

MASTER RESPONSE NO. 3 - GOVERNANCE

Comments were received that questioned the independence and timeliness of the decision-making process described in the Groundwater Monitoring and Management Plan (Management Plan) as set forth in the Supplement to the Draft EIR/EIS. That process involved initial review of data by a Technical Review Team (TRT) comprised of The Metropolitan Water District of Southern California (Metropolitan), Cadiz Inc., the County of San Bernardino, and the U. S. Department of the Interior. The same parties were also represented on a Basin Management Group (BMG) that would attempt to resolve issues based on TRT recommendations through development of a consensus. If the BMG failed to reach consensus, the BLM retained authority to enforce the Management Plan through the terms and conditions of its grant of the right-of-way for the project.

Commentors noted that the process described in the Supplement would be slow due to the need to reach a consensus before any action could be taken. Other commentors questioned the independence of the TRT and BMG with the inclusion of Metropolitan and Cadiz Inc. In response to these comments, the decision-making process in the Management Plan has been streamlined to avoid delays in implementing measures to protect critical resources. The process has also been refined to reflect the legal authority and obligations of Metropolitan and BLM to ensure that the project is operated in a manner that is consistent with the Management Plan provisions to avoid adverse impacts to critical resources. Provisions are also included for public disclosure of the data collected, the assessments and analyses that are performed, and other information regarding aspects of project operations.

Metropolitan is undertaking the Cadiz Project to provide storage for Colorado River water and indigenous groundwater for dry year supply. Metropolitan is a public agency created pursuant to California law, and is subject to the requirements of the California Environmental Quality Act (CEQA). This statute provides that measures to mitigate or avoid significant effects on the environment may be incorporated into the project plan or design. (Public Resources Code section 21081.6(b)). Accordingly, Metropolitan has incorporated the provisions of the Management Plan into the Cadiz Project. (Final EIR/EIS, Volume IV) Metropolitan is primarily responsible for operating the Cadiz Project in accordance with the Management Plan to avoid adverse impacts to critical resources.

Metropolitan's responsibilities include installation and operation of the monitoring features required under the Management Plan, and the collection of data from the monitoring features. When an action criterion has been met or exceeded, Metropolitan must notify the BLM and prepare an assessment of whether the measured change is attributable to project operations and, if so, whether it may indicate a potential adverse impacts to critical resources. Metropolitan will provide its assessment to the BLM, and will institute appropriate corrective measures when necessary to avoid the potential adverse impacts.

The Management Plan requires Metropolitan to prepare annual and five-year reports describing the data collected, modeling results, analyses performed, and project operations. (Section 6.8, Final EIR/EIS, Volume IV) These reports will be available to the public to allow review of Metropolitan's compliance with its obligations to operate the Cadiz Project in accordance with the Management Plan. As a California public agency, Metropolitan is also subject to legal requirements to make its records available for public inspection. (Government Code sections 6250 *et seq.*)

The BLM is responsible for granting a right-of-way for the Cadiz Project across federal lands in accordance with the Federal Land Policy and Management Act (FLPMA) (Title 43, United States Code, sections 1701 *et seq.*). In issuing the right-of-way, BLM is subject to the requirements of the

National Environmental Policy Act (NEPA) (Title 42 United States Code, section 4332) and the NEPA regulations (Title 40, Code of Federal Regulations, sections 1500 *et seq.*). In accordance with FLPMA and NEPA, BLM will retain the authority through the terms and conditions of the right-of-way grant to enforce the provisions of the Management Plan, and thereby avoid adverse impacts to critical resources. (*See* Title 43, United States Code, section 1765, and Title 40, Code of Federal Regulations, section 1505.3)

The BLM will receive technical support and recommendations from other federal, state and local agencies through the Technical Review Panel (TRP) described in Section 9 of the Management Plan. The agencies that will participate in the TRP include the National Park Service, the U. S. Geological Survey, and the County of San Bernardino. Other agencies may be consulted by BLM for their relevant expertise (e.g., Environmental Protection Agency for air quality, or the California Regional Water Quality Control Board for water quality). BLM and the TRP will receive data collected by Metropolitan in accordance with the Management Plan within ninety days after its collection, as well as the annual and five-year reports required in Section 6.8. In addition, the BLM may provide for public participation in its review and decision-making process when, in its discretion, it determines that it is appropriate to do so.

The BLM, together with the TRP, provides an independent, science-based review of Metropolitan's operations in accordance with the Management Plan. BLM retains the authority under the terms and conditions of the right-of-way grant to compel Metropolitan to comply with provisions of the Management Plan for the protection of the environment and identified critical resources.

The governance structure set out in the Management Plan reflects the legal authority and responsibilities of Metropolitan and the BLM. Metropolitan will be able to perform its responsibilities to implement the mitigation measures required in the Management Plan without the delays inherent in reaching a consensus among several agencies. The BLM will review Metropolitan's actions, and will retain the authority it has under federal law to require compliance with the mitigation measures in the Management Plan for the protection of the environment. The TRP ensures that there is independent and science-based input into BLM's decision-making process. Additionally, the public has the right to inspect the data. Through this process, the public can be assured that the Cadiz Project is operated in accordance with the Management Plan, and that adverse impacts to critical resources are avoided.