

**Marlin Mining Project
Land Acquisition Procedures**

Prepared for the

International Finance Corporation

By

Montana Exploradora de Guatemala S.A.

February 20, 2004

TABLE OF CONTENTS

INTRODUCTION	1
PROJECT DESCRIPTION.....	2
MINIMIZING LAND REQUIREMENTS	2
MARLIN LAND ACQUISITION STATUS.....	2
Public Building Relocation	3
LAND ACQUISITION PROCESS.....	3
Pre-Transaction Process.....	4
Post Transaction Assistance	4
CENSUS AND SOCIOECONOMIC SURVEYS.....	5
Population and Housing	5
Social, Cultural and Economic Conditions in the Project Area.....	6
LEGAL FRAMEWORK AND INSTITUTIONAL ARRANGEMENTS.....	8
PARTICIPATION AND CONSULTATION	8
LAND ACQUISITION OUTCOME MONITORING.....	8
GRIEVANCE REDRESS	9
SCHEDULE	9
COSTS AND BUDGETS.....	9

INTRODUCTION

The Marlin Mining Project (the project) is an advanced gold/silver exploration project located in the highlands of western Guatemala, approximately 90 air miles northwest of Guatemala City, in the Municipality of San Miguel Ixtahuacán. Montana Exploradora de Guatemala S. A. (Montana), the owner and operator of the project, has received approval of its Environmental Impact Assessment (EIA) from the Guatemalan Ministry of Environment and Natural Resources (MARN), and is in the process of conducting feasibility studies for mine development at the site.

Montana owns the rights to the subsurface minerals within the Marlin project area, but the land surface is held in private ownership. Guatemalan law does not allow condemnation of land for non-public purposes; therefore Montana must acquire the right to use the needed land through purchase, lease, rental or other use arrangements. Current surface owners must enter into these arrangements voluntarily.

The Marlin project is located within an area of steep slopes, dispersed forest cover and thin soils. There are relatively few primary residences within the project area. Much of the land is minimally used, primarily for supplemental subsistence farming, occasional grazing and firewood gathering.

Early on, it was determined that landowners prefer to sell their properties rather than be resettled, either as a group or as individuals. This is because many land owners do not live on the property, the price offered for the property is substantially higher than the value of comparable land, most of the land is marginally arable and relatively recently acquired, and, in many cases, cultural attachment to the land is not strong.

Montana's land acquisitions fit the definition of the "willing buyer/willing seller" process described in the *IFC Handbook for Preparing a Resettlement Action Plan* (Section I: Scope of Application, Special Considerations).¹ Because the land acquisition process is voluntary and because no residents will be resettled involuntarily, Montana believes that a Resettlement Action Plan, as specified in the World Bank's *Operational Directive on Involuntary Resettlement* (OD 4.30), is not required.

However, Montana has determined that preparing a report describing the land acquisition procedures, using the guidelines contained in the *IFC Handbook for Preparing a Resettlement Action Plan*, is an effective way to ensure that the land acquisition process avoids negative social, cultural and economic impacts and maximizes economic benefits for affected landowners.

The objectives of the *Marlin Project Land Compensation Procedures* are:

- To ensure that land acquisition activities are conducted with respect for the rights, customs and culture of indigenous landowners,
- To ensure community and landowner consultation and informed participation in the land acquisition process,
- To ensure that landowners receive a level of compensation for their land that is greater than the cost of comparable land in the area,
- To offer assistance in finding replacement land and housing, moving household goods and improvements and managing the proceeds of the sale, and
- To monitor the outcome of the land sales and offer assistance where needed and appropriate.

PROJECT DESCRIPTION

The Marlin Mining Project will consist of surface and underground mining operations, waste rock and tailings disposal areas, ore processing facilities, gold and silver extraction facilities, administrative buildings and a small camp for non-local workers. Land requirements for these facilities and a buffer zone are estimated at about 5 square kilometers (kilometers²).

At present, a 13 to 14 year life of project is anticipated, including about 20 months of construction, 10 years of operation and 2 years for closure and reclamation activities.

- For the current exploration phase of the Project, Montana routinely employs between 125 to 150 workers, primarily indigenous peoples from surrounding communities. Approximately 45 are long-term and the remainder are temporary, working on a task basis.
- During the peak period of construction it is estimated that up to 1,000 direct mine and contractor employees will be required. With the exception of highly skilled and technical workers and key employees that may accompany non-local contractors, construction employees will be drawn from local communities.
- During operations, about 200 employees will be required. Montana intends to hire and train 80 percent of the operations workforce (about 160 workers) from communities surrounding the mine.
- Mine closure and reclamation will require about 40 workers and most of these will be drawn from the local operations workforce.

MINIMIZING LAND REQUIREMENTS

The initial footprint for the Marlin mine and facilities was 6 kilometers². Montana was able to redesign the tailings and waste rock disposal areas and reduce land needed for the project to 5 kilometers². The current land area is the minimum required for mine facilities and for a noise and safety buffer zone.

MARLIN LAND ACQUISITION STATUS

As noted above, the Marlin mining project will require about 5 kilometers² of land.

The land that has been purchased by Peridot S.A. and totals about 6.9 kilometers², or about 5 kilometers² when adjusted for slope. Other relevant points about the transactions are listed here.

- There were only 30 houses located on the 287 parcels acquired as of February 2004, and those houses were owned by 28 families.
- Of the 28 families who sold land with homes, 14 of the owners have already moved to new homes: 11 to communities in the project area (Agel, San José Esperanza and San José Ixcaniche) one to the Municipality of San Miguel Ixtahuacán, and one each to other nearby communities (Salitre and Subchal).

- Current transaction statistics are still being tabulated, however, in September of 2003, almost 19 percent of all property owners that had sold to Peridot were women and of the 148 individual landowners that had sold to Peridot at that time, 76 (51 percent) currently worked or had worked in the past for Montana.
- To date none of the properties that Montana has acquired has been occupied by renters or sharecroppers, similarly, none of the current negotiations involve properties occupied by other than owners.

Public Building Relocation

At present, no landowners have expressed a desire to be relocated. However, a municipal building, a school and two churches within the village of San José Nueva Esperanza must be relocated. Montana is currently working with community and church officials to find and purchase suitable land within San José Nueva Esperanza. Montana will build a new road to access the site, replace the municipal building, school and church buildings and build a new health clinic on the same site. It is estimated that this relocation will cost just over \$300,000, which will be drawn for the Marlin project operating budget.

LAND ACQUISITION PROCESS

Acquisition of land for the Marlin project began under the previous owner, Francisco Gold. When Glamis acquired the project, Montana officials began discussions with landowners in order to identify preferences for land sales or resettlement. Based on these discussions, it was determined that local land owners desired to sell their land rather than be resettled as a community or in groups. The reasons given for this preference for land sales include the following:

- Non-Resident Ownership: As noted above, most properties within the project area (90 percent, to date) are held by landowners who do not have principal residences on the property. In fact, to date, there are only 28 landowners who had principal residences on acquired properties. For non-resident landowners, social and cultural ties to the land are typically not major factors in the transaction.
- Purchase Price: The price that Peridot is paying for land (Q 4,000/cuerda, the equivalent of about US\$4,567/acre at current exchange rates) is substantially higher than the cost of comparable land in communities near the project. Compensation is also provided for improvements and, when appropriate, for crops. Although there has been some land speculation in immediately adjacent communities, owing in part to Peridot purchases and in part to the purchase of land with remittances sent by family members living abroad, land is reportedly available for Q 350 to Q 1,500/cuerda in communities in the municipalities of San Miguel and Sipacapa.
- Economic Gain: It is hard to overemphasize the economic benefit of Marlin project land transactions to most landowners. The average of all parcel sizes acquired to date is 49 cuerdas, which yields about US \$24,168 for the landowner at current exchange rates, a fortune in a country where the 2001 estimated gross national income per capita (Atlas method) was US \$1,670.² Although many parcels are smaller than the average, others are larger and many landowners own other lands. Clearly these transactions offer an economic benefit that is far superior to most opportunities available to the indigenous residents of project-area communities.

- Suitability of the Land for Agriculture: Most of the land within the project area is located on steep slopes with thin soils and is therefore marginally arable. The purchase of this land allows landowners the opportunity to acquire land more suitable for agriculture.
- Interest in Pursuing Business Opportunities: Some landowners and former landowners are interested in using (or have used) the proceeds to pursue business opportunities. Some have purchased commercial trucks and buses and entered the transportation business.
- Social and Cultural Considerations: Most landowners have family and social ties to people in other communities in the area. Some plan to use (or have used) the proceeds to purchase land nearer other family members. The fact that many properties in the project area have been relatively recently acquired (within the last 50 years) supports the conclusion that relatively few landowners have long-standing cultural attachment to the land.
- Public Sentiment toward Resettlement: During *La Violencia*, the internal conflict of the 1970's and 1980's, the Guatemalan government operated programs to resettle some indigenous peoples in the western highlands and raze their villages. Consequently, the notion of resettlement carries substantial negative connotations for many indigenous people.

Pre-Transaction Process

When a property is identified for acquisition, municipal records are reviewed to determine ownership and the company commissions a survey of the property. Members of the land group, including Mam-speaking staff that are residents of local communities, visit the landowner and initiate negotiations. As is the case in many areas of Guatemala, land titles are often unclear. In cases where there is a dispute over land ownership, Montana works with both parties to arrive at an equitable solution.

The purchase price for land is Q 4,000/ cuerda. Improvements, such as homes, outbuildings and fruit trees are appraised and valued in negotiations with the landowner. Crops are appraised and purchased or the landowner is allowed to harvest crops as they mature. Landowners are allowed to dismantle and transfer their improvements to new properties, and Montana frequently provides trucks to move the improvements.

Post Transaction Assistance

Montana has offered relocation assistance, help in finding replacement properties and money management assistance (opening bank accounts) to landowners who sell their properties to the project. To date, a few landowners have accepted transportation to look at other properties, and some landowners have accepted Montana's offer for financial management assistance, opening bank accounts in Huehuetenango or San Marcos. No banks are located in the municipalities near the project, and therefore bank accounts do not provide convenient access to landowner funds. Feedback from owners who have sold properties has also identified that banks sometimes do not keep adequate funds to cash checks from land transactions. To remedy this situation, Montana offers to transport landowners to Huehuetenango or San Marcos, and the company has been exploring the possibility of establishing local banking services. The company has been in discussions with a local cooperative, which is used primarily for loans and only open several days per week, and with Banco Rural, but there is at present not enough business to justify the bank's expansion into San Miguel Ixtahuacán. Montana will continue its efforts to establish local

banking services and will continue to encourage landowners to deposit the proceeds of the sales in regional banks and provide assistance in facilitating the transactions.

It is important to note that many landowners who have sold properties also own other properties. The mountainous and sparsely forested lands within the project area are not primary to most landowner's subsistence strategies, and these landowner's do not need to replace the land which they have sold; rather they appear to view the land sales transactions as strict business arrangements, and many use the proceeds of the sale for other business purposes.

A large percentage of landowners have accepted Montana's assistance in relocating their household goods and improvements. Additionally, some have accepted assistance in connecting to water distribution systems on their newly acquired properties. In the affected communities, landowners with water connections own a share in the water distribution system. In some cases where landowners have used the proceeds of the sale to purchase properties within the same community, they have transferred the water right and asked Montana for help in connecting to the system. In some cases Montana has provided pipe for connections and, in some cases, dug trenches to bury the pipe.

CENSUS AND SOCIOECONOMIC SURVEYS

Population and Housing

Parts of four villages are located within and adjacent to the Marlin project area. These are: San José Nueva Esperanza, Agel and San José Ixcaniche in the municipality of San Miguel Ixtahuacán, and Salem in the municipality of Sipacapa. Over 99 percent of residents of the first three villages are indigenous peoples of Mam-Mayan descent. The residents of Salem are people of Sipakapense-Mayan descent. Within these villages most people speak both Spanish and indigenous languages.

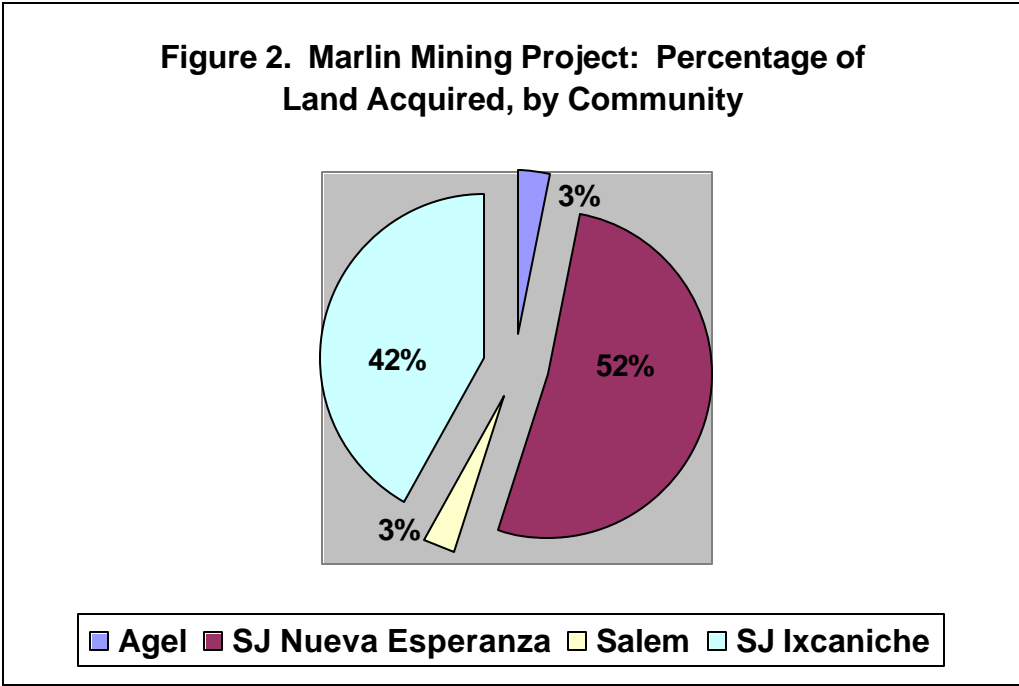
The information presented below was obtained from the 1994 national census. Although a subsequent census was conducted in 2002, comparable data for small villages will not be released until mid-2004. Montana will update these tables when the 2002 census data becomes available.

Place	Category	Population (1994)	Sex		Age			
			M	F	0-6	7-14	15-64	> 65
Agel	Village	931	480	451	238	240	432	21
San José Nueva Esperanza	Settlement	107	57	50	28	21	53	5
San José Ixcaniche	Settlement	372	187	185	100	94	168	10

Source: 1994 Census as reported in the Marlin Project EIA

From a land standpoint, San José Nueva Esperanza and San José Ixcaniche will be the two communities most affected by the Marlin project, as most of the land required for the mine and its facilities is located within these villages. A much smaller portion of the project will be located in Agel and Salem. As of September 2003, 52 percent of the acquired properties were located in San José Nueva Esperanza and 42 percent were located in San José Ixcaniche. Agel and Salem have each had 3 percent of acquired properties.

Because there are few homes on the land within the project area, population in these four communities will be reduced by only a small amount. Additionally, some former landowners have already established new residences within the affected communities on land not required for the project, further reducing population loss.



Source: Peridot S.A., September 2003

Table 3. Marlin Mining Project: Housing in Directly Affected Communities

Community	Formal House	Rancho	Total
Agel	124	105	229
San José Nueva Esperanza	26	10	36
San José Ixcaniche	68	28	96

Source: 1994 Census as reported in CTA, 2003
 Formal houses are those built out of concrete block on concrete slabs, with metal roofs; Ranchos are typically constructed of adobe, with earthen floors and straw roofs.

Social, Cultural and Economic Conditions in the Project Area

Non-Resident Land Ownership

The high percentage of parcels without primary residences results from several factors. During the last half of the 20th century, the Guatemalan government made tracts of public land available for distribution. In some cases this land was distributed directly to individuals and in some cases the land was distributed to municipalities for further distribution. Land made available to indigenous and poor people was

typically on the frontier, mountainous and in most cases, marginally arable. Even with these limitations, population pressures and the practice of dividing landholdings among progeny created interest among some for obtaining this land.

Although many people sought and obtained land in the area that is now Nueva Esperanza and San José Ixcaniche, the difficulty of sustaining even a subsistence level of agriculture in this area of thin soils, steep slopes and no irrigation systems resulted in few enduring residences in the area. This is evidenced by the many properties with non-local owners and the large number of properties that remain as dispersed forest, used primarily for occasional firewood gathering and grazing. This is not to suggest that these lands are useless. Grazing and firewood gathering activities are integral to the economic survival of many indigenous highland families. However, lands that are limited to these activities are of secondary importance to lands that are more favorable for subsistence agriculture.

Economic Activities

Even though families within the project area rely on their lands for subsistence agriculture, grazing and firewood gathering, most must supplement these activities with outside income. The Marlin project EIA estimated that as many as 80 percent of families living in the directly affected communities relocate to the coast to work in the coffee and sugar cane harvests. In some cases entire families migrate; in others, only working-age males migrate. But the result is that a substantial portion of the population of these communities is absent for extended periods during each year.

Although seasonal migration is necessary from an economic and survival standpoint, it presents a number of risks and problems. First, wages are typically low and living conditions are substandard on many of the fincas (plantations). Second, the dislocation puts stresses on family and community life. And finally, these long periods of extended absences impede the development of improved agricultural techniques, because landowners are not available to tend crops and maintain irrigation systems during much of the year. Besides these problems, in recent years the global market conditions for coffee and sugar have resulted in fewer jobs on the coast, so even this meager source of income has dried up for many families in the directly affected communities.

Another source of income for many families is remittances from family members living in cities such as Guatemala City and Quezaltenango or in foreign countries such as Mexico and the United States. Families of some migrants are using the foreign cash remittances to purchase property and build houses in the project area.

The economic context of the affected communities is relatively complex. Subsistence agriculture is central to virtually all area families, but, owing again to the poor quality of much of the land, many families have several holdings scattered throughout the area, which they use for different purposes. Consequently, much time is spent in traveling to the various plots, which may have been purchased, inherited, acquired through marriage, or distributed through government programs. Additionally, seasonal or long-term migration as described above provides some income for most families. Some families operate small tiendas (shops) from their homes, others operate trucks or buses, and still others make household goods to sell in the markets. The outcome is that each family typically engages in several economic activities at several locations during different times of the year.

Social Conditions in Affected Communities

Social conditions with the affected communities are also complex. Residents of these communities interact on community matters, but ties to family members in other villages are equally or more important in terms of social support. The annual migration to the coast is difficult, but it has provided families with

a broader social frame of reference and familiarity with other groups and lifestyles. Longer-term migration to cities and foreign countries provides additional contact with other cultures and ways of life. Trips to larger communities such as San Marcos and Huehuetenango also provide regular contact with urban cultures and lifestyles.

Churches also play an important part in the social organization of affected communities. In addition to Catholic Churches, each community has one or more evangelical protestant churches, which are well attended and provide a large measure of social support. Indigenous religions are also practiced in project area communities.

LEGAL FRAMEWORK AND INSTITUTIONAL ARRANGEMENTS

Guatemalan law requires that private holders of subsurface mineral rights must rent, lease or purchase the surface land needed for the mine and its facilities. Because purchase arrangements are between private parties, no government agencies are involved. However, Montana does maintain an ongoing program of coordination and consultation with municipal, department and national levels of government.

PARTICIPATION AND CONSULTATION

Montana maintains an intensive public participation and community consultation program for the Marlin project. In addition to meetings with appropriate national and departmental officials and agency staff, the company has conducted ongoing consultations with municipal and village officials and has attended village meetings. Two opinion surveys were conducted during the preparation of the EIA. Montana also has an ongoing community information, consultation and participation program, staffed by Mam speaking residents of the villages affected by the project. Community education and participation staff routinely attend village meetings and meet with organizations and individuals to provide information about the project and identify related issues, opportunities and opinions. A more detailed description of Montana's participation and consultation initiatives is contained in the *Marlin Project Public Consultation and Disclosure Plan*.

Land acquisition issues are sometimes discussed in broad-based community participation and consultation forums. Soon after the acquisition of the Marlin property, Montana met with officials and community leaders of the municipality and the affected villages to discuss the project and the land acquisition program. Shortly thereafter company representatives began meetings with each affected landowner. The land acquisition team includes employees who are Mam-speaking residents of the affected communities. The land acquisition program relies primarily on informal meetings with village officials and landowners within the project area.

LAND ACQUISITION OUTCOME MONITORING

Montana is implementing a program to monitor the economic and social outcome of land transactions. Administered by the company's Community Relations Department, the program is designed to follow up with the seller of each parcel of land and determine how the proceeds have been used, if the seller is willing to share that information. More importantly, the monitoring program is intended to find out if the seller is better or worse off after the transaction.

- The monitoring team has initiated the program with those persons who have (or had) primary residences in the project area to determine if they were able to find suitable replacements for their homes and land, if they need relocation assistance or if there are other areas where assistance from Montana may be required.
- During the second phase, the team intends to contact former owners of project-area properties whose residences were elsewhere to determine if their lives and livelihoods have been positively or negatively affected by the transaction.

The land acquisition monitoring program is occurring as part of Montana's broader socioeconomic monitoring program. Instead of using a formal, one-time questionnaire, the program is being implemented by a Montana Community Relations staff person who routinely visits neighboring communities, engages residents in conversation and identifies project-related issues, opportunities and opinions. The results of the monitoring program will be provided to IFC.

As in the cases where post-transaction assistance has been provided to address issues with the water distribution systems of relocated households, Montana will attempt to provide additional assistance to address other legitimate relocation problems.

GRIEVANCE REDRESS

Until recently, village officials, groups and individuals routinely submitted formal petitions to a variety of Montana staff persons for help with problems and for charitable assistance. Montana has established responsibility and resources for addressing grievances and charitable requests within the Community Relations Department, and present and former landowners are informed of this resource through the ongoing community relations program.

SCHEDULE

Montana intends to begin construction of the Marlin project during the spring of 2004. It is the company's intent to have all land transactions completed by that time. At present (February 2004), 89 percent of the land required for the project has been acquired, and Montana is in negotiations with many of the remaining landowners.

COSTS AND BUDGETS

Montana has established a budget of \$4.6 million for purchasing the required land and for compensation of landowners for improvements and crops. Additionally, Montana has earmarked over \$300,000 within its current-year operations budget for relocating public buildings in the community of San José Nueva Esperanza. Post transaction experience is also funded within the operating budget.

¹ IFC Environment and Social Development Department, (April 2002). Handbook for Preparing a Resettlement Action Plan. (p. 8).

² Development Data Group, World Bank. (September 9, 2002). ICT at a glance: Guatemala.