UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
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September 23, 2013

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In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Valles Caldera National Preserve Draft Environmental Impact Statement (DEIS) for Landscape Restoration and Stewardship. The purpose of the proposed action is to improve the resilience and adaptive capacity of the preserve's natural systems, protect people and resources from destructive wildfire, and to rehabilitate severely burned areas from the Las Conchas wildfire.

EPA rates the DEIS as "EC-2" i.e., EPA has "environmental concerns and requests that additional information be added" in the Final EIS (FEIS). The EPA's Rating System Criteria can be found here: http://www.epa.gov/oecaerth/nepa/comments/ratings.html. The "EC" rating is based on potential impacts to natural resources. The "2" indicates the DEIS does not contain sufficient analysis and information concerning air impacts and consultation with agencies in charge of resource preservation. Detailed comments are enclosed with this letter which clearly identifies our concerns and the informational needs requested for incorporation into the Final EIS (FEIS). Responses to comments should be placed in a dedicated section of the FEIS and should include the specific location where the revision, if any, was made. If no revision was made, a clear explanation should be included.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS, and an internet link, when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. If you have any questions or concerns, I can be reached at 214-665-8006, or contact Keith Hayden of my staff at hayden.keith@epa.gov or 214-665-2133.

Sincerely,

Rhonda Smith

Rhonda Smith
Chief, Office of Planning
And Coordination

Enclosure

DETAILED COMMENTS
ON THE
VALLES CALDERA NATIONAL PRESERVE
DRAFT ENVIRONMENTAL IMPACT STATEMENT

BACKGROUND: The Valles Caldera National Preserve (VCNP) is a unit of the National Forest System (NFS) that was acquired in 2000 through the Valles Caldera Preservation Act (VCPA). The act not only provided for the acquisition of the preserve but also created an experimental management regime called the Valles Caldera Trust (VCT). The trust is a wholly owned government corporation whose purpose is to establish a demonstration area for an experimental management regime that incorporates elements of public and private administration in order to promote long-term financial sustainability. It also seeks to provide protection and preservation of resources and values, while providing for public recreation. The VCNP is located in north central New Mexico, primarily in Sandoval County, but with an inclusion in Rio Arriba County. The VCNP is a unit of NFS land surrounded by the Santa Fe National Forest (SFNF), and abuts Bandelier National Monument (BNM) to the southeast, and Santa Clara Pueblo tribal lands to the northeast. The purpose of the proposed action is to improve the resilience and adaptive capacity of the preserve's natural systems, protect people and resources from destructive wildfire, and to rehabilitate severely burned areas from the Las Conchas wildfire.

EXECUTIVE SUMMARY

General Comments

The executive summary does not identify the size of the VCNP or identify its location in relation to other regional cities or landmarks.

Recommendation:

- Include the size of the trust acreage, as well as, a description of its physical location in proximity to other regional cities or landmarks in the Final EIS.

Tribal Resources

Information in the EIS indicates that reasonable effort was made to identify pueblos and tribes that may potentially be affected by the proposed action. The DEIS also states that formal consultation with interested tribal governments will be conducted concurrently with the release of the draft EIS.

Recommendation:

- EPA recommends that a complete description of the government-to-government consultation be incorporated in the Final EIS. Include correspondence to Tribal governments and other consultation-related documents to demonstrate fulfillment of Tribal consultation duties of federal agencies, and to exhibit the level of Tribal government engaged in the process.

CHAPTER 4: AFFECTED ENVIRONMENT

Section 4.8: Cultural resources

This section states the VCT is currently working with the New Mexico State Historic Preservation Officer (SHPO) on finalizing a Programmatic Agreement (PA) for the trust. The agreement will provide a comprehensive process for management of cultural resources on the preserve and is being developed in collaboration with NM SHPO and the Advisory Council on Historic Preservation (ACHP) to streamline National Historic Preservation Act (NHPA) compliance. The PA is expected to be completed in 2013. Another PA to be finalized in 2013 will specify the details associated with inventory of historic properties in proposed project areas, standards for evaluation of potential effects, measures to avoid effects, and provide details on monitoring goals and activities.

In order to satisfy cultural, archeological, and historical consultation requirements of NEPA and the NHPA, the SHPO must concur that the activities described in the EIS will not adversely affect these resources. Developing a PA with the SHPO and ACHP to protect cultural, archeological, and historical resources will satisfy consultation requirements. In order to do this, however, the PA's must be submitted with the Final EA. If the PA's are not submitted with the Final EA, the EIS will need to be supplemented with the information at a later date.

Recommendation:

- Include concurrence from the New Mexico SHPO that activities described in the EIS will not adversely affect cultural, archeological, and historical resources, or submit the finalized PA between VCT, New Mexico SHPO, and the ACHP.

CHAPTER 5: ENVIRONMENTAL CONSEQUENCES

Fire Management

Section 5.7 of the DEIS states the action alternatives would have localized adverse effects on air quality from prescribed burning and dust from operations. Both the action alternatives would reduce potential for more adverse long-term consequences from wildfire.

Recommendation:

- Therefore, EPA recommends that all fire management activities should be subject to the BMPs identified in the *Decision Record and Resource Management Plan Amendment for Fire and Fuels Management on Public Land in New Mexico and Texas* (BLM 2004c) and the *New Mexico Wildland Fire Management Joint Powers Master Agreement*. BMPs are identified in these documents, which can be viewed online at http://www.nm.blm.gov.

- EPA recommends that the Draft EIS specifically reference that New Mexico has a smoke management regulation, 20.2.65 New Mexico Administrative Code (NMAC), which was developed as part of the Region Haze State Implementation Plan (SIP). Prescribed fire burning activities need to adhere to any applicable requirements outlined in state regulations. The Valles Caldera Trust should coordinate with the State of New Mexico regarding all fire management activities.

PM-10 Emissions and Fugitive Dust Control

EPA believes it is especially important that information regarding the potential air quality impacts during the construction phase (surface disturbance related to route/trail network and/or roadway management activities) of a project and related mitigation measures (i.e., mitigation measures for PM/dust control, air quality impacts of construction vehicles etc.) are more fully discussed. In general, the DEIS does not appear to mention air quality impacts related to potential construction activities in the Valles Caldera National Preserve area.

Recommendation:

- EPA recommends the use of best management practices for PM_{10} and fugitive dust control (e.g., gravel roads, soil wetting practices, limiting access, traffic and speed reduction). In order to further reduce potential air quality impacts, the responsible agencies should also include a Construction Emissions Mitigation Plan (Plan) and adopt this Plan in the Record of Decision (ROD).

- The DEIS should more fully discuss specific actions including dust ordinances on the county level, educational outreach tools, and tools to minimize the public's exposure to PM_{10} for Sandoval and Rio Arriba County, as applicable. In addition to measures included in the DEIS and all applicable local, state, or federal requirements, the EPA recommends that the following mitigation measures (as applicable) be included in the Plan in order to reduce impacts associated with emissions of PM, and other pollutants from any planned roadway construction or restoration-related activities:

- *Construction Emissions Mitigation Plan* – The EA should include a draft Construction Emissions Mitigation Plan and ultimately adopt this plan in the Record of Decision. In addition to all applicable local, state, or federal requirements, we recommend the following control measures (Fugitive Dust, Mobile and Stationary Source and Administrative) be included (as applicable) in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of particulate matter and other pollutants from construction-related activities:

    - Fugitive Dust Source Controls: The EA should identify the need for a Fugitive Dust Control Plan to reduce Particulate Matter 10 and Fine Particulate Matter 2.5 emissions during construction and operations. We recommend that the plan include these general commitments:
        - Stabilize heavily used unpaved construction roads with a non-toxic soil stabilizer or soil weighting agent that will not result in loss of vegetation, or increase other environmental impacts.
        - During grading, use water, as necessary, on disturbed areas in construction sites to control visible plumes.
        - Vehicle Speed
            - Limit speeds to 25 miles per hour on stabilized unpaved roads as long as such speeds do not create visible dust emissions.
            - Limit speeds to 10 miles per hour or less on unpaved areas within construction sites on un-stabilized (and unpaved) roads.
            - Post visible speed limit signs at construction site entrances.

- Inspect and wash construction equipment vehicle tires, as necessary, so they are free of dirt before entering paved roadways, if applicable.
- Provide gravel ramps of at least 20 feet in length at tire washing/cleaning stations, and ensure construction vehicles exit construction sites through treated entrance roadways, unless an alternative route has been approved by appropriate lead agencies, if applicable.
- Use sandbags or equivalent effective measures to prevent run-off to roadways in construction areas adjacent to paved roadways. Ensure consistency with the project's Storm Water Pollution Prevention Plan, if such a plan is required for the project.
- Sweep the first 500 feet of paved roads exiting construction sites, other unpaved roads en route from the construction site, or construction staging areas whenever dirt or runoff from construction activity is visible on paved roads, or at least twice daily (less during periods of precipitation).
- Stabilize disturbed soils (after active construction activities are completed) with a non-toxic soil stabilizer, soil weighting agent, or other approved soil stabilizing method.
- Cover or treat soil storage piles with appropriate dust suppressant compounds and disturbed areas that remain inactive for longer than 10 days. Provide vehicles (used to transport solid bulk material on public roadways and that have potential to cause visible emissions) with covers. Alternatively, sufficiently wet and load materials onto the trucks in a manner to provide at least one foot of freeboard.
- Use wind erosion control techniques (such as windbreaks, water, chemical dust suppressants, and/or vegetation) where soils are disturbed in construction, access and maintenance routes, and materials stock pile areas. Keep related windbreaks in place until the soil is stabilized or permanently covered with vegetation.

- Mobile and Stationary Source Controls:
  - If practicable, lease new, clean equipment meeting the most stringent of applicable Federal[1] or State Standards[2]. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible[3].
  - Where Tier 4 engines are not available, use construction diesel engines with a rating of 50 hp or higher that meet, at a minimum, the Tier 3 California Emission Standards for Off-Road Compression-Ignition Engines, unless such engines are not available.
  - Where Tier 3 engine is not available for off-road equipment larger than 100 hp, use a Tier 2 engine, or an engine equipped with retrofit controls to reduce exhaust emissions of nitrogen oxides and diesel particulate matter to no more than Tier 2 levels.

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[1] EPA's website for nonroad mobile sources is http://www.epa.gov/nonroad/.

[2] For California, see ARB emissions standards, see: http://www.arb.ca.gov/msprog/offroad/offroad.htm.

[3] Diesel engines < 25 hp rated power started phasing in Tier 4 Model Years in 2008. Larger Tier 4 diesel engines will be phased in depending on the rated power (e.g., 25 hp - <75 hp: 2013; 75 hp - < 175 hp: 2012-2013; 175 hp - < 750 hp: 2011 - 2013; and ≥ 750 hp 2011- 2015).

- Consider using electric vehicles, natural gas, biodiesel, or other alternative fuels during construction and operation phases to reduce the project's criteria and greenhouse gas emissions.
- Plan construction scheduling to minimize vehicle trips.
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections.
- Maintain and tune engines per manufacturer's specifications to perform at CARB and/or EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed.

- Administrative controls:
  - Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips.
  - Identify any sensitive receptors in the project area, such as children, elderly, and the infirm, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).
  - Include provisions for monitoring fugitive dust in the fugitive dust control plan and initiate increased mitigation measures to abate any visible dust plumes.

Climate Change

The DEIS does not appear to address climate change in sufficient detail. The DEIS should consider how climate change could potentially influence the proposed project, specifically within sensitive areas, and assess how the projected impacts could be exacerbated by climate change.

Recommendation:

- The DEIS should consider how climate change could potentially influence the proposed project, specifically within sensitive areas. Also, the DEIS should assess how the projected impacts could be exacerbated by climate change, and strategies for climate change adaptation planning.

Greenhouse Gas Emissions

On February 18, 2010, the Commission on Environmental Quality (CEQ) issued draft guidance to federal agencies on analyzing the effects of Greenhouse Gas (GHG) emissions and climate change when describing the environmental effects of a proposed agency action in accordance with NEPA. CEQ's draft guidance defines GHG emissions in accordance with Section 19(i) of *E.O. 13514 Federal Leadership in Environment, Energy, and Economic Performance* to include carbon dioxide ($C0_2$), methane (CH_4), nitrous oxide (N_20), hydrofluorcarbon (HFCs), perfluorcarbon (PFCs), and sulfurhexafluoride (SF_6). Because CO_2 is the reference gas for climate change based on their potential to absorb heat in the atmosphere, measures of non-$C0_2$ GHGs should be reflected as CO_2-equivalent (COre) values. The EPA supports evaluation and disclosure of GHG emissions and climate change effects resulting from the proposed project during all project phases, including (1) pre-construction (e.g., transportation, mobilization, and staging), (2) construction, (3) operation, (4) maintenance, and (5) decommissioning.

Recommendation:

- EPA recommends that the DEIS establish reasonable spatial and temporal boundaries for this analysis, and that the DEIS quantify and disclose the expected annual direct and indirect GHG emissions for the proposed action.
- In the analysis of direct effects, we recommend that the DEIS quantify cumulative emissions over the life of the project, discuss measures to reduce GHG emissions, including consideration of reasonable alternatives.
- EPA recommends that the DEIS consider mitigation measures and reasonable alternatives to reduce action related GHG emissions, and include a discussion of cumulative effects of GHG emissions related to the proposed action.
- EPA recommends that this discussion focus on an assessment of annual and cumulative emissions of the proposed action and the difference in emissions associated with the alternatives. Consistent with draft CEQ guidance, we recommend that this information be included in the DEIS for consideration by decision makers and the public. See *http://www.epa.gov/climatechange/emissions/ghgmlemaking.html.*

Threatened and Endangered Species and Migratory Birds

The United States Fish and Wildlife Service (USFWS) is the federal agency tasked with protection of threatened and endangered (T&E) species and migratory birds. The VCT evaluated potential effects to T&E species and made a "may effect, but is unlikely to adversely affect" determination. This determination was submitted to the USFWS in the form of a biological evaluation (BE). The USFWS can either concur with the findings of the BE or refute the findings and ask that formal consultation be initiated.

The DEIS states noise and disturbance from restoration activities could disturb birds during spring and early summer.

Recommendation:

- Include the concurrence from the USFWS on the "may effect, but is unlikely to adversely affect" finding made by VCT in the BE.
- Limit disturbance from noise and restoration activities when Migratory Birds are present. This should include breeding and nesting times when Migratory Birds and their young could be most sensitive to disturbances, and less able to flee potentially damaging activities. Please consult with USFWS to minimize potentially adverse impacts to Migratory Birds.

Wild and Scenic Rivers

The East Fork of the Jemez River is designated as a Wild and Scenic River and is managed by the United States Forest Service (USFS). This river has its origins within the VCNP, but the Wild and Scenic designation does not begin until the boundary of the VCNP. The Wild and Scenic portion runs 11 miles from the boundary of the VCNP until it reaches its confluence with the San Antonio River. Indirect adverse impacts resulting from restoration activities are not discussed in the DEIS. Wild and Scenic Rivers are mentioned only in the cumulative impacts section and are not tied to any impacts associated with the preferred alternative or no action alternative.

Recommendation:

- Analyze any direct or indirect affect to Wild and Scenic Rivers resulting from the no-action or action alternatives. Clarify the location of the East Fork Jemez River in relation to the VCNP and delineate the portions of the river designated as Wild and Scenic.

Irreversible and Irretrievable Commitment of Resources

Section 102(2)(C)(v) of the NEPA directs the responsible official to include in EIS's any irreversible or irretrievable commitment of resources which would be involved in the proposed action should it be implemented. This section is not included in the DEIS.

Recommendation:

- The Final EIS should include a detailed description of any irreversible or irretrievable commitment of resources resulting from the proposed action being implemented.

GENERAL COMMENTS

Notice of DEIS Availability

The DEIS does not contain a list of agencies, organizations, and people to whom the DEIS was sent. Including the list as part of the DEIS ensures that all federal, state, and local agencies, organizations, and people responsible for natural resource protection have been notified of the EIS's availability.

Recommendation:

- The Final EIS should include a list of agencies, organizations, and people to whom the DEIS was sent.