



NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshops for Proposed Regulation Amendments
R045-18 and R046-18
Bureau of Mining Regulation and Reclamation
April 19, 2018; April 25, 2018 & April 26, 2018

The Bureau of Mining Regulation and Reclamation (BMRR) of the Division of Environmental Protection (Division) held three public workshops to provide an informational overview of the proposed changes to the Nevada Administrative Code (NAC) amending Chapter 445A Mining Water Pollution Control Regulations and Chapter 519A Mining Reclamation Regulations. The workshops were held at the following locations.

Tonopah

April 19, 2018

10:00 a.m. – 12:00 p.m.

Nye County Commissioners Bldg.

Commissioners Chamber Room

101 Radar Street

Tonopah, NV 89049

Elko

April 25, 2018

4:00 p.m. – 6:00 p.m.

Elko City Hall

Council Chamber Room

1751 College Ave.

Elko, NV 89801

Winnemucca

April 26, 2018

1:00 p.m. – 3:00 p.m.

Humboldt County Court House

Room 201

50 West 5th Street

Winnemucca, NV 89445

Attendees:

Workshop Chairs-Tonopah, Elko & Winnemucca:

Joe Sawyer, P.E., Chief, Bureau of Mining Regulation and Reclamation (BMRR)

Rob Kuczynski, P.E., Supervisor, Regulation Branch, BMRR

Tom Gray, E.S., Supervisor, Closure Branch, BMRR

Todd Process, E.S., Supervisor, Reclamation Branch, BMRR

Workshop Amanuensis:

Bethany Graeser, AAIH, BMRR -Tonopah

Jane Boomhower, AAIH, BMRR -Elko & Winnemucca

Public Attendees for the Tonopah Workshop (15 total):

Bruce K. Clouser; Craig Pickens; Bill Price; Mark Crouter; Gary L. Godfrey; Allen Biaggi (Nevada Mining Association); Chuck Stevens (Sterling Mine); Dan Patterson (BLM); Laurie Price; Bill Price; Ruby B. Johnson (US Forest Service); Greg Van Oosbree (US Forest Service); Doug Powell (US Forest Service); Susan Elliott (US Forest Service); Jim Rigby (US Forest Service).

Public Attendees for the Elko Workshop (15 total):

Nick Atiemo (Barrick); Heather Tate (Klondex Mines); Frederick Partey (Robinson); Kyle Tate (Barrick); Dave Pierce (Barrick); Jake Tibbetts (Eureka County); Kevin Kinsella (General Moly); Stephanie Stoeberl (Newmont); Vince Johnson (Barrick); Logan Johnson (SRK); Maria Blakely (Golder Assoc); Steve Boyce (SRK); Ryan Dockstader (Mi-Swaco); Harley Gordon (BLM); and Chris McCabe (Barrick).

Public Attendees for the Winnemucca Workshop (10 total):

Joel Casburn (Mine Consultant); Sierra Harmening (Rye Patch Gold US Inc.); Daniel Atkinson (NDEP-BLM); Michelle Rose (Barrick); Terri West (Barrick); Matt Cunningham (Barrick); Nancy Wolverson (Paramount Gold); Chris Natoli (Barrick); Kathy Rehberg (BLM); Duane Bays (BLM).

INTRODUCTION

Mr. Joe Sawyer called the workshops to order (10:00 a.m.-Tonopah; 4:00 p.m.-Elko and 1:00 p.m.-Winnemucca). Mr. Sawyer opened all workshops with an explanation that the intent of these workshops was to inform attendees of the proposed regulatory revisions contained in R045-18 and R046-18 which would amend certain sections of Chapter 519A and 445A of the NAC. An overview of the topics to be addressed and the framework for the workshops, as well as the text of the proposed regulations, were provided to all attendees in the form of an agenda and handouts. Mr. Sawyer informed the attendees that no action would be taken by the Division at the workshops. It was explained to the present audience that in accordance with the Open Meeting Law, the workshops would be recorded and two public comment periods (one at the beginning of the meeting and again before adjournment) would be provided for attendees to comment on any matter or issue that is included or not included on the agenda.

Workshop attendees were notified there have been two rounds of written informal solicitation with the Nevada Mining Association that started in the beginning of October 2017 and ended in March 2018. Also, that the version of the proposed regulations presented at these workshops have been preliminarily reviewed by the Nevada Legislative Council pursuant to their drafts of April 10, 2018 (R045-18) and April 11, 2018 (R046-18). Mr. Sawyer described the regulatory adoption timeline and announced that there was a scheduled meeting on May 23, 2018 (later rescheduled to May 27, 2018) with the State Environmental Commission (SEC) for consideration of the amendments.

At each workshop after the introductory remarks, Mr. Sawyer opened the first public comment period. There were no public comments received in the first public comment period at any of the workshops, and there were also no public comments to change or add items to the agenda at any of the workshops. After the first public comment period, a PowerPoint presentation summarizing the proposed regulations was delivered by Rob Kuczynski, Tom Gray, and Todd Process of BMRR. Following the presentation, Mr. Sawyer asked the attendees for questions and comments on the presentation, after which Mr. Sawyer opened the second public comment period on the proposed regulations. The questions/comments and public comments, with BMRR responses, are paraphrased below. After those public comments were received, Mr. Sawyer asked for comments on any matter that was not included on the workshop agenda. There being no further comments by attendees, Mr. Sawyer adjourned the workshops.

PRESENTATION AND DISCUSSION OF R045-18 & R046-18

The Petition R046-18 proposes revisions to NAC 445A that would provide the regulatory authority for the Division to address proposed new definitions and numerous minor revisions to make the regulations easier to understand and in line with program operating practice from permitting through closure. Specific changes include: Simplifies material characterization requirements for physical separation facilities; Removal of pilot scale regulations; Clarifies that a facility will not be held accountable for exceeding a drinking water standard due to naturally elevated background; Establishes a minimum design standard in closure for process components to contain the 500-year storm event; Revises provisions to take action to prevent degradation of waters of the State when planned or unplanned temporary closure is not appropriately managing process fluids; and replaces the requirement to provide public notice of a draft permit through publication in a newspaper with a requirement for e-notice.

The Petition R045-18 proposes revisions to NAC 519A that: Eliminates a conflict with NRS by removing the 36,500-ton limit for small miners; Adds renewable energy development and storage as a productive postmining land use; and Removes a requirement to provide public notice of a draft permit through publication in a newspaper and replaces it with a requirement for e-notice.

Paraphrased Public Questions and Comments

Oral Questions/Comments Received at Tonopah Workshop:

- Q1: Allen Biaggi, Representing the Nevada Mining Association: Asked to verify what the ending date for public comments was, as Joe Sawyer said in the presentation that it was May 3, 2018 and in the Notice of Public Workshop it was written as May 11, 2018.
- A1: *Joe Sawyer, Bureau Chief, BMRR: responded that May 11, 2018 was the final date.*
- Q2: Allen Biaggi, Representing the Nevada Mining Association: NvMA supports the proposal for not having to publish notices in newspapers; that this was not a new idea because the Air Quality programs have adopted this and it has proven to be successful.
- A2: *Comment noted.*
- Q3: Allen Biaggi, Representing the Nevada Mining Association: In Regulation 445A.432 the minimum design criteria, he thanked BMRR for working with NvMA; in Sec 2 in part "...the degree to which *any* design must provide more or may provide...", he would like to see the word 'may' be struck and only use the word 'must'.
- A3: *Comment noted.*
- Q4: Allen Biaggi, Representing the Nevada Mining Association: In Section 12; pg. 19; slide 38; With regard of giving notice establishing requirements and necessary steps to prevent degradation to the waters of the State, does that also include calling forward the financial instrument if the responsible party does not or will not conduct the necessary actions? I guess my question is: I guess it is implied that this would also include calling the financial instrument if the owner/operator does not or will not conduct the necessary actions? Is that implied?
- A4: *Joe Sawyer, Bureau Chief, BMRR: yes, I would say that is my understanding and that is our concern as being able to access the Interim Fluid Management account which is actually the account that we maintain, and has about \$1.4 million in which we would initially use those funds if we in fact had to access the site to protect the water of the State. Obviously, that would only be in extreme conditions where we have a site abandoned and/or the operator is just not able to maintain, say a cyanide operation, so yes. That would be the next step, to access the bond money, surety account, etc. The whole idea of the Interim Fluid Management account is that money would be reimbursed by whatever bond money is available on the site.*
- Q5: Allen Biaggi, Representing the Nevada Mining Association: My last comment is on the next slide, (pg. 20; slide 40) which is in regards to 445A.446; and the changed language of "...or a source...", and is there a definition for 'source'; I could not find one and isn't there a better word for that, perhaps, process component or component?
- A5a: *Tom Gray, Closure Supervisor, BMRR: Source is defined in our Regs., so we are not changing that, so it is not in these print outs. So that is why we are trying to stick with that definition, it's broader than 'process component' and does not specify point source or non-point source, a process component is a point source.*
- A5b: *Joe Sawyer, Bureau Chief, BMRR, Source as defined in NAC 445A.378 means any building or structure, facility or installation from which there is or may be a discharge.*
- Q6: Bill Price, Independent Consultant: Page 14, from when Joe spoke, he said the annual fee was \$500.00 and the slide says \$5,000.00, or that the maximum fee is \$5,000.00, which one is it?
- A6: *Rob Kuczynski, Regulation Supervisor, BMRR: Do you mean an Engineering Design Change?*
Bill Price, Independent Consultant: Oh, OK, I got you, down below that.
- Q7: Bill Price, Independent Consultant: Next question has to do with pg. 15; slide 30; most of these mines that are in this condition were abandoned many years ago and a new locator comes along and essentially acquires the land around it; is it their liability now? Is that the plan?

- A7: *Joe Sawyer, Bureau Chief, BMRR: I think historically how we approach that it's really not until you begin to utilize that underground facility, then you become responsible and perhaps have some certain liability, but just staking a claim over an area like that, in our program it would not necessarily make you liable. It would not be until you actually initiated a Water Pollution Control Permit and began operations and at that point, every site is different, we would have to look at site-specific conditions and something we would write into the Water Pollution Control Permit.*
- Q8: Bill Price, Independent Consultant: So by utilization you mean actually doing physical operations with that opening, instead of using that for exploration and access, something like that?
- A8a: *Joe Sawyer, Bureau Chief, BMRR: That's a tough question because every site has site-specific issues and would be something we would have to look into individually. Anyone want to add to that?*
- A8b: *Tom Gray, Closure Supervisor, BMRR: I'd say that all our regulations on the Water Pollution Control side are based on the facility, so at the point that that component becomes part of the facility, part of your facility, whether in fact or as proposed then it would be part of something that you would have to deal with.*
- Q9: Bill Price, Independent Consultant: So, just to clarify that, if a person had an exploration operation in the vicinity, then that wouldn't qualify as part of that facility, I presume? Or do you have a different insight?
- A9: *Joe Sawyer, Bureau Chief, BMRR: I'd say if it is not part of the Water Pollution Control Permit then it wouldn't be, so you are just talking about if you have an adit on your property that might have that type of issue that is described, but you are not operating in that adit...*
- Q10: Bill Price, Independent Consultant: So say that you are having a drilling program in the vicinity, that is actually what 90% of my clients are involved in, they are in the lucky 2% that has gone into production but you don't want to get stuck with somebody else's mistake that is historically there before they came alone.
- A10a: *Todd Process, Reclamation Supervisor, BMRR: Historically those kind of [inaudible] openings are pre-reg and so they are not part of the Regulation/Reclamation programs, but if you do touch it and declare it in your Plan of Operations, then there may be multiple permits that would be required, when you go into production. But not if you are just doing exploration. [Then Todd Process explained what Reclamation looks for in their Plan of Operations with the pre-reg conditions of a possible permitted site]...and you are not going to touch it then you would not be responsible, but you have to define that clearly, that it is from a different era, that it is something already existing and pre-reg.*
- A10b: *Tom Gray, Closure Supervisor, BMRR: We would have to look at something like this on a careful case-by-case basis.*
- Q11: Bill Price, Independent Consultant: Perhaps the distinction would be if you are using mechanized equipment or something along those lines and something we would have to negotiate with you.
- A11: *Joe Sawyer, Bureau Chief, BMRR: If you are using mechanized equipment and actually mining ore, then you would have a Water Pollution Control Permit (WPCP) and work through those issues in that process.*
- Q12: Bill Price, Independent Consultant: that brings up another question....In the old days we would go to the Nevada Division of Minerals and they would help us put the packets together and they would bring those to you guys I presume, is that the process still?
- A12: *Joe Sawyer, Bureau Chief, BMRR: No, we deal directly with the permittees.*
- Q13: Bill Price, Independent Consultant: OK, so now we just come straight to you. So at what stage as 95%, no 99% has to do with exploration, drilling and surface sampling....so at what point do we come to you, when water gets involved?
- A13: *Rob Kuczynski, Regulation Supervisor, BMRR: Yes, definitely, and when you have any kind of discharge or temporary discharge permit, when you are sampling, you want to call us first.*
- Q14: Bill Price, Independent Consultant: So when water gets involved, is that the test?
- A14: *Joe Sawyer, Bureau Chief, BMRR: Not always, I think what we normally tell folks is that if you are doing any activity, you should be communicating, certainly with the Reclamation program side and if you have any*

concerns with the level of your activity, you can come in and ask questions directly to the Regulation and/or the Reclamation folks and they will refer you over.

Q15: Bill Price, Independent Consultant: So even surface disturbance that needs to be revegetated, that is you guys?

A15: Joe Sawyer, Bureau Chief, BMRR: Yes.

Q16: Bill Price, Independent Consultant: OK, so that brings me to my last question, the very last slide (pg. 24; slide 48) you talk about 5 acres per year...and I always understood that the requirement was for 5 acres total, in other words, that if you are going to disturb more than 5, stay at the 5-acre notice level, and if you want to disturb another acre next year have to reclaim one of the first 5, is that still the case?

A16: Todd Process, Reclamation Supervisor, BMRR: Yes.

Q17: Chuck Stevens-Representing the Sterling Mine, Rockford Mining US: You have already answered some of my questions, the first one being the 500-year storm event; not that I agree with the reasoning of it, but at least I understand it. Back to the underground situation, (pg. 15; slide 30) it's hard for me to understand how an underground mine could prevent inflows, unless we are specifically talking about flows of water through a portal or a shaft collar or are we talking about inflows of groundwater to a mine opening?

A17: Joe Sawyer, Bureau Chief, BMRR: I guess it's my understanding we are talking about through a mine opening.

Q18: Chuck Stevens-Representing the Sterling Mine: It could be interpreted differently.

A18: Todd Process, Reclamation Supervisor, BMRR: I actually had a situation at Gemfields in that district down there, where a diversion, where there was an old haul road and the stormwater broke through that diversion and water ran into the pit and there was actually an open portal in the pit. So you were allowing stormwater to come through that diversion and right to groundwater through that opening and that is what we are trying to prevent.

Q19: Chuck Stevens-Representing the Sterling Mine: If that is...you can design something.

A19: Todd Process, Reclamation Supervisor, BMRR, So, the operator re-did the diversion channel to stop it.

Q20: Chuck Stevens-Representing the Sterling Mine: The [inaudible] forever will be preventing the inflow to groundwater to the underground opening, I don't see how you can ever do that.

A20: Tom Gray, Closure Supervisor, BMRR: That wasn't the intent, that is why we put 'Through' the opening to the mine; that is the key point.

Q21: Chuck Stevens-Representing the Sterling Mine: OK, through the opening. To some a drift or adit is a drift that opens to water flowing through that flow through that could be misinterpreted. The other question I have is more of a clarification, there is no change to the 5-acre notice level of disturbance for exploration projects proposed?

A21: Todd Process, Reclamation Supervisor, BMRR: Right now the BLM and Forest Service can probably take care of that, the regulation is really about the private land and the 5-acre threshold.

Q22: Chuck Stevens-Representing the Sterling Mine: So there is no change?

A22: Todd Process, Reclamation Supervisor, BMRR: It is still going to be exempt if you maintain the 5-acre threshold, yes that still stays, on private lands.

Chuck Stevens-Representing the Sterling Mine: Alright that answers my questions, thank you.

Joe Sawyer, Bureau Chief, BMRR: Looks like we are blending questions with comments together, so are there any more questions or public comment? Nope? There's no questions or comments, I think we can adjourn the meeting. I appreciate your time here today and listening to what we had to say and please share what you have with others and we will continue our work on this.

Thank you (All chairs).

Oral Questions/Comments Received at Elko Workshop:

- Q1. Steve Boyce, Consulting Engineer, SRK: When will rules go into effect?
A1. *Joe Sawyer, Bureau Chief, BMRR: The LCB [Legislative Council Bureau] will review language in the proposed changes. A hearing regarding the proposed changes with the SEC [State Environmental Commission] will be held in June 2018, after which the SEC will make its final decision.*
- Q2. Jake Tibbets, Eureka County Commissioner: LCB's change to BMRR's initial proposed revision defining the meaning of a small mining operation [NAC 519A.085] is a big change. Explain the difference chemical usage or underground makes if under 5 acres.
A2. *Joe Sawyer, Bureau Chief, BMRR: The proposed change was in direct conflict with the NRS. Our intent for the proposed change was that if chemicals are [to be] used or if the facility is on private land, this would provide us [BMRR] a mechanism to bond. Otherwise in the event of a permittee walking away from the site, BMRR would take the necessary steps to contract the clean-up of any chemicals or hazardous materials would be the responsibility of the private land owner.*
- Q3. Nick Atiemo, Projects Coordinator, Barrick Cortez Gold: [Note: Nick's comments were difficult to understand on the audio recording, but were in reference to the proposed revision of NAC 445A.424, limitations on the degradation of groundwater, background groundwater quality, and specific implications to the elevated arsenic at Barrick-Cortez sites in Crescent Valley].
A3. *Tom Gray, Closure Branch Supervisor, BMRR: A permittee must demonstrate with data the natural background constituent concentrations; otherwise the permittee must meet drinking water standards [Profile I].*
- Q4. Harley Gordon, BLM: Will we [BMRR] help the feds to mitigate abandoned mines?
A4. *Tom Gray, Closure Branch Supervisor, BMRR: If a mine was abandoned before September 1, 1989, these regulations do not apply, if abandoned after that date, then these regulations apply.*

Written Questions/Comments Received During and After Elko Workshop:

NAC 445A.398 Tentative Plan for Permanent Closure (TPPC)

- Q1. Ryan Dockstader, Mi-Swaco, LLC: It seems like this is a function which will require Division resources and collaboration, possibly significant amounts of both. Is there any significant, independent budget analysis for this additional work?
A1. *Rob Kuczynski, Regulation Branch Supervisor, BMRR: The waste rock management plans currently submitted with the operating plans for some facilities often lack the necessary characterization data and inadequately evaluate any potential to degrade waters of the State and if engineered containment is necessary. This regulation change formalizes the need for a detailed waste rock management plan (WRMP). A detailed WRMP will allow for the development of more accurate and realistic long-term bond cost estimates. Part I.D. in a WPCP requires continued representative sampling and characterization of waste rock, typically on a quarterly basis, and Part I.N requires continuing studies, investigations, and updating of the WRMP to coincide with changes at the site. As the WRMPs are revised and updated, the bond estimates are also revised and updated every three years. We are not aware of any independent studies or budget analyses.*
- Q2: Ryan Dockstader, Mi-Swaco, LLC: I can understand that the Division would want a substantive effort in planning projects out to the end for reclamation cost estimate reasons. However, it is still unclear the duration of time for which estimates are made. Three-year updates may be the regulation/practice, but in reality they are much more frequent.

- A2: *Tom Gray, Closure Branch Supervisor, BMRR: New subsection 7(c) of this water pollution control (WPC) regulation references the reclamation regulation NAC 519A.360 for the purpose of establishing that the conceptual closure plans in the TPPC must include sufficient detail to support the reclamation cost estimate. However, the frequency of reclamation cost estimates is beyond the scope of the WPC regulations. Regarding the frequency of TPPC updates, NAC 445A.392 requires a new WPC permit application (e.g., EDC, minor mod, or major mod), which would include a TPPC if the existing TPPC needed updating, whenever the permittee wishes to add a new process component or materially modify an existing process component. Permittees are encouraged to plan ahead as much as possible and combine more proposed changes into a single application, thereby decreasing the frequency of updates to the TPPC and other operating plans and studies. Regarding the duration of time for which the TPPC is made, the TPPC must cover the entire period of permanent closure and include the conceptual activities necessary during permanent closure to chemically stabilize all contaminant sources at the facility in order to prevent them from degrading waters of the State.*
- Q3: Ryan Dockstader, Mi-Swaco, LLC: It seems like this revision is going to corner operators into endless updates when they deviate from plans due to unforeseen circumstances. For example, a project under this revised regulation will need to bond for end of mine configuration of process components and disturbance using a conceptual closure plan, there is a very real possibility that the plans for mine development will be utterly insufficient to detail what exactly will happen to the operation during a long or even short mine life. This makes it incredibly difficult to avoid endless reclamation cost updates let alone settling on a plan when submitting an application for a WPCP.
- A3: *Tom Gray, Closure Branch Supervisor, BMRR: The new language regarding TPPCs in NAC 445A.398 would not increase the frequency of updates over what is required now. The proposed changes specify a level of detail for TPPCs that was previously missing, and add requirements for including in the TPPC conceptual closure plans for all contaminant sources at the facility rather than just for spent process materials.*
- Q5: Ryan Dockstader, Mi-Swaco, LLC: Also, there seems to be a grammatical error as well in that: "...mitigate and stabilized the affected..." should be changed to: "...mitigate, and stabilize the affected..."
- A5: *Rob Kuczynski, Regulation Branch Supervisor, BMRR: Comment noted.*

NAC 445A.433

- Q1: Ryan Dockstader, Mi-Swaco, LLC: Can someone from the Division send me the 500 years-worth of precipitation data used to determine that a 500-year event will be 29% greater than a 100-year event? These regulations are meant to be on sound scientific footing and this doesn't seem defensible.
- A1: *Tom Gray, Closure Branch Supervisor, BMRR: BMRR is unaware of any precipitation records that cover 500 years. The NOAA Precipitation Frequency Data Server (https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nv) provides statistical estimates of precipitation amounts for storms of various durations and average recurrence intervals based on available precipitation data. During the PowerPoint presentation at the April 25, 2018 workshop, I stated that at Nevada's 14 small business mine facilities that have leach pads or tailings impoundments, the 500-year, 24-hour storm event averages 29% larger than the 100-year, 24-hour storm event. That figure was determined by looking up the 500-year and 100-year storm events for each of those facilities on the NOAA Precipitation Frequency Data Server and then averaging those data. Using the same online estimator for the Greystone Mine pit location, the 500-year, 24-hour storm event is 3.78 inches, which is 28% larger than the 100-year, 24-hour storm event (2.95 inches). BMRR believes that these data are scientifically defensible as best estimates of storm event recurrence intervals. However, it is important to note that the 500-year, 24-hour storm event can happen at any time, and statistically speaking, it will likely occur long before 500 years have passed.*
- Q2: Ryan Dockstader, Mi-Swaco, LLC: The presenter, Mr. Gray, whom I have not had the pleasure to meet, said, rather assuredly, that large-scale rain events are becoming more frequent, citing only two years of history

(2016-2017). We expect sound scientific basis for all other analyses related to mine operation and closure, why is it acceptable to site two seasons of weather to suggest greater trends?

A2: *Tom Gray, Closure Branch Supervisor, BMRR: I'm sorry if this point was not clearly communicated. I believe I said that large storm events may be [emphasis added] occurring more frequently. A search for recent studies on this topic shows mixed results that appear to vary regionally (<https://nca2014.globalchange.gov/>). However, BMRR's main reason for proposing this increase in the minimum design criteria for permanent closure from the 25-year and 100-year events to the 500-year event is not because of a change in frequency of storms but because of observed damage to at least four Nevada mine facilities in the last several years as a result of major storm events, combined with the fact that most facilities are minimally staffed during permanent closure and post-closure monitoring and may not be able to respond quickly enough to storm damage to prevent degradation of waters of the State.*

NAC 445A.XXX Temporary Closure

Q1: Ryan Dockstader, Mi-Swaco, LLC: The code to which I am referring is labeled as 445A.XXX on slide 38 of your presentation. I was curious about what has been done to estimate the costs to the Division associated with establishing requirements for the holder of the permit to manage, mitigate, and stabilize the affected process components. Does this type of thing happen often?

A1a: *Rob Kuczynski, Regulation Branch Supervisor, BMRR: Recent experiences with bankruptcies and walk-aways from several sites demonstrated that under our current regulations BMRR had limited authority to intervene to protect waters of the State. This regulation change gives us the authority to take the necessary steps to have the permittee manage, mitigate, and stabilize any affected process components to prevent water degradation. Having not been directly involved with these recent actions, you may want to ask Tom Gray for additional input.*

A1b: *Tom Gray, Closure Branch Supervisor, BMRR: This response is supplemental to Rob Kuczynski's May 4, 2018 email response. Temporary closed mine facilities that are not being managed in a manner that is protective of waters of the State are not common in Nevada. However, there have been several such facilities since the Nevada's WPC program for mine facilities began in 1989, and BMRR is currently aware of at least one such facility. BMRR maintains a trust fund for Short Term Fluid Management and it is managed per NAC 519A.392 Payments for deposit into the Fund; use and reimbursement of money in the Fund. This fund was established in October 2000 in order to have Division funds available to manage fluids at a site while the process for forfeiture of a surety pursuant to NAC 519A.390 is pending. If the Division requires a contractor for fluid management activities at a temporarily closed mine facility through the use of this interim fluid management fund, the cost of those activities will later be reimbursed from the facility reclamation bond once the bond monies are accessed. Per regulation the mining industry in 2000 loaded the fund with \$1,000,000 and it is interest bearing. To date the fund is now over \$1,400,000. Therefore, this new regulation is not expected to incur additional costs to the Division, but will simplify and expedite the legal process by clarifying the Division's authority in these situations.*

NAC 519A.185

Q1: Ryan Dockstader, Mi-Swaco, LLC: Will this open the door to organizations or individuals - with special interests or otherwise - to claim they are affected by modifications or issuances? They could act as agents towards agendas which don't directly concern them or the residents of Nevada to disrupt development of projects.

A1: *Todd Process, Reclamation Branch Supervisor, BMRR: The public information door has already been open for many years now. If public comments are submitted, there is the potential for a permitting delay while BMRR addresses the public comment(s). BMRR has always addressed public comments accordingly with a minimal time delay impact to issuing a final approved permit. The current NAC 519A.185 requires a 30-day public comment period to include a local newspaper posting. In addition, BMRR sends out to 100's of existing electronic e-mail contacts. The electronic distribution list sends e-mails to whomever is interested in being informed about Nevada Mining. Reclamation only does a 30-day public comment period for the following situations:*

- 1) A new reclamation permit, or
- 2) A major modification that exceeds 25% of the current acreage in an existing permit.

The NAC 519A.185 regulation change will provide for a more efficient and effective public notice period with the issuance of a final permit in a more timely matter. The public comment period notification posted in many local rural Nevada newspaper publication often have a time delay due to infrequent publication dates that are available maybe once every week or even every other week, etc. So this delays the issuance of a final permit already. In addition, BMRR will reduce the staff time to write the posting language and save a couple bucks for the bureau.

I apologize that the reclamation portion of the workshop did not go as deep into the details about the elimination of the 30-day public notice posted into a local newspapers because Rob Kuczynski had already presented this very well with his portion of the presentation. Reclamation is just duplicating the same regulatory change. See slide number #15 below from the workshop presentation. The slide already includes a significant list of interested parties that are contacted on every 30-day public notice.

Oral Questions/Comments Regarding Winnemucca Presentation:

- Q1: Joel Casburn, Private Consultant: Under physical separation, that is not subject to the 500-year event planned, correct?
- A1: *Joe Sawyer, Bureau Chief, BMRR: I would say most likely, 99.99% of the time, yes. There may be that odd time, it's all site specific. Typically, these will be for chemical sites and generally would more apply to heap leach pads and tailings impoundments. Those types of things that if you had a large storm, with significant damage, it could potentially degrade waters of the State. Typically at physical separation sites, there are little to no stormwater controls that we impose on facilities.*

Oral Question/Comment Received at Winnemucca Workshop:

- Q1: Sierra Harmening, Rye Patch Gold US Inc.: On some of the 445A reg changes for temp closures, have you thought of any of the liability that you're posing to yourselves if you do have to step in to a mine site and start implementing any of the proposed process fluid management activities?
- A1: *Joe Sawyer, Bureau Chief, BMRR: Good question; we had similar question at the last hearing. We'd probably want to refer that to our DAG [Deputy Attorney General] office. Our hope is, or our intent is, to never have to enter a site to do interim fluid management activities. Allen Biaggi with NvMA suggested to add language to talk about interim fluid management and that specific regulation. That is our intent to be able to access the site and use our interim fluid management account, which the mine industry helped to fund a number of years ago. It started with \$1M and now has \$1.4M which the State holds in a separate account. It allows us access or to enter a site in an emergency situation and manage fluids. Some of you have been around for awhile and remember the 90's in past year, early 2000's late 90's we had a number of sites go bankrupt. The State through BCA [Bureau of Corrective Actions] has EMAR [Emergency Management and Remediation Fund] which allows us emergency access to sites to maintain fluids, and keep from having overflows. That is our concern, we do not want to rush to sites because of minor enforcement actions; this is more for an abandoned facility. It happens, most of you know, in 2005 400 people went home one day. This would allow us the ability to access the site quicker and the funds quicker. It really is for those types of really serious incidents.*