

Decision Record

Marigold Mining Company Marigold Mine – Target 3 Expansion Project Environmental Assessment DOI-BLM-NV-W010-2013-0018-EA

Introduction

Marigold Mining Company (MMC) submitted an amendment to their Marigold Mine Plan of Operations (POO) expanding their existing project area that is currently authorized on private lands through the Nevada Division of Environmental Protection's (NDEP) state regulatory program and public lands administered by the Bureau of Land Management (BLM). The Marigold Mine is located approximately 40 miles southeast of Winnemucca, 13 miles northwest of Battle Mountain and 3 miles south of Valmy.

The Marigold Mine has been mining since 1988 and has been expanding over time, as needed. This amendment proposes to:

- Amend the authorized Plan boundary to coincide with MMC land holdings;
- Amend authorized facility disturbance acreage to reflect ongoing mining operations;
- Add the Target 3 Pit in an area previously authorized for disturbance;
- Amend the authorized surface disturbance within the amended Plan boundary by extending the North-West WRSA expansion and relocating a portion of the Trout Creek diversion channel;
- Amend the authorized surface disturbance within the authorized Plan boundary by constructing a new utility corridor, and adding additional acres of infill;
- Increase the mine material handling rate from 60 million to 150 million tons per year; and
- Increase workforce at Marigold Mine by approximately 10 to 15 percent.

The project, located entirely within the Marigold Mine boundary, would be located in portions of the following townships and ranges as provided in Mount Diablo Base and Meridian

T32N, R43E, section 6
T33N, R42E, sections 1, 12, 13, 24, 25, and 36
T33N, R43E, section 4-10, 16-20 and 30-32
T34N, R42E, section 36
T34N, R43E, sections 19, 20 and 28-33

MMC's existing plan of operations boundary is proposed to expand from 8543.5 acres to 19,081 acres. Within this area, MMC is authorized to construct facilities on 2,371.9 acres of private land and 2,071.1 acres of public land for an authorized mine disturbance of 4,443 acres. This amendment proposes to increase the total disturbance by 387.2 acres to 4830.2 acres. Approximately 296 acres would be located on private land managed by MMC, and approximately 91.2 acres would be located on public land. The mine is projected to be in operation until approximately 2027. The Proposed Action would not extend the life of the mine, only the amount of ore processed during that time.

Compliance/Conformance

The proposed action is in conformance with and is consistent with the *Sonoma-Gerlach Management Framework Plan*, approved July 9, 1982. The proposed action is consistent with the plans and policies of neighboring local, county, state, tribal, and federal governments to the greatest extent possible. Under the

proposed action, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

Decision

Based on the Marigold Mine – Target 3 Expansion Project Environmental Assessment (EA), DOI-BLM-NV-WO10-2013-0018-EA and the attached Finding of No Significant Impact (FONSI) it is my decision to implement the proposed action subject to the existing stipulations on the Marigold POO and the stipulation listed below.

Cultural Resources

The Proposed Action would have an adverse effect on one historic property site (26Hu4342) determined to be eligible for listing in the NRHP under Criteria D because of its research potential. MMC proposed a Treatment Plan developed by KEC with input from Dr. Patrick Haynal of the BLM and approved by Nevada SHPO that was designed to mitigate adverse effects to the historic property affected by the Proposed Action. The Battle Mountain Tribe objected to the mitigation plan. The proponent will not excavate/mitigate any of the cultural sites and will amend the project disturbance to avoid all sites.

Waste Rock Storage Area Redesign Stipulation

The proponent will redesign the North-West Expansion area to avoid all cultural sites. The amended design shall be submitted for BLM review within 120 days of this conditional approval. The proponent cannot construct the North-West Expansion area until a Notice to Proceed is issued by the BLM and NDEP.

Public Involvement

Preliminary EA

On December 18, 2012, a scoping letter was posted to the BLM's website and sent to potentially interested parties by the BLM. One response was received from Humboldt County in support of the project. On August 15, 2013, a notification of availability to review the Preliminary EA was posted to the BLM's website and sent to potentially interested parties by the BLM. Several responses supporting the project were received from members of the public. The Nevada Department of Transportation submitted one letter expressing concern regarding gravel pits within the proposed plan boundary. Section 3.11 of the EA was revised to acknowledge valid and existing rights will not be impacted by the proposed action. Based on a thorough review of public comments received during the 30-day review, no changes to the analysis were made in the EA. Additionally, in finalizing the EA, Chapter 9 – *Public Involvement* was updated.

Native American Consultation

The Cultural Resources Treatment Plan and a request for consultation on the plan were sent to the following tribes on April 11, 2012: Battle Mountain Tribal Council, South Fork Band Council, Fort McDermitt Paiute and Shoshone Tribe, Elko Band Council, and Winnemucca Indian Colony. The certified letter to the Elko Band Council was returned as undeliverable on April 13, 2012. The BLM forwarded the Treatment Plan to the Fort McDermitt Paiute and Shoshone on March 15, 2013, as requested with the stipulation that it was not negotiable since they had over six months to comment on it and the plan had just been approved by SHPO. The BLM presented the Treatment Plan to the Fort McDermitt Reservation in a consultation meeting on March 18, 2013. The Fort McDermitt Reservation informed the BLM on April 15, 2013 that they were deferring their interest in the project to the Battle Mountain Tribal Council.

Certified letters requesting consultation meetings on the project were mailed to the following tribes on February 11, 2013: Battle Mountain Tribal Council, South Fork Band Council, Fort McDermitt Paiute and Shoshone

Tribe, and Elko Band Council. The certified letter to the Elko Band Council was returned as undeliverable on February 21, 2013.

The Battle Mountain Tribal Council met with BLM on May 1, 2013, and voiced their concerns on the treatment plan. On August 15, 2013, the BLM, MMC, and representatives of the Battle Mountain Tribe met and agreed that the Cultural Resources Treatment Plan would not be implemented and the six sites would be avoided by the mine's operations.

Rationale

My decision is based on the attached FONSI, the proposed action, the environmental analysis in the EA, and compliance with the stipulation in this decision record. Additionally, the proposed action will not result in any unnecessary or undue environmental degradation of public lands, has addressed public comments, and is consistent with federal, state and local laws, regulations and plans.

Based on the President's National Energy Policy and Executive Order 13212, the proposed action will not generate any adverse energy impacts or limit energy production and distribution. Therefore, no "Statement of Adverse Energy Impact" is required.

Authority

The authority for this decision is contained in the Mining Law of May 10, 1872, as amended (17 Stat. 91), the Surface Resources Act of 1955 (30 United States Code (U.S.C.) 611-614), the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.), and the Code of Federal Regulations (CFR) at 43 CFR 3809 and 43 CFR 3715.

Appeal Provision

If you are adversely affected by this decision, you may request that the BLM Nevada State Director review this decision. If you request State Director Review, the request must be received in the BLM Nevada State Office at:

BLM Nevada State Office
State Director
1340 Financial Blvd.
Reno, Nevada 89502

no later than 30 calendar days after you receive or have been notified of this decision.

The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless you request and obtain a stay (suspension) from the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted using the standards and procedures for obtaining a stay (43 CFR 4.21) from the Interior Board of Land Appeals (IBLA).

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the IBLA. You may contact the BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 5100 E. Winnemucca Blvd., Winnemucca, Nevada, 89445, which we will forward to IBLA.

Under 43 CFR 3809.801(a)(1), if you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR part 4. Your Notice of Appeal must be filed

in this office at 5100 E. Winnemucca Blvd., Winnemucca, Nevada, 89445, within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 which contains information on taking appeals to the IBLA. This decision will remain in effect while the IBLA's decision is pending, unless you request and obtain a stay under 43 CFR 4.21. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted under the criteria in 43 CFR 4.21.

Request for Stay

If you wish to file a petition (request) pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and, to the IBLA, and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

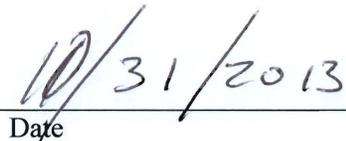
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.



Derek Messmer
Field Manager
Humboldt River Field Office



Date

Attachments (3):

EA (DOI-BLM-NV-WO10-2010-0008-EA)
Finding of No Significant Impact (FONSI)
Form 1842-1 (September 2006)