

## Plan of Operations – Content

### Question and Answers

January 14, 2014

Note: This is not a word for word transcript of responses given in the webinar.

The following Q and A is related to the review of the Caloptland Company Lapozz Project, Plan of Operations.

1. From Jeff Garrett, Arizona State Office

Q. Is pozzolan locatable?

A. Marc Springer: That is a good question. In the presentation we talked about possibly requiring a common / uncommon variety determination. What do you think? Jeff?

Response from Jeff: Well I don't know. That is why I raised the question I guess.

Marc: It is a good question. Any responses to that question or any feedback?

Michael Smith, Arizona State Office: I thought there was some questions on pozzolan's locatability. They do mention fly ash as what they normally use in this process. But they are just starting to face some supply constrictions due to less coal being burned. I thought that was an issue about pozzolan locatability because there are a lot of other things that can be substituted for pozzolan – popolin (sp) glass to serve as pozzolan in cement.

Mark Chatterton: I think from the perspective of this presentation that we will limit the exploration of whether it is locatable or not to an offline topic for those who are dealing directly with the issue.

2. From Duane Bays, Fillmore FO, Utah

Q. When the State regulations specify different time frames, or no time frames, what action should the BLM specialist take when concurrence with the State is required? The State may take longer to review a proposal than BLM regulations allow. This scenario exists when there is no formal agreement between the BLM and State.

A. Marc: This issue comes up quite a bit with several reviews, inspections, and financial assurances. It basically goes back to whichever is the strictest or more comprehensive review. So we do wait for the state to review and if it is not within our timeframes we get back to the operator and let them know that it is still under review. That is why some of these plans of operation take such a long time to review. We have run into issues with the state before. So it does get a little awkward but we do support that decision by our regulations saying we do have to comply with all state regulations.

3. From George Varhilmi, Las Vegas FO, Nevada

Q. There is no total length of plan duration because there is no mention of total volume mined. There is no idea as to total length of time.

A. Marc: I think they said that 420,000 ton maximum production. Over a 20 year time period with 30,000 to 100,000 tons being mined each year. My question on that was if they are doing this campaign type mining and there operating for a while and shut down for long periods of time. How are they going to maintained environmental compliance and public safety during the ideal period? Also are they required to or have they proposed an interim management plan during those times of being ideal.

So that is a good question and good things to consider with this plan. We don't see too many of these operations that mine on a campaign basis, but we do have a couple of them in the California desert.

4. From Valerie Lenhartzen, Bruneau FO, Idaho

Q. Appendix b – Spill Contingency Plan is missing.

A. Mark: For the benefit of those who may or may not know we gave you an abbreviated form of the Plan of Operations. The actual plan of operations is almost a 100 pages long and I will let Marc add on to that.

A. Marc: There were several appendices that we left out for brevity sake. Those were pretty comprehensive and I did not have any problem thumbing through those appendices. They were all sufficient in my mind.

This was just about a 100 page document total. I paired it down to about 35 pages so you would not be distracted by all the appendices and leaving the main part of the plan intact. It was a complete, if you are asking about completeness. The plan was complete as far as those elements go.

5. From Winnemucca (group), Winnemucca DO

Q. Should the monitoring plan include some sort of quality assurance/performance criteria?

A. Marc: I am not that familiar with that monitoring plan. I would have to look at the monitoring plan. But, that would have to cover all the basics of the content of the plan. I am not familiar with how comprehensive it was.

A. Adam: I think that is one of those professional judgment questions. I'm scrolling through the plan right now to find that section but, I remember correctly it was brief and short. Not knowing the actual on the ground environment it is hard for me to say. If I knew it was appropriate to have one then I think it is appropriate to ask for one.

6. Randy Porter, Ridgecrest FO, California

Q. Pozzolan treated in the "Moustach" plan of operations in the Carson City Office

Comment: Randy: Pozzolan can go either way. There are examples where pozzolan has been treated under 3809. I agree that Pozzolan is a commodity that needs to be thought about. But there are examples where it has been treated as a locatable mineral. That is all I intended to say.

Comment: Marc: I think that's basically treated that way right now, because of a lack of case law, on a case by case basis using the McClarty criteria to determine the common – uncommon determination.

Comment Randy: And there is an IBLA case in the area where it is not stated but it is intimated that it is treated as locatable. It is IBLA Case David E. Hoover and Lester F. Whalley, 99IBLA 219. But that is a different situation so I don't want to hold up the class.

7. Meg Doolette, Backer FO, Oregon

Q. I don't see a 3715 request and description for the watchman or for the work force (if they are staying on site). Do we ask them for that in a different procedure?

Clarification from Marc: Is that for Use and Occupancy?

A. I believe that Use and Occupancy requires a plan which is what they submitted. I believe that would be taken care of because it was taken care of because it was described in the PoO. You have to look to the financial assurance or the financial guarantee to make sure all those elements are taken covered in there. They do have a right to ask for use and occupancy. It seems to be well substantiated. With our authorization if we have questions we can come back and ask. But other than that we would authorize it as long as it is stated in there and it is covered in bonding.

Adam: I just want to say something. We don't have a handbook for use and occupancy yet. There is not necessarily a requirement for a separate submittal from the operator. So if the operator is stating occupancy within the plan of operations that would be fine but, you do need

to check the regulation at 3715 to make sure that they have all the information that is needed. So it still needs to comply with 3715.

Mark: Adding on to that, my quick look at it, while it was brief, it didn't address all the issues that 3715 would normally be asking for. But, it would be covered under this plan it would just need to get additional information for appropriately analyzing that.

8. From Judd Sampson, Hassayampa FO, Arizona

Q. Section 3.4; Paragraph 2: blasting procedures. Shouldn't the blasting methods be spelled out explicitly and proposed changes to the methods would require a plan modification and attendant NEPA scoping & impacts analysis?

A. Marc: The section is on page 4 of the plan. They do list the type of holes, the diameter of the holes, the product being used, it doesn't go into a lot of detail and that maybe a good point to ask for a little more to find out what structures, roads, highways, or whatever are in the vicinity and how they are going to comply with public safety.

Comment from Judd: My concern was that they explicitly reserve the right to change things as technology advanced. In my mind that would require new analysis if they are doing thing radically differently.

Marc: That is a good point and that may or may not trigger a plan modification depending on how substantial the change was. If they were going to change the blasting materials they were using you would have to look at to see if there was some environmental acceptable. If substantial it would take some time to do that. They just left that open which is fairly common they would have to get back with BLM before they make any of those changes and either do a plan modification or minor adjustment to the plan.

Adam: This is a good catch Judd. There always seems to be when I review Plans of Operation that are 10 -15 years old and there are little paragraphs that are worded kind of funny like that where they reserve the right or they are going to change it down the road. If we don't catch that initially 15 years down the road and we are doing some inspections or enforcement the will, we changed it because we said so in our plan and BLM approved plan which said we could make these changes. So that is not an NOI – there is not enough information to analyze the changes would be. BLM needs to make note of that and call that particular section out in some sort of decision document or ask them to change it . . . I am not sure what the exact procedure should be but, it needs to be analyzed or dealt with somehow.

Comment from Ralph Thomas, Coos Bay FO, Oregon: I have been involved in blasting for quite a while and I was a state blaster in Oregon. One of the things that you might want to consider in this section – to request in your blasting plans for these folks to refer to I & E standards, department of transportation standards, safety standards for safety and planning. You might want to request a shot plan for each blast.

BLM doesn't want to approve those plans because if we do and something goes awry guess who pays the bill and has all the liability. But you do not want to not review them at least that way if something does go awry at least BLM can say we reviewed them. We can look at them from safety practices. The trick is not to assume any liability. Blasting practices do change materials change throughout time. Things have changed considerably over the past 20 years. If anybody wants further information or help on blasting can always give me a call up here in Coos Bay.

9. From Lindsey Curnutt, Carlsbad FO, New Mexico

Q. In the material processing section, there are no specifications regarding type of crusher(s) to be used or size fraction(s) they're trying to reach. If the end product size is small enough to create a dust issue that should be address as well.

A. Marc: I think that would be covered in section 420 standards as far as air quality goes. Any of the operations in this plan would be subject to the air quality issues. Not only BLMs standards but the state standards and the state standards in this case are quite a bit more restrictive. Any time they have a source of dust whether it is blasting, crushing, or processing material they would have to stay in compliance with those 420 standards.

10. From Michael Smith, Arizona State Office

Q. Access routes – It was not clear if they had legal access to the site. If a proposed route would cross state or private land, does the operator need to verify they have obtained legal access to meet the requirements of 43 CFR 3809.401(a)(1)(i)?

Comment from Mike: We have a requirement in our regulations that they do provide maps of the access routes defined access routes. In my mind access doesn't just mean that you physically – you are capable physically to cross that route but, that you have legal authorization to do that. I have seen this handled two ways. I have seen it handled where they conditionally approve the plan. Conditioned on them getting the legal access – Say a state right of way to cross the state land. Or you could say you haven't really defined your access route because you don't have the legal authority to cross this state land – either redefine your route or come back to us when you have that authority. Essentially the question is if they don't have that legal authority can we really say that they defined their access route and their operating plan is complete.

Comment from Randy Porter: The access routes were one of the topics of discussion. The access road expands a jeep trail going from a hilltop to a BLM designated access route, which in turn leads to State Highway 14. The access routes tended to cause more questions than the mining itself. That is to mitigate conflict between tourist and citizens using a BLM access route with haul trucks. BLM access rout EP15 intersects the highway, that's fine, but the intersection is on private land. That also caused some other questions about access such as where is the beginning point and where is the ending point for the BLM authorization. Since the highway intersection is actually on private land. Those things were discussed in the EA.

Comment from: Michael Smith: That brings up an interesting point, what you just described there, can the BLM just approve the operating plan up to that private land near the highway? Should we conditionally approve the plan pending them getting access to the private land owner? Or should we say, the plan is incomplete until they show us that they have legal access from the land owner?

Comment from Randy Porter: That would be rather odd because the access road is also a BLM designated route, which leads to whole bunch of other related questions.

Comment from Marc: That does bring up a good point about access and Randy Porter from Ridgecrest had similar issues in Jawbone Canyon with an operator whose only access was across private land. He was having trouble getting concurrence from the private land owner to cross the land. But, we do require that they show us legal access to their operation from a state highway or where they are going to access it from.

So the plan in my mind can be approved conditionally contingent upon their obtaining legal access to the property or mining claims.

Comment from Michael Smith: Were dealing with a similar situation like this in our Safford Office.

Comment from Adam Merrill: Mike I will say that even if you didn't conditionally approve something – you just didn't do it and there is an access issue the operator is required to comply with all the laws and regulations. Just because the BLM approved it wouldn't mean that they could off of BLMs approval then cross that land. But this may give the operator the impression that they can but they would still have an issue with that and they couldn't do that.

Comment from Michael Smith: The question in my mind was if they don't have the authority that authorization to cross that particular piece of land; can really say that it is part of the access route for the purposes of reviewing the mine plan of operations.

Comment from Adam Merrill: Oh right. Then you have a situation where you base your whole analysis off of something that is not necessarily guaranteed or at that time legal.

Comment from Michael Smith: Right.

Can I make a comment about a previous question about the size of the crusher? I think it is something that you would want to go back to the operator and get some specs on because it is going to affect how expensive it could be to remove that thing in the event that BLM has to reclaim the site. So you want to get an idea of how big the equipment is or how difficult it will be to remove or scrap.

Comment from unknown: If it is a contract crusher I don't think they will be leaving it on site if the operator went belly up.

Comment from Michael Smith: And that is the case that would be a contract crusher not the operators? I did not see it I only read – I didn't read that part.

Comment from Mark Chatterton: That is something to look at and make sure that it is covered.

We will end the Question and Answer segment for the Lapozz Plan of Operations there are still a number of question remaining but we need to move on. We are now at ninety minutes into our webinar today and I do want to give us a period of time for just general questions related to plans and plan content.

1. From Jeff Garrett:

Comment: When we were talking about 3175 and plans of operations a thought came to mind that since we were dealing with an issue here of common v. uncommon variety – if in fact it is or the question remains the 3715 is a good avenue almost an open door to request additional information from the claimant or operator to show in fact that what they are proposing does involve a locatable mineral. Because if it is not locatable then it is not reasonably incident and we cannot give them concurrence. So a person reviewing the plan if they have a question about that under 3809 they can also approach it under 3715 and require that they provide that information showing that what they proposing is reasonably incident and in fact is locatable.

2. From Eastern Interior FO, Alaska

Q. Do you typically require an invasive species baseline survey, monitoring and mitigation plan and bonding for that issue?

A. From Marc: I am not real clear on the question. On the financial assurance for the entire plan?

A. From Mark: If I remember the question correctly it is. Do we request and require them to develop an inventory or a survey for invasive species. And there were some other requirements that they were also asking about.

A. From Marc: I will comment about this generally. Most all of those issues species and invasive species are covered in section 420 regs. specific part of the 420 regs. as well as the state has very specific regulations on those. So that is looked at extensively by the biologist in the EA not necessarily in the plan. They need to be covered in the plan, but they are really toughly explored in the EA or the NEPA document.

I believe that the other question regarding the reclamation cost estimate and the financial assurance and that was provided for I believe for 33 acres of disturbance and they offered \$25,000 for reclamation. I believe that was the amount - \$25,000 for reclamation cost and that was several pages of itemized worksheet.

So does that sound sufficient \$25,000 for 33 acres of disturbance?

From Mark: I have one comment of no.

From Helen Marry Johnson, Durango FO, Colorado: I haven't worked on a plan of operations for years and that was never adequate years ago.

From George Varhalmi, Las Vegas FO, Nevada: Mark this is George there bond only calculated 10 acres not 32.

From Helen Marry: That makes more sense.

13. From Judd Sampson, Hassayampa FO, Arizona:

Q. I have had some discussions from operators about the 1,000 ton threshold for PoO v. NOI. Their contention is that 1000 t of Ore removed doesn't mean 1000 t of material through their dry washer. Since most of these are 404 exempt due to placing removed material not back in the wash, the 1000 t applies to all material excavated. If they wanted to just count the actual concentrate removed, then they would need to have USACE 404 compliance, right?

A. Meg Doolittle, Baker FO, Oregon: We have a lot of smaller miners and they usually put it in cubic yardage – it also says 1,000 tons processed which, we interpret as the amount of material they put through their trommel or wash plant.

From Judd: That is what I was trying to get at. I just wanted to make sure that I was thinking in accordance with the rest of the organization.

From Frank Bergwall, Yuma FO, AZ: In Matt Shumaker's analysis of placers he always includes everything that goes across the grizzle as part of the material. Not just what goes through the trommel, not just what goes to the crusher, everything that goes across the grizzle that touches any kind of processing equipment other than just the digging. Waste has to be separated from – overburden has to be separated from whatever goes across the grizzle to the trommel. So there is a lot of stuff that doesn't go through the trommel or through a dry washer that is included in that 1,000 tons.

From Adam: The regulations say it's a 1,000 ton bulk sample. To me that doesn't mean – sample is not the concentrated portion. It is the actual – think of material and the hole in the ground. That then goes into the processing plant. I think that is what it refers to.

From Frank: Up in Nevada where I come from it is not unusual to have a 3:1 stripping ratio and they try to do a road along – to sample along a road and they'll have 3 tons of waste rock to get there metallurgical sample off the side of the road.

From Adam: And I agree – in that case where you have some overburden that would not be your sample. But once you get to your sample, that sample including the oversized material or the gang material – the excess material whatever goes into that plant it is going to be your sample.

From Jeff Garrett: I want to make a comment too because two of the commenters are from Arizona. Realistically these guys are not sampling they are mining. They are just proposing to mine under a notice and take a 1,000 ton bulk sample. If we are going to play that game which we do and we have then we need to stop it at a 1,000 tons. Otherwise we need to have them file a plan of operations because that is what they are doing is mining.

From Judd: That is kind of what I thought. I was just making sure.

From Ken Depaoli, Stillwater FO, Nevada: If there are processing or milling then I would consider that mining. Our notices are for exploration. Bulk sampling is just to take the sample.

From Adam: I think with placer equipment the line could be buried a little more. Where you have an operation with a trommel and you are washing the material I believe that you mine that way and it could also be an appropriate way to sample the material.

From Meg Doolittle: I guess I would say yes to it makes it a little more difficult because we have a lot of mom and pop operators here. A lot of that you can't sell your gold if you are doing it under a notice. However, we don't have any proof that they do sell their gold – so that brings up the question about the difference between a notice and a plan.

From Adam: Right are they keeping it in a little vile of oil someplace? Or are they selling it. We really don't know.

From Mark: Nor is it really our position to be asking them.

From Meg: No absolutely not. So we because so many of our operations are yes they are really mining if you wanted to do that as a definition because they are processing we tend to handle them under a notices more often than not, if they follow all the rest of the rules.

From Adam: If you came across something inadvertently that came to your attention, e.g. they had a website that mentioned it; or any documentation given to BLM that they are going to sell it. Then you potentially have to require a plan.