



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

*Jim Gibbons, Governor*

*Allen Biaggi, Director*

*Leo M. Drozdoff, P.E., Administrator*

June 24, 2010

## **NOTICE OF DECISION**

**PERMIT NUMBER NEV91022**

**NV ENERGY, INC.**

**REID GARDNER STATION**

The Nevada Division of Environmental Protection (NDEP), Bureau of Water Pollution Control (BWPC) has decided to issue the State of Nevada Groundwater Permit NEV91022. This permit authorizes discharge of process and non-process water to evaporation ponds located at the Reid Gardner Station (RGS) in Moapa, Clark County, Nevada, operated by NV Energy. Sufficient information has been provided, in accordance with Nevada Administrative Code (NAC) 445A.228 through NAC 445A.263, to assure the BWPC that the waters of the State will not be degraded from this operation and that public safety and health will be protected.

This permit will become effective June 25, 2010. The final determination may be appealed to the State Environmental Commission pursuant to Nevada Revised Statutes (NRS) 445A.605. The appeal must be requested within ten (10) days of the date of this notice of decision and in accordance with the administrative rules of the Commission.

During the comment period, comments were received from members of the Moapa Band of Paiutes. The majority of the comment letters requested a public hearing to learn more about the permit and waste streams discharged from RGS. One letter focused on the pond odors and chemicals being discharged to the ponds, and requested a long-term exposure risk study, outside of the scope of BWPC regulations and permitting authority. One additional letter primarily addressed air emissions, and recommended: conducting a health feasibility study to look at health consequences of living near RGS, to be paid for by

NV Energy; a tribal lifestyle study be conducted to identify exposure and risk, to be paid for by NV Energy; and increased public outreach and education on plant operation. On June 3, 2010 NDEP held a public hearing and meeting to provide information on the BWPC permit and to receive comments and questions. Much of the comments dealt with issues outside the scope of the permit or regulations and authority of BWPC. Because the comments have been answered and the follow-up comments raised no new permit issues, NDEP has made the determination to re-issue the permit.

Should the public seek information on the NV Energy –Reid Gardner Station that is outside the scope of BWPC regulations and authority, and BWPC permit requirements, they may contact the following:

Landfill and Health Questions: Southern Nevada Health District (Dennis Campbell 702-759-0555)

Pond Closure Questions: NDEP –Bureau of Corrective Actions (Shannon Harbour, P.E. 775-687-9332)

## RESPONSE TO PUBLIC COMMENTS FROM CORRESPONDENCE RECEIVED

### Letter received November 2, 2009 from Vernon Lee, Moapa Band of Paiutes Tribe member

1.1

Comment: *For years, we in my neighborhood, have suffered from the effect of these ponds, I have seen children with bloody noses for no apparent reason, elders who have endured the long term exposure to the foul smell that often blow from those ponds, and nobody has explained, exactly what chemicals are being disposed of, how much volume has been put into these ponds, and what are the dangers of the long term exposure. It is my belief that we as a "Native People" have been exposed to a, serious hazard, by the continuous expansion of these ponds, and without a complete in-depth study of the full effects of a long term exposure to these toxic atmospheres, we will continue to be damaged.*

Response: The Reid Gardner Station (RGS) water pollution control permit, NEV91022, is a zero-discharge permit. The evaporation ponds do not discharge to groundwater like infiltration basins. Chemicals discharged into the ponds include a corrosion inhibitor and biocide used to prevent scale in the cooling towers, caustic soda neutralized with a weak acid to form salt and water, and oxygen sources used during warmer weather. Maximum permitted total discharge to the ponds is 0.576 million gallons per day. No discharge is allowed to surface water, specifically the Muddy River. The double-lined leak detection and collection system meets the NDEP regulations for zero-discharge impoundments. All of the currently active ponds are individually lined with two geomembrane liners, a 60-mil HDPE primary liner and 40-mil HDPE secondary liner with an interstitial leak detection and collection system. All of the proposed Mesa ponds will be individually lined with two geomembrane liners, an 80-mil HDPE primary liner and a 60-mil HDPE secondary liner with an interstitial leak detection and collection system. Leakage rates greater than 500 gpd/acre will be reported to the Division within 24 hours. Leakage from the primary liner will not result in a discharge to the environment; this leakage is intercepted by pumps in the interstitial space between the primary and secondary linings, and is collected and pumped back to the evaporation ponds. To ensure that water quality is not degraded RGS is required to monitor both groundwater and the Muddy River for a suite of parameters. Long term exposure risks and other health studies are not authorized under BWPC regulations. The permit is protective of the environment and public health.

1.2

Comment: *NV Energy's (Nevada Power) Reid Gardner Station is 1 mile from our reservation, it began as a single 125 megawatt unit, it has grown to 4 units with 650 megawatts, this growth has encroached to less than one-half of a mile from our community. Native people have a connection to the earth, the ground we walk on, and air we breath, we can no longer function culturally. The time has come for the Nevada Division of Environmental Protection to realize that this*

*Tribe is in danger. The simple renewing of a permit should not and cannot be allowed.*

Response: The Division notes the concerns of the Tribe. The renewal permit is protective of the environment and public health (see Response to Comment 1.1).

**The NDEP received 56 Letters between November 23, 2009 and November 30, 2009, from 55 members of the Moapa Band of Paiutes: Delores Simmons, Brenda Tom, Arrion Henry, Sandra Bushhead, Ian Zabarte, Delia Grassrope, Jorge Hernandez, Howard Swain, Kenneth Haitty, Vernon Lee, Sharlene Frank, Cynthia Dotson, Shane Tom, Veronica Zubia, Darleen Etter, Simone Levi, Amber Simmons, Gary Lee, Karen Brown, Calvin Meyers, Karen Benn, Julie Simmons, Arnold Segmiller, Ural Begay, Erika Lee, Finley John, Cynthia John, Linda Donahue, Kami Miller, La Dawn Levi, Diana Croci, Gwendolyn Tom, Mary Jane Levi, Raphela Spute, Jacquie Lee, Elliott Bushhead, Shirley Anderson, Anthony Frank, Iris Daboda, Juanita Kinlichinic (2 letters), Russell Samson, Preston Tom, Miracle Domingo, Eunice Ohte, Lalovi Miller, Deanna Domingo, Stephanie Osborne, Ashly Osborne, Roger Levi, Darryl Ohte, Eulalia Hartt, Nadine John, Marcia Bushhead, Adrian Tom, and William Anderson.**

2.1

Comment: *I am requesting a hearing to learn more about the permit and the waste streams discharged from Reid Gardner Station.*

Response: NDEP conducted a hearing in Moapa, Nevada on June 3, 2010 and provided information on the Water Pollution Control permit.

**Letter received 12/02/09 from Moapa Band of Paiutes Council Chairman, Darren Daboda**

3.1

Comment: *A health feasibility study should be conducted to look at the primary health consequences, vulnerable segments of the population and recommended risk mitigation measures from toxins emitted from Reid Gardner Station should be paid for by the polluter. A study of the tribal lifestyle and culture should be conducted to identify increased risk of exposure to toxins emitted from the Reid Gardner Station through unique exposure pathways and provide culturally appropriate recommendation to mitigation to protect the tribal community should be paid for by the polluter.*

Response: NDEP-BWPC regulations do not authorize us to conduct health feasibility or tribal lifestyle or risk/exposure studies (see Response to Comment 1.2).

3.2

Comment: *Increased public outreach and education on plant operation should be provided to the tribal community to repair tribal community perception of tribal community wellbeing and paid for by the polluter.*

Response: See Response to Comment 2.1.

**Letter received June 3, 2010 from Daniel Galpern/ Western Environmental Law Center**

4.1

Comment: *We submit these comments on behalf of the Sierra Club. Members of Sierra Club live, work, and engage in recreation in areas that will be impacted by Reid Gardner pollution and are deeply concerned about the Draft Permit. In particular the groups are concerned about (1) the Draft Permit's inadequate protection of groundwater, surface waters, and human health, and (2) your apparent wholesale failure to take climate change into account when deciding whether to issue this renewal permit.*

Response: The BWPC zero-discharge permit requires Reid Gardner to abide by applicable State regulations. The permit is protective of the environment and human health (see Response to Comment 1.1). BWPC permits do not have regulatory authority regarding climate change.

4.2

Comment: *Coal fired power plant pollution threatens the rivers, streams, and air in Nevada and nationwide. The U.S. Environmental Protection Agency ("EPA") has made clear that "coal combustion wastewater [has] the potential to impact human health and the environment." As existing and proposed coal-fired plants are submitted to mandatory permitting processes, state regulatory agencies, including the Nevada Division of Environmental Protection ("NDEP"), gain the opportunity to protect public health and environment. We urge you to not waste that opportunity. This is critical with respect to NV Energy's Reid Gardner Station ("Reid Gardner") since this facility has, at best, a dismal history of non-compliance with state and federal laws that aim to protect the environment and public health.*

Response: The facility is in compliance with all NDEP-BWPC regulations and the current BWPC permit requirements.

4.3

Comment: *Reid Gardner recently installed baghouses that are purported to "catch" 99% of particulate matter emitted from the plant. This reduction in air pollution, while welcome in itself, threatens ground and surface waters with undue contamination. In this regard, it falls to NDEP to protect the citizens of Nevada from this air-to-water pollution re-shuffling.*

*The problem is acute with regard to the wastewater discharge permit for Reid Gardner. On the one hand, NDEP asserts in the Draft Permit that it allows for no discharge to the ground, surface or waters of the state (Section I.A.1). On the other hand, the Draft Permit in fact allows substantial discharge to the environment without penalty.*

*In particular, the Draft Permit allows 576,000 gallons of wastewater each day to flow to the evaporation ponds. The Draft Permit also allows for Reid Gardner to leak up to 500 gpd/acre from each of the 95 total acres of those ponds. Thus, under its proposed permit terms, Reid Gardner would be allowed to discharge more than 47,400 gallons of untreated wastewater contaminated by dangerous by-products of the coal combustion process into the environment.*

*Eventually, much of this pollution will find its way to groundwater or to the Muddy River. The total threat exceeds 17 million gallons of such pollution annually. Ground water quality and the quality of the Muddy River will be degraded. Thus, although NDEP describes this Draft Permit as a “no discharge permit,” the enormous amount of pollution it in fact allows raises questions beyond lexicology.*

*We urge NDEP to reconsider its decision to issue a water pollution control permit to Reid Gardner, period. In the alternative, the Draft Permit must be redrawn as ensure that it delivers what is promised, namely elimination of all discharges and protection of the Muddy River’s water quality, area groundwater, and human health.*

Response: The zero-discharge permit does not allow discharge to surface waters, specifically the Muddy River, and the evaporation ponds do not discharge to groundwater. The allowable leakage is not to the environment, but is captured and returned to the ponds. The action leakage rate (ALR) measures transmittance through the primary liner from minor defects including pinhole leaks not visible until the pond is in service and leakage collected. The Division’s ALR of 500 gallons per day (gpd) per acre for surface impoundments is found in the Engineering Guidance Document, “Ten States Standards”. The zero-discharge permit prohibits degradation of water quality. (See Response to Comment 1.1)

4.4

Comment: *Well samples reported to NDEP in quarterly discharge monitoring reports for the Reid Gardner Station show ongoing and increasing exceedences for allowable levels of chloride, sulfate, nitrate, arsenic, boron, chromium, magnesium, manganese, molybdenum, and vanadium as well as continuing exceedences for TDS, selenium, sodium, and titanium.*

Response: The BWPC permit requires monitoring of these parameters but there are no documented exceedences. For information on the NDEP –Bureau of Corrective Actions (BCA) monitoring requirements and site-specific action limits contact BCA representative, Shannon Harbour, P.E.

4.5

Comment: *Administrative actions aimed at halting migration of Reid Gardner’s contaminants have been undertaken by NDEP from at least 1997, when NDEP*

*issued an Administrative Order on Consent (AOC). The latest AOC dates from 2008.*

Response: NDEP-BWPC issued an AOC in 1997 requiring that all ponds be closed or cleaned and lined with HDPE double liners with leak detection and collection systems. The facility has complied with all the requirements of the 1997 AOC. NDEP-BWPC has issued no further AOCs to RGS. The BCA issued an AOC in 2008 to RGS. For further information on the BCA AOC contact the BCA representative, Shannon Harbour, P.E.

4.6

Comment: *First Quarter 2007 DMR reports of monitoring wells showed exceedances of NV action levels for at least one of the above-denoted parameters in 55 of the 62 wells sampled. In response to this contamination, a NDEP enforcement action ordered NV Energy to implement corrective measures. Yet, by 2010, based on the most recent publicly available monitoring well sampling report, the groundwater contamination situation has not improved despite the AOC; indeed, with respect to most parameters, it has worsened.*

*Thus, in 2010, at least one measured contaminant was found in 56 of 60 wells sampled. 2010 arsenic levels remain at 4.6 times the state action level (the same as in 2007). Selenium levels for 2010 have climbed to 5.6 times the state action level (from 3 times that level in 2007). TDS levels climbed to 62.3 times the state action level in 2010 (from 54.5 times that level in 2007). Boron levels, which were 371 times the state action level in 2007, climbed to 536 times the state action level in 2010. Other contaminants also remain at egregiously high levels.*

*Because groundwater testing shows continued contamination --as evinced by increased concentrations of site related chemicals found in monitoring wells down-gradient of existing evaporation ponds – NDEP must withhold the renewal permit.*

*NRS 445A.495(1) provides that “[T]he Department may issue a new permit upon expiration of an existing permit if ... the holder of the permit is in full or substantial compliance with all the requirements and schedules of compliance of the expired permit” among two other mandatory requirements.*

*Section I.A.4 in the existing Permit attempts to ensure the quality of groundwater. Since groundwater contamination stemming from the facility has increased over the most recent three year period, it is clear that Reid Gardner is not “in full or substantial compliance with the requirements” of its existing permit and is, moreover, unlikely in the extreme to be able to eliminate all discharges/leakages in compliance with the qualitative effluent limitation described in I.A.1 of the Draft Permit. Further, at today’s hearing in Moapa, an NDEP official admitted that existing evaporation ponds utilize substandard technology that fail to adequately protect the groundwater. The facility’s existing use of substandard*

*and insufficient technology, even in the face of recurrent state efforts to mandate improvements, provides no confidence in Reid Gardner's ability and willingness to do better under the Draft Permit. Moreover, because the facility is far from "full or substantial compliance," the NDEP is barred by statute from issuing Reid Gardner a renewal permit. We request that the Draft Permit at issue here be withheld in light of the Facility's failure to meet the requirements of NRS 445A.495(1).*

Response: The former clay ponds that were required to be closed or lined, have been closed or cleaned, dried and lined by RGS. The facility is in compliance with the BWPC zero-discharge permit (see Response to Comment 4.2).

4.7

Comment: *The State of Nevada incorporates the Clean Water Act in Nevada Revised Statutes ("NRS") 445A.300 through 445A.730 in the Nevada Water Pollution Control Law ("NWPCCL"). The purpose of the NWPCCL is "to maintain the quality of the waters of the State consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, the pursuit of agriculture, and the economic development of the State." NRS 445A.305(2)(a).*

*The objective of the CWA is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." § 101(a), 33 U.S.C. § 1251(a). The CWA established a national goal to eliminate "the discharge of pollutants into navigable waters by 1985." § 101(a)(1), 33 U.S.C. § 1251(a)(1). The CWA strives to achieve this objective by a combination of technology based and technology forcing standards. Effluent limitations are technology based and determined for categories and classes of point sources. § 301, § 33 U.S.C. § 1311; § 304, 33*

*U.S.C. § 1314. State water quality standards (WQS) are technology forcing and do not take cost into account in determining water quality. § 303(c)(2)(A), 33 U.S.C. § 1313(c)(2)(A). Additionally, the CWA sets out to prevent waters from becoming degraded by the cumulative impacts of many polluters by requiring states to adopt "antidegradation" policies. See CWA § 303(d)(4)(B), 33 U.S.C. § 1313(d)(4)(B); 40 C.F.R. § 131.12. NDEP must ensure that the evaporation ponds' NPDES permit is consistent with and implements CWA's antidegradation policy.*

Response: The Clean Water Act pertains to jurisdictional waters only, not groundwater. The permit is a State-issued, zero-discharge permit, not a Clean Water Act permit.

4.8

Comment: *Discharges from the Ponds to the Muddy River pose significant human health and environmental threats. By-products and waste from the coal combustion process at Reid Gardner will be disposed of in the ponds, which contain fly ash,*

*scrubber sludge, bottom ash, slag, and waste water treatment. Leachate from the ponds of up to 500 gallons per day per acre will be allowed without immediate reporting or repair requirements. Coal combustion waste is enormously dangerous and the evaporation pond's discharges pose significant environmental risks.*

*Furthermore, the dangers of coal ash waste have been highlighted in Sierra Club's recent comments to the Missouri Department of Natural Resource regarding the draft Sibley Generating Station Utility Waste Landfill NPDES permit, #MO-0136131. These comments have been attached in Appendix A and we specifically incorporate by reference the substantive and scientific points in those comments, including the sources it relied upon.*

Response: No discharge to surface waters, specifically the Muddy River, or groundwater is allowed under the permit, and the zero-discharge permit prohibits water quality degradation.

4.9

Comment: *The dangerous contaminants found in coal combustion waste have the potential to impact human health and the natural environment. According to the EPA, pond leachate and storm water runoff will contain high concentrations of these contaminants through their contact with coal combustion waste.*

*Studies have shown that the pollutants present in discharges from coal-fired power plants can affect aquatic organisms and wildlife, resulting in lasting environmental impacts on local habitats and ecosystems. Peer-reviewed literature has documented the impacts resulting from intentional and accidental surface water discharges of wastewater from coal-fired power plants, as well as environmental impacts from leachate from waste management units (i.e., surface impoundments and landfills) entering the ground water system.*

*EPA's review of wastewater discharges from power plants, and the treatment technologies available to reduce pollutant discharges, has indicated the need to update the current national effluent guidelines regulations. The current regulations, which were last updated in 1982, do not adequately address the pollutants being discharged and have not kept pace with changes that have occurred over the last three decades.*

*The Reid Gardner Station's wastewater discharge and contact storm water will be collected in evaporation ponds, which have the potential to leak millions of gallons directly into the Muddy River and surrounding groundwater without any treatment, posing grave risks to human health and the environment. The Draft Permit fails to include restrictions needed to protect against these risks. Sierra Club has two main concerns with the Draft Permit:*

*(A) It is inadequate and not stringent enough to protect groundwater, surface waters, and human health. (B) Issuance of the permit fails to address the climate change crisis.*

*A. The Draft Permit is inadequate to protect ground water, surface water, and human health. Given Reid Gardner's less than perfect compliance history & if the permit is to be renewed it should be substantially strengthened, not weakened. The fact that the Draft Permit has weaker terms in a number of respects discussed below illustrates that NDEP has failed to exercise its best professional judgment to protect public health and the environment. This is especially the case in light of the fact that the provisions at issue are unaccompanied by any reasoned justification for their weakening.*

*1. The Draft Permit increases allowable leakage rates and reporting thresholds. The 2010 Draft Permit only requires leaks over "500 gpd/acre" to be reported within 24 hours and to be repaired; smaller leaks can go unrepaired and need only be reported quarterly. The 2005 permit required that all leakages over "100 gpd/acre" be repaired, and reported within one week. This is a 400% increase in allowable discharges that do not have to be repaired nor reported immediately. We urge NDEP to establish a true "no discharge permit."*

*2. Failure to require reporting of all leakages, or at least those greater than 100 gpd/acre, within a 24-hour time period.*

*The 2010 Draft Permit only requires leakages over 500 gpd/acre to be reported within 24 hours. To be consistent with the 2005 permit, the threshold should be reduced to 100 gpd/acre. To allow leakages to not be reported except in quarterly reports is inadequate and harmful. Under this standard with the active 95 acres of evaporation ponds up to 47,405 gpd could leak without triggering a repair and immediate reporting requirement.*

*3. The language of Draft Permit it is ambiguous as to where sampling for pollutants under "Profile I" will occur. The 2005 Permit indicates sampling at ponds, while the 2010 Draft Permit suggests that the pond effluent sampling will occur at "pond leachate collection systems." The 2010 Draft Permit provides that all "active and proposed ponds are individually lined with two HDPE geomembrane liners . . . with an interstitial leak detection system." While it can be reasoned that this requires measuring Profile I pollutants in the ponds, it is not clear which ponds will have to be sampled and how often. The Draft Permit should amended to include sampling of all ponds each month.*

*4. The Permit does not measure "Flow Rate" through proposed ponds and leaves open that M-1, M-2, & M-3 will not be sampled for "Profile I" pollutants. The 2010 Draft Permit suggests that the pond "Flow Rate" will only be measured at one location, "Pond F Sump totalizing flowmeter." However, the 2010 Draft Permit indicates that three "additional evaporation ponds" (M-1, M-2, M-3) will be built during the duration of the Draft Permit. Later the Draft Permit states*

*that “Pond F Sump . . . discharges to Ponds B-1, B-2, B-3, C-1, C-2, E-1, E-2.” This fails to make it clear what the flow measurement requirement for ponds M-1, M-2, M-3 will be. By not listing M-1, M-2, M-3, it appears that the NDEP expects the proposed ponds to be distant from the specified monitoring site for “Flow Rate.” This interpretation seems consistent with the proposed ponds being located on a separate track of 555 acres of BLM land. The Draft Permit should be amended to expressly require the monitoring of “Flow Rate” at ponds M-1, M-2, M-3.*

*The Draft Permit does not effectively impose requirements to measure for “Profile I” pollutants at the proposed ponds. Given that the ponds are not yet built the 2010 Draft Permit should be amended to specifically require “Profile I” testing in each of the proposed ponds.*

*5. Several pollutants, including cyanide, are not covered not in the 2010 Draft Permit.*

*The 2005 Permit contains a list of pollutants to be monitored and reported, several of which have been removed from the 2010 Draft Permit. These include: chloride, ammonia as N, aluminum, potassium, sodium, and titanium. While the 2010 Draft Permit has added some pollutants, no reason is provided. Given Reid Gardner’s compliance history, no pollutant that was once regulated should be removed from the permit without reasonable justification.*

*Nevada Administrative Code 445A.121 (NAC) contains standards that are applicable to all surface waters regardless of the permit. Subsection 7 provides that “wastes from municipal, industrial, or other controllable sources containing . . . cyanide . . . must not be discharged untreated or uncontrolled into the waters of Nevada.” The pollutant cyanide is not listed in the Draft Permit, while all other pollutants under subsection 7 are listed in the Draft Permit. We request that the pollutant cyanide be reinstated, absent evidence that cyanide will not be used nor created in the coal combustion process.*

*B. The Draft Permit Must Take Climate Change Into Account.*

*The most recent report of the Intergovernmental Panel on Climate Change reinforces the need to rapidly transition our economy away from fossil fuel energy generation to renewable sources that do not emit greenhouse gas pollution into the atmosphere. If no action is taken in the near future, dangerous climate change could become truly irreversible. The United States Supreme Court held in 2007 that the EPA has authority to regulate carbon dioxide, a greenhouse gas, under the Clean Air Act, and this year the EPA responded with a finding carbon dioxide and other GHG pollution endangers human health and human welfare. With the federal government taking action to address greenhouse gases, it would be counterproductive for NDEP to issue permits that impair the nation’s efforts to reduce atmospheric greenhouse gas concentrations. Thus, the*

*Division should only issue a permit to Reid Gardner if it reasonably finds that doing so will not impair the nation's goal to arrest climate change.*

*The effects of climate change will not be isolated to air temperatures. Changes in air temperature change moisture content and thus affect the hydrologic cycle. As the planet continues to warm ecosystems and people are rendered more vulnerable to environmental pollution. NDEP should take these issues into account when considering renewal of the permit.*

*Given that climate change will affect the hydrologic cycle, NDEP must look at how a reduction in stream flow will affect state water quality standards. Thus, NDEP must consider how climate change affects the likelihood that discharges, including leakages from the evaporation ponds, will violate water quality standards. In particular, NDEP must consider whether the Draft Permit includes leakage rates that will impair water quality in the Muddy River and the region's groundwater.*

*The environmental harms and human health risks associated with coal ash are a growing concern and affect communities across the nation. Despite the lack of updated federal standards, the Division has an opportunity to use its authority to protect Nevadans' water quality and health from the toxic contaminants that will be discharged from the Reid Gardner power plant. We request that the Draft Permit be made more stringent than the previous permit to protect groundwater, surface waters, and human health. Furthermore, we request that the Division modify the Permit to address its impact on climate change and the cumulative impact of climate change Reid Gardner pollution on local ecosystems and public health on the project.*

Response: The 2010 zero-discharge permit has been amended to clarify pond monitoring at the outfall of the Effluent Forwarding Pumping System (system that will pump fluid to the proposed Mesa ponds. (The permit has also been revised to reflect the correct numbering of the Mesa ponds to be utilized first.) All pollutants required to be monitored by the 2005 permit are required to be monitored by the 2010 permit and are summarized in the Table separately or grouped under Profile I. Cyanide is not required to be monitored by the 2005 permit or the 2010 permit. (See Responses to Comments 1.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.8).

### **NDEP held a public hearing and meeting on June 3, 2010.**

During the hearing and meeting the NDEP provided information on the BWPC permit and responded to all comments and questions. Because no additional comments were made during the hearing and meeting and prior to issuing this Notice of Decision, and no objections to permit issuance were made, the NDEP has made the decision to re-issue the zero-discharge permit to NV Energy for the Reid Gardner Station, effective June 25, 2010.