

NOTICE OF FINAL DECISION - Bureau of Mining Regulation and Reclamation

Web Posting: 02/25/2022

Deadline for Appeal: 03/07/2022

Reclamation Permit 0415
Lithium Nevada Corp.
Thacker Pass Project

The Administrator of the Division of Environmental Protection (Division) has decided to issue Reclamation Permit (0415) for a mine project to Lithium Nevada Corporation (Permittee). This Permit authorizes the Permittee to reclaim the Thacker Pass Project located in Humboldt County, Nevada. The Division has been provided with an application, in accordance with Nevada Revised Statutes and Nevada Administrative Code (NAC) 519A to assure the Division that the Permittee will leave the project site safe, stable, and capable of providing for a productive post-mining land use.

This Permit will become effective March 12, 2022. The final determination of the Administrator may be appealed to the State Environmental Commission (Commission) pursuant to NAC 519A.415. All requests for appeals must be filed by 5:00 PM, March 7, 2022 on Form 3 with the Commission at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, and in accordance with administrative rules of the Commission.

This Permit authorizes mining related surface disturbance on public lands administered by the Bureau of Land Management as described in the permit application dated October 2021, entitled *Plan of Operations and Reclamation Plan - Thacker Pass Project*. The project has a predicted 41- year mine life and will be permitted and operated in phases. Phase 1 contains 3,144.5 acres of bonded disturbance. The Life-of-Mine disturbance total is 5,545 acres.

The following comments were received during the comment period.

Comment letter from the Humboldt County, Nevada - County Manager's Office dated December 1, 2021 and signed by Commissioner Mr. Ron Cerri, Chairman, Humboldt County Board of Commissioners.

Comment 1.

5. Project Completion, Abandonment or Suspension of Work

B. The Division shall be notified in writing within ninety (90) days after work is suspended at the operation for more than one-hundred-twenty (120) days. The notice must state the nature and reason for the suspension; the anticipated duration of the suspension; and any event which would reasonably be expected to result in either the resumption of activities or the abandonment of the operation. The operator is not required to notify the Division of a temporary closure caused by weather conditions.

Q: Does this temporary closure due to weather include extended extreme events due to pending climate change over the Life of Mine?

BMRR Response: Section 5 of the Permit and NAC 519A.320 (3) specifically states that the operator is not required to notify the Division of temporary closures resulting from weather conditions.

Comment 2.

6. Surety

A. The Division and appropriate federal land management agency(s) shall review the estimate

Of the cost for reclamation submitted by the operator and determine if the estimate is adequate or reasonably sufficient to complete all required reclamation.

Q: Has the initial surety been determined? if so how much was determined to be required (total)? and in what form has it been/will it be posted? who will hold the surety?

BMRR Response: The draft reclamation permit cover letter calls out the required surety amount for Phase 1 of the project. The Phase I surety amount has been determined to be \$47,595,699 and will be posted and obligated by the Bureau of Land Management (BLM) Nevada State Office. The form of financial assurance to be posted with BLM is yet to be determined.

Comment 3.

7. Inspection of Exploration Project and/or Mining Operation

A. The operator shall allow authorized representatives of the Division, and the appropriate federal land management agency(.s) to inspect the operation, during normal business hours, to

determine compliance with the terms and conditions of this permit and the status of reclamation activities.

Q: How much advance notice does the County need to provide before inspections occur? Can the Operator accommodate a drop-in if a relevant County representative

is in that area.

BMRR Response: Humboldt County will need to coordinate directly with Lithium Nevada Corporation (LNC) for scheduling county inspections at the project site.

Comment letter from Great Basin Resource Watch dated December 1, 2021.

Comment 1.

“The reclamation bond should be re-evaluate the need to long-term funding to address treatment of mining impacted waters from potential seepage from the waste rock facility and the Clay Tailings Filter Stack (CTFS). Given the potential for toxic leaching of waste rock material as shown in the backfill analysis and the small but not negligible sulfide sulfur in the waste rock GBRW expect that seepage from the waste rock facility will require management past the 30 closure timeline.”

BMRR Response: Upon completion of the re-grading of the facility, Lithium Nevada Corporation’s (LNC) reclamation plan states that one foot of growth media, including the appropriate seed mix will be applied on the facility. The growth media cover and vegetation establishment will significantly limit meteoric infiltration into the clay waste material. In addition, the required 24 hr./500-year diversion will be constructed around the facility to preclude storm water run-on from contacting the facility material during mine operations and for long term reclamation stability.

Comment 2.

“In addition, there is significant uncertainty surrounding long-term seepage from the CTFS, which GBRW details in our comments on the Water Pollution Control Permit. Even if we assume that the 80 mil HDPE liner lasts indefinitely (thousands of years) there is still the issue of long-term management. The closure plan calls for the use of evapotranspiration cells (ET cells) to manage any long-term drainage. According to the factsheet provided by NDEP along with the permit, the tailings reclaim pond is designed to handle the 74 gpm from the Newfields estimation, which may not capture the range of seepage. It is not clear what is the drainage rate capacity of the ET cells. What is needed is an estimation of how long seepage will need to managed - will a longterm funding mechanism be needed to manage the tailings drainage?”

BMRR Response: The proposed CTFS reclaim pond ET Cell conversion will be 7.6 acres in size. Applying the assumption of two gallons per ET Cell acre. The ET Cell is designed to manage a

drain down rate of approximately 15 gallons per minute (gpm). It is BMRR's current understanding that the CTFS is predicted to have a minimal amount of actual facility drain-down or "seepage" from solution going through the facility; 0.02 gpm under expected closure conditions.. The majority of water reporting to the reclaim pond or ET Cell would be meteoric water coming off the facility's surface due to storm events.

Public comment from the Thacker Pass Public Hearing on December 1, 2021 related to the reclamation permit.

Ka'ila Ferrell Smith: Public Comment: "And -- but for tonight about the reclamation permit, what we're looking at here is a foreign transnational corporation, Lithium Americas, not needing -- what I believe what this presentation just said -- not needing to have any public comment to do anything on public lands, like that sounds absurd and insane to me and from -- from the beginning. So, on that, I'm just not -- it is not in general that this is a foreign transnational corporation, Lithium Americas.

BMRR Response: Per the regulations at Nevada Administrative Code (NAC) 519A.185(3), "An application for a permit which has been submitted pursuant to NAC 519A.150 (Exploration - projects and mining projects on public land) or 519A.155 (Exploration projects and mining operations on both private and public land) is not subject to the notice requirements of NAC 519A.185 to 519A.210 inclusive."

Kelly: Public Comment: "You said that their site 300 -- 3 -- 3,100 something acres. I actually think your impact area is much bigger than that. You have not assessed the impact on our region adequately by any means. And I hear the details about your remediation fund. Right of the bat, we should be tripling them. That number is way too low, way too low, and you know it."

BMRR Response. Per the Plan of Operations (PoO) text the entire PoO boundary encompasses 10,468 acres. The reclamation permit only concerns the actual amount of disturbance proposed for the project. The PoO, Table 3-1 Proposed Estimated Disturbance Areas, shows the project Phase 1 disturbance at 3,144.5 acres and Life-of Mine disturbance at 5,545 acres. The reclamation cost estimate (RCE) for Phase 1 is calculated from the details in the PoO/reclamation plan. The actual RCE is calculated using the Standardized Reclamation Cost Estimating (SRCE) model and associated third party contractor quotes.

Comment letter from the Fort McDermitt Paiute and Shoshone Tribe dated December 9, 2021.

Comment 1. "Attached, please find comments from the Fort McDermitt Tribe on the Thacker Pass Project permits including the Water Pollution Control Permit Nev2020104, additional comments following the draft comments and discussion provided at the in-person meeting on November 30, and preliminary comments on the Reclamation Permit; additional comments may be provided once the Plan of Operations narrative has been provided."

BMRR Response: The October 2021 Plan of Operations (PoO) document was scanned and down loaded to BMRR's public document viewer on October 27, 2021, however, only the phase 1 reclamation cost estimate was actually transferred to the viewer. Once this was discovered, BMRR was able to successfully correct the problem and the entire PoO is now available on our document viewer for public review.

Comment 2, Fort McDermitt and Shoshone Tribe comment dated December 6, 2021.

“The resources available on line do not describe the activities permitted by the Nevada Division of Environmental Protection Bureau of Mining Reclamation. This makes it difficult to review the proposed permit as it is unclear what the project proponent is committed to for reclamation. Final approved topography, management of water systems, closure of structures and onsite chemical removals requirements, and expected timeline for closure and stabilization are not in these documents. Additionally, it is apparent from conversations with BMRR that the reclamation requirements are to include certain criteria and components that differ from the BLM Plan of Operations, although it is unclear what these differences are and how that is going to be handled within the regulatory relationship between NDEP and BLM.”

“Reclamation of the project is likely the most important component to design criteria for the impact to Tribal resources. Without the additional detailed information mentioned above, it is nearly impossible for the Tribe to determine questions, let alone adequacy of the BMRR determination offered under the Reclamation permit.”

BMRR Response: Same response to Comment 1 above. The October 2021 Plan of Operations (PoO) document was scanned and down loaded to BMRR's public document viewer on October 27, 2021, however, only the phase 1 reclamation cost estimate was actually transferred to the viewer. Once this was discovered, BMRR was able to successfully correct the problem and the entire PoO is now available on our document viewer for public review.

E-mail comment letter from the Fort McDermitt Paiute Tribe of Nevada and Oregon. E-mail sent February 4, 2022.

Comment 1. “As interim and final seed mixes are determined for the site, the Tribe would like to provide input to traditionally important vegetative species that either should be planted or avoided based on the potential for receptor use and risk of contaminant uptake.”

BMRR Response: The Bureau of Land Management (BLM) plays a lead role in reclamation seed mix development, especially on all public land projects like the proposed Thacker Pass Project. The Fort McDermitt Paiute Tribe of Nevada and Oregon (FMPT) should consult with the BLM on revisions to the approved reclamation seed mix for the project.

Comment 2. “There is discussion throughout the document regarding the use of the Waste Rock Storage Areas and Gangue Storage Area as a location for a solid waste landfill. Some of this discussion is that this is a potential use and others suggest it is definitive. Regardless, the

permitting of a Class III landfill on either of these material piles suggests that these landfill materials may end up in the pit during backfill. There is very little, if any discussion of the closure of the landfill as part of the pit backfill and the treatment or monitoring as such. Will this be undertaken in a secondary permitting process related to the landfill? Or was this an inadvertent omission? “

BMRR Response: The PoO text on page 70 states LNC will dispose of domestic and industrial solid waste either by hauling the solid waste to the existing Humboldt County Landfill or by permitting a Class III waived industrial landfill in accordance with the regulations at NAC 444.731 through 444.737. Class III landfills are permitted by the Bureau of Sustainable Material Management within NDEP. The Text on page 70 further states that the location of a possible landfill would be either on the West waste rock storage facility (WRSF) or Coarse Gangue Stockpile. The landfill would be reclaimed in place with a minimum two foot cover of compacted soil per the regulations at NAC 444.6891. The text on page 100 also discusses the location of a Class III landfill and the reclamation of the landfill including the two foot cover and revegetation of the landfill on the West WRSF or coarse gangue stockpile.

Comment 3. “Waste rock, gangue material, and sediment are all identified as potential additional resources for growth material. The Tribe is interesting in knowing what designates suitability of these materials for growth material. Will these materials be tested and compared to native top soil? Will sample testing be conducted to determine potential plant tissue uptake and assess for risk to wildlife and disposal requirements for that plant material if soils are used permanently or temporarily? If there is a state standard for this determination and metrics defined in NRS or NAC, please provide this reference.

BMRR Response: The text on pages 59-60, Section 3.19 Growth Media Stockpiles and pages 93-94, Section 6.4.1 Growth Media Salvage and Management discusses the steps that LNC will undertake to salvage and stockpile suitable growth media for reclamation activity. The text states that “LNC conducted growth media surveys within the Project area to generate growth media maps delineating the quality, extent and depth of soil resources available for use in reclamation. The surveys were designed to define the chemical and physical parameters of desirable materials to achieve reclamation goals and identify adverse properties or feature which preclude use in reclamation.”



25 February 2022

NOTICE OF DECISION

**WATER POLLUTION CONTROL PERMIT
NUMBER NEV2020104**

**Lithium Nevada Corp.
Thacker Pass Project**

The Administrator of the Nevada Division of Environmental Protection (the Division) has decided to issue new Water Pollution Control Permit NEV2020104 to Lithium Nevada Corp. This Permit authorizes the construction, operation, and closure of approved mining facilities in Humboldt County, Nevada. The Division has been provided with sufficient information, in accordance with Nevada Administrative Code (NAC) 445A.350 through 445A.447, to assure that the waters of the State will not be degraded by this operation, and that public safety and health will be protected.

The Permit will become effective 12 March 2022. The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to Nevada Revised Statute (NRS) 445A.605 and NAC 445A.407. All requests for appeals must be filed by 5:00 PM, 7 March 2022, on Form 3, with the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. For more information, visit the NDEP Thacker Pass website at <https://ndep.nv.gov/land/thacker-pass-project> or the Division public notice website at <https://ndep.nv.gov/posts/category/land>.

Written and oral comments were received during the public comment period. The text of all comments, in some cases excerpted, and the Division responses (in *italics*) can be found at <https://ndep.nv.gov/land/thacker-pass-project>.