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PACIFIC WEST REGIONAL OFFICE Memorandum

L7617 (PWRO-P)

MAY 04 2007

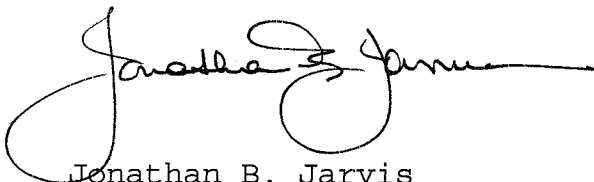
Memorandum

To: Superintendent, Mojave National Preserve
From: Regional Director, Pacific West
Subject: Environmental Compliance for Three Permanent Housing
Units at Kessler Springs Ranch

The finalized *Finding of No Significant Impact* (FONSI; received on May 2) for the much anticipated replacement of three trailers (two at Kessler Springs and one at the Baker Compound) is approved.

To complete this particular compliance effort, preserve staff should provide for public notification about implementing the new housing, as well as make the FONSI available to recipients of the supporting environmental assessment.

The attention accorded to sustainable "green" principles is acknowledged, and appreciated!



Jonathan B. Jarvis

Attachment

Cc:
PWRO (Kanda)

EXPERIENCE YOUR AMERICA

The National Park Service cares for special places saved by the American people so that all may experience our heritage.

FINDING OF NO SIGNIFICANT IMPACT

Employee Housing at Kessler Springs Ranch

Mojave National Preserve, California

Purpose and Need

The National Park Service has identified a need for permanent employee housing in Mojave National Preserve to accommodate the Park's staffing requirements and to compensate for a housing shortage in adjacent communities. As Mojave increases its field operations, it will need to provide more housing. There is no current available housing for sale or rent in Baker, Cima, Nipton, or Essex; other opportunities are extremely limited and are more than a one-hour commute from any duty station in the Park. At the same time, Mojave is gradually expanding its field operations in law enforcement, maintenance, interpretation, and resource management. The main visitor center at Kelso Depot opened in 2005. It is now operational seven days a week and requires sufficient staff to operate the information desk and maintain the facilities seven days a week. Mojave also has substantial prominent cultural resources that need to be better secured. Providing employee housing in strategic locations will have the added benefit of a constant employee presence and associated security to these resources.

Alternatives Evaluated and Selected

Alternative B is the Selected Alternative. This alternative, the Proposed Action, replaces three existing trailers - two at Kessler Springs Ranch and one at the Baker Compound - with three housing units at Kessler Springs. The new construction includes one three-bedroom dwelling and one duplex with two two-bedroom units. Mojave will be able to recruit and retain employees for its field operations. The existing trailers will be eliminated from the NPS employee housing program and removed from the Park.

The Selected Alternative incorporates sustainable design and materials into the proposed housing units. A solar array panel will be installed for power generation. Only certified wood products will be used for construction. The buildings have sustainable design and placement on the Kessler Springs Ranch site for maximum heating and cooling needs. They will incorporate high energy efficient windows, maximum insulation, fluorescent lighting¹, low flow fixtures, natural landscaping (minimal watering required), and nontoxic finishes (e.g., latex paints). As noted below, Alternative B is also the Environmentally Preferred alternative.

The EA also considered a No Action Alternative and considered, but rejected, several other alternatives. The No Action alternative would sustain the continued use of the existing trailers at Kessler Springs and Baker, contrary to NPS Employee Housing policy. Once the trailers outlived their useful life, they would be removed from Mojave's Housing Program, but not replaced. Other alternatives - providing housing at Cima, at other locations within Mojave, or obtaining rental housing in adjacent or nearby communities - were

¹ Mojave National Preserve uses compact fluorescent bulbs in all of its structures.

dismissed because of lack of availability, lack of NPS presence at or near culturally significant resources, and lack of sufficient water and utilities to meet NPS standards.

Environmentally Preferred Alternative

As discussed in the EA, the alternative selected is "environmentally preferred". Without a permanent NPS presence on site, the No Action alternative would leave the historic and administrative resources unsecured and vulnerable to theft and vandalism. The Preferred Alternative provides housing for required occupancy positions and offers security to the site and its associated historic and cultural resources and to NPS operations with a permanent NPS presence.

Environmentally preferable is defined as "the alternative that will promote the national environmental policy as expressed in the National Environmental Policy Act's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources" (Forty Most Asked Questions Concerning Council on Environmental Quality's National Environmental Policy Act Regulations, 1981)." New construction will be sited within the footprint of disturbance but apart from the culturally significant features. No new disturbance will be created, and culturally significant features at Kessler Springs Ranch will have greater protection from a constant employee presence on site.

Mitigation Discussion

The Selected Alternative avoids and/or minimizes impacts to desert tortoise in the interest of protecting the Federal and State threatened desert tortoise. It also avoids and/or minimizes impacts to historically significant features at Kessler Springs Ranch. These and other mitigation measures are listed in the table below.

Mitigation	Critical Milestone	Responsible Party
Presence/Absence Survey of Kessler Springs Ranch	Determination of potential to impact desert tortoise	Desert Tortoise Biologist (NPS)
Stoppage of Work	Temporary immediate shutdown of work at a given location may be ordered at the discovery of endangered or threatened species or their nests within or in close vicinity to the construction zone, discover of previously unknown cultural resources within the construction zone, or construction activities posing immediate threats to the safety of Park visitors	Site Manager (Contractor)

Mitigation	Critical Milestone	Responsible Party
<p>(1) Archeological survey site completed, (2) Construction plan of operations developed, (3) Consultation with the State Historic Preservation Office regarding the Rock Springs Land and Cattle Company National Historic District nomination to the National Register</p>	<p>Protection of archeological resources within the project area</p>	<p>Cultural Resource Specialist (NPS)</p>
<p>Corrective Actions, including: (1) Signage and instructions regarding operational and safety procedures for employees, workers, and visitors; (2) Avoidance and minimization measures as defined in the Biological Opinion for the General Management Plan; and (3) Immediate restoration of damage caused by construction activities to Park roads that will result in potentially dangerous conditions for motorists</p>	<p>(1) Employee, worker, and visitor safety; (2) Avoid and minimize impacts to desert tortoise; and (3) Safe conditions for Park motorists (both visitors and NPS staff)</p>	<p>Site Manager (Contractor)</p>
<p>Immediate cleanup of any fuel, chemical, or hazardous material spills</p>	<p>Safety for humans and Park resources</p>	<p>Hazardous Materials Specialist (NPS)</p>
<p>Continuation of a temporary shutdown until completion of specified corrective actions</p>	<p>Assurance of completion of mitigation measures for protection of resources</p>	<p>Contracting Officer's Technical Representative (NPS)</p>
<p>Directing work of contractor</p>	<p>Compliance with approved Construction Operations Plan</p>	<p>Contracting Officer's Technical Representative (NPS)</p>

Mitigation	Critical Milestone	Responsible Party
Worker training program	All construction personnel educated in the purpose, protocols, and procedures of the Federal monitoring program for desert tortoise	Contracting Officer (NPS)

Why the Selected Alternative Will Not Have a Significant Effect

The construction of permanent employee housing at Kessler Springs Ranch poses minimal hazards to the desert tortoise, a Federally listed threatened species. These hazards will be avoided by excluding all construction activities from desert tortoise critical habitat.

The Selected Alternative includes the removal of non-historic, uninhabitable structures that would otherwise remain on-site. Public health and safety will improve with the removal of these buildings. During the construction phase, the NPS or its representative will incorporate signage and operational and safety procedures for employee, visitor, and worker safety.

Kessler Springs Ranch has significant historic resources that warrant dedicated security. The Selected Alternative will provide a permanent NPS employee presence at the Kessler Springs Ranch that carries the added benefit of increased security to the cultural resources of the site.

The minimal response received during the public comment period indicated an insignificant level of controversy surrounding this project. Impacts to desert tortoise are addressed with avoidance and minimization measures. Use of the site for employee housing does not present a conflict with other uses. The potential impacts are predictable and minor and reflect current conditions. They do not involve highly uncertain or unique or unknown risks.

The Selected Alternative, to build permanent employee housing at Kessler Springs Ranch, does not establish a precedent for any future actions with significant effects, or represent a decision in principle about a future consideration. The proposed action is not related to other actions that may have individually insignificant impacts but cumulatively significant effects.

The degree to which the action may adversely affect historic properties in or eligible for listing in the National Register of Historic Places, or other significant scientific, archeological, or cultural resources. Archeological survey of the project site was conducted and a construction plan of operations developed to avoid impacts to cultural resources. The State Historic Preservation Office has already been consulted regarding the Rock Springs Land and Cattle Company National Historic District nomination to the National Register. No historically significant resources at Kessler Springs Ranch will be affected by the proposed construction.

The project site lies partially within critical habitat for the threatened desert tortoise (*Gopherus agassizii*), a federally listed species. Based on informal consultation with the US Fish and Wildlife Service (FWS), a desert tortoise survey was completed for Kessler Springs Ranch. Avoidance and minimization measures to protect the desert tortoise have been incorporated

into the Selected Alternative. The FWS concurs with the NPS's Finding of Not Likely to Adversely Affect the Desert Tortoise (December 22, 2005).

The proposal does not threaten to violate any federal, state, or local law or requirements imposed for the protection of the environment.

No Impairment of Park Resources or Values

The National Park Service must consider the potential impacts of each alternative and the implications for impairment to the resources of Mojave National Preserve. The Organic Act of 1916, which established the National Park Service, and its amendments state:

[The National Park Service] shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified... by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. (16 USC 1)

NPS managers must always seek ways to avoid or minimize to the greatest degree possible adverse impacts on park resources and values. Through this law and the General Authorities Act, NPS managers have the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, as long as the impact does not constitute impairment of the affected resources and values. Although Congress has given the NPS management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement that the NPS must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise.

The prohibited impairment is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including opportunities that otherwise would be present for the enjoyment of those resources or values. An impact to any park resource or value may constitute impairment. However, an impact would more likely constitute impairment to the extent it affects a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park;
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified as a goal in the park's general management plan or other relevant NPS planning documents.

Impairment may not result from NPS activities in managing the resources, visitor activities, or activities undertaken by concessionaires, contractors, and others operating in the park.

Selected Alternative

The impacts identified as resulting from the implementation of the proposed action are temporary in nature and can be mitigated or recovered. Impacts to

desert tortoise will be avoided or minimized to the extent possible. Mitigation measures are outlined in the table above.

Safety to employees, workers, and visitors is given the highest priority. It is the NPS's and contractor's responsibility to ensure adequate signage, pre-construction education, and immediate clean-up of hazardous materials.

The project site is not in or adjacent to wilderness. In consequence, the Selected Alternative will avoid impacts to wilderness.

None of these or any other impacts identified in the Environmental Assessment will result in significant or irreparable damage to the resources of Mojave National Preserve. Impairment is avoided in the Selected Alternative and is, therefore, not likely to result this alternative's implementation.

Public Review and Agency Consultation

The need for employee housing was originally addressed in the General Management Plan for Mojave National Preserve. The GMP planning process spanned approximately six years and included 20 public scoping meetings, two public review periods and 22 public meetings, and two draft GMPs/EISs. A Record of Decision was signed September 21, 2001, and the final GMP issued in April of the following year. The final GMP identifies the need for and shortage of employee housing within and adjacent to Mojave National Preserve. Plan actions to address housing include new housing construction for trailer replacement, and acquisition of housing in Mojave National Preserve for use as employee housing (p. 64-65). No additional scoping was conducted for the Environmental Assessment (EA).

The EA for Employee Housing at Kessler Springs Ranch was released for a 30-day public review on June 22, 2005. Mojave National Preserve sent out 95 press releases and 25 copies of the EA to several agencies, organizations, and individuals. The EA was made available to interested parties; no requests were received. In addition, an electronic version was posted on the Mojave National Preserve website (<http://www.nps.gov/moja>). The comment period closed July 21, 2005; comments were accepted up to seven business days afterwards. We received one inquiry regarding disposal of the existing trailers, but no other comments from the public.

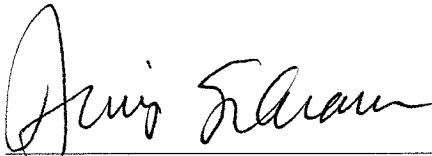
The location of the proposed project is partially situated in desert tortoise critical habitat. The NPS has conducted informal consultations with the US Fish and Wildlife Service (FWS) under Section 7 of the Endangered Species Act. The FWS concurred with the NPS's Finding of Not Likely to Adversely Affect Desert Tortoise Regarding a Kessler Springs Housing Proposal, Mojave National Preserve (December 22, 2005).

A historic survey of Kessler Springs was completed in 2002 and the Rock Springs Land and Cattle Company, of which Kessler Springs Ranch is part, has been nominated for the National Historic Register. Actions identified in the Selected Alternative will affect non-historic structures only. If archeological resources are uncovered during any ground disturbance activity, work will be halted immediately and the State Historic Preservation Office will be consulted. The State of California Office of Historic Preservation concluded Section 106 consultation by a finding of concurrence with the NPS's determination of "No Adverse Effect" (correspondence dated 12 March 2007).

Conclusion

The alternative selected, as described and analyzed in the EA released for public comment and agency review, and summarized above, does not constitute a major Federal action having a significant effect on the air quality, wildlife, vegetation, or the human environment as defined in Section 102(2) of the National Environmental Policy Act of 1969 (PL 91-190, 83 stat. 853). The NPS completed informal consultation with the US Fish and Wildlife Service under the Endangered Species Act with regard to desert tortoise (Memorandum of Concurrence with Finding of Not Likely to Significantly Affect Desert Tortoise, December 22, 2005). The analysis documented in the Environmental Assessment combined with comments received during the public review period lead to a finding of no significant impact. The National Park Service, therefore, will not prepare an environmental impact statement for this project.

RECOMMENDED:



Dennis Schramm
Superintendent, Mojave National Preserve

4/25/07

Date

APPROVED:



Jonathan B. Jarvis
Regional Director, Pacific West Region

5/3/07

Date