

EXHIBIT 1

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1 **BEFORE THE STATE OF NEVADA**
2 **STATE ENVIRONMENTAL COMMISSION**

3 In the Matter of:

4 **ABC RECYCLING LLC'S APPEAL OF**
5 **NDEP'S FEBRUARY 6, 2020 DECISION**
6 **TO REVOKE THE LATHROP MILL**
7 **RECLAMATION PERMIT #0171; AND**
8 **FORFEIT OF THE RECLAMATION**
9 **SURETY CASH DEPOSIT**

DECLARATION OF
JOSEPH SAWYER

10 I, JOSEPH SAWYER, declare as follows:

11 1. I am the Chief of the Bureau of Mining Regulation and Reclamation (BMRR)
12 of the Nevada Division of Environmental Protection (NDEP). BMRR serves the vital
13 function of regulating the environmental impacts of the mining industry. As the Chief of
14 BMRR, I have personal knowledge of the matters asserted herein and am competent to
15 testify thereto.

16 2. On June 15, 2012, NDEP transferred Reclamation Permit #0171 to Cadence
17 Industries LLC. The Permit was subsequently transferred to ABC Recycling LLC ("ABC")
18 on June 9, 2015.

19 3. NRS 519A.260 requires each operator to, on or before April 15 of each year,
20 pay NDEP a fee of: (1) one dollar and fifty cents for each acre of public land administered
21 by a federal agency; and (2) five dollars and fifty cents for each acre of privately owned
22 land—which has been disturbed by mining operations or exploration projects engaged in
23 by the operator and not reclaimed. Additionally, NAC 519A.235 establishes a regulatory
24 fee due on April 15 of each year that requires each mining operation for which a permit
25 has been issued to submit a fee based on the total amount of affected land. These annual
26 permit fees are required by NRS 519A.260 and NAC 519A.235, and critical to BMRR, as
27 100% of the Bureau's costs and expenses are paid for by industry fees such as this.

28 4. Under the calculation provided in NRS 519A.260 and NAC 519A.235, ABC
was required to pay NDEP an annual permit fee of \$4,166 on April 15, 2019. This amount
includes a statutory fee of \$5.50 per acre of affected private land (212), which makes a

1 statutory fee of \$1,166. Additionally, the regulatory fee based upon the mine acreage
2 (212) is \$3,000. See NAC 519A.235(3)(c). Together, these amounts establish ABC's annual
3 permit fee amount of \$4,166.

4 5. ABC failed to pay its mandatory annual permit fee of \$4,166 by April 15,
5 2019. For that reason, NDEP issued a Notice of Noncompliance and Order on August 13,
6 2019. The Notice stated that it was "a result of ABC Recycling Industries, LLC failure to
7 submit the required annual reclamation report and to pay the applicable statutory and
8 regulatory fees (\$4,166.00) that were due on or before April 15, 2019, per NRS 519A.260
9 and Nevada Administrative Code 519A.235." The Notice advised that if the "fees are not
10 submitted by September 13th, 2019 . . . the Division will initiate action to revoke the
11 Lathrop Mill reclamation permit and may subject the posted cash surety amount of
12 \$205,791.00 into forfeiture." The document attached as Exhibit 2 to NDEP's Motion for
13 Summary Judgment is a true and accurate copy of the August 13, 2019, letter and
14 tracking information for the delivery of that letter.

15 6. The September 13, 2019, deadline set by NDEP in its Notice of
16 Noncompliance passed without payment by ABC. On September 16, 2019, NDEP sent
17 another Notice of Noncompliance to give ABC an additional opportunity to pay its
18 overdue annual permit fee. This Notice set a deadline of October 11, 2019, and once again
19 warned that the Division would initiate action to revoke the Permit if ABC did not pay
20 the fee by the deadline. The document attached as Exhibit 3 to NDEP's Motion for
21 Summary Judgment is a true and accurate copy of the September 16, 2019, Notice and
22 tracking information for the delivery of that letter. ABC acknowledged that it received
23 the Notice, but it still failed to make its annual permit fee payment.

24 7. On November 21, 2019, NDEP sent ABC a letter setting a hearing date for
25 January 10, 2020, regarding possible suspension or revocation of ABC's reclamation
26 permit and forfeiture of ABC's cash deposit due to its failure to provide its annual permit
27 fee. The document attached as Exhibit 4 to NDEP's Motion for Summary Judgment is a
28 true and accurate copy of the November 21, 2019, letter and tracking information for the

1 delivery of that letter.

2 8. At the hearing, ABC's representative, Robert Ford, informed NDEP that
3 ABC was reluctant to put any additional money into the property, which included paying
4 the annual permit fee. At the end of the hearing, NDEP provided ABC with a final
5 deadline of January 24, 2020, to submit its annual permit fee. Additionally, NDEP
6 explained that ABC's failure to pay the annual fee would result in permit revocation and
7 forfeiture of the cash deposit surety held by NDEP for site reclamation.

8 9. Despite NDEP's many attempts gain compliance, ABC still failed to pay its
9 annual permit fee by January 24, 2020. For that reason, NDEP sent a letter on February
10 6, 2020, informing ABC of NDEP's decision to revoke the Lathrop Mill Reclamation
11 Permit #0171 and forfeit of the reclamation surety cash deposit. This letter stated the
12 factual and legal basis for NDEP's revocation of the Permit and forfeiture of the deposit.
13 The document attached as Exhibit 5 to NDEP's Motion for Summary Judgment is a true
14 and accurate copy of the February 6, 2020, letter and tracking information for the
15 delivery of that letter.

16 10. As of the date of this Declaration, ABC still has not paid its annual permit
17 fee for 2019 or 2020.

18 I declare under penalty of perjury that the foregoing is true and correct to the best
19 of my knowledge, information and belief.

20 Executed this 10 day of March, 2020.

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23 _____
24 JOSEPH SAWYER
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