

Appendix 7 - BLM Response to Comment Document No. 141, Senators Dianne Feinstein and Alex Padilla

Substantive.

The BLM appreciates and understands the concerns raised by Senators Padilla and Feinstein. The BLM further recognizes the importance of California Desert as a national treasure, along with the critical importance of nearby National Parks and Monuments, and will continue to keep the commenters and the public informed of the status of this project.

As clarified in the revised CX, the proposed action is an assignment of an existing Mineral Leasing Act (MLA) right-of-way (ROW) that authorizes the transport of oil or gas through an existing pipeline and would only provide Cadiz with the right to use the ROW for current MLA purposes. It would not authorize any additional rights beyond those rights EPNG currently holds, and would not authorize Cadiz to extract or transport water. Any new construction or surface disturbing activities on federal lands associated with MLA purposes would require approval from the BLM. Cadiz's assignment application and Plan of Development (POD) describes its immediate activities as maintaining the internal and external integrity of the existing Northern Pipeline, including a nitrogen blanket and cathodic protection to prevent corrosion in accordance with the current MLA ROW grant. Cadiz's application and POD also identifies several options to put the entire pipeline, including the portion for which it seeks the assignment of EPNG's MLA ROW across federal lands, into service for the transport of natural gas or some other qualifying purpose under the MLA.

Because the MLA ROW would not give Cadiz any right or entitlement, or otherwise guarantee future approval, to use the ROW for non-MLA purposes, including to transport of water, any proposed change to a non-MLA use, such as transport of water which was raised in the many comments received by the public, would require submission of an application under Title V of the Federal Land Policy and Management Act (FLPMA). The BLM would not issue a Title V right-of-way or otherwise allow for non-MLA uses without fully analyzing the environmental and historic resource impacts associated with a new use, e.g., the transport of water, consistent with the National Environmental Policy Act, Section 106 of the National Historic Preservation Act, and the Endangered Species Act. Due to the sensitive nature of the federal lands surrounding the existing MLA ROW and Cadiz's property, including the Mojave National Preserve, the Mojave Trails National Monument, and other specially designated lands with fragile ecosystems, the BLM anticipates that any Title V ROW application seeking to use the existing pipeline to transport water would require intensive environmental studies of those potential impacts associated with the transport of water, including Cadiz's extraction of water from its underground aquifer, to the surrounding federal lands. The BLM further anticipates that such a necessary review of the potential impacts would inform the basis of any potential discretionary decision made by the BLM.

In sum, the MLA ROW assignment would not create any new rights whatsoever or allow for activities beyond what is authorized under the current MLA ROW, and therefore, the assignment would have no environmental impacts or extraordinary circumstances implicating the applicability of a Categorical Exclusion. The BLM would require Cadiz to follow the

stipulations from MLA ROW AZA021968, which includes measures to protect resources. The BLM, in response to the comments received, also would include additional terms and conditions into the MLA ROW grant to ensure that the limits of any right Cadiz would receive are unambiguous and offer no guarantee of approval for any future request to use the ROW for a non-MLA purpose. Further, the BLM would include express conditions requiring Cadiz's ability to actively engage in efforts to utilize the pipeline within the federal ROW for the transport of natural gas or some other MLA purpose within two years or risk termination of the MLA ROW. Such additional terms and conditions would underscore the decision the BLM is making for this MLA ROW assignment.