

KENNY C. GUINN
Governor



STATE OF NEVADA
STATE ENVIRONMENTAL COMMISSION

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ALLEN BIAGGI
Director



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Las Vegas, NV

April 11, 2006

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Commission on Mineral
Resources

GEORGE CHANOS
Attorney General
Nevada Department Of Justice
100 North Carson Street
Carson City, Nevada 89701-4717

MEMBERS

Pete Anderson
State Forester
Division of Forestry

Re: State Environmental Commission Request - Formal Attorney
Generals Opinion - Interpretation of Nevada Administrative
Procedures Act - Section 233B.127(4)

Terry Crawforth
Director Department of
Wildlife

Mr. Attorney General

Lew Dodgion
Carson City, NV

A hearing panel of the State Environmental Commission (SEC) recently met to consider an appeal of a water pollution control permit issued to Big Springs Mine. During that hearing, the Nevada Division of Environmental Protection raised a jurisdictional challenge to the appellant's ability to pursue the appeal under NRS 233B.127(4). The panel decided to stay the proceedings until a formal opinion of the Attorney General could be obtained on the issues raised.

Don Henderson
Director Department of
Agriculture

Therefore, pursuant to NRS 228.150(1), the State Environmental Commission requests a formal Attorney General's Opinion regarding an interpretation of a recent amendment to NRS 233B.127(4) as it relates to appeal hearings before the Commission regarding air and water pollution control permits. Specifically, the Commission requests an opinion regarding:

Ira Rackley
Las Vegas, NV

Hugh Ricci
State Engineer
Division of Water Resources

Harry Shull
Las Vegas, NV

Frances Sponer
State Board of Health
Las Vegas, Nevada

Stephanne Zimmerman
Las Vegas, NV

1. Does NRS 233B.127(4) require a public interest group to demonstrate a financial interest in the grant or renewal of a license in order to appeal that grant or renewal to the Environmental Commission?
2. Under Nevada law, is a "permit" substantially similar to a "license" for purposes of NRS 233B.127(4)?
3. Do the restrictions outlined in NRS 233B.127(4) apply to an appeal filed with the Commission prior to the effective date of that statutory provision, but where the actual hearing on the matter occurs after its effective date?

COUNSEL
David Newton

STAFF
[John B. Walker](#)
Executive Secretary

4. How do the jurisdictional provisions outlined in NRS 233B.127(4) harmonize with other statutory requirements placed upon Nevada regulatory agencies such as the Environmental Commission?

The panel is scheduled to re-convene the hearing in this matter on July 6, 2006. Hopefully, this will allow your office enough time to issue the requested opinion. For your information documents relevant to the above referenced hearing are available online at:

http://www.sec.nv.gov/main/big_springs_appeal05.htm

Sincerely
Terry Crawford

Chairman - SEC Appeal Panel

TC/jbw
cc: David Newton, SEC/DAG
Bill Frey, NDEP/DAG
Allen Biaggi, DCNR
Leo Drozdoff, NDEP
John B. Walker, SEC

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