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Re: Appeal Hearing Notice – Big Springs Appeal - NEV0087001

The State Environmental Commission (SEC) will re-convene the Big Spring Appeal hearing on Thursday July 6, 2006. The re-convened hearing will be conducted at the Office of the Attorney General, 2nd floor conference room. The office is located at 100 North Carson Street. The appeal is scheduled to begin at 9: 00 a.m.

At the initial appeal hearing, which was conducted on March 29, 2006, the SEC appeals panel requested a formal Attorney Generals Opinion (AGO) regarding a recent legislative change to Nevada's Administrative Procedures Act [(Section 233B.127(4)].

The AGO was requested in response to a jurisdictional challenge by the Nevada Division of Environmental Protection (NDEP) to the appellant's (Great Basin Mine Watch) ability to pursue the appeal under NRS 233B.127(4). The SEC appeals panel decided to stay the proceedings (i.e., March 29th hearing) until an AGO could be obtained to address the jurisdictional issues. The requested AGO sought answers to the following questions.

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?
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?

On June 19, 2006 the SEC received the AGO from the Office of the Nevada Attorney General; the Opinion is attached and posted on the SEC Website at http://www.sec.nv.gov/main/big_springs_appeal05.htm .

Please be advised that the Chairman of the SEC appeals panel at the forthcoming re-convened appeal hearing scheduled on July 6th has indicated that he will request a brief review of the AGO from counsel of the SEC. Moreover, the Chairman further intends to entertain motions from SEC panel members regarding the applicability of the AGO, prior to proceeding with any other matters regarding the appeal.

Sincerely
John B. Walker

Executive Secretary

cc: SEC Appeal Panel
David Newton, DAG
Staff - NDEP