

# **ATTACHMENT # 5**

**PAGES FROM ADMINISTRATIVE RECORD BEFORE  
THE COURT  
(Pertinent pages RE: mining)**

resource values for the parcels to be exchanged and must weigh the various benefits and costs to the general public interest of the action in its NEPA analysis of the proposed exchange.

Contrary to these directives, the Eagle Mountain DEIS/EIR only briefly mentions (in the general Project description chapter) the various land exchanges proposed as part of the Project, without providing any significant analysis or supporting documentation of the resource values for the parcels under consideration. This cursory discussion fails to present an assessment of the present legal status of these lands, their existing environmental characteristics or their importance to the larger federal land management objectives in this region. In the absence of this information, it is virtually impossible for the public to understand exactly what is being proposed as part of the land exchange transactions or what the actual impacts of these transactions will be.

To begin with, the DEIS/EIR does not provide a clear picture of the present ownership status of the various parcels involved in the exchange. The document merely states that BLM will convey 3,431 acres of public land to Kaiser, including presently unencumbered parcels, lands encumbered with unpatented claims and lands subject to a federal reversionary interest, in exchange for 2,486 scattered acres of land along Kaiser's Eagle Mountain Railroad. DEIS/EIR at 2-4. The accompanying maps do not distinguish which BLM parcels fall into which ownership categories (encumbered, unencumbered, reversionary interest, etc.). Additionally, the document notes that Kaiser holds a patent to 465 acres of the Project site, issued by BLM in 1955, subject to reverter if the land is not used for a period of seven years for mining-related purposes. *Id.* at 2-8. It is not possible from this vague and confusing sketch of ownership interests to discern whether Kaiser actually holds any lands in fee simple absolute at the Project site or whether all of its holdings are subject to reverter once mining-related activities cease.

The missing information is critical to a full assessment of the land exchange impacts because it bears directly on potential alternative future uses of the site in the event that the land exchange does not occur and the landfill is not constructed in its presently proposed location. For instance, if all or much of the "Kaiser land" in the project area is subject to a federal reversionary interest, the potential for this area to enhance resource values in the adjacent Joshua Tree National Park is increased because the land properly reverts to BLM with the termination of mining activities and can be used to protect and buffer nearby park resources. In fact, there is evidence that at least some of the Kaiser patented lands have already reverted to federal ownership based on the cessation of mining activities some 13 years ago "because the ore deposits are no longer considered economically feasible to mine." DEIS/EIR at 3.9-27. As the DEIS/EIR notes:

According to the County of Riverside, vested mining rights no longer exist at the Eagle Mountain Mine because iron ore mining ceased in 1983 and future mining of the site would require the issuance of a permit in accordance with County Ordinance 555.

*Id.* Although the EIS/EIR obviously cannot resolve the legal status of these lands, it must provide a better understanding of precisely which parcels at the Project site are subject to precisely what ownership interests and reservations so that the decisionmaker and the public can fully assess the

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