

NOTICE

August 18, 2012

VIA E-Mail and USPS Certified Mail # 7007 0710 0001 5249 4285

Nevada Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249
jwalker@ndep.nv.gov
jboomhower@ndep.nv.gov
rkuczyns@ndep.nv.gov

**Re: 1. Notice and Objection, Proposed Adoption of
Silver Peak Lithium Project (Chemetal Footo)
WPC Permit No. NEV0070005**

2. NV Environmental Commission Appeal Form # 3

Dear Commissioners,

Please find ATTACHED our NV Environmental Commission Appeal Form # 3 in JPG form.

It is our position that for the Commission and its Departments to act to prepare a Permit over a period of (many) months, unilaterally adopt it, and issue it as a Notice, then expect a resident to gather, review, analyze, prepare and deliver the Appeal Form 3 WITHIN A MERE TEN DAYS TIME is unconscionable, self-serving and contrary to law.

Our underlying basis in law is from the U.S. Constitution and the Nevada Constitution

The U.S. Constitution states in important part:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.. .Amendment 10"

Specifically, NO entity of the State or federal government has lawful authority to grant a license that allows subversion of "Inalienable Rights."

The Nevada Constitution states in important part:

Section. 1. Inalienable rights. All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and

*P. Rupp
13125 SP NV 89047*

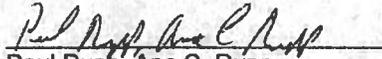
liberty; **Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness[.]**

Sec: 2. Purpose of government; paramount allegiance to United States. **All political power is inherent in the people[.] Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it.** But the Paramount Allegiance of every citizen is due to the Federal Government in the exercise of all its Constitutional powers as the same have been or may be defined by the Supreme Court of the United States; and **no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith or perform any act tending to impair[.] subvert, or resist the Supreme Authority of the government of the United States.**

However, it has been long held as positive law that any action that "is repugnant to the Constitution" is VOID before the ink dries.

Therefore, subject Permit is void on its face because it grants authority allowing "the tainting of water and lands that residents drink, cook and bathe in, and land that residents live and grow food on, and children PLAY on and in!"

Sincerely,



Paul Rupp, Ana C. Rupp
Box 125
Silver Peak Nevada 89047
silverpeakitis@msn.com

Dehnert Queen
10500 Christenson Rd
Lucerne Valley, CA 92356
dehnertqueen@desertamerican.com

cc: , Esmeralda County Interim District Attorney
Esmeralda County Highway Commission
Esmeralda County Land Use Advisory Committee
Distribution List

Attachments: Page 1 and 2 of Appeal Form 3

Ref: Appeal Form #3 to Mr Walker, Nevada Environmental Commission-081812.rtf

NOTICE DEMAND OBJECTION-NO HEALTH SAFETY PROTECTIONS Provided under NEV0070005 Permit renewal for people/animals, including small children living and or playing within 1500 feet of Chemetall-Rockwood Lithium Process Facility near Silver Peak Nevada

August 18, 2012

Sent Via e-mail, fax and certified USPS mail #7007 0710 0001 5249 4285

Fax-775.687.5856 and-jbwalker@ndep.nv.gov

Nevada Environmental Commission

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Re: 1. Notice and Objection, Proposed Adoption of

Silver Peak Lithium Project (Chemetall Foote)

WPC Permit No. NEV0070005

2. NV Environmental Commission Appeal Form # 3

Objection is made to Nevada Dept. of Environmental Protection (NDEP) against Renewal of NEV0070005 water Pollution Control Permit as NDEP has failed to provide timely information as requested to concerned and impacted home owners Paul, Ana Rupp living within 1500 feet of Silver Peak Lithium Operations.

Good faith is by NDEP is absent regarding soil sample testing results and test monitor well results of and for contaminated earth through scheduled and unscheduled saturations of Lithium Process water Discharges/releases since 1966 of suspected pollution including Lithium Hydroxide Anhydrous solutions is readily available, i.e., e-mail/cd/documents, to home owners Paul Rupp, Ana Rupp. It is Chemetall-Rockwood Lithium and Nevada Dept. Of Environmental Protection responsibilities to insure no poisons are released to earth near Paul, Ana Rupp's homes and parcel's that continue to blow and drift as dust in the wind towards our homes, persons, pets and animals.

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Spills over and above 500 gallons of Lithium Hydroxide Anhydrous/Lithium Carbonate solutions continue to occur flowing into the park/playground where unsuspecting young children play in contaminated soil and within 150 feet of Paul, Ana Rupp's homes, vehicles, evaporative coolers, gardens, pets and animals.

We have and hold the same rights as other people living near Silver Peak to a clean environment free of being terrorized by unscheduled releases of poisons so near our homes with the threat of unknown and unhealthy consequences.

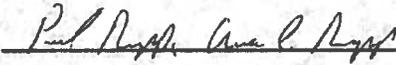
The burden of NEV00070005 is not up to the Rupp's; clearly the legal responsibility is Chemetall/Rockwood Lithium and Nevada Dept. of Environmental Protection to insure a safe environment regardless of cleverly Wordsmith responses by NDEP, contrary to due process, health and safety concern issues. Demand is made to provide basic soil/water test results and follow due process.

Paul and Ana Rupp, Dehnert Queen, continue to have a filed and timely valid formal response meeting all standards of the published NOTICED NEV0070005 in the Tonopah Times/Goldfield News Newspapers.

No exact legal binding authority has been provided to Paul Rupp, Ana Rupp and Dehnert Queen for returning our appeal for NEV0070005?

We continue to ask whose health and safety is Nevada Dept. of Environment Protection looking out for by failing to provide the most basic information on soil and monitor well contamination occurring from all discharges of water releases from and by Cyprus Foote/ Chemetall-Rockwood Lithium near our homes and in unlawfully returning our timely filed valid appeal?

Sincerely,



Paul Rupp, Ana C Rupp

Using PO Box 125 Silver Peak NV 89047



FORM 3: FORM FOR REQUESTING AN APPEAL HEARING
 (Provide attachments as needed)

1. Name, address, telephone number, and signature of appellant:

Name: Paul & Ana Rupp, Dehnert Queen

Physical Address: P.O. Box 125, Silver Peak, Nv 89047

E-mail Address: silverpeakitls@msn.com

Telephone Number: 775-741-1890

Signature: *Paul & Ana Rupp*
/s/ Paul & Ana Rupp, Dehnert Queen

Representative capacity (if applicable): Co-Founder, Silver Peak Ad Hoc Advisory Committee

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

~~As the scale and scope of the pending permit is very complex, is not the purpose of this form to establish a date certain for the hearing?~~

~~It is our position that the NVDEP has had MONTHS to prepare its Permit, our responding at the date of the hearing is reasonable, thus we will deliver our detailed report ten days before said hearing, for review and OPEN DISCUSSION by the Board.~~

~~Please advise by e-mail as to the Date, Time and Location of the hearing.~~

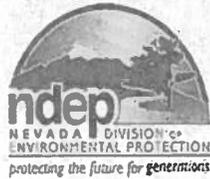
5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.

See Item 4, above.

Date of Request: August 18, 2012

Send Form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701

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STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor

Leo M. Drazdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

NOTICE OF DECISION - Bureau of Mining Regulation and Reclamation

Web Posting: 06/07/2012

Deadline for Appeal: 06/17/2012

Silver Peak Lithium Project
WPC Permit No. NEV0070005

Chemetail Foote Corporation
PO Box 98
Silver Peak, NV 89047

The Nevada Division of Environmental Protection has decided to issue a renewal Water Pollution Control Permit (Permit) NEV0070005 to Chemetail Foote Corporation. This permit authorizes the construction, operation, and closure of an approved physical separation facility at the Silver Peak Lithium Project site in Esmeralda County. The Division has been provided with sufficient information, in accordance with Nevada Administrative Code (NAC) 445A.350 through NAC 445A.447, to assure the Division that the groundwater quality will not be degraded by this operation, and that public safety and health will be protected.

The Permit will become effective June 22, 2012. The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to Nevada Revised Statute (NRS) 445A.605 and NAC 445A.407. All requests for appeals must be filed by 5:00 PM, June 17, 2012, on Form 3, with the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. For more information, contact Rob Kuczynski, P.E. at (775) 687-9441 or visit the Division's Bureau of Mining Regulation website at www.ndep.nv.gov/bmrr/bmrr01.htm.

Electronic and written comments (E-mail and letters dated April 30, 2012 and May 19, 2012) were received during the public comment period from Mr. Paul Rupp, a resident of Silver Peak. Mr. Rupp has parcels and homes within 800 feet of the Silver Peak facility.

The Division acknowledges the assistance of Mr. Joseph Dunn, General Manager, Chemical Foote Corporation in preparing responses to several of Mr. Rupp's comments.

Comment 1: "Information is requested for Lithium Metal Recycling Processing at Silver Peak Lithium Operation...in the form of copies of information to study, review, analyze and prepare comments to submit no later May 19, 2012"... "I am requesting...a copy of the current permit and a copy of the new permit with all changes and add-ons that will be issued...copies of monitoring well data...for processing plants"... "[A] Copy of [all] chemicals used at Silver Peak

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NV Lithium facility processing plants used in production of ALL LITHIUM [Mr. Rupp's emphasis] processes is also requested as these chemicals' are the pollution, correct?"... "Information (copies of) also requested for all sources of water provided and used by the Silver Peak Lithium Facility"... "Information (copies of) all soil samples taken within 500 feet of Silver Peak Residents..."

Division Response: *The Division provided electronic copies of the Draft Permit Renewal and Factsheet and the current Permit and Factsheet to Mr. Rupp on Monday, April 30, 2012.*

On Monday April 30, 2012 and on Wednesday, May 2, 2012, the Division informed Mr. Rupp via E-mail and telephone conversation that the information, documents, and monitoring reports in question were not available electronically, but available for review at the Division's Carson City Office. Because of the volume of information and size of the documents, Mr. Rupp was informed that he was welcome to view information and documentation residing in the Division offices during office hours (8:00 am - 5:00 pm, Monday through Friday) and/or arrange to have copies made by any one of several local vendors in the Carson City area.

On Friday, May 18, 2012, Mr. Rupp E-mailed the Division, requesting that the information be forwarded electronically immediately. On Monday, May 21, 2012, Mr. Rupp was again reminded via E-mail that he was welcome to view information and documentation residing in the Division offices during office hours and arrange to have copies made by any one of several local vendors in the Carson City area. As of Tuesday, May 29, 2012, Mr. Rupp had not contacted the Division to make any arrangements.

Comment 2: *"...Chemetall Foote recently change[d] their corporation name to Rockwood Lithium Specialties ... Question, is this permit being issued to the correct Lithium producer at the Silver Peak Lithium Operation?"*

Division Response: *Since 2004, Rockwood Holdings, Inc. has been the parent company of Chemetall Foote. Both Rockwood and Chemetall are registered with the Secretary of State. The Division is aware that Chemetall Foote is undergoing a corporate name change to Rockwood Lithium and has notified the Permittee of the administrative requirements and actions that need to be taken. As of Tuesday May 29, 2012, several Bureaus' within the Division had yet to receive any formal notification. Until the Bureau of Mining Regulation and Reclamation receives confirmation, Chemetall Foote Corporation will continue as the Permittee of Record.*

Comment 3: *"What is source(s) and condition of Metal Lithium transported to Silver Peak for recycling into waters near Silver Peak Lithium Operation...?"... "Metal Lithium is transport[ed]...for disposal in the playa pond (water) system from what other industrial sites and industrial users"... "What standard operating procedures are in place to protect Silver Peak residents from toxic smoke and residues of Lithium Metal Recycling that are emitted into the air and fall (deposited) to earth, dried upon the ground and dispersed into Silver Peak upon/within wind currents and water supplies-aquifers and water supplied to Silver Peak*

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Lithium Processing facilities?"...“What corrective measures are now in place to prevent recurrence of an explosion that occurred during Metal Lithium Recycling on or about January 29, 2009 that caused a fire and power outage for Nevada Energy customers in and near Silver Peak Nevada?”

Division Response: *The Facility receives scrap lithium metal from the Permittee's Kings Mountain, North Carolina facility and from a toll producer for the purpose of producing lithium hydroxide solution. Scrap lithium metal is added to the non-potable brine ponds where it reacts to produce lithium hydroxide solution. The chemical reaction is exothermic (i.e. releases heat) causing the brine to boil and eventually off-gas hydrogen, which does have the potential to self-ignite at the brine surface. Because of the elevated brine temperatures, steam is released in place of the hydrogen. Hydrogen in itself is not considered a hazardous pollutant.*

The scrap lithium recycling station is located more than 3 miles from Silver Peak on a peninsula in the middle of one of the largest brine ponds.

The Silver Peak Operation extracts lithium-rich brines from several non-potable aquifers. The water supply source for the town of Silver Peak is from an alluvial well southwest of the town and up gradient from the playa. A network of faults prevents communication between the freshwater supply and the playa brines.

The incident that occurred on or about January 29, 2009 was the result of a small scale test conducted by the Permittee at the lithium recycling station. During the testing, brine splashed onto one of the Permittee's electrical power poles. The splashing short circuited and tripped the circuit breakers for the electrical distribution system at the Facility and the Nevada Energy circuit breakers for the town of Silver Peak and surrounding area. All circuit breakers and switching devices functioned as designed and power was restored shortly. The Permittee has since revised operating procedures to eliminate any reoccurrence.

Comment 4: “...[W]hat is considered containment area for water pollution at the Silver Peak NV Lithium facility processing plants?”

Division Response: *Containment areas are located around tank farms and wet area of the process facilities. Effluent discharge from the carbonate facility is permitted to return to the closed playa basin through open discharge southeast of the process facility. The brine is allowed to return to the closed basin aquifers which contain non-potable brines.*

Comment 5: “What are contamination/pollution/toxic factors and risks from burning Metal Lithium Recycling at Silver Peak Lithium Operations?”...“Air quality is monitored how, in Silver Peak Nevada to protect Silver Peak residents and others from toxic corrosive metal(s) and by-products and other water pollution/contamination generated at and or near Silver Peak Lithium Operation?”...“Oil Boilers at Chemetall are used to heat water making steam for lithium production. What are requirements/specifications of Oil that is burned in the boilers?”

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Division Response: Air quality permitting and monitoring concerns are the purview of the Division's Bureau of Air Pollution Control and not the subject of this Permit renewal.

Comment 6: "About 75,000 acre feet of potable water flows INTO [Mr. Rupp's emphasis] Clayton Valley / Silver Peak annually from Fish Lake Valley (Dyer) and Silver Peak's flowing Potable Municipal Water source sits atop Silver Peak's "non-potable saline Playa water" within and enclosed by the parameters of Silver Peak's "Aquifer". And since Silver Peak's Municipal water supply is regularly polluted by Chemetall's "production errors" [Mr. Rupp's quotations] and Chemetall's on-site "Holding Ponds," plus the series of huge, unlined "Evaporation Ponds" which "leak" [Mr. Rupp's quotations] and flow onto and into the ground, including land areas outside of Chemetall's "Containment Berm" -- that includes Silver Peak's only Play Ground where a "pond" forms and dries out leaving Chemetall's "Chemical Soup" [Mr. Rupp's quotations] in the dirt where the children play every day over the years they go through school [sic], and these large-volume "overflows" leach deeply into the ground and effectively "sprinkle" said pollutants onto the surface of Silver Peak's "Potable" water source that flows on the top of the "NON-potable" saline waters within the aquifer wherein said "Potable Water" is then pumped by the County into Silver Peak's Municipal Water System."

Division Response: Pursuant to data provided by the Permittee and the Nevada Division of Water Resources (NDWR), recharge to the Clayton Valley is between 19,000 to 20,000 acre feet per year with most of the recharge coming from the Smoky Valley Corridor and the Paymaster Corridor, northwest and northeast of Silver Peak. The Silver Peak town water supply is located on the alluvium southwest of Silver Peak and is isolated from the Permittee's lithium brine resource by a naturally occurring faulting system. All of the lithium ponds are located within the non-potable region of the Clayton Valley. The Permittee maintains a monitoring well located between the Facility pond system and the town water supply. A Permit requirement requires this well to be sampled quarterly and all analytical results submitted to the Division.

Comment 7: "Also, there was a period of three years 2002-2005 after the County [Esmeralda County] drilling [sic] a new "Backup Well" for the Municipal Water system that was so polluted with uranium and toxic volcanic compounds the residents suffered with skin lesions, etc., and whatever else these pollutants may have done INSIDE everyone's body, especially CHILDRENS' [sic] bodies [Mr. Rupp's emphasis]."

Division Response: The Esmeralda County water well in question is located on an alluvial fan southwest of the town of Silver Peak within Clayton Valley. The well has no hydraulic connection with the Facility due to the naturally occurring faulting system.

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BRIAN SANDOVAL
Governor



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STATE ENVIRONMENTAL COMMISSION

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Leo Drazdoff, P.E.
Director



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Carson City, NV

COUNSEL
Rose Marie Reynolds

STAFF
John B. Walker
Executive Secretary

Electronic Memorandum

Date: June 25, 2012

To: Paul Rupp & Ana C. Rupp - dehnertqueen@desertamerica.com

From: John B. Walker, Executive Secretary

Subject: Appeal of Nevada Division of Environmental Protection's Water
Pollution Control Permit for the Silver Peak Lithium Project -
NEV00070005

On June 19, 2012 I received a faxed copy of the above referenced appeal, see attached. For the reasons discussed below and as in reference to our recent phone conversation, I am returning your appeal and requesting that you re-file the appeal on the newly revised State Environmental Commission (SEC) Form 3.

Effective May 30, 2012, the SEC revised its "Rules of Practice" and these new rules impart redefined and expanded SEC Form 3. Accordingly, please complete the new form and return it within 10 days to:

Executive Secretary
State Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, NV 89701

If you prefer you can fax the form (775) 687-5856 or you can email to:
jbwalker@ndep.nv.gov

ecc: Bruce Holmgren NDEP/Bureau Chief BMRR
Dave Gaskin NDEP/Deputy Administrator
SEC/DAG

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