



**519A Public Notice Workshop**

**January 4, 2022  
1:00 pm - 4:00 pm**

**LOCATION: NDEP-Tahoe Conference Room, 2nd Floor  
901 South Stewart Street, Suite 2001  
Carson City, NV 89701**

**PARTICIPANTS:**

Aimee Keys  
Stacey Weatherbee  
Frederick Perdomo  
Judith Harker  
Todd Process  
Allen Biaggi  
Patricia Swain  
Joel Donaldson  
Matt Swain  
Amanda Stinson  
Joe Sawyer  
Jim Butler

**SUMMARY OF MEETING MINUTES**

**Proposed Regulation P2022-01 and P2022-02  
Bureau of Mining Regulation and Reclamation**

**1) Call to order and introductions**

Aimee Keys called the meeting to order and introduced Deputy Administrator Rick Perdomo, BMMR Reclamation Branch Supervisor Todd Process and Administrative Assistant Stacey Weatherbee. She stated that the meeting had been properly posted. She stated the purpose of the workshop was to receive comments from all interested parties regarding the proposed changes to the regulations. Comments will be summarized and provided to the State Environmental Commission, who has a regulatory meeting tentatively scheduled for February 9, 2022.

## **2) Public Comment**

Members of the public will be invited to speak; however, no action will be taken by the BMRR at this Public Workshop. Public comment(s) may be limited to 3 minutes per person at the discretion of the Workshop moderator.

There was no public comment.

## **3) Presentation and discussion of proposed regulation P2022-01**

BMRR will provide background on the purpose and need for the new proposed revision to Nevada Administrative Code NAC 519A based upon the law AB 148.

Frederick Perdomo gave a brief overview of AB148 and NAC 519A. P2022-01 further defines key elements of the statute. He summarized the key definitions to the regulation, the definition of good standing, civil liability, types of relief applicable, the definition of remedy, the affidavit requirement and its scope and the applicability of the affidavit requirement to permitting decisions. He then summarized the affidavit requirement and its elements, which include reasonable review, identifying projects and court relief [ph].

## **4) Question and answer period for P2022-01**

Judith Harker, a resident from Lyon County, stated she was worried about in good standing with relation to huge multinational corporations that have mines in Peru, Guatemala, Canada, Mexico, etcetera. She asked if there was a way to expand this to include other nations as well as other states.

Frederick Perdomo stated they were complying by what the statute says, which is only concerned with complying with reclamation obligations in the United States, including Nevada.

Judith Harker stated she was worried that this was a way for a giant corporation to get in under the writings that are already there. She then asked if a subsidiary of a corporation applies, if there was a way to know if the subsidiary has a headquarters in another nation or are we limiting ourselves to that particular subsidiary.

Todd Process stated that the company gives them a corporate structure so that they know how they are set up.

Frederick Perdomo stated he had that in mind when he drafted these regulations. The regulations do apply to not only the LLC but also the person with controlling interest.

Allen Biaggi, Nevada Mining Association, stated they support the division in the regulations. He stated they had deployed additional sidebars on what constitute reclamation, including inclusion of a reference to the existing definition of reclamation, the transfer and sale issue, the issue of the affidavit and if there are any changes to the language when it comes back from LCB, that additional workshops be held.

Patricia Swain, resident of Lyon County, asked how a resident attempt to include an international corporation, would it involve contacting the assemblyperson.

Aimee Keys stated it would have to be a legislative action to change that.

Patricia Swain asked if the term remedy, to get in good standing, meant fixing something you've done wrong or you would pay a fine.

Frederick Perdomo stated good standing has several different parts, one of which is civil penalties. To remedy that, you have to get into compliance on the judgement to the satisfaction of that agency. Violations that result in some sort of deterrent financial penalty or fees related to reclamation permit fees that they haven't paid, so payment or action required by settlements.

**5) Presentation and discussion of proposed regulation P2022-02**

BMRR will provide background on the purpose and the need for the revising the existing Nevada Administrative Code NAC 519A.

Todd Process provided a summary of the reclamation program, which has issued 267 permits. The branch has only five permit writers to review and take care of those 267 permits. Those permits equate to about \$3.4 billion in financial assurance for the state of Nevada. Part of the revised NACs will include increasing fees for applications and annual service fees for the permit. He summarized the amendments to Section 1 - to remove average and replace it with maximum plugged holes; Section 2 - removed the words contains a disturbance on as to replace with proposed to affect land; Section 3 - the same except supply for drill hole plugging and mining operations to be the maximum holes versus the number; Section 4 amends 165 to revise permit application review timeframes from 15 days to 30; Section 5, increase the application fees for reclamation permits; Section 6, increase service fees for reclamation permits; Section 7 amends 270 to improve clarity and specify related plans for reclamation and mining operations; Section 8 - revise the timeframes for permit modifications; 519A - replacing the words removing and burying structures and equipment, reagents or scrap with lawfully disposing of recyclables, reusable materials as solid waste, solid hazardous waste; Section 10, 340 - provide clarity and define performance for reclamation of exploration projects; Sections 11 - improving clarity and specific activities related to reclamation mining operations and looking for consistency, trying to achieve a standardized field sobriety tests 3:1 slope; Section 12 amends 360 regarding a surety required and other amended sections; Section 1435 - clarify conditions for release of the bonds; Section 15, 410 - change the wording so that it affects the small mining operations in the same way for storage and disposal facilities and dumps.

**6) Question and answer period for P2022-02**

Allen Biaggi asked, in regard to Section 43, does this mean that if we don't complete our application to get a permit within a year, the process starts over. He thought the language was a little unclear. In regard to section 11 7A, it could use a similar inclusion of the discretionary language as in other parts of the proposed regulation. In Section 11A on the foundation cover requirements, he thought this was an odd requirement and

thought there could be discretionary language for the agency to provide a waiver or alternative cover requirement. On Section 13, he would like to hear from operators as to whether that is going to put them at some potential risk. In regard to Section 12, he thought that disposal and recycling was odd language, and suggested disposing of recyclables, reusables, etcetera. He stated he was confused about Section 14 2A and said it would be helpful to have a crosswalk showing what the current requirements are, what the new requirements are and what the implications are of surety release. He stated they indicated the fee for certain things are not going to be effective until 4/15/23 and thought it would be helpful if there could be some formal clarification of when the fee would be effective.

Joel Donaldson asked if the requirement for a minimum two-foot cover was specifying a minimum requirement for topsoil or growth medium. He asked if they would consider adding geotechnical stability site conditions to the regulation. He thought it would be useful to define natural topography better.

Aimee Keys stated they would certainly consider those as potential changes to the regulation.

Judith Harker asked how they would evaluate natural topography on a new permit for a site that had been previously mined many years ago.

Aimee Keys stated the term natural topography versus form was to try to make it a little clearer but they would certainly take another look to see if there may be a better way to write that.

Judith Harker asked, regarding Section 8, procedures for operator of modified plan, if that was going to be included in the public comment process also.

Todd Process stated a major modification does allow for public comment when it is first being sent out as a new permit.

Aimee Keys stated, just to clarify, we aren't proposing any changes to what triggers a public comment period or the length of the public comment period.

Matt Swain, Lyon County resident, asked if there was any further definition of the term revegetation because a lot of Nevada land is in the desert and asked if there was any kind of additional assistance in this regard.

Todd Process stated when a permit is applied for, a lot of times BLM is involved. They have NEPA acquired requirements, which a part of those is they have to evaluate the current vegetation status. They bond for vegetation also, 60% for bond release, 40% to cover for erosion and vegetation success. From the times it's seeded, the minimum requirement is three years. The operators have to match the surrounding undisturbed land and match that plant life as best as they possibly can. The operators are required to meet the productive post mining land use and vegetation as part of that.

Amanda Stinson asked if Todd could clarify whether it is the intent of the proposed changes to apply to future permitted facilities or whether currently permitted and/or modified facilities have to comply with the new slope and cover requirements.

Todd Process stated that they did not want to leave something unstable, and you can create maybe another 20 acres of disturbance by going to a 3:1 slope, which is better for long-term stability. He stated there are going to be situations that are not going to need a 2.5:1 slope. That is why they put the caveat in for those existing projects. He stated that is where they want additional information on why they can't do that.

Joel Donaldson asked if land ownership or land status would be considered part of the site-specific limitations. If you're not a private owner next to an existing facility that was permitted with the intent to achieve a 3:1 slope, would that be a consideration in what is a site-specific limitation?

Todd Process stated he thought the site-specific criteria is what we want to achieve. But depending on the rock type, he did not know how to answer that question.

Aimee Keys stated they can't force a private landowner to allow you to take certain actions on their private land, so they would certainly have to consider it as a site-specific limitation.

## **7) Public Comment**

Members of the public will be invited to speak; however, no action will be taken by the BMRR at this Public Workshop. Public comment(s) may be limited to 3 minutes per person at the discretion of the Workshop moderator.

Aimee Keys stated public comments could be emailed to Todd through January 21st. She stated both regulatory petitions were planned to be considered by the SEC at a hearing in early to mid-February. If the SEC votes to adopt the amendments, they would expect that to be early 2022, before the April 1st deadline in the legislation for AB148 to enact regulations that allow us to implement that law. The amendments themselves will likely not be codified for some time. They will create a document that includes all the current effective FY 19A regulations for reference and make that available on their website. She stated they are planning to drop that affidavit form prior to the SEC hearing as well.

Allen Biaggi stated the affidavit form is critical to many of their interests on the bad actor provisions and the sooner they could see it, the better.

Joe Sawyer with the Lincoln Resource Group stated he had a serious concern about the references to the 500-year 24-hour solar event. In NAC 445A in the minimum design standards portion of the ranks, a lot of that's not codified because those were changed in 2018. He stated it was very prescriptive and he thought in conflict with what's in formal part today [ph].

Jim Butler, Parsons, Behle & Latimer, commented on the bad actor regs Section 7, in reference to the affidavit and subsection one, the operator identify each mining facility

where there's been a settlement or consent decree, or judgment, without regard to whether the operator is in default of those judgments. But this requires every applicant in every application to go back and identify situations where they were in compliance with those orders. He stated he thought that's inconsistent with the statute.

There were no other public comments.

## **8) Adjournment**

Aimee Keys thanked everyone for their time and for attending their workshops. She thanked them for the questions and input and adjourned the meeting.