



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Colorado River District
Yuma Field Office
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Yuma, Arizona 85365-2240
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**DECISION RECORD
FOR THE
PROPOSED MODIFICATION TO FANCHER PROJECT OPERATIONS
VICKSBURG MILLSITE
DOI-BLM-AZ-C020-2014-0030-EA**

DECISION

It is my decision to select the proposed action described in the Environmental Assessment DOI-BLM-AZ-C020-2014-0030-EA, (2014 EA) which evaluates a Luxcor Gold Limited Partnership (Luxcor) 2014 modification to their mine Plan Of Operation (2010 Plan) for the Fancher Project. An Environmental Assessment (2012 EA) DOI-BLM-AZ-C020-2010-0017-EA was prepared and a Finding of No Significant Impact was signed on April 25, 2012 for the reactivation of the Verdstone Mine, Use and Occupancy of the mine and associated Right of Way permit. The 2010 Plan and 2012 EA are included by reference in this DECISION.

The Plan modification changes the location of the mill-site from the Rio del Monte Mine to a private parcel of land owned by Luxcor, west of Vicksburg Road north of Interstate 10. The new mill-site is located in Township 4 North, Range 15 West, Section 26, Gila & Salt River Baseline & Meridian, on the Rangras Plain of La Paz County, Arizona. The Millsite is in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 26 comprising 40 acres more or less.

Ore will be mined from underground workings, and transported off-site along the Verdstone and Hovatter roads to Interstate Highway 10 and then to the Vicksburg Road to a crushing/grinding and recovery circuit at the Vicksburg mill-site. Tailings from the milling operations will be placed within a lined tailings pond on privately owned land.

The public lands affected by the proposed mining operations and right-of-way are described in Exhibit A of the 2010 Plan

The 2014 Plan modification will not create any new surface disturbance on public lands.

Major Laws Pertinent to the Decision

The Clean Air Act as amended (42 U.S.C. 7401, *et seq.*), Clean Water Act of 1977 (33 U.S.C. 1251, *et seq.*), Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703, *et seq.*), Endangered Species Act of 1983, as amended (16 U.S.C. 1531), General Mining Law of 1872 (17 Stat. 217), FLPMA, and the Resource Conservation and Recovery Act (RCRA).

Rationale for Decision

The rationale for my decision can be supported by the 2014 Environmental Assessment DOI-BLM-AZ-C020-2014-0030-EA, (2014 EA) and the Finding of No Significant Impact as well as the 2012 Fancher Project Environmental Assessment DOI-BLM-AZ-C020-2010-0017-EA and its Finding of No Significant Impact. This decision is in conformance with the 2010 Yuma Field Office Approved Resource Management Plan (ARMP) and Record of Decision (ROD).

MI-018: Assess all mining plans of operations for potential impacts to Sonoran desert tortoise habitat on a case-by-case basis. Adverse impacts to desert tortoise will be mitigated to the extent allowable in BLM 3809 regulations.

MI-006: Should activity cease on a mining claim, wells will become government property and the determination of whether or not the wells are capped will be made by BLM.

MI-011: Public lands are available for exploration, location, and development of mining claims in accordance with existing mining laws unless withdrawn or segregated from entry.

MI-012: Operations authorized by the mining laws do not cause unnecessary or undue degradation of public lands.

AA-330: Monitor the extent of impacts of sites containing hazardous materials, such as mining and milling wastes, to air, soil, and surface and groundwater.

TE-031: Reduce take of Mojave desert tortoises by injury or death due to the straying of construction and maintenance equipment beyond project areas through establishment of clearly defined work areas.

TE-039: Limit seismic exploration, new construction, road maintenance, vehicle use, or other BLM-authorized surface-disturbing activities to existing ROW Corridor areas within Mojave Desert tortoise habitat.

AA-221: Identify individual route maintenance needs to improve public health and safety and reduce the need to create redundant routes that avoid existing hazards.

This decision is in conformance with the 2007 Lake Havasu Field Office (LHFO) Approved Resource Management Plan (ARMP) and Record of Decision (ROD). All activities within the LHFO are on public highways and private lands and do not have any direct impacts to public lands managed by the BLM. The following excerpts from the LHFO ARMP Chapter 2 cite management actions relating to this project.

Protect bighorn sheep lambing areas and a 2-mile buffer zone (28,000 acres) in the Little Harquahala Mountains and the Harquahala Mountains from habitat and behavioral disturbances created by mining activity between December 15 and April 15 (within the framework of the 43 CFR 3809 regulations).

Existing and new operations for locatable mining would be regulated using the 43 CFR 3809 regulations to prevent unnecessary and undue degradation of the lands.

All proposed activities would be evaluated for impacts to desert tortoise population or habitats on a case-by-case basis. Such activities include but are not limited to those listed below.

Requests for rights-of-way, easements, withdrawals, other land tenure actions, range improvements, wildlife habitat projects, mineral material sales, mining plans of operation, mining notices with surface occupancy

Luxcor has a right to operate, develop, and extract locatable minerals from the leased mining claims. This operation will help satisfy the national demand for these minerals, and help to stimulate the local economy.

Public Involvement

During September 2014, the 2014 Plan was posted on the internet for public comment for 30 days. On September 29, 2014 the Yuma Field Office held a public meeting to present the project to the public and receive comments from them. No public comments were received. There were no changes to the use of public land, therefore the local Tribes were not notified.

Management and Mitigation Consideration

The following mitigations were developed through the NEPA analysis in order to reduce impacts:

Land Use and Realty

Additional fill (not to exceed 20 feet in width) will be placed on top of the existing Hovatter Road roadbed at the El Paso Natural Gas buried pipeline locations to enable use of the truck haul route without impacting the buried pipelines within the existing right-of-ways in coordination with BLM, La Paz County and El Paso Natural Gas.

Vegetation

If any Arizona Native Plant Law (ANPL)-protected native plants are impacted, they will be transplanted on site. If this is not feasible, contact BLM YFO wildlife biologist in order to proceed with transplanting off-site according to BLM specifications. Plants protected under the ANPL will be replanted on public lands or salvaged for public, private, commercial, educational,

research, or other appropriate purposes. Special consideration will be given to educational facilities, botanic gardens, and public institutions.

Visual Resources

As described on the Visual Contrast Rating worksheet (Exhibit B), mitigation measures would be implemented to reduce the impact on the current visual resource condition:

- Dead vegetation to be used in the reclamation of the Project shall be placed at random locations on the reclaimed portions during and after reclamation efforts;
- The ventilation fan housing at the top of the incline shall be painted dark grey to reduce contrast;
- Temporary structures should be removed following the Project's completion.

Wildlife

As described in 2.1.3.1, Phase 1 of reclamation is for desert tortoise mitigation. The desert tortoise mitigation is designed to ensure that there is no net loss of quality habitat for the tortoise. The ultimate objective of such mitigation is to ensure that the number and viability of regional populations are not diminished.

The desert tortoise habitat mitigation (first phase of reclamation) would begin during the first year of mine production. Luxcor proposes to reclaim 1.98 acres that are part of the waste rock dump, pit ramp, and about 1,000 feet of drill road and ditch associated with the adjacent abandoned Verdstone Mine. Luxcor would decrease the slope of a 50-foot-high face of the existing waste rock dump to a flatter slope of less than 3:1. A portion of the material excavated from the waste rock dump would be used to cover an adjacent denuded area on the northeast side of the dump. The new waste rock dump slope and the disturbed area would be contoured to blend with the surroundings and ripped to a depth of 3 feet to encourage natural revegetation.

Another portion of the material excavated from the waste rock dump would be used to fill 210 linear feet of the southwestern portion of the Verdstone pit ramp. Luxcor would also reclaim about 1,000 feet of drill road and a ditch on the south side of the pit ramp by pulling side-cast material back into the road and ditch. The material used to reclaim the pit ramp, drill road, and ditch would be contoured to blend with the surroundings and ripped to encourage natural revegetation.

Hazardous Materials Mitigation

All hazardous substances will be transported by commercial carriers in accordance with the requirements of Title 49 of the CFR. Chemicals and materials will be stored away from areas of public access and process solutions would be contained and fenced (chain link fence around process facilities).

Chemical and solution storage on proposed Project will comply with State requirements. Tanks and vessels would be placed on a plastic or concrete-lined containment surface with interior sumps to route any spilled solutions to lined collection areas. All hazardous material storage tanks will have secondary containment sufficient to hold at least 125 percent of the volume of the largest tank in the containment area.

Emergency Response Mitigation

Luxcor prepared a Spill Prevention Control and Countermeasure (SPCC) Plan, an Emergency Response and Contingency Plan, a Stormwater Pollution Prevention Plan (SWPPP), and a Fire Plan. The Emergency Response and Contingency Plan will establish procedures for responding to accidental spills or releases of hazardous materials to minimize health risks and environmental effects. The plan will include maintaining safety, cleanup and neutralization actions, emergency contacts, internal and external notifications to regulatory authorities, and incident documentation. The area surrounding Vicksburg mill site area will be gated and signed to alert the public of the hazards associated with entering the fenced area.

Noxious Weeds Mitigation

As necessary, Luxcor will control invasive non-native weeds occurring within the boundary of the proposed Project. Any reseeded activity will exclusively use certified seed, weed-free straw, and any equipment from outside the area would be cleaned prior to use.

Fugitive dust generated from construction and mining activities shall be controlled by the operator in accordance with local rules, ordinances, and BLM stipulations. Staging areas and stockpiles shall be watered regularly to minimize fugitive dust. During construction, storm water pollution prevention measures shall be taken as required by the Clean Water Act. An AZPDES permit must be obtained from the ADEQ before any construction activities begin. These measures shall address the handling of solid waste and on-site refueling.

Burning of trash shall not occur on BLM land unless specific permission is granted by BLM.

Road Access Mitigation

A total of 2.66 miles of Hovatter Road that lies within Yuma County will be used by the Project and averages 24 feet wide. Maintenance will include road watering, the application of a non-hazardous, non-toxic, synthetic oil-based or polymer-based dust palliative, and grading within the roadbed, as needed. Road maintenance would be conducted within the footprint of the existing road to a maximum width of 20 feet. No disturbance outside the existing roadbed is allowed without written permission from the authorized officer. Filling of small washouts and covering exposed bedrock with gravel from the waste rock dump would be conducted as conditions require. Following heavy rainfall, some areas of the road may wash out and require filling in order to maintain a level roadbed. These fillings would use rock and gravel from the waste rock dump at the existing Verdstone mine. No new disturbance outside of the existing roadbed would occur as a result of the maintenance of Hovatter Road.

A total of 18.83 miles of Hovatter Road will be used by the project in La Paz County, from the Yuma County line to the Interstate 10 interchange. This portion of the haul route averages 23 feet wide, and is actively maintained and regularly graded by La Paz County as authorized under ROW Grant AZA 35697.

Verdstone Road connects the Project mine site to the primary access road, Hovatter Road, in Yuma County (see Figure 1.1-2 and 2.1-1). Verdstone Road is not maintained by Yuma County; therefore Luxcor would maintain Verdstone Road from Hovatter Road for 1.08 miles to the existing security gate at the Project mine site. An additional 1,700 feet of Verdstone Road would also be maintained behind the gate; this portion would be closed to the public. The roadbed averages 24 feet wide, and all maintenance would be conducted within the existing roadbed to a maximum width of 20 feet. Maintenance would include road watering, the application of a non-hazardous, non-toxic, synthetic oil-based or polymer-based dust palliative, and grading within the roadbed, as needed.

Standard Stipulations

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.

The operator shall clean all heavy equipment (power or high pressure cleaning) of all mud, dirt and plant parts prior to moving equipment onto public lands. The purpose of this cleaning is to prevent introduction of noxious weeds from public lands administered by the BLM.

The operator shall identify a road maintenance program which will include monitoring for noxious weeds. If the operator identifies any noxious weeds the operator shall notify the authorized officer. The operator is responsible for consultation with the authorized officer and/or

local authorities for acceptable weed control methods. A treatment program shall be identified and the operator shall be responsible for weed abatement. The operator shall be responsible for weed control on disturbed areas within the limits of the project area at the Fancher Project and along the Verdstone and Hovatter roads access route.

Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the project proponent shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.

The operator shall maintain the Verdstone and Hovatter roads access route in a safe, usable condition, as directed by the authorized officer. The operator shall furnish and apply water or other means satisfactory to the authorized officer for dust control. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and dust abatement.)

The operator shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.

The operator shall furnish and apply water or other means satisfactory to the authorized officer for dust control.

The operator shall inform the authorized officer within 48 hours of any accidents on Federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.

New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer.

No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.

The operator shall meet Federal, State, and local emission standards for air quality.

The operator shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized

officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The operator shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the operator shall be responsible for the survey cost.

The operator shall conduct all activities associated with this mine plan of operations in accordance with the enclosed "Recommended Standard Mitigation Measures for Projects in Sonoran Desert Tortoise Habitat."

The operator shall provide a financial guarantee for reclamation of disturbed areas per 43 CFR 3809.552 prior to implementation of the mine plan of operation. The BLM will review and update the reclamation financial guarantee every 3 years after the approval of the original bond determination. The authorized officer may terminate or reduce the amount of the bond.

Monitoring

Yuma Field Office staff will conduct compliance inspections of the mine and access roads during construction activities and twice a year throughout the life of the mine to ensure compliance with the terms and conditions of the authorizations, the approved mining plan of operation and permitted occupancies.

Appeal Information

In accordance with 43 CFR Part 4, and the attached Form 1842-1, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. The appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Appeal of the Decision

If you contend this decision is incorrect, you may ask the BLM Arizona State Director to review this decision. If you request a State Director Review, the request must be received in the **BLM Arizona State Office (State Director Review) at One North Central Ave., Ste. 800; Phoenix, AZ 85004-4427** 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 a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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 Arizona 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 (NOA) with this office at 2555 East Gila Ridge Road; Yuma, AZ 85365 which we will forward to the IBLA.

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 3809.801(a)(1). Your NOA must be filed in this office at 2555 East Gila Ridge Road; Yuma, AZ 85365 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 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Any appeal taken with IBLA must be in accordance with 43 CFR 4.400 et seq. If you decide to appeal, your NOA must be filed in writing and in accordance with Form 1842-1 at 2555 East Gila Ridge Road; Yuma, AZ 85365, and with **Office of the Solicitor; Department of the Interior; Office of the Field Solicitor; Sandra Day O'Connor U.S. Court House #404; 401 W. Washington Street SPC44; Phoenix, AZ 85003-2151.**

The required Statement of Reasons (see 43 CFR 4.412) may be filed with the NOA or, if not, it must be filed with the **IBLA; U.S. Department of the Interior; MS 300-QC; Arlington, VA 22203**, within 30 days after the NOA was filed. (See also required service at 43 CFR 4.413.) The decision, signed by the Field Manager, will remain in effect during the appeal unless a written request for a stay is granted.

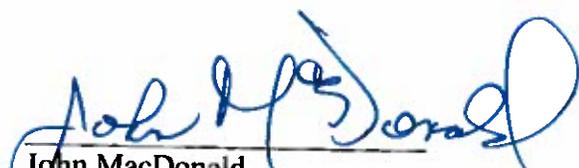
If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification 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, 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.

The Proposed Action will have no effect on the President's Energy Policy and a Statement of Adverse Energy Impact is not required.


John MacDonald
Yuma Field Manager


Date

Enclosures:

Desert Tortoise Stipulations	7 pages
Form 1842-1	2 pages
Finding of No Significant Impact (FONSI)	2 pages

RECOMMENDED STANDARD MITIGATION MEASURES FOR PROJECTS IN SONORAN DESERT TORTOISE HABITAT

*Arizona Interagency Desert Tortoise Team
June 2008*

The following mitigation process and measures are recommended by the Arizona Interagency Desert Tortoise Team (AIDTT) for proposed surface-disturbing projects located in the habitat of the Sonoran population of the desert tortoise, *Gopherus agassizii*.

Mitigation for projects in the habitat of the Mojave population, located north and west of the Colorado River, will be addressed by project proponents, land management agencies, Arizona Game and Fish Department, and the Fish and Wildlife Service through consultations between the Service and Federal agencies in accordance with section 7 of the Endangered Species Act and in the habitat conservation planning process for private actions. This document is a supplement to the AIDTT Management Plan (AIDTT 1996).

Determining the Need for Mitigation

Project proponents, in coordination with local land managers, Arizona Game and Fish Department, and Fish and Wildlife Service, must determine whether desert tortoises are present or may occur in areas that would be disturbed by proposed projects. Presence can often be confirmed by contacting biologists with the Bureau of Land Management, Arizona Game and Fish Department, or other local biologists that have knowledge of specific areas or access to the Arizona Game and Fish Department Heritage Data Management System or other data bases that list locality data for desert tortoises. Tortoises can be expected to occur in desert mountains, rocky areas, washes cut through caliche, and bajadas in desert scrub vegetation communities. Tortoises are typically absent above 4,500 feet elevation. Mitigation will generally not be needed above 4,500 feet.

If tortoises have been found in the project area or nearby areas of similar habitat, the species can be presumed present and appropriate mitigation must be included in the proposed project. If presence is questionable, surveys by qualified biologists should be conducted. Often, casual surveys by qualified biologists that focus on microsites with the greatest potential for supporting tortoises can confirm the presence of the species. More intensive work is needed to suggest absence of tortoises. We recommend that these intensive surveys generally follow Fish and Wildlife Service survey protocol for the Mojave population (Fish and Wildlife Service 1992), except that areas with little or no potential for desert tortoises, such as dry lake beds and riparian areas need not be surveyed. Tortoise biologists conducting surveys should be familiar with the habitats and survey methods for Sonoran tortoises, which are in many ways different from those of the Mojave population. If the species is present in the project area (including the zone of influence - Fish and Wildlife Service 1992), mitigation should be included as a component of the project design.

Mitigation Plan

Mitigation should be tailored to the nature of the proposed action, its anticipated effects, and the density and expected response of desert tortoises to the action. The following mitigation actions are grouped to assist in selection of appropriate actions for specific projects. Nevertheless, each project is different and development of an appropriate mitigation plan will require the input of a desert tortoise biologist and authorizing agencies, such as the Arizona Game and Fish Department and, for actions on Federal lands, the Bureau of Land Management, Forest Service, Bureau of Reclamation, and Department of Defense. Approval of a mitigation plan will typically be by an authorizing or permitting/authorizing land management agency, but only Arizona Game and Fish Department can authorize handling or moving tortoises. Mitigation measures suggested herein are recommendations to be used in developing mitigation plans for specific projects. Required mitigation will be developed by permitting agencies and project proponents in accordance with land management plans, the Desert Tortoise Rangewide Plan (Spang et al. 1988), the National Environmental Policy Act (NEPA), and other applicable guidance and regulations. In general, more rigorous mitigation should be sought in areas supporting moderate to high density tortoise populations (>20 tortoises/mi), in category 1 and 2 habitats (Spang et al. 1988), and in Sonoran Desert Management Areas (AIDTT 1996).

The first set of mitigation measures are presented as a generic mitigation outline. Within the outline, measures are listed in the general order and priority in which they should be applied to project proposals. This step-down process is in accordance with NEPA regulations and Fish and Wildlife Service mitigation policy. A second set of measures follow the outline and consist of project-specific mitigation recommendations. These and/or other measures developed during project planning should be added to the generic mitigation outline as appropriate. A good source of ideas for mitigation measures is the biological analysis for the proposed Eagle Mountain Landfill (Circle Mountain Biological Consultants 1996), in which the author summarizes mitigation measures used as terms and conditions in biological opinions for the Mojave population of the desert tortoise.

Some of the following recommended measures are defined fairly specifically; others provide more general guidance to be considered in the process of developing a project mitigation plan. As these measures are adapted for inclusion into a mitigation plan, replace "should" with "shall" to indicate that they are mandatory stipulations.

Generic Mitigation Plan For Projects in Desert Tortoise Habitat:

Priority 1: Avoid the Impacts

To the extent possible, project features should be located in previously disturbed areas or outside of desert tortoise habitat.

If impacts to desert tortoises or their habitat can not be avoided, then:

Priority 2: Minimize the Impacts

A. Scheduling Activities to Reduce Potential Adverse Effects:

To the extent possible, project activities should be scheduled when tortoises are inactive (typically November 1 to March 1).

B. Information and Education of Project Personnel:

A desert tortoise protection education program should be presented to all employees, inspectors, supervisors, contractors, and subcontractors who carry out proposed activities at the project site. The education program should include discussions of the following:

1. The legal and sensitive status of the tortoise;
2. a brief discussion of tortoise life history and ecology;
3. mitigation measures designed to reduce adverse effects to tortoises;
4. and protocols to follow if a tortoise is encountered, including appropriate contact points.

C. Designation of a Desert Tortoise Coordinator:

The project proponent should designate a desert tortoise coordinator (DTC) who should be responsible for overseeing compliance with the mitigation program, coordination with permitting agencies, land managers, and Arizona Game and Fish Department; and as a contact point for personnel that encounter desert tortoises. The DTC should be on site during project activities and should be familiar with and have a copy of the desert tortoise mitigation plan.

D. Removal of Harm to Desert Tortoises on Project Sites:

If a tortoise is found in a project area, activities should be modified to avoid injuring or harming it. If activities cannot be modified, tortoises in harm's way should be moved in accordance with Arizona Game and Fish Department's "Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects", revised October 23, 2007 (or the latest revision). Take, possession, or harassment of a desert tortoise is prohibited by State law, unless specifically authorized by Arizona Game and Fish Department.

E. Minimization of Project Footprint:

1. Vehicle use should be limited to existing or designated routes to the extent possible.

2. Areas of new construction or disturbance should be flagged or marked on the ground prior to construction. All construction workers should strictly limit their activities and vehicles to areas that have been marked. Construction personnel should be trained to recognize markers and understand the equipment movement restrictions involved.

F. Limitation of Habitat Disturbance within the Project Footprint:

1. Blading of new access or work areas should be minimized to the extent possible. Disturbance to shrubs should be avoided if possible. If shrubs cannot be avoided during equipment operation or vehicle use, wherever possible they should be crushed rather excavated or bladed and removed.

2. Project features that might trap or entangle desert tortoises, such as open trenches, pits, open pipes, etc should be covered or modified to prevent entrapment. [This may only be necessary during the tortoise active season and may be unnecessary if an on-site biologist is monitoring activities - see "Suggested Mitigation Measures for Projects Conducted During the Tortoise Activity Period... "below.]

G. Preventing Attraction of Predators or Enhancement of Predator Populations:

Construction sites should be maintained in a sanitary condition at all times. The project proponent should be responsible for controlling and limiting litter, trash, and garbage by immediately placing refuse in predator-proof, sealable receptacles. Trash and debris should be removed when construction is complete.

Priority 3: Rectify the Impacts

A. Removal of Hazards:

After completion of the project, trenches, pits, and other features in which tortoises could be entrapped or entangled, should be filled in, covered, or otherwise modified so they are no longer a hazard to desert tortoises.

B. Habitat Restoration:

After project completion, measures should be taken to facilitate restoration. Restoration techniques should be tailored to the characteristics of the site and the nature of project impacts identified in the mitigation plan as developed by project biologists, Arizona Game and Fish Department, and permitting State and Federal agencies. Techniques may include removal of equipment and debris, recontouring, replacing boulders that were moved during construction; and seeding, planting, transplanting of cacti and yuccas, etc. Only native plant species, preferably from a source on or near the project area, should be used in restoration.

Priority 4.- Reduce or Eliminate the Impacts over Time, and Provide Guidance and Information for Improving Future Mitigation Plans

Monitoring and Reporting Requirements:

The project proponent should submit a monitoring report to the Arizona Game and Fish Department and any permitting State or Federal agency within 90 days of project completion. For long-term or ongoing projects that may result in continuing impacts to tortoises and habitat, annual monitoring reports should be prepared. Monitoring reports should briefly document the effectiveness of the desert tortoise mitigation measures, actual acreage of desert tortoise habitat disturbed, the number of desert tortoises excavated from burrows, the number of desert tortoises moved from construction sites, and other applicable information on individual desert tortoise encounters. The report should make recommendations for modifying or refining the mitigation program to enhance desert tortoise protection and reduce needless hardship on the project proponents.

Priority 5: Compensate for Residual Impacts

In accordance with "Compensation for the Desert Tortoise" (Desert Tortoise Compensation Team 1991), signed by Desert Tortoise Management Oversight Group, authorizing agencies should require compensation for residual impacts to desert tortoise habitat.

The following mitigation measures are designed for specific project types or conditions. Most act to minimize project impacts (priority 2 measures).

For Projects Involving Hazardous Materials:

Oil, fuel, pesticides, and other hazardous material spills should be cleaned up and properly disposed of as soon as they occur in accordance with applicable State and Federal regulations. All hazardous material spills must be reported promptly to the appropriate surface management agencies and hazardous materials management authorities.

For Projects Conducted During the Tortoise Activity Period (typically March 1 to November 1)

1. Construction and operation activities should be monitored by a qualified desert tortoise biologist. The biologist should be present during all activities in which encounters with tortoises may occur. The biologist should watch for tortoises wandering into construction areas, check under vehicles, check at least three times per day any excavations that might

trap tortoises, and conduct other activities necessary to ensure that death and injury of tortoises is minimized. This measure may only be warranted in areas of moderate to high tortoise density, category 1 or 2 habitat, or in Sonoran Desert Management Areas.

2. Unleashed dogs should be prohibited in project areas.

3. Temporary fencing, such as chicken wire, snow fencing, chain link, and other suitable materials should be used in designated areas to reduce encounters with tortoises on short-term projects, such as construction of power lines, burial of fiber optic cables, etc, where encounters with tortoises are likely.

For Long-term or Permanent Projects in Which Continued Encounters with Desert Tortoises Are Expected:

Construction of schools, factories, power plants, office buildings, and other permanent or long-term projects in moderate to high density desert tortoise habitat should be enclosed with desert tortoise barrier fencing to prevent tortoises from wandering onto the project site where they may be subject to collection, death, or injury. Barrier fencing should consist of wire mesh with a maximum mesh size of 1-inch (horizontal) by 2-inch (vertical) fastened securely to posts. The wire mesh should extend at least 18 inches above the ground and preferably 12 inches below the surface of the ground. Where burial is not possible, the lower 12 inches should be folded outward, away from the enclosed site, and fastened to the ground so as to prevent tortoise entry. Any gates or gaps in the fence should be constructed and operated to prevent desert tortoise entry (such as installing "tortoise guards" similar to cattle guards, and/or keeping gates closed). Specific measures for tortoise-proofing gates and gaps should be addressed project by project. Fencing is a relatively expensive mitigation measure and may only be appropriate in areas of moderate to high tortoise density, category 1 or 2 habitats, or Sonoran Desert Management Areas.

For Projects in Which Encounters Between Vehicles and Tortoises are Likely:

In desert tortoise habitat project-related vehicles should not exceed 25 miles per hour on unpaved roads.

For Road and Railroad Construction or Improvements in Desert Tortoise Habitat:

1. New paved roads and highways or major modifications of existing roads through desert tortoise habitat should be fenced with desert tortoise barrier fencing (described above). Culverts, to allow safe passage of tortoises, should be constructed approximately every mile of new paved roads and railroads (culverts can also serve the more typical purpose of conducting water under roads and railroads). The culvert diameter needed to encourage tortoise use is correlated with culvert length, but generally short culverts of large diameter are most likely to be used. Culvert design should be coordinated with

Arizona Game and Fish Department and authorizing State and Federal agencies. The floor of the culvert should be covered with dirt and maintenance should be performed as necessary to maintain an open corridor for tortoise movement. Fencing and culverts may only be warranted in areas of moderate to high tortoise densities, category 1 or 2 habitats, or in Sonoran Desert Management Areas.

2. Use of roads constructed for specific non-public purposes, such as access routes to microwave towers, should be limited to administrative use only.

3. Temporary access routes created during project construction should be modified as necessary to prevent further use. Closure of access routes could be achieved by ripping, barricading, posting the route as closed, and/or seeding and planting with native plants.

References Cited

Arizona Interagency Desert Tortoise Team. 1996. Arizona Interagency Desert Tortoise Team Management Plan.

Circle Mountain Biological Consultants. 1996. Federal biological opinion analysis for the proposed Eagle Mountain Landfill Project. Prepared for CH2MHILL, Santa Ana, California.

Desert Tortoise Compensation Team. 1991. Compensation for the desert tortoise. Report to the Desert Tortoise Management Oversight Group.

Fish and Wildlife Service. 1992. Procedures for endangered species act compliance for the Mojave population of the desert tortoise. Fish and Wildlife Service, Region 1 -Portland, Region 2 - Albuquerque, and Region 6 - Salt Lake City.

Spang, E.F., G.W. Lamb, F. Rowley, W.H. Radtkey, R.R. Olendorff, E.A. Dahlem, and S. Slone. 1988. Desert tortoise habitat management on the public lands: A rangewide plan. Report prepared for Bureau of Land Management, Division of Wildlife and Fisheries, 903 Premier Building, 18th and C Streets, N. W., Washington, D.C. 20240. 23 pp.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

1. NOTICE OF APPEAL

2. WHERE TO FILE

NOTICE OF APPEAL

Bureau of Land Management
Yuma Field Office
2555 Gila Ridge Road
Yuma, AZ 85365-2240

WITH COPY TO SOLICITOR

Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR

Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151

4. ADVERSE PARTIES

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (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 regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the 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, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821—GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Yuma Field Office
2555 East Gila Ridge Road
Yuma, AZ 85365
www.az.blm.gov

FINDING OF NO SIGNIFICANT IMPACT

For

DOI-BLM-AZ-C020-2014-0030 EA

The Bureau of Land Management (BLM), Yuma Field Office, has analyzed a proposal from Luxcor Gold, LP (Luxcor), for a modification to their Mine Plan of Operations to change the location of the millsite from the Rio del Monte Mine to a private parcel of land owned by Luxcor, west of Vicksburg Road north of Interstate 10. The new mill-site is located in Township 4 North, Range 15 West, Section 26, G&SR B&M, on the Rangras Plain of La Paz County, Arizona. The Mill-site is in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 26 comprising 40 acres more or less.

Luxcor has submitted an acceptable modification to their Mining Plan of Operation as described in 43 Code of Federal Regulations 3809. Luxcor's proposal is called the Fancher Project. Luxcor leases Federal mining claims in good standing and has a right to extract valuable minerals from their claims, as established under the 1872 General Mining Law. In addition, Section 302 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1732) provides the general authority for BLM to manage the public lands under the principles of multiple use and sustained yield in accordance with the land use plans that BLM develops under FLPMA.

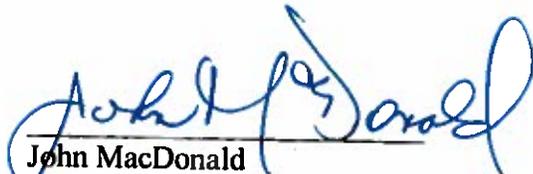
Activities proposed for public lands by Luxcor as described in their 2014 Plan modification appear to be reasonably incident, constitute substantial regular work, and are reasonably calculated to lead to the extraction and beneficiation of gold. Luxcor's proposed occupancy, gating, trailers, fences, signs, etc., are in compliance with BLM Regulations found at 43 CFR 3715.

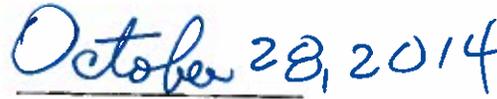
The proposed action the no action alternative and alternatives not analyzed are described within the attached Environmental Assessment (EA) DOI-BLM-AZ-C020-2014-0030. The EA is tiered to and in conformance with the DOI-BLM-AZ-C020-2010-0017-EA and the Yuma Field Office Resource Management Plan (RMP) and Record of Decision (January 2010). The above-referenced document may be viewed at the Yuma Field Office during normal business hours.

The proposed action would assure that no significant adverse impacts would occur to the human environment. in the following areas: Air Quality, Areas of Critical Environmental Concern, Cultural Resources, Environmental Justice, Farm Lands (Prime or Unique), Floodplain, Hazardous or Solid Waste, Native American Religious Concerns, Non-Native Invasive Species, Threatened or Endangered Species, Water Quality (Ground or Surface), Wetlands/Riparian Zones, Wild and Scenic Rivers, or Wilderness.

The proposed action does not significantly affect energy supply, distribution, and/or use and therefore a Statement of Adverse Energy Impact is not required.

On the basis of the information contained in the EA, and all other information available to me as is summarized above, it is my determination that the Proposed Action does not constitute a major Federal Action affecting the quality of the human environment. Therefore, an Environmental Impact Statement is unnecessary and will not be prepared.


John MacDonald
Yuma Field Manager


October 28, 2014
Date