

**Determination of NEPA Adequacy (DNA)**  
**U.S. Department of Interior**  
**Bureau of Land Management**

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**OFFICE:** *Hassayampa Field Office (HFO)*

**NEPA/TRACKING NUMBER:** *DOI – BLM – AZ – P010 – 2014 – 0050 – DNA*

**CASEFILE/PROJECT NUMBER:** *AZA – 36466*

**PROPOSED ACTION TITLE/TYPE:** *43CFR3715 Occupancy – MDG Resources*

**LOCATION/LEGAL DESCRIPTION:**

*NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, sec. 13, T. 8 N., R. 1 W., G&SRM, Yavapai County, AZ*

**APPLICANT (if any):** *MDG Resources, LLC*

**A. Description of the Proposed Action and any applicable mitigation measures**

Operator proposes to use abandoned well at the Columbia townsite originally drilled for mining & domestic use on public lands in 1975. Utilization of an existing facility qualifies as Occupancy under 43CFR3715, which requires BLM concurrence.

Operator will qualify for a Type 1 General Aquifer Protection Permit (APP) under A.A.C. rule R18-9-B301.A. Groundwater withdrawal will be less than 35 GPM, and will be used to wash and process gravels and sediment from the Humbug Creek area.

Per ADEQ, operator will be required to obtain an Arizona Pollution Discharge Elimination System (AZPDES) Multi-Sector General Permit (MSGP), which will also entail the creation of a Stormwater Pollution Prevention Permit (SWPP). These documents are pending.

There will be no treatments to the water and it will be allowed to re-infiltrate into the Humbug Creek.

DNA scope limited to well use. Notice level mining operation is regulated under separate authority.

Mitigation measures are designated as the “Performance Measures” and “Actions and Activities Not Allowed” listed in Appendix 4 of the “Finding of No Significant Impact and Programmatic Environmental Assessment for: Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona --November 18, 1997” (FONSI and PEA).

**B. Land Use Plan Conformance**

Land Use Plan (LUP) Name: **Bradshaw-Harquahala Resource Management Plan**

Date Approved/Amended: **4/22/2010**

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

The plan states in Mineral Resources, under Land Use Allocations element MI-3 on page 33 that “All public lands within the planning area are open to locatable mineral activities except for Tule Creek ACEC, legislatively withdrawn areas and other withdrawn and segregated areas, as shown on Map 12 of the Land Use Plan.”

**C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.**

The 43 CFR 3715 and 3809 regulations provide for the management of surface disturbance associated with mineral exploration and development including mining claim use and occupancy.

Finding of No Significant Impact and Programmatic Environmental Assessment for Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona -- November 18, 1997.

Biological Resources Review, September 22, 2014

Cultural Resource Review, September 22, 2014

Mining Law Administration Review October 14, 2014.

**D. NEPA Adequacy Criteria**

- 1. Is the proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the exiting NEPA document(s)? If there are differences, can you explain why they are not substantial?**

Yes.

The proposed action involves no restricted lands specifically excluded in the “Finding of No Significant Impact and Programmatic Environmental Assessment for Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona” -- November 18, 1997. Specifically, the proposed action is concurring with the following “typical occupancies” listed on page 3 of the aforementioned document:

“2. Placing on public lands and using operational structures, process buildings, and storage structures needed for mining, milling, and beneficiation operations that are either general permitted or exempted from the APP program.”

“7. Placing on public lands fences, gates, or signs designed to limit public access.”

**2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?**

Yes.

The range of alternatives in the Finding of No Significant Impact and Programmatic Environmental Assessment for: Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona --November 18, 1997 is adequate since the proposed action is consistent with the actions previously covered.

**3. Is the existing analysis valid in light of new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, and updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?**

Yes.

There is no new information or new circumstances that apply to the proposed action.

**4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

Yes.

The effects would be the same as those described in the Finding of No Significant Impact and Programmatic Environmental Assessment for: Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona --November 18, 1997.

**5. Are the public involvement and interagency review associated with existing NEPA documents(s) adequate for the current proposed action?**

Yes.

The proposed action is the same as that covered in the Finding of No Significant Impact and Programmatic Environmental Assessment for: Selected Actions for Mining Claim and Millsite Use and Occupancy in Arizona --November 18, 1997

The BLM issued a press release and direct mailings to announce a 30 day comment period for the FONSI and PEA in 1997. This public outreach process is adequate to cover the currently proposed action because it is the same as previously described.

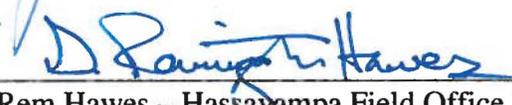
**E. Persons/Agencies/BLM Staff Consulted**

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
Judd Sampson	Geologist	Minerals / BLM HFO
Codey Carter	Wildlife Biologist	T&E / BLM HFO
Bryan Lausten	Archaeologist	Cultural / BLM HFO
Marnie Greenbie	Surface Water Permits Unit Manager	Surface Water / Arizona Department of Environmental Quality

Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents

**CONCLUSION:**

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitute BLM's compliance with the requirements of NEPA.

	10/14/2014
Judd Sampson – Hassayampa Field Office Geologist	Date
	10/15/2014
Gloria Tibbetts – Planning & Environmental Coordinator	Date
	10/16/2014
Rem Hawes – Hassayampa Field Office Manager	Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Phoenix District

Hassayampa Field Office

21605 North 7th Avenue

Phoenix, Arizona 85027

[www.blm.gov/az/](http://www.blm.gov/az/)

In Reply Refer To:

3715 (P010) JS

AZA – 36466

OCT 22 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7013 0600 5945 1164

### DECISION

MDG Resources, LLC	:	43 CFR 3715
Mr. Mark Gramlich	:	Use and Occupancy
5941 Silver Saddle Way	:	AZA – 36466 (P010)
Herriman, UT 84096-1808		

### Occupancy Concurrence

MDG Resources LLC (MDG) submitted an amended Notice to conduct exploration sampling in SE $\frac{1}{4}$ SE  $\frac{1}{4}$ , sec. 12, E $\frac{1}{2}$ E  $\frac{1}{2}$ , sec. 13, T. 8 N., R. 1 W., G&SRM on February 19, 2014, and again on June 10, 2014 in response to the Bureau of Land Management (BLM) request of May 8, 2014.

Your proposed use of the existing well 55-805207 (as listed in the Arizona Well Registry Database, enclosed) in your letter of June 10, 2014 qualifies that use as “occupancy” as defined by 43 CFR 3715.0-5 (enclosed). Subsequent communications confirmed your desire to use that well, and constitute a request for occupancy. Per the regulations at §3715.3-1, you may not begin occupancy (the use of the existing well facility) until the following have occurred:

- (a) You have complied with either 43 CFR part 3800, subpart 3802 or 3809 and this subpart, and BLM has completed its review and made the required determinations under the applicable subparts, and
- (b) You have obtained all federal, state and local mining, reclamation, and waste disposal permits, approvals, or other authorizations for the particular use or occupancy as required under this subpart.

The BLM has issued a separate decision establishing the term of your mining Notice AZA – 36466 to last until September 12, 2016, or is terminated, whichever occurs first. This Occupancy Concurrence will remain in effect until the associated Notice expires on September 12, 2016 or is terminated, unless you notify this office beforehand that operations have ceased and reclamation is complete.

This concurrence consists of the following elements:

1. Your use of the existing facility, well 55-805207 (as listed in the Arizona Well Registry Database, enclosed).

According to the regulations at §3715.5(b) and (c), your use(s) and occupancies must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning. This means getting permits and authorizations and meeting standards required by state and federal law. Please consult with the appropriate state permitting authorities.

Reclamation of your occupancy will consist of installing a form of wellhead protection, and you may leave the existing well in place. The wellhead protection will consist of a locking well cover. Your reclamation will not be considered complete until this is installed.

This concurrence is based on your adherence to the Performance Measures found in Appendix 4 of the Programmatic Environmental Assessment for Selected Actions Taken for Mining Claim and Millsite Use and Occupancy in Arizona, dated November 18, 1997 (enclosed).

This concurrence is non-transferable. Your occupancy must maintain compliance with the provisions of §3715.2, §3715.2-1 and §3715.5 (enclosed).

#### Appeal of a Decision under 43 CFR 3715

If you are adversely affected by this decision, you may appeal to the IBLA under 43 CFR part 4. If you appeal this decision, you must file a Notice of Appeal to this office at 21605 North Seventh Avenue, Phoenix, Arizona 85027 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.

#### Request for a Stay

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 Interior Board of Land Appeals (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 where otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must 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.

Please contact Geologist Judd Sampson at (623) 580-5576 with any questions.

Sincerely,

  
Rem Hawes  
Field Manager

Enclosures:

- 1 – Arizona Department of Water Resources Well Registry Information for registration number 55-805207, accessed October 15, 2014.
- 2 – Appendix 4 of the Programmatic Environmental Assessment for Selected Actions Taken for Mining Claim and Millsite Use and Occupancy in Arizona, dated November 18, 1997
- 3 – Title 43, Subtitle B, Chapter II, Subchapter C, Part 3710, Subpart 3715 of the Code of Federal Regulations, Use and Occupancy Under the Mining Laws
- 4 – Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals.