

# Committee on Resources

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## Witness Testimony

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State of Nevada  
Department of Conservation and Natural Resources  
Nevada Division of Environmental Protection

September 19, 1997  
1626 Longworth House Office Building  
Washington, D.C. 20515  
Re: Surface Management of Mining Activities

The Nevada Division of Environmental Protection (NDEP) of the Nevada Department of Conservation and Natural Resources appreciates the opportunity to provide testimony to the U.S. House of Representatives, Subcommittee on Energy and Mineral Resources regarding the regulatory framework associated with hardrock mining activities on public lands. We intend to give the Subcommittee information in four areas. First we will briefly explain Nevada's approach to regulate surface disturbances conducted by mining operations. Second, we will describe our existing relationships with federal land management agencies in Nevada, pertaining to mining issues. Third, we will voice our displeasure with the requirements associated with the Bureau of Land Management's (BLM) new 3809 bonding rules as well as the manner in which they were finalized. Lastly, we wish to convey our concerns associated with the BLM's ongoing review of the entire 3809 regulations.

### Nevada Regulatory Approach

Mining operations must comply with many federal, state and local laws and regulations which are administered by a variety of agencies. When dealing with surface disturbances at mine facilities, operators primarily deal with the Bureau of Mining Regulation and Reclamation within the NDEP. The Bureau does not replicate any federal regulations but rather protects the natural resources of the state pursuant to state laws and regulations. Nevada's consistent approach of administering our state regulatory programs and meeting our responsibilities pursuant to federally delegated environmental programs is very effective.

Nevada gold mines produce 70% of this nation's gold. This production figure, when combined with our environmental record supports our belief that the NDEP already possesses the tools it needs to regulate the mining industry.

### Existing Relationship with Federal Land Management Agencies

Currently, the NDEP has a good relationship with the BLM State and District offices in Nevada as well as the U.S. Forest Service (USFS) offices in this state. We have an MOU with both agencies to integrate approaches and make the most of combined resources. The arrangement helps avoid duplicative requirements and gives the regulated community greater confidence in understanding requirements. NDEP

has demonstrated its genuine commitment to a strong state/federal relationship by funding a BLM employee to work in both agencies and serve as a liaison. The liaison will improve communication and allow all agencies to identify potential gaps in coverage of regulation and reduce conflicting or duplicative requirements. This good state/federal relationship between the NDEP, BLM and USFS could indeed be negatively impacted by new rules that are not well conceived. Any changes to the 3809 regulations should seek to enhance not jeopardize the partnerships and relationships that have been developed.

### New Bonding Rule

While NDEP supports bonding of all mining and exploration operations on public land, the State of Nevada has objected to the inadequate public process used to implement the bonding regulations published in the February 28, 1997 Federal Register. The final rules as published have the ability to negatively impact Nevada's regulatory programs. Additionally, we believe the requirement for a third party registered professional engineer to review reclamation calculations is unnecessarily burdensome. Lastly, state programs effectively establish water quality standards and effluent discharge requirements, therefore, they should not be associated with federal reclamation bond release criteria. This criteria creates new environmental authorities for BLM which we do not believe are appropriate. Based on these concerns, BLM should consider necessary changes to improve the Reclamation Bonding Rules as part of the review of 3809 regulations.

### 3809 Regulation Review

The State of Nevada has participated in the BLM's efforts to review and amend the regulations for surface management for mining and exploration activities on public lands. We have attended scoping meetings and have met with BLM and Department of Interior officials through meetings with the Western Governor's Association (WGA). Other than Secretary Bruce Babbitt's January 6, 1997 memorandum initiating the 3809 review process we are unaware of the need for this process. In general, the NDEP believes the existing regulations work well and we have not identified any significant in-field problems caused by shortcomings in these regulations. The State of Nevada takes this process very seriously as demonstrated by the June 18, 1997 letter from Governor Bob Miller to the BLM. His letter has been attached for your review.

We very much appreciate the efforts taken by the House Subcommittee on Energy and Mineral Resources to receive testimony on this very important issue. If we may be of further assistance, please do not hesitate to contact us.

Sincerely,  
Leo M. Drozdoff, P.E.  
Bureau Chief  
Mining Regulation and Reclamation  
LMD/btc  
Attachment  
cc:L. H. Dodgion  
Allen Biaggi

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