

**BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO**

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

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**EXPLANATORY STATEMENT BY TALLAHASSEE AREA COMMUNITY  
IN SUPPORT OF ADDITIONAL AND ALTERNATIVE LANGUAGE**

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COMES NOW, Tallahassee Area Community (TAC), through counsel, who provides the following explanatory statement in support of alternative and additional language:

**I. Re: Pit-liners required for Prospecting**

In the 1970's Michigan instituted a requirement that all uranium drilling pits be lined to recover any contaminants brought to the surface during drilling operations for uranium. After experiencing structural failures of plastic liners of less than a 20 mil thickness, Michigan altered its requirements to include the following:

- (a) Drilling pits shall be constructed of rounded corners and side slopes of not less than 20 degrees measured from the vertical;
- (b) The bottom and sides of the pit shall be free of objects that could penetrate the liner.
- (c) Pits shall be lined 20-mil virgin polyvinyl chloride liners or other liners that exceed those standards;
- (d) Ample liner material shall be installed in a manner to allow for sags and material loading to reduce stress on the liner and allow for a minimum 10 foot flat apron on all sides;
- (e) The bottom of the lines pit shall be weighted with earthen material or water before anchoring the ends of the liner on the surface or placing any drilling materials in the pit;
- (f) Ripping, tearing, puncturing or other destruction of a liner that may cause the loss of fluids is prohibited and any such condition shall be immediately repaired and reported within five (5) working days;
- (g) Liner field seams are prohibited except for those seams that result from a failure of the liner due to abrasion or accidental perforation, which shall be immediately repaired in the field using the manufacturer's recommended procedures.
- (h) No resulting solids shall be returned to in-ground pits.
- (i) Solids remaining on the pit-liners after air evaporation of liquid materials shall not be buried in the mud pits and shall be handled and disposed of in accordance with [Michigan's Hazardous Waste Materials regulations]

**[Part 615 of Michigan’s Oil and Gas Regulations, Natural Resources and Environmental Protection Act, No. 451 of the Public Acts of 1994 as amended, Rule 324.407.]**

The language proposed by TAC is less burdensome and less technical

TAC adopts the concerns of Denver Water as set forth in its prior presentation of the parties and in its additional submission dated July 30, 2010.

**II. Re: Notification to Other Authorities and Persons:**

The Department’s proposed language is both reasonable and not burdensome. Consider some alternatives imposed by other regulatory bodies:

**Notification Procedures of the Colorado Oil and Gas Regulations at Rules, 333, 100 and 214:**

An informational copy of the Notice of Intent shall be filed by the Operator with the local governmental designee at or before the time of filing with the Division.

A “local government designee” is defined as a specific office designated by a local government to receive, on behalf of the local government, copies of all documents required to be filed with the local government pursuant to these rules.

Each local government that designates an office for receipt of notices required by these rules shall provide the Division with written notice of such designation, including the name, address and telephone number, facsimile number, electronic mail address, local emergency dispatch and other emergency numbers of the local government designee. It shall be the responsibility of each local government designee to insure that all documents provided by the Operator, the Division or the Board are appropriately distributed to the appropriate persons and offices.

**The Texas Oil and Gas Regulations provide for the following notification process:**

At the time of the filing of a Notice of Intent to Prospect, the Prospector shall provide the following required documents to the Department in support of that notice:

- (a) A copy of a letter submitted to the controlling land use authority in the Municipality or Municipalities or County or Counties where the proposed exploration is to take place notifying such local authority of its intent to file a Notice of Intent with the Department, describing the area of exploration as specifically as possible without divulging any confidential information, together with proof that such notification was made; and
- (b) Proof that a copy of the same document was mailed by certified mail prior to the filing of the NOI to:

- (1) Any water conservation authority with any rights within, adjacent to, or within ten (10) miles downstream of the area of exploration;
  - (2) Any federal or state agency that owns, controls or administers land in, or adjacent to, the area of exploration;
  - (3) Any person with surface rights within the area of exploration;
  - (4) Any person with mineral rights within the area of exploration;
  - (5) Any person with water rights within ten (10) miles downstream of the proposed activity; and
  - (6) Any property owner within three (3) miles of any boundary of the area of exploration.
  - (7) Every county court judge in each county where the activity is proposed to occur;
  - (8) Every mayor within 10 miles of the proposed activity;
  - (9) Every health department authority within 10 miles of the proposed activity;
  - (10) Every state representative in every district where any of the activity is proposed to occur.
- (c) Failure to comply with any of the notice requirements outlined above shall result in a deficiency notice by the Department to the Prospector and no mining, exploration or other prospecting activity may be undertaken by the Prospector until the Department has acknowledged compliance with these rules and that any deficiencies have been corrected.
- (d) In the event that the Department subsequently discovers that a deficiency exists any such activity must cease and no activity may be undertaken until the Department certifies that such deficiency has been corrected.

### **III. Baseline Water Quality Monitoring Prior to Prospecting:**

TAC requests that the requirement for baseline water monitoring be required by the Department in the first instance. The interests of smaller operations and prospectors can be adequately protected by allowing them to obtain an exemption where the Applicant can show that it meets the criteria set forth in C.R.S. 34-32-103 (12), specifically:

- (1) That there will be little or no disturbance to the surface of the land; or
  - (2) The activity takes place in a single block of land totaling no more than 1,600 square feet of land surface; and
  - (3) The activity does not exceed two disturbances per acre; except that the cumulative total of such disturbances shall not exceed five acres statewide in any prospecting operation extending over 24 consecutive months.
- [C.R.S. 34-32-103 (12)]**

As an example of what some other state regulatory authorities require when a person or entity makes an application to prospect for uranium, consider the groundwater monitoring mandate in Texas, which is paraphrased below in the interest of brevity:

- I. At the time of application every Prospector shall attach an exhibit to his Notice of Intent consisting of a map showing the location of all surface waters, springs, seeps, lakes, creeks, and private and public water wells interior to and within 1000 feet of the proposed permit boundary.
  
- II. After receiving notice from the Department that a Notice of Intent to conduct prospecting or exploration complies with the requirements of these rules, the Prospector shall, at least fifteen (15) days prior to initiating such activities, initiate the following baseline water quality monitoring activities:
  - (a) If there are fewer than ten (10) existing wells within the designated area of exploration, obtain samples from each existing well located within the designated area of exploration; or
  - (b) If there are more than ten (10) existing wells within the designated area of exploration, obtain samples from ten (10) existing wells demonstrated by diagram to be evenly distributed throughout the designated area of exploration; or
  - (c) If there are no existing wells within the designated area of exploration, the Prospector shall drill four (4) satisfactory monitoring wells, at points within 500 feet or less, north, south, east and west of the area of exploration, from which samples shall be drawn; and
  - (d) Obtain groundwater samples from each river, stream, creek, lake, pond or other groundwater source which occupies or flows through any part of the area of the exploration;
  - (e) With respect to each river, stream or creek or other source of flowing water, samples shall be drawn, at a minimum, in a location upstream and a location downstream of the proposed activity, documented by GPS coordinates and monitored subsequently at the same coordinates;
  - (f) With respect to lakes and ponds and other more stagnant groundwater sources;
    - (1) Samples shall be drawn from each north, south, east and west extremity of that body of water, documented by GPS coordinates and monitored subsequently at the same coordinates.
  - (g) All samples will be submitted to the state laboratory for analysis. All samples will be analyzed, at a minimum, for:

The following Major Constituents:

Bicarbonate  
Calcium  
Chloride  
Magnesium  
Molybdenum  
Sodium

Sulfate

The following Minor Constituents:

Boron  
Carbonate  
Fluoride  
Iron (Total and Dissolved)  
Manganese (Total and Dissolved)  
Nitrate  
Potassium

The following Trace Constituents:

Arsenic  
Selenium

The following Radionuclides:

Radium 226  
Gross Alpha  
Gross Beta  
Uranium

The following additional parameters:

pH (field and lab)  
Temperature (field and lab)  
Total Alkalinity  
Total Dissolved Solids  
Specific Conductance

- (h) Analysis shall be submitted to the Department within thirty (30) days of the receipt by the Prospector from the laboratory and shall reflect:
- (1) The minimum analysis as prescribed above;
  - (2) The date of collection of the sample;
  - (3) The date of receipt by the laboratory;
  - (4) The date of laboratory analysis or report;
  - (5) Laboratory sample identification;
  - (6) The name and signature of laboratory personnel responsible for analysis; and
  - (7) The date the results were sent to the Prospector.
- (i) The analysis shall be conducted quarterly from the same wells or locations and the results reported to the Department within thirty (30) days of receipt by the Prospector.
- (j) The Department may, by cease and desist order or by temporary or permanent restraining order, or other judicial process, require a Prospector to temporarily or permanently cease operations where water quality results justify such judicial action.

**[Groundwater Monitoring Parameters of the Railroad Commission of Texas – Uranium Exploration and Surface Mining at 16 TAC 11.142 (a)]**

**CONCLUSION**

The examples of the requirements of other regulatory bodies and other states in regulating prospecting activities with respect to uranium and other less toxic substances demonstrate that the language proposed by the Department, together with the suggested alternative language of the identified parties, is reasonable, not unduly burdensome and consistent with the intent of the statute.

Dated this 6th day of August, 2010

/s/ Michael W. Meyrick

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