



NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Summary of Workshops for Proposed Regulation Amendment
R018-20
Bureau of Mining Regulation and Reclamation
March 4, 2020; March 11, 2020 & March 12, 2020

The Bureau of Mining Regulation and Reclamation (BMRR) of the Division of Environmental Protection (Division) offered 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. The workshops were offered at the following locations.

<p>Tonopah March 4, 2020 10:00 a.m. - 12:00 p.m. Nye County Commissioners Bldg. Commissioners Chamber Room 101 Radar Street Tonopah, NV 89049</p>	<p>Elko March 11, 2020 4:00 p.m. - 6:00 p.m. Elko City Hall Council Chamber Room 1751 College Ave. Elko, NV 89801</p>	<p>Winnemucca March 12, 2020 10:00 a.m. - 12:00 p.m. Humboldt County Court House Room 201 50 West 5th Street Winnemucca, NV 89445</p>
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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
Aimee Keys, E.S., Supervisor, Closure Branch, BMRR

Workshop Administrative Assistants:

Stacey Weatherbee, AAll, BMRR -Tonopah
Jane Boomhower, AAlll, BMRR -Elko & Winnemucca

Public Attendees for the Tonopah Workshop (0 total):

Workshop cancelled due to no attendance

Public Attendees for the Elko Workshop (12 total):

Vince Johnson (Nevada Gold Mines); Tom Claridge (Golder Assoc.); Ashley Powell (US Mine Corp.); Kevin Lutes (NewFields); Mike Chanan (Newmont); Mirinda Jones (Jerritt Canyon); Marc Fonger (?); Ginger Peppard (SRK); Frederick Partey (KGHM Robinson Mine); John Cooper (SRK); Meg Burt (SSR Mining); Cari Anderson (SRK)

Public Attendees for the Winnemucca Workshop (3 total):

Lindsay Sewell (Elko Mining Group); Shane Johnson (Florida Canyon); Jenna Schonlau (Lithium Americas)

INTRODUCTION

Mr. Joe Sawyer called the workshops to order (10:00 a.m.-Tonopah, cancelled due to no attendees; 4:00 p.m.-Elko and 10:00 a.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 R018-20 which would amend certain sections of Chapter 445A of the NAC. An overview of the topics to be addressed and the framework for the workshops were provided by reviewing the 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 not included on the agenda.

Mr. Sawyer described the regulatory adoption timeline. Workshop attendees were notified there had been one round of written informal solicitation with the Nevada Mining Association that began on January 17, 2020 and ended on March 3, 2020. Mr. Sawyer also noted that the notice of public workshops was posted in six Nevada newspapers and the draft regulatory revisions and public workshop notices were provided twice, via email, to over 550 email contacts, and that meeting notices were posted in ten public posting sites. Mr. Sawyer then stated that the version of the regulatory revisions presented at the workshops was, at the present time, the most recent draft under review by the Nevada Legislative Council Bureau, with the final draft expected in April of 2020, and that minor revisions may take place in the interim.

Mr. Sawyer announced that no action would be taken by BMRR on the proposed regulatory amendment during the public workshops and that the workshops were being conducted in preparation for action planned to be taken by the State Environmental Commission (SEC) at a meeting tentatively scheduled for July 1, 2020, during which the SEC will consider adoption of the amendments. Mr. Sawyer stated that public comments would be taken until March 27, 2020, and that comments made during the public workshops would be summarized and provided to the SEC.

PRESENTATION AND DISCUSSION OF R018-20

Ms. Aimee Keys, Closure Branch Supervisor and Mr. Rob Kuczynski, Regulation Branch Supervisor, provided a detailed summary of all of the proposed regulation revisions. Along with the testimony a detailed power point was presented at the workshops. The Petition R018-20 proposes revisions to NAC 445A to make the regulations easier to understand and in line with program operating practice from permitting through closure, as well as facilitate coordination with federal agencies. Specific changes include: Addition of definition, description of requirements for submittal, and allowance for collection of a \$1500 fee for optional BMRR pre-application review of scientific studies and technical documents; addition of pre-application review to the items that must be considered when a prospective applicant meets with BMRR prior to permit application; modification of the permit fee schedule related to facilities in closure statue; clarification that a permit must be maintained during the post-closure monitoring period; clarification of the acceptable material evaluations and methods used to characterize overburden, waste rock, and ore; revision of permit application requirements to include to 24-hour, 500-year storm event; clarification of when updates to tentative and final closure plans are necessary; clarification of requirements for construction as-built reports; removal of the definition of a small-scale facility and references thereto; and removal of references to pilot scale facilities.

There were no significant concerns raised at the workshops by the public. At the workshops, the public were provided with copies of the presentation, draft regulations, and a small business impact questionnaire. The questions, answers and public comments were recorded at the two meetings in Elko and Winnemucca. Note that there were no written comments provided by the public before, during or following the workshops. In addition, there were no responses to the small business impact questionnaires that were provided at the workshops and via direct mailing to industry.

Public Questions and Comments; Elko, March 11, 2020:

Ginger Peppard, SRK Consulting: This is probably more of a clarification, is this preapplication review fee per study, so for a pit lake study, waste rock plan...

Joe Sawyer: So, the intent was if you have a pit lake study with follow up, just one fee. To clarify, this fee applies to larger facilities. mentioned in the handout we looked back over a four-year period, the number of pre application materials that we received for pit lake studies groundwater screening level Risk assessments, waste rock, those kinds of things, if we had the fee going it would have added about \$58,000-\$72,000 per year range. It's obviously some money, but we don't feel it's a burden to the industry, but the goal was onetime fee. And the other big part of this is through our recent understanding memorandum by the BLM. We have a lot more interaction during the NEPA process which is sometimes way before we ever receive an actual application. And our goal is when we actually do receive an application, we're going down the same path as our federal partners and not headed in a different direction. We've had a few projects over the last 5-10 years where we ended up wanting to go a different direction after somebody has already spent a lot of time going through the NEPA process. It's really trying to help formalize that whole process and our interaction. There is additional work we are doing by having these additional meetings and stuff up front and that's part of the reason for the fee as well.

Frederick Partey, KGHM Robinson: So based on her question, Is it still \$1500 for waste rock, \$1500 for pit lake? Is this what it is?

Joe Sawyer: That is correct

Frederick Partey, KGHM Robinson: So is this application for a Water Pollution Control Permit for a new facility or an existing facility?

Joe Sawyer: So I think we are looking at three possible times where this would occur. It would be for a brand new permit, it could be during a major modification for an existing facility or a renewal. Any one of those three periods where you may have those types of things occurring. Sometimes every five years we do ground water update or pit lake update, if one isn't required during that time period then it wouldn't occur but if it is required you may want to submit that in advance, especially if there is a NEPA we want this additional work in concert with the BLM prior to that.

Frederick Partey, KGHM Robinson: Ok, so let me (garbled) facility. We've gone through NEPA action and have all that done, in the middle of that we decide to expand. There is no NEPA action (garbled) connected to private land, however we need to submit pit lake study, waste rock management plan to ensure this expansion isn't affecting the waters of the State, but it is not connected to a NEPA action. We are in the middle of our Water Pollution Control Permit which we do not need to renew it. So, does this fee apply to my facility or not? Need a NEPA, need a renewal water pollution control permit and I've done a bunch of those when I have a new pit lake study, new waste rock management plan do I have to pay? I don't need a pre-application just need to submit to NDEP for approval so we can continue mining.

Joe Sawyer: I'm not sure we've thought it out for that particular site, in that specific case, I think the intent is if we have the work to do we'd want to charge for it but if you have a pending application and it's just us you can combine that as part of the application and you'd just have the application fee (garbled). Are there times when Robinson, for example, would just do a pit lake study but there wouldn't be an application?

Frederick Partey, KGHM Robinson: Correct, let me give you an example. We completed mining Ruth West 2, Ruth West 3 we wanted to expand to Ruth West 4. All that land is private land and we didn't need to do any major modification to our water pollution control permit for the last two years, it's been renewed (?) so there is no NEPA connected because that Ruth Pit is private land, we own it. We just need to submit a pit lake study so that we can get approval for expansion.

Joe Sawyer: Have we done that as part of an EDC or minor modification?

Frederick Partey, KGHM Robinson: Neither, we just submit a pit lake study and waste rock management plan (?) approve it (?) it's just waste rock management plan and pit lake study

Joe Sawyer: I think that's something we are going to have to put some thought into. I think that's a special case. We'll answer that as part of our written comments to this workshop.

Frederick Partey, KGHM Robinson: Thank you very much.

Public Questions and Comments; Winnemucca, March 12, 2020:

Shane Johnson, Florida Canyon: Thank you for both these informational sessions and communicating with the Nevada Mining Association. This has been incredibly helpful for those of us (garbled) these regulations. How do you foresee the pre-application process having a different or lesser standard or basically do you feel what you would normally submit in an application in advance to do a preliminary review of that, do you see a market there for (garbled) in what those two documents would look like? Pre-application vs application to start the process?

Rob Kuczynski: The whole pre-application process is just to give us [BMRR] some heads-up time [advance notice] for us [to schedule time] to start reviewing these background studies, especially the pit lake studies [which occupy a considerable amount of staff time for review]. There would be no difference in the quality of material required. We would still require the same information. This is just to allow the operator to submit earlier and allow us at least several months to review background studies, especially pit lake studies. We have just one staff member devoted full time reviewing pit lake studies, everybody wants a pit lake study now due to surface mines penetrating the water table. Hopefully we will now be able to coincide our document reviews with the BLM especially with their new policy of expediting the review of NEPA document submittals. A lot of times in the past, we [BMRR] received information that the BLM had approved earlier but because of us [BMRR] receiving the information much later, we did not start our review and vice versa.

Shane Johnson, Florida Canyon: Thank you we really appreciate anything to help expedite the permitting process.

Joe Sawyer: When we talk about pre-application, it's just those specific items like you could send a pit lake study, ground water study, rock characterization, waste rock management plan, just those specific studies. You're not actually giving us a partial application. That's what we're receiving now, staff reviews humidity cell testing it morphs into the waste rock management plan that would be one fee for that activity, ground water study, one fee for that activity, your pit lake study, one fee for that activity. Obviously, we end up doing multiple iterations, it kind of formalizes the whole process.

Already in our program it goes into the database, in the last year I've had some mining companies, large mining companies that say well we're not going to submit this to you even though we submitted to the BLM because we don't have a permit application yet. We want to be on the same page right from the beginning. We have had disconnects on projects where the BLM goes one way and we get the ball and start running the other way and it creates problems with the NEPA process, it's hard to change things when you want that record of decision. We have this memorandum of understanding that we just completed a revision with the BLM a few months ago, as a part of that we're trying harder to coordinate our activities, these pre-application activities with the BLM somewhat successful on the number of major projects. You might have even seen it with Florida Canyon, we're trying to have more joint meetings related to those major topics.

Shane Johnson, Florida Canyon: It sounds like the premeeting to formalize, preapplication meetings, a lot of us, we get our application prepared and we set up a meeting to come in and we have to have application in hand. It sounded like from some parts of that, that that might be a little late, that we might want to have a meeting to discuss the content of the application actually before the application. Is that an accurate observation? (garbled)

Rob Kuczynski: It would be more to discuss what you are planning; we would not expect to see a formal application at that time.

Joe Sawyer: The way that the regulation is written and the way we look at kick-off meetings, when you have your conceptual plans, that's when you want to come in for the kick-off meeting and during that time period, ideally, we define are you going to have a pre-application for ground water, site characterization etc, I would say most large sites probably yes, smaller sites that's debatable whether that's necessary. It really depends on what your impacts are to groundwater. If you are going to have a major impact, you're probably going to want to do this pre-application documents. Once you have that application written and spent two to three years putting stuff together, you don't want to come in our office and we say gee, wish you would have done four more humidity cell tests on the north end of the pit these are critical path items. One of the reasons we wanted to get together early so that any of those critical path items don't get derailed and upset the applecart later in the process.

Shane Johnson, Florida Canyon: Next question is on the TPPC that we talked a little about that currently (...) those will be updated and included with the WPCP application. Have you guys thought about maybe adjusting the requirements for the reclamation plan update because there's so many requirements tying into that, instead of the WPCP (?) just throwing that out there (?) makes sense (?) That would help people ensure mention (?)

Aimee Keys: Right now, TPPC under the 445A regs is one of the required plans that must be submitted with the permit application, so it would have to be a revision to regulation if it's something we consider that doesn't have to be submitted at that time, that would be a revision to regulation but it's something to think about. We'll take it into consideration. Because it is, you're right, very closely related to the plan for reclamation. But I don't think it's something we're considered so far. Just when you do update your plan for reclamation, the TPPC should be in agreement, it should be updated if those changes to the plan for reclamation impact the TPPC. Does that answer your question?

Shane Johnson, Florida Canyon: Yes.

Joe Sawyer: I wanted to throw a couple of things in, so Aimee just recently submitted to NvMA some TPPC guidance that we're working on. I get it, there's a struggle between TPPC and your reclamation plans and SRCE. Our view of the TPPC is more of conceptual and there really shouldn't be, you're not actually doing any dollars and cents into the TPPC but that conceptual plan should drive your rec plan. The TPPC is a plan for the future. Attempt to ensure applicants are thinking about closure from day

one. As time goes on, we'll be working on more guidance and more back and forth with the Nevada Mining Association trying to make it an easy process that solves all of our concerns.

Aimee Keys: I think for a lot of sites that are active and have been for quite some time, their reclamation plan and RCE's are probably a lot higher quality than the TPPC, a lot more detailed in a lot of cases. Let's say you've submitted your permit application four years ago, the TPPC was just a couple of paragraphs but the RCE is very detailed and says, calculates based on how many feet of coverage that you have on your waste rock dump, but your TPPC just says it will be covered, those are the sort of things that should match. For sites that already have the RCE in really good shape, it may seem a little bit of not the most valuable exercise, but not every site is in that situation, so for newer sites, really the idea, like Joe said, from the beginning, from the inception, we really want more focus on actual planning for closure. I think a lot of your guys' situations you have that RCE that's in really good shape because reclamation has required that, while on the regulation side, we haven't really required a whole lot from the TPPC's so far. But, that's in some ways a good thing, if you have a good RCE already then it can be pretty close to plug and play to update your TPPC to where it needs to be.

Joe Sawyer: We've had some major sites even very recently where we've come across where we've missed some really big items in the reclamation cost/reclamation plan. And part of the idea of having this conceptual TPPC's we hope to catch all the major items. We get a tailings impoundment that nobody put a cover plan to it, no spillway, really basic things and I think part of it is years ago, and even not that long ago, TPPC's were 1 piece of paper for a project that is 30,000 acres and multiple components. And the idea is that there's a place to go so that somebody can reference and make sure we've hit all those big items. That's kinda how I see the TPPC's and I think we're heading there we're going to expand on the current guidance and actually give examples of what we think would be good detailed information. In a summarized way people can see the intent was never to make it a large complicated response, and we're going to work more on guidance

Aimee Keys: the idea with the TPPC is to look at each source that is present at the site or is planned to be present on the site and just ensure there is a plan for each potential pollutant source. That's what I was trying to get across with the guidance so hopefully for those of you who have seen it that makes sense, but if you haven't seen it we can certainly get it to you and I'm still taking feedback on that as well.

Shane Johnson, Florida Canyon: Thank you. In a lot of these areas we talked about the kind of minor changes to secondary containment that doesn't affect volume or functionality and that was the question. For something that doesn't affect integrity or functionality is there a way to find out if what kind of change?

Rob Kuczynski: - Yes, of course we always say call us first, and let's discuss this. There may be additional information we might need but typically that kind of change is a what we call a non-fee review. It's just a matter of are you changing the volume of your containment or not? Well that does have an impact on our level of review and if a fee is involved.

Shane Johnson, Florida Canyon: So it still allows for us to discuss before we submit?

Rob Kuczynski: Yes. And that's where the guidance doc really fits in well by answering your questions before you submit.

Shane Johnson, Florida Canyon: Last one I have today, is that (garbled) the Nevada coordinate system, is that the NAD 83 that is mandated? I have been doing research on this and what I learned is that the NAD 83 and (garbled) USGS is the one that Google Earth uses and that there are some very slight changes in America and Nevada and the differences fall well within the accuracy of a handheld

GPS unit, but unless you're doing survey-quality work, you can consider them equivalent, and so I was wondering if possibly not prescribing that it has to be in NAD 83, if that requirement was removed, if those were equivalent, that would help a lot of small operators to be able to do a lot of this stuff in house and as accurate or more (garbled) by going and doing on Google Earth

Aimee Keys: It's something that we can consider. I don't think we prescribed any delineation on any about how accurate your points need to be, but it's a conversion that would have to be done from one coordinate system to another. It's something to consider, but it's a lot easier to receive information in one format instead of converting from one coordinate system to another.

Shane Johnson, Florida Canyon: (garbled) same format or may have a little difference in the value it's well within a handheld GPS standard of error so the work product is exactly alike if you had done everything in NAD83.

Aimee Keys: - You can collect the data using whatever coordinate system you like, we just ask that you submit to us converted into NAD83.

Joe Sawyer: On the bottom of this regulation actually cites two NRS's so there's state law that requires us to use the NAD83 so the state government isn't using different coordinate systems. So that's part of it, I haven't looked at these in a while, but we'll take your question and review it with our GIS in house experts and review these two NRS's. The NRS's are laws, revised statutes, so we'll have to go by whatever they say.

Shane Johnson, Florida Canyon: Well, thank you.

Lindsay Sewell (Elko Mining Group): I saw the timeline on the presentation, so does that mean on 7/1 the changes will be approved?

Joe Sawyer: Well, 7/1 (2020) is when we would hope that the State Environmental Commission would approve them so we actually go to the SEC and they are the governing body for what we do at NDEP, if they approve it, the SEC secretary gives a package to the Legislative Council Bureau, and I don't know when that next meeting is, I think maybe sometime within the quarter they would meet, we would have to go there and present again, and assuming they accept, that would be the time period. There's a good chance it could be by the end of the third quarter for LCB approval.

Lindsay Sewell (Elko Mining Group): When they approve, when will it go into effect?

Joe Sawyer: The day they approve them, so the one that had a March date, the plan would be it would be effective that date. So, any pre-application materials that we received after that date would be subject to the fee. If we're in progress with something we're not going to go back and assess the fee, only brand new applications.

Lindsay Sewell (Elko Mining Group): So we have a few renewals this year, would that be subject to the fee?

Joe Sawyer: It could, depending on when you submit things, now if you have a renewal with no changes and you're not submitting a groundwater study or an updated pit lake study then it wouldn't be an issue either.

Lindsay Sewell (Elko Mining Group): I think you guys are already having people updating TPPCs to these standards. Updating TPPC's and how would you go about a TPPC, as a submittal, would it be a revision to the TPPC?

Aimee Keys: Yes, it would just be a revision and the TPPC is not an engineer design change, so it wouldn't be an EDC it would just be an update (garbled)

Lindsay Sewell (Elko Mining Group): Shape files and digital data has to be in NAD83...(too faint to hear)

Joe Sawyer: For us to convert from NAD83 we would have to, through the Legislature, change the law, which is a lot harder than changing the regulation. Any other questions?