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Date: March 10, 2003

Brian Segee
SW Public Land Director
Center for Biological Diversity
P.O. Box 710
Tucson, AZ 85702-0710

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

RE: Appeal #03-03-00-0017-A215, Rio Peñasco II Project, Sacramento Ranger District,
Lincoln National Forest.

Dear Mr. Segee:

This is my review decision on the appeal you filed regarding the Decision Notice (DN), Environmental Analysis (EA), and Finding of No Significant Impact (FONSI) on the project noted above, which provides for commercial thinning treatments on approximately 4,347 acres.

BACKGROUND

Forest Supervisor Jose Martinez issued a decision on December 10, 2002, for the Rio Peñasco II Project. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations. Pursuant to 36 CFR 215.16, an attempt was made to seek informal resolution of your appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.17. I have reviewed the appeal record, including the recommendations of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer concluded that: 1) decision logic and rationale were clearly disclosed; 2) the benefits of the proposal were identified; 3) public participation and response to comments were adequate; and 4) the project is in compliance with NEPA and other applicable federal laws and regulations.

The Appeal Reviewing Officer recommended that the Responsible Official's decision on the Rio Peñasco II Project be affirmed.



APPEAL DECISION

After a detailed review of the records and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Rio Peñasco II Project.

This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR §215.18(c)].

Sincerely,

/s/ Lucia M. Turner
LUCIA M. TURNER
Appeal Deciding Officer,
Deputy Regional Forester

cc: Christina Gonzalez, Daniel Crittenden, Leonard Lucero, Mailroom R3 Lincoln

Enclosure

REVIEW AND FINDINGS
of the
Center For Biological Diversity's
Appeal: 03-03-00-0017-A215
Rio Peñasco II Project

ISSUE 1: Rio Peñasco II Project EA Violates NEPA

Contention 1A: The Rio Peñasco II timber sales, both individually and cumulatively in conjunction with other planned past, present, and reasonably foreseeable projects within the upper Rio Peñasco watershed, will have a significant effect and thus an Environmental Impact Statement (EIS) must be prepared.

Response: The Finding of No Significant Impact in the Decision Notice for commercial thinning activities, (December 6, 2002) that no EIS is required, is supported in the EA.

1. There are no significant risks to public health and safety. The fire treatment plans reduce risk (EA page 3-44, PR Book 4, #Q6).
2. There are no unique characteristics in the project area (reference Management Area descriptions in EA, PR Book 4, #Q6).
3. There are no highly controversial effects. The monitoring plan in Mexican spotted owl (MSO) Protected Activity Centers is endorsed by the MSO Recovery Team (Biological Opinion page 10), and has been consulted on with the U.S. Fish and Wildlife Service (USFWS) through a Biological Opinion (PR Book 6, #MC11).
4. There are no effects with highly uncertain or unique or unknown risks. The commercial thinning treatments within PACs are within the Biological Opinion incidental take statement (1996) that was analyzed on a Regional basis for treatments within Wildland Urban Interface (WUI) Areas (PR Book 6, #MC11, BO page 19).
5. There are no precedents established for future actions with significant effects. Monitoring of actions in the study is not precedent setting.
6. There are no significant cumulative effects (see references under cumulative effects issue).
7. There are no known cultural resource sites affected. The State Historic Preservation Office concurrence for activities in the project is in the record file (Document K13, signed December 13, 2002).

8. There are no significant effects to threatened or endangered species or critical habitat (see response to later appeal issue).
9. The action does not violate Federal, State or local law imposed to protect the environment. The Decision Notice spells out the laws followed in making the decision.

Finding: The issues raised regarding actions authorized in the EA do not rise to the point where the threshold of significance is reached and therefore an EIS is not required.

Contention 1B: The Rio Peñasco II timber sales involve unique and unknown risks to the MSO (40 CFR § 1508.27 (b)(2)), therefore an EIS must be prepared. The timber sales include an MSO monitoring and research program which will gather both pre-treatment and post-treatment data to evaluate which of three thinning treatments provides the best conditions for conserving the MSO, while reducing the risk of wildfire.

Response: Risks from thinning and road activities to MSO PACs are not unknown and were addressed in the previous WUI 1996 Biological Opinion (BO) issued by USFWS (BO pages 26, 27, PR Book 6, #MC11).

Contention 1B continued: The proposed research will violate recovery plan and forest plan requirements by allowing the logging of trees larger than 9 inches to be logged within PACs, by allowing road construction within PACs, and by treating well in excess of 10% of PACs within the Basin and Range-East Recovery Unit.

Response: Under the 1996 Forest Plan Amendment for MSO and Northern goshawk, and in the MSO Recovery Plan, trees can be harvested up to 23.9 inches (EA response to Comments in record, page 36, PR Book 4, #Q13).

Contention 1B continued: USFWS has expressed serious concerns about the effect of these actions on the Sacramento Mountains population of the spotted owl, as well as clear uncertainty about the effects of the proposed experiment, in the BO.

Response: The USFWS expressed support in strong terms in the Biological Opinion. (page 10, MSO Recovery Team endorses monitoring plan; pages 2 and 5, USFWS supports projects to reduce risk of stand replacing fire and supports the proposed project; page 34, USFWS believes project meets spirit and intent of fire abatement program described in MSO Recovery Plan, PR Book 6, # MC11.)

Contention 1B continued: The proposed monitoring and research program is by design experimental in nature and thus presents substantial and unknown risks to the spotted owl.

Response: Scientific studies are by their very nature experimental. However, the Forest has involved noted MSO scientists, the MSO Recovery Team, and the USFWS, in the design of the proposed monitoring and research study. All have endorsed the proposal. There is general agreement that the risk of catastrophic wildfire and resultant loss of MSO habitat outweighs the risks associated with the proposed study (PR Book 6, #MC3 and #MC11).

Finding: No unique or unknown risks to the Mexican spotted owl are proposed by the project. An EIS is not required.

Contention 1C: The Rio Peñasco II timber sales will adversely affect threatened and endangered species. CEQ regulations specify that one part in determining whether an EIS must be prepared, is “the degree to which the proposed action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under ESA”, 40 CFR § 1508.27 (b)(9). Since the timber sales are likely to adversely affect both the Mexican spotted owl, and the Sacramento Mountains checkerspot butterfly and affect the Sacramento Mountains thistle, and the Sacramento Mountain salamander an EIS must be prepared.

Response: The project actions are not likely to adversely affect the thistle and are insignificant (BO page 4, PR Book 6, #MC11, EA pages 3-61, PR Book 4, #Q6). The actions will not result in a trend towards listing of the salamander (EA pages 3-106, PR Book 4, #Q6). A “may adversely affect” determination itself, does not determine the need for an EIS, it is the degree. The project may affect the checkerspot butterfly but is not likely to jeopardize the species and there is no adverse modification of proposed critical habitat (EA page 3-94, PR Book 4, #Q6, and BO page 1, PR Book 6, #MC11). A total of about 43 acres out of approximately 852 acres will be affected in the proposed critical habitat for the butterfly. The scope and intensity is 5 percent or less. The project may adversely affect 12 PACs for the Mexican spotted owl. The scope of the effects on the Basin-Range East Recovery Unit, are within the PACs anticipated for take for fire risk treatments (BO page 26, PR Book 6, #MC11). These effects are also within the PACs anticipated for take in the Regional WUI Amendment consultation, which originally supposed that up to 49 PACs could be taken (harassment) for this project (see BO page 27, PR Book 6, #MC11). The project will not jeopardize the owl (BO page 1, PR Book 6, #MC11). The commercial thinning treatment will affect less than 10 percent of 12 PACs, and the integrity of the PACs will not be permanently compromised (page 35 BO, PR Book 6, #MC11).

Finding: The “may adversely affect” determination under ESA does not automatically trigger an EIS. The need for an EIS is decided based on the significance determination under NEPA. The Responsible Official correctly assessed that a thinning treatment of a small amount of PACs to prevent catastrophic wildfire effects, coupled with monitoring under the Recovery Plan, is not significant, and so an EIS is not required.

Contention 1D: The Rio Peñasco II timber sales are related to other projects and events with cumulatively significant effects (40 CFR § 1502.16) thus an EIS must be prepared. The Rio Peñasco II EA contains no specific, identifiable analysis of cumulative effects. The Forest Service has not adequately addressed cumulative effects of the Rio Peñasco II Timber sales on the MSO. These include grazing impacts on allotments, logging on national forest land and logging, grazing, development and other impacts on private land within the Rio Peñasco watershed. For instance the Rio Peñasco WUI project treatments are not included in the cumulative effects analysis.

Response: There are several references and analyses of cumulative effects in the document. EA pages 3-1 to 3-3 identify past and future actions that are included in subsequent cumulative effects analyses (EA pages 3-23 and 24). EA pages 3-17 and 19 spell out past fire occurrences

(PR Book 4, #Q6). Rio Peñasco precommercial thinning, commercial timber harvest, mechanical treatment, and prescribed burning activities under Alternative D, were used as reasonably foreseeable future actions (EA page 3-2). Alternative D would treat 50 percent of the WUI area (EA page 3-30). Up to 2700 acres have been treated to date, in WUI and are analyzed as part of the fire cumulative effects discussion (EA page 3-28). Cumulative effects for resources are found in the EA as follows: for Management Indicator Species (MIS) on pages 3-70 to 3-88; for owl on pages 3-334 to 3-39; for soil/water on pages 3-45 to 52; for fire on pages 3-28 to 3-30; for visual effects on page 3-68; and for threatened and endangered species on pages 3-89 to 3-107 (PR Book 4, #Q6).

Contention 1E: Given the high density of roads in the analysis area and environmental effects, examination of all proposed road reconstruction is essential but absent from the EA. By not addressing effects on sediment delivery of the timber sales in conjunction with the Peñasco fire, proposed road construction, timber sales and other impacts, the EA fails to meet the requirements of NEPA.

Response: The project record contains ample evidence that the effects of sediment delivery from the proposed action, was analyzed in conjunction with other past and current disturbances in the watershed. The hydrologic report (PR Book 6, #MS1) provides a rigorous analysis of sediment production potential of harvest units and roads, along with direct effects of the Peñasco fire and mitigation provided by post-fire rehabilitation activities. The conclusions regarding the direct, indirect and cumulative effects are well supported.

Finding: The examination and analysis identified by the appellant is contained in the project record. There is no violation of NEPA.

Contention 1F: The Forest Service analysis fails to provide supporting evidence that the project meets the stated purpose and need of reducing fire hazard. Specifically that removing medium and large trees is necessary to reduce fuel hazard.

Response: The project record references stand density index (SDI) as a means of assessing the relative density of a given stand. A stand at or above 50 percent of its maximum SDI is at great risk of insects, disease, and a stand replacing fire. Almost one-half of the mixed conifers within the analysis area are over 50 percent of its maximum SDI (PR Book 4, #Q6, Page 33A). Stands of 40 percent SDI or greater were selected for thinning harvests, thus reducing the potential for stand replacing fires. Crowning Index (CI) is the minimum wind speed required to transition a ground fire into a crown fire (stand replacement) and maintain it. The CI is sensitive to the density of the canopy (Crown Bulk Density [CBD]). Manipulation of the forest canopy structure through thinning has a direct, positive effect upon potential fire behavior (PR Book 4, #Q6, Page 38A). Fiedler et al. ¹found that applying only a thin-from-below to 9" prescription to a high or moderate hazard Ponderosa pine and dry mixed conifer stand had only modest effect on lowering average crown fire hazard (PR Book 5, R6, Page 21).

¹ Fiedler, C.E., Keegan, Robertson, S.H, Morgan, T.A., Woodall, C.W, Chmelik, J.T., 2002. A Strategic Assessment of Fire Hazard in New Mexico. Final report submitted to the Joint Fire Sciences Program.

Finding: In order to effectively reduce CBD, and the CI, all diameters of trees that make up the canopy must be considered for thinning. All stands to be thinned in the project proposal are designed to reduce the density of the stand to reduce potential fire hazard.

Contention 1G: OMI and Martinson paper cited by the Forest Service as supportive of the need to log mature canopy in fact directly contradicts this assertion, and finds commercial thinning is not effective at reducing the fire severity.

Response: Philip Omi and Erik Martinson in their paper titled, “Effects of Fuel Treatment on Wildfire Severity” narrowly defined fuel treatments to only include non-commercial and pre-commercial activities in order to compare wildfire severity between areas with no fuel treatments and different pre-fire fuel treatments (PR R7, page 7).

Omi and Martinson state that CBD is a key descriptor of crown fire hazard (PR R7, page 16). A series of studies were made on four wildfires in California, Colorado, New Mexico and Mississippi (PR R7, page 10). Wildfire severity was evaluated in terms of stand damage. The researchers compared pre-fire conditions, particularly looking at CBD, height-to-live-crown, and trees/hectare and basal area (PR R7, page 20). It was determined that all of these stand descriptors were significantly lower in all treated stands except two.

The researches found that all indicators of wildfire severity (scorch height, crown volume scorch, stand damage, and depth of char) were significantly lower in treated stands with the exception of some of the Colorado fire sites (PR R7, page 23). The author’s note that the greatest difference in wildfire severity between treated and untreated sites occurred was where the greatest reduction in crown fire hazard occurred (PR, Table 6, R7, page 22).

Omi and Martinson also found the indicator of crown fire hazard with the strongest correlation was height-to-live-crown (PR R7, page 24). They also found that all indicators of wildfire severity (scorch height, crown volume scorch, stand damage, and depth of char) were significantly lower in treated stands with the exception of several of the Colorado sites (PR R7, page 26). Under extreme conditions that occurred during the New Mexico fire (Cerro Grande Fire) they suggest that crown fuels play a major role in burn severity (PR R7, page 27).

Omi and Martinson state that although surface fire intensity is a critical factor in crown fire initiation, height-to-live-crown is equally important. Furthermore, crown fire propagation is dependent on the abundance and horizontal continuity of canopy fuel – measured in term of crown bulk density (PR R7, page 29). Omi and Martinson, by limiting their definition of fuel treatment to include only non-commercial or pre-commercial treatments, are not saying that treatments that remove commercial size trees will not alter wildfire severity. The two authors are simply limiting the scope of their research to evaluate non-commercial or pre-commercial thinning activities

What Omi and Martinson state, is that all indicators of wildfire severity (scorch height, crown volume scorch, stand damage, and depth of char) were significantly lower in treated stands (PR R7, page 23) and that the indicator of crown fire hazard with the strongest correlation was height-to-live-crown (PR R7, page 24). The larger the height-to-live-crown variable, the lower

the wildfire severity due to the reduction in crown fire initiation. They also state that the greatest severity difference occurred on sites that had the greatest reduction in crown fire hazard (PR R7, page 23). Attributes of crown fire hazard include stand density (trees/hectare or acre), basal area, crown bulk density, height-to-live-crown, tree diameter, tree height, slope and aspect (PR R7, page 22, Table 6).

Finding: Omi and Martinson's paper does support the activities proposed in the Rio Peñasco II Project. Treatments proposed do not establish a diameter cap of any kind because this might result in insufficient reduction in crown bulk density to meet treatment objectives.

Contention 1H: The Forest Service fails to address scientific literature, including it's own studies, that logging of large trees can increase fire risk.

Response: This contention appears to be a continuation or restatement of the previous contention (1F). Most of the research involving fuels treatment and the effect on burning severity, talk in terms of height-to-live-crown, CBD, stems/acre, basal area, and stand structure (single or multi-storied). Treatments are evaluated based upon their effects on such things as tree scorch height, crown volume scorch, stand damage, and depth of char to the soil profile. Most fire research authors suggest or recommend treatments that promote the development of stand characteristic to reduce the severity of wildfires in terms of height-to-live-crown, CBD, stems/acre, basal area, and stand structure, but seldom are artificial upper diameter limits placed on proposed fuel treatment, except by the general public.

Fiedler, et al., found that the 9" diameter limit treatment scenario was the least effective in increasing CI (an increase in CI means a reduction in fuel hazard) and that free thinning in all size classes with emphasis on retaining most of the largest trees was the most effective at increasing CI values. Fiedler concluded that, "*Whether the problem is viewed from the standpoint of hazard reduction, ecological condition or treatment cost, a comprehensive approach that considers the density, structure, and species composition of the reserved stand is superior to prescriptions that focus only on the size of trees removed*" (PR R6, page 4).

Finding: Two key documents cited in the EA and included in the project record are by Omi and Martinson, and Fiedler, et al. Findings covering the Omi-Martinson paper have been thoroughly covered in the previous discussion. Appropriate scientific sources are referenced and discussed.

Contention 1I: The Forest Service fails to provide meaningful information regarding the proposed logging of medium and large and mature trees.

Response: The EA, for the Rio Peñasco II timber sales, on page 2-4 describes the silvicultural prescriptions to be used in the analysis. Most treatments are to be *thinnings-from-below* that will reduce stocking, beginning in the smallest diameter classes. Stands earmarked for treatment are those exceeding 40% maximum stand density (SDI_{max}). Thinnings are described as High Intensity Thin (HIT) Medium Intensity Thin (MIT) and Low Intensity Thin (LIT). Each thinning category is defined on pages 2-4 and 2-5 of the EA. No diameter limits are established except in the LIT category. In this category, maximum thin diameter is set at 9". SDI_{max} will generally

continue to exceed 40% in the LIT areas. In the HIT areas, SDI_{max} will be brought down to 20-30%. In the MIT areas, SDI_{max} will be brought down to between 30-40%.

No trees larger than 24" will be cut in MSO habitat (EA page 2-5) per the Mexican Spotted Owl Recovery Plan. Snag guidelines will also be followed. White fir, juniper, and pinyon will be discriminated against when competing with ponderosa pine and Douglas fir (EA page 2-5 and 2-6). Hardwoods such as aspen, maple, willow, and oak will be retained most of the time but may be cut depending upon site-specific objectives.

In many commercial harvest areas, trees less than 9" will be retained as younger cohorts. Because of this, the thinning in these areas is better described as a *free thinning* rather than a pure *thinning-from-below*. All fuels generated by the thinning would be treated by a number of different methods (EA page 2-6).

Table 2.2.3.8.1 (EA page 2-7) shows the number of acres scheduled for treatment in each of the treatment categories by alternative. These treatment categories include aspen release, HIT, MIT, LIT, WUI commercial, WUI non-commercial, non-WUI commercial, and non-WUI pre-commercial. Four categories of fuel treatment are also listed in the table by acres treated by alternative. The four fuel treatment categories include total biomass removal, mechanical chipping, hand pile and burn, and lop and scatter.

Graph 3.2 (EA page 3-9) shows a diameter distribution for unmanaged ponderosa pine stands in the Sacramento Mountains comparing 1911 Woolsey data against current stand conditions. The diameter distribution is in terms of trees/acre by the six vegetative structural stage (VSS) size classes for 1911 and for current conditions.

Detailed existing conditions are spelled out for the ponderosa pine, mixed conifer, and pinyon-juniper forest cover types or forest associations (EA pages 3-9 through 3-10. Table 3.2 (EA page 3-11) shows the number of acres by forest type or association (mixed conifer, ponderosa pine and oak, pinyon-juniper, aspen, and grass-shrub lands).

Within the assessment area, desired conditions are spelled out by forest type in terms of SDI (EA page 3-12). A discussion of each action alternative contains a table showing the proposed number of acres to be treated by treatment scenario (Table 3.2.3.2- Alt B, Table 3.2.3.3- Alt C, table 3.2.3.4- Alt D, Table 3.2.3.5- Alt E)(EA pages 3-14 through 3-17).

Table 3.20.1 (EA page 3-126) displays the estimated biomass and commercial volume by alternative. Saw timber is displayed in terms of thousand board feet (MBF) and biomass volume is displayed in terms of hundred cubic feet (ccf).

Project record files MV-01 through MV-08 discuss SDI (MV01), FVS modeling and how it was used to evaluate the various action alternatives (MV02), a comparison of treatment acres by alternative (MV03), stocking guides used in the Region for ponderosa pine and mixed conifer forests (MV04), a stand diagnosis report showing acre by forest cover type of both historic and current stocking levels by size class (MV05), estimated volume yields by action alternative

(MV06), proposed treatments by forest type by alternative (MV07), and a report identifying, among other things, reference conditions used to establish desired conditions (MV08).

The analysis includes numerous tables on the number of acres to be treated by treatment objective and by treatment alternative. The resulting number of acres by vegetative structure stage and its associated diameter class and estimates of product volumes and biomass are also included within the project record (PR MV01-08).

The analysis team for the Rio Peñasco II Project has defined treatment objectives in terms of SD, height-to-live-crown, CBD, stems/acre, and species composition. The emphasis has been placed on resulting stand structure rather than on the trees to be removed. A diameter cap of 9" has been placed on thinning within the low-intensity-thin areas, but this is partially in part due to owl management guidelines more so than fuel treatment objectives.

Conditions that exist between stands and within stands are so varied that emphasis on a diameter cap or the number of trees to be removed by size class is meaningless and impossible to estimate with any level of confidence. Other analysis teams have elected to give such estimates of tree removal by size class. Comparing existing average stand conditions with post-treatment average stand conditions usually generates these tree removal values. The Rio Peñasco II Analysis Team has placed the emphasis on residual stand conditions and has elected not to provide gross estimates of trees to be removed, since this information does not provide a true measure of the impact of the treatments on other resources such as wildlife habitat and the visual resources.

Finding: There is meaningful information regarding the residual stand conditions and results of these conditions on other resources such as wildlife habitat and the visual resources, provided in the Rio Peñasco II Project record.

Contention 1J: Fails to analyze a reasonable range of alternatives. Only one major silvicultural prescription will be utilized, that of intermediate logging. None of the alternatives address the goals, reducing tree densities and fire hazard, without utilizing timber sale contracts for thinning. The Center for Biological Diversity requested consideration of a precommercial alternative or an alternative that limited treatments to small-diameter material (diameter cap), which Forest Service refused to consider.

Response: A non-commercial treatment alternative was proposed in the comments but dropped from detailed study. The reasoning is found on page 2-1 of EA. It did not meet the objective to do vegetation treatments to reduce fuel loading, particularly removal of fuel ladders in closed canopy stands. Another public proposed alternative, which met the objectives, was analyzed in detail (Alternative D).

Finding: The range of alternatives was reasonable for the issues raised on the proposed action and the ability to meet the objectives of the effort. Peripheral alternatives, those not meeting project objectives were not considered further.

ISSUE 2: The Rio Peñasco II timber sales violates the NFMA.

Contention 2A: The analysis of MIS fails to meet the requirement of the Lincoln Forest Plan and NFMA.

Response: A thorough discussion on MIS population and habitat trends for the Lincoln NF is included in the record (PR Book 2, #D41), and is supported by a number of documents and reports also located in Book 2 of the record. Further discussion of the effects of the proposed action and comparison of effects by alternatives is included in the EA (PR Book4, #Q6).

Finding: The requirements of NFMA and the Lincoln Forest Plan have been met by the Forest in their treatment and discussion of MIS in association with the proposed alternative.

Contention 2B: The proposed amendment to the Lincoln Forest Plan without public notice and opportunity to comment violates NFMA. Forest failed to properly follow the requirements of its own regulations as they pertain to Forest Plan amendments (FSH 1909.12, ch. 5)

Response: The four parts of the regulation for non-significant amendments are timing, location and size, outputs related to the Forest Plan, and changes in management prescriptions. These items were included in EA Appendix C, the study plan for monitoring. The EA, including this appendix, went out for public comment in September 2002. Replacement pages for the Plan were attached to the EA for review.

Finding: The requirements of the regulation for disclosing effects of a non-significant amendment to the Forest Plan were met in the EA and through the EA notice and comment process. The Decision Notice (December 6, 2002) describes the amendment change.

Contention 2C: The Rio Peñasco II timber sales exceed the road density requirements, thus the proposed road construction is illegal and probably a violation of the Lincoln's Forest Plan.

Response: There is no road density requirement in the Lincoln NF Plan, except for the Sixteen Springs Management Area, which is outside the Rio Peñasco II Project Planning Area.

Finding: There is no violation of road density requirement in the Forest Plan.

ISSUE 3: The Rio Peñasco II timber sales violate the Administrative Procedure Act (APA).

Contention: The appellant alleges that due to all the previously cited appeal points, the decision is arbitrary and capricious.

Response/Finding: The Responsible Official has conducted and documented a reasoned analysis of the Rio Peñasco II Project and disclosed the effects in the public arena. This decision is in compliance with the APA.