-10 does address sales of mineral rights only, it appears to reject this approach in the preferred alternative. Why was this done without providing an economic evaluation?


7 of 4

S_F-11

Finally, cultural resources are not protected on private property. There are known and most likely additional unknown prehistoric sites on NPR-1. How can you insure perpetual protection of these important cultural sites?

Again, I wish to be included in any future mailing of documents relating to this proposed sale. I wish to retain my rights to lodge legal challenges to this action. Your response to the specific resource issues raised would be appreciated.

Sincerely,



Scott Frazer
1017 Jefferson Ave.
Los Banos, California 93635

September 12, 1997

Mr. Anthony Como
NEPA Document Manager (FE-27)
U. S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0350

Re: NPR1

Dear Mr. Como,

Thank you for this opportunity of submitting comments regarding this sale. I have previously made comments that should be on record during the comment session of August 26, 1997, in Bakersfield, Ca. In addition I would like to make the following comments concerning three issues of accessibility.

- RG1-1 This area lies within the general region of great cultural sensitivity to the Native Americans of this area. As written documents and oral histories tell us this area was in close proximity to and/or part of settlements of one sort or another. This can be evident by the artifacts and human remains located during recent archaeological surveys. Based on those findings I believe it is imperative that you include those areas where the artifacts and human remains were found as part of a "set aside". This set aside area should remain under the control of the federal government in the form of Bureau of Land Management land or etc. This will ensure continuity of the protections afforded such areas under the provisions of Section 106, National Historic Preservation Act. Furthermore, Native Americans such be allowed access to such areas for ceremonial and religious purposes. Of course such access should be controlled as outlined in provisions of the designated caretaker.
- RG1-2
- RG1-3
- RG1-4 Spending some time at several locations during the surveys of NPR1, I was made aware of the artifacts and remains that were found. I had the opportunity to conduct a ceremony to re-inter some of the remains. Efforts should be made to contact a locate Native American to ensure that a ceremony be conducted to re-inter the remaining human remains that were found. Additionally, with regards to the artifacts that were found efforts should be made to have those items returned to the Native Americans of this area. Currently, there is a building program underway by the Kern River Paiute Council, of the Kern River Valley, to build a cultural center. This project is being built in a partnership agreement with the U. S. Forest Service will meet federal curation standards. I would propose that the artifacts could be held in a temporary repository until such time the artifacts can be placed in a depository under Indian control. This proposal will ensure that those items will not leave the region in which they were made and located.
- RG1-5

RG1-6 Furthermore, with the sale of NPR1 this area will not longer be under federal control with regards to cultural resources but falls under the provisions of the California Environmental Quality Act. In reading the Draft Supplemental Report, I noted that there is a reference to a Programmatic EIS. Am I to assume that this report will be the only report that will be required under CEQA provisions should there be additional projects in the future. I cannot envision this report to serve as an all-inclusive report for a project five or ten years from now.

Please feel free to call or write me at 2619 Driller Ave., Bakersfield, Ca., 93306-2505 or FAX 805-871-0609.

Robert Gomez Jr.
Robert Gomez Jr.

October 2, 1997

Mr. Anthony Como
NEPA Document Manager (FE-27)
U. S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0350

Re: NPR1

Dear Mr. Como,

Thank you for this opportunity of submitting comments regarding this sale. I have previously made comments that should be on record during the comment session of August 26, 1997, in Bakersfield, Ca. In addition I am attaching a copy of the comments I submitted to you via E-mail on September 12, 1997. Unfortunately, you did not receive these comments.

RG2-1 I want to comment on one more aspect of the report. Having been involved in the current archaeological surveys conducted on NPR 1 during the summer months, I can only conclude that certain areas must be eligible for National Historical Site Preservation. In view of the fact that human remains were located within a specific regional area would lead one to believe that this concentration of remains may indicate: settlement, rest stop, day-use and limited fishing-hunting use. In view of these finds and the artifacts located nearby, this area should not be subjected to further surveys or other impacts. It should be mitigated to a "no further disturbance area" and be given serious consideration for federal protection and preservation.

RG2-2 This area should be afforded the same opportunities and enhancements for historical designation that other areas of non-Indian affiliations have seemingly been generously and quickly afforded.

Please feel free to call or write me at 2619 Driller Ave., Bakersfield, Ca., 93306-2505 or FAX 805-871-0609.

Robert Gomez Jr.
Robert Gomez, Jr.

Sept. 12, 1997

Mr. Anthony Como, (FE-27)
NEPA Document Coordinator
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585-0350

Dear Mr. Como,

Thank you for agreeing to consider my (emailed) comments on the Supplemental Environmental Impact Statement/Program Environmental Impact Report (SEIS/R) for the sale of the Federal government's interest in Naval Petroleum Reserve No. 1 (NPR-1) "to the maximum extent practicable."

Because of the limited availability of the SEIS/R and the U.S. Department of Energy's (DOE) compressed environmental review process for the proposed sale, I have not had the time to review the SEIS/R in great detail. At this time I can only provide you with some general comments about the major shortcomings of the document.

PAK-1 My overall impression of the SEIS/R is that it is poorly prepared and not very well researched. I was particularly surprised by the lack of precision and detail regarding impacts to biological resources and how they would be mitigated. I see no justification for the document's pervasive optimism regarding the effectiveness of mitigation measures (e.g., Table 4.5-1). There are no assurances that any of these measures, assuming they would mitigate impacts to less than significant levels, will be implemented.

PAK-2 The major problems with this SEIS/R would have been largely avoided had DOE entered into a formal Section 7 consultation (under the Federal Endangered Species Act) with the U.S. Fish and Wildlife Service (Service) regarding the long-term impacts to biological resources resulting from the transfer of ownership. The SEIS/R repeatedly cites Service's 1995 Biological Opinion (BO) for guidance on mitigation measures. However, the great reliance on the BO in this document is inappropriate because the scope of the proposed action and alternatives considered go way beyond those that were addressed in the BO and its (1993) SEIS. Many of the other mitigation measures (non-BO) are what I would term fuzzy and imprecise, and again have no guarantee of implementation. The SEIS/R does not adequately address the long-term consequences to listed plants of transferring land from Federal (protected) to private (unprotected) ownership. This of course was not an issue in the BO or 1993 SEIS. DOE needs to rectify this situation immediately through initiation of a formal Section 7 consultation with Service.

PAK-3

Thank you for the opportunity to comment on the SEIS/R.

Patrick A. Kelly, Ph.D.
1155 Fremont Ave.
Clovis, CA 93612

2369 Lloyd Lane
Sacramento, California 95825-0260

September 8, 1997

Mr. Anthony Como
NEPA Document Manager (FE-27)
U. S. Department of Energy
1100 Independence Avenue, SW
Washington, DC 20585-0350

Dear Mr. Como:

RE: your Elk Hills/NPR-2 EIR

Pursuant to a recent Act of Congress, the Department of Energy (DOE) is studying the future of Naval Petroleum Reserve No. 2 (Buena Vista), located in Kern County, California, and established by an Executive Order (EO) of the President, dated December 13, 1912. Unless I am misreading your EIR, DOE is arguing that the withdrawal of NPR-2, by the above referenced EO, can only be revoked or modified by an Act of Congress. I disagree with that interpretation and believe that the withdrawal can be revoked or modified by a Public Land Order (PLO), issued by the Secretary of the Interior pursuant to Section 204 of the *Federal Land Policy and Management Act of 1976*, 43 U.S.C. 1714 (1994) and 43 CFR 2370.

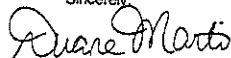
Since its authorization, the above referenced EO has been modified or revoked by the following EOs: EO No. 3862, dated June 11, 1923; EO No. 4225, dated May 16, 1925; EO No. 6444, dated November 25, 1933; and EO No. 10075, dated August 18, 1949. To my knowledge, none of the above EOs have ever been challenged by either Congress or the courts. The above referenced EO was also revoked by an Act of Congress, dated May 28, 1926 (44 Stat. 670), by which previously withdrawn public lands were conveyed to the County of Kern for public park purposes.

After reading 10 U.S.C. 7420 and EO Nos. 12231 (August 4, 1980), 12659 (December 15, 1988), 12784 (December 19, 1991), and 12929 (September 29, 1994), I found no authority converting this administrative withdrawal into a Congressional withdrawal, which can be modified or revoked only by another Act of Congress. I have concluded that the referenced legislation and EOs only clarified the authority and jurisdiction afforded to the Department of the Navy originally, and subsequently, to DOE.

Consequently, I believe that your determination that this is a Congressional withdrawal is erroneous. It is, I believe, an administrative withdrawal that can be modified or revoked by a PLO. I strongly urge DOE to revise their determination, because a PLO can be issued by the Secretary of the Interior much easier and faster than an Act of Congress could be enacted.

Please place me on your mailing list, so I may receive a copy of your revised EIR.

Sincerely,



Duane Marti

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PUBLIC HEARING COMMENTERS

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ICF-KAISER
PUBLIC HEARING
Reporter's Transcript of Proceedings
Double Tree Hotel
3100 Camino Del Rio Court
Bakersfield, California 93308
Tuesday, August 26, 1997
2:20 P.M.

Reported By: Denise A. King, CSR No. 11087

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1
2
3 On behalf of the ANTHONY J. COMO
4 U.S. Department of NEPA Document Manager
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5 Washington, D.C. 20585-0350
6 On behalf of the TED JAMES, AICP
7 County of Kern Director
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8 Suite 100
Bakersfield, California 93301
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1	I N D E X		3
2			
3	<u>ATTACHMENTS</u>		
4			
5	<u>Description</u>	<u>Referenced</u>	
6	Letter with the heading "Sierra Club,	11	
7	Kern-Kaweah Chapter" from		
8	Arthur D. Unger, addressed to		
9	Mr. Anthony J. Como, NEPA Document		
10	Manager (FE-27)		
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1 BAKERSFIELD, CALIFORNIA; 2:20 P.M.

2

3 MR. COMO: I guess we can go on the

4 record now. My name is Tony Como. I'm with the

5 United States Department of Energy. And let me start

6 at the end point first, then I'll explain to you how

7 we get to the beginning. We are primarily here -- in

8 fact, the only reason we're here is to obtain

9 comments from anyone in the audience who cares to, on

10 the Environmental Impact Statement Report that was

11 published on July 25th of this year.

12 I'm just going to -- if I take more than

13 five minutes, someone yank me off of here because

14 we're not here to hear me. Shortly after I finish,

15 Ted James from the Kern County Planning Office is

16 going to get up and give you a little bit of an

17 explanation of how the State is involved in our joint

18 document, and then we'll turn it over to any of you

19 who care to make a comment. But let me start at the

20 beginning.

21 In March -- excuse me -- on

22 February 10th of 1996, Congress passed the National

23 Defense Authorization Act for fiscal year 1996,

24 and one of the things the Act did was require

25 the Secretary of Energy to enter into either

26 one or more contracts for the sale of

5

1 Naval Petroleum Reserve No. 1, commonly known as
2 Elk Hills, by February 10th of 1998.

3 In the course of looking at this action,
4 the Department of Energy determined that the sale of
5 NPR-1 and the continued operation by one or more
6 private entities would be a major Federal action that
7 could have significant impact on the environment
8 within the meaning of the National Environmental
9 Policy Act. And at that point, it was decided that
10 we needed to prepare an Environmental Impact
11 Statement to properly address the scope of those
12 potential environmental consequences.

13 When you prepare an Environmental Impact
14 Statement, one of the first things you do is go out
15 with a notice of intent to prepare one. And we did
16 publish that early on in the Federal Register, and we
17 put out a couple of newspaper announcements in the
18 area, and we followed that up shortly, right here in
19 this very room.

20 In April of last year, we conducted two
21 scoping sessions, just like we did today -- one in
22 the afternoon, and one in the evening. And since
23 April of last year, we have been working with our
24 consultants, ICF-Kaiser engineers, to prepare the
25 draft of the Environmental Impact Statement. I'll
26 just mention -- because Ted's going to give you a

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6

1 little bit more detail -- it is a Joint Environmental
2 Impact Statement under the Federal Environmental
3 Regulations and a Program Environmental Impact Report
4 under the California Environmental Quality Act, as
5 well. I don't want to get into that because Ted's
6 going to do a much better job than I can of
7 explaining it to you.

8 So like I said, since April of last year,
9 we were preparing the draft document; we published
10 that with the Environmental Protection Agency on
11 July 18th of this year, and they followed it up the
12 following week on July 25th with a notice in the
13 Federal Register officially opening a 45-day comment
14 period which closes on September 8th of this year.

15 So the reason that we're here today is
16 just one of the two ways that we have of obtaining
17 comments on the document. Any of you are free to
18 submit written comments up through September 8th
19 and/or make public -- some kind of public statement
20 over here, as well. Both oral and written comments
21 are treated equally in the document.

22 For some of you who aren't familiar with
23 how we handle comments in the final document, in the
24 case of written comments, we will literally Xerox
25 whatever you send us; it will appear on one page;
26 we'll try to annotate where you're making points or

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7

1 issues and stuff, and indicate right next to that in
2 the document what page we may have modified, if
3 appropriate, to address your comments. And something
4 similar to that will be done with any kind of oral
5 comments we get today, except we'll probably have to
6 paraphrase it in the final document.

7 Where are we going from here on in?
8 Well, after we finish the comment period -- like I
9 said, it will be on September 8th -- we will then
10 take all these comments, consider them, and revise
11 the draft EIS/Program EIR and then publish it as a
12 final. We have a tentative schedule of having that
13 final document published by November 1st. How and
14 when we will be able to meet that date is probably
15 exclusively a function of how many comments we get
16 through the end of the comment period, and how much
17 additional work we might need to do in order to
18 address them.

19 Following the publication of the final
20 EIS/EIR, no sooner than 30 days after that
21 publication date, D.O.E. will prepare a Record of
22 Decision. It's basically what it sounds like. It is
23 the decision that is ultimately reached by the
24 Department of Energy on whether or not to sell NPR-1,
25 under what terms and conditions, considering all the
26 issues that the decision-makers have considered in

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1 making that decision, including the environmental
2 consequences and impacts that we'll be identifying in
3 our NEPA Document over here.

4 With that, Ted, would you like to say a
5 couple of words on the SEQA Process? *by Ted*

6 MR. JAMES: Thank you, Tony. Just real
7 briefly, it is important -- we want to let people
8 know -- this is both a Federal and a Local Agency
9 program. It's a good example of Federal and Local
10 Government working together to try to help address
11 issues, and the D.O.E.'s effort of going through this
12 sale.

13 One of the things I want to point out
14 relating to this meeting today -- it's really not a
15 part of the SEQA Process, it's more a part of the
16 NEPA Process -- but any of the comments will be used
17 to address both NEPA and SEQA issues as we go through
18 the process. *A.E.S.*

19 Now, Tony mentioned, and I just want to
20 emphasize, that Kern County's involvement in this
21 program is to address Kern County's interests and to
22 be sensitive to local issues, and we've been involved
23 in assuring that local issues are addressed in
24 the Draft Supplemental Environmental Impact
25 Statement/Environmental Impact Report.

26 It is a program-level document. What

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1 that means, from the standpoint of SEQA is there have
2 been further environmental studies that are needed,
3 and if you've read your environmental document,
4 you'll see that there's additional archeological
5 information that needs to be finalized. And that was
6 one of the reasons why we're calling it a
7 program-level document.

8 As Tony indicated, through the Federal
9 process, we went through a Notice of Intent process.
10 Through the SEQA Process, we went through a Notice of
11 Preparation. And you'll recall that some time after
12 the Notice of Intent came out, we came through with a
13 Notice of Preparation. And we apologize for sending
14 out that additional document. I think it might have
15 created a little confusion, but what we were doing
16 was playing catch-up with the Federal process in
17 bringing the two programs together.

18 We did get some additional comments
19 through that Notice of Preparation process, and those
20 issues have been addressed through the information
21 that's presented in the environmental document.

22 The project that is being considered from
23 the local agency standpoint -- why we're involved
24 from a SEQA standpoint -- is a General Plan
25 Amendment. That's going from State and Federal land
26 designation to a mineral-petroleum resource

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1 designation. That would be -- involve a public
2 hearing before the Board of Supervisors. At such
3 time, the environmental document would be certified
4 by the Board as well. And the timing of that will
5 follow the process that we go through with the
6 Federal Government.

7 So with that, Tony, I think, back to
8 you.

9 MR. COMO: Thanks, Ted. Well, we might
10 as well launch right into why we're here in the first
11 place, which is to solicit comments.

12 Let me start by asking one of our
13 colleagues -- Mark, has anyone already signed up to
14 speak? We'll just literally take them in the order
15 they signed up, and then anyone else who's not
16 necessarily signed up but changes their mind, we'll
17 call them after we've gone through the initial list.
18 Can you maybe bring it up here?

19 When I call your name, if you could just
20 step up to any one of the microphones, even if you
21 want to come up here to the front of the room. And
22 for the purpose of -- Oh, one thing I neglected to
23 mention: We have a court reporter here. That's not
24 to imply any level of formality, it's just we want to
25 make sure we don't miss anything. And then when we
26 get back to Washington, if all of us haven't taken

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11

1 the same level of notes, something might have fallen
2 through the cracks.

3 So for the benefit of the court reporter,
4 whenever you do speak, can you please spell your name
5 for her. And if you're affiliated with an
6 organization, you might want to indicate that for the
7 record, as well. Excuse me, I have to put my glasses
8 on.

9 Arthur Unger, representative of the
10 Sierra Club?

11 MR. UNGER: Thank you, Mr. Como.
12 U-n-g-e-r. And I would hope that we could look at
13 this sale through the eyes of our posterity, decades,
14 and centuries from now. Those that founded this
15 nation thought that way; those who set aside our
16 national parks and forest reserves thought that way,
17 and just as we benefit from their vision, our
18 posterity should benefit from our vision.

19 Looked at that way, the endangered
20 species issue here is primary. The people in the
21 future will not think it necessary for national
22 government that spends \$1,600 billion a year to make
23 a sale that's only worth two and a half billion for a
24 piece of what could be critical habitat. A tiny
25 reduction in our recent tax cut could net two and a
26 half billion. The people in the future will not

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1 think it necessary for Kern County to earn
2 \$25 million a year in property taxes on this
3 habitat. The adverse economic impact of losing,
4 perhaps, 300 jobs and creating only about 60 partly
5 offsets this 25 million. And if there is a legal and
6 moral reason why Government entities located near
7 exploitable natural resources are entitled to receive
8 property tax from these resources, the Federal
9 Government could provide taxes in -- payments in lieu
10 of taxes.

11 The importance of this area to the local
12 endangered species is the subject -- part of the
13 subject of a study called the San Joaquin Valley
14 Endangered Species Recovery Program. The founding
15 director is Dan Williams at Cal State Stanislaus. I
16 understand that his staff has completed the study
17 that the U.S. Fish & Wildlife Service contracted for.
18 I don't have that study. I don't know if anybody has
19 that study, but it's somewhere. And we ought to have
20 it before making a decision like this.

21 The map in figure 2.5-1 on Page 2.5-3 is
22 a nice-colored map. That's the one that has the big
23 red chunk showing the Kern County Valley Floor
24 A.C.P., and next to it, a blue chunk showing this
25 piece, and then below that, another big red chunk.
26 Probably the biggest piece of Kit Fox habitat around.

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13

1 And you got to connect these things. The
2 Petroleum Reserve is the connection. You also
3 describe it in Section 3.7.3.4.

4 You do leave out the 6,000 acre
5 Coles Levee Ecosystem Preserve in that section, and
6 that should be included. It gives you even more
7 habitat connected. Elk Hills may also be linked to
8 the preserves to the north, and I hope you'll speak
9 with other planners in other counties as to how -- as
10 to whether Elk Hills actually would extend to Tulare
11 County via the Kern County Valley Floor A.C.P.

12 It's also possible for a Kit Fox to
13 travel from this big chunk of land down through the
14 Kern water bank and along the Kern River to
15 Bakersfield where it might become the only endangered
16 creature that an inner-city child will ever have a
17 chance to look at.

18 We favor Scenario 1: Transfer of NPR-1
19 to BLM for lease of mineral rights with BLM
20 management of surface property. But what we really
21 worry about is: Can you produce oil and shelter this
22 species on the same land? We concur with the
23 recommendation of NPR-2 which says that "When the
24 petroleum is exhausted, it will be used for
25 conservation purposes," and we hope the same thing
26 happens for NPR-1.

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14

1 Mr. Como, I asked you a couple other
2 questions previously that I couldn't pick out of the
3 SEIS/PEIR. One is that I hear -- I hope there are
4 biologists here from E G & G -- but I hear from them
5 that the short-nosed kangaroo rat (*Dipomiedes*
6 *nitratoides brevinus*) is only on, I think, NPR-2,
7 and I wonder if that's its only habitat, how we can,
8 you know, have oil drilling there and have the
9 species.

10 I made a guess a minute ago that all of
11 the oil in this reserve would last our nation 30 days
12 if it's the only oil we had, but an authoritative
13 estimate like that ought to be in the document.

14 And then there was talk -- which I don't
15 see in the document -- about the maximum economic
16 rate versus the -- there was another term -- maximum
17 economic rate, yeah, and maximum economic
18 development -- was that the other word? -- and I
19 would have liked to hear -- see those discussed here
20 because I was thinking if this oil is not so viscous
21 and so precious for the rest of the industry, maybe
22 we need to get it all. And if you do that slower,
23 that would be okay, if it's necessary. Thank you.

24 MR. COMO: Thank you, Mr. Unger.
25 Steve Arita?

26 MR. ARITA: Good afternoon, Mr. Como.

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1 For the record, my name is Steve Arita, that's
2 A-r-i-t-a. I'm with the Western States Petroleum
3 Association. We are a nonprofit trade association
4 representing nearly 30 major and independent oil
5 companies that produce for fine market petroleum and
6 petroleum products throughout the six Western
7 states.

8 First of all, I'd like to express our
9 appreciation for this opportunity to comment on the
10 proposed EIR/EIS Document. As you're aware, the
11 proposal to sell the Federal Government's interest in
12 NPR-1 is a significant action which certainly
13 deserves careful review by all involved parties.

14 The EIR/EIS Document includes a lengthy
15 discussion of most, if not all, environmental issues
16 concerned. I certainly understand and are sensitive
17 to Mr. Unger's comments, but I would also like to
18 express our concern that it is important to note that
19 if this process moves forward, those successful
20 bidders will be required to comply with all Federal,
21 State, and Local regulations. And I speak not only
22 in regards to the endangered species issues, but
23 certainly also those to air quality, waste issues,
24 and other land use concerns.

25 In closing, I would just like to say that
26 members of our association have a long history of

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16

1 working together with all regulatory agencies, and we
2 continuously strive to comply with all environmental
3 mandates. Thank you.

4 MR. COMO: Thank you, very much. We only
5 had two people sign up, but anyone else who cares to
6 make a comment -- observation on the Document, if you
7 have any questions on our NEPA and/or SEQA Process,
8 Ted or I will also be more than glad to answer them
9 as well. Yes?

AGI-1

10 MR. DOUGALL: My name is Dave Dougall.
11 I'm with AGIP Petroleum, and that's A-G-I-P,
12 Petroleum. I came all the way from Houston for this.
13 And this is more in terms of a question. You passed
14 rather quickly over the cultural resources that were
15 discussed quite minimally -- well, relatively
16 minimally -- in the document, and I was expecting
17 some indication of what the results of some of these
18 surveys were, some of the discussions that were being
19 held with the Native Americans, and this sort of
20 stuff.

21 I'm speaking from the perspective of a
22 potential buyer. And one of the reasons we reviewed
23 these documents is to have some expectation as -- in
24 terms of mitigation measures and things that are
25 going to be expected of us as owners. So this is a
26 pretty big hole, as far as I'm concerned.

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1 MR. COMO: Yeah. I can tell you where we
2 are in the process, okay? We have been -- for the
3 last several months, actually -- conducting both
4 prehistoric and -- or surveys of both prehistoric and
5 historic sites with the goal of submitting
6 recommendations to the State Historic Preservation
7 Officer on whether any of those sites in those two
8 categories are eligible for inclusion on the National
9 Register of Historic Places.

10 We have just done that, and the State
11 Historic Officer will be making her recommendations
12 or concurrence on whether our recommendations are
13 valid or not -- just as a point of observation. If,
14 in fact, there are those sites that are deemed,
15 quote, "Register eligible," then there is no
16 mitigation that the Federal Agency would be required
17 to do to -- if they decided to sell NPR, it would not
18 be considered an adverse action, and, consequently,
19 there would be no mitigation that we would be
20 required to do.

21 In any event, we are proposing that we
22 would be entering into some kind of a -- I think the
23 EIS mentioned we are proposing to enter into the --
24 Historic Preservation Officer -- a programmatic
25 agreement that collectively takes any of the historic
26 or prehistoric properties that may be Register

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Division of S - 601 Cultural Resources

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1 eligible and propose a treatment plan for them. And
2 at this point, we haven't got -- the reason our
3 document does not include any of that information is
4 because we have not finalized our agreement with the
5 SHPO; so we don't know exactly what we will be
6 required to do as a result of that consultation.

7 But in any event, it is not anticipated
8 that any follow on obligations will go to the new
9 owners. But that is not to say that whenever -- if
10 NPR-1 is sold -- whenever the new owners goes to get
11 any other permits that might have to be issued by
12 Dogger or other State agencies, we would not be able
13 to anticipate what other measures that agency might
14 require as a result of cultural resources and
15 subsequent compliance with SEQA. Is that pretty much
16 it?

17 So the short answer to your question is:
18 At the moment, it is not anticipated that any of the
19 obligations that D.O.E. has possibly to mitigate any
20 impact on cultural resources would follow on after
21 the sale and become an obligation of the new owner.
22 But we -- the reason our document doesn't -- I
23 understand your problem -- the reason the document
24 doesn't spell it out is because we haven't completed
25 that consultation process yet with the State Historic
26 Preservation Officer. We are working closely with

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19

1 the SHPOs and the SHPOs staff, and in all likelihood,
2 our schedule would have the memorandum -- the
3 programmatic agreement signed, and, presumably, the
4 final EIS would incorporate and identify what the
5 results of that memorandum -- or that agreement are.
6 That's our schedule at the moment.

7 MR. DOUGALL: If I can follow up. So the
8 expectation is some sort of data-gathering program,
9 as opposed to set-aside of properties?

10 MR. COMO: That's correct.

11 MR. DOUGALL: Same question on Native
12 Americans. Isn't something going on with that as
13 well? Was that included in your answer?

14 MR. COMO: Yes. I'm sorry.

15 MR. GOMEZ: My name is Robert Gomez, and
16 I represent the Kern River Pipe ~~Council~~. The
17 question I had in regards to the gentleman that just
18 spoke, in regards to the report, there was an area in
19 there that 9,000 or 7,000 acres was going to be set
20 aside. I've been at the site; I worked there several
21 days. There was some human remains found there, some
22 artifacts, which I think are significant artifacts.

23 Now, would you clarify for me, the
24 set-asides, those areas that we found the human
25 remains, that we found the artifacts, and so on, is
26 that what you're going to designate to SHPO as a

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KRP-1 1 set-aside, or is that something else? Is that
2 something different?

3 MR. COMO: Yeah. I'm glad you bring that
4 up. There is nothing being proposed at the moment
5 with -- to the set-aside that I think you might be
6 referring to. The only set-aside that is considered
7 in our document, and what is being talked about, is
8 the seven thousand -- I think it's 75 acres -- that
9 D.O.E. presently is obligated to set aside under
10 the terms of our Biological Opinion with the
11 Fish & Wildlife Service.

12 MR. GOMEZ: In other words, that has
13 nothing do with what's already been found or what I
14 would recommend as a set-aside as far as those
15 particular areas where the artifacts were found and
16 where the human remains were found. Is that what
17 you're saying?

18 MR. COMO: Yeah. You're talking -- those
19 are two different --

20 MR. GOMEZ: Two separate things.

21 MR. COMO: That's correct. My
22 understanding from -- Tom, I don't want to put you on
23 the spot -- are you still in the audience? Yeah.
24 Tom Jackson is our prehistoric archaeologist. I
25 don't want to put him on the spot -- but my
26 understanding is that some of the -- now, excuse me.

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21

1 let me back up for a moment.

2 D.O.E. has not yet established the
3 set-aside, if you will, the conservation area for the
4 Fish and -- under the terms of our Biological
5 Opinion. I think if you -- there are areas out of
6 NPR-1 that the people working in the field and
7 Fish & Wildlife for years have identified as sections
8 that may be some of that habitat that might
9 ultimately be in that conservation area.

10 And from what Tom Jackson tells us, some
11 of the areas where the human remains -- I think there
12 are two sites -- was it two, Tom? -- where human
13 remains have been located, two of those sections are
14 probably in an area where conservation set-asides
15 could possibly be considered, but those are two
16 separate issues. The conservation area and the --
17 what we refer to as the set-aside -- I don't even
18 think we use that term in our document -- is just
19 that: 7,000 acres that Fish & Wildlife had required
20 under the terms of the Biological Opinion. It did
21 not have anything to do with any of the cultural
22 resources or the finding of the human remains.

23 MR. GOMEZ: Okay. In that regard, then,
24 is there going to be a situation where Native
25 Americans can get some input as to what can be set
26 aside as far as SHPO is concerned? This thing with

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1 SHPO that's going on now, as far as the
2 recommendations -- based on the surveys that were
3 recently concluded, Native Americans, are they going
4 to give them the opportunity to give some input as to
5 what was found out there and their significance?

6 MR. COMO: Yeah. Again, the D.O.E. -- we
7 are, you know, committed to complying with all of the
8 Federal statutes including the National Historic
9 Preservation Act which does require consultation with
10 any groups, as well as the Native American Graves
11 Protection and Reparation Act.

12 MR. COMEZ: Right. I'm looking at it,
13 the input, in the sense that -- apart from the
14 comment period that's going on now.

15 MR. COMO: Yes. You're absolutely right.
16 The obligation that D.O.E. has to consult with and
17 consider comments of interested parties, including
18 Native Americans, is not limited to the NEPA Process
19 or the preparation of the EIS. There is really two
20 parallel processes that are going on. So one does
21 not replace the other.

22 MR. GOMEZ: Okay.

23 MR. COMO: Yes, sir.

24 MR. MEFFERD: I'm Marty Mefferd,
CC2-1 25 M-e-f-f-e-r-d. I'm the executive director of the
26 Conversation Committee of California Oil and Gas

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1 Producers. This is basically to respond to
 2 Mr. Unger's question about MERs, maximum efficient
 3 rates of production. One of the mandates of the
 4 Conservation Committee, pursuant to Sections 3450 and
 5 3451 of the California Public Resources, is to review
 6 the scheduled pools in California and make
 7 recommendations to the State Oil and Gas Supervisor
 8 regarding maximum efficient rates of production.

9 Once the Elk Hills field becomes a
 10 private property, then it will be subject to those
 11 reviews by the Conservation Committee, and we would
 12 then review the field; make recommendations to the
 13 State Oil and Gas Supervisor regarding maximum
 14 efficiency rates of production.

15 The primary objective of that is to
 16 ensure that good petroleum engineering practices are
 17 carried out in the field, and that good conservation
 18 techniques are employed to maximize the ultimate
 19 recovery of the pools of oil and gas in Elk Hills
 20 field. Thank you.

21 MR. COMO: Thank you, Mr. Mefferd.
 22 Anybody else.

23 Are there any questions in general that
 24 you'd like to ask on -- to the extent that I'm
 25 capable of answering them, I'll attempt to. I'll
 26 give you an alternative: If not, we've got this room

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1 at least until four o'clock. If it's okay with you,
 2 we could go off the record for a while, mull around,
 3 have some coffee. A lot of times some of the best
 4 information is sort of gleaned from coffee clubs.

5 Yes, Mr. Unger?

6 MR. UNGER: I did ask you that how many
 7 days of oil and gas can America get from this field,
 8 and I gave my off-the-top-of-the-head answer, but is
 9 there are an authoritative answer available?

10 MR. COMO: Well, the closest I could give
 11 you to an authoritative answer is: As part of the
 12 sales process, as required by the Congressional
 13 legislation that requires us to sell it, we have
 14 been -- the Department of Energy has been required
 15 to -- and we have prepared an independent reserve
 16 report. It has been prepared by the writers,
 17 Scott Company of Houston, Texas, for the purposes of
 18 the sale. That is the official reserve estimate that
 19 we are offering to bidders in the consideration of
 20 what they care to offer on the property.

21 So there is an independent reserve report
 22 that's out there, that I do not have. It's generally
 23 not available, except to the entities that are
 24 involved in the actual sales process. But I might
 25 also mention that the -- one of the appendices -- I
 26 think it's Appendix A of the EIS -- does give some

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25

1 indication of what the potential recovery -- or at
2 least our consultant's recovery reserves is. So I
3 don't know if that answers your question.

4 MR. UNGER: You have to divide that by
5 how many barrels the Nation uses per day, and I don't
6 know that number either.

7 MR. COMO: I don't know. We've got your
8 comment. I'm sure that's an easy calculation. It
9 has to be around someplace.

10 MR. UNGER: Thank you.

11 MR. COMO: Anyway, what I was going to
12 suggest, if we could just go off the record for as
13 long as you care to -- there's coffee and some other
14 beverages back there. In the course of milling
15 around and talking and meeting each other, if some
16 important issue comes up, we can go back on the
17 record, put the court reporter on, put everybody on
18 the microphone, and officially record any kind of
19 comments that people would like to make. I don't
20 want you just sitting here looking at me. On the
21 other hand, there might be some information that we
22 can glean just sitting around, chatting with each of
23 you.

24 So if anybody has any objections to that,
25 otherwise, we'll just sort of break for a while until
26 somebody has something that they would like to go on

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26

1 the record. Thank you.

2 (Recess taken from 2:40 p.m. to
3 3:19 p.m.)

4 MR. COMO: Ladies and gentlemen, from
5 talking to a number of you over the last half hour or
6 40 minutes or so, there doesn't seem to be any
7 additional comments -- or before I make that
8 assumption, is there anyone here that would still
9 like to make a comment on the record? Okay. If not
10 then, I'll ask the court reporter to officially close
11 the record, and I thank you for your attendance and
12 your excellent comments. Thank you, very much.

13
14 (Whereupon, at 3:25 p.m., the ICF-Kaiser
15 Public Hearing adjourned, to be resumed
16 at 7:00 p.m.)
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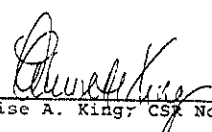
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STATE OF CALIFORNIA)
) ss.
COUNTY OF KERN)

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I, Denise A. King, a Certified Shorthand Reporter in the State of California, holding Certificate No. 11087, do hereby certify that I was present and reported in stenotypy all the proceedings in the foregoing-entitled matter; and I further certify that the foregoing is a full, true, and correct statement of such proceedings and a full, true, and correct transcript of my stenotype notes thereof.

Dated this 5th day of September, 1997, at Bakersfield, California.


Denise A. King, CSR No. 11087

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PUBLIC HEARING
Reporter's Transcript of Proceedings
Double Tree Hotel
3100 Camino Del Rio Court
Bakersfield, California 93308
Tuesday, August 26, 1997
7:20 P.M.

Reported By: Denise A. King, CSR No. 11087

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BAKERSFIELD, CALIFORNIA; 7:20 P.M.

MR. COMO: We'll start the record, then.

Good evening. My name is Tony Como. I'm with the U.S. Department of Energy, and I am the NEPA Document Manager for the preparation of the Environmental Impact Statement, combined with the Program Environmental Impact Report. Our primary purpose here tonight is to obtain comments from any of you in the audience who cares to make a comment on our document. Before I turn it over to you, I just want to give a couple-minute preamble to explain exactly why we're here today, how we've gotten here, and where we're going to be going from here. And as soon as I finish my comments, I'd like to turn it over to Ted James, who's with the Kern County Planning Department and give a little bit of explanation of what the State of California's relationship is on this project and why we are publishing a joint document.

This whole thing started back on February 10th of 1996, when Congress passed the National Defense Authorization Act for fiscal year '96. One of the sections of that Act required the Secretary of Energy to enter into a contract or contracts for the sale of the

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1 Naval Petroleum Reserves at Elk Hills within two
2 years of the passage of the Act; so we have to get it
3 sold by February 10th of 1998.

4 In reviewing this requirement of
5 Congress, the Department of Energy determined that
6 the sale of NPR-1 and the eventual operation -- or
7 continued operation of the Reserve by a private
8 entity would constitute a major Federal action that
9 could have significant impacts on the environment
10 within the meaning of the National Environmental
11 Policy Act. All that means is that, as a result of
12 that decision, we elected and determined that it was
13 appropriate to prepare an Environmental Impact
14 Statement in compliance with our obligations under
15 NEPA.

16 The first step of preparing the EIS is to
17 announce that we're going to be doing it, and in
18 March of last year, March of 1996, we published a
19 Notice of Intent to prepare an EIS and to conduct
20 public scoping meetings, and I think we were probably
21 in this very room in April of last year conducting
22 those scoping meetings. And we collected comments,
23 both here orally at the hearings and in additional
24 written comments that were submitted to us, and as a
25 result of those comments, we scoped out the document,
26 the present document that was published, and prepared

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1 a Draft Environmental Impact Statement/Program
2 Environmental Impact Report, which we published and
3 distributed to the public on July 25th of this year.

4 That also started a 45-day comment period
5 which will close on September 8th of this year. So
6 during that -- up between now and September 8th, we
7 will be accepting written comments at the address
8 that was on the document -- and incidentally, we have
9 18 or 20 copies of the document still up here, if any
10 of you care for an extra copy or didn't get a copy
11 originally, we'll be glad to give you one and add
12 your name to our mailing list.

13 After we finish our comment period on
14 September 8th, we will be addressing all the comments
15 that we get in the Final Environmental Impact
16 Statement, and we have a tentative schedule of
17 getting that published on or about November 1st, but
18 that will be entirely dependent upon how many
19 comments we get and how much work we have to do --
20 how much additional work we have to do -- in order to
21 address the comments. But with a little bit of luck,
22 we will have a final EIS published and distributed by
23 November 1st of this year.

24 Following that, the next major event --
25 and, in fact, the concluding event in the
26 environmental review process -- is the preparation of

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1 a Record of Decision which identifies what the final
2 decision on the disposition of NPR-1 will be, and
3 gives all the reasons for that decision, including a
4 consideration of the environmental impacts that our
5 document and our process has disclosed.

6 So with that, I'd just like to turn it
7 over to Ted James for a couple of minutes, and Ted
8 will give some explanation of exactly how the
9 State of California is fitting in this process and
10 what the State's role is. Ted?

11 MR. JAMES: Thank you, Tony. Just real
12 briefly, Kern County Planning Department is
13 functioning as the ^CSEQA lead agency in this program.
14 We're involved in this program for several reasons:
15 Number one, to have a very close local government,
16 Federal partnership in the development of this
17 important program, which will culminate in the sale
18 of the property, and also to help the consultants and
19 help the Department of Energy address local issues.
20 And that was our effort: To try to focus on local
21 issues in the development of the joint EIS/EIR for
22 this program.

23 Now, from the standpoint of Kern County
24 in looking at this program, I think Tony mentioned
25 this is a program-level ^CSEQA document. What that
26 means is there may be the need for additional

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1 environmental review through subsequent stages of
2 project development.

3 As an example, the archaeological issues:
4 We're waiting to get additional information back on
5 that, and there may be the necessity to supplement
6 this environmental document. Since we don't have
7 that information right now, that's why Kern County
8 elected to call this document a program-level
9 document.

10 What we intend to do is work very closely
11 with the Department of Energy and the consultants
12 here on out in jointly reviewing the comments that we
13 receive through this process and helping to reconcile
14 those issues, and it will ultimately culminate, from
15 the County's standpoint, in a general plan amendment,
16 and that's going from Federal ownership designation
17 to mineral and petroleum resource designation in our
18 general plan. The zoning would not change; it stays
19 the same, and in Kern County, we call areas such as
20 Elk Hills, it would become an unrestricted drilling
21 area. We have different areas throughout the County
22 where you don't need to come in and get special land
23 use clearance, the zoning ordinance permits, oil and
24 gas development on that property.

25 And I think with that, Tony, I'll
26 conclude. Turn it over to you.

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1 MR. COMO: Thanks, Ted. I neglected to
2 mention just one thing. I want to take another
3 minute. When we were here last April, we were
4 talking about preparing our document with an eye
5 towards identifying the environmental impact of a
6 divestiture of NPR-1. During the time that we were
7 looking at scoping and developing our draft document,
8 the Department of Energy made the recommendation to
9 Congress on a possible disposition of NPR-2, as well,
10 and the same sales statute that required us to sell
11 NPR-1, Elk Hills, also required us to study and make
12 a recommendation to Congress on what should be done
13 with the other Naval Petroleum Reserves in Utah,
14 Colorado, Wyoming, and in this case, NPR-2,
15 Buena Vista Hills, Buena Vista.

16 So since the scoping, we did expand the
17 scope of our document, and the document that probably
18 most of you have had, or certainly welcome to, does
19 incorporate some possible dispositions of NPR-2,
20 including the recommendation that we have made to
21 Congress, which is to transfer NPR-2 to the
22 Bureau of Land Management for management under their
23 Mineral Leasing Program and their Federal Land
24 Management Act -- Pat?

25 MS. GRADEK: Land Policy.

26 MR. COMO: Land Policy. Thank you. So I

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1 just wanted to clarify that point.

2 Mark, do you -- rather than run a piece
3 of paper up there, can you just call the first person
4 or the only person who signed up?

5 MR. DOUGALL: Dave Dougall.

6 MR. COMO: Could you spell the name?

7 MR. DOUGALL: I'll spell my name. My
8 name is Dave Dougall, D-o-u-g-a-l-l. Company is
9 AGIP, A-G-I-P, Petroleum out of Houston, Texas. And
10 I just got a little statement that I'd like to make
11 into the record, I guess. I'm speaking from the
12 perspective of a potential owner. You can imagine
13 that as a potential owner, we are quite concerned
14 that on the day ownership actually occurs, the new
15 owners be in a position to properly operate the
16 facility.

AG2-1

17 My concern at this moment is specifically
18 with the endangered species permit process. The way
19 I understand this, the Federal Section 7 permit would
20 be transferred to the new owners, intending to allow
21 continued operation until a Section 10 permit can be
22 obtained. That process might take a couple of
23 years.

24 Now, according to the Draft EIS, for this
25 transfer to work, three things have to occur:
26 First, we may not expand the current level of

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1 operation. Just what this means is unclear. But we
2 take some comfort in the 411 additional acres allowed
3 to be disturbed under the '95 Biological Opinion.
4 The meaning of expansion, however, in this context
5 needs to be clarified.

6 Second, we must fully comply with the
7 terms and conditions of the Biological Opinion.
8 According to the Draft EIS, that's not just the terms
9 and conditions section of the document; it's the
10 terms and conditions throughout. Consequently, this
11 item also needs clarification.

12 But it's the third item that really has
13 me concerned. We have to either obtain the necessary
14 State approvals or reduce operations significantly in
15 order to avoid a "taking" under the California
16 Endangered Species Act.

17 Now, would you say that the new owners
18 are safe in assuming that these State approvals will
19 be available simultaneously with the transfer of
20 ownership? If not, does this mean that we must
21 reduce operations significantly to avoid a "taking"
22 until those State approvals have been obtained.

23 Consider for a moment that what
24 Cal Fish & Game might have in mind as an operating
25 level that would avoid a "taking" could be
26 substantially different than what we as owner or

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1 operator might envision.

2 Now, consider the difficulties associated
3 with obtaining these State approvals. With respect
4 to endangered species, the Draft EIS says that we may
5 apply for a 2081 permit or complete a site-specific
6 habitat conservation plan or participate in a
7 regional habitat conservation plan.

8 Now, any of these may be an effective way
9 to assure that every mitigation measure that is not
10 patently infeasible is brought to bear on these
11 operations. But none of these avenues lend
12 themselves to an expeditious conclusion that would
13 assure at least a continuance of the existing level
14 of operation.

15 I would like to request that the
16 Department of Energy, U.S. Fish & Wildlife Service,
17 Cal Fish & Game, and any other necessary State or
18 Local agencies act together to provide some interim
19 mechanism to assure continued operation while we
20 engage in whatever permit processes are necessary.
21 Thank you.

22 MR. COMO: Thank you, Dave.

23 Anybody else? A lot of the same faces
24 that were here this afternoon. Does anyone have any
25 questions on our process that I might be able to
26 straighten out. I know we got a number of questions

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1 by some of the media earlier this afternoon and from
2 talking with some of you informally over a coffee
3 cup. There's a little bit of confusion, and this is
4 a very complicated process.

5 We really have two very unique separate
6 but related processes going on at the time within the
7 Department of Energy. One is the process that we're
8 here for today, which is the NEPA Process, the
9 process of developing, publishing, obtaining comments
10 upon and finally publishing an Environmental Impact
11 Statement whereby the Federal decision makers will be
12 in full receipt of the environmental impacts of
13 whatever action they chose to take. And that's sort
14 of on its own track.

15 Separate from that, but going on at the
16 same time, is the commercial sales process. That
17 is -- that process is being administered separately
18 by our investment banking advisors that the sale
19 statute has required us to hire, along with several
20 other types of contractors, as well. If any of you
21 are here tonight and are maybe more interested in the
22 this commercial sales aspect of the process, I would
23 encourage you -- I can provide you with the names and
24 phone numbers and contacts of our investment bankers.
25 They are the appropriate ones to contact for any
26 sales-related information or sales-related processes,

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1 for that matter. I just thought I'd clarify that.

2 Yeah, Patty? Patty Gradek from BLM.

3 MS. GRADEK: Couple of questions, Tony.
4 One is just when the -- you were mentioning in the
5 record the decision would be coming after the
6 final --

7 AUDIENCE MEMBER: Can you talk into the
8 microphone?

9 MS. GRADEK: Tony, I have a question on
10 the time line. You mentioned that the final would be
11 prepared somewhere around the 1st of November, if you
12 don't have a large number of comments to deal with.
13 And then the Record of Decision, what is the time
14 frame for when the Record of Decision would be
15 expected?

16 MR. COMO: Well, by regulation, the
17 Record of Decision could come no earlier than 30 days
18 after the publication of the final; so at the
19 earliest, you're looking at a December 1st
20 preparation, and I assume, publication of the
21 Record of Decision. Obviously, our end point would
22 be -- the latest it could possibly be rendered would
23 be February 10th. But, you know, I would say
24 December 1st is a pretty good target date for the
25 completion of the Record of Decision.

26 MS. GRADEK: I have one other question.

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1 You said that this Record of Decision has to do with
2 the disposition of NPR-1.

3 MR. COMO: That's correct.

4 MS. GRADEK: It does not cover the
5 disposition of NPR-2, this particular Record of
6 Decision.

7 MR. COMO: Yeah. That's correct.
8 Because at the moment -- I can't tell you whether
9 this would change prior to the schedule date for the
10 NPR-1 Record Decision. We only have -- as far as
11 NPR-2 is concerned, we have only made a record -- the
12 Department of Energy that is -- has only made a
13 recommendation to Congress. When Congress might act
14 on that recommendation, if they do, and what they
15 ultimately authorize us to do, is totally up in the
16 air; so we could -- the Record of Decision in the
17 case of NPR would likely say that we have decided
18 either to sell to such and such a company at such and
19 such a price or to the extent that the Act gives us
20 latitude not to sell, but we have no authority to do
21 anything with NPR-2 until Congress acts on it.
22 Thanks for giving me a chance to clarify that.

23 MR. LEON: Good evening. My name is
24 James Leon. I'm vice chairman of the Shumash
25 (phonetic) Council of Bakersfield. It's a Native
26 American organization here in the community. I'd

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1 like to bring up some concerns we're having about
2 protecting historical properties at NPR-1, at Elk
3 Hills.

4 Our concerns are, there are numerous
5 village sites and historical sites on the property.
6 Archaeological surveys that have been done cover only
7 50 percent of the area. There's two known burial
8 sites on the property, our concerns are with -- are
9 very much in tune with. We would like to see a total
10 survey of the area, designate sites, being that there
11 is a minimum of two burial sites under NAGPRA or
12 Native American Grave Protection and Repatriation Act.
13 Our concerns are there, of desecration. We
14 understand that we're probably more 'cause there is
15 so many other village sites on the area.

16 In the past, Elk Hills was controlled by
17 the Federal Government and the Department of Energy.
18 Very limited access has been available onto the
19 property; therefore, there wasn't very heavy
20 necessity for overseeing it. Now that it is going to
21 be transferred over to the private sector, we're
22 going to lose a lot of our capabilities. Although
23 SEQA will probably be overseeing it, once it becomes
24 under private property and private land ownership,
25 the laws change drastically. Of course, our concerns
26 are the preservation and protection of culturally

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1 sensitive sites, and I'd like to put it on the record
2 that we would like to see the entire area surveyed
3 and possibly recommend in the future, when the sale
4 is generated, that possibly these locations be
5 segregated and controlled by maybe NAGPRA or people
6 in the Federal levels. Thank you.

7 MR. COMO: Thank you, Mr. Leon. Anyone
8 else care to make a comment?

9 Why don't we try the same thing that we
10 did earlier this afternoon which is, we can just go
11 off the record for the time being and get some
12 coffee, get a chance to meet each other and talk, and
13 if in the course of these little small conversations,
14 if an issue comes up that someone would like to put
15 on the record, we'll notify the court reporter,
16 reconvene, and get something directly written into
17 the record. I'd like the opportunity to meet some of
18 you that I haven't had a chance to this afternoon; so
19 if no one has any objections, we can go off the
20 record momentarily and reconvene in a little while,
21 as soon as we get an opportunity to. Thank you.
22 There's some coffee and other refreshments in the
23 back of the room.

24 (Recess taken from 7:41 p.m. to

25 8:04 p.m.)

26 MR. COMO: Ladies and gentlemen, I guess

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1 we can go back on the record maybe just long enough
2 to close it. Does anyone else have anything else
3 they'd care to offer: Comments, questions,
4 observations? Okay. If not, then, I'd like to thank
5 all of you for coming out this evening. In case any
6 of you who have not gotten a copy of the EIS and you
7 elected not to say anything here, could you please
8 make sure that you do sign our register in the back
9 of the room to make sure that you're on our mailing
10 list to automatically get the Final in case you
11 weren't on the list for the Draft? We'll be glad to
12 send that to you.

13 Thank you for your attention and for
14 coming out this evening, and I'd like to close the
15 record now.

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17 (Whereupon, at 8:04 p.m., the ICF-Kaiser
18 Public Hearing was adjourned.)
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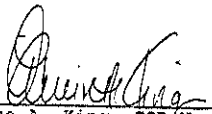
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STATE OF CALIFORNIA)
) ss.
COUNTY OF KERN)

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I, Denise A. King, a Certified Shorthand Reporter in the State of California, holding Certificate No. 11087, do hereby certify that I was present and reported in stenotypy all the proceedings in the foregoing-entitled matter; and I further certify that the foregoing is a full, true, and correct statement of such proceedings and a full, true, and correct transcript of my stenotype notes thereof.

Dated this 5th day of September, 1997, at Bakersfield, California.



Denise A. King, CSR/No. 11087

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CHAPTER THREE

Response to Comments

Federal Government Agencies

Comment Code: Federal Government Agency AGR-1

Response: Comment noted. The revised soil information provided by the commenter provides additional information and clarification about soil conditions of Elk Hills. See Section 3.6.1 of the DSEIS/PEIR and the revised text for Section 3.6.1 in this document. The commenter is the author of the Soil Survey of Kern County, California, Naval Petroleum Reserve Number One Part, Interim Report (not dated)

Errata:¹ Change page 3.1-4 and page 3.1-5, paragraph 4 and paragraph 1, respectively to read:

The soils of Elk Hills are composed of highly stratified deposits that vary greatly in their proportions of gravel, sand, silt, and clay. Some strata are gravelly sands, some are clayey, and some have a loamy texture with a mixture of sand, silt, and clay that is poorly sorted. A few areas have a soil layer that is chemically cemented hardpan (Regal 1997).

Many areas of Elk Hills contain loamy surface soils that are underlain by mottled clayey former lake deposits. Some of the subsurface layers contain gypsum crystals and other salts (e.g., sodium, chlorine, and boron) that commonly accumulate in arid regions. Salt concentrations usually are highest in fine-grained soils where the low permeability associated with these materials, low annual precipitation, and insufficient perennial surface water allow only minimal leaching to occur. In these high-saline areas, plant growth is reduced dramatically and shifts toward more salt-tolerant species.

Comment Code: Federal Government Agency ACE-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Federal Government Agency COM-1

Response: In order to learn more information about these monuments, the referenced individual was contacted. It was learned that the 90 day notice requirement only applies to Federal agencies. As the Proposed Action does not involve moving any of the monuments, no further action is required. However, for the sake of completeness, the monuments in the general latitude

¹ Errata refers to changes to the DSEIS/PEIR. These are collated in Chapter 4.

and longitude of NPR-1 have been identified from the commenter's data base and a revision to Section 3.7 listing those monuments is included in Chapter 4.

Errata: Insert the following paragraph and table after page 3.7-2, paragraph 2:

The site contains various geodetic control monuments of the National Geodetic Survey. The following list of monuments in the general region of the longitude and latitude of NPR-1 was prepared from the Survey's website at <http://www.ngs.noaa.gov>. Federal Agencies are required to contact the Survey prior to moving any such monuments.

Geodetic Control Monuments within the Vicinity of NPR-1

PID	Designation	Lat	Lon
FU1982	V 548	351239	1192412
FU1400	Y 326 UOCO	351259	1193354
FU1401	R 951	351300	1193353
FU2311	LAKE RM 3	351301	1192237
FU2312	LAKE RM 4	351301	1192237
FU2310	LAKE	351302	1192237
FU1980	U 548	351315	1192320
FU1402	1275 USGS	351321	1193414
FU1403	CDS	351324	1193417
FU2309	195 DWR	351326	1192232
FU1977	EH 11 DWR	351328	1192643
FU2303	S 548	351345	1192035
FU2308	T 548	351346	1192232
FU3243	J 1292	351352	1193447
FU2302	R 548	351358	1192048
FU2305	L 1098	351358	1192126
FU2297	192 DWR	351402	1192016
FU1976	EH 10 DWR	351403	1192642
FU1406	Z 326	351425	1193517
FU1975	EH 9 DWR	351442	1192725
FU1407	A 951	351444	1193538
FU1589	EH 8 DWR	351516	1192747
FU1588	EH 7 DWR	351605	1192758
FU3676	PUFF	351606	1192427
FU3679	PIPE MARK NEAR STA PUFF 1958	351606	1192427
FU3675	ELK 2	351611	1192519
FU3677	ELK	351612	1192519
FU3678	BFI 1334	351612	1192519
FU1587	EH 6 DWR	351635	1192804
FU1503	184 DWR	351711	1192009
FU3682	WEST ELK	351717	1193038
FU1586	EH 5 DWR	351722	1192751
FU1506	K 1098 K CO	351734	1192047
FU1514	183 A DWR	351747	1192101
FU1518	182 A DWR	351801	1192128
FU1517	183 DWR	351801	1192130
FU1525	182 DWR	351825	1192217
FU1571	181 DWR	351839	1192305
FU1576	180 A DWR	351906	1192338

PID	Designation	Lat	Lon
FU1584	EH 3 DWR	351911	1192750
FU1568	Z 980	351929	1192335
FU1581	180 DWR	351934	1192443
FU1565	H 981	351950	1192442
FU1583	EH 2 DWR	351953	1192744
FU1558	179 DWR	351958	1192550
FU1582	EH 1 DWR	352020	1192755
FU1551	178 DWR	352022	1192649

Comment Code: Federal Government Agency DOI-1

Response: DOE is in receipt of a letter dated August 6, 1997, from the DOI Regional Solicitor confirming that the requirements of P.L. 104-106 meet the need to reconsult under the terms of the 1995 Biological Opinion. See Major Issue 1.3, Reconsultation Under the Biological Opinion, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-2

Response: DOE agrees that the No Action Alternative and Alternative to the Proposed Action both result in greater protection to threatened and endangered species than the Proposed Action. However, DOE believes that the Proposed Action is the only action which would be consistent with Congress' interest as expressed in P.L. 104-106. See Major Issue 1.1, DOE's Preferred Alternative, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-3

Response: The operation prescribed in the 1995 Biological Opinion will become a condition of the sale of NPR-1 if the purchaser(s) elect to accept the Biological Opinion. See Major Issue 1.6.1, Implementation Through the Sales Contract, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-4

Response: The range of alternatives for analysis does include an alternative with activities within the Biological Opinion -- the No Action Alternative. As discussed under Major Issue Section 1.2, DOE and Kern County believe that a private owner likely would aggressively develop the resources contained within NPR-1 while government development would occur more slowly. As a result, the alternatives considered in the DSEIS/PEIR are based upon reasonable

development cases that clearly exceed limits prescribed by the Biological Opinion. See Major Issue 1.2, Relationship of Alternatives to the Biological Opinion, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-5

Response: DOE believes that the numerous biological studies conducted at NPR-1 form an adequate basis for projecting possible measures that could mitigate impacts caused by future development. Nonetheless, the DSEIS/PEIR does not imply that the measures identified would be exclusively sufficient. The actual measures to be employed in the long-run would result from discussions with the new owner(s) of NPR-1 during the process of obtaining a permit under Section 10 of the ESA. See Major Issue 1.6.3, Sufficiency of Information for Mitigation, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-6

Response: See response to Comment DOI-2 and Major Issue 1.1, DOE's Preferred Alternative, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-7

Response: DOE and Kern County and the three processes of incorporating mitigation measures discussed in Major Issue 1.4, Loss of Affirmative Federal Obligation, would help mitigate the loss of Federal ownership of NPR-1 and the associated Federal stewardship of environmental resources.

Errata: None.

Comment Code: Federal Government Agency DOI-8

Response: DOE and Kern County note CDFG's and DOI's position in their comment letters with respect to the VFHCP and agree that incorporation of Elk Hills into the VFHCP is unlikely as a short-term mitigation vehicle. The DSEIS/PEIR addressed a number of alternative mitigation implementation methods of which the VFHCP was given as an example of one type (a regional HCP). Thus, it is retained in the DSEIS/PEIR as an example of a regional HCP and a potential long-term mitigation vehicle.

Errata: None.

Comment Code: Federal Government Agency DOI-9

Response: DOE and Kern County agree with the comment. However, the program is retained in the document because it is a term and condition of the Biological Opinion which the new owner would have to comply with. See the Department of Interior letter in the Appendix.

Errata: None.

Comment Code: Federal Government Agency DOI-10

Response: DOE and Kern County agree with the comment. As noted in the DSEIS/PEIR on page 4.5-4, "[i]n order to be able to expand the current level of exploration and production, ultimately, the new owner would need to obtain a Section 10 permit."

Errata: None.

Comment Code: Federal Government Agency DOI-11

Response: DOE and Kern County agree with the comment. See the revised text for Page 3.7-3, contained within this document.

Errata: Change page 3.7-3, paragraph 1, sentence 2 and 3 to read:

The Kern Water Bank Plan is part of the Kern Water Bank Authority and will be managed for water recharge and endangered species. The Bank is approximately 20,000 acres, which is located near the eastern border of NPR-1 and is the subject of an HCP application.

Comment Code: Federal Government Agency DOI-12

Response: See response to Comment DOI-4 and Major Issue 1.2, Relationship of Alternatives to the Biological Opinion, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-13

Response: See response to Comment DOI-7 and Major Issue 1.4, Loss of Affirmative Federal Obligation, in Chapter 1.

Errata: None.

Comment Code: Federal Government Agency DOI-14

Response: DOE and Kern County agree with the comment on simultaneously negotiating with both FWS and CDFG. See the revised text for Section 4.5.

Errata: Delete on page 4.5-4, paragraph 6, the last two sentences and insert the following:

It would be in the new owner's best interests to ensure that the additional measures taken to mitigate the impacts of future planned expansion are approved at both the state and Federal levels. Simultaneous negotiations with CDFG and the USFWS would allow the new owner to develop mitigation measures that meet the requirements of CEQA and the California ESA, as well as the Federal ESA. Such joint negotiations would ensure that expanded development of NPR-1 could be carried out as swiftly as possible, without sacrificing the existing level of mitigation. This is the procedure currently employed in developing HCPs and conducting Section 7 consultations in the San Joaquin Valley for jointly listed species.

Comment Code: Federal Government Agency DOI-15

Response: The paragraph in question did not mention the VFHCP, but did imply it. See the revised text for Page 4.5-5, in Chapter 4.

Errata: Change page 4.5-5, paragraph 2, sentence 3 to read:

However, even that impact could be mitigated to less than significant levels within the meaning of CEQA by the adoption of mitigation measures properly structured to account for the loss of the Federal protection of NPR-1 and NPR-2.

Comment Code: Federal Government Agency DOI-16

Response: The text on Page 4.5-5 actually states that the impacts have been "largely" mitigated through implementation of mandatory measures in a series of Biological Opinions. The DSEIS/PEIR indicates that DOE did not establish the conservation area.

Errata: None.

Comment Code: Federal Government Agency DOI-17

Response: DOE and Kern County agree with the comment and note that the DSEIS/PEIR discussed this on Page 4.5-6.

Errata: None.

Comment Code: Federal Government Agency DOI-18

Response: Section 4.5 does reach this conclusion. However, the DSEIS/PEIR also notes that appropriate mitigation measures imposed by the relevant Federal and state agencies with jurisdiction over threatened and endangered species should mitigate these impacts to less than significant. Also, CEQA requires that all feasible measures that could mitigate to less than significant be incorporated before a state agency may approve a project.

Errata: None.

Comment Code: Federal Government Agency DOI-19

Response: Comment noted. No response required. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Federal Government Agency DOI-20

Response: Comment noted. See revision to the Executive Summary.

Errata: Change page ES-2 paragraph 4, sentence 3 to read:

Estimated total production for the Commercial Development Case ranges from approximately 849 to 1,225 million barrels of oil equivalent per year from 1997 to 2034.

Comment Code: Federal Government Agency DOI-21

Response: Comment noted. See revision to the Executive Summary in Chapter 4.

Errata: Change page ES-5, paragraph 2, sentence 5 to read:

Estimated total production for the Reference Case is approximately 730 million barrels of oil equivalent (including oil, gas, and other non-gas liquids) per year from 1997 through 2034.

Comment Code: Federal Government Agency DOI-22

Response: See revision to the Executive Summary.

Errata: Change page ES-7, paragraph 3, sentence 3 to read:

Expected activities in NPR-2 include drilling and completing approximately 75 new production wells.

Change page ES-7, paragraph 3, sentence 6 to read:

In addition, petroleum support facilities would be kept in good repair to ensure operation of tank settings and oil/water/gas hydration/lease automatic custody transfer (LACT) units.

Comment Code: Federal Government Agency DOI-23

Response: Comment noted. DOE currently permits the wells following procedures very similar to BLM's. See revision to the Executive Summary.

Errata: Change page ES-8, item 2, sentence 1 to read:

NPR-2 Sale of Remaining Mineral Rights Subject to Current Leases and Transfer of Remaining Interest to BLM for Management of the Surface Interest in Accordance with Federal Law would have DOE sell the remaining mineral rights in NPR-2, subject to existing leases, and then transfer DOE's current permitting and management responsibilities for the existing leases to BLM.

Comment Code: Federal Government Agency DOI-24

Response: DOE agrees that management of NPR-2 by BLM (the recommended action) would continue the Federal protection to biological resources on the NPR-2 property. However, the cumulative impacts from the sale of NPR-1 would still be significant.

Errata: None.

Comment Code: Federal Government Agency DOI-25

Response: The sentence is referring to the purchase of a non-operating working interest in NPR-1 by small refiners. This would allow these entities to actually own a portion of the production of NPR-1.

Errata: None.

Comment Code: Federal Government Agency DOI-26

Response: Comment noted. See revision to Section 2.3.2.1 in Chapter 4.

Errata: Change page 2.3-3, paragraph 1, sentence 6 to read:

The Department of Interior's Minerals Management Service would collect royalties from NPR-2 production, as it does for all leases managed by BLM.

Comment Code: Federal Government Agency DOI-27

Response: Comment noted. See revision to Section 2.3.3.2 in Chapter 4.

Errata: Change page 2.3-5, paragraph 5, sentence 5 to read:

Like the purchasers of the smaller non-operating interests in Sales Scenario 1 of the proposed NPR-1 action, the buyers of the remaining mineral rights would not control how future development of reserves would occur unless the buyer were the same as the existing lessee of a given tract of land.

Comment Code: Federal Government Agency DOI-28

Response: Comment noted. See revision to Section 2.4.1 in Chapter 4.

Errata: Change page 2.4-1, paragraph 3, sentence 4 to read:

For comparative purposes, that EIS estimates that 150 to 260 new wells would be drilled annually on Federal lands compared to the highest projected well drilling activities under this DSEIS/PEIR of 89 new wells to be drilled on NPR-1 and NPR-2.

Comment Code: Federal Government Agency DOI-29

Response: In 1993 the field had a flat rate expected life of 9.4 years at the 1993 rate of production. DOE recognizes this is a conservative number and that a more realistic production period could be calculated considering the field rate of decline. However the 1993 Annual Review of California Oil & Gas Production states the life of the field, in terms of 1993 production, as 9.4 years.

Errata: None.

Comment Code: Federal Government Agency DOI-30

Response: Comment noted. See revision to Section 2.4.2 in Chapter 4.

Errata: Revisions to Section 2.4:

1. Change page 2.4-6, partial paragraph 1, sentence 1 to read:

Producers at Midway-Sunset include BLM lessees and more than 50 private companies and independents.

2. Insert the following after page 2.4-3, paragraph 3, sentence 1:

Producers at McKittrick include BLM lessees and more than 13 private companies and independents.

3. Change page 2.4-6, paragraph 7, sentence 4 to read:

Producers at Cymric include BLM lessees and more than 25 private companies and independents.

Comment Code: Federal Government Agency DOI-31

Response: Comment noted. The referenced table entry has been modified accordingly.

Errata: Change page 3.2-3, Table 3.2-1, fourth row to read:

Facility: Section 20 trash dump
Waste Managed or Contamination (if applicable): general trash
Activity and Status: Cleaned up and sold by ARCO to Vintage in 1997
References: Dave Bone (BPOI)

Comment Code: Federal Government Agency DOI-32

Response: DOE agrees with the comment. See the revised text for Page 4.5-37, contained within this document.

Errata: Replace page 4.5-37, paragraph 6, with the following:

Mitigation measures under BLM management would be virtually identical to those under the "No action - continued DOE leasing" alternative since both are federal agencies and have the same requirements under the Endangered Species Act.

Comment Code: Federal Government Agency DOI-33

Response: DOE and Kern County agree with the comment. The appropriate changes will be indicated in the revisions of this document.

Errata: Replace page 4.5-39, Table 4.5-10, the "Transfer to BLM" column with the following:

The same abbreviations as appear in the "continued DOE leasing" column.

Comment Code: Federal Government Agency DOI-34

Response: Comment noted. See revision to Appendix C, Section C.2.1.1 in Chapter 4.

Errata:

1. Change page C.2-1, paragraph 1, sentence 1 to read:

Currently there are approximately 200 active wells, 225 abandoned or idle wells, 34 tank settings and six oil/water sumps on DOE lands within NPR-2.

2. Change page C.2-1, paragraph 1, sentence 2 to read:

Continued production and development of known reserves at NPR-2 would require drilling and completing new production wells, commonly known as infill wells.

3. Change page C.2-1, paragraph 1, sentence 4 to read:

The additional production or infill wells would require pipelines, pumps, storage tanks, and other permanent equipment.

Comment Code: Federal Government Agency DOI-35

Response: Comment noted. See revision to Section C.2.1.1 in Chapter 4.

Errata: Change page C.2-1, paragraph 4, bullet 2 to read:

Workers are trained in emergency response procedures to protect human health and the environment.

Comment Code: Federal Government Agency DOI-36

Response: Comment noted. See revision to Appendix C, Section C.2.1.2. of Chapter 4.

Errata: Appendix C

1. Change page C.2-2, paragraph 2, sentence 1 to read:

The private companies that conduct petroleum-related activities on DOE-owned NPR-2 lands include Chevron USA, Inc. Fred S. Holmes; Aera Energy; Oakland Petroleum Operating Company; Phillips Petroleum Company; Texaco, USA; UNOCAL Corporation; Valley Waste Disposal Company; Vintage Petroleum Company; and numerous petroleum pipeline companies (see Figure 1.4.1).

2. Change page C.2-2, paragraph 5 to read:

Aera Energy / Oakland Petroleum Operating Company. Aera has three leases totaling 280 acres (110 ha) in Section 32G. Aera has reassigned one of these leases totaling 80 acres (32 ha) to the Oakland Petroleum Operating Company and has not conducted operations on lands under the other two leases for over 30 years. Aera is considering reassigning the remaining two leases as well. Oakland is currently operating one tank setting and two stripper wells. The stripper wells produce eight barrels/d. The tank setting consists of one 500-barrel shipping tank, one 100-barrel produced water tank, one 500-barrel oil/ water separator, and one covered oil/water sump. Oakland generates approximately 9,000 barrels of produced water per year, which is disposed of by injection off-site.

Comment Code: Federal Government Agency DOI-37

Response: Comment noted. See revision to Appendix C, Section C.2.1.2. in Chapter 4.

Errata: Change page C.2-3, paragraph 2, sentence 3 to read;

Texaco operates approximately 124 oil and gas wells and produces approximately 447 barrels/d of oil, 6,857 MCF/d of gas, and 6,300 gallons/d of natural gas liquids.

Comment Code: Federal Government Agency DOI-38

Response: As indicated in Table 3.2-1 on page 3.2-3 of the DSEIS/PEIR, remediation of the Broad Creek #3 facility was completed in 1994. The information presented on page C.2-3 was out of date, is no longer relevant, and has been deleted from Section C.2.1.2.

Errata: None.

Comment Code: Federal Government Agency DOI-39

Response: DOE and Kern County believe that the DSEIS/PEIR with the changes in Chapter 4 accurately reflects the actual impacts of the Proposed Action.

Errata: None.

Comment Code: Federal Government Agency DOI-40

Response: Comment noted. See Major Issue 1.2, Relationship of Alternatives to the Biological Opinion.

Errata: None.

Comment Code: Federal Government Agency DOI-41

Response: See response to Comment DOI-5 and Major Issue 1.6.3, Sufficiency of Information for Mitigation.

Errata: None.

Comment Code: Federal Government Agency DOI-42

Response: The DSEIS/PEIR states that the Proposed Action (DOE's Preferred Alternative) is not the least environmentally damaging alternative. See response to Comment DOI-2 and Major Issue 1.1, DOE's Preferred Alternative.

Errata: None.

Comment Code: Federal Government Agency DOI-43

Response: See Major Issue Section 1.4, Loss of Affirmative Federal Obligation. Also, see response to Comment DOI-7.

Errata: None.

Comment Code: Federal Government Agency DOI-44

Response: See response to Comment DOI-8.

Errata: None.

Comment Code: Federal Government Agency DOI-45

Response: DOE and Kern County agree that the transfer is contingent on the new owner following the projection description that was provided as part of the consultation process leading to the 1995 Biological Opinion. See Major Issue Section 1.2, Relationship of Alternatives to the Biological Opinion.

Errata: None.

Comment Code: Federal Government Agency DOI-46

Response: DOE and Kern County acknowledge the concern expressed in this comment and will continue to work with the Native American groups and the SHPO in the development of a Programmatic Agreement for mitigation. See Major Issue 1.5, Native American Cultural Resources and revised Section 4.6.

Errata: None.

Comment Code: Federal Government Agency EPA-1

Response: Comment noted. See responses to commenter's three key issues, which follow.

Errata: None.

Comment Code: Federal Government Agency EPA-2

Response: As the DSEIS/PEIR indicates, the model was run assuming maximum permitted emissions, that is, assuming the sources ran 24 hours a day at maximum emission rates. Actual emission rates generally run much less than modeled rates as the above assumptions are conservative. Therefore it is expected that actual 2001 emissions would not contribute to a violation of regional air quality standards. However, as noted in the document, mitigation measures could readily be implemented to achieve consistency with the state Implementation Plan should this occur. The comment of the San Joaquin Valley Unified Air Pollution Control District, which is the regional agency charged with implementing the State Implementation Plan, is relevant to this comment. That agency sees no significant air issues from the Proposed Action. However, see the revision to Section 4.3.3.2, clarifying the obligation for consistency with the State Implementation Plan.

Errata: Insert after page 4.3-5, paragraph 5, sentence 2:

Any such permits would only be issued after a clear demonstration of consistency with the State Implementation Plan.

Comment Code: Federal Government Agency EPA-3

Response: DOE and Kern County acknowledge the concern. See the discussion of sales contract terms and conditions in Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Federal Government Agency EPA-4

Response: At the current time there are no PCB's in the transfer area awaiting disposal at a properly permitted facility. Any PCB's in the transfer area as well as any hazardous waste at the other transfer areas would be disposed of at a properly permitted facility before transfer of NPR-1 to the new owner. See revision to Section 3.2.3 in Chapter 3. The responsibility for PCB's in use would be resolved in the negotiation of the contract for sale of NPR-1. However that issue might be resolved will not affect the conclusions of the document with respect to the impacts of the Proposed Action due to hazardous and toxic waste.

Errata: Insert the following footnote on page 3.2-3 at the end of the first partial sentence:

Any hazardous waste or wastes containing PCBs at these transfer areas would be disposed of at a properly permitted facility before transfer of NPR-1 to a new owner.

Comment Code: Federal Government Agency EPA-5

Response: Comment noted. No response required.

Errata: None.

Comment Code: Federal Government Agency EPA-6

Response: Comment noted. See response to Comment EPA-2.

Errata: None.

Comment Code: Federal Government Agency EPA-7

Response: See response to Comment EPA-2.

Errata: None.

Comment Code: Federal Government Agency EPA-8

Response: The stationary source emissions presented in pounds per hour are inputs used in running the models in order to calculate the appropriate air concentrations for comparison with Federal and state ambient air quality standards. These results are found in Tables 4.3-3 and 4.3-4. As discussed in the text, these tables present results under existing production rates (1995) and the peak year of anticipated production rates. However, as the discussion indicates, the 1995 results are based on actual emissions (reflecting the fact that, as the comment notes, equipment does not run 24 hours a day). The 2001 projections are based on maximum permitted limitations, which generally assume that equipment does operate 24 hours a day. These higher limitations were used in modeling the 2001 projections in ordering to estimate the cumulative air impacts of commercial development. Tables 4.3-1 and 4.3-2 present the current and projected emissions in lb/hr for stationary sources and lb/day for mobile sources. Because numerous stationary sources exist, an average lb/hr emission rate was computed. (Note that the 1993 EIS served as the template for developing the tables for presentation in this EIS.) DOE agrees with EPA that a daily or annual emission levels would be useful for permitting purposes; however, DOE did not calculate them for these efforts. Instead DOE assumed that the anticipated production levels would increase emissions and thus require permit modifications under which the future owner would need to conduct additional review of applicable regulatory provisions (e.g., new source review and prevention of significant deterioration). For the purpose of this analysis, DOE conducted air quality modeling to determine the environmental impacts.

Errata: None.

Comment Code: Federal Government Agency EPA-9

Response: See response to EPA-8.

Errata: None.

Comment Code: Federal Government Agency EPA-10

Response: See Major Issue 1.6.1, Implementation Through the Sales Contract.

Errata: None.

Comment Code: Federal Government Agency EPA-11

Response: See response to Comment EPA-4.

Errata: None.

Comment Code: Federal Government Agency EPA-12

Response: See the response to Comment EPA-4.

Errata: None.

Comment Code: Federal Government Agency EPA-13

Response: Comment noted. DOE will so advise EPA Region IX.

Errata: None.

State Government Agencies

Comment Code: State Government Agency CDC-1

Response: DOE agrees with the comment. See the revised text for the referenced Section contained within this document.

Errata: Insert the following after page ES-10, paragraph 3, sentence 4:

The risk of contamination is also mitigated somewhat by the fact that local water quality is typically nonpotable due to high total dissolved solids levels.

Comment Code: State Government Agency CDC-2

Response: Comment noted. See revisions to Section 2.2.

Errata: Change page 2.2-1, paragraph 4, sentence 4 to read:

These requirements include environmental compliance, financial responsibility, well activity approval, well closure approval, and proper conservation activities of the natural resource.

Comment Code: State Government Agency CCV-1

Response: Comment noted. See revision to 2.2 in Chapter 4.

Errata: Insert the following on page 2.2-1, paragraph 1, sentence 3:

....(for commercial Class II injection wells).

Comment Code: State Government Agency CCV-2

Response: Comment noted. See revision to Section 2.2 in Chapter 4.

Errata: Insert the following after page 2.2-2, paragraph 4, sentence 4:

The DOGGR's discretionary Permit to Conduct Well Operations could include conditions used for environmental mitigation required in the NEPA/CEQA process.

Comment Code: State Government Agency CCV-3

Response: Comment noted. No response required.

Errata: None.

Comment Code: State Government Agency CCV-4

Response: Comment noted. See revision to Section 2.4.2. in Chapter 4.

Errata: Change page 2.4-2, paragraph 4, sentence 5 to read:

Although Elk Hills is the fourth largest oil field in California, from 1994 to 1995 it ranked third among the top ten oil fields with the largest production decreases.

Comment Code: State Government Agency CCV-5

Response: Comment noted. See revision to Section 2.4.2. in Chapter 4.

Errata: Change page 2.4-3, paragraph 1, sentence 6 to read:

Buena Vista ranks tenth among the California giant oil fields, with ultimate recovery of 100 million barrels or more.

Comment Code: State Government Agency CFG-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: State Government Agency CFG-2

Response: DOE and Kern County generally agree with the comment. See Major Issue 1.6, Mitigation Implementation Process. In addition, see response to Comment CFG-18 below with respect to modifications to the mitigation measures.

Errata: None.

Comment Code: State Government Agency CFG-3

Response: Comment noted. No response required.

Errata: None.

Comment Code: State Government Agency CFG-4

Response: The specific locations of future activities (for future oil and gas activities, principally drilling wells and laying pipelines) cannot be predicted, even for the No-Action Alternative. In part this is due to constantly ongoing analysis of information about the oil and gas reservoirs that results in frequently changing plans and partly due to the requirements of the Biological Opinion that require pre-activity surveys shortly before the activity is to occur and the relocation of the activity if protected species are found in the proposed area of activity. Thus specific location of future development cannot be predicted within any certainty. However, the existing mitigation measures under the Biological Opinion were written broadly enough to apply across NPR-1 and to avoid significant impacts at specific locations. The proposed purchaser has accepted. Whenever Occidental seeks a Section 10 permit immediately or to accept the transfer initially and subsequently seek a Section 10 permit, DOE and Kern County believe, based on the experience under the Biological Opinion, that broadly written Section 10 requirements would also be sufficient to mitigate potential impacts for those terms and conditions that are similar. As discussed in Section 4.5 of the document, the terms and conditions of the Biological Opinion and the Section 10 permit would not all be similar because of the difference between the Federal and private sector requirements under the Endangered Species Act.

Errata: None.

Comment Code: State Government Agency CFG-5

Response: DOE is unable to limit the scope of future development projects as P.L. 104-106 requires that DOE sell all right title and interest in NPR-1. DOE believes that it is reasonably foreseeable to estimate future production levels by either the government or a private owner. It is highly speculative, however, to predict the scope, extent, or intensity of future development in detail after a 60-year or more period that oil and gas operations are likely to be ongoing. While there are no available plans or trends that would indicate that NPR-1 would be developed for agricultural or residential purposes subsequent to its use as an oil field, those are the two most likely alternatives for development. DOE believes that the DSEIS/PEIR was properly scoped, because it discusses (on page 2.5-1) that under commercial ownership the property could undergo future development for those purposes. The impacts of that development are also discussed on page 4.7-1. As the document indicates, such future development remains so remote as to be speculative. Agricultural opportunities would be limited because of terrain and soils. Future residential development would require a Kern County General amendment. As the document is a program EIR, any future development that involves changes to the current use, or this document, would require additional CEQA documentation and if determined to be significant, additional mitigation.

Errata: None.

Comment Code: State Government Agency CFG-6

Response: DOE and Kern County agree with the comment. The discussion of applicable regulations has been amended.

Errata: Insert the following paragraph after page 3.4-1, paragraph 3:

The seasonal drainages present on NPR-1 are generally under the jurisdiction of the California Department of Fish and Game. Under the Fish and Game Code (section 1600 et seq.), the Department must be notified and streambed alteration agreements must be obtained for work in the beds, banks or channels of lakes, ponds, rivers, or streams.

Comment Code: State Government Agency CFG-7

Response: Comment noted. As indicated in the discussion of Section 3.5, see the 1993 SEIS for more information about Plant and Animal Communities on NPR-1.

Errata: None.

Comment Code: State Government Agency CFG-8

Response: DOE and Kern County disagree that the loss of these programs is a significant impact. The DSEIS/PEIR sets out the CEQA standards for significance, and the loss of these programs does not meet those standards. However, these programs are an element of the affirmative Federal obligation to protect the environment and DOE agrees that the loss of that obligation is potentially significant. See Major Issue 1.4, Loss of Affirmative Federal Obligation. Note that, as the DSEIS/PEIR indicates, some reductions in these programs have already occurred for reasons unrelated to the divestiture. Kern County also notes that the spectrum of Federal, state and local programs to protect endangered species, including the FESA and the CESA would still apply.

Errata: None.

Comment Code: State Government Agency CFG-9

Response: DOE and Kern County agree with the comment. No response required.

Errata: None.

Comment Code: State Government Agency CFG-10

Response: See response to Comment CFG-5 regarding post oil and gas production development. With respect to off-site pipelines, as the DSEIS/PEIR discusses, the projected levels of production under all of the alternatives are less than past levels. Therefore, all needed transportation infrastructure has already been built and there are not expected to be any off-site requirements for pipelines. Seismic testing will occur both on-site and off-site by both the proposed purchaser of the and other private companies exploring for oil off-site. In DOE's experience, seismic testing does not cause significant impacts to plant and animal communities

and, further, the difference in impacts between the No Action alternative and Proposed Action cannot be analyzed either quantitatively or qualitatively.

Errata: None.

Comment Code: State Government Agency CFG-11

Response: Table 4.5-1 accompanies the section summary and as its title indicates, summarizes the impacts after mitigation. Table 4.5-9 indicates which impacts are significant and whether or not the impact can be mitigated to less than significant.

Errata: None.

Comment Code: State Government Agency CFG-12

Response: DOE and Kern County disagree with the comment. The document does indicate which impacts are significant, quantifying them where possible. Also see Major Issue 1.6, Mitigation Implementation Process, and the discussion of CEQA requirements for identifying mitigation measures in EIR's.

Errata: None.

Comment Code: State Government Agency CFG-13

Response: See response to comments CFG-4 and CFG-5. DOE and Kern County believe that the scope of impact disclosure was comprehensive, but agrees with the point requiring appropriate mitigation to cover areas that are more ecologically valuable than others.

Errata: None.

Comment Code: State Government Agency CFG-14

Response: DOE and Kern County note CDFG's and DOI's position in their comment letters with respect to the VFHCP and agree that incorporation of Elk Hills into the VFHCP is unlikely as a short-term mitigation vehicle. See the response to Comment DOI-6. The DSEIS/PEIR addressed a number of alternative mitigation implementation methods of which the VFHCP was given as an example of one type (a regional HCP). Therefore, the DSEIS/PEIR did not rely upon the VFHCP. DOE and Kern County believe that VFHCP remains a valid example and further that a regional HCP is a reasonably foreseeable long-term alternative that a private owner may wish to pursue. Thus they are retained in the DSEIS/PEIR.

Errata: None.

Comment Code: State Government Agency CFG-15

Response: See Major Issue 1.6, Mitigation Implementation Process. Further, to the extent that the private owner selects to develop the property in a manner different than is described in the FSEIS/PEIR, the document is a Program EIR and such changes would involve additional opportunity for review and development of mitigation measures. Also, note that as the DSEIS/PEIR discusses, mitigation measures designed to protect threatened and endangered species are also beneficial to other species of the plant and animal communities.

Errata: None.

Comment Code: State Government Agency CFG-16

Response: See Major Issue 1.6, Mitigation Implementation Process and response to Comment CFG-12.

Errata: None.

Comment Code: State Government Agency CFG-17

Response: DOE and Kern County agree with the comment. See Major Issue 1.6, Mitigation Implementation Process. Mitigation measures resulting from this process will meet these criteria.

Errata: None.

Comment Code: State Government Agency CFG-18

Response: These measures will not be designated as required until the DOE ROD and final approval by Kern County. See Major Issue 1.6, Mitigation Implementation Process. These suggested changes also appear to reflect limiting future development to the limits in the 1995 Biological Opinion. See Major Issue 1.2, Relationship of Alternatives to the Biological Opinion. With respect to BRM 18, an HCP is required as part of a Section 10 permit, the proposed purchaser is likely to seek and therefore, DOE and Kern County do not believe that it should be deleted from the document. However, the measure has been revised to add small-scale and medium-scale HCP's as alternatives to participating in a regional HCP. With respect to the compensation ratios, the ratios in the document are considered to be estimates; the final ratios would be negotiated between the new owner and the appropriate regulatory agency.

Errata: Change page 4.5-31 BRM-16 in Table 4.5-8 to read:

Transfer Section 7 permit with all its terms and conditions, including the requirements for the establishment of a 7,075 acre conservation area.

Comment Code: State Government Agency CFG-19

Response: Comment noted and DOE and Kern County generally agree with it. See Major Issue 1.6, Mitigation Implementation Process, for the process for incorporating mitigation in the ROD, MAP, Mitigation Findings, Mitigation Monitoring Program, and Notice of Determination.

Errata: None.

Comment Code: State Government Agency CFG-20

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation, which discusses how DOE plans to balance its environmental obligations with the requirements of P.L. 104-106.

Errata: None.

Comment Code: State Government Agency CFG-21

Response: DOE and Kern County greatly appreciate the efforts of CDFG to prepare this draft MOU and have incorporated its measures as potential mitigation in Section 4.5 as indicated in the revisions to this document. Most mitigation measures provided in the CDFG MOU were already included in the DSEIS/PEIR. Regarding the mitigation measures that were not already included in Section 4.5 of the DSEIS/PEIR, see the revisions below. It should be noted that these measures were included to assure that the document is as inclusive of mitigation measures as possible. Final determination of mitigation measures to be actually adopted will be determined in the NEPA ROD process, future CEQA processes and negotiations between the new owner and the regulatory agencies.

Errata: Change the following mitigation measures below Table 4.5-8 on page 4.5-32:

Memorandum of Understanding Mitigation measures (MOUMs). In addition to those measures previously listed, the draft CESA MOU by and between the Elk Hills Unit Operator (EHUO) and the California Department of Fish and Game (CDFG) proposes additional mitigation measures.

MOUM-1: At least thirty days before initiating ground-disturbing activities, the EHUO should designate a representative responsible for communications with CDFG and overseeing compliance with the CESA MOU. CDFG should be notified in writing of the representative's name, business address and telephone number, and should be notified in writing if a substitute representative is designated.

MOUM-2: The EHUO should notify CDFG fourteen days before initiating ground-disturbing activities. CDFG should specify other notification timing at its discretion.

MOUM-3: The EHUO should clearly delineate the boundaries of the project site by posting stakes, flags, and/or rope or cord, and should post signs and place fencing as necessary to exclude vehicle traffic unrelated to project construction.

MOUM-4: All project-related parking and equipment storage should be confined to the construction site or to previously disturbed off-site areas. Undisturbed areas and off-site Covered Species habitat should not be used for parking or equipment storage.

MOUM-5: The EHUO should conduct an orientation program for all persons who will work on-site during construction. The program should consist of: 1) a brief presentation from a person knowledgeable about the biology of the Covered Species, the terms of the CESA MOU and CESA; 2) a discussion of the biology of the Covered Species, their habitat needs, their status under CESA, and management measures of the CESA MOU; 3) a fact sheet containing all this information; and 4) upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures.

MOUM-6: Exclusion zones should be established to protect dens, nests and burrows as necessary.

MOUM-7: At sites likely to support blunt-nosed leopard lizard, the EHUO should evaluate potential for take of that species before conducting ground-disturbing work. If there is a likelihood of take, the EHUO should modify the project, or employ relocation or other take-avoidance measures subject to CDFG's written or verbal approval.

MOUM-8: Disturbed areas should be revegetated within two years from the cessation of disturbance, given normal rainfall for two consecutive years.

MOUM-9: For specific construction projects, the EHUO should conduct compliance inspections once a week during construction. CDFG should require summary compliance reports on a monthly or longer basis for long-term projects, and should require a final compliance report within 45 days of project completion.

MOUM-10: The EHUO should allow CDFG representatives access to the project site to monitor compliance with the terms and conditions of the CESA MOU.

MOUM-12: The EHUO should provide habitat management lands prior to disturbances. The habitat lands should be on or adjacent to the EHU, and CDFG should require that they be adjacent to other protected lands.

MOUM-13: The habitat management lands acreage is based upon biological assessment of the project's impact on the Covered Species and an estimate of the acreage necessary to provide for adequate biological carrying capacity at a replacement location.

MOUM-14: The EHUO should agree to provide a recent preliminary title report and initial hazardous materials survey report for the habitat management lands to CDFG.

MOUM-15: Prior to the transfer of habitat management lands to CDFG, the EHUO should inspect the habitat lands and remove any debris located thereon. A biologist acceptable to CDFG should be contracted to recommend suitable protection for the habitat management lands.

MOUM-15: If fee title to the habitat management lands is transferred to CDFG or to an approved non-profit corporation, the EHUO agrees to provide to CDFG or the non-profit corporation, a check in an amount to be determined by an analysis of the scope of management, but at least \$375/acre, drawn from a banking institution located within California for use as principal for a permanent capital endowment. Interest from this amount should be available for the operation, management and protection of the habitat management lands. Operation, management, and protection activities should include reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the habitat management lands. The endowment principal should not be drawn upon unless such withdrawal is deemed necessary by CDFG or non-profit corporation to ensure the continued viability of the species on the habitat management lands. Monies received by CDFG pursuant to this provision should be deposited in a special deposit account established pursuant to Government Code 16370. CDFG should pool the endowment with other endowments for the operation, management and protection of habitat management lands for local populations of the Covered Species.

MOUM-16: The EHUO should agree to reimburse CDFG for reasonable expenses incurred as a result of the approval and implementation of the project, including costs of title and document review, expenses incurred from other state agency reviews, CDGF costs directly related to

administration of the CESA MOU, including travel, personnel, and overhead. The Parties estimate that this project would create an additional cost to CDFG of no more than \$3,000.00 annually.

Comment Code: State Government Agency CEC-1

Response: DOE and Kern County agree with the comment. If development levels exceed those allowed under the 1995 Biological Opinion, the new owner would have to negotiate with USFWS and adopt the mitigation measures provided in a Section 10 permit.

Errata: None.

Comment Code: State Government Agency CEC-2

Response: See Major Issue Sections 1.6.1, Implementation Through the Sales Contract, and 1.6.2, Implementation Through Other Permitting Processes.

Errata: None.

Comment Code: State Government Agency CEC-3

Response: Comment noted. See Major Issues Section 1.6.1, Implementation Through the Sales Contract, Section 1.6.2, Implementation Through Other Permitting Processes, response to Comment CFG-18 (providing for a minimum compensation of 3 to 1), and revisions to DSEIS/PEIR Tables 4.5-4, 4.5-5, and 4.5-8.

Errata: None.

Comment Code: State Government Agency CEC-4

Response: Comment noted. These measures are included in the DSEIS/PEIR. However, see Major Issues Sections 1.6.1, Implementation Through the Sales Contract, and 1.6.2, Implementation Through Other Permitting Processes. Also it should be noted that DOGGR permitting requirements include rehabilitation of the well pads after plugging and abandonment (this would not include other infrastructure). See also the DOE response regarding habitat restoration, Comment DOI-7.

Errata: None.

Comment Code: State Government Agency CEC-5

Response: Comment noted with respect to the best alternative. See Major Issue 1.1, DOE's Preferred Alternative. The DSEIS/PEIR Alternative to the Proposed Action is divestiture involving continued government ownership of the land with commercial petroleum production. This Alternative is fully developed and analyzed in the DSEIS/PEIR. However, because the impacts are largely a combination of the impacts of the Proposed Action and the No-Action

Alternative, the discussion of this alternative incorporates much of the discussion of impacts by reference rather than repeating it. Leasing of NPR-1 to private entities under BLM management is Scenario 1 under the Alternative. For the reasons discussed in the DSEIS/PEIR, this Scenario is not sufficiently different from Scenario 2, (transfer of NPR-1 to a federally owned corporation) to justify inclusion as a separate alternative from Scenario 2 since impacts from both Scenarios are expected to be nearly identical.

Errata: None.

Comment Code: State Government Agency CEC-6

Response: Comment noted. No response required.

Errata: None.

Comment Code: State Government Agency CEC-7

Response: Generally, DOE and Kern County agree with this observation. However, with regard to the comment that there is no assurance that the NPR-1 biological resources will be protected, DOE and Kern County disagree. See Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: State Government Agency CEC-8

Response: Comment noted. Public Law 104-106 allows the transfer of an otherwise non-transferable Section 7 permit (i.e., 1995 Biological Opinion) to the new owner. The proposed purchaser of NPR-1, Occidental, has accepted the terms and conditions of the 1995 Biological Opinion. Occidental must establish a 7,075 acre conservation area and habitat management program by Nov., 1998. With regard to the implementation of mitigation measures, see Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: State Government Agency CEC-9

Response: Comment noted with respect to the mitigation measures. However, the new owner will be under no obligation to "consult" with USFWS either before or after 2035 as consultation usually is used under Section 7. Further, P.L. 104-106 does not authorize the modification of the 1995 Biological Opinion. Instead, as the DSEIS/PEIR indicates, the new owner would need to seek a Section 10 permit when the Biological Opinion expires or the new owner wishes to exceed its limits. Obtaining a Section 10 permit when the Biological Opinion expired would be required under the Endangered Species Act. See also Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: State Government Agency CEC-10

Response: Comment noted. See Major Issue 1.6, Mitigation Implementation Process, Major Issue 1.4, Loss of Affirmative Federal Obligation, Comment CFG-21 and the response to Comment EDF-3.

Errata: None.

Comment Code: State Government Agency CEC-11

Response: Comment noted. See response to Comment CEC-4.

Errata: None.

Comment Code: State Government Agency CEC-12

Response: Comment Noted. See response to Comment CEC-5

Errata: None.

Local Government Agencies

Comment Code: Local Government Agencies DOA-1

Response: Comment Noted. No response Required

Errata: None.

Comment Code: Local Government Agencies KCM-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Local Government Agencies KCW-1

Response: The Section referred to in the comment is shown as privately held land on the U.S. Department of the Interior Bureau of Land Management map for the Taft quadrangle. Figure 3.9-1 on page 3.9-9 is intended to show access to and across NPR-1 and NPR-2 sites. This map does not show the Taft Sanitary Landfill, so it does not give an erroneous impression that the landfill is outside the reserve.

Errata: None.

Comment Code: Local Government Agencies KCW-2

Response: The area in question is entirely within NPR-2 (Section 25), not NPR-1. Although different scenarios involving the future use of NPR-2 are evaluated in the DSEIS/PEIR for the purpose of evaluating cumulative impacts, the proposed action being considered is strictly the sale of NPR-1. The current plan, therefore, is for NPR-2 to remain in the hands of the Federal government without any change in access rights across that reserve.

Errata: None.

Comment Code: Local Government Agencies KCW-3

Response: Figure 2.5-1 on page 2.5-3 of the DSEIS/PEIR displays the habitat zones designated in the draft Kern County Valley Floor Habitat Conservation Plan (VFHCP). Most of NPR-2 is designated as a red zone, meaning that it would be reserved as natural habitat if the draft plan were adopted. This map is simply intended to show general areas, not site-specific locations, considered valuable habitat by Kern County, the California Division of Oil, Gas, and Geothermal Resources, and others who contributed to the draft plan. It is not intended to imply that the Taft Sanitary Landfill specifically would be subjected to the VFHCP or that the VFHCP takes

precedence over another conservation plan developed by the Kern County Waste Management Department.

Errata: None.

Comment Code: Local Government Agencies KCW-4

Response: Section 3.2.3 starting on page 3.2-2 of the DSEIS/PEIR identifies the locations of all sites on NPR-1 where there is hazardous constituent contamination, a hazardous waste transfer area, or a non-hazardous waste landfill or area. All of these locations are identified by number and letter coordinates (e.g., 27R, 4G, etc.), which are keyed to the NPR-1 grid map shown on in Figure 1.3-2 on page 1.3-3. Therefore, DOE believes the locations of all sites of interest to the commenter are satisfactorily shown and that no new maps are needed.

Errata: None.

Comment Code: Local Government Agencies KCW-5

Response: There is no need to reaffirm this vehicular access because the area in question falls entirely within NPR-2, not NPR-1. Possible scenarios involving future uses of NPR-2 are considered in the DSEIS/PEIR only for the purpose of evaluating cumulative impacts associated with the proposed action, which is strictly the sale of NPR-1. The current plan is to keep NPR-2 under Federal ownership without any change in access across that reserve.

Errata: None.

Comment Code: Local Government Agencies UAP-1

Response: If the operations under the proposed action remain constant or increase slightly then the potential/allowable emissions will not increase; however, under the proposed action, the operations could potentially expand substantially and thus result in an increase of emissions. To determine the maximum increase, the EIS used actual and potential emissions, the methodology that would be required to modify the air permits.

Errata: None.

Comment Code: Local Government Agencies UAP-2

Response: The comment is accurate that the proposed action would be a change of ownership. Under the proposed action, however, production is expected to increase, thus resulting in expanded operations and increased actual and allowable emission levels. With the expected increase, new or revised permits would be needed.

Errata: None.

Comment Code: Local Government Agencies UAP-3

Response: Comment noted. The "textual modifications" noted in the comment appear in the following comments #4 through 9.

Errata: None.

Comment Code: Local Government Agencies UAP-4

Response: Comment noted. See the revisions for Section D.2.

Errata: Revise Table D. 2-1 to reflect the following changes:

- change the 8 hour state standard for CO from 9 to 9.0 ppm;
 - delete the duplicate listing of the one hour standard for NO₂;
 - change the one hour standard for NO₂ in units of µg/m³ from 131 to 470;
 - add the one hour state standard for SO₂ of 0.25 ppm;
 - add the 24 hour standard for SO₂ in units of µg/m³ of 105; and
 - change the text describing the state standard for Visibility-reducing Particles from "Insufficient amount..." with "In sufficient amount. . ."
-

Comment Code: Local Government Agencies UAP-5

Response: Comment noted. It appears that the correct table reference for the comment is D.2-3. See the revisions to Table D.2-3 ("Kern County Attainment Status") in Section D.2.1 and Table 3.3-1.

Errata: Revise Table D.2-3 and Table 3.3-1, Kern County Attainment Status, to reflect the following changes:

- The attainment status for the state standard for Ozone to "Severe Nonattainment"; and
- The attainment status for the state standard for Carbon Monoxide to "Attainment".

Delete on page 3.3-5, paragraph 2, sentence 3.

Delete on page 3.3-6, paragraph 1, sentence 7 the following:

"including the Bakersfield nonattainment area."

Comment Code: Local Government Agencies UAP-6

Response: Commented noted. See the revisions to Section D.2.3.

Errata: Change page D.2-10, paragraph 2 to read:

Of the four monitoring stations in Kern County where samplers were in operation throughout the year, only the Bakersfield Golden State Highway site measured in exceedance of the annual NAAQS for PM₁₀ (60 ug/m³ as an arithmetic mean) in 1995. All four stations with PM₁₀ monitoring, however exceeded the California standard (50ug/ m³), while the federal 24-hour standard (150 ug/ m³) was exceeded at only one station (Oildale). These data show that PM₁₀ emissions continue to be a major air pollution problem in the county (DOE 1993).

Comment Code: Local Government Agencies UAP-7

Response: Comment noted. See the revised text for Section D.2.3.

Errata: Delete page D.2-11, paragraph 1, sentence 5.

Comment Code: Local Government Agencies UAP-8

Response: The area-specific meteorological data provided by NPR staff did not include information regarding actual average days of precipitation; consequently, the PART5 default value of 140 days per year was used. DOE recently determined that the average precipitation for the area is 34 days per year. The model was rerun to determine the impacts of the reduced precipitation and DOE's current practice of watering disturbed areas including unpaved roads. (Approximately 60,000 gallons per day of water are applied.) The resulting revised estimates of emission and ambient concentrations of PM₁₀ are slightly lower than the values presented in the DSEIS/PEIR, but do not change the conclusion presented in the DSEIS/PEIR.

Errata: None.

Comment Code: Local Government Agencies UAP-9

Response: In changing from government to private operations; the staff is expected to be reduced by 75 percent. (See response to Comment PEN-5.) In addition, DOE proposes to sell NPR under a unit operating agreement; therefore, employment levels are not expected to increase as a result of multiple ownership. See also Major Issue 1.3, Reconsultation Under the Biological Opinion.

Errata: None.

Native American Organization

Comment Code: Native American Organization RG1-1

Response: DOE and Kern County recognize the cultural sensitivity of the region to Native Americans and will continue to work with those organizations as DOE implements the mitigation measures under the Programmatic Agreement with the SHPO described in the revised Section 4.6 in Chapter 4.

Errata: None

Comment Code: Native American Organization RG1-2

Response: DOE and Kern County acknowledge the concern expressed concerning the preservation of areas containing human remains. However, P.L. 104-106 has directed DOE to sell all right, title and interest in NPR-1, so DOE lacks the authority to retain control over those areas or to assure that the areas continue to be under the protections of the National Historic Preservation Act. However, as discussed in Major Issue 1.8, Protecting Native American Cultural Resources, DOE hopes to identify a Federal agency that can join in the negotiations of land to be set aside under the 1995 Biological Opinion and can represent the concerns of the Native Americans in those negotiations. DOE intends to discuss this matter with the proposed purchaser as well.

Errata: None

Comment Code: Native American Organization RG1-3

Response: DOE and Kern County acknowledge the concern expressed in the comment, and believe that these concerns would be appropriate for inclusion in the negotiations over the establishment of the conservation area. See the response to Comment RG1-2.

Errata: None

Comment Code: Native American Organization RG1-4

Response: DOE will verify that a Native American conducted a second ceremony; if not, NPR-1 staff will be directed to provide that opportunity to you and other Native Americans with traditional ties to Elk Hills.

Errata: None.

Comment Code: Native American Organization RG1-5

Response: Comment noted. At this time, a repository for the artifacts has not been determined. DOE will work with concern Native Americans and the SHPO to determine an appropriate repository for the artifacts.

Errata: None

Comment Code: Native American Organization RG1-6

Response: The document is a Program Environmental Impact Report (PEIR) under CEQA. A PEIR is used under CEQA where the full extent of a project has not been identified and future analysis might be required under CEQA. Significant non-oil and gas related development of the property would require additional analysis under CEQA.

Errata: None

Comment Code: Native American Organization RG2-1

Response: DOE has recommended to the SHPO that four prehistoric sites were eligible for inclusion on the National Register of Historic Places and the SHPO has concurred in that recommendation. In addition, DOE has recommended to the SHPO that an Elk Hills Archeological District be recognized. See the revised Section 4.6 in Chapter 4 for a further discussion of these issues.

Errata: None

Comment Code: Native American Organization RG2-2

Response: DOE and Kern County acknowledge the concern expressed concerning the preservation of these areas. However, P.L. 104-106 has directed DOE to sell all right, title and interest in NPR-1, so DOE lacks the authority to retain control over those areas or to assure that the areas continue to be under Federal protection. Since these areas will no longer be under Federal protection and involve significant prehistorical archeological resources, DOE would need to mitigate the impacts of the loss of protection, which DOE has recommended be accomplished through a Programmatic Agreement with the SHPO and additional data gathering and analysis. Therefore, DOE cannot commit to precluding these areas from further surveys or other impacts. However, it remains to be seen what measures Occidental may be willing to adopt. See Major Issue 1.6 Mitigation Implementation Process. Further, DOE will continue to work with Native American organizations to find other ways of addressing their concerns within the constraints of P.L. 104-106.

Errata: None

Comment Code: Native American Organization RG2-3

Response: DOE intends to work with the SHPO toward the objective of establishing a Elk Hills Archeological District. See the revised Section 4.6 in Chapter 4.

Errata: None

Comment Code: Native American Organization TCC-1

Response: DOE and Kern County acknowledge the need to protect culturally sensitive sites, and the need to continue to work with Native Americans. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Native American Organization TCC-2

Response: See the revised Section 4.6 in Chapter 4.

Errata: See revised Section 4.6.

Comment Code: Native American Organization TCC-3

Response: DOE and Kern County are aware of this study which has only recently become available (mid-September, 1997). As the study is very recent, the results are not included in the revised Section 4.6, Cultural Resources. However, the results of the study will be included in the Programmatic Agreement and will be considered in developing and implementing mitigation under the Programmatic Agreement.

Errata: None.

Comment Code: Native American Organization TCC-4

Response: DOE and Kern County acknowledge this concern and will continue to work with Native American Organizations. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Native American Organization TCC-5

Response: DOE and Kern County acknowledge this concern and will continue to work with Native American organizations with regard to their concerns. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Native American Organization TCC-6

Response: DOE and Kern County acknowledge this concern. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Native American Organization TCC-7

Response: See the revised Section 4.6 in Chapter 4 for a discussion of the ongoing studies.

Errata: None.

Comment Code: Native American Organization TCC-8

Response: A letter dated September 17, 1997 from DOE addressing these issues was sent to the affected individuals and organizations. A copy of this letter is in the appendix.

Errata: None.

Private Industry

Comment Code: Private Industry AER-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry AER-2

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry AER-3

Response: DOE and Kern County disagree that the transfer of the Biological Opinion would provide the same level of protection for threatened and endangered species as under Federal ownership, to the extent that as noted on page 2.5-2 of the DSEIS/PEIR, the Biological Opinion would only mitigate some of the loss of Federal ownership and the Biological Opinion would only cover the commercial operations in the near-term. Additional mitigation beyond the terms and conditions of the Biological Opinion would have to be applied if the loss of the Federal government's affirmative obligation to conserve and restore threatened and endangered species were to be completely mitigated. Occidental may not necessarily implement the type of conservation programs that Federal agencies are obligated to implement under Section 7(a)(1).

Errata: None.

Comment Code: Private Industry AER-4

Response: DOE and Kern County disagree with this comment. See Major Issue 1.4, Loss of Affirmative Federal Obligation. As the DSEIS/PEIR indicates, for several resources the degree of impacts would be greater under private ownership if, as expected, production levels are higher. These greater impacts could occur while still complying with applicable regulations, as the DSEIS/PEIR assumes.

Errata: None.

Comment Code: Private Industry AER-5

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry AER-6

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-2

Response: DOE disagrees with the comment because transfer of NPR-1 to private ownership will result in a loss of affirmative Federal obligations established by Section 7(a) of the Endangered Species Act. See Major Issues Section 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-3

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-4

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-5

Response: DOE and Kern County agree that with respect to mitigation, CEQA is more inclusive than NEPA. DOE does not agree with the implication that CEQA would fully compensate for

the loss of the affirmative Federal obligation to protect the environment. See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-6

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-7

Response: The affirmative Federal obligation to protect endangered species and cultural resources on NPR-1 will not be the same once NPR-1 is in private ownership. See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-8

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-9

Response: DOE and Kern County are uncertain as to which duplication of efforts this comment refers to. Therefore, there is insufficient information to respond. DOE notes, however, that any incremental state and local government oversight activities associated with the privatization of the site have the potential to be funded through the expected increase in state and local government revenues that occur as a result of privatizing NPR.

Errata: None.

Comment Code: Private Industry CHV-10

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation. DOE and Kern County also disagree, for the reasons indicated in the DSEIS/PEIR, that the commercial development case would have impacts equivalent to the government development case.

Errata: None.

Comment Code: CHV-11

Response: DOE agrees that P.L. 104-106 should not be interpreted as directing DOE to disregard conservation practices. DOE disagrees that MED would be in conflict with the affirmative Federal obligation to protect the environment. They are not mutually exclusive.

Errata: None.

Comment Code: Private Industry CHV-12

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-13

Response: Comment noted. As the DSEIS/PEIR indicates, the development cases are intended to include all levels of development up to the upper bound of the development case. The lower bound represents DOE's estimate of a reasonably expected lower bound.

Errata: None.

Comment Code: Private Industry CHV-14

Response: DOE and Kern County disagree that there are no differences in environmental impacts between Alternatives. See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-15

Response: DOE believes that the DSEIS/PEIR fairly reflects the proposed structure of the interests to be sold.

Errata: None.

Comment Code: Private Industry CHV-16

Response: DOE and Kern County disagree with the comment. NPR-1 has numerous state permits and significant expansion of NPR-1 production and exploration might very well require them to comply with CEQA before issuing any new permits.

Errata: None.

Comment Code: Private Industry CHV-17

Response: See response to Comments CHV-11 to CHV-14, (General Comment 3).

Errata: None.

Comment Code: Private Industry CHV-18

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-19

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-20

Response: Mitigation levels under DOE ownership are clearly described in Section 4.5 of the DSEIS/PEIR. See the CDFG Comment Letter. CDFG has included many of the Biological Opinion's mitigation measures in a draft proposed MOU with the potential new owner.

Errata: None.

Comment Code: Private Industry CHV-21

Response: If the government continued to operate NPR-1 through its useful life as an oil field and it was still an important conservation area for threatened and endangered species, the lack of a profit motive on the part of the government would mean that a reasonably foreseeable outcome would be to create a permanent conservation area. There is a precedent for this type of action in the DOE's recommendation with respect to NPR-2, as discussed in the DSEIS/PEIR. Also in closing military bases, the Department of Defense has deferred to FWS on portions of the bases that were important for conservation rather than sell them off for commercial development.

Errata: None.

Comment Code: Private Industry CHV-22

Response: See response to Comment CHV-21.

Errata: None.

Comment Code: Private Industry CHV-23

Response: Comment noted. See revised Section 4.6, Cultural Resources provided in response to Comment AG1-1.

Errata: None.

Comment Code: Private Industry CHV-24

Response: Commented noted. DOE agrees with the commenter. See revised Section.

Errata: Replace paragraph 1 on page ES-10 with the following:

The third major impact from the future development of NPRs would be the possibility that state ambient air quality standards for PM₁₀ could be exceeded off-site. On-site, Federal ambient air quality standards for NO₂ and state ambient air quality standards for PM₁₀ and SO₂ might be exceeded. As stated in Section 4.3.1, for the two years analyzed, no violations of Federal or state ambient air quality standards were predicted in the areas surrounding NPR-1 with one exception: off-site particulate concentrations (PM₁₀) under all cases are estimated to exceed the state ambient air quality standards for both years. 2001 NO_x emission concentrations on-site are also expected to exceed Federal ambient air quality standards; while 2001 SO₂ concentrations and PM₁₀ concentrations for both years on-site are estimated to exceed state standards. The on-site exceedances are expected to occur where the public does not have access.

Comment Code: Private Industry CHV-25

Response: DOE agrees that oil spill rates and volumes could decline with future capital improvements. The main point of Section 4.10, however, is that even assuming an increase in future oil spills corresponding to increased production levels, oil spill risk levels are not considered to be significant. Accelerated capital improvements in the future, by either government or commercial entities, would not change this conclusion.

Errata: Insert the following after page ES-10, paragraph 2, sentence 3:

Assuming an increase in future oil spills corresponding to increased production levels, oil spill risk levels are not considered significant.

Comment Code: Private Industry CHV-26

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-27

Response: Comment noted. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry CHV-28

Response: Comment noted. No response necessary.

Errata: None.

Comment Code: Private Industry CHV-29

Response: Issues relevant to NEPA were included in the document even if they were not relevant to CEQA due to the dual purpose of the document.

Errata: None.

Comment Code: Private Industry CHV-30

Response: The requirements for CEQA are noted. However, DOE and Kern County disagree with this comment, since these differences are not germane to an understanding of the significant impacts of the Proposed Action and Alternatives.

Errata: None.

Comment Code: Private Industry CHV-31

Response: DOE and Kern County disagree that the term is unclear. The bullets under the term provide the necessary definition. The important procedural aspects of NEPA and CEQA are explained in the DSEIS/PEIR.

Errata: None.

Comment Code: Private Industry CHV-32

Response: See response to Comment CHV-10. In this context the reference to affirmative Federal obligation is Section 7(a)(1) of the ESA. Section 7(a)(1) is implemented by the Federal agency owning a property. FWS would not own NPR-1 if it were sold to one or more oil companies and therefore there would be a loss of affirmative Federal obligation unless appropriate mitigation measures are placed in the sales agreement, the Final EIR, and/or the 2081

permit. See Major Issue 1.4, Loss of Affirmative Federal Obligation and response to Comment CHV-10.

Errata: None.

Comment Code: Private Industry CHV-33

Response: DOE and Kern County agree that the timing and pace would not adversely impact cultural resources. See the revision to Table 2.1-1 and the revised Section 4.6, Cultural Resources.

Errata: Delete the following in the second sentence in bullet six of Table 2.1-1 on Page 2.1.2:

"and cultural resources."

Comment Code: Private Industry CHV-34

Response: DOE and Kern County do not believe that references to biodiversity should be removed because it is generally accepted that any habitat disturbance can threaten biodiversity. DOE and Kern County agree with the suggestion that a definition of biodiversity be added, and have done so in the glossary.

Errata: Insert the following definition of biodiversity to the glossary on page GLS-1:

Biodiversity can be defined as "the variety of organisms considered at all levels, from genetic variants belonging to the same species through species to arrays of genera, families, and still higher taxonomic levels." Biodiversity also includes "the variety of ecosystems, which comprise both the communities of organisms within particular habitats and the physical conditions under which they live." (E.O. Wilson, 1992, *The Diversity of Life*, W.W. Norton & Co., New York, NY.). According to DOE, "ecological organization, and therefore biodiversity, is a hierarchically arranged continuum, and reduction of diversity at any level will have effects at the other levels." (CEQ, 1994, *Incorporating Biodiversity Considerations Into Environmental Impact Analysis Under the National Environmental Policy Act*).

Comment Code: Private Industry CHV-35

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-36

Response: The Kern County General Plan designation for NPR-1 is "non-jurisdictional." The Kern County zoning ordinance designation is either Limited Agricultural or Exclusive Agricultural as the quoted material indicates. No revision is required.

Errata: None.

Comment Code: Private Industry CHV-37

Response: Comment noted. See revision to Section 2.2 in Chapter 4.

Errata: Change page 2.2-1, paragraph 4, sentence 4 to read:

These requirements include environmental compliance, financial responsibility, well activity approval, well closure approval, and proper conservation activities of the natural resource.

Comment Code: Private Industry CHV-38

Response: See responses to Comments to CHV-11, CHV-13, and CHV-14.

Errata: None.

Comment Code: Private Industry CHV-39

Response: They do represent the same unproved probable reserves. For further explanation of risk factors, see the NPR-1 Long Range Plan referenced in the document. No further response required.

Errata: None.

Comment Code: Private Industry CHV-40

Response: Comment noted. See the revised text for Section 2.2 contained within this document.

Errata: Change "CCOGP" in Footnote 5 on page 2.2-4 to read:

"CCCOGP"

Comment Code: Private Industry CHV-41

Response: Comment noted. No responses required.

Errata: None.

Comment Code: Private Industry CHV-42

Response: See response to Comment CHV-15.

Errata: None.

Comment Code: Private Industry CHV-43

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-44

Response: DOE and Kern County disagree with implication of this comment that Section 10 permits would result in the same level of protection as a Section 7 consultation. Accordingly, sentence 3 has not been revised. However, Section 10 permits and Section 7 consultations do involve similar approaches to mitigation: take avoidance and habitat conservation.

Errata: None.

Comment Code: Private Industry CHV-45

Response: The source of the information was the DOGGR cited in the Chapter References, which was the most current published information when the DSEIS/PEIR was published. The DSEIS/PEIR indicates the date of the information. No revision is required.

Errata: None.

Comment Code: Private Industry CHV-46

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-47

Response: Comment noted. The document already indicates the small NPR-1 range of the Tipton Kangaroo rat. No response required.

Errata: None.

Comment Code: Private Industry CHV-48

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-49

Response: See response to Comment CHV-21.

Errata: None.

Comment Code: Private Industry CHV-50

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-51

Response: This comment appears to acknowledge the difference between a Section 7 consultation and a Section 10 permit. However, while technically different, the two do require similar approaches to mitigation, i. e. take avoidance and habitat conservation. See response to Comment DOI-6 and CHV-14.

Errata: See Revised Section 4.6.

Comment Code: Private Industry CHV-52

Response: See revised Section 4.6, Cultural Resources provided in response to Comment AGI-1.

Errata: See Revised Section 4.6.

Comment Code: Private Industry CHV-53

Response: See response to Comment CHV-24.

Errata: None.

Comment Code: Private Industry CHV-54

Response: See response to Comment CHV-25

Errata: None.

Comment Code: Private Industry CHV-55

Response: DOE and Kern County agree with the comment. See the revised text in Section 3.2.

Errata: Change page 3.2-1, paragraph 5, sentence 2 to read:

"and NPR-2 are" with "is"

Comment Code: Private Industry CHV-56

Response: Section 3.2.3 starting on page 3.2-2 of the DSEIS/PEIR identifies, in narrative form, the location and status of each site contaminated with hazardous substances, each hazardous waste transfer station, and each non-hazardous waste facility on NPR-1. Readers desiring more information on these sites are referred to the ATI Phase I Assessment of NPR-1, published in 1997. DOE believes this text and reference give readers all the information needed and that a summary table repeating this same information is unnecessary.

Errata: None.

Comment Code: Private Industry CHV-57

Response: The statement quoted by the comment is based on a review of Permits to Operate issued by the San Joaquin Valley Unified Air Pollution Control District.

Errata: Change page 3.3-1, paragraph 4, last sentence, to read:

"SO₂" with "sulfur compound"

Insert the following footnote on page 3.3-1, paragraph 4, last sentence:

Based on a review of Permits to Operate issued by the San Joaquin Valley Unified Air Pollution Control District.

Comment Code: Private Industry CHV-58

Response: Comment noted. See revision to Section 3.3.1 in Chapter 4.

Errata: Delete the following from 3.3-1 , paragraph 7, sentence 1:

“ATC’s and”

Comment Code: Private Industry CHV-59

Response: Comment noted. As stated in the document, DOE chose to apply for two separate Title V permits for two areas: 1) 35R Gas Plant Source and 2) Western Light Oil Source. The Title V applications cover all applicable equipment associated with these areas. No further clarification is necessary in the text under the scope of this document

Errata: None.

Comment Code: Private Industry CHV-60

Response: Comment noted. The document has been modified accordingly.

Errata: Change page 3.3-3, paragraph 3, sentence 6 to read:

In general, the larger IC engines did not meet the BARCT standard in 1995. However, with the implementation of appropriate control technology, they are expected to meet the SJVUAPCD limits required by 2001.

Comment Code: Private Industry CHV-61

Response: Comment noted. The document has been revised to reflect the latest, slightly lower, figure.

Errata: Insert the following bullet after page 3.3-4, partial paragraph 1, bullet 3:

- VOC - 546.3 tons per year
-

Comment Code: Private Industry CHV-62

Response: DOE has the option to retain ownership of the ERC certificates, but plans to transfer them to the purchaser, as indicated in the Environmental Permit Transfer Implementation Plan (Jan. 1997). See Section 3.3-4 for additional text regarding this revision.

Errata: Replace on page 3.3-4, paragraph 1, sentence 2 with the following:

DOE may retain ownership of the ERCs or may transfer them to the new owner. If DOE retains ownership, the new owner may be required to obtain ERCs for any permit modifications with emissions increases. The new owner may obtain the ERCs from DOE or elsewhere. DOE may also transfer the ERCs as a part of the sale. If DOE transfers the ERCs to the new owner, the new owner would be required to submit an application to transfer ERC certificates at the completion of the sale.

Comment Code: Private Industry CHV-63

Response: Comment noted. The text of Section 3.3.2 has been revised consistent with this comment and information provided in comments by the SJVUAPCD.

Errata: Change page 3.3-5, paragraph 2, the first three sentences to read:

Kern County is in nonattainment for ozone and fine dust (PM_{10}) (see Table 3.3-1). In addition, the City of Bakersfield is in nonattainment of the Federal standard for carbon monoxide (CO).

Comment Code: Private Industry CHV-64

Response: Comment noted. See revision to Section 3.3.

Errata: Delete on page 3.3-4, paragraph 2, last two sentences to read:

EPA revised the primary standards in July 1997 by adding a new annual $PM_{2.5}$ standard set at 15 microgram/ m^3 and a new 24 hour $PM_{2.5}$ standard set at 65 microgram/ m^3 . EPA will work with states to deploy the $PM_{2.5}$ monitoring networks to determine (1) which areas meet or do not meet the new air quality standards (2) what are the major sources of $PM_{2.5}$ in various regions, and (3) what actions are necessary to reduce emissions. States will have 3 years from the date of being designated nonattainment to develop pollution control plans and submit to EPA showing how they will meet the new standards. Areas will then have up to 10 years from their designation as non attainment to attain $PM_{2.5}$ standards with the possibility of two 1-year extensions.

Comment Code: Private Industry CHV-65

Response: Comment noted. The purpose of this Section of the document is to discuss the existing conditions at NPR-1 and consequently it is not the appropriate location for a discussion of the need for CEQA mitigation measures.

Errata: None.

Comment Code: Private Industry CHV-66

Response: Comment noted. The requested clarification has been added to the referenced text.

Errata: Change page 3.4-1, paragraph 3, to read:

Under the provisions of the Clean Water Act, standards are also set to protect the nation's waters from polluted stormwater discharges. The only waterbody on NPR-1 that has been classified as a navigable waterway, and thus falls under the provisions of the Clean Water Act, is Buena Vista Creek. NPR-1 is presently exempt from the NPDES stormwater discharge permit requirements because there have been no reportable quantity spills into stormwater and because stormwater is basically non-existent at Elk Hills. As a best management practice, however, site personnel have been monitoring Buena Vista Creek and other drainages during storm events since 1992 to determine if any contaminated runoff occurs and if it contains an oily sheen. Existing procedures call for NPR-1 to submit a Notice of Intent to receive coverage under a general NPDES permit for stormwater runoff within 30 days to the California Regional Water Quality Control Board, if a reportable quantity spill occurs into Buena Vista Creek. Other environmentally sensitive areas that have been designated since the establishment of NPR-1 include the Fern Fan Element of the Kern Water Bank located adjacent to the northeast flank of Elk Hills, and the Buena Vista Aquatic Recreation Area located two miles southwest of NPR-1 (BPOI et al. 1995).

Comment Code: Private Industry CHV-67

Response: The comment about the Section 7 process and the concern about possible duplication of mitigation measures are noted. However, DOE and Kern County disagree that discussion of Section 9 of the ESA would add significantly to the discussion in the Biological Resources Section of the DSEIS/PEIR.

Errata: None.

Comment Code: Private Industry CHV-68

Response: DOE and Kern County disagree with the comment. While it is true that CEQA does require state lead agencies to conduct such an evaluation, this section of the DSEIS/PEIR discusses the requirements of the California Endangered Species Act, which also have such a requirement independent of CEQA.

Errata: None.

Comment Code: Private Industry CHV-69

Response: Page 3.5-2 has a detailed discussion of the California Endangered Species Act. Additional discussion of Section 2080 would not contribute meaningfully to the reader's understanding of the issues.

Errata: Insert on page 3.5-2, paragraph 1, at the end of sentence 6:

in Section 2080

Comment Code: Private Industry CHV-70

Response: This court action has been overturned by the California Legislature. See Revision to Section 3.5 in Chapter 4.

Errata: Delete the last two sentences from bullet 1 on page 3.5-2.

Comment Code: Private Industry CHV-71

Response: For a more complete discussion of plant communities on NPR-1 the commenter is referred to the 1993 SEIS, which was referenced in the DSEIS/PEIR.

Errata: None.

Comment Code: Private Industry CHV-72

Response: DOE and Kern County agree with this statement. This comment will be included as indicated in the revisions of this document.

Errata: Change page 3.5-3, paragraph 4, sentence 6 to read:

Both the western whiptail and side-blotched lizard occur on NPR-1, as well as several species of snakes and lizards.

Comment Code: Private Industry CHV-73

Response: DOE and Kern County disagree with the comment. As the text indicates, the statement is based on research and the professional opinions of the researchers and FWS.

Errata: None.

Comment Code: Private Industry CHV-74

Response: The DSEIS/PEIR clearly defines "species of concern" as used in the document in the footnote on p.3.5-1. The titles in Tables 3.5-2 and 3.5-3 refer to "special status" which includes species of concern, Federally or state endangered, and Federally or state threatened as noted in the footnote on p. 3.5-7.

Errata: None.

Comment Code: Private Industry CHV-75

Response: Footnote 3 on Page 3.5-7 provides a definition of the term "special" for Table 3.5-2. However, DOE and Kern County agree that the use of the term needs to be clarified. See the addition to Section 3.5 footnote number one.

Errata: Insert the following on page 3.5-1 at the end of footnote 1:

Species recognized as "special" by the state of California are those species listed in the California Natural Diversity Data Base or other similar California data bases listing plant and animals considered to be threatened, rare or sensitive under one or more criteria.

Comment Code: Private Industry CHV-76

Response: DOE and Kern County agree with the comment. See the revision to Section 3.5.

Errata: Change page 3.5-8 paragraph 1, sentence 1 to read:

Kern Mallow (*Eremalche parryi ssp. kernensis*) (Federally endangered, state special) is a small annual plant with mostly small white flowers.

Comment Code: Private Industry CHV-77

Response: See response to Comment CHV-74.

Errata: None.

Comment Code: Private Industry CHV-78

Response: DOE and Kern County agree with the first part of the comment and have added a clarifying footnote to Table 3.5-3. With respect to the definition of "special," see the response to Comment CHV-75.

Errata: Insert the following footnote after page 3.5-11, Table 3.5-3, the "BIRDS" heading:

Raptors, while in some cases being designated as California species of special concern, are also protected under the California Fish and Game Code.

Comment Code: Private Industry CHV-79

Response: The referenced paragraph discusses past operations that have affected the existing conditions at NPR-1 rather than future operations. DOE and Kern County have revised the title and the first sentence of the paragraph accordingly.

Errata: Replace the heading on page 3.5-15, paragraph 6 and delete the words "Potential" and "continued" from the first sentence to read:

Past Effects of NPR-1 Operations on San Joaquin Kit Fox. Effects of oil field development and production under the Reference Case on NPR-1 have been previously discussed in detail (Martinson 1980; Kato and O'Farrell 1986; O'Farrell et al. 1986; Berry et al. 1987; Harris et al. 1987; Kobetich 1987; Scrivner et al. 1987a; Zollick et al. 1987; DOE 1991, DOE SEIS 1993; Medlin 1995b)

Comment Code: Private Industry CHV-80

Response: The referenced paragraph discusses past operations that have affected the existing conditions at NPR-1 rather than future operations. DOE and Kern County have revised the title and the first sentence of the paragraph accordingly.

Errata: Replace the heading on page 3.5-17, paragraph 4 and delete the words "potential" and "continuing" from the first sentence to read:

Past Effects of NPR-1 Activities on Blunt-nosed Leopard Lizards. Loss of habitat due to construction and operational activities was identified as the most significant impact on the blunt-nosed leopard lizard of MER development at NPR-1 (Kato and O'Farrell 1986).

Comment Code: Private Industry CHV-81

Response: The referenced paragraph discusses past operations that have affected the existing conditions at NPR-1 rather than future operations. DOE and Kern County have revised the title and the first sentence of the paragraph accordingly.

Errata: Replace the heading on page 3.5-20, paragraph 1 and delete the words "Potential" and "continuing" from the first sentence to read:

"Past Effects of NPR-1 Activities on Giant Kangaroo Rats": Impacts of NPR-1 operations on the giant kangaroo rat include loss of habitat, burial of burrows, being struck by vehicles, getting caught in an oil spills, exposure to contaminants, and fire (O'Farrell and Kato).

Comment Code: Private Industry CHV-82

Response: The referenced paragraph discusses past operations that have affected the existing conditions at NPR-1 rather than future operations. DOE and Kern County have revised the title and the first sentence of the paragraph accordingly.

Errata: Replace the heading on page 3.5-22, paragraph 1, replace the heading and delete the word "Potential" from the second sentence to read:

Past Effects of NPR-1 Activities on San Joaquin Antelope Squirrel: Loss of habitat, displacement by California ground squirrels (usually found near human activity), mortality or injury from

construction activities, vehicle impacts, and getting caught in oil spills or trapped in oilfield activities could adversely affect San Joaquin antelope squirrels at NPR-1. Effects of NPR-1 activities on this species have not been carefully studied, but based on results of sitewide surveys conducted in 1984 and 1989, the decline in observations of this species do not appear to be related to petroleum production activities.

Comment Code: Private Industry CHV-83

Response: Footnote 1 on p. 3.5-1 defines "species of concern" as used in the DSEIS/PEIR and so the reference is correct. As the sentence refers to the definition, it is not necessary to repeat it in its entirety.

Errata: None.

Comment Code: Private Industry CHV-84

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.2-1, paragraph 4 to read:

Some programs required by DOE to be implemented under the No Action Alternative (e.g., the RadCon program and environmental training program) may or may not continue on the same level under the Proposed or Alternative to Proposed Action, depending on the environmental practice of the proposed purchaser. The waste minimization/pollution prevention program currently implemented by DOE in accordance with DOE Order 0440.1, or some comparable program, is expected to be implemented by the new owner in accordance with the California Hazardous Waste Source Reduction and Management Review Act (California Health and Safety Code Section 25244 et seq.).

Comment Code: Private Industry CHV-85

Response: The incorrect reference to Table 3.2-1 has been deleted. Also, as discussed in response to Comment CHV-56, DOE believes all of the information of interest to the commenter is presented in narrative form on pages 3.2-2 and 3.2-3. Additional detail, if desired, can be obtained from ATI 1997 referenced in the DSEIS/PEIR. Therefore, DOE believes it is unnecessary to revise the document to include the summary table requested by the commenter.

Errata: Delete the last sentence in the first paragraph on page 4.2-4.

Comment Code: Private Industry CHV-86

Response: See response to Comment CHV-84.

Errata: None.

Comment Code: Private Industry CHV-87

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation and response to Comment CHV-84.

Errata: None.

Comment Code: Private Industry CHV-88

Response: Comment noted. The fact that the DOE orders would not apply does not change the general conclusions.

Errata: None.

Comment Code: Private Industry CHV-89

Response: See response to Comment CHV-24. The modeling results indicate a possible need for additional mitigation in the issuance of future new source permits because the modeling shows the potential for emissions exceeding state and national standards. Exclusion of statutory mandated mitigation from the document would leave the discussion incomplete.

Errata: None.

Comment Code: Private Industry CHV-90

Response: Comment noted. In estimating emissions, it was assumed that the internal combustion engines did not meet BARCT requirements in 1995 and that with the implementation of appropriate requirements, they may be able to meet the SJVUAPCD limits required by 2001.

Errata: None.

Comment Code: Private Industry CHV-91

Response: These engines were included in the air modeling because they were included in the 1995 actual emission inventory. In addition, these engines were included for later years because the analysis focused on maximum potential/allowable emissions as would be stated in the permits or required by regulations. Because DOE does hold permits for these engines, the possibility of operating them in the future exists; however, if in the future these engines are not operated, the emissions estimated under this analysis are very conservative. As noted elsewhere in the text, by using the maximum potential/allowable emissions for future year analysis, the emission estimates are conservative because the actual emissions may in fact be lower than allowed.

Errata: None.

Comment Code: Private Industry CHV-92

Response: See response to CHV-89.

Errata: None.

Comment Code: Private Industry CHV-93

Response: See response to CHV-89.

Errata: None.

Comment Code: Private Industry CHV-94

Response: See response to CHV-89.

Errata: None.

Comment Code: Private Industry CHV-95

Response: The only waterbody on NPR-1 that has been classified as a navigable waterway under the Clean Water Act is Buena Vista Creek. Sandy Creek and Broad Creek also qualify as navigable waterways, but only on NPR-2. The referenced text has been modified to make this clarification.

Errata: Change page 4.4-3, paragraph 6, the last two sentences to read:

The only waterbody on NPR-1 that has been classified as a navigable waterway under the Clean Water Act is Buena Vista Creek. Although NPR-1 has been exempted from the Act's stormwater permit requirements, facility personnel (as a best management practice) monitor the quality of stormwater entering Buena Vista Creek during heavy precipitation events. No pollution incidents have been observed since this monitoring was initiated in 1992.

Comment Code: Private Industry CHV-96

Response: Comment noted. The referenced text has been revised accordingly.

Errata: Change page 4.4-3, paragraph 7, sentence 3 to read:

Smaller volumes of produced water (7,000 to 8,000 barrels per day) are disposed in four active surface sumps, in accordance with waste discharge requirements issued by the Regional Water Quality Control Board.

Comment Code: Private Industry CHV-97

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.4-8, sentence 3 to read:

Most produced water on NPR-1 is injected into the Tulare Zone, portions of which have been designated as an exempt aquifer for the purpose of Class II underground injection (meaning that Class II injection can occur without having to protect the Tulare Zone as an underground source of drinking water).

Comment Code: Private Industry CHV-98

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.4-13, paragraph 3, sentence 4 to read:

Wells must be plugged and abandoned in a manner that prevents movement of fluids into or between underground sources of drinking water.

Comment Code: Private Industry CHV-99

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.4-15, paragraph 1, sentence 3 to read:

However, if an injection well leaks or fails mechanically, the impact on drinking water should not be significant because the Tulare Zone is an exempt aquifer for Class II underground injection (meaning that it is not protected as an underground source of drinking water). In addition, available data indicate that local groundwater is typically nonpotable due to high total dissolved solids levels.

Comment Code: Private Industry CHV-100

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.4-15 paragraph 5 to read:

There are five active sumps used to dispose of produced water at NPR-1. Four sumps, all located in Section 10G, are in regular use and receive a total of 7,000 to 8,000 barrels of produced water per day. The other active sump, located in Section 26Z, is used only in emergency or abnormal situations, when produced waters cannot be disposed of through normal means (e.g., during injection well system shutdowns). Overall, continued use of these sumps should not cause significant environmental impacts. As it has in the past, the amount of produced water disposed of in sumps is expected to decline, as oil and water production levels continue to trend downward.

and more of the produced water is recycled for waterflooding purposes. There are no new sumps planned for the site. In addition, the active sumps are permitted by the Regional Water Quality Control Board and designed to avoid impacts to drinking water supplies. For example, the one active sump located in an alluvial area where produced water could percolate and potentially contaminate a drinking water aquifer (the emergency sump in Section 26Z) is equipped with a liner.

Although there are several other sumps onsite in Sections 9G and 18G, they are all inactive. Closure and remediation activities of old sumps are summarized in Section 3.2.3.

Comment Code: Private Industry CHV-101

Response: Comment noted. The referenced text has been modified accordingly.

Errata: Change page 4.4-17 bullet 4 to read:

Obtaining permits and complying with waste discharge requirements issued by the Regional Water Quality Control Board for the disposal of produced water in surface sumps; and

Comment Code: Private Industry CHV-102

Response: Due to the affirmative Federal obligation to protect the environment over and above statutory minimums, it cannot be said with certainty that the new owner will adopt similar plans that provide the same level of protection and the cited paragraph reflects this. However, DOE and Kern County agree that the difference in the plans in this instance would not be significant.

Errata: None.

Comment Code: Private Industry CHV-103

Response: As stated in response to Comment CHV-25, DOE believes that the risk of oil spills is not significant, even assuming an increase in future oil spills corresponding to increased production levels. Nevertheless, DOE acknowledges that an increased availability and commitment of capital under the commercial development case could counteract an increased spill risk caused by increased production levels. This concept has been reflected in revised text.

Errata: Change page 4.4-20, paragraph 3, sentence 1 and 2 to read:

The higher production levels expected in the upper bound of the Commercial Development Case, compared to the Reference Case and the upper bound of the Government Development Case, would result in a need for larger volumes of fresh water, a larger number of wells, and larger volumes of produced water and fluid injection. These increased volumes also would imply an increased risk of spills, although an increased availability and commitment of capital toward system maintenance and improvements by commercial entities could act to offset this increased risk.

Comment Code: Private Industry CHV-104

Response: Comment noted. The referenced text has been revised accordingly.

Errata: Change page 4.4-21 paragraph 3, sentence 1 to read:

Finally, ... that migrate offsite, outside the portion of the Tulare Zone designated as an exempt aquifer for the purpose of Class II underground injection.

Comment Code: Private Industry CHV-105

Response: See response to CHV-21.

Errata: None.

Comment Code: Private Industry CHV-106

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-107

Response: The comment implies that reconsultation under the 1995 Biological Opinion could occur. As the DSEIS/PEIR discusses, the new owner would have to obtain a Section 10 permit.

Errata: None.

Comment Code: Private Industry CHV-108

Response: See response to CHV-69.

Errata: None.

Comment Code: Private Industry CHV-109

Response: See Figure 2.5-1 and the VFHCP. DOE and Kern County agree with the proposed change. See page 4.5-11 in the DSEIS/PEIR and the revision of Section 4.5 in Chapter 4.

Errata: Change page 4.5-5, paragraph 2, sentence 3 to read:

"However, even that impact could be mitigated to less than significant levels within the meaning of CEQA by the adoption and implementation of a regional HCP or other mitigation measures properly structured to account for the loss of the Federal protection of NPR-1."

Comment Code: Private Industry CHV-110

Response: See response to Comment CHV-34.

Errata: None.

Comment Code: Private Industry CHV-111

Response: See response to Comment CHV-25.

Errata: None.

Comment Code: Private Industry CHV-112

Response: See response to CHV-34.

Errata: None.

Comment Code: Private Industry CHV-113

Response: DOE and Kern County disagree with general comment 2, see Major Issue 1.4, Loss of Affirmative Federal Obligation. The comment on the possibility that the new owner would not accept the transfer of the terms and conditions of the Biological Opinion is noted. In fact, the proposed purchaser has accepted the transfer of the Biological Opinion. Therefore, no response is required. DOE and Kern County disagree with the comment that the mitigation measures are confusing. The tables and the narrative explain their origin and organization.

Errata: None.

Comment Code: Private Industry CHV-114

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation, and response to Comment CHV-113.

Errata: None.

Comment Code: Private Industry CHV-115

Response: DOE and Kern County do not agree with the comment. As the items are from the 1995 Biological Opinion, they do not represent items addressed in the 1993 SEIS.

Errata: None.

Comment Code: Private Industry CHV-116

Response: See response to Comment CHV-115.

Errata: None.

Comment Code: Private Industry CHV-117

Response: See Major response 1.4, Loss of Affirmative Federal Obligation. Regarding the ultimate disposition of NPR-1, see Major Issue 1.8, Future Uses of the NPR-1 Property.

Errata: None.

Comment Code: Private Industry CHV-118

Response: As indicated in Comment DOI-7, revegetation is not a mitigation measure that FWS would include in future consultation.

Errata: None.

Comment Code: Private Industry CHV-119

Response: See response to Comment CHV-118.

Errata: None.

Comment Code: Private Industry CHV-120

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry CHV-121

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation, and response CHV-113.

Errata: None.

Comment Code: Private Industry CHV-122

Response: See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Private Industry CHV-123

Response: See Major Issue 1.6, Mitigation Implementation Process, and Major Issue 1.8, Future Uses of the NPR-1 Property.

Errata: None.

Comment Code: Private Industry CHV-124

Response: Comment noted. See Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Private Industry CHV-125

Response: DOE and Kern County disagree with the comment. The table reflects the discussion in the section.

Errata: None.

Comment Code: Private Industry CHV-126

Response: See the response to Comment AG1-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-127

Response: See the response to Comment AG1-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-128

Response: See the response to Comment AG2-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-129

Response: See the response to Comment AG2-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-130

Response: See the response to Comment AG2-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-131

Response: See the response to Comment AG2-1 and revised Section 4.6 in Chapter 4.

Errata: None.

Comment Code: Private Industry CHV-132

Response: The above comment concerning the California Teachers Retirement Fund is mentioned in Section 4.9.3.3. (page 4.9-6) of the DSEIS/PEIR.

Errata: None.

Comment Code: Private Industry CHV-133

Response: See response to Comment CHV-25.

Errata: None.

Comment Code: Private Industry CHV-134

Response: See response to Comment CHV-25.

Errata: None.

Comment Code: Private Industry CHV-135

Response: Table 4.10-4 is a matrix showing qualitatively the relative risk of various hazard scenarios. The matrix illustrates that certain combinations of accident likelihood and severity, the two major components of risk, are significant with respect to public safety. Such significant combinations are indicated as shaded areas in the matrix.

Errata: See Chapter 4 for a table with darker shading.

Comment Code: Private Industry CHV-136

Response: DOE estimated impacts under both government and commercial operation scenarios based on an analysis of historical oil spill and accident data for NPR-1. DOE used these data to determine spill or accident rates associated with particular activities (e.g., production of a barrel of oil, remedial actions, etc.). DOE then applied these rates to production levels under the various alternatives for purposes of comparison. DOE believes this is a valid approach for estimating impacts and that the results do not understate impacts related to the Government Operation.

Using this methodology, the No Action Alternative would result in less impact than the Proposed Alternative since the risk of spills increases with increased production levels projected under commercial development. DOE did not base this finding on any existing study.

Finally, the commenter refers to studies indicating that the performance of operations at NPR-1 is below industry's performance, without providing any references. Thus, DOE cannot respond with specificity to this matter.

Errata: None.

Comment Code: Private Industry CHV-137

Response: See response to Comment CHV-25.

Errata: None.

Comment Code: Private Industry CHV-138

Response: See response to Comment CHV-25.

Errata: None.

Comment Code: Private Industry CHV-139

Response: Comment noted. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry CHV-140

Response: The referenced section is a requirement of NEPA, and is a standard section in all EIS's.

Comment Code: Private Industry KOR-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry KOR-2

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry KOR-3

Response: Comment noted. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry KOR-4

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry PGE-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry PGE-2

Response: Comment noted. No response required.

Errata: None.

Comment Code: Private Industry PGE-3

Response: DOE believes that the existing electrical system of substations and transmission lines is adequate to accommodate expanded production from NPR-1 and the replacement of internal combustion powered compressors. See modified discussion of future electric power use in Section 4.11.3. However, it should be noted that the document is a program level EIR and if additional electrical facilities are required in the future, appropriate CEQA review will occur at that time.

Errata: Insert the following after page 4.11-2, paragraph 2, the last sentence:

As the existing transmission lines and associated facilities were developed to support higher levels of electricity use on NPR-1 before the installation of the on-site cogeneration facility, these facilities are adequate to handle any future needs for the delivery of electric power to the site in excess of the capacity of the cogeneration plant without the need for any significant new construction that might impact the surrounding environment.

Comment Code: Private Industry PGE-4

Response: See the response to Comment PGE-3.

Errata: None.

Comment Code: Private Industry PEN-1

Response: Several commenters have noted concerns about the socioeconomic impacts related to the sale of NPR-1. However, DOE and Kern County disagree that the Section 4.9 is flawed. See Major Issue 1.7, Socioeconomics. It further should be noted that these issues are beyond the scope of CEQA.

Errata: None.

Comment Code: Private Industry PEN-2

Response: Comment noted. See Major Issue Section 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry PEN-3

Response: The commenter addresses issues related to the outcome of the sale of Elk Hills and its impact on the West Coast Petroleum market, which are shared by others. DOE and Kern County disagree that the DSEIS/PEIR misrepresents the impacts of the Proposed Action and Alternatives. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry PEN-4

Response: Concerns about regional or state-wide impacts as a result of the sale of NPR-1 are noted. However, DOE and Kern County disagree that significant impacts have been omitted from the document. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry PEN-5

Response: The 200 to 300 jobs that were estimated to be eliminated in the DSEIS/PEIR consist mainly of non-field personnel that are associated with the Federal government's current operations at the site. The respondent's assertion that job losses could be less, depending on the nature of the winning bidder, would not alter the conclusion of the DSEIS/PEIR that the surrounding physical environment will not be negatively impacted as a result of any socioeconomic effects that result from the proposed sale.

Errata: None.

Comment Code: Private Industry PEN-6

Response: Concerns about potential impacts on upstream oil and gas operations as a result of selling NPR-1 to a private entity--whether the buyer is an integrated California oil company or has existing production operations in the area--are noted. However, DOE and Kern County disagree that the DSEIS/PEIR does not adequately address socioeconomic impacts. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Private Industry PEN-7

Response: DOE notes that this assumption was used in the 1993 EIS because NPR's demand for goods and services can not be entirely met by regional supplies. According to the 1995 Annual Report, less than five percent of total NPR expenditures accounted for the salaries and support of the Government employees at Elk Hills. The majority of NPR expenditures were made for engineering support services, which were provided by a firm headquartered outside of the region.

Errata: None.

Comment Code: Private Industry PEN-8

Response: Concerns about the actual operating expenditures for NPR-1 are noted. However, DOE and Kern County disagree that the report overstates these numbers. According to NPR's Annual Report of Operations, during fiscal year 1995, total costs at NPR-1 were \$169,608,231, which is consistent with the estimate used in the DSEIS/PEIR.

Errata: None.

Comment Code: Private Industry PEN-9

Response: This assumption is consistent with that used in the 1993 SEIS. This assumption was made because the manufacturing and retail sale of this equipment is generally found outside of the County. Consequently, the expenditures made by NPR for this type of equipment do not generally benefit the local economy.

Errata: None.

Comment Code: Private Industry PEN-10

Response: As discussed in the document, NPR-1 is currently in full compliance with all SJUVAPCD permits and expects to remain in full compliance until the time of the sale, at which time recompliance responsibility would transfer to the new owner. Any failure to file a plan, while violating the regulation, would not result in significant air quality impacts. NEPA and CEQA do not require the analyses of impacts unless they are reasonably foreseeable.

Errata: None.

Comment Code: Private Industry PEN-11

Response: As the new National Ambient Air Quality Standards for PM_{2.5} and ozone had not been adopted before the DSEIS/PEIR was prepared, it did not address the consequences. Now that the new NAAQS have been adopted, more details are available on the NAAQS. Note,

however, that EPA has not indicated how the new PM_{2.5} NAAQS will be addressed. See the revised text for Section 3.3 in Chapter 4.

Errata: See errata for response to Comment CHV-64.

Comment Code: Private Industry PEN-12

Response: DOE and Kern County believe that the assumptions used to model air emissions for the DSEIS/PEIR fairly represent the facility and emissions sources as they are currently configured at Elk Hills. As the set-aside is likely to occur in the least developed areas of NPR-1, it is unlikely that the establishment of the conservation areas would affect the facility air emissions in a material fashion.

Errata: None.

Comment Code: Private Industry PEN-13

Response: As the exact equipment and configuration of facilities under the proposed action could vary, the DSEIS/PEIR analyzed the maximum emissions that might result from the proposed action.

Errata: None.

Comment Code: Private Industry PEN-14

Response: As the DSEIS/PEIR states in Section 4.5, P.L. 104-106 authorizes the transfer of the terms and conditions of the Biological Opinion. See also the letter from the Department of the Interior in the Appendix. Therefore this should not be a concern for any new operator.

Errata: None.

Comment Code: Private Industry PEN-15

Response: As Section 4.5 of the DSEIS/PEIR indicates, obtaining these permits would be a key concern of any new owner. However, CDFG appears prepared to work with the new owner, as indicated by their proposed memorandum of understanding attached to their comment letter.

Errata: None.

Comment Code: Private Industry PEN-16

Response: The objective of the DSEIS/PEIR is to analyze the impacts of the Proposed Action and Alternatives, not determine how to maximize the value of NPR-1 to the government, which is part of the sales process. See Major Issue 1.7, Socioeconomics.

Errata: None.

Associations

Comment Code: Association CNP-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Association CNP-2

Response: See Major Issue 1.6.1, Mitigation Implementation Process.

Errata: None.

Comment Code: Association CC1-1

Response: Comment noted. See revision to Section 2.2 in Chapter 4.

Errata: Change page 2.2-2, paragraph 4, sentence 5 to read;

In carrying out its authorities, DOGGR is advised by the Conservation Committee of California Oil and Gas Producers (CCCOGP), a unique, industry supported, tax exempt organization that was created in 1929 and that pursuant to state statute has administered a voluntary hydrocarbon resource conservation program for DOGGR since 1995.

Comment Code: Association CC1-2

Response: Comment noted. See revision to section 3.11.1.

Errata: Change page 3.11-1, paragraph 3 to read:

The Conservation Committee of California Oil and Gas Producers (CCCOGP) is an industry-supported, tax exempt organization that was created in 1929 and that pursuant to state statute has administered a voluntary hydrocarbon resource conservation program for the DOGGR since 1955. CCCOGP represents the oil and gas industry before the DOGGR on matters related to oil and gas conservation. Comprised of both majors and independents, membership accounts for over 80-percent of California production, excluding Elk Hills. It is funded by millage on production of large producers and by a fixed membership fee of \$60 per year for very small producers.

Comment Code: Association CC1-3

Response: Comment noted. See revision to Section 3.11.1.

Errata: Change page 3.11-1, paragraph 4, sentence 1 to read:

The Committee's conservation efforts have been compared to the Texas Railroad Commission's production proration program with the significant exception that it is operated by the industry rather than the state.

Comment Code: Association CC1-4

Response: Comment noted. See revision to Section 3.11.1.

Errata: Change page 3.11-1, paragraph 4, sentence 4 to read:

The Committee collects, prints, and distributes information on oil and gas operations in the state.

Comment Code: Association EDF-1

Response: Several commenters have discussed their concerns that mitigation measures might not be sufficient to protect endangered species, like that of the San Joaquin kit fox. However, DOE and Kern County believe that the proposed mitigation measures meet the requirements of CEQA to identify measures that would mitigate impacts to less than significant. The California DFG comments (comments from a state agency with responsibilities under both CEQA and the California endangered species act) are relevant with respect to this point. See Comment CFG-18. In addition, see Major Issues Section 1.6, Mitigation Implementation Process. DOE and Kern County further believe that the DSEIS/PEIR adequately delineates the impacts to biological resources in Section 4.5 and analyzes the level of significance.

Errata: None.

Comment Code: Association EDF-2

Response: The extinction of any endangered species is of great concern. However, the disclosure delineated in this comment would not change the overall impact analysis or mitigation discussion of the DSEIS/PEIR. It is uncertain which "reduced protection" the comment is referring to. DOE and Kern County do not agree that the small level of reduced protection after the implementation of the mitigation measures that would be imposed during the state CEQA and permitting process and any future Federal permitting process virtually assures a continued decline. As the DSEIS/PEIR discusses, the primary factors currently affecting the kit fox population at NPR-1 are predation and rainfall. DOE has a substantial history of operations at NPR-1 and has conducted substantial studies of the effects of those operations on the threatened

and endangered species located there. Nothing in DOE's experience demonstrates that even with accelerated development under a commercial owner, the impacts to those species cannot be mitigated. Therefore, DOE lacks any basis on which to conclude that with, mitigation, the Proposed Action will increase the likelihood of the extinction of all four species. DOE and Kern County do acknowledge however, that given the time frame covered by the document, future enforcement of these mitigation measures remains uncertain. See Major Issue 1.4, Loss of the Affirmative Federal Obligation.

Errata: None.

Comment Code: Association EDF-3

Response: Concerns about the responsibilities of private parties to protect endangered and threatened species are noted. However, DOE and Kern County disagree with this comment. The DSEIS/PEIR clearly defines the impacts to biological resources, including the loss of affirmative federal obligations to protect, conserve and help recover threatened and endangered species and their habitats. It also provides mitigation measures for the loss of affirmative federal obligations (BRMs on p. 4.5-31 and 4.5-32), and includes measures for compensation of habitat loss (BRM-17.2) as well as conservation measures (BRM-19.1 and BRM-19.2). Section 10 is not the only mechanism available for limiting or mitigating impacts on biological resources discussed in the document. See Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Association EDF-4

Response: DOE and Kern County believe that the comment understates the responsibilities of a private owner, particularly with respect to the requirements for the development of a habitat conservation plan. Notwithstanding those obligations, they do agree that, without more, the transition from the Section 7 process to the Section 10 process would involve significant impacts to threatened and endangered species. However, the CEQA mitigation obligation should assure appropriate mitigation is adopted. See response to EDF-3, as well as the discussion under Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Association EDF-5

Response: DOE and Kern County disagree that monitoring has to occur before mitigation would apply. Many of the mitigation measures discussed in the document, some of which are typically included as mitigating measures in Section 10 permits, are sufficiently broad to permit their implementation without detailed project plans or extensive additional monitoring. See response to EDF-3, as well as the discussion under Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Association SC1-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Association SC1-2

Response: DOE and Kern County are aware that this study is out in draft form for public comment but have not reviewed that document in preparing this DSEIS/PEIR; however, the importance of habitat to threatened and endangered species is well recognized. As the document indicates, extensive biological resource references were used and cited in preparation DSEIS/PEIR.

Errata: None.

Comment Code: Association SC1-3

Response: Comment noted. See revision to Section 3.7 in Chapter 3.

Errata: Insert the following after page 3.7-2, paragraph 6, sentence 1:

Other major open areas include the 6,000 acre Coles Levee Ecosystem Preserve.

Comment Code: Association SC1-4

Response: Comment noted. See Major Issues Section 1.1, DOE's Preferred Alternative.

Errata: None.

Comment Code: Association SC1-5

Response: Comment noted. No response required.

Errata: None.

Comment Code: Association SC1-6

Response: FWS and CDFG do not consider this species as a candidate for listing and therefore, it would be beyond the scope of this document to analyze the eligibility of this species for protected status.

Errata: None.

Comment Code: Association SC1-7

Response: See the new table for inclusion in Section 4.11 in Chapter 4.

Errata: Insert the following table after page 4.11-1, paragraph 3:

**NPR-1 Summary of Production Projections With Energy Equivalents
of Total Energy Consumption For All Development Cases**

	Production Projections Total 1997- End of Field Life (MMBOE)	Energy Equivalent^a of Total 1996 Energy Consumption^b (days)
Reference Case Total Hydrocarbon Production	856	31.13
Government Case - Lower Bound Total Hydrocarbon Production	582	21.16
Government Case - Upper Bound Total Hydrocarbon Production	1,089	39.60
Commercial Case - Lower Bound Total Hydrocarbon Production	918	33.38
Commercial Case - Upper Bound Total Hydrocarbon Production	1,433	44.55

^a = Energy equivalent calculated using the conversion equation bbl = 5.800mmbtu and with the statistic 1996 Total US Energy Consumption = 58.214 quadrillion btu.

$((\text{Case amount MMBOE} * 5800000 \text{ btu per bbl}) / 58.214 \text{ quad btu per year}) * 365 \text{ days}$

^b = The 1996 Total US Energy Consumption estimate was referenced from the EIA/DOE website for petroleum and natural gas consumption in the United States.

Comment Code: Association SC1-8

Response: The diluent issue is discussed in Section 4.11.5 of the DSEIS/PEIR. The discussion in Major Issue 1.7, Socioeconomics, is also relevant to this comment.

Errata: None.

Comment Code: Association WIR-1

Response: Comment noted. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-2

Response: Comment noted. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-3

Response: Comment noted. No response required.

Errata: None.

Comment Code: Association WIR-4

Response: DOE and Kern County are unaware of any studies, analyses or other information to support this Comment.

Errata: None.

Comment Code: Association WIR-5

Response: Comment noted. See Major Issue Section 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-6

Response: DOE notes that currently, purchasers of the small refiner set-aside under NPR-1 sales are prohibited from trading the crude. DOE and Kern county assume this comment refers to possible future trades if small refineries have access to NPR-1 crude after the sale. See Major Issue Section 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-7

Response: Comment noted. See Major Issue Section 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-8

Response: DOE acknowledges the concern. See Major Issue 1.7, Socioeconomics.

Errata: None.

Comment Code: Association WIR-9

Response: See Major Issue 1.7, Socioeconomics. No information was provided in Comment that would invalidate the conclusions of the DSEIS/PEIR with respect to the environmental impacts of the Proposed Action.

Errata: None.

Comment Code: Association WIL-1

Response: Several commenters have discussed reconsultation with the USFWS. See Major Issue 1.3, Reconsultation Under the Biological Opinion.

Errata: None.

Comment Code: Association WIL-2

Response: DOE and Kern County acknowledge this concern about mitigation efforts. See Major Issue Section 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Association SWS-1

Response: DOE and Kern County acknowledges this concern. However, see Major Issue 1.3, Reconsultation Under the Biological Opinion. See also Major Issue 1.4, Loss of the Affirmative Federal Obligation, and 1.8, Future Uses of the NPR-1 Property.

Errata: None.

Comment Code: Association SWS-2

Response: DOE and Kern County acknowledge this concern. See Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Association SWS-3

Response: DOE and Kern County acknowledge this concern. See Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Concerned Citizens

Comment Code: Concerned Citizen S_F-1

Response: The concern about mitigation details are noted. However, DOE and Kern County disagree with the comment. See Major Issue 1.4, Loss of Affirmative Federal Obligation.

Errata: None.

Comment Code: Concerned Citizen S_F-2

Response: The DSEIS/PEIR states on Page 4.5-4 that the existing permit would only cover the short-term operations of a new owner. It also states that "[a]s these are the same protections that DOE applies in its operations, this would mitigate the impacts to biological resources from commercial ownership to less than significant, at least for the short term." With regard to future land uses after the field is depleted, see Major Issue 1.8, Future Uses of the NPR-1 Property.

Errata: None.

Comment Code: Concerned Citizen S_F-3

Response: DOE acknowledges the concern, but must comply with P.L. 104-106; see Major Issue Section 1.1, DOE's Preferred Alternative. Regarding the analysis of transferring NPR-1 to BLM, also see Major Issue 1.1, DOE's Preferred Alternative.

Errata: None.

Comment Code: Concerned Citizen S_F-4

Response: DOE and Kern County recognize the concern that there is the long-term potential loss of valuable habitat, see Major Issue 1.8, Future Uses of the NPR-1 Property.

Errata: None.

Comment Code: Concerned Citizen S_F-5

Response: The DSEIS/PEIR does consider selling the mineral rights and transferring the remaining property rights to BLM. As the discussion of this alternative indicates, the key consideration is Federal ownership, not which agency manages the land. Analysis of USFWS managing the land as a separate alternative would not add to an understanding of the issues. DOE acknowledges the concern about the land being sold and then re-acquired for habitat

conservation, see Major Issue 1.1, DOE's Preferred Alternative, and 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Concerned Citizen S_F-6

Response: As the DSEIS/PEIR discusses, P.L. 104-106 establishes a process for assuring that the government receives full market value for NPR-1.

Errata: None.

Comment Code: Concerned Citizen S_F-7

Response: NPR-1 was offered for sale in 14 separate segments. The largest segment (approximately 74% of DOE's interest in NPR-1) would give the purchaser approximately 51% of the entire NPR-1 field and would constitute the operatorship for the entire field. The remainder (approximately 26% of DOE's interests in NPR-1) was offered as thirteen 2% segments. The statutory requirements of P.L. 104-106 precluded the conducting of the sale over an extended time period.

Errata: None.

Comment Code: Concerned Citizen S_F-8

Response: DOE refers the commenter to Major Issue 1.6, Mitigation Implementation Process, which discusses how mitigation measures, including conservation easements, are addressed in the sales process.

Errata: None.

Comment Code: Concerned Citizen S_F-9

Response: This concern is acknowledged but is beyond the scope of NEPA.

Errata: None.

Comment Code: Concerned Citizen S_F-10

Response: NEPA requires a comparison of alternatives based on environmental considerations, not economic considerations. See Major Issue 1.1, DOE's Preferred Alternative.

Errata: None.

Comment Code: Concerned Citizen S_F-11

Response: See the revised section 4.6 in Chapter 4 for the latest information on DOE's plans to mitigate impacts to cultural resources.

Errata: None.

Comment Code: Concerned Citizen PAK-1

Response: DOE and Kern County disagree that the document was not well researched. The reader is referred to the EPA comment letter rating the document. DOE and Kern County also disagree that the document requires greater detail. With respect to the effectiveness of mitigation measures, see Major Issue 1.6, Mitigation Implementation Process.

Errata: None.

Comment Code: Concerned Citizen PAK-2

Response: See Major Issue 1.3, Reconsultation Under the Biological Opinion and the DOI letter in the Appendix. DOE and Kern County disagree that the Proposed Action and the Alternatives go far beyond the levels addressed by the 1995 Biological Opinion document's quantitative analysis of future production and acreage disturbance. Finally, the document includes numerous mitigation measures that go significantly beyond the 1995 Biological Opinion.

Errata: None.

Comment Code: Concerned Citizen PAK-3

Response: DOE and Kern County agree to some extent that the mitigation measures are imprecise. This is due to the need for broad mitigation measures that could cover the broad range of future actions at Elk Hills. DOE and Kern County disagree that the document does not address the consequences to listed plants of the proposed action. See also the discussion under Major Issue 1.6, Mitigation Implementation Process and 1.3, Need for Reconsultation. Also, it should again be noted that this is a Program level EIR and to the extent that a new owner might propose a development different from that described in the document, additional CEQA analysis including possible additional mitigation measures would be required.

Errata: None.

Comment Code: Concerned Citizen D_M-1

Response: Section 3416 of P.L. 104-106 indicates a Congressional intent that actions with respect to the other naval petroleum reserves other than retention and operation by DOE would

be undertaken by legislative action. Therefore, DOE does not intend to proceed until Congressional direction is forthcoming.

Errata: None.

Public Hearing Comments

Comment Code: Public Hearing Commenter SC2-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Public Hearing Commenter SC2-2

Response: See response to Comment SC1-2, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-3

Response: See response to Comment SC1-3, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-4

Response: See response to Comment SC1-4 and SC1-5, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-5

Response: See response to Comment SC1-6, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-6

Response: See response to Comment SC1-7, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-7

Response: See response to Comment SC1-8, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-8

Response: See response to Comment SC1-7, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter SC2-9

Response: See response to Comment SC1-7, the written version of this public hearing comment.

Errata: None.

Comment Code: Public Hearing Commenter WSP-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Public Hearing Commenter AG1-1

Response: DOE and Kern County agree that this section of the document should be expanded to reflect events since the DSEIS/PEIR was published. See Chapter 4 for the revised Section 4.6.

Errata: See revised Section 4.6.

Comment Code: Public Hearing Commenter KRP-1

Response: DOE and Kern County share the commenter's concern about the preservation of cultural sites and the restoration of grave sites. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Public Hearing Commenter CC2-1

Response: Comment noted. No response required.

Errata: None.

Comment Code: Public Hearing Commenter AG2-1

Response: The comment correctly summarizes from the DSEIS/PEIR. A new private owner would need to apply for a Section 10 permit if NPR-1 is developed at production levels above those contained in the 1995 Biological Opinion. For the meaning of current level of operation, please refer to the 1995 Biological Opinion. Also see the comments from the U.S. Fish and Wildlife Service (USFWS) in this document. Regarding the additional 411 acres, the new owner would have to reconsult with USFWS if projects at NPR would permanently disturb more than the 828 acres allowed under the 1995 Biological Opinion (417 having already been disturbed by DOE operations).

Errata: None.

Comment Code: Public Hearing Commenter AG2-2

Response: The proposed purchaser will be required to comply with all the terms and conditions of the 1995 Biological Opinion. See also the letter from the Department of Interior in the Appendix to this document. In essence, as the DSEIS/PEIR indicates, compliance with the 1995 Biological Opinion requires the implementation of all current protection species programs ongoing at NPR-1. These are summarized in the document. There are two key documents that fully explain the obligations of the new owner, the 1995 Biological Opinion and the "Conservation Plan for Protected Species on NPR-1" referenced in the 1995 Biological Opinion and the DSEIS/PEIR. The 1995 Biological Opinion is included in the DSEIS/PEIR; the Conservation Plan is available in the public reading room.

Errata: None.

Comment Code: Public Hearing Commenter AG2-3

Response: The new owner will have to apply for a Section 2081 permit of the California Fish and Game Code for the incidental taking of threatened and endangered species on NPR-1. The transfer of ownership does not assure that the new owner would obtain a Section 2081 permit. However, the fact that CDFG has proposed a Memorandum of Understanding between the Elk Hills unit operator and CDFG should facilitate the process for obtaining a 2081 permit that would allow the new owner to proceed with expanded development of NPR-1. For further information, see the letter from CDFG.

Errata: None.

Comment Code: Public Hearing Commenter AG2-4

Response: See response AG2-3.

Errata: None.

Comment Code: Public Hearing Commenter AG2-5

Response: See response to Comment AG2-3.

Errata: None.

Comment Code: Public Hearing Commenter CCB-1

Response: Several commenters have expressed concern about the desecration of grave sites. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

Comment Code: Public Hearing Commenter CCB-2

Response: DOE and Kern County have included measures to mitigate possible damage to culturally sensitive sites. See Major Issue 1.5, Native American Cultural Resources.

Errata: None.

CHAPTER FOUR

Changes to the Draft Supplemental Environmental Impact Statement/ Program Environmental Impact Report

Editorial note: The paragraphs referred to in this Chapter are full paragraphs counting from the top of a given page. Thus, paragraph 2, for example, refers to the second complete paragraph on the page.
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EXECUTIVE SUMMARY

Replace on ES-1, heading "Executive Summary" to read:

Summary

Change page numbers ES-1 to ES-20 to S-1 to S-20.

Insert the following after page ES-2, paragraph 3, sentence 1:

DOE has selected the Proposed Action as its Preferred Alternative.

Change page ES-2, paragraph 4, sentence 3 to read:

Estimated total production for the Commercial Development Case ranges from approximately 849 to 1,225 million barrels of oil equivalent from 1997 to 2034.

Change page ES-5, paragraph 1, sentence 5 to read:

Estimated total production for the Reference Case is approximately 730 million barrels of oil equivalent (including oil, gas, and other non-gas liquids) from 1997 through 2034.

Change page ES-5, paragraph 2, sentence 4 to read:

Estimated total production for the Government Development Case ranges from approximately 689 to 950 million barrel of oil equivalents from 1997 through 2034

Change page ES-7, paragraph 3, sentence 2 to read:

Currently there are approximately 200 active wells, 225 abandoned or idle wells, 34 tank settings and six oil/water sumps on DOE lands within NPR-2.

Change page ES-7, paragraph 3, sentence 3 to read:

Expected activities in NPR-2 include drilling and completing approximately 75 new production wells.

Change page ES-7, paragraph 3, sentence 6 to read:

In addition, petroleum support facilities would be kept in good repair to ensure operation of tank settings and oil/water/gas hydration/lease automatic custody transfer (LACT) units.

Change page ES-8, item 2, sentence 1 to read:

NPR-2 Sale of Remaining Mineral Rights Subject to Current Leases and Transfer of Remaining Interest to BLM for Management of the Surface Interest in Accordance with Federal Law would have DOE sell the remaining mineral rights in NPR-2, subject to existing leases, and then transfer DOE's current permitting and management responsibilities for the existing leases to BLM.

Replace paragraph 1 on page ES-10 with the following:

The third major impact from the future development of NPRs would be the possibility that state ambient air quality standards for PM₁₀ could be exceeded off-site and on-site Federal ambient air quality standards for NO₂ and state ambient air quality standards for PM₁₀ and SO₂ might be exceeded. As stated in Section 4.3.1, for the two years analyzed, no violations of Federal or state ambient air quality standards were predicted in the areas surrounding NPR-1 with one exception: off-site particulate concentrations (PM₁₀) under all cases are estimated to exceed the state ambient air quality standards for both years. 2001 NO_x emission concentrations on-site are also expected to exceed Federal ambient air quality standards; while 2001 SO₂ concentrations and PM₁₀ concentrations for both years on-site are estimated to exceed state standards. The on-site exceedances are expected to occur where the public does not have access.

Insert the following after page ES-10, paragraph 2, sentence 3:

Assuming an increase in future oil spills corresponding to increased production levels, oil spill risk levels are not considered significant.

Insert the following after page ES-10, paragraph 3, sentence 4:

The risk of contamination is also mitigated somewhat by the fact that local water quality is typically nonpotable due to high total dissolved solids levels.

2. ALTERNATIVES INCLUDING THE PROPOSED ACTION

2.1. OVERVIEW

Insert the following after page 2.1-1, paragraph 1, sentence 3:

DOE has selected the Proposed Action as its Preferred Alternative.

Delete the following in the second sentence in bullet six of Table 2.1-1 on Page 2.1-2:

“and cultural resources”

2.2. NPR-1 PROPOSED ACTION AND ALTERNATIVES

Change page 2.2-1, paragraph 4, sentence 4 to read:

These requirements include environmental compliance, financial responsibility, well activity approval, well closure approval, and proper conservation activities of the natural resource.

Insert the following on page 2.2-2, paragraph 1, sentence 3:

...(for commercial Class II injection wells).

Insert the following after page 2.2-2, paragraph 4, sentence 4:

The DOGGR's discretionary Permit to Conduct Well Operations could include conditions used for environmental mitigation required in the NEPA/CEQA process.

Change page 2.2-2, paragraph 4, sentence 5 to read:

In carrying out its authorities, DOGGR is advised by the Conservation Committee of California Oil and Gas Producers (CCCOGP), a unique, industry supported, tax exempt organization that was created in 1929 and that pursuant to state statute has administered a voluntary hydrocarbon resource conservation program for DOGGR since 1995.

2.2.1. The Reference Case

Change "CCOGP" in Footnote 5 on page 2.2-4 to read:

"CCCOGP"

2.2.3 NPR-1 Proposed Action

Insert the following after page 2.2-11, paragraph 1, sentence 2:

DOE has selected the Proposed Action as its Preferred Alternative.

2.3. NPR-2 RECOMMENDED ACTION AND ALTERNATIVES

2.3.2. NPR-2 Recommended Action

2.3.2.1. NPR-2 Recommended Action: Transfer of NPR-2 to BLM

Change page 2.3-3, paragraph 1, sentence 6 to read:

The Department of Interior's Minerals Management Service would collect royalties from NPR-2 production, as it does for all leases managed by BLM.

2.3.3. NPR-2 Alternatives to the Recommended Action

2.3.3.2. NPR-2 Alternative Considered But Not Analyzed in Detail: Sale of Remaining Mineral Rights Subject to Current Leases and Transfer of Remaining Interest to BLM for Management of the Surface Interest in Accordance with Federal Law

Change page 2.3-5, paragraph 5, sentence 5 to read:

Like the purchasers of the smaller non-operating interests in Sales Scenario 1 of the proposed NPR-1 action, the buyers of the remaining mineral rights would not control how future development of reserves would occur unless the buyer were the same as the existing lessee of a given tract of land.

2.4. CUMULATIVE PROJECTS

2.4.1. Basis for Cumulative Projects

Change page 2.4-1, paragraph 3, sentence 4 to read:

For comparative purposes, that EIS estimates that 150 to 260 new wells would be drilled annually on Federal lands compared to the highest projected well drilling activities under this DSEIS/PEIR of 89 new wells to be drilled on NPR-1 and NPR-2.

2.4.2. Cumulative Oil and Gas Projects

Change page 2.4-2, paragraph 4, sentence 6 to read:

Although Elk Hills is the fourth largest oil field in California, from 1994 to 1995 it ranked third among the top ten oil fields with the largest production decreases.

Change page 2.4-3, paragraph 1, sentence 6 to read:

Buena Vista ranks tenth among the California giant oil fields, with ultimate recovery of 100 million barrels or more.

Change page 2.4-6, partial paragraph 1, sentence 1 to read:

Producers at Midway-Sunset include BLM lessees and more than 50 private companies and independents.

Insert the following after page 2.4-3, paragraph 3, sentence 1:

Producers at McKittrick include BLM lessees and more than 13 private companies and independents.

Change page 2.4-6, paragraph 7, sentence 4 to read:

Producers at Cymric include BLM lessees and more than 25 private companies and independents.

3 DESCRIPTION OF EXISTING ENVIRONMENT

3.1 GEOLOGY AND SOILS

3.1.6 Soils

Change page 3.1-4 and page 3.1-5 paragraph 4 and paragraph 1 respectively to read:

The soils of Elk Hills are composed of highly stratified deposits that vary greatly in their proportions of gravel, sand, silt, and clay. Some strata are gravelly sands, some are clayey, and some have a loamy texture with a mixture of sand, silt, and clay that is poorly sorted. A few areas have a soil layer that is chemically cemented hardpan (Regal 1997).

Many areas of Elk Hills contain loamy surface soils that are underlain by mottled clayey former lake deposits. Some of the subsurface layers contain gypsum crystals and other salts (e.g., sodium, chlorine, and boron) that commonly accumulate in arid regions. Salt concentrations usually are highest in fine-grained soils where the low permeability associated with these materials, low annual precipitation, and insufficient perennial surface water allow only minimal leaching to occur. In these high-saline areas, plant growth is reduced dramatically and shifts toward more salt-tolerant species.

3.2 HAZARDOUS MATERIALS AND WASTE MANAGEMENT

3.2.1 Applicable Regulations

Change page 3.2-1, paragraph 5, sentence 2 to read:

"and NPR-2 are" with "is"

3.2.3 Updated Status of Waste Facilities

Insert the following footnote on page 3.2-3 at the end of the first partial sentence:

Any hazardous waste or wastes containing PCBs at these transfer areas would be disposed of at a properly permitted facility before transfer of NPR-1 to a new owner.

Change page 3.2-3, Table 3.2-1, fourth row to read:

Facility: Section 20 trash dump
Waste Managed or Contamination (if applicable): general trash
Activity and Status: Cleaned up and sold by ARCO to Vintage in 1997
References: Dave Bone (BPOI)

Change page 3.2-3, Table 3.2-1, seventh row under the “Waste Managed or Contamination (if applicable)” heading to read:

“copper, chrome, and oily soil.”

Delete the last row in Table 3.2-1 on page 3.2-3.

3.3. AIR RESOURCES

3.3.1. Applicable Regulations

Change page 3.3-1, paragraph 4, last sentence, to read:

“SO₂” with “sulfur compound”

Insert the following footnote on page 3.3-1, paragraph 4, last sentence:

Based on a review of Permits to Operate issued by the San Joaquin Valley Unified Air Pollution Control District.

Delete the following from page 3.3-1, paragraph 7, sentence 1:

“ATCs and.”

Change page 3.3-3, paragraph 3, sentence 6 to read:

In general, the larger IC engines did not meet the BARCT standard in 1995. However, with the implementation of appropriate control technology, they are expected to meet the SJVUAPCD limits required by 2001.

Insert the following bullet after page 3.3-4, partial paragraph 1, bullet 3:

- VOC - 546.3 tons per year.

Replace on page 3.3-4, paragraph 1, sentence 2 with the following:

DOE may retain ownership of the ERCs or may transfer them to the new owner. If DOE retains ownership, the new owner may be required to obtain ERCs for any permit modifications with emissions increases. The new owner may obtain the ERCs from DOE or elsewhere. DOE may also transfer the ERCs as a part of the sale. If DOE transfers the ERCs to the new owner, the

new owner would be required to submit an application to transfer ERC certificates at the completion of the sale.

Change on page 3.3-4, paragraph 2, last two sentences to read:

EPA revised the primary standards in July 1997 by adding a new annual $PM_{2.5}$ standard set at 15 microgram/ m^3 and a new 24 hour $PM_{2.5}$ standard set at 65 microgram/ m^3 . EPA will work with states to deploy the $PM_{2.5}$ monitoring networks to determine (1) which areas meet or do not meet the new air quality standards (2) what are the major sources of $PM_{2.5}$ in various regions, and (3) what action is needed to clean up the air. states will have 3 years from the date of being designated nonattainment to develop pollution control plans and submit to EPA showing how they will meet the new standards. Areas will then have up to 10 years from their designation as non attainment to attain $PM_{2.5}$ standards with the possibility of two 1-year extensions.

3.3.2. Baseline Meteorology and Air Quality

Change page 3.3-5, paragraph 2, the first three sentences to read:

Kern County is in nonattainment for ozone and fine dust (PM_{10}) (see Table 3.3-1). In addition, the City of Bakersfield is in nonattainment of the Federal standard for carbon monoxide (CO).

Revise Table 3.3-1 , Kern County Attainment Status, to reflect the following changes:

- The attainment status for the state standard for Ozone is revised to read "Severe Nonattainment"
- The attainment status for the state standard for Carbon Monoxide is revised to read "Attainment".

Delete on page 3.3-5, paragraph 2, sentence 3.

Delete on page 3.3-6, paragraph 1, sentence 7 the following:

"including the Bakersfield nonattainment area."

3.4. WATER RESOURCES

3.4.1. Applicable Regulations

Change page 3.4-1, paragraph 3 to read:

Under the provisions of the Clean Water Act, standards are also set to protect the nation's waters from polluted stormwater discharges. The only waterbody on NPR-1 that has been classified as a navigable waterway, and thus falls under the provisions of the Clean Water Act, is Buena Vista Creek. NPR-1 is presently exempt from the NPDES stormwater discharge permit requirements because there have been no reportable quantity spills into stormwater and because stormwater is basically non-existent at Elk Hills. As a best management practice, however, site personnel have been monitoring Buena Vista Creek and other drainages during storm events since 1992 to determine if any contaminated runoff occurs and if it contains an oily sheen. Existing procedures call for NPR-1 to submit a Notice of Intent to receive coverage under a general NPDES permit for stormwater runoff within 30 days to the California Regional Water Quality Control Board, if a reportable quantity spill occurs into Buena Vista Creek. Other environmentally sensitive areas that have been designated since the establishment of NPR-1 include the Fern Fan Element of the Kern Water Bank located adjacent to the northeast flank of Elk Hills, and the Buena Vista Aquatic Recreation Area located two miles southwest of NPR-1 (BPOI et al. 1995).

Insert the following paragraph after page 3.4-1, paragraph 3:

The seasonal drainages present on NPR-1 are generally under the jurisdiction of the California Department of Fish and Game. Under the Fish and Game Code (section 1600 et seq.), the Department must be notified and streambed alteration agreements must be obtained for work in the bed banks or channels of lakes, ponds, rivers, or streams.

3.5. BIOLOGICAL RESOURCES

Insert the following after page 3.5-1 at the end of footnote 1:

Species recognized as "special" by the state of California are those species listed in the California Natural Diversity Data Base or other similar California data bases listing plant and animals considered to be threatened, rare or sensitive under one or more criteria.

3.5.1. Applicable Regulations

3.5.1.2. *California Endangered Species Act*

Insert on page 3.5-2, paragraph 1, at the end of sentence 6:

in Section 2080.

Delete on page 3.5-2, the last two sentences from bullet 1.

3.5.3. Animal Communities on NPR-1

Change page 3.5-3, paragraph 4, sentence 6 to read:

Both the western whiptail and side-blotched lizard occur on NPR-1, as well as several species of snakes and lizards.

3.5.4. Threatened and Endangered Species on NPR-1

3.5.4.2. Listed Plant Species and Plant Species of Concern on NPR-1

Listed Plant Species for which Suitable Habitat Exists on NPR-1

Kern Mallow.

Change page 3.5-8, paragraph 1, sentence 1 to read:

Kern Mallow (*Eremalche parryi ssp. kernensis*) (Federally endangered, state special) is a small annual plant with mostly small white flowers.

3.5.4.3. Listed Animal Species and Animal Species of Concern on NPR-1

San Joaquin Kit Fox

Status of the San Joaquin Kit Fox on NPR-1.

Insert the following footnote after page 3.5-11, Table 3.5-3, the "BIRDS" heading:

Raptors, while in some cases being designated as California species of special concern, are also protected under the California Fish and Game Code.

Potential Effects of NPR-1 Operations on San Joaquin Kit Fox.

Replace the heading on page 3.5-15, paragraph 6 and delete the words "Potential" and "continued" to read:

Past Effects of NPR-1 Operations on San Joaquin Kit Fox. Effects of oil field development and production under the Reference Case on NPR-1 have been previously discussed in detail (Martinson 1980; Kato and O'Farrell 1986; O'Farrell et al. 1986; Berry et al. 1987; Harris et al. 1987; Kobetich 1987; Scrivner et al. 1987a; Zoellick et al. 1987; DOE 1991; DOE SEIS 1993; Medlin 1995b).

Blunt-nosed Leopard Lizard

Potential Effects of NPR-1 Activities on Blunt-nosed Leopard Lizards.

Replace the heading on page 3.5-17, paragraph 4 and delete the words "potential" and "continuing" to read:

Past Effects of NPR-1 Activities on Blunt-nosed Leopard Lizards. Loss of habitat due to construction and operational activities was identified as the most significant impact on the blunt-nosed leopard lizard of MER development at NPR-1 (Kato and O'Farrell 1986).

Giant Kangaroo Rat

Potential Effects of NPR-1 Activities on Giant Kangaroo Rat.

Replace the heading on page 3.5-20, paragraph 1 and delete the words "Potential" and "continuing" to read:

Past Effects of NPR-1 Activities on Giant Kangaroo Rats. Impacts of NPR-1 operations on the giant kangaroo rat include loss of habitat, burial of burrows, being struck by vehicles, getting caught in an oil spill, exposure to contaminants, and fire (O'Farrell and Kato 1987).

San Joaquin Antelope Squirrel

Potential Effects of NPR-1 Activities on San Joaquin Antelope Squirrel.

Replace the heading on page 3.5-22, paragraph 1 and delete the word "Potential" to read:

Past Effects of NPR-1 Activities on San Joaquin Antelope Squirrel. Loss of habitat, displacement by California ground squirrels (usually found near human activity), mortality or injury from construction activities, vehicle impacts, and getting caught in oil spills or trapped in oil field facilities could adversely affect San Joaquin antelope squirrels at NPR-1. Effects of NPR-1 activities on this species have not been carefully studied, but based on results of sitewide surveys conducted in 1984 and 1989, the decline in observations of this species do not appear to be related to petroleum production activities.

3.6 CULTURAL RESOURCES

3.6.3 Elk Hills Resources

3.6.3.2 Prehistoric Sites

Change page 3.6-10, by deleting the last two sentences in paragraph 3 and adding the following paragraph:

Twelve prehistoric archeological sites at NPR-1 have been evaluated for NRHP eligibility and four have been determined by DOE to be potentially eligible for NRHP listing according to 36 CFR 60.4 (Criterion D): CA-KER-3082 and CA-KER-3085/H. SHPO concurred in this determination in August 1997. Results of a review of all sites and prehistoric resources recorded as of late 1996, with field testing of some in 1997, form the basis for recognition of an Elk Hills Archeological District that is eligible for the NRHP under criterion 36 CFR 60.4(d), based on its potential to yield information important in prehistory.

3.6.3.4. Native American Concerns

Insert the following as the first sentence on page 3.6-11, paragraph 3:

In 1993, DOE completed a programmatic notification and summary in accordance with the NAGPRA agreement.

3.7. LAND USE

3.7.2. Naval Petroleum Reserve No.1

Insert the following paragraph and table after page 3.7-2, paragraph 2:

The site contains various geodetic control monuments of the National Geodetic Survey. The following list of monuments in the general region of the longitude and latitude of NPR-1 was prepared from the Survey's website at <http://www.ngs.noaa.gov>. Federal Agencies are required to contact the Survey prior to moving any such monuments.

Geodetic Control Monuments within the Vicinity of NPR-1

PID	Designation	Lat	Lon
FU1982	V 548	351239	1192412
FU1400	Y 326 UOCO	351259	1193354
FU1401	R 951	351300	1193353
FU2311	LAKE RM 3	351301	1192237
FU2312	LAKE RM 4	351301	1192237
FU2310	LAKE	351302	1192237
FU1980	U 548	351315	1192320
FU1402	1275 USGS	351321	1193414
FU1403	CDS	351324	1193417
FU2309	195 DWR	351326	1192232
FU1977	EH 11 DWR	351328	1192643
FU2303	S 548	351345	1192035
FU2308	T 548	351346	1192232
FU3243	J 1292	351352	1193447
FU2302	R 548	351358	1192048
FU2305	L 1098	351358	1192126
FU2297	192 DWR	351402	1192016
FU1976	EH 10 DWR	351403	1192642
FU1406	Z 326	351425	1193517
FU1975	EH 9 DWR	351442	1192725
FU1407	A 951	351444	1193538
FU1589	EH 8 DWR	351516	1192747
FU1588	EH 7 DWR	351605	1192758
FU3676	PUFF	351606	1192427
FU3679	PIPE MARK NEAR STA PUFF 1958	351606	1192427
FU3675	ELK 2	351611	1192519
FU3677	ELK	351612	1192519
FU3678	BFI 1334	351612	1192519
FU1587	EH 6 DWR	351635	1192804
FU1503	184 DWR	351711	1192009
FU3682	WEST ELK	351717	1193038
FU1586	EH 5 DWR	351722	1192751
FU1506	K 1098 K CO	351734	1192047
FU1514	183 A DWR	351747	1192101
FU1518	182 A DWR	351801	1192128
FU1517	183 DWR	351801	1192130
FU1525	182 DWR	351825	1192217
FU1571	181 DWR	351839	1192305
FU1576	180 A DWR	351906	1192338
FU1584	EH 3 DWR	351911	1192750
FU1568	Z 980	351929	1192335
FU1581	180 DWR	351934	1192443
FU1565	H 981	351950	1192442
FU1583	EH 2 DWR	351953	1192744
FU1558	179 DWR	351958	1192550
FU1582	EH 1 DWR	352020	1192755
FU1551	178 DWR	352022	1192649

3.7.3. Adjacent Land Uses

3.7.3.1 Agriculture and Open Space

Insert the following after page 3.7-2, paragraph 6, sentence 1:

Other major open areas include the 6,000 acre Coles Levee Ecosystem Preserve.

3.7.3 Adjacent Land Uses

3.7.3.3 Water Banking

Change page 3.7-3, paragraph 1, sentences 2 and 3 to read:

The Kern Water Bank Plan is part of the Kern Water Bank Authority and will be managed for water recharge and endangered species. The Bank is approximately 20,000 acres, which is located near the eastern border of NPR-1 and is the subject of an HCP application.

3.11. ENERGY CONSERVATION

3.11.1 Applicable Regulations

Change page 3.11-1, paragraph 3 to read:

The Conservation Committee of California Oil and Gas Producers (CCCOGP) is an industry-supported, tax exempt organization that was created in 1929 and that pursuant to state statute has administrated a voluntary hydrocarbon resource conservation program for the DOGGR since 1955. CCCOGP represents the oil and gas industry before the DOGGR on matters related to oil and gas conservation. Comprised of both majors and independents, membership accounts for over 80-percent of California production, excluding Elk Hills. It is funded by millage on production of large producers and by a fixed membership fee of \$60 per year for very small producers.

Change page 3.11-1, paragraph 4, sentence 1 to read:

The Committee's conservation efforts have been compared to the Texas Railroad Commission's production proration program with the significant exception that it is operated by the industry rather than the state.

Change page 3.11-1, paragraph 4, sentence 4 to read:

The Committee collects, prints, and distributes information on oil and gas operations in the state.

4. ENVIRONMENTAL CONSEQUENCES

4.1. GEOLOGY AND SOILS

4.1.3. NPR-1 Impacts

4.1.3.1 No Action

Change page 4.1-3, paragraph 4, sentence 3 to read:

All critical structures at NPR-1 have been upgraded to conform to design standards.

4.2. HAZARDOUS MATERIALS AND WASTE MANAGEMENT

4.2.1. SUMMARY OF IMPACTS FOR NPR-1

Change page 4.2-1 paragraph 4 to read:

Some programs required by DOE to be implemented under the No Action Alternative (e.g., the RadCon program and environmental training program) may or may not continue on the same level under the Proposed or Alternative to Proposed Action, depending on the environmental practices of the proposed purchaser that ultimately operate the oil and gas production at NPR-1. The waste minimization/pollution prevention program currently implemented by DOE in accordance with DOE Order 0440.1, or some comparable program, is expected to be implemented by the new owner in accordance with the California Hazardous Waste Source Reduction and Management Review Act (California Health and Safety Code Section 25244 et seq.).

Change page 4.2-2, paragraph 4, sentence 1 to add the following footnote:

“Although DOE intends to conduct all necessary remedial action on federally owned lands prior to the transfer date, the State Department of Toxic Substances Control has asked DOE to assess particular areas of the site for possible hazardous substance contamination and that process may extend beyond the transfer date. As a result, in accordance with applicable laws, DOE may submit a request to the Governor to defer the requirement that all necessary remedial action be taken prior to the transfer.” Any deferral is not expected to have a significant impact to the environment, since assessment and remediation would eventually occur under any of the alternatives.

4.2.3 NPR-1 IMPACTS

4.2.3.1 No Action Alternative

Delete the last sentence in the first paragraph on page 4.2-4.

4.3. AIR IMPACTS

4.3.3. NRP-1 Impacts

4.3.3.2. Proposed Action

Insert after page 4.3-5, paragraph 4, sentence 2:

Any such permits would only be issued after a clear demonstration of consistency with the State Implementation Plan.

4.4. WATER RESOURCES

4.4.1 Surface Water

4.4.1.3. NPR-1 Impacts

Change page 4.4-3, paragraph 7, the last two sentences to read:

The only waterbody on NPR-1 that has been classified as a navigable waterway under the Clean Water Act is Buena Vista Creek. Although NPR-1 has been exempted from the Act's stormwater permit requirements, facility personnel (as a best management practice) monitor the quality of stormwater entering Buena Vista Creek during heavy precipitation events. No pollution incidents have been observed since this monitoring was initiated in 1992.

Change page 4.4-3, paragraph 6, sentence 3, to read:

Smaller volumes of produced water (7,000 to 8,000 barrels per day) are disposed in four active surface sumps, in accordance with waste discharge requirements issued by the Regional Water Quality Control Board.

4.4.2. Groundwater

4.4.2.1 Summary of Impacts

Change page 4.4-8, paragraph 4, sentence 3 to read:

Most produced water on NPR-1 is injected into the Tulare Zone, portions of which have been designated as an exempt aquifer for the purpose of Class II underground injection (meaning that Class II injection can occur without having to protect the Tulare Zone as an underground source of drinking water).

4.4.2.3. NPR-1 Impacts

Change page 4.4-13, paragraph 3, sentence 4 to read:

Wells must be plugged and abandoned in a manner that prevents movement of fluids into or between underground sources of drinking water.

Change page 4.4-15, paragraph 1, sentence 3 to read:

However, if an injection well leaks or fails mechanically, the impact on drinking water should not be significant because the Tulare Zone is an exempt aquifer for Class II underground injection (meaning that it is not protected as an underground source of drinking water). In addition, available data indicate that local groundwater is typically nonpotable due to high total dissolved solids levels.

Change page 4.4-15, paragraph 5 to read:

There are five active sumps used to dispose of produced water at NPR-1. Four sumps, all located in Section 10G, are in regular use and receive a total of 7,000 to 8,000 barrels of produced water per day. The other active sump, located in Section 26Z, is used only in emergency or abnormal situations, when produced waters cannot be disposed of through normal means (e.g., during injection well system shutdowns). Overall, continued use of these sumps should not cause significant environmental impacts. As it has in the past, the amount of produced water disposed of in sumps is expected to decline, as oil and water production levels continue to trend downward and more of the produced water is recycled for waterflooding purposes. There are no new sumps planned for the site. In addition, the active sumps are permitted by the Regional Water Quality Control Board and designed to avoid impacts to drinking water supplies. For example, the one active sump located in an alluvial area where produced water could percolate and potentially contaminate a drinking water aquifer (the emergency sump in Section 26Z) is equipped with a liner.

Although there are several other sumps on-site in Sections 9G and 18G, they are all inactive. Closure and remediation activities of old sumps are summarized in Section 3.2.3.

Change page 4.4-17, bullet 4 to read:

- Obtaining permits and complying with waste discharge requirements issued by the Regional Water Quality Control Board for the disposal of produced water in surface sumps; and

Change page 4.4-20, paragraph 3, sentence 1 and 2 to read:

The higher production levels expected in the upper bound of the Commercial Development Case, compared to the Reference Case and the upper bound of the Government Development Case, would result in a need for larger volumes of fresh water, a larger number of wells, and larger volumes of produced water and fluid injection. These increased volumes also would imply an increased risk of spills, although an increased availability and commitment of capital toward system maintenance and improvements by commercial entities could act to offset this increased risk.

Change page 4.4-21, paragraph 3, sentence 1 to read:

Finally, ... that migrate off-site, outside the portion of the Tulare Zone designated as an exempt aquifer for the purpose of Class II underground injection.

4.5. BIOLOGICAL RESOURCES

4.5.1. Summary

4.5.1.1. NPR 1 Impacts

Change page 4.5-4, paragraph 6, sentence 3 to read:

However, subsequent legislation restores CDFG's 2081 permitting authority.

Delete on page 4.5-4, paragraph 6, the last two sentences and insert the following:

It would be in the new owner's best interests to ensure that the additional measures taken to mitigate the impacts of future planned expansion are approved at both the state and Federal levels. Simultaneous negotiations with CDFG and the USFWS would allow the new owner to develop mitigation measures that meet the requirements of CEQA and the California ESA, as well as the Federal ESA. Such joint negotiations would ensure that expanded development of NPR-1 could be carried out as swiftly as possible, without sacrificing the existing level of mitigation. This is the procedure currently employed in developing HCPs and conducting Section 7 consultations in the San Joaquin Valley for jointly listed species.

4.5.1.3. Cumulative Impacts

Change page 4.5-5, paragraph 2, sentence 3 to read:

However, even that impact could be mitigated to less than significant levels within the meaning of CEQA by the adoption and implementation of a regional HCP, or other mitigation measures properly structured to account for the loss of the Federal protection of NRP-1.

4.5.2. Methodology

4.5.2.1 Overview of Approach

Insert the following footnote after page 4.5-6, Table 4.5-2, row 4:

Latest estimates are that only 401 acres have been disturbed to date.

4.5.3. NPR-1 Impacts

4.5.3.1 No Action Alternative

Replace on page 4.5-8, paragraph 1, sentence 1 “...DOE 1987; DOE 1992; DOE 1993” to read:

“EG&G 1987; DOE 1991; DOE 1992”

4.5.3.2. Proposed Action for NPR-1

Change page 4.5-27, paragraph 3 to read:

Issuance of a 2081 permit. Recently enacted legislation (AB21 and SB879) has rendered the California Court of Appeals ruling moot, so that a new owner will be assured of obtaining a 2081 permit. Therefore, this is the most likely approach that a new owner would take in order to obtain the necessary approvals from CDFG. However, these recent changes, enacted in two separate bills, in addition to providing the authority for CDFG to issue a 2081, contain two provisions that are potentially significant to the mitigation of the impacts of the proposed action. Until the necessary regulatory changes are adopted, further understanding of the significance of these changes to the issues analyzed in this document cannot be achieved. First, the revisions provide that if a party already has a Federal Endangered Species Act permit, further authorization is not required under the CESA if the Federal Permit is consistent with CESA. Since the San Joaquin Antelope Squirrel is a state only listed Species, then the new owner would appear to require a 2081 permit. The second important provision is that 2081 has been amended to provide that mitigation measures must be “roughly proportional” to the impacts to the species. Absent implementing regulations, it is uncertain what this means. However, any permit would still be subject to the requirements of CEQA which require the adoption of mitigation measures to

reduce the impacts of the action to less than significant. Therefore, at the current time, the discussion in this chapter remains the best available analysis of the impacts of the Proposed Action.

Change page 4.5-31 BRM-16 in Table 4.5-8 to read:

Transfer Section 7 permit with all its terms and conditions, including the requirements for the establishment of a 7,075 acre conservation area.

Add the following mitigation measures below Table 4.5-8 on p. 4.5-32:

Memorandum of Understanding Mitigation measures (MOUMs). In addition to those measures previously listed, the draft CESA MOU by and between the Elk Hills Unit Operator (EHUO) and the California Department of Fish and Game (CDFG) proposes additional mitigation measures.

MOUM-1: At least 30 days before initiating ground-disturbing activities, the EHUO should designate a representative responsible for communications with CDFG and overseeing compliance with the CESA MOU. CDFG should be notified in writing of the representative's name, business address and telephone number, and should be notified in writing if a substitute representative is designated.

MOUM-2: The EHUO should notify CDFG 14 days before initiating ground-disturbing activities. CDFG should specify other notification timing at its discretion.

MOUM-3: The EHUO should clearly delineate the boundaries of the project site by posting stakes, flags, and/or rope or cord, and should post signs and place fencing as necessary to exclude vehicle traffic unrelated to project construction.

MOUM-4: All project-related parking and equipment storage should be confined to the construction site or to previously disturbed off-site areas. Undisturbed areas and off-site Covered Species habitat should not be used for parking or equipment storage.

MOUM-5: The EHUO should conduct an orientation program for all persons who will work on-site during construction. The program should consist of: 1) a brief presentation from a person knowledgeable about the biology of the Covered Species, the terms of the CESA MOU and CESA; 2) a discussion of the biology of the Covered Species, their habitat needs, their status under CESA, and management measures of the CESA MOU; 3) a fact sheet containing all this information; and 4) upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures.

MOUM-6: Exclusion zones should be established to protect dens, nests and burrows as necessary.

MOUM-7: At sites likely to support blunt-nosed leopard lizard, the EHUO should evaluate potential for take of that species before conducting ground-disturbing work. If there is a likelihood of take, the EHUO should modify the project, or employ relocation or other take-avoidance measures subject to CDFG's written or verbal approval.

MOUM-8: Disturbed areas should be revegetated within two years from the cessation of disturbance, given normal rainfall for two consecutive years.

MOUM-9: For specific construction projects, the EHUO should conduct compliance inspections once a week during construction. CDFG should require summary compliance reports on a monthly or longer basis for long-term projects, and should require a final compliance report within 45 days of project completion.

MOUM-10: The EHUO should allow CDFG representatives access to the project site to monitor compliance with the terms and conditions of the CESA MOU.

MOUM-12: The EHUO should provide habitat management lands prior to disturbances. The habitat lands should be on or adjacent to the EHU, and CDFG should require that they be adjacent to other protected lands.

MOUM-13: The habitat management lands acreage is based upon biological assessment of the project's impact on the Covered Species and an estimate of the acreage necessary to provide for adequate biological carrying capacity at a replacement location.

MOUM-14: The EHUO should agree to provide a recent preliminary title report and initial hazardous materials survey report for the habitat management lands to CDFG.

MOUM-15: Prior to the transfer of habitat management lands to CDFG, the EHUO should inspect the habitat lands and remove any debris located thereon. A biologist acceptable to CDFG should be contracted to recommend suitable protection for the habitat management lands.

MOUM-15: If fee title to the habitat management lands is transferred to CDFG or to an approved non-profit corporation, the EHUO agrees to provide to CDFG or the non-profit corporation, a check in an amount to be determined by an analysis of the scope of management, but at least \$375/acre, drawn from a banking institution located within California for use as principal for a permanent capital endowment. Interest from this amount should be available for the operation, management and protection of the habitat management lands. Operation, management, and protection activities should include reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the habitat management lands. The endowment principal should not be drawn upon unless such withdrawal is deemed necessary by CDFG or non-profit corporation to ensure the continued viability of the species on the habitat management lands. Monies received by CDFG pursuant to this provision should be deposited in a special deposit account established pursuant to Government Code 16370. CDFG should pool the endowment with other endowments for the operation, management and protection of habitat management lands for local populations of the Covered Species.

MOUM-16: The EHUO should agree to reimburse CDFG for reasonable expenses incurred as a result of the approval and implementation of the project, including costs of title and document review, expenses incurred from other state agency reviews, CDFG costs directly related to administration of the CESA MOU, including travel, personnel, and overhead. The Parties estimate that this project would create an additional cost to CDFG of no more than \$3,000.00 annually.

4.5.4. NPR-2 Impacts

4.5.4.2 Recommended Action for NPR-2: Transfer of NPR-2 to Bureau of Land Management

Replace page 4.5-37, paragraph 6, with the following:

Mitigation measures under BLM management would be virtually identical to those under the "No action - continued DOE leasing" alternative since both are federal agencies and have the same requirements under the Endangered Species Act.

4.5.4.4. Comparison of Impacts Resulting from the Proposed Action and Alternatives for NPR-2

Replace page 4.5-39, Table 4.5-10, in the "Transfer to BLM" column with the following:

The same abbreviations as appear in the "continued DOE Leasing" column.

4.5-6 References

Change page 4.5-52, lines 1, 2 and 3 to read:

Berry, W.H., et al., 1987, Sources and Rates of Mortality of the San Joaquin Kit Fox, Naval Petroleum Reserve #1, Kern County, California, 1980-1986, Santa Barbara Operations Goleta, California.

Suter II, Glenn W., et al., 1992, Results of Analyses of Fur Samples from the San Joaquin Kit Fox and Associated Soil and Water Samples from the Naval Petroleum Reserve No.1, Tipman, California, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

U.S. Department of Energy, 1991, Biological Assessment of the Effects of Petroleum Production at Maximum Efficient Rate, Naval Petroleum Reserve No. 1 (Elk Hills), Kern County, California, on Threatened and Endangered Species, Department of Energy, Naval Petroleum Reserves in California.

4.6. CULTURAL RESOURCES

Replace page 4.6-1, Section 4.6 to read:

This section discusses the current status of the analysis of potential impacts of the Proposed Action and Alternatives to cultural resources on NPR-1 and NPR-2. Section 4.6.1 summarizes the analysis to date. Section 4.6.2 describes the methodology used to identify and determine the significance of cultural resources. Section 4.6.3 discusses the ongoing analysis at NPR-1. Section 4.6.4 discusses cultural resources on NPR-2. Finally, Section 4.6.5 discusses the potential for cumulative impacts.

4.6.1. Summary of Impacts

Approximately 50 percent of the area of NPR-1 has been subject to archaeological survey and inventory. There are 106 historic archaeological sites (including five historic components of prehistoric/historic multi-component sites) and three isolated finds documented at NPR-1. These sites consist of artifacts relevant to the history of industrial development in the region. Fifty-seven (57) prehistoric sites and 35 prehistoric isolates had been documented at NPR-1 as of December 1996. These sites are represented by accumulations of flaked and ground stone, shell and bone artifacts, features, faunal dietary remains (especially *Anadonta* shell) and (at two known sites) human remains. Results of a review of the records of all of these sites and prehistoric resources, with field testing of some during 1997, form the basis for recognition of an Elk Hills Archaeological District that is eligible for the NRHP under criterion 36CFR60.4(d),

due to its potential to yield information important in prehistory. Further evaluation of the information discussed in the DSEIS/PEIR has resulted in a determination by DOE that four prehistoric sites are eligible for the NRHP. In August 1997, the California State Historic Preservation Officer (SHPO) concurred in this determination.

Under both the No Action Alternative and the Alternative to the Proposed Action, there would be a continuing Federal obligation under the National Historic Preservation Act and other applicable statutes to protect cultural resources and to consult with the SHPO before taking any action that could affect such resources. This would mitigate any impacts of future oil and gas development under either of these alternatives to less than significant.

Under the Proposed Action, preliminary archeological surveys indicate that no impacts to significant historic archaeological sites or buildings are expected primarily because any such sites already have been so disturbed as to destroy their informational values. The potential loss of information from the District under the NPR-1 Proposed Action or the NPR-2 Alternative Action is expected to be mitigated through a data recovery program stipulated in a Programmatic Agreement among DOE, the SHPO and the Advisory Council on Historic Preservation. This agreement currently is in preparation, with completion expected by December 1997. The mitigation measures to be included in the agreement are expected to be completed by February 1998 before any proposed sale of NPR-1.

Sites containing human remains have religious significance for Native Americans. There are two known locations containing human remains and six others that are considered likely to contain remains because of similarities in their makeup to sites on or near NPR-1 that contain human remains. DOE believes that all locations likely to contain human remains have been identified because, following an analysis of all previously recorded prehistoric resources, an additional archaeological survey of approximately 3000 acres was completed September 1997 of all previously unsurveyed areas predicted to be sensitive for prehistoric archaeological resources. None of the newly recorded prehistoric resources identified by the recently-completed survey appeared to be like the two locations where human remains have been previously found. Impacts to the two locations where human remains have been previously found and to some of the other locations that are considered or likely to contain human remains, which have religious significance, could be mitigated through inclusion of these sites within the acreage set-aside for conservation of biological resources. However, it is uncertain that all of the locations of concern would be included within the conservation set-aside. Hence both the NPR-1 Proposed Action and the NPR-2 Alternative Action are likely to have significant impacts on some places of religious significance to Native Americans.

4.6.2. Methodology

The California SHPO has indicated that the sale or transfer of Federal land is considered to be an undertaking that may have an adverse effect on cultural resources. To determine the potential impacts of the Proposed Action and Alternatives, the SHPO will need to concur on DOE determinations of NRHP-eligibility for identified sites, historic districts or cultural landscapes in the sale area and then consider potential effects on these. The SHPO has concurred that there are prehistoric resources eligible for the NRHP and is currently reviewing a request for concurrence on significance of a cultural landscape comprising the historic period sites.. Concurrence on the significance of the prehistoric Elk Hills Archaeological District will be a part of the Programmatic Agreement.

CEQA approaches the determination of the significance of archaeological resources with more stringency than the Federal criteria for eligibility to the National Register of Historic Places. Under CEQA, if a project may cause damage to an "important archaeological resource," the project may have a significant effect on the environment. For the purposes of CEQA, an "important archeological resource" is one which:

- A. Is associated with an event or person of:
 - 1. Recognized significance in California or American history, or
 - 2. Recognized scientific importance in prehistory;
- B. Can provide information which is both of demonstrable public interest and useful in addressing scientifically consequential and reasonable or archeological research questions;
- C. Has a special or particular quality such as oldest, best example, largest or last surviving example of its kind;
- D. Is at least 100 years old and possesses substantial stratigraphic integrity; or
- E. Involves an important research question that historical research has shown can be answered only with archeological methods.

The proposed Elk Hills Archaeological District includes resources that meet CEQA definitions of importance and DOE is working with the SHPO through the Programmatic Agreement process to develop appropriate mitigation. Likewise, should the SHPO concur on the significance of the historic cultural landscape, DOE will include appropriate mitigation of impacts in the Programmatic Agreement..

The SHPO also inquired whether any Native American groups have expressed concern about the proposed sale of NPR-1. DOE is currently working with Native Americans (Yokuts, Paiute, Kitanemuk and inland Chumash) with traditional ties to Elk Hills to identify their concerns (see Section 3.6.3.4) and possible mitigation measures (see below).

In late July 1997, DOE submitted a draft Programmatic Agreement to the SHPO for concurrence on project effects and mitigation measures. The SHPO declined to comment until it received information documenting the presence of NRHP-eligible historic properties on NPR-1. Following SHPO concurrence in August 1997 on the NRHP-eligibility of four prehistoric sites, DOE and SHPO began discussing revisions to the initial draft Programmatic Agreement. DOE and the SHPO expect to complete an agreement, with approval of the Advisory Council, by December 1, 1997.

4.6.3. NPR-1 Impacts and Mitigation

Approximately 50 percent of the area of NPR-1 has been subject to archaeological survey and inventory. There are 106 historic archaeological sites (including five historic components of prehistoric/historic multi-component sites) and three isolated finds documented at NPR-1. The sites are classified into eight types: Navy Wells; 4-Pad Wells; General Wells; Industrial Plant; Kiln Remnants; Structural Remnants; Railroad Grades; and Trash Dumps. Three historic period isolated finds are formally documented, although individual and clusters of historic period artifacts are widely distributed at NPR-1. The historical archaeologist currently working on analyzing the historical resources reports that all 21 of the documented historic period sites inspected in 1997 have sustained significant damage by vandalism, which has

compromised their integrity. None of the recorded historic period sites or artifacts is regarded as individually eligible for listing in the National Register of Historic Places (NRHP) according to 36 CFR 60.4 (Criterion D). NPR-1 itself may be NRHP-eligible at the local, state or national level, as a rural historic landscape according to 36 CFR 60.4, Criterion A for its role in the development of the California oil industry, as the nation's first Naval Petroleum Reserve and for its relationship to the infamous "Teapot Dome" scandal of the Harding presidential administration. On September 16, 1997, DOE submitted a recommendation to the SHPO that NPR-1 may be NRHP-eligible as a rural historic landscape. The SHPO is currently reviewing this evaluation.

Fifty-seven (57) prehistoric sites and 35 prehistoric isolates are documented at NPR-1. These sites are represented by accumulations of flaked and ground stone, shell and bone artifacts, features, faunal dietary remains (especially *Anadonta* shell) and (at two known sites) human remains. Hypothetically, these remains could date from 10,000 years before present (B.P.) to historic times (ca. A.D. 1850) but studies at NPR-1 prehistoric sites to-date suggest that most remains date to the late prehistoric period post-A.D. 1500.

The actual number of prehistoric archaeological sites and isolated finds at NPR-1 is uncertain. Based on work completed in September 1997, on analyzing the previously recorded sites, DOE archeologists have determined that the vast majority of prehistoric archaeological sites at NPR-1 occur in geomorphic environments characterized by deflation. It is very difficult to ascertain, based on surface inspection alone, whether observed cultural material is *in situ* and whether the material retains integrity. The majority of 18 sites inspected by archaeologists in 1997, using limited subsurface excavation, were found to be so substantially deflated that they do not retain integrity. At the same time, cultural remains on the surface of other "sites" were found to have been redeposited to their observed location by wind and rain. Additionally, oil field development in the high production area of NPR-1 has so substantially transformed the topography of the area that it is unlikely that the number and distribution of prehistoric archaeological sites in those portions of the installation can ever be known.

Twelve prehistoric archaeological sites at NPR-1 have been evaluated for NRHP eligibility and four have been determined by DOE to be potentially eligible for NRHP listing according to 36 CFR 60.4 (Criterion D): CA-KER-3079, CA-KER-3080, CA-KER-3082 and CA-KER-3085/H. SHPO concurred in this determination in August 1997. Results of a review of all sites and prehistoric resources recorded as of late 1996, with field testing of some in 1997, form the basis for recognition of an Elk Hills Archaeological District that is eligible for the NRHP under criterion 36CFR60.4(d), for its potential to yield information important in prehistory. SHPO concurrence on the significance of the prehistoric Elk Hills Archaeological District will be a part of the Programmatic Agreement.

4.6.3.1. No Action Alternative

There would be no effect on archaeological resources if DOE continues its current procedures of pre-activity survey and consultation with the SHPO to prepare treatment plans when historic properties or CEQA-important sites cannot be avoided. There may be impacts on places of traditional or religious importance to Native Americans if there are sites other than sites containing human remains that have this importance. Currently there is no overall inventory of such sites on NPR-1 and no procedures requiring project-specific inventories as part of the clearance process. However, all locations known to contain or considered likely to contain human remains are recognized to have religious significance to Native Americans. Because

these are protected by the same procedures that protect archaeological resources, no impacts to resources of this type are expected.

There are no impacts expected to paleontological resources under any of the alternatives. As indicated in Section 3.6, there are only two exposures of significance on NPR-1 and these are currently exposed in road cuts. Continued road maintenance is expected to keep the exposures visible and accessible to scientists and there is no expectation that future production activities would destroy these localities. Future work may expose additional localities, but is not expected to provide exposures of other significant paleontological resources. Hence no impacts are expected.

4.6.3.2. *Proposed Action*

The SHPO has concurred that there are significant prehistoric resources at NPR-1 and that some of these have religious significance for Native Americans. The SHPO is reviewing the possibility that the historic resources at NPR-1 comprise a historic cultural landscape. DOE and SHPO staff are developing a Programmatic Agreement to fulfill DOE's responsibilities under the National Historic Preservation Act.

Although SHPO consultation is still in progress, preliminary results suggest the following conclusions about impacts. No impacts to historic archaeological sites or buildings are expected from any of the NPR-1 alternatives as these sites have already been so disturbed as to destroy their value. None of the individual historic sites appear to meet the criteria for NRHP-eligibility or importance under CEQA criteria, i.e., they embody no significant values that would be lost if they are damaged or destroyed. As a group, they may comprise a historic cultural landscape significant for the role it played in local and state history and development of the oil and natural gas fields; the SHPO has not yet made this determination. However, even if the landscape is determined to be NRHP-eligible, the sale of NPR-1 is not expected to have an impact on the landscape because the sale will not change the nature of the landscape, i.e. oil and gas production activities will continue. Should the SHPO determine that additional historic research is warranted to document the historical values embodied in the landscape, such research will be specified as a requirement in the Programmatic Agreement. With regard to prehistoric resources, the SHPO has agreed that the Proposed Action would cause impacts unless DOE carries out mitigation measures to be specified in the Programmatic Agreement. Furthermore, at least two locations contain human remains, which makes them significant for Native Americans. It appears that the prehistoric sites that are NRHP-eligible, CEQA-important, and of concern to Native Americans, are located away from active oil production areas. However, under the Proposed Action, some of these sites might be disturbed or destroyed as a result of oil production or related activities.

4.6.3.3. *Mitigation*

DOE and the SHPO are currently in the process of entering into a Programmatic Agreement concerning cultural resources at NPR-1. This agreement will include appropriate mitigation measures that DOE will commit to prior to the sale of NPR-1. Although this is not expected to be finalized until December 1, 1997, the agreement is likely to include the measures discussed below.

An additional survey of approximately 3,000 acres was completed in September 1997. This survey encompassed those areas known to be archaeologically sensitive based on the results of prior archaeological survey and archival historic research. As a result of this latest survey, all areas expected to be archaeologically sensitive for prehistoric resources have been surveyed.

A set of prehistoric resources representative of those types known on NPR-1 would be treated through data recovery consisting of surface mapping and collection, subsurface excavations and analysis to address questions in the research design prepared as part of the ongoing studies ancillary to preparation of this document. Work would be conducted under permits issued pursuant to the Archeological Resources Protection Act of 1979(ARPA) with appropriate notice to Native Americans in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA). This work will be completed before the completion of the sale process. The treatment plan is expected to reflect consideration of NPR-1 as a prehistoric archeological district, with emphasis on recovering the information that makes the district NRHP-eligible and protecting Native American values identified through consultation. Additionally, archaeological collections would be curated to appropriate standards. An article would be prepared for archeological journals and a booklet describing the results of the analysis would be prepared and distributed to oil museums, schools, government agencies and others.

Protection of Native American values could be accomplished by inclusion of as many as possible of those locations known to contain human remains or considered likely to contain human remains (based on the above studies) in the acreage set-aside for biological resource conservation. The SHPO has indicated to DOE that the Programmatic Agreement that will define mitigation of impacts to the prehistoric archaeological resources must also address concerns related to NAGPRA. As DOE develops the Programmatic Agreement with the SHPO, DOE will provide for involvement and comment by Native Americans, both from tribes on the NAGPRA list and from others with traditional ties to Elk Hills.

Although physical destruction of historic archaeological sites would not affect the criteria that make them contributors to a NRHP-eligible historic cultural landscape (if SHPO concurs that one is present), DOE would mitigate potential effects on specific development features and the overall historic landscape in the following ways.

- A. Prepare a scholarly history of NPR-1 based on archival research that provides a context for understanding the buildings and archaeological features that have been recorded;
- B. Publish findings of the historic archaeological research and field work through 1997 in scholarly journals;
- C. Prepare and publish a history of NPR-1 for the lay public, to be distributed to schools and historical societies in California; and
- D. Update existing site records to ensure that good examples of each type of historic archaeological site are thoroughly recorded to the most recent state of California standards.

4.6.3.4. Alternatives to the Proposed Action

The impacts under the Alternative to the Proposed Action would be the same as the No Action Alternative, as the government would continue to hold an ownership interest in the property.

4.6.3.5. Comparison of Impacts

No action and the Alternative to the Proposed Action would have no effect, except on Native American traditional or religious sites. The Proposed Action would have potential effects, mitigable through the measures described above.

4.6.4. NPR-2 Impacts

4.6.4.1. No Action Alternative

There would be no effect on archaeological resources if DOE continues its current procedures of pre-activity survey and consultation with the SHPO to prepare treatment plans when historic properties or CEQA-important sites cannot be avoided. There may be impacts on places of traditional or religious importance to Native Americans unless current procedures are augmented to require specific consideration of these resources in ongoing activities. Currently there is no overall inventory of such sites on NPR-2 and no procedures requiring project-specific inventories as part of the clearance process.

4.6.4.2. Recommended Action

Continued oversight by a federal agency would require continued compliance with the NHPA. Hence, as with the No Action Alternative, no significant impacts would result. This conclusion extends to Native American sites on the assumption that the Bureau of Land Management would apply to NPR-2 its guidelines for Native American consultation (BLM 1990 and 1994).

4.6.4.3. Alternative Action

Impacts under this action would be similar to impacts under the commercial sale scenarios for NPR-1 and would depend upon the degree to which CEQA would apply to production activities and to particular sites and site types at NPR-2. This impact analysis will be completed when this information is available from the NPR-1 SHPO consultation process.

4.6.5. Cumulative Impacts

Both NPR-1 and NPR-2 sale scenarios would add to ongoing impacts to significant prehistoric sites, some of which have Native American values associated with burials and cemeteries. The cumulative effect would be more than additive because only NPR-1 and NPR-2, among all the projects considered, currently require NHPA compliance. Hence, a block of sites that has been protected up to this time would be lost. However, the mitigation measures discussed above would likely reduce this effect to less than significant.

4.6.6. References

BLM see U.S. Department of the Interior, Bureau of Land Management.

U.S. Department of the Interior, Bureau of Land Management, 1990, BLM Manual Section 8160
- Native American Coordination and Consultation, Washington D.C., January.

U.S. Department of the Interior, Bureau of Land Management, 1994, BLM Manual Handbook H-8160 - 1, General Procedural Guidance for Native American Consultation, Washington D.C., November.

4.10. HAZARDS RISK ASSESSMENT

4.10.3. NPR-1 Impacts

Replace page 4.10-4, Table 4.10-4 with the following table:

Table 4.10-4
Hazard Scenario Risk Ranking Matrix

LIKELIHOOD					
Frequent					
Likely					
Unlikely					
Rare					
Extraordinary					
	Negligible	Minor	Major	Severe	Disastrous
	SEVERITY				

4.11. ENERGY CONSERVATION

4.11.1. Summary of Impacts for NPR-1

Insert the following table after page 4.11-1, paragraph 3:

**NPR-1 Summary of Production Projections With Energy Equivalents
of Total Energy Consumption For All Development Cases**

	Production Projections Total 1997- End of Field Life (MMBOE)	Energy Equivalent^a of Total 1996 Energy Consumption^b (days)
Reference Case Total Hydrocarbon Production	856	31.13
Government Case - Lower Bound Total Hydrocarbon Production	582	21.16
Government Case - Upper Bound Total Hydrocarbon Production	1,089	39.60
Commercial Case - Lower Bound Total Hydrocarbon Production	918	33.38
Commercial Case - Upper Bound Total Hydrocarbon Production	1,433	44.55

^a = Energy equivalent calculated using the conversion equation bbl = 5.800mmbtu and with the statistic 1996 Total US Energy Consumption = 58.214 quadrillion btu.

((Case amount MMBOE * 5800000 btu per bbl) / 58.214 quad btu per year) * 365 days

^b = The 1996 Total US Energy Consumption estimate was referenced from the EIA/DOE website for petroleum and natural gas consumption in the United States.

4.11-3 NPR-1 IMPACTS

4.11.3.1 No Action

Insert the following after page 4.11-2, paragraph 2, the last sentence:

As the existing transmission lines and associated facilities were developed to support higher levels of electricity use on NPR-1 before the installation of the on-site cogeneration facility, these facilities are adequate to handle any future needs for the delivery of electric power to the site in excess of the capacity of the cogeneration plant without the need for any significant new construction that might impact the surrounding environment.

8. LIST OF PREPARERS/CONTRIBUTORS

Remove Thom Kato's Name From the List of Preparers.

GLOSSARY

Insert the following definition of biodiversity to the glossary on page GLS-1:

Biodiversity can be defined as "the variety of organisms considered at all levels, from genetic variants belonging to the same species through species to arrays of genera, families, and still higher taxonomic levels." Biodiversity also includes "the variety of ecosystems, which comprise both the communities of organisms within particular habitats and the physical conditions under which they live" (E.O. Wilson, 1992, *The Diversity of Life*, W.W. Norton & Co., New York, NY). According to DOE, "ecological organization, and therefore biodiversity, is a hierarchically arranged continuum, and reduction of diversity at any level will have effects at the other levels." (DOE, 1994, *Incorporating Biodiversity Considerations Into Environmental Impact Analysis Under the National Environmental Policy Act*).

APPENDIX C. NPR-2 OPERATIONS, FACILITIES AND PRODUCTION

Change page C.2-1, paragraph 1, sentence 1 to read:

Currently there are approximately 200 active wells, 225 abandoned or idle wells, 34 tank settings and six oil/water sumps on DOE lands within NPR-2.

Change page C.2-1, paragraph 1, sentence 2 to read:

Continued production and development of known reserves at NPR-2 would require drilling and completing new production wells, commonly known as infill wells.

Change page C.2-1, paragraph 1, sentence 4 to read:

The additional production or infill wells would require pipelines, pumps, storage tanks, and other permanent equipment.

Change page C.2-1, paragraph 4, bullet 2 to read:

Workers are trained in emergency response procedures to protect human health and the environment.

Change page C.2-2, paragraph 2, sentence 1 to read:

The private companies that conduct petroleum-related activities on DOE-owned NPR-2 lands include Chevron USA, Inc. Fred S. Holmes; Aera Energy; Oakland Petroleum Operating Company; Phillips Petroleum Company; Texaco, USA; UNOCAL Corporation; Vintage Petroleum Company; and numerous petroleum pipeline companies (see Figure 1.4.1).

Change page C.2-2, paragraph 5 to read:

Aera Energy / Oakland Petroleum Operating Company. Aera has three leases totaling 280 acres (110 ha) in Section 32G. Aera has reassigned one of these leases totaling 80 acres (32 ha) to the Oakland Petroleum Operating Company and has not conducted operations on lands under the other two leases for over 30 years. Aera is considering reassigning the remaining two leases as well. Oakland is currently operating one tank setting and two stripper wells. The stripper wells produce eight barrels/d. The tank setting consists of one 500-barrel shipping tank, one 100-barrel produced water tank, one 500-barrel oil/ water separator, and one covered oil/water sump. Oakland generates approximately 9,000 barrels of produced water per year, which is disposed of by injection off-site.

Delete page C.2-3, paragraph 5.

Change page C.2-3, paragraph 2, sentence 3 to read:

Texaco operates approximately 124 oil and gas wells and produces approximately 447 barrels/d of oil, 6,857 MCF/d of gas, and 6,300 gallons/d of natural gas liquids.

APPENDIX D. AIR RESOURCES

Revise page D.2-3, Table D.2-1 to reflect the following changes:

- change the 8 hour California standard for CO from 9 to 9.0 ppm;
- delete the duplicate listing of the one hour California standard for NO²;
- change the one hour California standard for NO₂ from 131 to 470 µg/m³ ;
- add the one hour California standard for SO₂ of 0.25ppm;
- add the 24 hour California standard for SO₂ in units of µg/m³ of 105; and
- change the text describing the California standard for Visibility-reducing Particles from "Insufficient amount..." to "In sufficient amount..."

Revise page D.2-4, Table D.2-3, Kern County Attainment Status, to reflect the following changes:

- The attainment status for the state standard for Ozone is revised to read "Severe Nonattainment"

- The attainment status for the state standard for Carbon Monoxide is revised to read "Attainment".

Change page D.2-10, paragraph 2 to read:

Of the four monitoring stations in Kern County where samplers were in operation throughout the year, only the Bakersfield Golden state Highway site measured an exceedance of the annual NAAQS for PM_{10} ($60\mu g/m^3$ as an arithmetic mean) in 1995. All four stations with PM_{10} monitoring, however, exceeded the California standard ($50\mu g/m^3$) while the federal 24-hour standard ($150\mu g/m^3$) was exceeded at only one station (Oildale). These data show that PM_{10} emissions continue to be a major air pollution problem in the county (DOE 1993).

Delete page D.2-11, paragraph 1, sentence 5.

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CHAPTER FIVE

List of Agencies, Organizations, and Persons Receiving the Final SEIS/PEIR

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The Honorable Herbert Bateman
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Kern Co. Agriculture Department	Kern County Parks and Recreation
Kern County Airports	Kern County Museum
Kern County Air Pollution Control District	Kern Co. Roads Dept./Transit
Kern County Administrative Officer Fiscal Analysis	Kern Co. Sheriff's Department Fiscal Analysis
Kern Co. Engineering and Survey Svs/ Floodplain	Kern County Roads Department
Kern Co. Environmental Health Services	Kern County Clerk of the Board of Supervisors 1115 Truxtun Avenue, 5th Fl. Bakersfield, CA 93301
Kern County Library/Administration	Kern County Waste Management Dept. Solid Waste
Kern County Library – Beale Branch Public Review Copy	Kern Co. Waste Management Dept. Liquid Waste
Kern Co. Engineering & Survey Services	Taft Elementary School District 820 N. 6th Street Taft, CA 93268
Kern County Planning/Special Projects	Mr. Raymond C. Bishop Director of Airports Department of Airports 1401 Skyway Drive, Suite 200 Bakersfield, CA 93308-1697
Kern Co. Resource Management Agency/Fiscal	
Kern County Waste Mgmt. Department Special Districts	
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APPENDIX

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IN REPLY REFER TO:

AUG 06 1997

Eric J. Fygi
Acting General Counsel
United States Department of Energy
Washington, D.C. 20585

Re: Sale of Elk Hills Naval Petroleum Reserve Numbered 1
(NPR-1)

Dear Mr. Fygi:

We have reviewed and discussed with your office the manner in which Section 3413(d) of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104-106 (110 Stat. 186) ("Defense Authorization Act" or "DAA") will be applied in connection with the congressionally mandated sale of Naval Petroleum Reserve Numbered 1 (NPR-1). In particular, we have analyzed the effect of the statute on term and condition 3(a) of the biological opinion dated November 8, 1995, issued by the Fish and Wildlife Service ("Service") (Attachment 1), providing that prior to sale of NPR-1, the Department of Energy ("DOE") shall initiate and complete a subsequent consultation under section 7 of the Endangered Species Act ("ESA"). Our analysis and conclusions are set forth below.

Section 3412 of the Defense Authorization Act, enacted February 10, 1996, directs the Secretary of Energy, within two years of the effective date of the statute, to enter into a contract or contracts for the sale of NPR-1. Section 3413(d) of the DAA, titled "Transfer of Otherwise Nontransferable Permit," provides:

The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of transfer.

The biological opinion issued November 8, 1995, to DOE by the Service was the result of DOE's reinitiation of formal consultation

under section 7 of the ESA on continued oil production activities at Maximum Efficient Rate (MER) on NPR-1. The biological opinion contains, in the incidental take statement, reasonable and prudent measures necessary and appropriate to minimize the potential for incidental take of the listed species affected by DOE's activities at NPR-1. The opinion also contains non-discretionary terms and conditions implementing the reasonable and prudent measures which DOE must comply with in order to be exempt from the prohibitions of section 9 of the ESA. Relevant to the issue under analysis here is term and condition 3(a) in the biological opinion, which requires DOE to initiate and complete a subsequent section 7 consultation prior to the sale of NPR-1.¹

In the event the Secretary of Energy makes the determination described in section 3413(d) of the DAA and chooses to implement the authority provided by that section, it is our opinion, based on the analysis set out below, that DOE does not have to initiate and complete a subsequent section 7 consultation prior to the sale of NPR-1.

Initially, we note that Section 3413(d) refers to the "permit" issued by the Service. In fact, as set out above, the incidental take authorization covering activities at NPR-1 is included in the incidental take statement contained in the biological opinion, rather than in an incidental take permit, which would be issued to a non-federal entity under section 10 of the ESA. We interpret the statutory references to the permit as applying to the incidental take authorization contained in the 1995 biological opinion.

The statute contains two operative provisions. The first sentence authorizes the Secretary of Energy to transfer the permit "in effect on the effective date [of the DAA]."² This provision has the effect of nullifying the need to reinitiate consultation prior to sale, as term and condition 3(a) would otherwise require. This is so since a subsequent consultation and new incidental take

¹ Term and condition 3(a) states:

(a) Prior to the sale of NPR-1, the Department [DOE] shall initiate and complete a subsequent section 7 consultation as to this Federal action; and the reasonable and prudent measures and terms and conditions shall be adhered to by the subsequent owner until a section 10(a)(1)(B) permit and a CDFG 2081 permit are issued for their actions. In addition, as part of the subsequent section 7 consultation, the Department shall enter into a Conservation Agreement with the Service if the conservation area has not been established.

² Section 3411(4) of the DAA defines "effective date" to mean the date of enactment of the DAA.

statement would serve no purpose. The new incidental take statement would apply neither to DOE, which would no longer own or operate the facility, nor to the purchaser(s), whose activities would be governed by the existing biological opinion and its incidental take statement. The purposes of the Conservation Agreement (as the phrase is used in term and condition 3(a)) are served by the contract(s) and/or purchase agreement(s) that will be executed by DOE and the purchaser(s) since the contract(s) and/or purchase agreements(s) will obligate the purchaser(s) to fulfill the requirements contained in the biological opinion that have not been completed by DOE (discussed below).

The second sentence of the statute provides that the transferred permit shall cover the identical activities and be subject to the same terms and conditions "as apply to the permit at the time of transfer." We interpret this to mean that in the event the existing incidental take authorization is transferred, the purchaser(s) is to be limited to the same activities and bound by the same terms and conditions as DOE, and may not expand or alter those activities in a way inconsistent with the project description provided by DOE and the terms and conditions set forth in the biological opinion.

A reading of the second sentence of the statute that would result in a subsequent consultation and the transfer to a purchaser(s) of the terms and conditions of a new incidental take statement would be inconsistent with the intent of the first sentence (that it is the incidental take authorization in effect on the date of enactment of the statute that is to be transferred). Our conclusion regarding the intent of the second sentence eliminates any inconsistency in the provisions of the statute and gives effect to all its provisions.

Our reading of the statute is consistent with the fact that in the absence of any proposed changes in the facility or its operation as they are described in the biological opinion, there would be no basis for a subsequent consultation. We understand that NPR-1 continues to be operated as described in the current biological opinion and that it is unknown at this time how the proposed action described in the current biological opinion might change in the future. The Service cannot evaluate the effects of an unknown action on species or critical habitat present at NPR-1.

Based on the above, it is our conclusion that in the event the determination described in section 3413(d) of the DAA is made, DOE will not be required to reinitiate consultation based on term and condition 3(a). However, as provided in other portions of the biological opinion, DOE would have to reinitiate consultation before the reserve is sold if an activity occurring at NPR-1 is substantially modified in a manner that causes an effect to listed species that was not considered in the biological opinion, or if a new species is listed or critical habitat is determined that may be

affected by activities at NPR-1. A modification of the rates of production from those analyzed in the biological opinion (Maximum Efficient Rate) would constitute a change in operation of the facility which would require the Service to analyze any effects to the listed species that were not considered in the original biological opinion and to analyze any effects to critical habitat should any be designated at NPR-1.

If the authority of DAA section 3413(d) is used in connection with the sale of NPR-1, the purchaser(s), in order to maintain the incidental take coverage contained in the biological opinion, will be obligated to assume and carry to completion all the outstanding obligations and mitigation commitments which would otherwise be the responsibility of DOE unless and until they may be altered by the Service through a section 10(a)(1)(B) permit. The contract(s) and/or purchase agreement(s) that are executed by DOE and the purchaser(s) must contain a provision that obligates the purchaser(s) to fulfill the requirements contained in the biological opinion that have not been completed by DOE.

The obligations and commitments of DOE include those set out as terms and conditions in the biological opinion, as well as those described in the project description provided by DOE upon which the terms and conditions are predicated. Thus, the phrase "terms and conditions" as it is used in section 3413(d) of the DAA encompasses all of the commitments proposed by DOE and set out in the biological opinion (beginning on page 4), and not just those terms and conditions that are described in the biological opinion beginning on page 22.

Pursuant to the terms of the DAA, the purchaser(s) will have authorization for incidental take of listed species, provided that the activities occurring at NPR-1 are identical to those evaluated in the biological opinion. If the purchaser(s) proposes to modify any of its activities at NPR-1 in a manner that departs from the activities conducted by DOE and described and evaluated in the biological opinion (e.g., change in the rates of production, construction or expansion of facilities), the purchaser(s) would have to obtain from the Service an ESA section 10(a)(1)(B) permit prior to instituting the new or modified activity.

Until the time that NPR-1 is transferred to a purchaser(s), DOE remains responsible for carrying out its obligations pursuant to the biological opinion. As stated above, ongoing mitigation activities and mitigation commitments not completed by DOE shall become the obligation of the purchaser(s) of NPR-1. The Service will be pleased to work with the purchaser(s) and/or DOE to provide any guidance or clarification to ensure the transfer of responsibilities. The Service recently provided information to DOE regarding establishment of the conservation area in a letter dated July 25, 1997 (Attachment 2).

We understand from your office that information regarding the incidental take permit for NPR-1 will be included in the solicitation of offers and/or draft purchase agreement for the sale of the property, and that we shall be afforded the opportunity to review that portion of the solicitation and/or draft purchase agreement. We request that any provision included in the final contract(s) and/or purchase agreement(s) related to the biological opinion also be provided for our review. We look forward to working with your office on these issues.

If you have any questions, please contact Dana Jacobsen at (916) 979-2151.

Sincerely,

David Nawi

David Nawi
Regional Solicitor

Attachment

cc: Wayne White, State Supervisor
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(w/attachment)

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1-1-97-I-1708

July 25, 1997

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Subject: Establishment of the Conservation Area at NPR-1, Kern County,
California

Dear Mr. Como:

As discussed in recent telephone conversations between our offices regarding the establishment of the Conservation Area at NPR-1, we provide the following information to you. As you know, establishment of the conservation area is a mitigation commitment made by the Department of Energy (DOE) in the project description used by the U.S. Fish and Wildlife Service (Service) in formulating the biological opinion for oil and gas production activities at the Maximum Efficient Rate on Elk Hills Naval Petroleum Reserve dated November 8, 1995. We understand that you will provide this information to prospective bidders for NPR-1.

At the bottom of page four of the project description section of the biological opinion, DOE agreed that:

"Within three years of the date of this opinion, the Department shall place into protected status 7,075 acres of undisturbed endangered species habitat within, or adjacent to, NPR-1, and if appropriate, NPR-2, preferably along the north side of NPR-1, adjacent to the Lokern Road area. This will be subject to agreement between the Service and the Department on a management agreement which would identify precise acreage amount, location, and management details related to the conservation area. If this cannot be accomplished within 3 years, the Department agrees to reinstate consultation if the service is not satisfied with the progress that is being made. Such habitat shall be protected against major development activities in perpetuity through a management agreement or other appropriate document executed by and between the Director, NPS and state Supervisor, FWS. The Department shall enter into written, legally binding agreement with the Service and other affected parties concerning the manner in which compensation lands shall be managed. This conservation area would satisfy any present or future requirements for compensating the impacts described in the proposed action.

Prior to finalization of any land protection mechanism as required under this mitigation commitment, the department shall submit for the Service's review the following information: (a) a description of lands selected for protection; (b) the manner in which they would be protected; (c) department commitments with respect to how such lands would be managed, if necessary; and (d) other information as deemed appropriate as deemed appropriate by the Department or Service. Finalization of the protection program shall not occur until written approval is obtained from the Service that the protection program is acceptable in all pertinent respects. The Service is available to assist the Department in selecting suitable NPR-1 lands for protection and for other assistance as necessary."

At this time, we understand that DOE intends to transfer the "incidental take permit" to the NPR-1 purchaser(s) pursuant to section 3413(d) of the National Defense Authorization Act for Fiscal Year 1996, and that the purchaser(s) will be required to establish the conservation area and fulfill the other mitigation commitments contained in the biological opinion. The following information is provided to assist with the establishment of the conservation area. The project description of the biological opinion requires that the conservation area be established by November, 1998.

Generally, the Service requires that the following issues be addressed in the establishment of a conservation area:

Selection of Suitable Lands and Design of the Conservation Area

In an effort to assist with establishment of the conservation area, attached to this letter is a map that identifies areas within NPR-1 that contain endangered species habitat appropriate for inclusion in the 7,075 acre conservation area. This map shows two categories of habitat. That which is double cross-hatched is lands the Service believes are highly important for inclusion in any preserve design. These include habitat known to have individuals of the rare plant, the oil neststraw. Those with a single cross hatch are those lands that are still very important but of a somewhat lesser value. We have identified these lands based on our knowledge of listed species distribution at NPR-1, ability to function as stand-alone preserves, compatibility with recovery plans and other conservation efforts, and the distribution of oil and gas facilities on NPR-1. We have included lands owned by both the Federal government and Chevron on this map. Additional acreage beyond the required 7,075 acres has been included so that there will be some flexibility in the selection of lands to be dedicated within NPR-1. Lands immediately adjacent to NPR-1 may also be considered for inclusion in the conservation area if they meet the same criteria for selection of lands within NPR-1. However, the purchase of credits at any existing or proposed mitigation bank would not be satisfactory for the mitigation of impacts within NPR-1.

In the consideration of which lands to dedicate as the conservation area, the same criteria that the Service typically requires in the establishment of a conservation area should be considered; i.e., species biology and conservation biology. To be an effective reserve, the area must be large enough to encompass the entire home ranges of a significant number of individuals. In this case,

a reserve should be large enough to protect a significant population of the wide-ranging San Joaquin kit fox. If the fox is protected, several other kangaroo rat species and the blunt-nosed leopard lizard will be protected as well. Based on our current knowledge of the species and their habitat, we have determined the reserve should be of contiguous blocks of habitat and each unit should be at least 2,500 acres in size, subject to slight modifications based on habitat configurations. Fragmented habitat is not very effective in conserving species such as the San Joaquin kit fox and is definitely much more difficult and expensive to effectively manage. The Service looked at Federal lands owned by DOE on NPR-2 and the Bureau of Land Management (BLM) in the area. We also looked at other conservation efforts such as mitigation banks that may become established in the vicinity of NPR-1. The strategy for recovery of the listed species was also used as a guide as outlined in the draft recovery plan for these species. The Service will be most happy to provide assistance in the selection of lands for the conservation area.

Conservation of the Area in Perpetuity

Establishment of conservation areas is typically achieved by conservation easement or ownership by fee title. For example, the conservation easement or title must (among other things): (a) clearly describe the activities that are allowed and prohibited on the property; (b) incorporate, by reference, the management plan and funding plan for the conservation area; and (c) include other elements as required. The entity that holds the easement (the "grantee") must be qualified pursuant to State law to hold the easement. Moreover, the Service is a qualified holder of conservation lands in certain instances (in accordance with applicable Federal laws) and is interested in visiting the site to investigate the opportunity for land management. Among other things, a legal description of the conservation area, title report, and a contaminant survey must be prepared and provided to the Service and the grantee for review prior to execution of the conservation easement.

Funding for Management in Perpetuity

Arrangements for management of the conservation area in perpetuity must be provided since DOE will no longer be managing NPR-1. Typically, money is deposited in an endowment account so that the interest from the principal can fund management in perpetuity. In Kern County the California Department of Fish and Game has typically required from \$400 to \$500/acre of endowment and management funds for lands that it is managing. This money is made available to the entity responsible for management of the conservation area in perpetuity. These funds are used for any initial management expenses such as fencing and clean up and the remainder is used for the management as outlined in the management plan.

Management Plan

A management plan must be prepared for the conservation area, and must include a detailed description of: (a) the lands selected for protection; (b) the manner in which they would be managed and protected; (c) who shall be responsible for management of the lands; and (d) other information as deemed appropriate by the Service and any other involved party. The

Mr. Anthony J. Como.

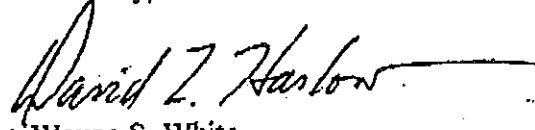
4.

management plan must be completed within 2 years of the execution of the conservation easement and must be reviewed every 2 years during the first 10 years and every 5 years thereafter to ensure that management is appropriate.

The conservation easement (or other appropriate mechanism), management plan, funding plan, and all associated documents must be provided to the Service for review and approval before this mitigation commitment is met. We recommend that the Service be involved in the establishment of the conservation area as soon as possible so that the November 1998 deadline is met.

If you have questions or require further information, please contact Cay Goude or Peter Cross of my staff at (916) 979-2725.

Sincerely,


for Wayne S. White
Field Supervisor

Enclosure

cc: FWS/SOL (Attn: D. Jacobsen)
DOE, Washington (Attn: S. Ferguson)
CDFG, Fresno (Attn: J. Single)
FWS, Sacramento Ofc (Wayne White)

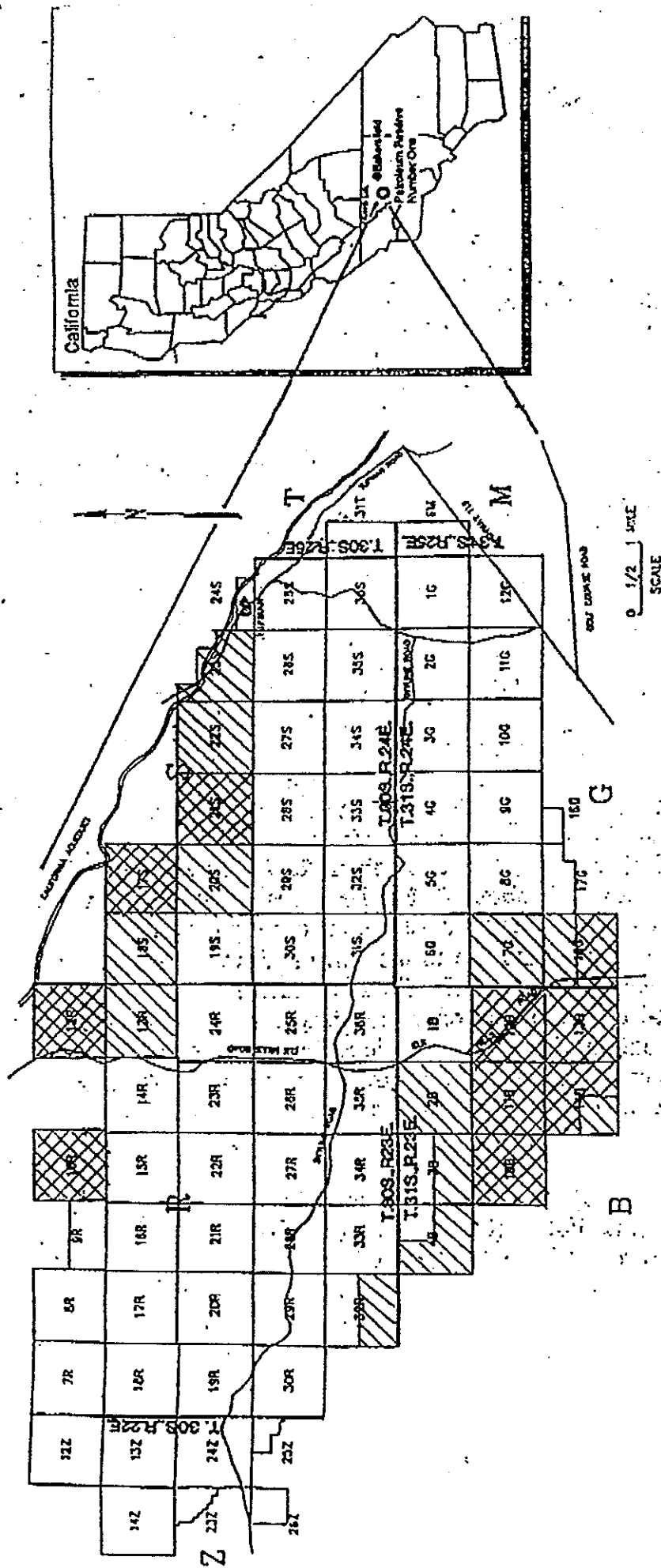


FIGURE 1.1-1 MAP OF NPR-1 SITE

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Department of Energy
Naval Petroleum Reserves in California
P.O. Box 11
Tupman, California 93276

SEP 17 1997

Ms. Dee Dominguez
Tinoqui-Chalola Council of Kitanemuk
and Yowlum ne Tejon Indians
981 N. Virginia
Covina, CA 91722

Dear Ms. Dominguez:

In May of this year, we contacted representatives of the following organizations about archaeological investigations in the Elk Hills Naval Petroleum Reserve No. 1 (NPR-1); Tule River Tribe, Santa Rosa Rancheria, Kern Valley Indian Council, Native American Heritage Preservation Council of Kern County, and Tinoqui-Chalola Council of Kitanemuk and Yowlum ne Tejon Indians. Contacts were made by letter or through anthropologist Polly Quick. Pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA), we wanted to develop an Action Plan for discovery of human remains.

While we were following up on our initial contacts, isolated human remains were found on the surface of one site that is located away from the active oil production areas. Because of the incomplete nature of the remains and the circumstances of their finding, the Kern County Coroner concluded that he would be unable to determine that they were Native American. For the same reasons, the Department of Energy (DOE) could not reasonably ascertain cultural affiliation or lineal descendance. However, DOE has followed the recommendations of the Native Americans contacted, and has reburied the remains on site. DOE has also adopted their recommendations for the NAGPRA action plan for archaeological activities under current Archaeological Resource Protection Act (ARPA) permits, that any subsequent finds be treated similarly unless they should be located in the active oil production area; in this case, the Native Americans will be contacted for further recommendations. In addition, DOE has adopted Native American recommendations that Native Americans be present whenever archaeologists are working on sites that are like those sites where human remains have been found in the past.

On August 28, 1997, NPR-1 staff discovered that an archaeological site, which was recorded and tested in 1992 by Peak and Associates, had recently been vandalized. Five or six shovel holes had been dug, and a larger hole, approximately 3 feet by 4 feet, was excavated and passed through 1/2-inch and/or 1/4-inch hardware cloth which was left on the site. The maximum depth of the disturbed areas is approximately 18-20 inches. The back-dirt pile consists of shell fragments, and no artifacts or bone were observed in it. Because this site is considered by archaeologists to have a high probability of containing burials, we wanted to inform you of the discovery. However, it does not appear that any burials were discovered or disturbed by the vandal(s).

The site is well off the nearest road, but security staff at NPR-1 visit the site periodically. In addition, the area is patrolled from the nearby road on a daily basis. It had last been visited on foot in late May, before an extensive fire swept through this portion of NPR-1. Security staff were able to ascertain that, on two separate occasions, the vandal(s) had entered NPR-1 on foot from the town of Tupman, which is adjacent to the Northeast corner of the facility.

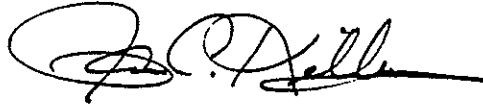
In an attempt to prevent a recurrence of vandalism here and at other sites within NPR-1, security patrols have increased their drive-bys to every 1 to 2 hours, 24 hours a day, in areas where known archaeological resources are located. DOE will post information fliers in the communities adjacent to NPR-1 in an effort to educate the local population about the laws regulating the destruction of cultural resources on public lands. In addition, a bulletin has been distributed to all employees at NPR-1 to educate them about this subject. It requests that any employee who witnesses anything unusual while in the field, notify Security immediately.

Archaeological crews currently conducting additional survey work on NPR-1 are active in the vicinity of several sites of concern. They have modified their field strategy to minimize attention to the new sites they locate during the survey. Sites will not be flagged prior to recording them, as is typical of surveys of this sort. The crew has been asked to maintain a low profile both on and off NPR-1.

DOE shares your concern about vandalism to archaeological sites on NPR-1. This incident is being treated as a serious criminal act by the staff at NPR-1. We have notified the appropriate authorities and will pursue an investigation in this case. Every effort is being made to identify the perpetrator of this unlawful act, which is being investigated

by federal law enforcement agencies. If you have any questions or suggestions, please feel free to contact Ms. Connie Farmer, support services contract employee assigned to my staff, at (805) 763-6189, or Ms. Polly Quick of ICF Kaiser at (510) 419-6424.

Sincerely,



James C. Killen
Director, Planning, Analysis
and Program Support Division
Naval Petroleum Reserves
in California

cc:
Ms. Polly Quick
ICF Kaiser
1800 Harrison Street
Oakland, CA 94612-3430

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