



1 James Gans and Commissioners Tom Porta and Kathryn Landreth. The three-member  
2 panel constituted a quorum of that body. The SEC Panel was represented by Senior  
3 Deputy Attorney General Henna Rasul.

4 Appellant, GBRW, was present and represented by Julie Cavanaugh-Bill of  
5 Cavanaugh-Bill Law Offices, and Appellee, NDEP, was present and represented by  
6 counsel, Deputy Attorneys General Daniel Nubel and Katie S. Armstrong of the State of  
7 Nevada, Office of the Attorney General. Prior to commencing the hearing, the parties  
8 stipulated to the admission of NDEP and GBRW's exhibits.

9 The hearing proceeded in due course. GBRW and NDEP provided opening  
10 statements. As the appellant, GBRW presented its case-in-chief first and offered  
11 testimony of witnesses John Hadder, GBRW Executive Director, Glenn Miller, Ph.D,  
12 GBRW Board Treasurer, and Houston Kempton, GBRW staff geochemist, who were  
13 subject to cross-examination by NDEP and additional questioning by the SEC Panel.

14 After GBRW rested its case-in-chief, NDEP presented its case-in-chief offering the  
15 testimony of Matthew Schulenberg, a Staff II Engineer with NDEP's Bureau of Mining  
16 Regulation and Reclamation's ("BMRR") regulation branch; Christine Olson, Ph.D, an  
17 Environmental Scientist IV with NDEP's BMRR who specializes in analyzing pit lake  
18 studies; Brent Johnson, a former environmental consultant for permittee Eureka Moly,  
19 LLC; and Todd Process, NDEP's BMRR reclamation branch supervisor, who were subject  
20 to cross-examination by GBRW and additional questioning by the SEC Panel.

21 Upon the conclusion of NDEP's case-in-chief, the SEC permitted each party to  
22 present rebuttal testimony. GBRW offered rebuttal testimony from Dr. Miller and  
23 Mr. Kempton, and NDEP offered rebuttal testimony from Mr. Johnson. After both parties  
24 presented rebuttal testimony, the SEC heard closing arguments from GBRW and NDEP.

25 The Panel then deliberated on the legal and factual issues raised during the  
26 hearing. During the deliberation, Commissioner Porta made a motion that NDEP's  
27 decision to issue Water Pollution Control Permit NEV2008106 to Eureka Moly, LLC for  
28 the Mount Hope Project was not: (1) affected by other error of law; (2) clearly erroneous in

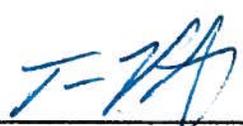
1 view of the reliable, probative and substantial evidence on the whole record; and  
2 (3) arbitrary or capricious or characterized by an abuse of discretion. Chairman Gans  
3 seconded the motion and it passed by unanimous vote of the Panel.

4 Following the SEC's vote to affirm NDEP's decision to issue the Permit, the SEC  
5 directed NDEP to meet with GBRW to discuss certain issues raised by GBRW during the  
6 appeal hearing. Specifically, the SEC directed NDEP to engage in good faith discussions  
7 with GBRW regarding: (1) testimony from Mr. Kempton that the pit lake water quality  
8 model algorithm contains an error that produces a systematic underestimate in the  
9 calculated load of solutes released from sulfide bearing wall rock and to the lake;  
10 (2) testimony from Mr. Kempton that the hydraulic conductivity of the base layer for the  
11 Potentially Acid Generating Waste Rock Disposal Facility should be  $3.8 \times 10^{-8}$ ; and (3) the  
12 pros and cons of potential legislative initiatives regarding pit lakes, including setting  
13 beneficial use standards for future pit lakes.

#### 14 CONCLUSION

15 The SEC hereby affirms the NDEP's decision to issue Water Pollution Control  
16 Permit NEV2008106 to Eureka Moly, LLC for the Mount Hope Project. Additionally, the  
17 SEC directs the NDEP and GBRW to discuss the matters identified above and report back  
18 to the SEC regarding the substance of those discussions in approximately six months  
19 from the date of this Order, at a date and time to be later determined by the SEC.

20 DATED this 4<sup>th</sup> day of October, 2019.

21  
22   
23 \_\_\_\_\_  
24 Member  
25 State Environmental Commission  
26  
27  
28

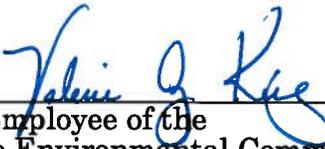
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I, Valerie King, certify that I am an employee of the State of Nevada, State Environmental Commission, and do hereby certify on this 4<sup>th</sup> day of October, 2019, I electronically mailed and deposited in the U.S. mail in Carson City, Nevada, a true and correct copy of the foregoing ORDER AFFIRMING NEVADA DIVISION OF ENVIRONMENTAL PROTECTION'S DECISION TO RENEW WATER POLLUTION CONTROL PERMIT NEV2008106, postage prepaid, to the following:

Daniel Nubel  
Deputy Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717  
T: (775) 684-1225  
E: [dnubel@ag.nv.gov](mailto:dnubel@ag.nv.gov)  
*Attorney for NDEP*

Julie Cavanaugh-Bill, Esq.  
CAVANAUGH-BILL LAW OFFICES, LLC  
401 Railroad Street, Third Floor  
Elko, Nevada 89801  
T: (775)753-4357  
E: [julie@cblawoffices.org](mailto:julie@cblawoffices.org)  
*Attorney for GBRW*

  
\_\_\_\_\_  
An Employee of the  
State Environmental Commission