October 29, 2011

Margaret Goodro, Field Manager
Bureau of Land Management
El Centro Field Office
1661 S. 4th St
El Centro, CA 92243

Via email to: mgoodro@blm.gov

Dear Ms Goodro:

Please enter this letter into the record of public comments for the November 3, 2011 meeting regarding the recreation fee program at Imperial Sand Dunes Recreation Area, and list me as an Interested Party for future communications.

According to the ISDRA website, the fees being charged are “non-commercial special recreation permit fees.” The authority for Special Recreation Permit Fees is found in the Federal Lands Recreation Enhancement Act, and reads in its entirety:

“Special Recreation Permit Fee- The Secretary may issue a special recreation permit, and charge a special recreation permit fee in connection with the issuance of the permit, for specialized recreation uses of Federal recreational lands and waters, such as group activities, recreation events, motorized recreational vehicle use.” [16 U.S.C. 6802(h)]

The permit fee as currently implemented at ISDRA is not in compliance with this section of the law. Instead of being required for “specialized recreation use,” it is levied on every primary, street-legal vehicle used for transportation to the area. Transportation to the area cannot be construed as including specialized use of the area.

Because the fee is required of every vehicle entering the area for any purpose it can only be construed as an Entrance Fee. The BLM is prohibited from charging entrance fees by 16 U.S.C. 6802(e)(2).

In order to bring the ISDRA fee program into compliance with federal law, permits should only be required of specialized vehicles that are actually operated within the area. Just as a dunes vehicle needs a safety flag, it should need a permit. But the truck that brought it there should not need a permit, nor should every vehicle of any kind that enters the area.

Additionally, the ISDRA fee program is not in compliance with the legal requirement that

“The Secretary may use not more than an average of 15 percent of total revenues collected under this Act for administration, overhead, and indirect costs related to the recreation fee program by that Secretary.” [16 U.S.C. 6807 (e)]
According to the ISDRA website, $1,134,000 of fee revenue in 2010—more than 38% of the gross—was spent on Overhead and Fee Program Management. If the program cannot be managed within the limits specified by law and get the fee revenue onto the ground to directly benefit those who are paying, it should be discontinued altogether.

The first thing BLM needs to do at ISDRA is to get your program in compliance with federal law. Only after that fundamental problem is corrected should you consider any increase in the cost of your permits.

Thank you for the opportunity to comment.

Sincerely,

/s/ Kitty Benzar
President