



**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[XXX.LLAZG02000.71220000.KD0000.LVTFA0958340;AZA3116]**

**Notice of Availability of the Draft Ray Land Exchange/Plan Amendment  
Supplemental Environmental Impact Statement, Arizona**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM), Gila District, Tucson Field Office has prepared a Draft Supplemental Environmental Impact Statement (EIS) for the Ray Land Exchange/Plan Amendment and by this Notice is announcing its availability and the opening of the comment period.

**DATES:** To ensure comments will be considered, the BLM must receive written comments on the Ray Land Exchange/Plan Amendment Draft Supplemental EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the *Federal Register*. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, or mailings.

**ADDRESSES:** You may submit comments related to the Ray Land Exchange/Plan Amendment Draft Supplemental EIS by any of the following methods:

- Website: <http://go.usa.gov/xn2FG>

- Email: [blm\\_az\\_raylandexchange@blm.gov](mailto:blm_az_raylandexchange@blm.gov)
- Fax: 602-417-9454
- Mail: BLM Arizona State Office, Attn: Ray Land Exchange, One North Central Avenue, Suite 800, Phoenix, AZ 85004-4427

Copies of the Ray Land Exchange/Plan Amendment Draft Supplemental EIS are available in the BLM Arizona State Office at the above address; the BLM Tucson Field Office at 3201 East Universal Way, Tucson, AZ 85756; the BLM Kingman Field Office at 2755 Mission Boulevard, Kingman, AZ 86401; and the Kearny Public Library at 912-A Tilbury Road, Kearny, AZ 85137.

**FOR FURTHER INFORMATION CONTACT:** Michael Werner, Project Manager, telephone 602-417-9561; address: One North Central Avenue, Suite 800, Phoenix, AZ 85004-4427; email: [mwerner@blm.gov](mailto:mwerner@blm.gov).

**SUPPLEMENTARY INFORMATION:** The BLM Gila District, Tucson Field Office, is issuing the Ray Land Exchange/Plan Amendment Supplemental EIS to augment the environmental impact analysis in the Ray Land Exchange/Plan Amendment Final EIS completed by the BLM in 1999. The BLM issued the Final EIS for the Ray Land Exchange/Plan Amendment in June 1999 and the Record of Decision in May 2000. The decision approved a land exchange between ASARCO LLC (ASARCO) and the BLM for approximately 10,976 acres of public lands and federally owned mineral estate for acquisition by ASARCO (the Selected Lands) in exchange for approximately 7,304 acres of private land owned by ASARCO and identified by the BLM as desirable for improving access for hunting and other recreation (the Offered Lands). The decision was challenged administratively and in Federal court, with the plaintiffs ultimately prevailing in the

Ninth Circuit Court of Appeals in November 2010. The court concluded that the BLM violated NEPA and FLPMA “in assuming without explanation that ASARCO would perform mining operations on the selected lands in the same manner regardless of the land exchange” (Center for Biological Diversity v. U.S. Department of Interior, 623 F.3d 633 [9th Cir. 2010]). The court recognized that ASARCO has the right to conduct mining and related activities under the General Mining Law, based on ASARCO’s mining and mill site claims on the Selected Lands. But the court believed that the manner and extent of mining were likely to differ, depending on whether the Selected Lands are owned by the United States as public lands subject to the BLM’s surface use regulations at 43 CFR 3809 or by ASARCO as private lands in fee simple, in which case the BLM’s surface-use regulations would not apply. The Ninth Circuit Court stated that ASARCO is not required to prepare and submit a Mine Plan of Operations (MPO) for future activities on the Selected Lands to complete the exchange. Instead, “the BLM must make a meaningful comparison of the environmental consequences of ASARCO’s likely mining operations with and without the requirement that MPOs be prepared by ASARCO and approved by the BLM—that is, with and without the proposed exchange.” Because the BLM did not perform this “with and without” comparison, the court held that the BLM did not adequately consider the environmental impacts of the land exchange or Resource Management Plan (RMP) amendments. For the same reason, the court also held that the BLM did not properly analyze whether the public interest will be served by making the exchange under FLPMA, section 206(a).

In accordance with the courts’ rulings and remand orders, the Draft Supplemental EIS for the Ray Land Exchange provides the “with and without” comparative analysis

found lacking by the Ninth Circuit Court. The “with and without” analysis compares two scenarios of potential environmental impacts on the Selected Lands from mining operations. One scenario analyzes potential impacts that could occur as a result of mining activities on the Selected Lands if they are not exchanged and remain under BLM jurisdiction (i.e., mining occurs with BLM regulations). The other scenario analyzes potential impacts that could occur as a result of mining activities if the Selected Lands are exchanged and become privately owned lands (i.e., mining occurs without BLM regulations). The Draft Supplemental EIS also addresses any substantial changes in the land exchange or plan amendments and any significant new information or circumstances that are relevant to analyzing the impacts of the land exchange or plan amendments (see 40 CFR 1502.9(c); BLM NEPA Handbook, Section 5.3 [January 2008]).

The purpose of the proposed Ray Land Exchange would be to exchange ownership of Federal lands for private lands. ASARCO proposed the Ray Land Exchange with the BLM in order to acquire public lands adjacent to its Ray Complex (Ray Mine and associated processing facilities near Hayden) and in the Casa Grande vicinity. In exchange, ASARCO is offering to the BLM private lands that will consolidate checkerboard land ownership and improve access to existing Federal land for traditional uses such as hunting and other recreation. By acquiring the Selected Lands, ASARCO is seeking to consolidate its land holdings within and near areas of ongoing mineral development and to use the Selected Lands to support and expand current and future mining-related operations. Through the exchange, the BLM would have an opportunity to improve resource management efficiency by disposing of heavily encumbered, isolated

and difficult to manage public lands; and acquire lands that will consolidate ownership patterns in order to improve public access.

The Proposed Action and alternatives presented and analyzed in the Ray Land Exchange/Plan Amendment Draft Supplemental EIS are generally the same as those presented and analyzed in the 1999 Final EIS. The environmental analysis is based on the foreseeable uses of the Selected Lands. The Draft Supplemental EIS includes an analysis of cumulative impacts to all resources and land uses, including an evaluation of potential impacts to Native American traditional values.

The Proposed Action (Agency Preferred Alternative) is to complete the Ray Land Exchange between the BLM and ASARCO. The Selected Lands total approximately 10,976 acres and consist of 31 parcels of public lands located in Pinal and Gila Counties in south-central Arizona. Twenty-eight of the parcels occur in the Middle Gila River Basin between Mineral Creek to the north, the White Canyon Wilderness to the northwest, and the Dripping Spring Mountains to the east, and the Gila River to the south. These 28 parcels are clustered in three areas (the Ray Complex, Copper Butte/Buckeye, and Chilito/Hayden) near ASARCO's Ray Mine and the communities of Kearny, Hayden, and Winkelman, Arizona. The remaining three mineral estate only parcels are located about 50 miles west of the Ray Complex, near the community of Casa Grande in Pinal County. The Offered Lands total approximately 7,304 acres and consist of 18 parcels owned by ASARCO located in Pinal and Mohave Counties, also in Arizona. These parcels, which are presented throughout the Draft Supplemental EIS as five units (two single parcels and three parcel groups), include parcels along the Gila and Big Sandy Rivers, the Black Mountains, and the Cerbat Mountains. The Offered Lands are

private inholdings within the jurisdictional boundaries of the Tucson and Kingman Field Offices of the BLM.

The Draft Supplemental EIS also includes a No-Action Alternative under which no land exchange would occur nor would the Phoenix or Safford District RMPs need to be amended under this option. Two additional action alternatives are also analyzed in which less than the full amounts of land would be exchanged: The Buckeye Land Exchange Action Alternative and the Copper Butte Land Exchange Action Alternative. The Buckeye Land Exchange Alternative involves reducing the total acreage included in the land exchange under this alternative. The amount of the Selected Lands is reduced from approximately 10,976 acres to approximately 10,176 acres by excluding about 800 surface and subsurface acres in the Copper Butte area and removing 640 acres of the McCracken Mountains Parcels from the Offered Lands. The Copper Butte Land Exchange Alternative also involves a reduced acreage exchange from the full exchange Proposed Action. The Copper Butte Land Exchange Alternative involves reducing the total acreage of the Selected Lands from approximately 10,976 acres to approximately 9,161 acres by excluding surface and subsurface acres in the Copper Butte area and removing 1,703 acres of the McCracken Mountains Parcels from the Offered Lands.

A plan amendment to the Phoenix and Safford RMPs is required as the selected lands have not been designated for disposal through previous BLM planning processes. The amendment to the Phoenix and Safford District RMPs would change the land tenure designation from “retention” to “disposal” for a total of approximately 10,339 acres. Specifically:

1. Approximately 9,906 acres designated in the 1988 Phoenix RMP as part of the White Canyon Resource Conservation Area to be changed from retention to disposal; and
2. Approximately 433 acres designated in the 1993 Safford District RMP as part of the former Safford District Long-Term Management Area to be changed from retention to disposal.

The BLM was not required to conduct scoping for the Draft Supplemental EIS.

However, the agency has conducted public outreach activities to inform the public and answer questions regarding the proposed land exchange. The efforts included updating the mailing list for the project, contacting mailing list persons via postcard and newsletter, providing a detailed project website, and interviewing key stakeholders to present the land exchange details and answer questions.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours, Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

AUTHORITY: 40 CFR 1506.6, 40 CFR 1506.10

---

A. Scott Feldhausen

Gila District Manager

[FR Doc. 2017-24823 Filed: 11/16/2017 8:45 am; Publication Date: 11/17/2017]