



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

SEC Appeal Hearing

Notice Pursuant to NRS 233B.121 and NAC 445B.891

Date: January 24, 2012

To: Appellant:
Comstock Residents Association

Respondent:
Nevada Division of Environmental Protection
Represented by Carolyn Tanner, Esq.
Office of the Attorney General

Intervener:
Comstock Mining Inc.
Represented by Carolyn McIntosh, Esq.
Patton Boggs LLP

From: John B. Walker, Executive Secretary

Subject: Notice of Hearing: Comstock Mining Inc. Reclamation Permit #0315

A three-member panel of the State Environmental Commission (SEC) has scheduled an appeal hearing on the above referenced permit. The hearing will begin on February 16, 2012 at 9:00 a.m. in Reno, Nevada at the Nevada Department of Wildlife, Conference Room "A", 1100 Valley Road. The February 16th hearing date was selected after consultation with the parties.

The SEC has jurisdiction to hear this appeal pursuant to NAC 519A.415. The statutes and regulations involved in this appeal hearing as cited by appellant are: NAC 519A.010 to 519A.370; NRS 445B.100; NRS 445.210; and NAC 444.

About the Appeal: On December 20, 2011, the Nevada Division of Environmental Protection (NDEP) issued Permit 0351 to Comstock Mining Inc. (CMI). The permit authorizes CMI to reclaim Dayton Consolidated Exploration Project, which is located on about 20 acres within the Carson River Mercury Superfund site. On December 30, 2011, appellant Comstock Residents Association (CRA) filed its appeal.

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CRA asserts the bases for appeal in its form 3 as follows: NDEP issued the permit without determining the extent of the hazard, requiring the development of a mitigation plan and considering whether the project should go forward. Although the permit requires CMI to develop a sampling and analysis plan for testing of the mine wastes and/or mill tailings disturbed by the exploration activities, this limitation does not take into account that historic mercury deposits occurred in a broad range of settings due to the stockpiling of mercury prior to use and the disposal of mercury wherever convenient. There is no clear requirement for CMI to develop a management plan to deal with the potential generation of RCRA and NAC 444 hazardous waste during this process. The permit fails to address the reclamation of sites containing hazardous wastes. Although the Bureau of Mining Regulation and Reclamation stated that air and water issues were outside their authority, they referred to the Bureau of Corrective Actions, which conflicts with the assertion. CRA also incorporates into its appeal form all written and oral comments presented to NDEP prior to and at the public hearing on the draft permit.

Hearing Procedure: Practice before the SEC is governed by the attached regulations found at NAC 445B.875 et seq. The online version is located at: <http://www.leg.state.nv.us/NAC/NAC-445B.html#NAC445BSec875>. NRS 233B.121 to 233B.150 are also applicable. See: <http://www.leg.state.nv.us/NRS/NRS-233B.html#NRS233BSec121>

Related Information: Additional information about this appeal, including the briefs noted above, is available on the SEC website at the following location: <http://www.sec.nv.gov/main/comstock.htm>

ecc: NDEP Staff
SEC Appeals Panel
SEC/DAG