NEVADA DIVISION OF
ENVIRONMENTAL PROTECTION

STATE OF NEVADA
Department of Conservation & Natural Resources
Brian Sandoval, Governor
Bradley Crowell, Director
David Emme, Administrator

January 27, 2017

Mr. Barnes Johnson
Director, Office of Resource Conservation and Recovery
US EPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 5301P
Washington, DC 20460

SENT VIA E-MAIL Johnson.barnes@epa.gov

RE: Docket Number EPA-HQ-SFUND-2015-0781, Proposed Rulemaking for "Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry"
120 Day Extension Request

Dear Mr. Johnson:

The Nevada Division of Environmental Protection (NDEP) administers the mining regulation, reclamation and financial assurance requirements contained in Nevada Revised Statutes 445A and 519A on public and private lands in the State of Nevada. NDEP has over 28 years of hands-on experience implementing these statutes since they were enacted in 1989, 9 years after CERCLA § 108(b) provisions were originally signed into law. In a state with abundant mineral resources and mining activity, NDEP plays a leading role in the environmental regulation of mining practices. As stated in the preamble of the proposed rule (82 Fed. Reg. 3390), Nevada is the state with the largest number of facilities initially identified by EPA as potentially subject to regulation under the rule.

NDEP is encouraged that the preamble to the proposed rulemaking includes provision for and solicits comment on a program deferral option (82 Fed. Reg. 3468 – 3469). This is an explicit recognition that comprehensive state mining regulation programs can provide the necessary financial assurance to address hazardous substance releases at hardrock mines. A programmatic deferral option is also consistent with the CERCLA mandate for the Environmental Protection Agency (EPA) to promulgate financial assurance requirements "consistent with the degree and duration of risk" associated with hazardous substances at these facilities (CERCLA § 108(b)(1)). NDEP intends to provide comments supportive of the program deferral option.

As a result of the sheer volume of material EPA has used to support with the proposed rulemaking, **NDEP requests 120 additional days to provide comments, or until July 10, 2017.**

NDEP also needs this additional time to further develop a program deferral option and engage in discussions on this approach with interested parties including, but not limited to: EPA, Bureau of Land Management, US Forest Service, affected industry, the Nevada Division of Minerals and interested non-governmental organizations. Given adequate time, NDEP anticipates that we will be able to provide constructive suggestions on the proposed rulemaking.

Thank you for your consideration. If you have any questions or would like to discuss this further, please contact me at 775-687-9373 or glovato@ndep.nv.gov.

Sincerely,

Greg Lovato
Deputy Administrator
NV Division of Environmental Protection

cc: Barbara Foster, EPA (Foster.Barbara@epa.gov)
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