

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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IN REPLY REFER TO:
3000 (NV-920) P

EMS Transmission July 16, 1999
Instruction Memorandum No. NV-99-043
Expires: 09/30/2000

To: Field Managers, Nevada

From: State Director, Nevada

Subject: Interim Guidance on Mine "Closures" and Request for "Closure" Workgroup Participants

DD: 07/30/99

Several field offices have raised issues concerning "closure" or final reclamation procedures under 43 CFR 3809 for plans of operations. Several mining operations originally permitted in the 1980s are now closing down and have developed issues such as land application of "draindown" water, final bond release, definition of hazardous substances, compliance with State and Federal environmental laws and NEPA procedures.

The BLM will establish a workgroup composed of field office specialists to develop statewide guidelines on these issues for Nevada. As discussed at the May SLT Meeting in Ely, each Field Office is requested to nominate at least one specialist to participate on this workgroup. Tom Olsen, Nevada State Office, will be the workgroup leader. Please send your nominations to NV-920 by July 30, 1999. We would expect to have a mix of minerals specialists, hydrologists, hazmat specialists and environmental coordinators on the workgroup. We are also requesting that one Field Manager or Assistant Field Manager volunteer to be on the workgroup.

The Nevada Division of Environmental Protection (NDEP) will provide training/workshop on the EPA regulations for mining hazardous wastes and land disposal requirements on August 12 at the Airport Plaza, 1981 Terminal Way, Reno. Workgroup participants will be expected to attend the August 12 training/ workshop and the initial meeting of the Closure Workgroup on August 13.

INTERIM GUIDELINES

Until the mining hazardous waste training/workshop is held and the workgroup meets and recommends closure and coordination procedures to the State Director and State Leadership Team, the following interim policies are established to maintain a basic consistent approach in Nevada:

1. BLM will continue to coordinate all 3809 plan issues with NDEP under the current MOU. Craig Smith, BLM/State liaison is the point of contact for the coordination at 775-861-6453.
2. Questions regarding the definition of a hazardous waste under RCRA/CERCLA for the purpose of final reclamation under the BLM/State MOU are to be raised to NDEP for their

determination. NDEP has agreed to furnish the BLM with information on whether materials proposed to be managed during final reclamation are RCRA C or D wastes. The State is ready to address Bevill questions from the BLM. However, we have also agreed not to deluge NDEP and are asking each Field Office to keep their requests to a maximum of two ongoing requests per Field Office at the present time. In the interim, until the Closure Workgroup can prepare final statewide guidelines, all requests for determinations of mining wastes as Bevill or non-Bevill should be routed to the attention of Craig Smith at NV-920. He will ensure coordination with all the appropriate State agencies and Bureaus.

3. The BLM is required to comply with NEPA for all proposed modifications to Plans of Operations under 43 CFR 3809. Field Offices should not normally initiate NEPA compliance outside the BLM regulations or manual direction. No NEPA action is required if the current Plan of Operations indicates clearly that the operation will be closed in accordance with State law, regulations or requirements regarding closure and the closure procedures fall within the current plan. Field Offices do have leeway to develop additional public participation or awareness workshops within and outside of the NEPA process, e.g. Winnemucca's open house for the Wind Mountain Mine.
4. The BLM will coordinate with and utilize the State of Nevada determinations for meeting Clean Water, Clean Air and other environmental law responsibilities.
5. The BLM is obligated to address land management responsibilities for closure issues. However, the definition of and determination of guidelines for this will be a primary concern for the "closure" workgroup. In the interim, the BLM should coordinate testing, analysis, TCLP, other tests and determination with NDEP and continue to rely on State of Nevada determinations for the Clean Water Act, etc.
6. There are a number of specific technical issues, such as posting of closed sites on the master title plats, which need to be addressed in any closure in the interim. Until final guidelines are developed, Field Offices should consult with the State Office leads for hazmat, minerals surface management or environmental coordination on any specific closure situation.
7. Field Offices have been doing a good job coordinating these issues with the State Office. Please continue to keep NV-920 informed of ongoing issues in this area as closure issues are becoming very controversial and sensitive with the statewide public.
8. Final bond release criteria will be reestablished by the new 43 CFR 3809 and in Nevada, by the "closure" workgroup. Any

bond releases need to be carefully considered in coordination with NDEP under our MOU prior to these guidelines. State Office contact on current policy is Larry Steward.

For technical and procedural closure questions please contact the appropriate NV-920 staff specialist. New policy development questions may be directed to Tom Olsen at 775-861-6451, Craig Smith at 775-861-6453 or Tom Leshendok at 775-861-6576.

Signed by: Robert V. Abbey
State Director, Nevada

Authenticated by: Ruth
Piotrowski
Secretary to the
State Director

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