Planning Considerations for Potash Development [1]

Step 1: Initial discussions between Rural Municipality and Developer.
-Identify and discuss proposed development
-Identify if proposed development will comply with Municipality's regulations and policies i.e. Zoning Bylaw, Official Community plans, etc.
-Discuss and identify agreements that will be required
***If no zoning bylaw exists then there is no requirement for a development permit; however, the RM should be consulted to determine if any other permit is required. Steps 2-4 would not apply.**

Step 2: Review for compliance with the Zoning Bylaw/Official Community Plan and the need for any amendments. The Municipality may need to amend portions of their zoning bylaw and/or official community plan prior to the development taking place. Amendments require Ministerial approval prior to coming into force.

Enter into agreements regarding road maintenance, construction, etc. if applicable.

Step 3: Once necessary amendments are approved, the next stage is for the developer to complete a Development Permit Application from the Municipality. The Developer should provide sufficient information including a site plan which identifies: land locations, proposed structures and buildings, locations of buildings, setback distances from roads, access, etc. and any other pieces of information that may help Council provide an informed decision and to ensure that the development complies with their regulations. Applications may vary depending on the nature of the development i.e. Development permits issued in phases or one inclusive permit application.

Step 4: Building Permit Applications: Section 62 of *The Planning and Development Act, 2007*states that no building permits are valid unless a corresponding development permit has been issued. Building owners are responsible for ensuring that building construction complies with the standards set out in the National Building Code of Canada. Municipalities are responsible for ensuring that building construction complies with the standards set out in the code.

Step 5: With appropriate permits/approvals/information, development may begin.

[1] Chart courtesy of SARM Community Planning Department.

Pillar 1 and 2–Subsurface Dispositions: Permits & Leases

The start of potash development begins with the company applying for a permit and/or a lease. According to *The Subsurface Mineral Regulations, 1960*, subsurface dispositions in the Province can be acquired, by application, in two ways; by permit or lease. The Ministry of Energy and Resources is responsible for granting both types of subsurface disposition for Crown mineral lands in Saskatchewan.

Permits: A permit holder has been granted the exclusive rights to prospect (explore the area) for minerals within in the permit area for an initial 5 years. Permits may be extended for 3 additional 1 year terms.

Permit areas do not exceed 100,000 acres and should make up a solid block of lands. With prior written consent of the Minister, permit holders may extract and remove minerals from the permit lands for experimental purpose and/or to determine if the mineral exists in commercial quantities in the area.

At any time, a permit holder may surrender its permit area in its entirety or, with Minister's approval, may surrender a portion of the permit area. Upon complying with the Regulations, including the expenditure requirements for the permit, the permit holder may convert the permit into a lease through the Province.

Leases: A lease or leases may be granted for an area of the province in which Crown mineral lands are available for disposition; approval of a lease application is, in part, dependent upon size and shape of the lease area(s). A lease area should be no less than 12,000 acres, no more than 100,000 acres, and make up a solid block of lands.

A lease holder has been given exclusive rights by the Province to extract, recover or produce minerals within the lease area for an initial 21 year term. As long as the lease holder has complied with the Regulations, upon expiry of the initial 21 year term, a lease may be renewed for successive 21 year terms.

At any time, a lease holder may surrender its lease area in its entirety or, with Minister's approval, may surrender a portion of the lease area. However, within 15 years from the date of issue of the lease, the lease area will be reduced to a size no larger than 37,500 acres; lease area will comprise no more than 3 solid blocks of land no less than 12,000 acres in size. Additional acreage for the lease area can be acquired thereafter dependent upon production capacity.

The role of rural municipalities (RMs) in this process: According to the Ministry of Energy and Resources, it does not require that an applicant for a permit or lease approach an RM because

the granting of the dispositions does not confer any surface right or privilege to the applicant; however, an applicant may approach an RM on his/her own initiative for information i.e. surface access restrictions.

For more information about subsurface disposition please contact Bram Nelissen, Manager Resource Conservation, Lands and Mineral Tenure, Ministry of the Economy at 787-2574 or Bram.Nelissen@gov.sk.ca or the switchboard at 787-2543.

Pillar 3– Seismic Exploration

Seismic exploration typically follows a company obtaining a permit from the Province; however, in some cases this work has previously been completed. *The Seismic Exploration Regulations, 1999,* outline the authority of the Province to regulate seismic programs. In the case of seismic exploration, Council does not have the authority to regulate or restrict these activities beyond the guidelines set out in the Regulations. The Province is the regulatory agency in these instances and if an RM finds that someone undertaking seismic exploration is not following the rules set out in the Regulations then they should contact the Ministry of the Economy.

A company must submit a "License Application to Conduct Seismic Exploration" for approval by the Ministry of the Economy every 5 years. Once approval is granted the holder of the seismic exploration licence is required to provide a "Preliminary Plan" of the field operations for approval before they commence activity.

Notice of Intent: If the Preliminary Plans are approved by the Province then the license holders must submit a "Notice of Intent" for seismic exploration, including a map and other applicable documents, to those agencies identified by the Ministry of the Economy for review and signature. Rural Municipalities are referred to as an 'approval agency' by the Province in these cases and should receive any "Notice of Intent" for seismic activity which will be undertaken in their municipality prior to activities commencing.

Once the RM has reviewed and signed off on the "Notice of Intent" the RMs no longer have the authority to prevent the license holder from undertaking seismic exploration on road allowances or private lands within the municipality. An RM can, however, attach specific conditions to the project proposal requiring companies to, for example, document damages to roads prior to starting the seismic program.

A license holder must also confirm that they have proper permission from the appropriate RM's if they plan to undertake clearing, ditching or construction in order to carry-out seismic exploration activities on land within the RM. A license holder is also required to remove any and all debris, refuse, equipment or other materials from the RM once the exploration has been completed. An RM may require the license holder to pay for any road damages that occur and/or for any site clean-up deemed necessary as a result of the seismic program. To ensure that remedial work is completed in a timely manner, an RM may require a license holder to post a bond or provide a deposit prior to any seismic program beginning. The bond or deposit must reasonably reflect potential damages that could be incurred by an RM because of the proposed seismic activity. In the event that the seismic activity is being conducted on private lands, an individual landowner is the only one who has the authority to negotiate a bond or deposit for access to their lands.

Surface Access: Where applicable, before a company begins the seismic operations they must negotiate surface access with private landowners. If seismic operations are to be undertaken on Crown owned lands then the company will be required to obtain a surface lease agreement from the provincial Ministry in charge of managing those lands. Only once a company has complied with the requirements posed by an RM and has obtained surface access from applicable land owner(s) can seismic activity commence.

Notice of Cancellation: In the event that a seismic program has been cancelled, a "Notice of Cancellation" must be submitted to the applicable RMs and will include the cancellation date, program name and number, license holder and license number.

If there are any changes made to a seismic program, the company is responsible for notifying the RM of any revisions to the Preliminary Plan. The company must also inform, among others, the private landowners and Crown lessees of the revision to the seismic program.

Notice of Completion: Within 72 hours of the seismic program having been completed, a company must submit a "Notice of Completion of Seismic Exploration" to the RMs. At this time, an RM should examine the affected exploration area to ensure that all the RM requirements for the seismic program have been met.

For more information about seismic exploration and licensing requirements please contact Thomas Schmidt, Manager, Well Records, Ministry of the Economy, at 787-2562 or Thomas.Schmidt@gov.sk.ca or the switchboard at 787-2528.

Pillar 4 – Core Sample Drilling and Piezometer Installs

Following seismic exploration, the next development phase includes two types of drilling that takes place prior to the commencement of the Environmental Impact Statement (EIS) which are core sample drilling (aka. test holes) and piezometer installs.

Core sample drilling in potash development is the process through which a company acquires samples of the mineral in order to test its grade. Usually, a company will drill as few holes as possible to test the mineral, as the more holes drilled means more money being spent by the developer. Once a test hole has been drilled a buffer of approximately 1 km must be left around the site and therefore no extraction can take place within that buffer.

Holes for piezometer installs are most often drilled in order to measure water pressures and estimate flow rates. A piezometer is an instrument lowered into a hole where it remains at least as long as the company is required to monitor water flow.

According to *The Subsurface Mineral Regulations*, 1960, all operations in connection with drilling or boring for the purpose of exploring for subsurface minerals, must be carried on in accordance with the provisions of *The Oil and Gas Conservation Act* and related regulations. Therefore, any company or individual wishing to drill a test hole and/or install a piezometer must first apply to the Ministry of the Economy for a license to drill a well. The application submitted must meet the requirements set out in *The Oil and Gas Conservation Regulations*, 2012. The Ministry of the Economy will not issue a license to drill on a public highway unless the written approval of the affected RM and the Ministry of Highways and Transportation has first been obtained.

The issuance of the license by the Province does not grant the holder right of entry to the surface and in no way removes the responsibility of the license holder to contact the appropriate RMs to establish whether or not: 1) a development permit is required for the proposed activities, 2) whether a well-drilling licensing fee must be paid to the RM, and/or 3) whether there are any other requirements of the municipality before field operations can commence (i.e. Road Maintenance Agreement).

The provincially issued well-drilling license(s) issued are provided directly to the company and no copy is sent to the RM. Therefore, it is recommended that the RM request a copy of the provincial permit prior to issuing any municipal permits in order to ensure the development has been approved at the location noted.

If an RM has an Official Community Plan/Basic Planning Statement and Zoning Bylaw then Section 51 of *The Planning and Development Act, 2007* permits the council to prescribe in its zoning bylaw or by a separate fee bylaw, fees charged for the application, advertising, approval, enforcement, regulation and issuance of the development permit(s) related to this stage of the

development process. It should be noted that amendments may be required to the RM's Zoning Bylaw and Official Community Plan (Basic Planning Statement or Development Plan) to accommodate the development.

According to *The Municipalities Act* all RMs have the authority to establish by bylaw a well-drilling license fee to be paid by a company or individual requesting permission to drill a new well in the municipality. The fee schedule for drilling of wells or other holes, besides those drilled for seismic testing, is set out in *The Municipalities Regulations*. At this time in the development process, an RM may also require a developer to enter into a Road Maintenance Agreement (RMA).

From the perspective of an RM, drilling operations may begin once a lease holder has satisfied the RM's requirements i.e. obtained a development permit, a well license, entered into a RMA, and has acquired surface access of the proposed well site from the landowner.

Surface Access: As with seismic exploration, a company or individual planning to undertake drilling operations must negotiate surface access with private landowners. If drilling is to be undertaken on Crown owned lands then the company will be required to obtain a surface lease agreement from the provincial Ministry in charge of managing those lands; typically the Ministry of Agriculture in these instances..

In Saskatchewan, there is no standard process for a developer to obtain surface rights from private landowners. In this instance, an individual landowner would be approached by the developer or the developer's designate and surface rights would be requested. Often negotiations for surface access will involve a discussion about:

- the compensation for loss of land production;
- the land value;
- the use of and access to the land;
- lost value of improvements; and
- the determination of a fee schedule for any damage caused to the property outside of the scope of normal drilling operations.

*Note: The Surface Rights Board in Saskatchewan may not recognize each as a criterion to deny access to a developer.

In the event that a surface lease agreement is required for drilling operations on Crown land, the individual must apply to the appropriate Ministry in charge of managing those lands at least 10 days prior to the proposed entry date. Before a surface lease is issued, an applicant must have satisfied all reservations and requirements of those with an interest in the land (i.e. agricultural lessee consents to the proposed lease). In the event that consent of an agency(s)

cannot be obtained by the applicant, the Ministry responsible for the land will mediate the situation and then grant permission of entry.

For more information about well licenses issued by the Province please contact Penny McMillan, Well/Facility License Issuer, Ministry of Energy and Resources, at 787-0320 or Penny.McMillen@gov.sk.ca. If you have questions about subsurface disposition please contact Todd Han, Director, Petroleum Development, Ministry of the Economy at 787-2221 or Todd.han@gov.sk.ca. For other related inquiries please call 787-2592.

Pillar 5 – Environmental Assessment – Environmental Impact Statement (EIS)

Following the initial drilling phase, a formal environmental assessment must be undertaken[1]. According to *The Environmental Assessment Act*, when a development is likely to have significant environmental (ecological, socio-economic, cultural) impacts, a developer must receive approval from the Minister of Environment to proceed with the development[2].

The Saskatchewan Environmental Assessment program was designed to allow for the systematic evaluation of a development to ensure that the real costs associated with the development are satisfactorily mitigated prior to its approval. The environmental assessment process typically involves the following steps.

1. Developer prepares and submits an application and technical proposal outlining the proposed development to the Environmental Assessment Branch (EAB) of the Ministry of Environment.
2. Once a proponent has prepared and submitted a technical proposal, the EA Branch will conduct a review of the proposal – a process which is called screening. Following the review, the EA Branch will inform the Minister about the project and its impacts. The Minister will then make a decision on whether or not an Environmental Impact Assessment (EIA) is required, and the EAB will advise the proponent accordingly.
3. If it is determined during the screening phase that a project is a 'development' as defined in the Act, then ministerial approval is required before proceeding with the project. An EIA will be required for developments before the Minister makes a decision regarding the approval of the project. The Act requires the Minister to give notice that an EIA is being conducted. When an EIA is required, proponents will be asked to prepare a Terms of Reference (TOR), or scoping document for their project. Scoping identifies the key impacts to be studied and establishes the TOR for the EIA.
4. The TOR and proposal undergo technical review by the Saskatchewan Environmental Assessment Review Panel (SEARP) to identify any subject areas or issues that the proponent may have overlooked in the TOR.
5. The developer prepares an environmental impact statement (EIS) according to the TOR. The EIS describes the development process, potential impacts on the environment and outlines how the developer plans to mitigate the negative impacts and enhance the positive impacts of the development.
6. SEARP undertakes a technical review of the EIS and provides comments on the EIS.

[1] Depending on the nature of the exploration (i.e., if the exploration activities triggered the 2(d) criteria in The Environmental Assessment Act then an environmental impact assessment may have been carried out for the exploration stage.

[2] A formal environmental assessment must be undertaken if the mine project triggers 2(d) criteria, making it a development. Most mines are developments due to the environmental impacts that they are likely to create.

7. Following the completion of the government's technical review, the EIS and the TRCs are released and the government issues a public notice asking for comments.
8. The EIS is ultimately approved with conditions or refused by the Minister after the reviews conclude.

An EIS includes a wealth of information that may be of particular interest to the RM(s) in which the development is to be situated or to those potentially impacted by the development. With respect to potash development, an RM will find information contained within the EIS that can be useful for planning for the development and entering into agreements with the developer. Some characteristic components of an EIS for a potash development include:

- Consultation Plan;
- Project description;
- Project schedule;
- Project needs and benefits i.e. water, power, access etc.;
- Work force;
- Related traffic; and
- Project-specific effects i.e. surface water, soil, roads, wildlife etc.

According to the Ministry of Environment, the proponent is expected to be communicating with stakeholders, including the relevant RMs, long before the EIS is written.

Additional information about environmental assessments, including archived projects and those under review, can be found at http://www.environment.gov.sk.ca/EnvironmentalAssessment.

For more information about environmental assessment please contact

Environmental Assessment Branch
Saskatchewan Ministry of Environment
3211 Albert Street, 4th Floor
Regina, SK S4S 5W6
Phone: (306) 787-6132
Email: environmental.assessment@gov.sk.ca

Pillar 6 – Preproduction (aka. Development Work) and Land Acquisition

Potash mines in Saskatchewan can be classified as industrial mega projects based on the projected development related costs and anticipated returns. Such projects do not follow an 'out-of-the-box' formula from either a technical or business perspective and are very dependent on circumstances and project leader. These mega projects typically average the following:

- Time from start of scope to start-up is 5.5 to 10 years;
- Typical assessment costs 3-5% of total cost
- Take 3.5 years to execute; and
- Cost $3.2 billion dollars.

Preproduction (aka Development work):

Typical preproduction work includes the appraisal of the opportunity, development of project scope, business plan and concept study.

Appraising the development opportunity typically requires an assessment of the mineral deposit. A number of items must be considered by developers, these include:

- What of the deposit is mineable?
- What is the corporate exploration strategy?
- Is there potential for future expansion?
- Are there any trouble spots in the deposit?

The information compiled during the assessment is then tied to project particulars, including the business strategy and related infrastructure requirements.

The key attributes of the potential project are then evaluated and a project value is determined. The project value is typically measured by the profitability of the project (approximately 4-8% more than the cost of capital) and stability of the project environment (weather, local reaction/expectations, procurement, labour, laws/institutional framework etc.).

All of the information gathered is then used to shape the development opportunity for decision-makers. If the project environment is stable enough for a successful execution while holding enough of the projects value to still make the venture worthwhile for stakeholders then construction can begin.

Land Acquisition:

As with other aspects of a particular potash development, the timing of land acquisition is dependent on circumstances that cannot be easily defined. In some instances land may be acquired prior to the appraisal of the opportunity and in others it may occur shortly thereafter.

Depending on the developer's needs, the individual acquiring lands from a municipality and/or private landowner may be an employee of the development company or may simply be on contract by the developer. In either case, both the landowner and developer must agree to the purchase price.

Once the appropriate lands have been acquired and change in ownership has been filed with the municipal office then mine site development can begin.

For more information about the preproduction phase please contact environmental assessment please contact Lara Ludwig, Community Consultation Specialist, Vale Potash Canada Limited at 791-4524 or lara.ludwig@vale.com or the switchboard at 791-4510.

Pillar 7 –RM – Company Agreements

The end of the preproduction phase can usually be identified by the solidification of the environmental assessment, defined business goals/objectives, accepted project scope, and commitments made between developers and various stakeholders including municipalities.

At any time during the development process, RMs can enter into agreements with developers which are congruent with provisions of *The Municipalities Act*. As a municipal corporation, the Act authorizes RMs to enter into agreements in order to "…provide services, facilities and other things that, in the opinion of council, are necessary and desirable for all or part of a municipality, to develop and maintain a safe and viable community, to foster economic, social and environmental well-being and to provide wise stewardship of public assets".

Prior to entering into any agreement with a developer, it is good practice for an RM to have a broad understanding of the potential impacts during each stage of the development. In Saskatchewan, municipalities have access to the formal environmental assessment that has been undertaken by the developer and approved by the Minister of Environment in order for the development to proceed. In the assessment an RM can find valuable information about anticipated traffic counts and routes, project location, infrastructure requirements and project-specific effects resulting from the development.

There are a number of issues that RMs should consider when assessing the local impacts of the development and determining means to mitigate the impacts. Some of these issues include:

- Road closures, sales, maintenance, construction, and upgrades;
- Short-term housing for construction crew;
- Long-term housing for employees during operation;
- Additional policing costs; and
- Water, waste water and sewage provision.

In Saskatchewan an RM is under no obligation to construct, upgrade or modify its roads so anything done in this regard should be pursuant to an agreement with the developer. A municipality can agree to enter into a Road Construction Agreement with a developer. The municipality should have a policy in place prior to entering into this agreement for the sake of consistency and to ensure that roads being built are up to the standards of the municipality.

In order to mitigate the impacts on road infrastructure, RMs have a right to request developers enter into a Road Maintenance Agreement. The agreement must be consistent with the provisions of Sections 9 to 15 of *The Municipalities Regulations* which sets the maximum amounts that can be charged by a municipality under a road maintenance agreement for road maintenance and sets the maximum amount for compensation to the municipality for shortening the lifetime of municipal roads. According to Section 14, other public interests may also be addressed by these agreements. For example, an agreement may contain conditions to ensure public safety such as those related to dust control.

According to Section 65 (2) of *The Planning and Development Ac*t (PDA), another agreement that RM's can use to address a multitude of development related concerns is a Development Agreement. If a municipality has a zoning bylaw and official community plan then they can designate portions of land as a direct control district and enter into a development agreement to deal with things like roads, services, parking, drainage, etc. According to Sections 169 and 172 of the PDA, Council may also establish development levies and may require the applicant to enter into a development levy agreement respecting the payment of levies.

With respect to other issues of concern, municipalities do not have specific authorities granted to them in legislation or regulations to require developers to assist them to address the issues. Any agreements entered into to address these issues are completely gratuitous and are enforceable under civil law.

Some additional items to consider:

- Ask for additional information you may need to make an informed decision from developers;
- Keep an open dialogue with developer;
- Be upfront with developers about your expectations – let them know if you don't have the resources to address development related impacts;
- Provide developers with two or three options to address your concerns;
- Ensure the timelines for your agreements meet both your and the developer's needs;

For more information about development related agreements please contact Andrew Svenson, Legal Counsel, SARM, at asvenson@sarm.ca, Dana Schmalz, Community Planner, SARM, at dschmalz@sarm.ca or Autumn Dawson, Community Planner, SARM, at adawson@sarm.ca.

Pillar 8 – Construction Phase

Once the preconstruction phase has ended, the essential land has been acquired, agreements have been reached with all necessary stakeholders, and the applicable permits (development and building) the construction phase of the project typically commences. The construction phase of a potash development can be characterized by the point when surface installations have begun to be developed. Some installations that one may see at this stage include electrical buildings, compressor houses, SaskPower substations, maintenance buildings and temporary camps.

The Role of the Province:

In the case of potash mine development, the Environmental Protection Branch (EPB) of the Ministry of Environment issues construction approvals to companies for construction activity which falls primarily under *The Environmental Management and Protection Act, Mineral Industry Environmental Protection Regulations* (MIEPR), *Hazardous Substances and Waste Dangerous Goods Regulations* (HSWDG), and *Clean Air Regulations and Water Regulations*.

As of January 2013, some examples of construction approvals issued using the BHP example would be:

- Surface preparation and drainage works
- Hydrogeological program – drilling waste sump
- HSWDG storage (fuel tanks, oil storage, freeze plant storage, emergency preparedness planning)
- Polishing pond construction
- Potable water plant construction
- Sewage treatment plant construction
- Camp construction[1]
- Shaft waste and effluent storage facility
- Starter tailings management area construction
- Shaft development
- Site runoff collection pond
- Freeze plant construction

As the project proceeds through the construction phase approvals will be applied for and issued as required under the legislation. The Mineral Industrial Environmental Protection Regulations http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/E10-2R7.pdf outlines the permitting requirements and what is required in applications for permits to construct or operate a pollutant control facility.

[1] While EPB may issue an approval, a camp would still need a building permit. There is no legislation that exempts a construction camp from application of the National Building Code (NBC). Any other buildings constructed on site also require compliance with the NBC whether they are temporary or permanent.

The Ministry of Environment works closely with the Water Security Agency (WSA) on issues pertaining to site drainage and water management especially those which have the potential to have off-site drainage impacts.

The Ministry also works closely with the company during the construction phase to ensure proper planning, documentation and training are in place; related activities include the following:

- Emergency Response Plan (ERP) (environmental emergency, spills, etc.) – ensuring the companies have well documented ERP and that the pertinent people are trained and capable of handling their identified responsibilities;
- Overarching construction management plans – ensuring the companies are developing broad based construction plans for their employees and contractors to be following to ensure that the basic environmental policies are being met consistently;
- Training programs for new staff and contractors along with refresher training on all aspects of environmental protection;
- Developing monitoring and reporting programs to ensure compliance with legislation and commitments made within applications and EIS submissions;
- Inspections – The EPB completes environmental compliance inspections to ensure companies are applying for the necessary approvals as required, following approval conditions, compliant with legislative obligations, have necessary equipment on site to respond to potential situations ie. spill response equipment, and monitor operational performance. These inspections also provide an opportunity for branch staff to become familiar with the facility and the key staff responsible for environmental protection;
- Wetland Habitat Compensation Plans – used to compensate for wetland habitat which was affected and removed as a result of construction activity (Environmental Assessment/Fish & Wildlife usually the lead on this portion with input from EPB);
- Financial assurance obligations – as construction proceeds updating Decommissioning and Reclamation plans and cost estimates to accurately reflect costs required to decommission and reclaim facilities presently onsite; and
- Continuing public education and involvement

<u>The Role of Municipalities:</u>

The Province of Saskatchewan adopted the *National Building Code* (NBC) as the minimum standard for the construction of new buildings under provision of The *Uniform Building and Accessibility Standards Act* (UBAS Act). While the primary responsibility to ensure that buildings are constructed to Code lies on the owner and/or builder, section 4 of the Act imposes on local authorities the legal obligation to "enforce and administer" the Act and regulations[2].

[2] According to section 62(8) of *The Planning and Development Act*, no building permit is valid unless a subsisting development permit, if required, has been issued.

What precisely an RM should do to administer and enforce the Act will vary, depending on the amount of building construction activity in the RM and whether it falls under the Act and the regulations[3]. However, Section 14 of the UBAS Act authorizes a local authority to make bylaws with respect to the following:

- Prohibit the commencement by any person of the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy, of any building unless that person is authorized by a permit to do so;
- Providing for the form and content of permits for the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of a building;
- Providing for the issuance of permits;
- Providing for the circumstances in which a permit may be revoked;
- Prescribing the terms and conditions on which a permit may be granted;
- Prescribing fees to be charged for the issuing of a permit; and
- And requiring an applicant for a permit to demolish or remove a building to furnish a deposit, prescribing the amount of the deposit and governing recourse to the deposit and any refund of the deposit.

A building bylaw can also be used as a tool by which a local authority adopts building standards that are specific to its needs. Section 8.1 of the UBAS Act also authorizes local authorities to prescribe building standards beyond the provincially adopted building standards, where these additional building standards are considered necessary for health, safety or welfare of persons.

Under the UBAS Act, the administration and enforcement of the Act can be undertaken by municipalities without having a building bylaw in place; however, building permits cannot be required or permit fees collected by an RM without one. Without a building bylaw and permitting system in place a municipality can still monitor the construction, inform owners of their responsibility under the Act and regulations, appoint a building official to inspect and issue orders, and even attempt to prosecute someone who has contravened the requirements of the Act and regulations. – Building Bylaw Handbook, 1996.

The cost of building permit fees is established by each municipality through the building bylaw, with consideration to the costs of the inspection service fees, generally based on the value of construction; the governing body sets the building permit fee schedule based on an evaluation of the costs to the local authority and a decision about whether the permit fees will be expected to cover the complete cost to the local authority. "It is suggested that the permit fees be set to recover the local authority's cost to provide this public service, not to create budget revenue or deficit" – Building Bylaw Handbook, 1996.

Building officials, licensed by the Province and appointed by the local authority, review plans, and provide inspection and enforcement services. Currently, there are few Building Inspectors in Saskatchewan that have the qualifications necessary to provide building inspection services for large

[3] All buildings at a potash mine are subject to the UBAS Act and Regulations.

scale industrial projects. If your RM is dealing with a new or expanded potash development in the province, it is recommended that you contact SARM to get you in touch with other such municipalities and the Province to ensure a consistent level of building inspection services and permit fee structures are being reached.

For more information about the application of building standards and The Uniform Building and Accessibility Standards Act please contact the Building Standards and Licensing branch at 787-4113, building.standards@gov.sk.ca, or visit www.gr.gov.sk.ca/Building-Standards.

For more information with respect to environmental protection during the construction phase of a potash development please contact Rhonda Herzog, Environmental Protection Officer, Ministry of the Environment at 953-2550 or Rhonda.herzog@gov.sk.ca or the switchboard at 933-7940.

Pillar 9 – Production

In order for production to commence, developers must be issued operating approvals from the Province. These operating approvals are comprehensive, one window approvals authorizing activity under any or all of the following legislation:

i. *The Environmental Management and Protection Act* (EMPA) and regulations thereunder;
ii. *The Mineral Industry Environmental Protection Regulations* (MIEPR);
iii. *The Hazardous Substances and Waste Dangerous Goods Regulations* (HSWDG); and
iv. *The Clean Air Act and Regulations, and Water Regulations*.

These approvals are issued by the Environmental Protection Branch and are renewed on a regular frequency which is at the discretion of the branch. Typical operating approvals include the following:

- General conditions under applicable legislation;
- Authorization for the operation of the various facility components i.e. tailings management area, brine ponds, air pollution control equipment, potable water plants, HSWDG storage areas;
- Monitoring program components which includes ground water, surface water, EM surveys, subsidence, brine pond levels, injection volumes, QA/QC programs, etc.;
- Regular inspections of key environmental areas i.e. Tailing Management Area dykes, tailings/brine lines, spill control instrumentation, chemical storage areas, fuel storage areas;
- Reporting requirements, which vary with each situation but can include any combination of monthly reporting, semi-annual or annual reporting, environmental performance reports, spill reporting, incident reporting, upset condition reporting, etc.

Other regulatory agencies also issue approvals with respect to the facilities – one specific example to potash sites would be the Ministry of the Economy which issues approval for the deep well injection of brine.

Some key considerations for municipalities during construction and production phases:

- Emergency preparedness. In developing an emergency plan, municipalities should be educated on the companies emergency plans, identify municipal resources that will be needed if there is a site emergency and determine whether there are opportunities for resource or training sharing with companies.
- Need to increase or decrease traffic control measures i.e. dust suppression, road agreements, and site access;
- Review local Infrastructure capacity i.e. potable water, sewage, landfills etc.;
- Seek out opportunities/efficiencies which can be gained to address some production related issues i.e. recycling to extend life of landfills, water conservation programs etc.;
- Keep apprised of potential drainage concerns;
- Keep the public engaged and address public concerns;
- Anticipate and address permitting related concerns;

- Financial assurances/bonds to replace municipal infrastructure removed such as roads;
- Bylaw development and enforcement to ensure successful co-existence with new industry and existing residents/business; and
    - Need for a development related complaint resolution process, perhaps with the company to ensure an effective process.

For more information about what to expect during the production phase of a potash development please contact Rhonda Herzog, Environmental Protection Officer, Ministry of the Environment, at 953-2550 or Rhonda.herzong@gov.sk.ca or Site Project Manager or the switchboard at 933-7940.

Potash Mine Taxation and Tax Sharing Distribution:

"The Municipal Potash Tax Sharing Administration Board (Board) is established in accordance with Section 3 of *The Municipal Tax Sharing (Potash) Act.* The Board consists of two members nominated by the Saskatchewan Association of Rural Municipalities (SARM) and one member nominated by the Minister. The Act provides that of the two members nominated by SARM, one must be a member of a rural municipal council, and at least one must be on the executive of the association.

The Board sets the mill rate for municipal purposes within a taxing rural municipality with respect to potash mine assessments and manages municipal potash tax sharing distributions. Generally speaking, the duties and responsibilities of the Municipal Potash Tax Sharing Administration Board include:

- Potash Mine Taxation
- Potash Tax Sharing Distribution
- Audit and Reporting
- Administration

The Municipal Potash Tax Sharing Administration Board sets the municipal mill rate for potash mines in each potash tax sharing area annually in accordance with a formula specified in The Municipal Tax Sharing (Potash) Act. The potash tax sharing area (also called the area of influence) has a 20 mile radius calculated from the potash mine shaft and head frame, which includes both rural and urban municipalities. Currently; there are three potash tax sharing areas in the province namely: Pense, Esterhazy and Saskatoon-Lanigan.

Pursuant to provisions of the Act, the rural municipalities in which the potash mines are located apply the mill rate established by the Board to the potash mine assessments within that municipality, and remit the potash property taxes to the Board." – Ministry of Government Relations.

For more information about Potash Tax Sharing please visit http://www.municipal.gov.sk.ca/Administration/Assessment/PotashTaxSharing/Process or contact Dale Harvey, Executive Director, SARM, at 761-3721 or dharvey@sarm.ca.

Pillar 10 – Site Decommissioning and Reclamation

The final stage of the potash development process is site decommissioning and reclamation (D&R). According to the Ministry of Environment, companies begin to plan for eventual site D&R activities prior to the development occurring.

Conceptual D&R plans are submitted as part of the Environmental Assessment phase and are updated to reflect the development occurring on site at various stages of construction. Once a site has completed construction and is in stable operations phase the Environmental Protection Branch (EPB) within the Ministry of Environment requires D&R plans to be reviewed and updated on a 5 year interval.

These D&R plans should cover the relevant mine, mill(s), fine tailing management area(s) and other facilities related to the development. The D&R plans will include, among other information, details on the projected impacts to local surface and ground waters, water usage, contaminants, and post-operational land use options for the site including post-operational landforms and drainage systems. Some key considerations for municipalities during the D&R phases include additional pressures with respect to waste management planning/handling, demolition permitting, road/access agreements, and public concerns.

Provincial legislation also requires that financial assurances be provided by the developer for mining operations to ensure there are sufficient funds available for the necessary D&R activities if the company is not available to complete the work themselves (i.e. bankruptcy). The Ministry of Environment is presently adopting a new results based model for environmental regulation which will include the new Environmental Management and Protection Act (EMPA). The new EMPA will also have the requirement for financial assurances for most industrial activity and not just limited to mineral industry.

There are various guidelines available for companies to use with respect to planning for D & R activities and the Ministry is updating and preparing guidelines on an ongoing basis on these topics.

Additional information about site decommissioning and reclamation regulations and related activities please contact Rhonda Herzog, Environmental Protection Officer, Ministry of the Environment at 953-2550 or Rhonda.herzong@gov.sk.ca or the switchboard at 933-7940.