

1 BEFORE THE STATE OF NEVADA, STATE ENVIRONMENTAL COMMISSION

2
3 In Re:)
4 Appeal of Dayton Consolidated Exploration)
5 Project Permit No. 0315)
6)

ORDER GRANTING MOTION TO
DISMISS

7 This matter came before a panel of the State Environmental Commission
8 ("Commission") on February 16, 2012. Appellant Comstock Residents Association ("CRA")
9 appeared and was represented by its counsel, John Marshall, Esq. Respondent Nevada
10 Division of Environmental Protection ("NDEP") appeared and was represented by its counsel,
11 Cassandra Joseph, Esq. Intervener Comstock Mining Inc. ("Comstock") appeared and was
12 represented by its counsel, Carolyn McIntosh, Esq. and Brian Hutchins, Esq.

13 On December 30, 2011, CRA appealed NDEP's issuance on December 20, 2011 of
14 Reclamation Permit No. 0315 to Comstock to reclaim the Dayton Consolidated Exploration
15 Project. On January 13, 2012, NDEP filed a motion to dismiss the appeal and on February 3,
16 2012, Comstock filed its response supporting and joining NDEP's motion to dismiss. On
17 February 8, 2012, CRA filed its opposition to the motion.

18 Also on February 8, 2012, CRA filed an appeal of the Sampling and Analysis Plan,
19 which NDEP had approved on February 2, 2012. As a requirement of Reclamation Permit No.
20 0315, Comstock was required to submit a Sampling and Analysis Plan to NDEP for review
21 and approval. The permit also required implementation of the NDEP approved Sampling and
22 Analysis Plan before any mineral exploration activities within the Carson River Mercury
23 Superfund Site. CRA's appeal of the Sampling and Analysis Plan was not noticed for the
24 hearing on February 16, 2012 and was not heard by the panel.

25 The Commission heard arguments by counsel for NDEP and Comstock in support of
26 the motion and counsel for CRA in opposition. NDEP argued that CRA failed to identify any
27 legal error in its December 30, 2011 appeal as to why the reclamation permit should not have
28 been issued and that the appeal should be dismissed. CRA made several arguments in

1 opposition, including that the Sampling and Analysis Plan should have been made available at
2 the same time as the draft permit so that the citizens could have commented on it. The
3 Commission found that the December 30, 2011 notice of appeal filed on form 3 did not specify
4 where NDEP failed to meet the statutory or regulatory requirements with regard to issuing
5 Permit No. 0315.

6 IT IS THEREFORE ORDERED that NDEP's motion to dismiss is GRANTED.

7 Dated this 15th day of March, 2012.

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11 Mark Turner, Appeals Panel Member
12 State Environmental Commission
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CERTIFICATE OF SERVICE

The undersigned, an employee of the State of Nevada, State Environmental Commission, does hereby certify that on the date shown below, a true and correct copy of the foregoing ORDER GRANTING MOTION TO DISMISS was duly mailed, postage prepaid, to the following:

Brian Hutchins, Esq.
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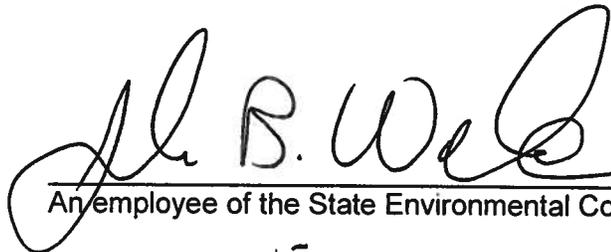
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An employee of the State Environmental Commission

DATED: March 15, 2012