NEPA Forecast Report
May 17, 2017

APPROACHING DEADLINES (NEXT 2 WEEKS)

Nothing to Report

MONITORING (Projects Either Meet or Potentially Meet Elevation Criteria)

1. Potential and Prior Adverse Ratings on Draft EISs:

R9/Forest Service (USFS)/Record of Decision/ Rosemont Copper Mine/Potential Referral of Adverse Rating:

- **Background:** The Final EIS evaluates a proposed new, 4,800 acre open-pit copper and molybdenum mine to be constructed mostly on USFS National Forest Land southwest of Tucson.
- **EPA Involvement:** EPA rated the Draft EIS as "EU-3" (Environmentally Unsatisfactory – Inadequate Information) based on the degradation of aquatic habitat, Clean Water Act Section 404 compliance, significant air quality impacts, and impacts to tribal and cultural resources, biological resources, and human health. Upon review of the Final EIS, EPA determined that the issues underlying its "EU" rating have not been resolved, and notified USFS and the White House Council on Environmental Quality (CEQ) that the project remains a candidate for referral. Then, pursuant to an EPA request, the USFS extended the referral deadline to allow time for an interagency process to seek resolution of the outstanding issues, and for the Corps Section 404 permit decision to inform any referral decision. Between early 2014 and mid-2016, CEQ facilitated interagency discussions toward this end. Those calls ended as all parties awaited a permit decision by the Corps of Engineers.
- **Status:** The Corps Division is in the process of reviewing the District's July 2016 recommended draft denial of the CWA 404 permit. The draft permit denial was based on determinations that the proposed Rosemont Mine will cause or contribute to violations of state water quality standards and significant degradation of waters of the US. On May 8, 20017, the USFS published a Federal Register Notice to advise the public that that the Coronado National Forest Supervisor is expected to sign the Record of Decision in early June. EPA will not be sending a response to that notice.

R9/Bureau of Land Management (BLM)/Draft EIS/ Greater Phoenix Mine/Potential Adverse Rating (expected May 2017):

- **Background:** BLM is preparing a Draft EIS to evaluate the expansion of an open pit gold, silver and copper mine located in Lander County, Nevada. The proposed project would expand the plan of operations boundary to approx. 18,800 acres and extend the mine life from 2040 to 2063. The major components of the proposal include expansions to the waste rock and tailings storage facilities, and the Copper Heap Leach Pad, as well as changes to the closure methodology that would require active acidic pit lake water management and treatment in perpetuity. Under the preferred alternative, treated water

will be to be blended with equal amounts of unaffected groundwater and used for agriculture on top of the tailings, in perpetuity.

- **EPA Involvement:** EPA provided scoping comments on the proposal in October 2015. As a cooperating agency, EPA reviewed the Administrative Draft EIS in December 2016 and provided comments outlining concerns regarding the pit lake maintenance in perpetuity and the lack of financial assurance information. In March 2017, EPA and BLM participated in a phone call to discuss BLM's response to EPA's comments on the administrative Draft EIS.
- **Status:** EPA is awaiting BLM's publication of the Draft EIS which is anticipated in the late May/June timeframe. OFA is leading discussions with OLEM, Region staffs, and OGC to identify and recommend potential options to deal with the many projects that lack sufficient financial assurance information.

R7/Corps of Engineers (COE)/St. John's Bayou-New Madrid Floodway/Adverse Rating on the 2013 Draft EIS:

- **Background:** The Final EIS evaluates a Tentatively Selected Plan (TSP) for a proposed flood damage reduction project in southeast Missouri. The TSP includes construction of a levee that would close a 1,500 ft. opening in the existing Mississippi River Levee, as well as proposed modifications to drainage channels and a new pump station to reduce flooding in the adjacent St. Johns Bayou Basin.
- **EPA Involvement:** EPA rated the 2013 draft EIS as "EU" (Environmentally Unsatisfactory), concluding that the proposed project may significantly degrade unique, rare, and valuable wetland resources in one of the last remaining areas of the Mississippi River floodplain where connectivity regularly occurs, and that there are uncertainties about proposed compensatory mitigation and the potential availability of practicable, less environmentally damaging alternatives.
- **Status:** In December 2016, Department of Interior (DOI) referred the New Madrid Floodway portion of the project to the White House Council on Environmental Quality (CEQ). The referral was concluded in a CEQ resolution that outlined mutual commitments by DOI and the COE that any future work to benefit agricultural lands and the New Madrid Floodway portion of the project must not cause any unacceptable and unmitigatable impacts to natural resources. Based on this CEQ resolution, EPA believes its concerns will be resolved in the Final EIS. Currently, there is no Final EIS timeline.

2. FEIS Letters that Characterize Residual Serious Concerns:

Nothing to Report

3. Potential Regional Controversy, Significant Media Attention, or Congressional/State Concerns:

R3/Federal Highway Administration/King Coal Highway Buffalo Mountain Surface Mine

- **Background:** The Buffalo Mountain Surface Mine (BMSM) as proposed consists of the construction, operation, and reclamation of an approximately 2,308-acre surface mine involving the construction of 12 valley fills. The project's proposed post mine land use would include approximately 5 miles of line and rough grade (i.e., road bed) for a portion

of the King Coal Highway (KCH). A Draft Supplemental Environmental Impact Statement (SEIS) for the King Coal Highway/Buffalo Mountain Surface Mine (KCH/BMSM) was prepared jointly by the Corps and the WV Division of the Federal Highway Administration (FHWA) in March 2013. Earlier versions of the project and EIS did not include the mine.

- **EPA Involvement:** EPA reviewed and provided comments on the Draft SEIS on June 21, 2013 and rated the document EU-3, indicating the project, as proposed, was environmentally unsatisfactory and the Draft SEIS contained inadequate information. A draft ("preliminary") copy of the Final SEIS for the project was provided to EPA in February 2014; EPA responded by email in March 2014 indicating that significant unresolved issues remained in the document.
- **Status:** On April 25, 201, EPA met with Congressman Evan Jenkins (3rd District, WV) and Senator Shelley Capito to discuss next steps for each federal agency involved in the project (FHWA, USACE, EPA). FHWA plans to issue the Final EIS and Record of Decision concurrently. USACE is working with Booth Energy to develop a new 404 permit application. EPA is committed to working with both FHWA and the Corps to bring the environmental review process to a satisfactory conclusion. OFA is working with Region 3, OW, and OGC to identify and vet options as a follow-up to the issues discussed at the April 25 meeting.

R4/ National Oceanic and Atmospheric Administration (NOAA)/Deepwater Horizon Oil Spill Alabama Recreation Use Restoration Plan/Final EIS/Potential Significant Media Attention (comments due 5/15/2017):

- **Background:** This Restoration Plan/EIS addresses a court order prohibiting the use of funds for a State Park lodge until additional alternatives were explored under NEPA and the Oil Pollution Act, and looks more broadly at the potential to provide restoration for lost recreational use within Alabama by evaluating eight other project alternatives that are intended to compensate for Alabama's recreational use injury from the Deepwater Horizon spill.
- **EPA Involvement:** Under its 309 responsibilities, EPA commented on the Draft EIS in January 2017 and rated it as "LO" (Lack of Objections). As a Natural Resource Damage Assessment (NRDA) trustee, EPA coordinated closely with the Alabama Trustee Implementation Group (TIG) to draft responses to comments received on the Draft EIS. The final EIS was published on April 14, 2017. EPA, as a NRDA trustee, will sign the Record of Decision (ROD) sometime after the 30-day FEIS review/wait period. Alabama TIG representatives have notified R4 that they expect further litigation on the State Park lodge project included in this EIS.
- **Status:** EPA's acknowledgement letter of May 5, 2017 on the FEIS reiterates the Region's lack of objections and that we have no additional comments to offer.

- EPA review indicates that the FEIS remains adequate and will likely have no additional comments to offer.

4. Policy or Precedent Setting Comments:

Nothing to Report