

BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO

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IN THE MATTER OF PROPOSED CHANGES TO THE MINERAL RULES AND  
REGULATIONS OF THE MINED LAND RECLAMATION BOARD FOR HARD  
ROCK, METAL, AND DESIGNATED MINING OPERATIONS, 2 CCR 407-1

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RESPONSE OF THE COLORADO MINING ASSOCIATION TO THE DIVISION'S  
PROPOSED ADDITIONAL CHANGES

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The Colorado Mining Association has circulated the Division's proposed Additional Language to its members for response. However, one week is insufficient time for a trade association such as CMA to obtain thorough reactions from companies with vastly differing operations and mining/exploration technologies for gold, molybdenum, oil shale, industrial minerals, and uranium. Therefore, we reserve the right to supplement the following response with verbal comments at the August 12-13 Board meeting.

1. Pit liners for Drilling related activities including prospecting. CMA has some concerns with this language because requirements for pits were not part of the Notice of Rulemaking. However, because the Division of Reclamation, Mining and Safety has exclusive jurisdiction for setting performance standards for mining operations, CMA believes that the current law and regulations allow for application of reclamation performance standards relevant to particular operations. Differences in topography, geology and hydrology make it inappropriate to have a single prescriptive rule applicable to each and every operation. CMA cautions against the use of oil and gas rules as a template because materials and processes used in oil and gas drilling are quite different than those used in hardrock mining.
2. Copies and Notices of NOIs to County Commissioners. Although we do not agree that separate notice is necessary for county commissioners, if it is required the notice should be made concurrently with the filing an NOI, not before. It must be remembered that the nature of prospecting, particularly under the General Mining Law, is an action taken to discover a valuable mineral resource and possess the land by staking a claim before a competitor does. In the case of minerals subject to lease from either the state or federal government, or from a private individual, a prospector needs to ensure that surrounding lands are not subject to a "land rush" by competitors seeking to force a bidding war for the mineral rights. Filing notice with the county in advance of filing an NOI with the state would tip the prospector's hand and result in loss competitive advantage.

Also, only the redacted form of the NOI could be supplied to the County Commissioners, that is, the form supplied for public posting with the state. However, if a separate notice of the filing is provided to the County, that

information alone will direct the Commissioners to the DRMS web site for further information and CMA does not believe the submittal of a separate copy of the NOI to the County should be required.

3. Collection of Baseline Water Quality Information Related to Prospecting Activities. CMA does not believe that a requirement for a baseline water quality characterization (as that term is generally understood) prior to prospecting is appropriate. CMA does believe that the question of whether or not some groundwater monitoring information should be required prior to prospecting should be determined by consideration of characteristics unique to the area. As stated above, because of differences in topography, geology and hydrology it would not be appropriate to have a single rule applicable to each and every operation. Numerous NOIs are filed where little or no detailed prospecting subsequently occurs – further example of the need for site-specific consideration before requiring baseline water quality data prior to prospecting.
4. De Minimis Uranium Recovery. CMA supports the recognition that uranium may be present in small quantities along with other minerals recovered through an in situ process. Although CMA would prefer a clearer standard for what quantity might trigger a reclassification to an in situ mining operation, we agree that each situation may differ and the Division should be able to exercise discretion.
5. Deadline for Challenging Designation of Confidential Information. CMA remains concerned about delays in approval of NOIs caused by challenge over information designated as confidential. Keeping in mind that at no time during the legislative process for SB 228 was there any discussion of third party comment or challenge, CMA continues to believe the determination of what information, if released, would disclose proprietary information, trade secrets or cause competitive harm should be a matter between the Division staff, prospector, and the Board. If there is to be a challenge to designation of such information, CMA agrees that it must occur within the same ten day time period following posting of the NOI that is established under Rule 5.1.3 for public comment on the NOI (a comment process which CMA also continues to dispute.)
6. Deletion of Exhibit S. CMA supports the deletion of this requirement.

Submitted this 5<sup>th</sup> day of August, 2010.

/s/

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