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November 13, 2024

Senator Nicole Cannizzaro, Chair  
Legislative Commission  
401 S. Carson Street  
Carson City, NV 89701

Chair Cannizzaro and Members of the Committee,

Thank you for the opportunity to provide comment for the November 15<sup>th</sup> meeting of the Legislative Commission. Established in 1913, the Nevada Mining Association (NVMA) represents over four hundred member companies that are engaged across the broad spectrum of the Nevada's mining industry, from exploration and discovery to operation and reclamation, and vendor businesses up and down the supply and service chain.

NVMA respectfully submits the following comments regarding Regulation R137-24 (proposed change to fees related to Chapter 445A of the Nevada Administrative Code). NVMA is grateful for the engagement and outreach from the Nevada Division of Environmental Protection (the Division), and appreciates the time and effort applied to discussing the proposal and answering questions. As a result of these discussions, the Division has modified their original proposal to implement the fee increase over two years. NVMA understands the Division's regulatory proposal seeks to increase fees to achieve three goals; 1) to offset higher operating costs – especially an increase in wages, 2) to establish operating reserves equivalent to one year's expenses, and 3) to hire additional staff for compliance inspections and hydrology. The NVMA recommends that the Legislative Commission **approve** this regulatory proposal, but requests that the Commission help address the following concerns from the industry:

1. Delays in permitting impact the value and production of mines and reduce employment and tax revenues. The time required to receive a permit, modification, or renewal from the Division's Bureau of Mining Regulation and Reclamation does not consistently meet the timeframes as defined in NAC 445A.392 to 445A.420, and this proposed regulation does not include a concrete plan to meet these timeframes.
2. This is a substantial increase in fees which will be implemented over a short period of time. Mine operators can expect their fees under NAC 445A to double by FY26. While the NVMA understands that the Division's costs have increased, and will continue to increase, the information provided by the Division indicates that fee

revenues, which are directly tied to the number of permit applications and modifications submitted by the mining industry, have remained relatively flat during the period from 2016 to 2023. This would indicate that permitting workloads have not increased commiserate with costs – more discussion on this below in the section “Recommendations”. The NVMA would like to see fee increases tied to greater efficiency in issuing the permits needed to construct and operate a mine.

3. In 2016, the NVMA shared concerns (Attachment 1) with the Division about a proposed transfer of \$500,000 from the Bureau of Mining Regulation and Reclamation to the Bureau of Corrective Actions and was assured this transfer would not result in a future fee increase. The results of this transfer are evident in the following figure (Fig. 1) shared by the Division regarding the current fee increase proposal. The impact of this transfer on the reserve account is clear. While the NVMA recognizes that this transfer is not the primary driver for this proposed fee increase, the Division has stated that it intends to use some of the additional fee revenues to replenish the reserve account. We ask that the Division put safeguards in place to ensure that these reserve funds are used to support the ongoing needs of the 445A program and not for projects outside the scope of the program.
4. The Division should identify additional ways to reduce costs if the fee increase does not yield the projected increase in revenue. The Division’s proposed fee schedule adds additional ranges for discharge and material processing rates, and their revenue projections rely on an assumption that mining operators will maintain their currently permitted discharge and/or material processing rate. If the fee increase is approved, mining operators will have cause to evaluate their permitted discharge and/or material processing rates to determine if they are more than their current or anticipated needs dictate. This must be allowed at the operator’s prerogative via permit modification or during the permit renewal process.
5. Fees are rising in Bureaus across the Division and have the potential to affect the economic output of the industry. Mining is a critical driver of Nevada’s economy, and is especially important for rural employment and communities, the fee increases proposed under NAC 445A are among the following fee increases approved in recent years:
  - a. Bureau of Safe Drinking Water, General Fees R155-22
  - b. Bureau of Safe Drinking Water, Lab Certification Program Fees R130-22

- c. Bureau of Water Pollution Control fees R112-22 (For mines that have NPDES Permits separate from BMRR)
  - d. Bureau of Air Pollution Control, Chemical Accident Prevention Program Fees R103-22
  - e. Bureau of Mining Regulation and Reclamation, Preapplication Process R018-20
  - f. Bureau of Mining Regulation and Reclamation, Fees R086-21
6. Given that fee increases have the potential to negatively affect the economic output of the industry, the NVMA is concerned that fee increase proposals, and business impact surveys, are currently considered in isolation and are not evaluated holistically.

#### Recommendations:

1. The Division should develop, and publish, a plan to meet the permit issuance and modification timelines defined in NAC 445A.392 to 445A.420. While NVMA acknowledges that large mining operations are complex and require detailed analysis including hydrology, geochemistry, and waste rock management, the largest mines in the state have been in operation since approximately the 1990s or before. And while the industry continues to adopt ever-improving environmental controls, the level of effort and analysis required by the Division prior to issuing a permit has increased more than the corresponding complexity of the state's mining operations over this same period. This has resulted in a greater workload by Division staff at a flat level of fee revenue income. The industry would like to see a streamlined approach to mine permitting that is environmentally protective **and** facilitates permitting mining facilities in a timely manner.
2. In 2020, the 445A regulations were modified to include a preapplication process requiring mining companies to pay a nonrefundable fee of \$1,500 for every preapplication document submitted for review, and NVMA requests that the Division disclose whether this has resulted in expedited permit processing time frames as intended in the description of "specific changes" in the R018-20 proposal.



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3. The Division should implement protections for the 445A program reserve account to prevent a need for unanticipated future fee increases. Additionally, it should enact measures to offset its projected cost increases in the event of a shortfall in fee revenue relative to expenses.

Once again, the NVMA appreciates the open dialogue with the Division on this proposed regulatory change and values the time and thought committed to answering our questions. We look forward to continuing to work in partnership with the Division to ensure that Nevada has robust mining activity while adhering to the highest environmental standards.

Sincerely,

Amanda Hilton  
President, Nevada Mining Association

Enclosed:  
Attachment 1.

*NDEP Proposed Work Program C36187, Fiscal Year 2017. Use of BMRR Permit Fees for Abandoned Mine Lands Project.*

*Re: Agenda Items C-59 & C-60. From Dana Bennett, Ph.D., President to Assemblyman Paul Anderson, Chairman, Interim Finance Committee. August 19, 20216.*



AGENDA ITEMS C-59 & C-60  
Nevada Mining Association  
201 West Liberty Street  
Suite 300  
Reno, NV 89501

Date: August 19, 2016

To: Assemblyman Paul Anderson, Chairman, Interim Finance Committee

From: Dana R. Bennett, Ph.D., President

Re: Agenda Items C-59 & C-60

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The Nevada Mining Association has reviewed the request from the Nevada Division of Environmental Protection (NDEP), in Nevada's Department of Conservation and Natural Resources, for a one-time transfer of funds that originated from fees paid by the mining industry pursuant to *Nevada Revised Statutes* 445A.430 and 519A.170. The requested transfer would move \$500,000 from the Bureau of Mining Regulation and Reclamation to the Bureau of Corrective Actions (items C-59 and C-60, IFC agenda, August 23, 2016). As we understand it, these funds will be used to undertake projects related to specific abandoned mining features in the State.

In the process of developing the proposal, NDEP representatives discussed it with members of the Nevada Mining Association. The Association expressed concern that a new application of these funds might generate ongoing projects that would lead to a request for a fee increase at some point in the future in order to sustain those projects. We also expressed concern about the liability for work undertaken on these sites.

NDEP addressed our concerns. We were assured that this limited transfer would not trigger a future fee increase and that the use of these funds does not attach liability to the original source of the fees.

With that assurance, the Nevada Mining Association supports NDEP's request for a one-time transfer of \$500,000 from the Bureau of Mining Regulation and Reclamation to the Bureau of Corrective Actions.



NDEP Proposed Work Program C36187, Fiscal Year 2017  
Use of BMRR Permit Fees for Abandoned Mine Lands Projects

[Interim Finance Committee, August 18, 2016](#)

**Summary**

As part of a proposed budget revision for the Fiscal Year 2017 budget, NDEP is proposing to transfer \$500,000 of Bureau of Mining Regulation and Reclamation (BMRR) water pollution control and reclamation permit revenue to the Bureau of Corrective Actions Abandoned Mine Lands Program (AML Program) to perform reclamation and water quality mitigation projects at AML sites.

**Background**

For over 20 years, the NDEP Bureau of Corrective Actions has provided regulatory oversight at several large legacy mine sites that degrade water quality and/or pose a potential human health risk. Despite these efforts, assessment and cleanup actions at many legacy mines have not been completed due to lack of viable funding sources. To prioritize actions that may be needed at these sites, since 2013, NDEP has obtained and used new federal grant resources to assess conditions at 74 sites, as well as an additional 14 sites together with the Bureau of Land Management and US Forest Service. NDEP estimates there are an additional 250 sites that need to be assessed. Through the Nevada Abandoned Mine Lands Environmental Team, NDEP is communicating these efforts with federal, state, industry and nonprofit organizations interested in addressing environmental risks posed by abandoned mine lands. To date, NDEP has identified 13 priority sites for additional assessment and mitigation action (see attached table). Additionally, at the Anaconda Copper Mine in Lyon County, which is anticipated to be listed on the EPA National Priorities List, the State of Nevada is likely to be responsible for \$3 to \$4 million to pay for a final remedy at the orphan Arimetco portion of the site.

**Discussion**

NRS 445A.430 and NRS 519A.170 provide that fees collected as part of the mining water pollution control permit and reclamation permit programs may be used by the Division to administer general water pollution control and mine land reclamation within NRS 445A.300 to NRS 445A.730 and NRS 519A.010 to 519A.280, including taking actions at abandoned mine lands affecting water quality.

As a result of the rise in gold prices from 2008 to 2012, BMRR permits and renewal revenues increased. After lowering of prices through 2015, BMRR revenues have now stabilized at a level approximately equal to annual expenditures of \$2 million. After transferring 2 positions to the BMRR permit programs in 2015 to keep up with workload, NDEP has determined that \$500,000 from the peak period is currently available to address projects at abandoned mine lands.

NDEP anticipates using these funds for \$200,000 as part of Nevada's cost share at the Anaconda mine site and \$300,000 for design and construction of an infiltration gallery at the Birthday Mine and projects at other candidate sites from the attached list. The mining funds used for projects at abandoned mines will be designated in a special account and their use will be tracked separately from other funds used by the Bureau of Corrective Actions. Additionally, these funds are intended to be used as part of projects to execute mitigation and reclamation actions, and not for NDEP AML program administration or salaries. NDEP plans to fund those costs from both federal grants and the State Hazardous Waste Fund.

NDEP AML Sites Proposed for Possible Actions in FY17

Site Name	AML ID	County	Problem Statement	Preliminary
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				<b>Assessment/Site Inspection Performed?</b>
Birthday Mine	NVAML00027	Humboldt	Arsenic-laden AMD from collapsed adit degrading water quality, resulting in bovine deaths, and potentially other wildlife issues	Yes, but BLM conducting more rigorous PA/SI this summer, and NDEP performing infiltration tests with UNR this summer
Hilltop tailings	NVAML00086	Lander	Adits with AMD, eroding tailings in contact with AMD, resulting in water quality degradation	Yes, but more SI work needed
Casleton Non-Trust Owned (BLM) tailings	NVAML00043	Lincoln	Very acidic, high metals laden sediments in massive tailings deposits migrating/transporting down-gradient	Yes, but more SI work needed
National Mine	NVAML00117	Humboldt	AMD from adits potentially degrading water quality	Yes, but more SI work needed
Dean Mine	NVAML00054	Lander	AMD from adits degrading water quality	Yes, but more SI work needed
Argus Mill, Comins Lake	NVAML00049	White Pine	Mill site adjacent to lake with elevated mercury, mercury in water column and sediments	Yes
Tybo tailings	NVAML00173	Nye	Tailings with low pH and high metals concentrations transporting 6+ miles down-gradient, potential groundwater degradation	Yes, but more SI work needed
Perry Canyon	NVAML00132	Washoe	AMD from adits potentially degrading water quality and impacting wildlife	Yes, but more SI work needed
Big Mike Copper Mine	NVAML00031	Pershing	Heap leach pads and tailings with low pH and high metals concentrations migrating down-gradient with potential groundwater degradation	Yes, but more SI work needed
Goldfield tailings	NVAML00155	Esmeralda	Tailings severely eroding and transporting down-gradient resulting in potential water quality degradation and human health risk	Yes, but more SI work needed