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October 28, 2019

**VIA E-MAIL: [MSHA-comments@dol.gov](mailto:MSHA-comments@dol.gov)**

Ms. Sheila A. McConnell  
Director, Office of Standards, Regulations, and Variances  
Mine Safety and Health Administration  
201 12<sup>th</sup> Street South, Suite 4E401  
Arlington, Virginia 22202-5452

Re: **MSHA-2018-0015**  
**Comments on MSHA's Notice of Availability of Program Policy Letter;**  
**Request for Comments Regarding Escapeways and Refuges in Underground**  
**Metal and Nonmetal Mines**

Dear Ms. McConnell:

Nevada Gold Mines, LLC ("NGM") respectfully submits our comments on the Mine Safety and Health Administration's ("MSHA") proposed Program Policy Letter ("PPL") published in the Federal Register, 84 *Fed. Reg.* 36623 on July 29, 2019, discussing Escapeway and Refuge requirements under 30 C.F.R. § 57.11050(a). As set forth further below, NGM does not believe that the regulatory requirements require additional guidance beyond the plain language of the regulation. The regulatory requirements for the placement of refuge chambers is clearly set forth in the regulation. The proposed "guidance" is at odds with the plain language of the regulatory provision at issue.

### **Introduction**

NGM is a joint venture between Barrick Gold Corporation and Newmont Goldcorp Corporation. In addition to other mines and facilities, NGM operates 10 underground gold mines in Northeastern Nevada. These include the Meikle Mine, Turquoise Ridge, Chukar, Leeville, Cortez, Exodus, Pete Bajo, Twin Underground, Goldrush, and El Nino.

NGM and its employees place the utmost importance on providing a safe working environment for the miners in Nevada. Considerable amounts of time and financial resources are spent to accomplish this goal. The success of our efforts is reflected in our exceptional safety record, which we continually improve every year.

**Language of the Standard at 30 C.F.R. § 57.11050(a)**

The standard at 30 C.F.R. § 57.11050 requires underground metal/nonmetal mines have at least two escapeways from the lowest levels of the mine to the surface and positioned such that damage to one does not lessen the effectiveness of the others. While a second opening to the surface is developed, a method of refuge must be provided. The regulation requires a method of refuge be provided for every miner who cannot reach the surface from his working place through at least two separate escapeways within one hour using normal exit methods. If that cannot be accomplished due to distances for walking within the mine, the refuges must be located so the miner can reach one within 30 minutes.

**The PPL is Inconsistent with the Plain Requirements of 30 C.F.R. § 57.11050(a)**

The PPL interpretation of the standard does not follow the plain language of the standard. First, the PPL requires that a miner be able to reach the secondary egress or refuge within 30 minutes from the time he leaves his *working place*. The language in the standard refers to “levels” not a working place. A working place is defined as “any place in or about a mine where work is being performed.” 30 C.F.R. § 57.2. A “level” as defined in the Dictionary of Mining Terms, U.S. Bureau of Mine, U.S. Department of the Interior, 1968 as “a main underground roadway or passage driven along the level course to afford access to stopes or workings, and to provide ventilation and haulage-ways for the removal of coal or ore. . . .” The use of the language “working place” as a substitute for the regulation’s reference to “levels” amounts to an overly inclusive expansion of the plain requirements in the regulation.

Second, the PPL mandates that when a refuge is required either as a result of the second escapeway being developed or in the situation where miners would not be able to reach both escapeways within one hour using the normal escape methods, the location of the refuges must be determined on a case by case basis. The PPL requires that a refuge be “reachable within 10-minute walk in any configuration while carrying an injured miner” or within “1500 feet from miners on a relatively level surface.” These guideposts are completely arbitrary and are inconsistent with other estimates of time critical access.

For example, MSHA’s own published information concerning the placement of Self-Contained Self Rescue (“SCSR”) devices in underground coal mines demonstrates the arbitrariness of the 1500 feet example in this PPL. The “Escapeway Conversion Chart” in the Program Policy Manual, Volume V. Part 75.1714-2, reveals that a miner can travel approximately 3,000 feet in 10 minutes if the passageway is 7 feet, 6 inches high. Most underground metal mines have high passageways. Many underground metal mines have level walking conditions. Therefore, the arbitrary examples referenced in the PPL should be abandoned.

The various mines in our state are each unique and require different systems to adequately protect the safety of our employees in the event of an emergency. NGM recommends that MSHA not require all mines to follow an arbitrary distance that may be unsuitable or inappropriate for some mines. NGM suggests that mine operators determine the mine-specific distances that adequately

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reflect the actual needs present at each mine site. The existing regulation provides for just that type of analysis. There is no need for publishing guidelines that do not reflect the reality of many mines. Moreover, a real concern exists that each MSHA District will adhere to the guideposts without any consideration given to the circumstances presented at the mine. The inconsistencies in enforcement will present unnecessary controversy that could be avoided by using a reasonable person test to interpret the requirements of the current regulation.

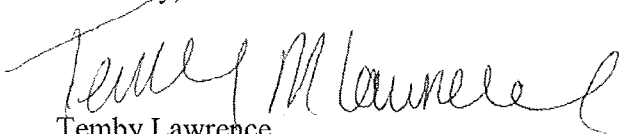
### **Significant Costs Presented by the PPL**

Finally, the PPL summarily dismisses the costs involved in considering escapeway access and refuge placement. The cost of developing additional egresses beyond those that have already been planned and mined to meet the existing regulation would be significant. Development costs are very often in excess of \$1,000 per foot and can be as high as \$4,000 per foot in some mines depending on ground conditions. The efforts and costs involved in the purchase, installation, and maintenance of portable refuge chambers are considerable. Just one, 12-man, 96-hour refuge station costs more than \$120,000. The effort required to inspect and maintain these refuges, not to mention the costs of moving and preparing new openings for them to be placed, is also considerable. In many cases, mines will have multiple active areas compounding the above costs. Setting an arbitrary minimum distance to a secondary egress or refuge will require operators to incur significant costs and may force some operations into financial hardship or closure.

If MSHA wishes to impose new requirements, it should go through notice and comment rulemaking. However, the current rule has provided protection for miners for decades. MSHA has not provided any evidence that the current rule does not adequately protect miners.

Thank you for your time and the opportunity to provide comments on the proposed Program Policy Letter.

Sincerely,



Temby Lawrence

Health and Safety Manager -Carlin Underground

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**From:** Lawrence, Temby <Temby.Lawrence@nevadagoldmines.com>  
**Sent:** Monday, October 28, 2019 4:20 PM  
**To:** zzMSHA-Standards - Comments to Fed Reg Group  
**Cc:** Hiliary Wilson  
**Subject:** Docket No. MSHA-2018-0015 PPL Escapeways and Refuges in Underground Metal Non Metal Mines - Nevada Gold Mines Comments  
**Attachments:** Nevada Gold Mines Comments MSHA-2018-0015 PPL Escapeways and Refuges Underground.pdf

To whom it may concern,

Please see the attached comments by Nevada Gold Mines in relation to Docket No. MSHA-2018-0015 Escapeways and Refuges in Underground Metal and Non Metal Mines.

Thank you for your time.



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