

United States Department of the Interior  
Bureau of Land Management  
Environmental Assessment CA-670-2008-76  
Case File Number: CACA 49292

Finding of No Significant Impact  
Pyramid Construction Padre Madre  
Mineral Material Contract  
Imperial County, California

U.S. Department of the Interior  
Bureau of Land Management  
El Centro Field Office  
1661 South 4<sup>th</sup> Street  
El Centro, CA 93342

October 2009



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**Applicant/Proponent:** Pyramid Construction and Aggregates, Incorporated,  
839 Dogwood Road, Heber, California 92249

**Location of Proposed Action:** Portions of Section 19, Township 15 South., Range 21 East, SBBM, Ogilby 7.5-minute USGS topographic quadrangle, Imperial County, California

## INTRODUCTION

The El Centro Field Office, Bureau of Land Management, offered by competitive sale, 500,000 tons of rock from previous gold mining operations at the Padre-Madre mine in August 2007. Pyramid Construction and Aggregates, Incorporated (Pyramid) won the competitive mineral material sales contract which incorporates a portion of the west rock dump resulting from over and interburden removal from the Padre Madre open pit gold mine. The contract area is located on unencumbered public land in eastern Imperial County, California, within the western portion of the Chocolate Mountains (Figure 1). The contract would authorize Pyramid to mine and process rock from within an area comprising approximately 40 acres for a period of 10 years. The competitive contract would give Pyramid the right to renew the contract after a 10 year term, or after materials contracted have been removed, subject to reappraisal. This mineral material disposal was authorized and is being processed in accordance with the 43 CFR 3600 regulations for mineral materials disposal

Mining operations, the processing facility, and ancillary facilities such as a water well and access road would be operated under the name "American Girl Operation" (AGO). AGO is a proposed construction aggregate mining and processing operation that would extract and market previously mined overburden and rock, stockpiled on the east side of the west open pit. Mining operations would be conducted in a manner so as to allow for concurrent reclamation. All processing and ancillary facilities and improvements would be removed at the end of mine life, and the sites reclaimed in compliance with BLM and Imperial County requirements. There are no mining claims or mineral leases encumbering the subject site, and the area has been reclaimed by the previous mine operator in compliance with BLM's surface management regulations at 43 CFR 3809 and the State of California Surface Mining and Reclamation Act of 1975 and promulgated regulations.

The proposed AGO is located in the Tumco gold mining district with mineral extraction to be conducted entirely on lands disturbed by previous mining activities, most notably the former AGJV Padre Madre operations. The proposed area of disturbance (Figure 2) was the subject of an Environmental Assessment/Environmental Impact Report (EA/EIR) and Finding of No Significant Impact for the Padre Madre Gold Mine Project Phase II (EA Number CA-067-88-65) in 1988. The most recent commercial production was

associated with the Padre Madre mine, which was part of the American Girl Canyon Mining Area. Padre Madre gold mining activities were conducted in a phased manner and the most recent activity ceased in 1996. These areas were reclaimed over the next 5 years. While reclamation of previous gold mining activity met visual line and form goals of the reclamation plans, the rock features have changed the landscape from the original line and form of the pre-gold mining area. Subsequent to mining activity at the Padre Madre site, all mining claim interests on public land held by the AGJV have been abandoned.

## PLAN CONFORMANCE AND CONSISTENCY

This Proposed Action is subject to the following Land Use Plans:

California Desert Conservation Area Plan 1980 as Amended;

Northern and Eastern Colorado Coordinated Management Plan

The Proposed Action has been reviewed for conformance with these plans, and found to be in conformance of the existing land use plans for the Project Area.

## FINDING OF NO SIGNIFICANT IMPACT

The El Centro Field Office interdisciplinary review and analysis determined that the proposed action would not trigger significant impacts on the environment based on criteria established by regulations, policy and analysis.

Based on the findings discussed herein, I conclude that the proposed action is not a major Federal action and will result in no significant impacts to the environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed those effects described in applicable land use plans. Therefore, preparation of an environmental impact statement to further analyze possible impacts is not required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969.

This determination is based on the rationale that the significance criteria, as defined by the Council on Environmental Quality (CEQ) (40 CFR 1508.27) have not been met. "Significantly" as used in NEPA requires considerations of both context and intensity. In making this Finding of No Significant Impact (FONSI), the following criteria have been considered, in accordance with the Council on Environmental Quality (CEQ), 40 C.F.R. 1508.27.

**Context:** This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short and long term effects are relevant.

Environmental impacts associated with the proposed action and alternatives have been assessed by an interdisciplinary team and described in Environmental Assessment (EA) CA-670-2008-76. The context of the EA analysis was determined to be at a local and

regional scale in Imperial County, California. The effects of the action are not applicable on a national scale since no nationally significant values were involved.

**Intensity:** This refers to the severity of impact. The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into BLM's Critical Elements of the Human Environment list (H-1790-1), and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

1) Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects.

**Beneficial Effects:** The proposed project would provide a source of aggregate products for Eastern Imperial County. The project would reduce, reuse, and reclaim or recycle rock from the former Padre-Madre Mine, thus removing piles of rock and restoring the area to near-original surface contours. Removal of these piles would promote revegetation and increase accessibility of this area to wildlife.

**Adverse Effects:** Aggregate mining would generate noise from mining activity and haul trucks. Vehicles and equipment could rush, frighten or displace wildlife. Some of the area previously reclaimed by the American Girl Mining Joint Venture would be re-disturbed.

2) *The degree to which the selected alternative will affect public health or safety.* The proposed action is not anticipated to affect public health or safety. Characterization of the material was determined to be non-toxic and non-hazardous because the threshold limits for elements of concern were not reached. Stipulations to the contract and plan of operation would ensure that material used in end use products would meet the test of toxicity.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.* The proposed aggregate mining would not be situated in proximity to park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas. The proposed project has been sited so as to avoid cultural or historic resources. The proposed project area lies within a former gold mine.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* It is not likely that aggregate mining in this area would result in impacts to the quality of the human environment that would be highly controversial.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Effects of the proposed action are well understood and would not involve any unique or unknown risks.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The proposed action would not establish precedents for future actions or represent a decision in principle about a future action.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.* The proposed action would not establish precedents for future actions or represent a decision in principle about a future action.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* No significant scientific, cultural or historical resources would be affected by the proposed action.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.* The project area, while heavily disturbed, lies adjacent to desert tortoise habitat. The USFWS issued a Biological Opinion (BO) for Small Mining and Exploration Operations in the California Desert (3809 6840 CA-063-.50 (CA-932.50)). This project falls within the scope of the BO.

10) *Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.* The proposed action does not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Reviewed by: /s/ Carrie Simmons 10/8/09  
Environmental & Planning Coordinator Date

Approved by: /s/ Daniel Steward acting for 10/8/09  
Vicki L. Wood, Field Manager Date  
El Centro Field Office

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## Decision Record

### Pyramid Construction Padre Madre Mineral Material Contract Imperial County, California

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## 1.0 Introduction and Background

The El Centro Field Office, Bureau of Land Management (BLM), offered by competitive sale, 500,000 tons of rock from previous gold mining operations at the Padre-Madre mine in August 2007. Pyramid Construction and Aggregates, Incorporated (Pyramid) won the competitive mineral material sales contract which incorporates a portion of the west rock dump resulting from over and interburden removal from the Padre Madre open pit gold mine. The contract area is located on unencumbered public land in eastern Imperial County, California, within the western portion of the Chocolate Mountains (Figure 1). The contract would authorize Pyramid to mine and process rock from within an area comprising approximately 40 acres for a period of 10 years. The competitive contract would give Pyramid the right to renew the contract after a 10 year term, or after materials contracted have been removed, subject to reappraisal. This mineral material disposal was authorized and is being processed in accordance with the 43 CFR 3600 regulations for mineral materials disposal

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The proposed AGO is located in the Tumco gold mining district with mineral extraction to be conducted entirely on lands disturbed by previous mining activities, most notably the former American Girl Mining Joint Venture (AGMJV) Padre Madre operations. The proposed area of disturbance (Figure 2) was the subject of an Environmental Assessment/Environmental Impact Report (EA/EIR) and Finding of No Significant Impact (FONSI) for the Padre Madre Gold Mine Project Phase II (EA Number CA-067-88-65) in

1988. The most recent commercial production was associated with the Padre Madre mine, which was part of the American Girl Canyon Mining Area. Padre Madre gold mining activities were conducted in a phased manner and the most recent activity ceased in 1996. These areas were reclaimed over the next 5 years. Subsequent to mining activity at the Padre Madre site, all mining claim interests on public land held by the AMGJV have been abandoned. This project would involve mining in the previously reclaimed area.

In general, comments and concerns received during the draft review of the EA center around the issue that AGJV closed the American Girl Mine properties and reclaimed the Padre Madre Rock area with the expectation that the rock area would remain closed and in place in a reclaimed and stable condition. The previous operator of the Padre-Madre site is concerned about the potential liabilities that would be placed on them from the disturbance and off-site use of this material under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as being a generator of the rock. CERCLA<sup>1</sup>, attaches a perpetual liability to all parties who once "...owned, controlled, or facilitated the disposition of hazardous substances or other contaminants" (Hecla comments, January 2009). The previous operator has concerns that BLM has not met its burden of assuring that "...the proposed action is in the public interest, and that there are no hazards to public health and safety" (HECLA Comments).

While the area has been disturbed by previous gold mining and processing activities, the site had been reclaimed in compliance with approved reclamation plans. Reclamation of previous gold mining activity met visual line and form goals of the reclamation plans, the rock stockpile features have changed the landscape from the original line and form of the pre-gold mining area. Part of BLM's goal in the material contract is to soften and reduce, as much as possible, the reclaimed rock facility to conform as near as practicable to the line and form of pre-gold mining topography. While BLM recognizes the considerable work and associated costs AGJV expended in compliance with reclamation provisions of their approved reclamation plans for the Padre-Madre gold project, the United States has offered this material to meet regional demands for the resource. In addition, removal of most of the rock stockpile will provide a final topographic profile closer to the original profile before gold mining activity.

Rock stockpiled from mining operations was not a permitted activity under the CERCLA by the state lead agency. No arguments at the time were addressed concerning the toxic or hazardous potential of the rock. Based on analysis of samples collected from the rock stockpile in October 2008, and further work in January 2009, the rock is not considered a toxic or hazardous material. The rock does not meet any threshold limits for any of the 17 metallic elements of concern to the state of California. Mining of the rock from the Pyramid contract site would have no deleterious effect on humans or the

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<sup>1</sup> Hazardous waste disposal and cleanup is an area that is controlled under two main statutes, the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). RCRA's goals are to protect human health and the environment from the potential hazards of waste disposal, conserve energy and natural resources, reducing the amount of waste generated, and ensure that wastes are managed in an environmentally-sound manner. RCRA's extensive tracking from generation to disposal of a hazardous waste, the process results in a "cradle to grave" system. CERCLA establishes a legal liability system for the cleanup of inactive or abandoned sites when there has been a release, or a significant threat of a release, of a hazardous substance.

natural environments when used as an aggregate admixture to concrete and asphalt concretes, or used as fill, rip-rap, or ballast applications.

## 2.0 Decision

### 2.1 Alternatives Considered

#### Alternative A, the Proposed Action:

The AGO proposes to mine and process overburden and stockpiled materials within the 40-acre confines of the project site within the scope of the mineral material contract (Figure 2). Saleable aggregate materials would be extracted and processed on public lands at and proximal to the west rock dump.

#### Alternative B:

Under this alternative, mining would be allowed without associated processing of rock and unusable material at the AGO site. This alternative would require that all processing operations be moved to another area of the county, away from the Cargo Muchacho site.

#### Alternative C, No Action:

Under the No Action Alternative, the BLM would deny the proposed AGO mine and reclamation plan in the project application and proposed reclamation of rock stockpiles would not be conducted.

### 2.2 Actions Considered but Eliminated from Further Consideration

#### Reduced Mining

The reduced mining alternative would limit mining and processing of mineral material from AGO to less than 4,500 tons per day, to approximately 250 tons per day. This amount is the maximum tonnage spread over the 10-year contract period over a 220 day working year. Under this alternative, production would be sustained to minimize truck traffic along American Girl road and the Ogilby road to a level consistent with moderate recreation use in the area.

This alternative places an increased burden on the operator by not optimizing mining and production equipment to normal market needs. The alternative increases carbon emissions in the mine area as well as processing area by underutilizing equipment, and well as requiring an increase in worker transits to the site, increasing carbon emissions and wasting fossil fuels.

This alternative will not be considered further in this analysis because in comparison with the proposed action, would create more environmental impacts and increased hazards to public health and safety.

### 2.3 Decision and Rationale

Based on information in the EA and consultation with my staff, I have decided to implement the proposed action as described in the EA. Allowing aggregate production in this area provides mineral materials for construction projects without disturbing new areas, and will contribute to further reclamation of a disturbed area.

Alternative A (proposed action) is preferred over Alternative B or Alternative C for the following reasons:

- Mining and processing material at the American Girl site would be much more energy and cost efficient than hauling the material off site to process.
- With the mitigation measures listed below, the adverse environmental impacts of Alternative A are not significant and will be only nominally greater than those attributable to Alternative B or C.
- Removing the rock piles will contribute to restoration of natural contours in the formerly mined site and contribute to increased value as wildlife habitat.

The following measures are designed to reduce the likelihood of impacts to natural resources by AGO personnel operating on the site:

#### Measures to protect Desert Tortoise and Tortoise Habitat

- The mine operator shall designate a field contact representative (FCR) who would be responsible for overseeing compliance with protective stipulations for the desert tortoise and for authority to halt all mining activities that are in violation of the stipulations. The FCR shall have a copy of all stipulations when work is being conducted on the site. The FCR may be the mine operator, the mine manager, any other mine employee, or a contracted biologist.
- An employee education program must be received, reviewed, and approved by the Bureau at least fifteen days prior to the presentation of the program. The program may consist of a class or video presented by a qualified biologist (Bureau or contracted) or a video. Wallet-sized cards with important information for workers to carry are recommended. All mine employees shall participate in the desert tortoise education program prior to initiation of mining activities. The operator is responsible for ensuring that the education program is developed and presented prior to conducting activities. New employees shall receive formal, approved training prior to working onsite. The program shall cover the following topics at a minimum:
  - Distribution of the desert tortoise,
  - General behavior and ecology of the desert tortoise,
  - Sensitivity to human activities,
  - Legal protection,
  - Penalties for violations of State or Federal laws,
  - Reporting requirements, and
  - Project protective migration measures.
- Only Biologists authorized by the Service and the Bureau shall handle desert tortoises. The Bureau or mine operator shall submit the name(s) of the proposed authorized biologist(s) to the Service for review and approval at least fifteen days prior to the onset of activities. No mining activities shall begin until an authorized biologist is approved. Authorization for handling shall be granted under auspices of this Section 7 consultation.

- The authorized biologist shall be required on-site during the initial construction activities. This biologist shall have authority from the operator to halt any action that might result in harm to a desert tortoise.
- Post-construction, the authorized biologist shall be required to be available on any day at any time during work hours, to respond to a request from the applicant or BLM to translocate a desert tortoise in harm's way. Annual summaries of desert tortoise sightings, mortalities, and burrows shall be provided to BLM and to the Service in accordance with the requirements of the Small Mining Biological Opinion.
- The area of disturbance shall be confined to the smallest practical area, considering topography, placement of facilities, location of burrows, public health and safety, and other limiting factors. Work area boundaries shall be delimited with flagging or other marking to minimize surface disturbance associated with vehicle straying. Special habitat features, such as burrows, identified by the qualified biologist shall be avoided to the extent possible. To the extent possible, previously disturbed areas within the mining site shall be utilized for the stockpiling of excavated material, storage of equipment, digging of slurry pits, location of office trailers, and vehicle parking. The qualified biologist, in consultation with the mine operator, shall ensure compliance with this measure.
- Where practical, no access road shall be bladed for exploratory work. Cross-country access shall be the standard for temporary activities. For development activities, a short driveway (no more than 0.3 miles) from the nearest access road may be constructed if necessary. To the extent possible, access to the mine site shall be restricted to designated "open" routes of travel. A qualified biologist shall select and flag the access route, whether cross-country or bladed, to avoid burrows and to minimize disturbance of vegetation.
- Except when absolutely required by the operation and as explicitly stated in the Plan of Operations, cross-country vehicle use by mine employees is prohibited during work and non-work hours.
- To prevent desert tortoises from falling in, test holes shall be either fenced or covered as much of the time as possible and at all times when not attended.
- For mine development where the mine site is in desert tortoise habitat, the entire site shall be enclosed within a desert tortoise-proof fence. The fence shall be constructed under the direction of a qualified biologist. The fence shall be located to avoid all desert tortoise burrows; to the extent possible, burrows shall be placed on the outside of the enclosure. The fence shall be constructed of ½-inch mesh hardware cloth. It shall extend 18 inches above ground and 12 inches below ground. Where burial of the fence is not possible, the lower 12 inches shall be folded outward against the ground and fastened to the ground so as to prevent desert tortoise entry. The fence shall be supported sufficiently to maintain its integrity. The gate shall remain closed except for the immediate passage of vehicles. The fence shall be checked at least monthly and maintained when necessary by the mine operator to ensure its integrity.
- After fence installation, the authorized biologist shall conduct a thorough survey for desert tortoises within the mine site. All desert tortoises found shall be marked and removed from the enclosure and placed outside the nearest fence. If the removal is during the season of above-ground activity, the desert tortoises shall be placed beside a nearby burrow of appropriate size. If the removal is not in the season of above-ground activity, the desert tortoise shall be moved (dug out of burrow if necessary) on a seasonably warm day and placed at the mouth of a nearby burrow of the appropriate size. If the desert tortoise does not enter the burrow, an artificial

burrow may be needed. The authorized biologist shall be allowed some judgment and discretion to ensure that survival of the desert tortoise is likely.

- Desert tortoises moved from within a fenced site shall be marked for future identification. An identification number using the acrylics paint/epoxy covering technique shall be placed on the fourth left costal scute. 35-mm slide photographs of the carapace, plastron, and the fourth costal scute shall be taken. No notching is authorized.
- Desert tortoises may be handled only by the authorized biologist and only when necessary. New latex gloves shall be used when handling each desert tortoise to avoid the transfer of infectious diseases between animals. Aside from the initial site clearance, any desert tortoise moved shall be placed in the shade of a shrub in the direction in which it was facing when found or at the entrance to a burrow if hibernating. In general, desert tortoises should be moved the minimum distance possible to ensure their safety.
- The authorized biologist shall maintain a record of all desert tortoises handled. This information shall include for each desert tortoise:
  - The location (narrative and maps) and dates of observations;
  - General condition and health, including injuries and state of healing and whether animals voided their bladders;
  - Location moved from and location moved to; and
  - Diagnostic markings (i.e., identification numbers or marked lateral scutes).
- No later than 90 days after completion of construction, the FCR and authorized biologist shall prepare a report for the BLM. The report shall document the effectiveness and practicality of the mitigation measures, the number of desert tortoises excavated from burrows, the number of desert tortoises killed or injured. The report shall make recommendations for modifying the stipulations to enhance desert tortoise protection or to make it more workable for the operator. The report shall provide an estimate of the actual acreage distributed by various aspects of the operation.
- Upon locating a dead or injured desert tortoise, the operator is to notify the BLM. The BLM must then notify the appropriate field office (Carlsbad or Ventura) of the Service by telephone within three days of the finding. Written notification must be made within fifteen days of the finding. The information provided must include the data and time of the finding or incident (if known), location of the carcass, a photograph, cause of death, if known, and other pertinent information. Desert tortoise remains shall be collected, frozen, and delivered to the BLM as soon as possible. Injured animals shall be transported to a qualified veterinarian for treatment at the expense of the project proponent. If an injured animal recovers, the Service should be contacted for final disposition of the animal.
- Except on county-maintained roads, vehicle speeds shall not exceed 20 miles per hour through desert tortoise habitat.
- If it is necessary for a worker to park temporarily outside of the cleared enclosure, the worker shall inspect for desert tortoises under the vehicle prior to moving it. If a desert tortoise is present, the worker shall carefully move the vehicle only when necessary or shall wait for the desert tortoise to move out from under the vehicle.
- All dogs shall be restrained either by enclosure in a kennel or by chaining to a point within the desert tortoise enclosure.

- All trash and food items shall be promptly contained within closed, raven-proof containers. These shall be regularly removed from the project site to reduce the attractiveness of the area to ravens and other desert tortoise predators. All refuse generated on site will be removed by the operating crew on a regular basis and deposited in the dumpster located at Pyramid's office in Heber, California.
- Structures that may function as raven nesting or perching sites are not authorized except as specifically stated in the Plan of Operation. The project proponent shall describe anticipated structures to the BLM during initial project review.
- Final reclamation will include surface scalloping to enhance vegetative growth.
- At the end of the project, disturbed areas, including new access roads, shall be re-contoured and re-seeded with an appropriate mixture of native plant species according to the Reclamation Plan submitted to the Imperial County Planning Department and State Office of Mine Reclamation under separate cover.
- All areas developed under the contract will be reclaimed to 1:4 slope (1 vertical to 4 horizontal; 25 percent slope).
- All desert tortoise-proof fencing shall be removed after site reclamation.

#### Measures to Control Invasive/Non-Native Species

- Mine employees shall routinely inspect work areas for tamarisk. In the event new infestations are discovered, the operator shall consult BLM and remove the plants.

#### Measures to protect Wetland and Wash Habitat including Microphyll Woodlands

- Pyramid will avoid the wetlands completely. Access to the wetlands area from inside the property will be prevented by erecting fencing around the property perimeter, as discussed above, but excluding the wetlands portion of the property. The fencing, coupled with signage warning people away from the habitat, will help protect the wetlands from human and vehicle encroachment from inside the property, and will allow wildlife to reach the wetlands from outside the fenced area. Further, a 15-foot interior buffer zone would be established between the fence line and the active stockpile areas to provide additional protection. Once the project is complete, the fencing and signage will be removed as part of site reclamation.
- Microphyll woodland habitat will be avoided as these areas are likely foraging habitat for birds and bats. Pyramid will reduce the likelihood of impacts to the sensitive habitats by confining its activities to the portions of the proposed AGO site away from the habitats. This includes vehicle activity, stockpile movement, or other surface disturbance.
- The access road to the property is American Girl Road, a County road, which runs adjacent to American Girl Wash. The access road will be roped off with high-visibility tape along its southern length, where the road forks toward the property, to direct traffic away from the wash.
- Operations will be restricted to daytime (one-half hour before sunrise to one-half hour after sunset). Artificial lighting will be directed at the ground away from washes and woodlands as well as mountain slopes

### Measures to Protect Archaeological Resources

- The mitigation measures to be implemented are avoidance (for AGO Site 1 and AGO Site 6) and monitoring (of all resources) during road widening/grading and well-construction activities. Avoidance of AGO Site 1 is feasible since it falls outside the APE. Avoidance of AGO Site 6 can be achieved by conducting grading for road widening on the south side of the access road. Monitoring during construction would be conducted by a qualified archaeologist under permit from the El Centro Field Office.

### Measures to Protect Public Health and Safety

- Place temporary fences within the processing area of operations.
- Place gated fences in areas where there are access points to mine areas. Assure gated areas are secured (e.g., locked) during periods on non-operation.
- Unless equipment is secured from unauthorized use by other means acceptable to the authorized officer of the BLM, security personnel will be on mine and processing sites to limit public access to heavy equipment. Mining is recommended to be conducted in campaigns to minimize the number of days idle equipment is left unattended on mine and processing sites.
- All portable mine and processing equipment will be removed from mine and processing sites during periods of extended non-operation. A Period of extended non-operation will exist when operations are idle for more than 90 consecutive days, or greater than 90 days as approved by the authorized officer. The operator will maintain public lands within the project area, including structures, in a safe and clean condition, and take all steps necessary to prevent unnecessary or undue degradation to public lands and resources during periods of extended non-operation.
- Haul truck travel along American Girl and mine access roads will be no more than 25 miles per hour.
- All over-the-road haul truck operators will obey all California vehicle laws, codes, regulations, and limits.
- All fines and sand (natural or manufactured) will be disposed of on site by spreading the material and integrating it with remaining rock material within the area of disturbance.
- Mining shall commence at the southern end of the rock stockpile and shall be mined in sequence northward. Operations are to excavate to the ground level as specified by the Authorized Officer of the BLM. Ground level elevation shall be maintained as mining progresses north into the stockpile. The excavated slope shall not be less than 1 horizontal to 1 vertical (1:1), or 100 percent slope as measured from the horizontal during periods where mining operations are being conducted. Final reclamation profile, and profile of all slope surfaces during periods of non-occupation over 90 days, 90 consecutive days, or greater than 90 days as approved by the authorized officer, shall not be greater (slope angle) than 4 horizontal to 1 vertical (4:1; 25 percent slope)
- Except for material encapsulated in Portland or asphalt cement products, all material leaving the site shall be sampled and analyzed in compliance with any of the following protocols.

- A composite sample shall be systematically collected from the process stream at a common collection point in the processing circuit for all material removed from the site. The sample shall be collected by the operator from the conveyor belt after crushing but prior to product segregation and stockpiling. Samples collected by the operator will be done by filling one 5-gallon bucket (minimum 50 pounds) from the process stream each day. The bucket shall be emptied onto a pile in a secured area located on the contract site to be determined by the Authorized Officer of the BLM. All of the sample collected and stockpiled will be processed to 100 percent passing a 3/8 inch opening screen. Initially, samples shall be collected daily until 10,000 tons of material scheduled to be removed from the property have been processed and stockpiled. within the contract area . Thereafter, one sample shall be collected daily by the operator from the process stream until 25,000 tons have been stockpiled for removal from the site. Each subsequent 25,000-ton stockpile(s) represented by a sample shall be segregated from any previous material remaining within the contract area. No material will be removed from the site until the sample has been analyzed and results show the material metal concentration is below threshold limits developed by the state of California and or Environmental protection Agency for metals under the Resource Conservation and Recovery Act. Any time prior to reaching the 25,000 ton limit, the operator may analyze the composited sample and provide sample results to the Authorized Officer of the BLM in order to remove material before reaching the 25,000 ton stockpile limit.
- A sample representative of a block of material can be taken at the excavation working face in lieu of the process stream sample protocol. A top to bottom sample (red line) is taken at a working face at an interval 50 feet apart as shown in the following diagram:

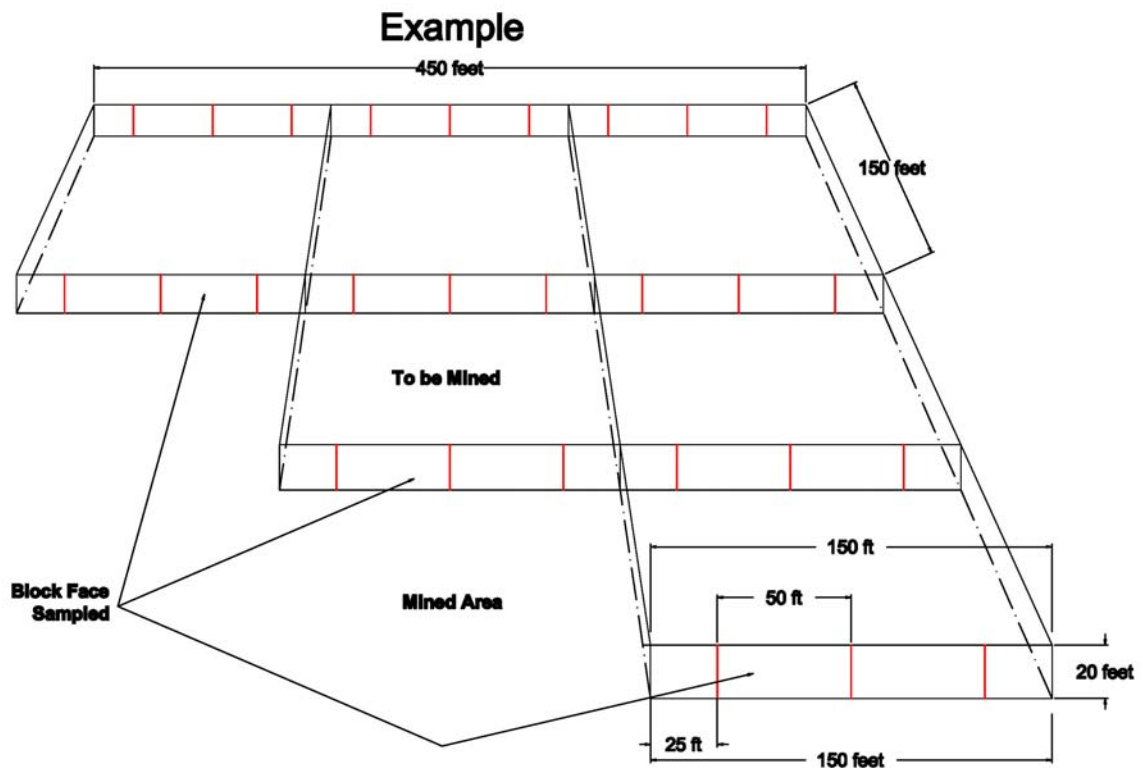
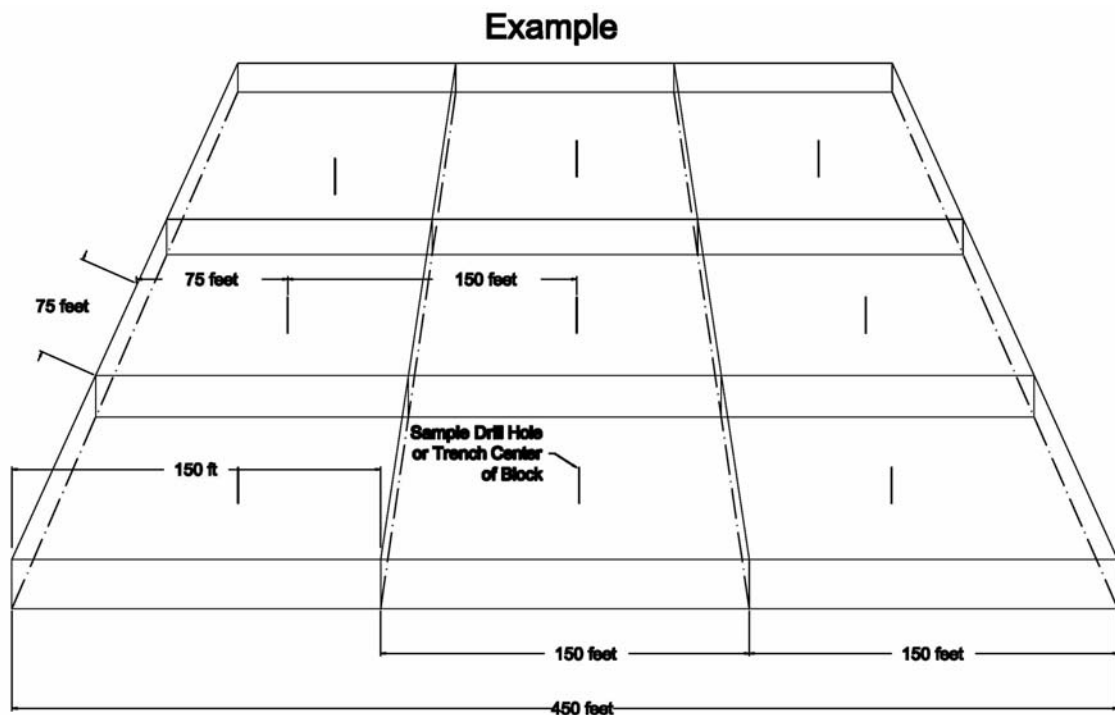


Figure 1

The example at Figure 1 shows blocks 150 feet by 150 feet deep. All working face samples will be taken at intervals of the working face height at not less than 50-foot intervals along the working face represented by the 150 feet wide and 150 feet deep block. As an alternative, samples can be systematically taken over the whole working face by hand or machine. A minimum of 1 cubic yard of sample will be composited from the working face. All of the sample will be processed to 100 percent passing a 3/8 inch opening screen. No material will be removed from the block represented by a working face sample until the sample has been analyzed and results show the material metal concentration is below standardized threshold limits.



**Figure 2**

A block represented by a dimension not greater than 150-foot wide by 150-foot deep may be sampled by auger, downhole percussion, reverse circulation drilling, or excavator trench all bottoming to the working floor of the block. All drill holes or trenching will be done at the center of the block (Figure 2). At least 1 cubic yard of material must represent any trench sample. Drill cuttings will be collected and bagged over the length of the bore hole. All of the auger or trench sample will be processed to 100 percent passing a 3/8 inch opening screen. No material will be removed from the block represented by drill hole or trench sample until the sample has been analyzed and results show the material metal concentration is below standardized threshold limits.

- A 40 pound sample for analysis shall be obtained from the 3/8-inch sample stockpiles composited by the operator, or contractor, using standard sampling protocols to minimize bias as a result of material segregation. The 40 pound sample will be crushed to will be split and a ½ portion of the split sent to a laboratory certified to conduct the California WET/STLC analysis. The remaining

½ split (20 pounds each) shall be maintained as a check sample. The 20 pound sample split shall be analyzed using the Waste Extraction Test (WET/STLC methods) for the 17 metals identified by the state of California to include mercury. Test results shall be provided to the Authorized Officer of the BLM before the sampled material can be removed from the contract area. The remaining ½ split shall be maintained as a check if needed. All processed material shall be stockpiled and remain on site until the composite sample representing each product stockpile(s) has been analyzed and results show the material metal concentration is below threshold limits developed by the state of California and or Environmental protection Agency for metals under the Resource Conservation and Recovery Act. Any sample analyzed and showing metal concentrations above the STLC threshold, cannot be removed. Any sample analyzed and showing metal concentrations above the STLC threshold, cannot be removed. A re-analysis will be conducted on the composited sample stockpile, and if metals are found above STLC thresholds, the stockpile will be placed within the footprint of the excavation area for disposal under reclamation protocols.

### 3.0 Consultation and Coordination

The proposed project is located within the range of the Federally Threatened Desert Tortoise. Since it is possible that tortoises may traverse the project area, there is a possibility of “take” under the Endangered Species Act. The USFWS issued a Biological Opinion (BO) for Small Mining and Exploration Operations in the California Desert (3809 6840 CA-063-.50 (CA-932.50)). The BLM contacted the service on July 3, 2008 to inform them of the project and to determine if this project would fall within the scope of the programmatic BO. The service issued a letter on January 23, 2009 concurring with BLM that this project is covered under this BO.

### 4.0 Public Involvement

The EA was available for a 30 day public comment in December 2008 and January 2009. The comment period ended on January 5, 2009. An electronic notice of availability of the EA was forwarded to known interested parties.

Attachment A includes comments in response to EA, mine and reclamation plan by Mr. Jim Good, representing M.K. Resources Company (formerly M.K. Gold), its affiliate AGMJV, and, M.K. and Eastmaque Gold Mines (U.S.) Corp., formerly a wholly owned subsidiary of Hecla Limited (herein all referred to as “Hecla”). Attachment B includes the responses to those comments.

Generally, Hecla’s comments and concerns on the draft (January 2009) center on the issue that AGMJV closed the American Girl Mine properties and reclaimed the Padre Madre West Waste Rock area with the expectation that the rock area would remain closed and in place in a reclaimed and stable condition. Hecla is concerned that potential liabilities would be placed on them from the disturbance and off-site use of this material under the CERCLA as being a generator of the rock.

### 5.0 Consistency with Land Use Plans, Regulations and Policies

Based on information in the EA, the project record, and recommendations from BLM specialists, I conclude that this decision is consistent with the following Land Use Plans: California Desert Conservation Area Plan, 1980 (as amended), Northern and Eastern Colorado Coordinated Management Plan.

The Proposed Action is consistent with the National Energy Policy Act of 2005 and the BLM's National Energy Policy Implementation Plan; the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; Executive Order 12898 regarding Environmental Justice; and Executive Order 13212 regarding potential adverse impacts to energy development, production, supply and/or distribution.

## 6.0 Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in accordance with the regulations in 43 CFR Part 4, and the enclosed form 1842-1. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior, 2800 Cottage Way, E-1712, Sacramento, CA 95825.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's (El Centro Field Office) internet website.

/s/Daniel Steward acting for  
Vicki L. Wood, Field Manager  
El Centro Field Office

10/8/09  
Date