

## **DECISION MEMORANDUM**

Ulysses Corporation Sampling and Testing of Sand and Gravel  
CX-AZ-110-2008-051

US Department of the Interior  
Bureau of Land Management  
Arizona Strip Field Office  
345 East Riverside Drive, St. George, Utah

### **Approval and Decision**

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the Arizona Strip District Resource Management Plan (approved 2008) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the following terms and conditions.

1. Heavy equipment and surface disturbance will be limited to the posted and flagged areas.
2. All stockpiles, equipment, and property will be removed immediately from the sites upon termination of operations.
3. Reclamation of all surface disturbances will be initiated immediately upon completion of activities. Reclamation of disturbed areas shall, to the extent practicable, include contouring disturbances to blend with the surrounding terrain, replacement of topsoil, smoothing and blending the original surface colors to minimize impacts to visual resources, and seed the disturbed areas with a mix specified by the Authorized Officer.
4. The operator shall be responsible for and diligently supervise the actions of any contractor and/or subcontractor who operate in the material site under the authority granted under this authorization letter and a copy of the letter and the terms and conditions of approval must be on site and in each vehicle that hauls material from the site.
5. The operator will promptly remove and dispose of all waste caused by the operations as directed by the Authorized Officer. "Waste" refers to all discarded matter including human waste, trash, garbage, refuse, petroleum products, ashes, and equipment. Wastes shall be disposed in an authorized landfill unless otherwise approved in writing by the Authorized Officer. Any drain oil from equipment will be contained and removed to an approved disposal facility.
6. There is potential for the spread of noxious and invasive weeds from equipment contaminated with weed seed and/or biomass. To reduce this potential, the operator will thoroughly power wash and remove all vegetative material and soil before transporting equipment to the site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery. The operator shall be responsible for the eradication of noxious weeds on disturbed areas. The operator is responsible for consultation with the Authorized Officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments will be made using only chemicals approved in the Final Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement (June 2007), by a state certified applicator who will abide by all safety and application guidelines as listed on the product label and Material Safety Data Sheet (MSDS). Any reclamation efforts requiring seeding will be done with

certified, weed-free native seed.

7. (a) Any surface, or sub-surface archaeological, historical, or paleontological remains not covered by the CRPR discovered during preparation or actual work shall be left intact; all work in the area shall stop immediately and the Authorized Officer will be notified. Commencement of work shall be allowed upon clearance by the Authorized Officer in consultation with BLM's Archaeologist.

(b) If in connection with this work 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 operator shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer. The operator shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.

### **Administrative Review or Appeal Opportunities**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed at the Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, 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 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 Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (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.

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:

#### Standards for Obtaining a Stay

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.

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Lorraine M. Christian  
Field Manager

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Date

Attachment: Form 1842-1

# ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: CX-AZ-110-2008-051

Project Title: Ulysses Corporation Sampling and Testing of Sand and Gravel

Project Lead: Rody Cox

Date that any scoping meeting was conducted: N/A

Date that concurrent, electronic distribution for review was initiated: September 12, 2008

Deadline for receipt of responses: October 3, 2008

ID Team/Required Reviewers will be determined at scoping meeting or as a default the following:

Gloria Benson, Tribal Liaison  
Lorraine Christian, Field Manager  
Laurie Ford, Lands/Realty/Minerals  
Diana Hawks, Recreation/Wilderness/VRM  
John Herron, Cultural  
Lee Hughes, Special Status Plants  
Kitti Jensen, Wildlife/ T&E  
Ray Klein, GCPNM Supervisory Ranger  
Linda Price, S&G  
Kevin Schoppmann, Range/Vegetation  
Richard Spotts, Environmental Coordinator  
Ron Wadsworth, Supervisory Law Enforcement  
LD Walker, Weed Coordinator

Required Recipients of electronic distribution E-mails only (not reminders):

Andi Rogers (E-mail address: [arogers@azgfd.gov](mailto:arogers@azgfd.gov) )

Rick Miller (E-mail address: [rmiller@azgfd.gov](mailto:rmiller@azgfd.gov) )

LeAnn Skrzynski (E-mail address: [lskrzynski@kaibabpaiute-nsn.gov](mailto:lskrzynski@kaibabpaiute-nsn.gov) )

(Ms. Rogers and Mr. Miller are Arizona Game and Fish Department (AGFD) habitat specialists. Ms. Skrzynski is Environmental Program Director for the Kaibab Paiute Tribe (KPT). They may review and/or forward on ASDO NEPA documents to other employees. If a Project Lead receives comments from any AGFD employee on their draft NEPA document, they should include them in the complete set/administrative record and share them with Kitti Jensen as the ASDO Wildlife Team Lead. Ms. Jensen will then recommend how these comments should be addressed. If a Project Lead receives comments from any KPT employee, they should include them in the complete set/administrative record and share them with Gloria Benson as the ASDO Native American Coordinator. Ms. Benson will then recommend how these comments should be addressed.)

Discretionary Reviewers:

## **NEPA Document Number: CX-AZ-110-2008-051**

### **A. Background**

BLM Office: Arizona Strip Field Office (ASFO) Lease/Serial/Case File No.: AZA-34789

Proposed Action Title/Type: Ulysses Corporation Sampling and Testing of Sand and Gravel  
Location of Proposed Action: T. 41 N., R. 13 W., Sec. 12, NESE, SENE, GSRM.

Description of Proposed Action: On September 10, 2008, Ulysses Corporation (Ulysses) submitted a letter requesting to sample five locations for potential use as road base. The sample sites are located near Black Knolls approximately one mile from the I-15, Black Rock Interchange. Attachment 2 is a location map. Ulysses would be issued a letter authorizing them to sample and test mineral materials. The authorization would expire 90 days after the letter is issued. Ulysses would be required to submit the sampling and testing findings to the BLM. The letter would not give Ulysses a preference right to a sales contract. Authorization for sampling and testing is regulated by 43 CFR § 3601.30.

The sand and gravel would be excavated from pits at the proposed locations using a backhoe, loaded into a truck and transported off site for testing. Afterwards the pits would be backfilled and the disturbed area graded to a natural contour. The sampling would take place adjacent to an area of disturbance created by gypsum mining and more recently used for explosive storage. The total amount of material proposed for sampling and testing is less than 20 tons. Listed below are the terms and conditions that would be included in the authorization letter to Ulysses.

#### Terms and Conditions of Approval:

1. Heavy equipment and surface disturbance will be limited to the posted and flagged areas.
2. All stockpiles, equipment, and property will be removed immediately from the sites upon termination of operations.
3. Reclamation of all surface disturbances will be initiated immediately upon completion of activities. Reclamation of disturbed areas shall, to the extent practicable, include contouring disturbances to blend with the surrounding terrain, replacement of topsoil, smoothing and blending the original surface colors to minimize impacts to visual resources, and seed the disturbed areas with a mix specified by the Authorized Officer.
4. The operator shall be responsible for and diligently supervise the actions of any contractor and/or subcontractor who operate in the material site under the authority granted under this authorization letter and a copy of the letter and the terms and conditions of approval must be on site and in each vehicle that hauls material from the site.
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(b) If in connection with this work 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 operator shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer. The operator shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.

## **B. Land Use Plan Conformance**

Land Use Plan Name: Arizona Strip Field Office Resource Management Plan

Date Approved: January 29, 2008

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

- DFC-MI-01: Mineral exploration and development is encouraged on public land in keeping with the BLM's multiple-use concept. Overall guidance on the management of mineral resources appears in the Domestic Minerals Program Extension Act of 1953, the Mining and Minerals Policy Act of 1970, FLPMA of 1976, the National Materials and Minerals Policy, Research and Development Act of 1980, BLM's Mineral Resources Policy of May 29, 1984, and the Energy Policy Act of 2005.
- DFC-MI-04: Salable Minerals: The Materials Sale Act of 1947 and 43 CFR 3600 provide for the disposal and regulation of mineral materials. Disposal is administered on a case-by-case basis. Salable minerals are sold at fair market values. Free use permits are issued to Federal and state agencies, local communities, and non-profit groups as the need arises.

- DFC-MI-05: Allow entire Arizona Strip FO to remain open to mineral leasing, location, and sale except where restricted by wilderness designation, withdrawals, or specific areas identified in this RMP.
- MA-MI-05: Salable materials will continue to be available in a timely and orderly manner consistent with environmental constraints. Free use permits will continue to be issued to Federal and State agencies and to local communities.
- MA-MI-07: Extraction of mineral resources will proceed consistent with protection of sensitive resources and achieving DFCs.

**C: Compliance with NEPA:**

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Appendix 4, F. 9. which states “Digging of exploratory trenches for mineral materials, except in riparian areas.” No riparian areas exist at or near the proposed locations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM2 apply. Attachment 1 is the Extraordinary Circumstances Review And Checklist.

I considered the proposed terms and conditions of approval and expect negligible to minor, short term impacts from the proposed action. Attachment 1 does not list any Extraordinary Circumstances associated with the proposed action.

**D: Signature**

Authorizing Official: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Lorraine M. Christian

Title: Field Manager

**Contact Person**

For additional information concerning this CX review, contact Rody Cox, Geologist, Arizona Strip Field Office, (435) 688-3244

**Attachments**

- Attachment 1 – Extraordinary Circumstances Review and Checklist
- Attachment 2 – Location of Proposed Sampling Sites

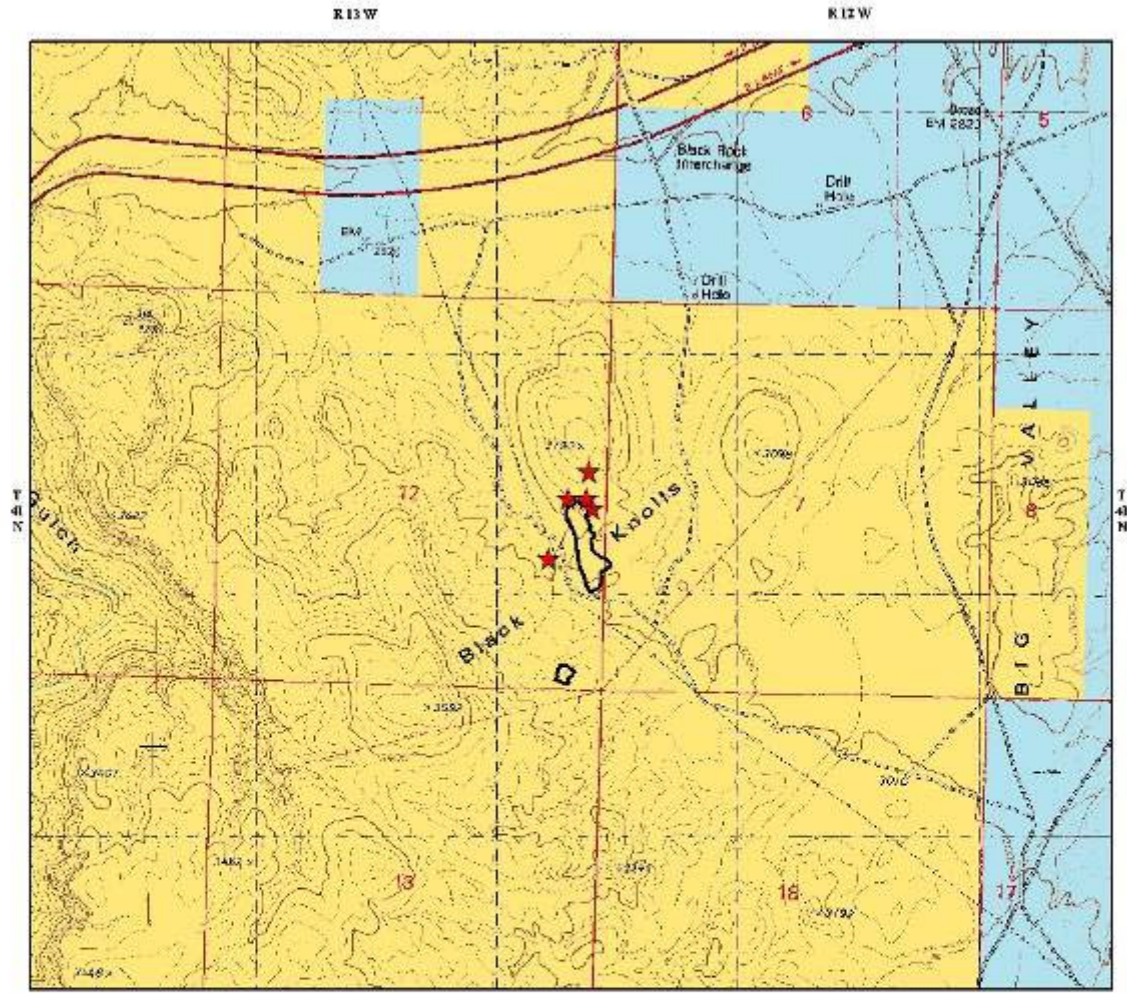
# Attachment 1

<b>EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST</b>		
<p>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</p>		
<b>EXTRAORDINARY CIRCUMSTANCES</b>	<b>YES/NO &amp; RATIONALE (If Appropriate)</b>	<b>STAFF</b>
Does the proposed action...		
1. Have significant impacts on public health and safety?	NO	R. Cox
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	NO	D. Hawks J. Herron K. Jensen
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	NO	R. Cox
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	NO	R. Cox
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	NO	R. Cox
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	NO	R. Cox
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	NO	J. Herron
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	NO	L. Hughes/ K Jensen
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	NO	R. Cox
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	NO	R. Cox
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	NO	G. Benson
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	NO	L.D. Walker

# Attachment 2

Ulysses Corporation  
Sampling and Testing of Sand and Gravel

Arizona Strip Field Office

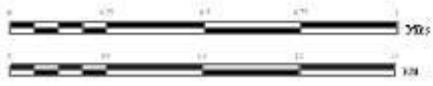


### Location Map



### Legend

- ★ Sample Locations
- Existing Disturbance
- Bureau of Land Management
- State Lands



 United States Department of the Interior  
Bureau of Land Management  
Arizona Strip Field Office  
Map created on Sep 13, 2018

**CAUTION:**  
Land ownership data is derived from less accurate data than the 1:24000 scale base map. Therefore, land area may not be exact for parcels smaller than 40 acres, and land ownership lines may have plotting errors due to source data.  
This document is made by the Bureau of Land Management for the use of the data for purposes not intended by the BLM.