



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 25, 2013

To: Appellant:
Carolyn Bailey
Represented by Therese Ure, Esq.
Schroeder Law Offices

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

Intervener:
Eureka Moly LLC
Represented by Jim B. Butler, Esq. & John R. Zimmerman, Esq.
Parsons Behle & Latimer

From: John B. Walker, Executive Secretary

Subject: Notice of Appeal Hearing: Water Pollution Control Permit
NEV2008106, Mt. Hope Project

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 13, 2013 at 2:00 p.m. and continue if needed on February 14, 2013 at 8:30 a.m. in Carson City, Nevada at the Bryant Building, Conference Room "A", 901 S. Stewart St. The hearing date was selected after consultation with the parties

The SEC has jurisdiction to hear this appeal pursuant to NRS 445A.605 and NAC 445A.388. The statutes and regulations involved in this appeal hearing as cited by Appellant are: NAC 445A.424; NAC 445A.433(1) and (2); NAC 445A.433(2); NAC 445A.417; NRS 233B.135(3)(d) and(e).

About the Appeal: On November 21, 2012, the Nevada Division of Environmental Protection (NDEP) issued Water Pollution Control Permit No. NEV2008106 to Eureka Moly, LLC (Eureka Moly) with an effective date of December 13, 2012. Eureka Moly is planning to mine molybdenum, a mineral used in the manufacture of steel alloys, at the Mount Hope site. The Mount

Hope mining project is located in central Nevada about 23 miles southwest of Eureka, near U.S. Highway 278.

On December 6, 2012, Carolyn Bailey filed an appeal of Permit No. NEV2008106. She asserts four bases for appeal in Form 3:

1. NDEP's decision to issue to Permit No. NEV2008106, which has the potential to degrade the waters of the State, was affected by an error of law, was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, and was arbitrary, capricious and characterized by an abuse of discretion.
2. NDEP's decision to issue Permit No. NEV2008106, without requiring the facility and components to withstand flash flood events, was affected by an error of law, was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, and was arbitrary, capricious and characterized by an abuse of discretion.
3. NDEP's decision to issue Permit No. NEV2008106, without considering and imposing drinking standards for wildlife, and without protecting groundwater quality, was affected by an error of law, was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, and was arbitrary, capricious and characterized by an abuse of discretion.
4. NDEP's decision to issue Permit No. NEV2008106, allowing deviation from Profile I reference values without public notice hearing, was affected by an error of law, was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, and was arbitrary, capricious and characterized by an abuse of discretion.

The issues on appeal may be further clarified in the pre-hearing briefs ordered by the SEC on January 7, 2013.

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 is available on the SEC website at the following location: http://www.sec.nv.gov/main/mt_hope.html

ecc: NDEP Staff
SEC Appeals Panel
SEC/DAG