

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

September 3, 2013

Ms. Kathleen Depukat
Project Manager
Sonoran Valley Parkway Project
Bureau of Land Management
Phoenix District Office
21605 North 7th Avenue
Phoenix, Arizona 85027-2929

Subject: Draft Environmental Impact Statement for the Sonoran Valley Parkway Project, Maricopa County, Arizona (CEQ # 20130209)

Dear Ms. Depukat:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the Sonoran Valley Parkway Project (Project) pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

According to the DEIS, in February 2008, the City of Goodyear submitted an application for a permanent 250-foot-wide right-of-way to the BLM for the construction and operation of a two- to six-lane, approximately 15- to 18-mile-long parkway. The stated need for the parkway is to accommodate growth within Goodyear's Sonoran Valley Planning Area, and to connect residents of the annexed lands of the SVPA, near the community of Mobile, to fire, police and emergency services. The SVPA current population is approximately 100 residents.

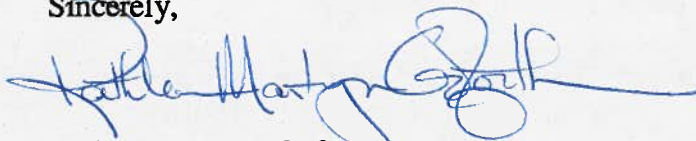
Based on our review of the DEIS, we have rated the Preferred Alternative and the document as *Environmental Concerns – Insufficient Information* (EC-2) (see the enclosed "Summary of EPA Rating Definitions"). The EPA is primarily concerned about the purpose and need for the Project, given the small population to be served and the Project's uncertain funding and timing. We are also concerned about the Project's potential to induce growth within the SVPA that would result in a range of impacts, including effects on air quality, water resources, and wildlife. In addition, we are concerned with the emissions associated with the proposed parkway in relation to the State Implementation Plans for the nonattainment areas located within the SVPA, and about potential effects on aquatic resources, particularly waters of the United States.

We recommend that the Final EIS include additional information regarding the Project purpose and need and the potential for the Project to induce growth. We also recommend that BLM consider whether the proposed action is appropriately presented as a project-level decision or whether it would be more appropriately characterized as a decision to preserve a corridor for future project-specific decision-making. A general conformity applicability analysis will be needed to determine whether the Project's air emissions would be subject to, and compliant with, conformity requirements, pursuant to section 176(c) of the Clean Air Act. We recommend that the BLM work closely with the Maricopa County Air

Quality Department on this analysis and, if necessary, its conformity determination. The FEIS should document the steps taken to demonstrate compliance with conformity requirements. We also recommend that the FEIS describe actions that would be taken to avoid aquatic resources and comply with permit requirements of Section 404 of the Clean Water Act. Finally, we recommend that the FEIS analyze the Project's projected greenhouse gas emissions, as well as how climate change may affect the Project. Our detailed comments are enclosed.

We appreciate the opportunity to review this DEIS, and are available to discuss our comments. When the FEIS is released, please send one CD copy to this office (specify Mail Code CED-2). If you have any questions, please contact me at 415-972-3521, or contact Jason Gerdes, the lead reviewer for this project. Mr. Gerdes can be reached at 415-947-4221 or gerdes.jason@epa.gov.

Sincerely,



Kathleen Martyn Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions
EPA Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment

Purpose and Need

The primary purpose of the proposed Sonoran Valley Parkway Project, as stated in the Draft EIS, would be to provide residents of the Sonoran Valley Planning Area with access to and from the City of Goodyear, to facilitate traffic movement that would result from growth in the area, and to provide a transportation route that allows for timely emergency services response to residents in the SVPA (p. 2). The DEIS states that the need for the Project is to “accommodate growth within the SVPA” (p. 3). The DEIS details the population boom, projected in a 2009 report by the Maricopa Association of Governments, for both Goodyear, which is expected to increase from approximately 65,000 residents to 358,000 by 2035 (and more than 511,000 at full build-out), and the SVPA, which is projected to increase from approximately 100 individuals today, to more than 200,000 residents at full build-out.

We note that the MAG report was released as the Phoenix metropolitan area was nearing the end of a time of rapid growth and development. The DEIS acknowledges that the projections of high development in the SVPA are “tentative,” given the slowdown of development that resulted from the economic downturn, but indicates that this slowdown is considered temporary. The DEIS identifies four new planned communities under development in or near the SVPA; however, only the two that are outside of the SVPA appear to be actually under development, and, given their close proximity to Goodyear, it is not clear how they would affect the need for the proposed Project. The locations of the planned communities that would be within the SVPA are not specified, nor is it clear how likely those communities are to be constructed; therefore, the extent to which they would be likely to contribute to the need for the proposed Project is also unclear. The uncertain reliability of the population projections raises questions regarding the need for the Project as it is currently proposed.

Uncertainty also characterizes the Project’s funding and its development timeline. The DEIS states that the Project is “not currently funded or included in the MAG RTP,” with only “right-of-way preservation occurring between 2010 and 2020” (Appendix B, Reasonably Foreseeable Development, p. 3). It is EPA’s understanding that the Project proponent (City of Goodyear) no longer has a construction contractor identified, does not currently have funding, and sees the SVPP as a long-term project.¹ The development schedule is similarly vague, with the DEIS stating simply that the Project will be “constructed in three phases (two, four, and six lanes), contingent upon funding and growth” (p. 46). The lack of funding for the Project suggests that development, if it happens, could be years, or even decades, from commencing.

BLM staff advised EPA that the Project would undergo a “Determination of NEPA Adequacy” (DNA) once Goodyear has secured financing and is ready to proceed, and that this DNA could result in further NEPA analysis.² Given all of the current uncertainties, it seems likely that a project-level EIS developed now would warrant revision or supplementation by the time that occurs. This suggests that project-level NEPA decision-making may be premature at this time. It may be more appropriate to limit the decision to be supported by this EIS to whether or not to approve a right of way for the preservation of a corridor that could accommodate the Project as it is currently proposed, and to tier a project-level NEPA document to this EIS in the future when funding and further details regarding the actual need and appropriate timing for the Project are known.

¹ Phone conversation between Jason Gerdes (EPA Region 9) and Kathleen Depukat (BLM), [August 14, 2013]

² Ibid.

Recommendations:

- The FEIS, and any additional NEPA analysis for the Project, should utilize the most recent population projections for Goodyear and the SVPA, such as those prepared by Arizona's Office of Employment and Population Statistics (we understand that 2012-2050 sub-county projections are expected to be published by the EPS in September).
- Include, in the FEIS, a map showing the locations of the planned communities that were identified in the DEIS and clarify the status of their development.
- Due to the uncertainty surrounding the funding and timeline for the Project, consider limiting the decision to be supported by this EIS to the preservation of a corridor, with a commitment to prepare one or more tiered project-level NEPA documents once Goodyear has secured financing and is ready to proceed with a more clearly defined project.
- Regardless of the level of decision supported by this EIS, include, in the FEIS and ROD, a commitment to reevaluate the NEPA analysis and prepare a new, revised, or supplemental NEPA analysis, as appropriate, when funding is secured for the Project.

Induced Growth

The DEIS states that one of primary reasons to construct the Project would be to accommodate growth within the SVPA. The EPA is concerned that, instead of accommodating growth within the SVPA, the Parkway could induce it. As noted above, the current population of the SVPA is approximately 100 individuals, and the projections of rapid growth for Goodyear and the SVPA that are included in the DEIS may be outdated. Furthermore, the three significant transportation projects proposed in the SVPA—SR 303L, I-11 (Hassayampa Freeway), and the Parkway—are all currently unfunded, with uncertain development prospects. The currently very low population in the planning area, coupled with the apparently distant and uncertain timeframe for construction of these proposed transportation projects suggest that, instead of meeting an existing or reasonably foreseeable need, the Project could, itself, promote development and bring about the associated impacts, including effects on air quality, water resources, and wildlife.

Recommendations:

- The FEIS should analyze the potential for the Sonoran Valley Parkway Project to induce growth within the SVPA and vicinity.
- The FEIS should disclose and analyze the potential impacts of induced growth, including to air and water resources, and sensitive species.

Air Quality

A new two- to six-lane, approximately 15- to 18-mile-long parkway in the greater Phoenix area would have the potential to negatively affect regional air quality. This is particularly important in light of the existing air quality challenges facing Phoenix, and recent efforts to address PM₁₀ undertaken by the Maricopa Association of Governments, Maricopa County Air Quality Department, and Arizona Department of Environmental Quality. Portions of Maricopa County are federally designated as serious nonattainment for the 1987 National Ambient Air Quality Standard for particulate matter of ten microns or less. Currently, the area is violating the 24 -hour PM₁₀ NAAQS of 150 µg/m³. Further, while Maricopa County is currently designated attainment and unclassifiable for the 2006 24-hour and 1997 annual PM_{2.5} NAAQS of 35 µg/m³ and 15 µg/m³, respectively, monitors in the Phoenix area measure concentrations that approach the new 2012 annual PM_{2.5} NAAQS of 12 µg/m³. Moreover, the Phoenix area is federally designated as "marginal" nonattainment area for the 2008 ozone NAAQS and continues

to violate the 8-hour ozone NAAQS of 0.075 ppm. Portions of Maricopa County are also federally designated as maintenance for the carbon monoxide NAAQS.

General Conformity

The DEIS provides limited information on the air quality impacts associated with implementing the Project. Although it includes projections for the average daily traffic and vehicle miles traveled for each action alternative, it provides no quantitative estimates of criteria pollutants that would be generated from implementing the preferred or other alternatives. In the discussion of potential effects on air resources for the preferred alternative (Alternative A), for instance, the DEIS states only that “concentrations of CO would increase from existing ambient levels due to SVPP peak hour traffic”; that concentrations of ozone, because it is a regional pollutant and dependent upon precursors such as nitrogen oxides and volatile organic compounds, would be minor; and that the operation of Alternative A may result in indirect air quality impacts, as future development along the Parkway would create the potential for increases in local carbon monoxide and PM₁₀ concentrations. The DEIS does not address whether or not the emissions from the proposed Project would conform to the approved State Implementation Plans, in accordance with the General Conformity regulations at 58 FR 63255 (revised 75 FR 17274) – 93.153 Applicability analysis, and 58 FR 63257 (revised 75 FR 17276) - 93.158 Criteria for determining conformity of general federal actions.

Recommendations:

- Clarify, in the FEIS, the General Conformity regulatory framework and how it applies to the proposed Project. A General Conformity applicability determination will be needed. Note: If the BLM decides to limit the decision to be supported by this EIS to the preservation of a corridor, as suggested in our comment on Purpose and Need, the General Conformity applicability determination should be done at the time a project-specific NEPA analysis is conducted.
- Assuming that General Conformity applies to the proposed Project, the FEIS should demonstrate, for all pollutants for which the Phoenix planning area is in nonattainment or maintenance status and for which the anticipated direct and indirect construction and operational emissions would exceed the applicable de minimis levels, that the direct and indirect emissions from both the construction and operational phases of the proposed Project would conform to the approved State Implementation Plans and not cause or contribute to violations of the NAAQS.
- We recommend that the BLM work closely with the Maricopa County Air Quality Department, ADEQ, MAG, and the EPA on its conformity determination. We also recommend that the Draft General Conformity Determination be included in the FEIS, either as a detailed summary or as an appendix.

Minimization of Operational Air Emissions

The DEIS indicates that the proposed Project would facilitate public transit; however, no details are provided regarding the incorporation of public transit into the Project design. The incorporation of features to expand access to the Parkway, such as public transit and bike paths, is most successful when it is included early in the project design. Additionally, the inclusion of public transit and bike paths would reduce the operational emissions associated with the Project.

Recommendation:

- Incorporate public transit and bike paths into the design of the proposed Project. For more information on designing for bicycle access, see the Department of Transportation's Policy Statement on Bicycle and Pedestrian Accommodation (http://www.fhwa.dot.gov/environment/bicycle_pedestrian/overview/policy_accom.cfm)

Aquatic Resources

Compliance with Section 404 of the Clean Water Act

The DEIS states that Alternative A would result in the loss of 2.5 acres of waters of the United States along portions of the West Prong and Waterman Wash. This estimate appears low, considering that Alternative A would include 39 wash crossings of varying sizes, and that each of these crossings "would result in direct impacts to the ephemeral washes" (p. 287). The DEIS does not include sufficient analysis to explain how this estimate of impacted acres of waters of the U.S. was determined.

Additionally, the DEIS does not provide information about the proposed Project's compliance with 40 CFR 230.10 (a)-(d). The purpose of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of waters of the U.S. These goals are achieved, in part, by prohibiting discharges of dredged or fill material that would result in avoidable or significant adverse impacts on the aquatic environment pursuant to EPA's Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230), promulgated pursuant to section 404(b)(1) of the CWA (Guidelines). The burden to demonstrate compliance with the Guidelines rests with the permit applicant.

The Guidelines contain four main independent requirements that must be met to obtain a permit.

1. Section 230.10(a) prohibits a discharge if there is a less environmentally damaging practicable alternative to the proposed project.
2. Section 230.10(b) prohibits discharges that will result in a violation of water quality standards or toxic effluent standards, jeopardize a threatened or endangered species, or violate requirements imposed to protect a marine sanctuary.
3. Section 230.10(c) prohibits discharges that will cause or contribute to significant degradation of waters. Significant degradation may include individual or cumulative impacts to human health and welfare; fish and wildlife; ecosystem diversity; productivity and stability; and recreational, aesthetic or economic values.
4. Section 230.10(d) prohibits discharges unless all appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.

Recommendations:

- The EPA recommends that the City of Goodyear and the BLM meet with the United States Army Corps of Engineers to discuss jurisdictional delineation of waters of the U.S. within the planning area, and compliance with Section 404 of the CWA.
- The FEIS should disclose the applicability of CWA section 404 to the proposed Project, and include a jurisdictional delineation of waters of the U.S., and an alternatives analysis of the impacts (direct, secondary, and cumulative) to such waters.

Floodplains

The DEIS states that “permanent disturbance to floodplains and surface drainages at wash crossings would occur,” amounting to 25 acres, with the installation of engineered road crossings. However, the DEIS also assumes that once wash crossings are installed, surface water velocity and sediment load would not be significantly different from pre-construction conditions, which would allow the form and function of the floodplain to stay mostly intact. This is a significant assumption without detailed analysis about where the floodplains and washes intersect the proposed Project; no analysis is provided about how effective the engineered wash crossings and drainages would be at redistributing water and preventing erosion and scouring.

Recommendations:

- The FEIS should provide a detailed evaluation of the existing hydrological and geomorphic regimes from the Project site to the West Prong and Waterman Wash.
- The FEIS should include a discussion of how potential Project impacts to floodplains and surface drainages would affect downstream areas, especially perennial waters of the Gila River.

Wetlands

The DEIS provides no information about possible seeps, springs, riparian habitat, or wetlands with the planning area, nor information about buffers or setbacks between the proposed Project and these water resources. If any of these resources are present on the site, the FEIS should include a functional assessment and a more quantitative analysis of the Project’s predicted impact.

Recommendation:

- The applicant should provide a functional assessment of all waters on the Project site as well as an additional analysis of wildlife use of these water resources. The results of these analyses should be included in the FEIS.

Wildlife Habitat and Connectivity

The EPA commends the BLM for its close coordination with the Arizona Game and Fish Department to craft wildlife mitigation strategies for the Project. These strategies, compiled in “Arizona Game and Fish Department Recommendations for the Sonoran Valley Parkway – Wildlife Mitigation Strategies” (Appendix C), should limit the impacts of the proposed Project on wildlife in the Rainbow Valley, which the AGFD identified in Appendix C as a “critical link for a variety of sensitive wildlife species.” The EPA has concerns, however, about the impacts of the Project on Sonoran desert tortoise habitat. Alternative A would impact approximately 82.5 acres of BLM-designated Category I Sonoran desert tortoise habitat (out of a total of 560 acres total of Category I Sonoran desert tortoise habitat within the analysis area), the highest amount for all of the alternatives.

Recommendation:

- The BLM should work with the AGFD to minimize impacts to BLM-designated Category I Sonoran desert tortoise habitat.

Climate Change

The DEIS does not include any discussion of climate change. Given the uncertain, potentially long development timeline for the Project, and the extreme warming anticipated for the southwestern United States, a discussion of the potential greenhouse gas emissions associated with constructing and maintaining the Project, as well as a discussion of how a changing climate may affect the proposed Parkway, should be included in the FEIS.

Recommendations:

- The FEIS should include an estimate of projected greenhouse gas emissions associated with the implementation of each alternative.
- The FEIS should include a discussion of how climate change may affect the proposed Parkway. The FEIS should also include a climate change mitigation and adaptation plan.

