# Form #3 Request an Appeal Hearing Revised 6-2012



1. Name, address, telephone number, and signature of appellant: Name: Robert Ford 2799 East Tropicana Blvd. Suite H Las Vegas, Nevada 89121 Physical Address: rf702@yahoo.com E-mail Address: 702-715-4347 Telephone Number: Signature: Representative capacity (if applicable): \_ 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; XXX 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 or regulations that give the State Environmental Commission jurisdiction to hear the appeal. These appear to be the applicable NRS codes: NRS 519A.200, 519A.210, NRS 519A.260, NAC 519A.235., NRS 519A.150(9), NAC 519A.220, NAC 519A.400., NAC 519A.390. NAC 519A.220

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

- 1. NDEP failed to provide the test results of the tailings from American Borite.
- 2. NDEP failed to perform yearly inspections and approve reclamation activities.
- 3. NDEP will not allow soil enhancements to complete reclamation.
- 4. Some NDEP Inspectors have approved of soil amendments, some have not.
- 5. NDEP prolonged the reclamation activity by not allowing soil enhancements to be produced on-site.

Date of Request: February 15, 2020

Supporting Documents



After signing and submitting this form (below), attach the permit or notice of alleged violation that you are appealing directly to your email message. Include other supporting documents as needed.

Dung Holustnies UCc

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

Form 3: State Environmental Commission

Revised 06/2012

#### STATE OF NEVADA

ENVIRONMENTAL PROTECTION

Department of Conservation & Natural Resources
Steve Sisolak, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

February 6, 2020

ABC Recycling Industries, LLC Mr. Robert Ford 2799 East Tropicana Blvd. Suite H Las Vegas, Nevada 89121 Sent via E-mail, FedEx No. 777674695739 & Certified Mail No. 9171969009350218708474

RE: Decision to Revoke the Lathrop Mill Reclamation Permit #0171; and Forfeit of the Reclamation Surety Cash Deposit

Dear Mr. Ford,

This letter serves to notify ABC Recycling LLC (ABC) that the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (Division) has made a decision to revoke Lathrop Mill Reclamation Permit #0171 and forfeit ABC's cash deposit surety securing reclamation at that site.

#### Background

The Division issued a Notice of Noncompliance and Order on August 13, 2019. The Notice of Noncompliance and Order stated that ABC failed to pay its annual reclamation permit fee of \$4,166.00 by April 15, 2019 and directed ABC to pay the fee by September 13, 2019. Because ABC did not acknowledge receipt of the Notice of Non-compliance and Order, the Division sent a second Notice of Noncompliance and Order via E-mail and Federal Express, return receipt requested, on September 16, 2019, which required ABC to pay its annual reclamation fee by October 11, 2019. ABC acknowledged receipt of the second Notice of Noncompliance and Order, but did not make its annual permit fee payment.

On November 21, 2019, the Division sent a follow-up letter to ABC by E-mail and Federal Express. The letter notified ABC that the Division had set a hearing date for January 10, 2020 regarding possible suspension or revocation of ABC's reclamation permit and forfeiture of its cash deposit surety deposit. You attended the hearing on behalf of ABC, and Todd Process and I attended on behalf of the Division. During the hearing you discussed ABC's difficulties in complying with permit terms and statutory requirements to reclaim the site and stated that the primary owner of the company was reluctant to put additional money into the property and pay the past due annual reclamation permit fee. At the end of the meeting Mr. Process and I provided you with a final deadline of January 24, 2020 to submit ABC's annual permit fee payment. In addition, we explained to you that failure to pay the annual fee would result in permit revocation and forfeiture of the cash deposit surety held by the Division for site reclamation. As the date of this letter, ABC has not paid its annual permit fee.

#### Discussion

Mining operators are required to obtain a reclamation permit for the land disturbed as a result of mining operations, agree in writing to be responsible for such reclamation, and post a surety for the cost of reclamation in the event the operator fails to perform as required by the permit. On or before April 15 of each year, a reclamation permittee must submit a report to the Division regarding land disturbance and reclamation activities and pay an annual permit fee.2 The Division may revoke an operator's reclamation permit on finding, after notice and hearing, that the permittee violated any provision of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the Commission pursuant to 519A.160.3 The Division may also order the forfeiture of the operator's surety upon revoking the operator's permit.<sup>4</sup> A reclamation permittee's failure to pay its annual permit fee would constitute grounds for permit revocation and surety forfeiture.

As described above, ABC held a reclamation permit for operation of Lathrop Mill and was required to pay an annual permit fee of \$4,166 by April 15, 2019. ABC failed to pay the annual permit fee by that date and subsequent dates identified in the Division's Notices of Non-Compliance and Orders issued on August 13, 2019 and September 13, 2019. The Division notified ABC of and held a hearing on January 10, 2020 regarding ABC's failure to pay its annual reclamation permit fee as required by NRS 519A.260 and NAC 519A.235. At the hearing, ABC indicated that it was reluctant to put additional money into the property and pay the past due annual permit fee, which is not valid justification for its failure to comply with its statutory and regulatory obligations to pay an annual permit fee and reclaim the land after mining is complete.

The Division finds that ABC is in violation NRS 519A.260 and NAC 519A.235, due to its failure to timely pay its annual reclamation permit fee and revokes ABC's permit, effective 10 days from the date of this letter.5

The Division also orders the forfeiture of ABC's \$205,791.00 cash deposit in its entirety, effective 10 days from the date of this letter, since the cash deposit is based on the estimated costs for reclamation of the site and ABC has not indicated a willingness or intent to fulfill its obligations to reclaim the site as required by its reclamation permit. To the extent that the \$205,791.00 cash deposit surety is not sufficient to fully reclaim the site, ABC is advised that it may be liable for the additional costs spent to satisfy this statutory and regulatory requirement.

This decision is final and not subject to review unless, within 10 days after the date of such Decision is served, the State Environmental Commission (SEC) located at 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, receives a request for a hearing by written petition SEC Form 3.

<sup>&</sup>lt;sup>1</sup>NRS 519A.200, 519A.210.

<sup>&</sup>lt;sup>2</sup> NRS 519A.260, NAC 519A.235.

<sup>&</sup>lt;sup>3</sup> NRS 519A.150(9), NAC 519A.220, NAC 519A.400.

<sup>4</sup> NAC 519A.390.

<sup>&</sup>lt;sup>5</sup> NAC 519A,220 (stating that revocation is effective not later than 30 days after the operator is sent written notice by the Division setting forth the facts and conduct warranting revocation).

If you have any questions concerning this matter, please contact me at (775) 687-9397 or jsawyer@ndep.nv.gov.

Sincerely,

Joe Sawyer, P.E., Chief

Bureau of Mining Regulation and Reclamation

Enclosure: SEC Form 3

Ec: Greg Lovato, Administrator, NDEP

Todd Process, Supervisor, BMRR Reclamation Branch Rick Perdomo, Esq., Deputy Administrator, NDEP

Todd Suessmith, Permit Writer, BMRR Reclamation Branch Samantha Thomson, Public Information Officer, NDEP

Val King, SEC Rich Perry, NDOM

Nye County Board of Commissioners

## Law Offices of Steven G. Gibbs

Telephone: 661-633-1144

2204 Truxtun Avenue Bakersfield, California 93301 Facsimile: 661-633-1640 E-mail: lawgibbs@pacbell.net

May 24, 2012

#### VIA EMAIL & U.S. MAIL

Mr. Bruce Holmgren, Bureau Chief NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation 901 South Stewart Street, Suite 401 Carson City, Nevada 89701

> RELEASE OF COMPLETED BOND FUNDS TO TRUST ACCOUNT OF ATTORNEY STEVEN G. GIBBS FOR PROPER DISBURSAL AS WELL AS SUPPORTING DOCUMENTATION

Dear Mr. Holmgren:

Thank you so much for the conference call earlier this week. I have had an opportunity to discuss the matter with my client and I can now clarify a couple of the issues addressed as well as update you on how my client would choose to move forward on his private land. First, my client has relied upon past representations from your Department regarding work that was necessary to be completed on the property and has been diligently pursuing that course of action. It does not appear appropriate to abruptly discontinue all of those plans and take this matter in an entirely different direction merely to transfer the entirety of the bond at present.

As referenced above, my client relied upon the representations made by you and your department to incur substantial fees in undertaking the reclamation plan. I previously outlined these efforts and made a demand that the sum of \$368,425 be transferred to my trust account in order that I could issue the appropriate checks in order to pay the bills which have already been incurred in furtherance of the reclamation plan now existing on the property. I therefore must renew my prior demand regarding the partial pay down of the bond monies for the purpose they were intended.

One of the very important issues discussed in our conference call was the future industrial use for the property and the necessity for filing a public disclosure and notice

Mr. Bruce Holmgren, Bureau Chief NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation May 24, 2012 Page 2

about the use of the property in order to do a "major modification" upon the property and therefore take this matter out of jurisdiction with your department which would completely take the necessity of bonding out of your department and out of the state regulations due to the transfer of use. However, my client is still evaluating the entire usage he plans to do on the property and that evaluation may take several months. In the meantime it is his intent to continue the planting, seeding and watering at the facility in order to comply with the reclamation plan but he is incurring significant costs on a per month basis. Simply stated, the bills need to be reimbursed immediately in order for any productive use to be made to this property and in order that my client can move forward on those operations the interim payment of the \$368,425 should not be delayed any further.

My client has already been in contact with your department and is in the process of finalizing all permit transfers in order to make sure everything is in his name and that process should be completed within the next few days. Thereafter, please contact me regarding the appropriate way to transfer the aforementioned monies so that the work which is already been completed based upon the reclamation plan can be reimbursed out of the funds which are set aside for exactly that purpose. Further, it is anticipated that within the next few months a more particular and specified plan can be put in place so as to move forward on the "major modification" plan so as to take the entire matter out of your department as well as the provisions of regulation of 519A.

Therefore, contact me at your earliest convenience as to when the interim fees can be transferred to my trust account in order that they may be orderly dispersed for the work completed as per the reclamation plan. I anxiously await your response.

Very truly yours,

STEVEN G. GIBBS

SGG/kmh

cc: Mr. Robert Ford

#### ATTACHMENT A

#### Documentation of Reclamation Activities for Surety Release

An operator may request surety release in accordance with applicable State and Federal regulations. The following documentation must be submitted simultaneously to NDEP and the Federal land management agency prior to the agencies conducting a site inspection:

#### MINING OPERATIONS

- 1. **Map(s)** clearly identifying the area, noting specific treatments and sampling locations (as applicable).
- 2. Description of the following activities:
  - A. Earthwork:
    - 1) The number of acres regraded and/or ripped.
    - 2) Final slope angles left after regrading.
    - Methodology used to check final slope angles (e.g., clinometer, transit, etc.).
    - 4) The number of acres that received topsoil/growth medium.
    - 5) Depth and source of topsoil/growth medium and application method.
    - 6) Dates of initiation and completion of activities.
  - B. Revegetation Activities:
    - 1) The number of acres that were seeded and/or planted.
    - 2) Seed bed preparation methods utilized.
    - 3) Seeding/planting methods used (e.g., broadcast seeding, etc.).
    - 4) Provide information on how seed was covered.
    - Seed mix and seeding rate; document by maintaining seed tags and any testing results (PLS, germination, noxious weeds, etc.).
    - 6) The number of acres that received fertilization, mulch or amendments.
    - 7) Fertilizer (N-P-K, type, application rate, application method).
    - 8) Mulches and soil amendments (type, application rate, and application method).
    - 9) Date of initiation and completion of activities (such as seeding, seed bed prep, irrigation).
  - C. Final Revegetation Sampling:
    - 1) Adjacent representative vegetation type or range site description (baseline data).
    - 2) Sampling method (e.g., line intercept).
    - 3) Number of samples taken (disturbed and adjacent representative sites).
    - 4) Statement of methodology demonstrating sample size, adequacy and how the location of sampling sites were determined.
    - Results of sampling (copy of sampling worksheet) for disturbed and representative areas. Indicate all perennial species located.
    - 6) Dates of sampling.
  - D. Other reclamation activities such as; structure and debris removal, safety feature installation, erosion control treatment, equipment removal or other permit requirements.
  - 3. Detailed calculation of the surety amount proposed for release if applicable.
  - 4. Prior to release, a field inspection is required to verify that reclamation has been performed in accordance with the approved reclamation plan and permit.

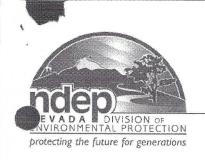
#### ATTACHMENT A

#### Documentation of Reclamation Activities for Surety Release

An operator may request surety release in accordance with applicable State and Federal regulations. The following documentation must be submitted simultaneously to NDEP and the Federal land management agency prior to the agencies conducting a site inspection:

#### **EXPLORATION PROJECTS**

- 1. **Map(s)** clearly identifying the area, noting specific treatments and sampling locations (as applicable).
- 2. Description of the following activities:
  - A. Earthwork:
    - 1) The number of acres regraded.
    - 2) Dates of initiation and completion of activities.
  - B. Revegetation Activities:
    - 1) The number of acres that were seeded and/or planted.
    - 2) Seed bed preparation methods utilized.
    - 3) Seeding/planting methods used (e.g., broadcast seeding, etc.).
    - 4) Provide information on how seed was covered.
    - 5) Seed mix and seeding rate; document by maintaining seed tags and any testing results (PLS, germination, noxious weeds, etc.).
    - 6) The number of acres that received fertilization, mulch or amendments.
    - 7) Fertilizer (N-P-K, type, application rate, application method).
    - 8) Mulches and soil amendments (type, application rate, and application method).
    - 9) Date of initiation and completion of activities.
  - C. Other reclamation activities such as; drillhole plugging, structure and debris removal, safety feature installation, erosion control treatment, equipment removal or other permit requirements.
- 3. Detailed calculation of the surety amount proposed for release if applicable.
- 4. Prior to release, a field inspection is required to verify that reclamation has been performed in accordance with the approved reclamation plan and permit.



## STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

July 9, 2012

Mr. Robert Ford Cadence Industries I LLC 1231 Sharon Road Las Vegas, NV 89106

#### INSPECTION REPORT FOR:

Project:

Lathrop Mill Facility

Date:

6/27/2012

Inspector:

**Todd Suessmith** 

Dear Mr. Ford:

The Reclamation staff of the Bureau of Mining Regulation and Reclamation (BMRR) conducted an inspection at the Lathrop Mill Facility.

#### **Inspection Comments:**

Cadence Industries I LLC: Robert Ford Lunas Construction: Norberto Madrigal Glorieta Geoscience Inc.: Jay Lazarus

Alpha Environmental Services: Laurie Sanders

BLM: Dave Fanning

BMRR: Todd Suessmith, Dave Willard

BMRR conducted a general site visit of the Lathrop Mill project site. Currently Cadence Industries I, LLC (CI) is working on site to develop an organic or part organic mulch material to apparently assist in revegetating the site per the approved reclamation plan and to also reduce dust emissions from the site. A rubber pipeline was observed which appears to run from a pipe on the west side of the Mill Hill area across the North Tailings Impoundment to the Northwest corner of the project. BMRR believes this area was stripped of material to use as cover for the exposed tailings in 2007/2008. Apparently CI is obtaining "green waste" from sources or a source in Clark County and is transporting it to Lathrop Millsite in order to apply water to the material in order to create a mulch like material for the revegetation effort. BMRR observed dark (green waste?) material in standing water in the northwest corner of the property. It seems similar to an open air composting pile. BMRR understands some of this material is landscape waste from Las Vegas. Coupled with this, BMRR understands that CI is considering adding "crumb rubber" to the surface of the project to further help keep dust from blowing off the site. CI would apply this and the organic mulch to all 363.2 acres of the project. Apparently, CI would propose to recycle the tires on site using an existing cement slab for the tire





shredding circuit machinery. While on site, BMRR observed a loader on the northeast side of the property spreading some mulch material on the surface. Per Mr. Ford a 12 acre area is having mulch applied at a depth of 2 inches in that area.

Mr. Ford indicated that he has been trying to work with Nye county to obtain Brownfield grants, but has not had any success to date. We traveled to the southern boundary of the project to observe the adjacent BLM trespass area. This area is where borrow material was allegedly taken for cover material and liquified tailings were trenched and allowed to fill the borrow area depressions. The BLM trespass and final reclamation of the tailings on public land is a separate issue from the approved reclamation plan and is not part of the plan or the RCE. An eight acre contingency pond is in the plan and the bond for placing two feet of cover and reseeding if the BLM required the tailings be put back onto private land. However, if the tailings are covered in place, then the contingency pond would no longer be needed.

Mr. Jay Lazarus, consultant for Lunas Construction was on site to evaluate the property for a proposed construction debris landfill. However, the idea would be that the project would be treated as a mine reclamation project since the existing known water right is a temporary mine/milling right which will expire once the site is no longer considered a mining project. The water wells, which are apparently in California are piped to the property with a six mile pipeline that is authorized under a right-of-way. Apparently the BLM is questioning whether this right-of-way is still in effect. If it has expired, the BLM indicated that it would not be re-issued.

Should you have any questions concerning this inspection report, please contact me at (775) 687-9412 or by e-mail at tsuessmi@ndep.nv.gov.

Sincerely,

W. Told Suessmith, Jr.

Bureau of Mining Regulation and Reclamation

Ec:

Dave Fanning, BLM – Southern Nevada District Dave Willard, BMRR – Closure Branch. Jon Taylor, Bureau of Waste Management

## Rubber mulch

From Wikipedia, the free encyclopedia

Rubber mulch is a type of mulch used in gardens and sustainable landscaping that is made from 100% recycled rubber.

#### Contents

- 1 Composition
- 2 Advantages
- 3 Disadvantages
- 4 Environmental Impact and Safety Testing
- 5 Sustainability and LEED Credits
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## Composition

Rubber mulch generally consists of either waste tire buffings or nuggets of rubber from tires that are ground up whole, after having their steel bands removed. Almost any tire can be used to make rubber mulch, including passenger vehicle tires and large truck and trailer tires. Buffings are produced from recycled truck tire tread when the remainder of the worn-down tread is removed from the tire prior to retreading. Buffings are generally thin slivers of rubber. Nuggets range in size from 10 mm to 32 mm, or 3/8 inch to  $1\frac{1}{4}$  inch.

## Advantages

Rubber mulch provides several advantages over plant material based mulches. For landscaping and gardening purposes, both nuggets and buffings insulate soil from heat allowing a 2 or 3



Rubber mulch nuggets. The white fibers are nylon cords, which are present in the tires which the mulch is made from.

degrees F higher soil temperature difference over wood mulches. Rubber mulch is beneficial for soil moisture as rubber is non-porous and does not absorb water on its way through to the soil. It also reduces fungus growth and plant growth, and becomes a weed barrier as weed seeds dehydrate in the mulch before reaching the soil. Neither nuggets nor buffings provide any humus to compacted soil types.

Another advantage over plant-material mulches is its elasticity, which gives it a springy quality when used in a fairly thick layer. This makes it a natural choice for playgrounds, where the extra springiness provides additional safety for children when they fall off of playground equipment. Tests have shown rubber mulch is superior in breaking falls <sup>[1]</sup> to traditional bark mulches. The International Play Equipment Manufacturers Association has certified some rubber mulches for ASTM F1292-09. <sup>[2]</sup> It can

be 97% wire free for landscape use and 99.9% wire free for playgrounds. Rubber mulch is also becoming a product of choice used in horse arenas for footing material when mixed with sand. It can be found in nugget or shredded style.

Rubber mulch is seen as an effective and safe alternative to wood mulch, reducing the regional and global carbon footprint by reusing materials that would otherwise end up in landfills. Its durability can be up to twelve times greater than wood mulchwith wood mulch lasting an average of four seasons- as it doesn't deteriorate over time.



Rubber mulch seen with playground equipment in the background.

## **Disadvantages**

- Some recycled varieties may leach chemicals(some toxic) which are harmful to plants<sup>[3][4][5]</sup>
- Rubber mulch, like some organic mulches, is a hazard if ignited.

Although rubber mulch is generally safe, recycled tire rubber leachates do contain certain minerals and compounds which may cause concern in high concentrations. Recycled tire mulch can contain trace amounts of various minerals from the tire manufacturing process and other chemicals that may have been picked up during the tire's service life.

## **Environmental Impact and Safety Testing**

The Environmental Protection Agency (EPA) has endorsed the use of recycled rubber to cushion the surfaces of children's playgrounds. For more information, visit the EPA website (http://www.epa.gov/osw/conserve/tools/cpg/products/playgrnd.htm).

The Environmental Protection Agency (EPA) recently studied air and surface samples at four fields and playgrounds that use recycled tires. The limited study, conducted in August through October 2008, found that the concentrations of materials that made up tire crumb were below levels considered harmful. In addition, the overall study protocol and many of the methods were found to be appropriate and could be implemented in the field. The details of the EPA's study can be found at: www.epa.gov/nerl/features/tire crumbs.html (http://www.epa.gov/nerl/features/tire\_crumbs.html)

The Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency tested skin sensitization by playground surfaces made of recycled tires and found no sensitization observed suggesting that these surfaces would not cause skin sensitization in children, nor would they be expected to elicit skin reaction in children already sensitized to latex. Study dated January 2007 can be viewed at: www.ciwmb.ca.gov/Publications/Tires/62206013.pdf (http://www.ciwmb.ca.gov/Publications/Tires/62206013.pdf)

ChemRisk, Inc. in Pittsburgh conducted a review of exposure to recycled tire rubber found on playgrounds and synthetic turf fields. They concluded that no adverse human health or ecological health effects are likely to result from these beneficial reuses of tire materials. Study dated July 17, 2008. Detailed information and more studies can be found at:

www.syntheticturfcouncil.org/displaycommon.cfm?an=1&subarticlenbr=91 (http://www.syntheticturfcouncil.org/displaycommon.cfm?an=1&subarticlenbr=91)

## Sustainability and LEED Credits

Because of its long life and durability, Rubber Mulch is considered a Green building and Sustainable landscaping material. The use of Rubber Mulch in Playgrounds, Landscaping, Equestrian Arenas, Training Courses, Ballistic Ranges and other applications can earn LEED Credits for Recycled Content (Credit 4.1, 4.2), Regional Materials (Credit 5.1, 5.2), Site Stewardship (Credit 6.1, 6.2) and Water Efficiency (Credit 1.1). LEED Sheet for Rubber Mulch LEED Credits (http://www.pinnaclerubbermulch.com/docs/Rubber-Mulch-LEED-Sheet.pdf).

#### See also

- Mulch
- Rubber
- Retreading
- Tire Recycling
- Green Building
- Sustainable landscaping
- Sustainability

#### References

- 1. ^ EPA playground surface (http://www.epa.gov/waste/conserve/tools/cpg/products/playgrnd.htm)
- 2. ^ IPEMA Certification Description (http://www.ipema.com/Products/default.aspx?Type=F1292)
- 3. ^ Natures Way Resources (http://www.natureswayresources.com/DocsPdfs/RubberMulch.pdf)
- 4. ^ The Myth of Rubberized Landscapes, Linda Chalker-Scott, Puyallup Research and Extension Center, WSU (http://healthychild.org/resources/article/the myth of rubberized landscapes)
- 5. ^ Rufus L. Chaney Environmental Chemistry Lab USDA-Agricultural Research Service (http://www.sare.org/sanet-mg/archives/html-home/18-html/0259.html)

### **External links**

- N.Y. study shows artificial turf fields safe (http://www.usatoday.com/sports/2009-06-02-artificial-fields-study\_N.htm)
- study shows rubber surface safe (http://knol.google.com/k/jason-borch/h1n1-concussions-and-wood-mulch-what/34vfsqvcmfcml/1)
- The Myth of Rubberized Landscapes (http://healthychild.org/resources/article/the myth\_of\_rubberized\_landscapes)
- Artificial Turf: Exposures to Ground Up Rubber Tires Athletic Fields, Playgrounds, Garden Mulch (http://www.ehhi.org/reports/turf/turf\_report07.pdf)

Retrieved from "http://en.wikipedia.org/w/index.php?title=Rubber\_mulch&oldid=481571382"
Categories: Sustainable gardening Recycled building materials Sustainable products
Sustainable building Soil improvers Water conservation Pavements

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## STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor Leo M. Drozdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

January 18, 2013

Mr. Steven G. Gibbs 2204 Truxtun Avenue Bakersfield, CA 93301

RE: Response To Cadence Industries I LLC Request for Reclamation Work Accomplished at the Lathrop Mill, Based Upon Submissions, Dated September 21, 2012, December 7, 2012, and Supplemental Materials Submitted on January 7, 2013; Reclamation Permit 0171.

Dear Mr. Gibbs,

The Bureau of Mining Regulation and Reclamation (BMRR) has reviewed the above mentioned information submitted by Cadence Industries I LLC (Cadence) for reclamation work completed at the Lathrop Mill site. The supplemental material submitted on January 7, 2013, in a format as requested by the BMRR was most helpful in evaluating the bond reduction request.

This office has created two spreadsheets, in a format similar to the January 7, 2013 submittal, to explain project bond money approved for release and project bond money to be retained. These are included with this correspondence as Attachment A and Attachment B, respectively.

The BMRR has calculated a refund amount of \$119,348.00, as shown in Attachment A, for reclamation work completed on the following areas: Historic Tailings 1 and 2; Mill Hill; Soil Borrow 1; Soil Borrow 2; and Soil Borrow 3. These were the five areas discussed during a conference call on January 7, 2013, among BMRR and your client, Mr. Ford, yourself, and other associates of Cadence.

As was discussed during the conference call, the release of project bond money associated with the ABC North and South Tailings would not be approved as additional reclamation work per the 2009 reclamation plan (BMRR approved November 19, 2009) remains to be completed on these two facilities. This includes the area referred to as the Embry Parcel which contains the eastern quarter of the ABC South Tailings. Adequate documentation was not included in the recently submitted material to evaluate and delineate whether "non-tailings" disturbed areas in the Embry parcel have been satisfactorily reclaimed.

Since reclamation activities are still required at the Lathrop Mill Site, the BMRR does not approve the request for release of project bond money for mob/demob of equipment and abandonment of the project water well.

To determine the amount of project bond money associated with Reclamation Monitoring and Maintenance, Construction Management, and Indirect Cost available for release, this office calculated the project bond, using the Nevada Standardized Reclamation Cost Estimator (SRCE) Version 1.4.1, that would be required for completion of remaining reclamation activities per the 2009 approved reclamation plan. The results from this calculation are shown in Attachment B. The project bond calculation includes the costs for these three categories. The difference between the amount currently held and the amount required (Attachment B) for Reclamation



Mr. Steven G. Gibbs January 18, 2013 Page 2

Monitoring and Maintenance, Construction Management, and Indirect Cost is the amount shown in Attachment A for refund.

The refund amount of \$119,348.00 will be transmitted to JP Morgan trust account 674355948, per your January 15, 2013 correspondence. With this refund a total of 148.9 acres of surface disturbance are removed from the Lathrop Mill Reclamation Permit 0171. Please be advised as this release did not occur till calendar year 2013, Cadence will be responsible for submission of an annual reclamation fee, by April 15, 2013, based on the permitted disturbance of 360.7 acres which were still considered unreclaimed at end of calendar year 2012. The annual reclamation fee invoice will be forwarded under separate cover within the next thirty days.

Should you have any questions concerning this letter, please contact me at (775) 687-9397 or Paul Comba at (775) 687-9402.

Sincerely,

Bruce Holmgren, P.E., Chief

Bureau of Mining Regulation and Reclamation

Attachments: A and B

ec:

Robert Ford, Cadence Industries I LLC Roland Rosenberg Jr., Sterling Pacific Paul Comba, BMRR Todd Suessmith, BMRR

Print

Subject: Fwd: SOILS FOR SEEDING GROWTH

From:

Robert Ford (rf702@yahoo.com)

To:

dunn.mill@yahoo.com;

Date:

Monday, April 2, 2012 3:21 PM

## Begin forwarded message:

From: Todd Suessmith <tsuessmi@ndep.nv.gov>

Date: April 2, 2012 10:21:11 AM PDT

To: "'rf702@yahoo.com'" <rf702@yahoo.com> Subject: FW: SOILS FOR SEEDING GROWTH

From: Todd Suessmith

Sent: Monday, April 02, 2012 10:06 AM

To: 'Robert Ford'

Cc: Bruce Holmgren; Paul Comba; Todd Suessmith Subject: RE: SOILS FOR SEEDING GROWTH

Mr. Ford,

BMRR does not maintain a list of soil amendments or fertilizers. BMRR does not require an analytical sample be performed of the soil amendment prior to placement. Documentation of reclamation activities including the type of soil amendment, quantity and other details can be provided after application in the Attachment A surety release documentation.

From: Bruce Holmgren

Sent: Friday, March 30, 2012 11:15 AM

To: Todd Suessmith; Paul Comba

Subject: FW: SOILS FOR SEEDING GROWTH

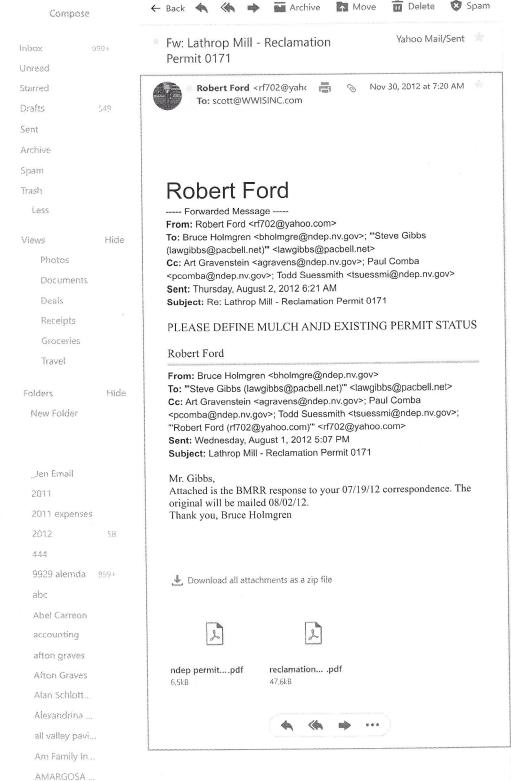
Todd.

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Robert E. Ford 1231 Sharon Rd. Las Vegas, NV 89106

August 08, 2012

Nevada Department of Environmental Protection Jon Taylor Paul Comba

RE: Lothrop Wells/ Amargosa Mill

Hello,

I wanted to summarize the meeting info discussed on 8/6/2012. Robert Ford/ Cadence Industries, LCC a subsidiary of ABC Reclamation, LLC. The current permit 0171 is active mining reclamation permit. This permit allows for ripping, reseeding of 223 acres in which 83arces has now been ripped and soil amendments added to parts of the 83acres. The attachment of the permit allows soil amendments and mulch materials, the Bureau of Mining on 6/19/2012 visited the site and wrote a letter describing the site. The letter addresses the mulch being added along with other soil amendments that are to be added to improve the soils. After the meeting we went out and purchased a tire shredder (Jordon Machine) to grind tires to be used as mulch. The NDEP Solid Waste Management Dept (Jon Taylor, Dave Fanning and Dave Willard) was also at the 06/19/2012 site visit. A letter was sent on July 9, 2012 by a 3<sup>rd</sup> party, Alpha Environmental, Laurie Sanders, stating no tires could be ground. Bruce Holmgren replied stating, no use of tires unless approved by Solid Waste Management of the NDEP.

The property owner has a current permit for crushing aggregate and a HOT mix plant for making asphalt, Permit #17188. This allows for a source of crushing, milling, and screening and HOT mix production. Asphalt NAICS 324121 with Crumb tire rubber mixture.

We met on August 06, 2012 to discuss the mulch and Reclamation permit to use mulch and soil amendments for the site reclamation. When rubber was presented as a mulch and soils amendments, I was told this would NOT be an approved product by the NDEP for the reclamation of this site. As tires and tire byproducts will fall under the classification of solid waste products and the site would need to retain an approved solid waste permit. It was suggested by Art Gravenstein a Waste Management Plan and Permit be requested changing the Reclamation Project to a Class III landfill site. Needless to say

back on February 23, 2012 Jon Taylor requested I complete the reclamation first, prior to submission of the application for a Solid Waste Permit. Ford wanted to submit a plan in February 2012 and due to requirements of Bureau of Mining it could not be submitted.

The current market in Amargosa, NV is very slow. No recyclable materials are available to be used for the mining reclamation of the site. The ONLY green waste, wood, gypsum board, soils and other recyclables products available are located in the Greater Las Vegas Area, some 105miles for the reclamation site. The green waste is being used by the Moapa Paiutes for a compost operation, approximately seven mile from the Valley of Fire exit at I-15. With majority of the Valleys green being shipped to the Paiutes, has made the availability of green waste for the above reclamation project very low and difficult to obtain. The availability of Tires is abundant as they are NOT permitted to be land filled. With the use of tires as soil amendment and mulch this was an easy conclusion to use the tires. To date ABC has invested over \$150,000 in Labor and Equipment obtain a tire shredder, as well as trucks and trailer to haul the tires to the site.

With tires NOT being available for use, the only material available to be used as ground cover is Commercial Construction debris such as wood, plastic, carpet, gypsum board and a mix of other products. It is NOT our intention to spend an excess amount of time to separate out this material as it is very labor intensive. It is better to use this material as a light weight filler to complete the Reclamation Project by using materials known as C&D waste and to modify the existing permit to a Class III landfill. This would allow the 223acres of tailings ponds to be covered and reseeded as part of the closure plan for the 223acres.

We propose a modification to the existing permit to obtain a temporary Class III landfill, until a permanent plan is submitted for review. A permanent plan to be submitted with in 90days. It was understood an application/ plan could be submitted if the mining dept would agree to keep the 0170 permit active until the Class III application process was complete.

Bruce Holmgren agreed to let revegetation go after the site was covered with C&D and to release the Bond proceeds currently held by the NDEP for the completion of the Reclamation work. Jon Taylor stated the Permit would take MONTHS since he was very busy permitting other projects.

I recommend to permit the temporary permit as the existing ponds already have liners that are filled with high limits of heavy metals and boron's. The temporary permit would allow for ground coverage of the site, to stop the existing soils from becoming air-born and traveling to other properties.

Thank you,

Robert E. Ford

Law Offices of

## Steven G. Gibbs

Telephone: 661-633-1144

2204 Truxtun Avenue Bakersfield, California 93301 Facsimile: 661-633-1640 E-mail: lawgibbs@pacbell.net

May 31, 2017

#### VIA EMAIL & U.S. MAIL

Mr. Todd J. Process,
Environmental Geoscientist and
Reclamation Supervisor
NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Bureau of Mining Regulation and Reclamation
Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

RE: UNAVAILABILITY OF STEVEN GIBBS AND ROBERT FORD UNTIL JUNE 19, 2017 AND NEED TO CLARIFY CURRENT STATUS ON PERMITTED USE

Dear Mr. Process:

I have been reviewing the emails between my client Robert Ford and the Mining Regulation and Reclamation, which have recently been sent to my client. My understanding is that a meeting and inspection is necessary for which my client has requested my presence. Further, I am unavailable until the week of June 19, 2017 but generally can make myself available thereafter. I request that the meeting between the principal parties be set in that timeframe.

I previously have had extensive correspondence with your office and Mr. Bruce Holmgren regarding reclamation issues on this site as well as bond reimbursement through my office on behalf of Mr. Ford and his business. My understanding is that the site is presently permitted for soil enhancement to encourage and help with reclamation. My understanding at that time was that there was no specific approved list of materials for the soil enhancement in order to help with the reclamation.

These are important issues as my client has now entered into a five-year contract to get gypsum material as well as manure from Las Vegas to be spread on the property which will enhance the ability to grow vegetation as well as general soil

Mr. Todd J. Process,

Environmental Geoscientist and Reclamation Supervisor NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation Nevada Division of Environmental Protection May 31, 2017 Page 2

enhancement. The Amagosa Nevada site has 687 acre-feet of water available for use according to prior agreements and chain of title. Mr. Ford's company, ABC Recycling Industries, intends on completing the reclamation in order to be able to use the site for agriculture after the soil enhancement efforts are completed and it has been receded. The ponds which exist on the site were tested by American Borate and Galtar prior to my client and his company's ownership of the property and they were deemed to be satisfactory. Please indicate whether or not there are any problems with any testing or the status of any of the ponds on the site. In order to move forward, my client needs to be assured that the ponds do not need to be removed or retested. Further, it has been determined by my client and his company that the amount necessary to complete the reclamation and allow the land to be returned to usable property will exceed the amount withheld by NDEP.

At this point the chemicals in the ponds have not allowed any growth nor has it dried per the American Borate approved plan. It appears that the underestimated bond posted prior to 2011 had already been reduced to \$605,000 prior to my client acquiring the parcels. Additionally, the water rights' value will be lost to the site if it is not reclaimed so that it may grow some type of plant life. This may require my client or his company needing potential state grant assistance in order to complete this task. The reclamation consists of restoring process to the ecological integrity of those disturbed mine land areas, such as the 372 acres located at 1995 Diaz Rd., Amagosa, NV permit number 0171. This process involves management of all types of physical, chemical and biological disturbances of soils, such as pH fertility, microbial community and various soil nutrient cycles that makes the degraded land soil productive. Productivity of the soil can be increased by adding various natural amendments, such as sawdust, wood residues, sewage sludge, and animal manures, as those amendments stimulate the microbial activity which makes the nutrients and organic carbon available for growth on the subject site.

The soil properties are important for plant growth, and my client and his consultants believe the soil will be enhanced and benefit not only the specific site but the surrounding area by adding to the physical properties, rock content soil texture, soil aggregation, moisture bulk density, slope, topography stability, topsoil and biological properties, soil micro bacteria and gypsum, which all can be incorporated into the soil at the site to replace the sodium with calcium on the surface thereby allowing proper growth. This is part of the existing permit reclamation, and this is what my client intends to complete. However, recent communication with my client seems to cast doubt on being able to complete the reclamation as previously planned. Further, since my client

Mr. Todd J. Process.

Environmental Geoscientist and Reclamation Supervisor NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation Nevada Division of Environmental Protection May 31, 2017 Page 3

has received no official change in status on the permitted use the confusion on our side is what has changed since 2014, when the last site inspection occurred with Paul Comba. Our understanding is that the revegetation is an important component of the existing permit, and my client's company needs an inspector to come to the site for the required inspections on the 372 acres. I therefore request that my office be given a complete permit with a full attachment so as to allow us to clearly delineate the parameters of the site's use and required reclamation.

Thank you for your attention to this matter. Should you have any additional questions or need for further documentation, please feel free to contact me.

Very truly yours,

STEVEN G. GIBBS

SGG/kmh

cc: Mr. Robert Ford



## Law Offices of Steven G. Gibbs

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2204 Truxtun Avenue Bakersfield, California 93301 Facsimile: 661-633-1640 E-mail: lawgibbs@pacbell.net

September 21, 2012

#### VIA EMAIL & U.S. MAIL

Mr. Bruce Holmgren, Bureau Chief NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation 901 South Stewart Street, Suite 401 Carson City, Nevada 89701

RE: additional clarifications and bond reduction request

Dear Mr. Holmgren:

I have been reviewing the emails between the meeting of Mining reclamation and waste management, which occurred in the latter part of August, 2012, and I wanted to cover a few issues concerning the 223 acres of boron ponds that have already been filled with dirt at the site. The site still has a few remaining sinkholes and the settlement around them appears throughout the site, after reviewing the HS a golden letter concerning lightweight issues of materials. Further, the heavy fill material causes the wet taling to move more than it would in light tailing, whereas the light tailing would not cause any movement in the near future. My client proposes not to use the tire mulch as per previous in NDEP instructions, but instead would use a lightweight mix of wood waste, green waste, cardboard, plastic, and inner compounds, with a mix of the borrow materials from the 80 acres already on site. The borrow area material will be mixed with the mulch so as to utilize some of the on-site clay material to hold down airborne particulate matter, with the lightweight soil amendments so as to finally cover the entire site. This product will cut down on the blowing boron materials on-site as well as offsite.

The 223 acres have a 2 foot clay liner already installed. The clay liner prevents the heavy materials from getting into the water table. The NDP directive on April 2, 2012 was satisfied on all the pond test and liner information related to the heavy materials/metals and water table issues. This existing material on the ponds has been approved to be capped and in place by NDP without any further investigations as per 04-02-2012 NDEP letter (see attached). The current tests at the site show that some

Mr. Bruce Holmgren, Bureau Chief NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation September 21, 2012 Page 2

high metal limits in the Anderson-Egan report (according to Silver State Lab) show that it will take the use of soil amendments, which will consist of a mixture of gypsum board, wood, tree branches, plastic, cardboard, landscape, cuttings, and green waste mixed with the on-site borrow material from private land to enhance the growth of plant life. The soil amendments will be tested prior to any implementation by Silver State analytical laboratories located in Las Vegas (3638 Sunset Rd., Suite 100, Las Vegas, NV 89120.) Todd Suessmith has already told my client that no analytical lab test were required for the soils pursuant to the attached email sent on April 2, 2012.

Concerning the actual mill hill site, it will be left in place for future industrial use. The mill hill will be improved with borrow materials to make it more accessible. Further, the pond area is the only part of the property that would be mixed with lightweight material and With the soil amendments as related above. This method will allow my client, Robert Ford to eliminate dust, as well as cover the sinkholes. The bond reduction is attached for areas and parts of storage yards that are not needed on the bond. The bond reduction is attached for \$157,216 along with the map of borrow source areas to be utilized to mix with the lightweight soil amendments.

My client will still submit the modification into waste management and be able to transfer the existing permit to a class III landfill permit as discussed. The amount of the small class III landfill bond will not exceed the fill area depth of 1 foot of materials that will be required to cover the boron materials, thereby allowing growth. The Silver State Lab research from the chemical tests taken in 2007 relayed that the heavy metals were so high that it would not allow growth of any plants are natural desert weeds without substantial amendment. The current clay liners that are in place and the existing dam should be already engineered for the 1 foot of light materials to be installed.

My client and I would like to greatly thank all of you at NDP who been involved with all of your help on the project to date. My client still needs a few clarifications to avoid any issues from spending the wrong amounts of funds by producing the improper mulches and soils for the reclamation, which would not be acceptable from NDP. To that end, my client wants to know whether or not he needs to get a permit to install the soil amendments and process on-site after the Silver State test to ensure that there is no contamination in materials under the active permit 0171 (which states that no tires can be included). The materials will be hauled on-site and tested monthly before installation in the sinkholes and the uncovered ponds on site only. The balance of the 223 acres will not be receded at this time until class III landfill modification is completed and new bond posted. After obtaining this class III landfill permit, there is no further requirement concerning the Mining Department and the balance of the seeding will be dismissed and complete bond refunded upon completion of the new class III permit.

Mr. Bruce Holmgren, Bureau Chief NEVADA DIVISION OF ENVIRONMENTAL PROTECTION Bureau of Mining Regulation and Reclamation September 21, 2012 Page 3

This is our understanding. Hopefully with the last clarifications. My client will be able to finalize the existing work and remove the daily water costs from the site.

Should you have any additional questions or need for further documentation, please feel free to contact me.

Very truly yours,

STEVEN G. GIBBS

SGG/kmh

cc: Mr. Robert Ford.