



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

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

Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)

Meeting of November 16, 2016 10:00 AM

Bryan Building, Tahoe Room, 2nd Floor
901 South Stewart Street
Carson City, NV

Video Conference
2030E Flamingo Rd., Ste. 230
Las Vegas, NV

Members Present:

E. Jim Gans, Chairman
Mark Turner
Cary Richardson
Kathryn Landreth
Jason King
Rich Perry
Tony Wasley

Members of the Public Present:

Scott Smith, Dininni NV LLC
Rick Warner, Washoe County

Members Absent:

Tom Porta, Vice Chairman
Jim Barbee
Joe Freeland

SEC Staff Present:

Jennifer Chisel, SEC/DAG
Valerie King, Executive Secretary
Misti Gower, Recording Secretary

BEGIN SUMMARY MINUTES

1) Call to order, Roll Call, Establish Quorum: (Discussion) The meeting was called to order at 10:01 am by Chairman Jim Gans. Ms. King, the Executive Secretary, confirmed the hearing was properly noticed and that a quorum was present.

Ms. King also stated that agenda item number 5 would be pulled from the agenda at the request of Clark County School District, who is now in compliance and does not need a waiver.

2) Public Comments: (Discussion) Chairman Gans called for public comment. Hearing none, he went to the next agenda item.

3) Approval of the minutes for the October 12, 2016 SEC meetings: (Action Item) Chairman Gans requested comments from the Commission regarding the October meeting minutes. Hearing none, he asked for a motion.

Commissioner King moved to approve the minutes and Commissioner Richardson seconded. The agenda was unanimously approved.

4) Alternative Fuel Waiver for the City of North Las Vegas: (Action Item) Chairman Gans reminded everyone that this item had been tabled from the last meeting and asked if anyone was present from the City of North Las Vegas to address the Commission. No one came forward in Las Vegas or Carson City to address the Commission. Chairman Gans requested that NDEP provide insight to the waiver request. Mr. Danilo Dragoni, Bureau Chief for Air Quality Planning and Mr. Sig Jaunarajs came forward.

Mr. Dragoni stated that NDEP has been working with the manager of the fleet to develop a plan based on the new regulations adopted during the last SEC meeting. NDEP does not object to the request and believes that the advised plan should put them into compliance. Mr. Dragoni and Mr. Jaunarajs explained some of the plan details and answered questions from the Commission.

Motion: Commissioner Perry moved to approve the Fuel Waiver for the City of North Las Vegas. Commissioner Turner seconded the motion and it passed unanimously.

5) Item Pulled from Agenda

6) Air Penalty - B.R. Constructors, Notice of Alleged Violation No. 2567: (For Possible Action) Mr. Jeff Kinder, Deputy Administrator, presented the proposed penalty to the Commission ([Attachment 1](#)). On March 14, 2016, Bureau of Air Pollution Control (BAPC) staff conducted a site visit to the Canyon Vista Development after receiving numerous complaints of blowing dust. NDEP observed that approximately 18 acres of the site had been cleared. After further investigation, it was determined that the clearing activities did not have the required air quality permit. BAPC met with the property owner and the owner of B.R. Constructors which resulted in the submittal of a permit application. After the enforcement conference, it was determined that approximately one week had elapse between the disturbance and the soil stabilization.

Mr. Travis Osterhout explained the penalty matrix and how the penalty amount was determined. The total recommended penalty for the NOAV is \$1,400.00.

Chairman Gans asked if anyone was present and wanted to address the Commission. The property owner, Mr. Scott Smith, came forward. Mr. Smith stated he took full responsibility for the violation. He felt there was; however, a breakdown in the system. When he applied for the permit with the City, he was not informed that an air permit was required. He suggested that NDEP could work with cities and counties to ensure State requirements are clearly communicated to contractors. He stated the contractor who had conducted the clearing activities had been let go because he did not have the proper equipment to maintain the dust. The site is currently being maintained and in compliance with the State permit.

Motion: Commissioner Richardson moved to approve the recommended penalty of \$1,400.00 for Air Quality Violation No. 2597. Commissioner King seconded the motion and it passed unanimously.

7) Air Penalty - Jerritt Canyon Gold, Notice of Alleged Violation No. 2568: (For Possible Action) Mr. Kinder stated that Jerritt Canyon Gold is an ore mining and processing facility north of Elko and has a Class I Air Quality Operating Permit ([Attachment 2](#)). In November of 2015, Jerritt conducted a permit-required source test on the Ore Dryer unit. Upon review of the final report, it was discovered that the results yielded emissions that exceeded the permit limits for the unit. An enforcement conference was held with Jerritt to review the findings and determine whether issuance of the NOAV was warranted. Jerritt presented findings of an internal investigation they conducted to determine why the system failed to comply. Based on the information provided by Jerritt, it was determined that the test failure was due to lack of maintenance. Jerritt also provided information showing that corrective actions had been taken and a preventative maintenance plan implemented.

Mr. Osterhout explained the penalty matrix and provided the recommended penalty of \$12,885.00 considering the base penalty, extent of deviation and penalty adjustment factors.

Chairman Gans asked if anyone from Jerritt was present who wished to address the Commission. No one came forward. Ms. Val King stated she had previously spoken with Jerritt and was told they would not be contesting the recommended penalty.

Motion: Commissioner Landreth moved to approve the recommended penalty of \$12,885.00 for Air Quality Violation No. 2568. Commissioner Perry seconded the motion and it passed unanimously.

8) Air Penalty - Hycroft Resources & Development, Notice of Alleged Violations No. 2585 and 2586: (For Possible Action) Mr. Kinder informed the Commissioners that Hycroft Resources & Development Inc. (HRDI) operates a gold ore processing facility west of Winnemucca ([Attachment 3](#)). Pursuant to its Mercury Operating Permit, HRDI is required to conduct annual mercury tests. The HRDI permit requires testing to be conducted with no two consecutive tests occurring less than three months and no more than fifteen months apart. HRDI did not meet the annual test requirements on three affected units. Testing on System 01 was conducted 16 months, 11 days following the previous test. System 02 testing was conducted 16 months, 10 days after the previous test and system 03 testing was conducted 18 months, 21 days after the previous test. The final test report also indicated that emissions exceeded permit limits for System 01 and System 03. During testing, average mercury emissions were 341% of the permit limit. An enforcement conference was held with HRDI to review the findings. HRDI was unable to present any information to indicate the violations had not occurred as alleged.

Mr. Kinder stated that BAPC recommended penalty amounts of \$3,600.00 for NOAV #2585 and \$43,920.00 for NOAV#2586. The violations represent HRDI's fifth and sixth air quality violations within the last sixty months.

Mr. Osterhout stated that the base penalty was originally calculated as a Class I at a \$1,000.00 per system per month rather than \$600.00 per system. NDEP also miscalculated the number of months. Even through the wrong calculations were used, upon correction, the penalty amount did not change. HRDI was notified of the correction and the corrected sheet is attached ([Attachment 4](#)).

Chairman Gans asked if anyone was present from the company who wished to address the Commission. No one came forward. Ms. Val King stated she had previously spoken to HRDI and it was not contesting the recommended penalty. She stated HRDI had also given praise to NDEP for its fairness and for being good to work with through the penalty process.

Motion: Commissioner Landreth moved to approve the recommended penalty of \$47,520.00 for Air Quality Violations No. 2585 and 2586. Commissioner Turner seconded the motion and it passed unanimously.

9) Regulatory Petition - LCB File No. R101-16 Bureau of Water Pollution Control: (For Possible Action) Mr. Nick Brothers, Permit Branch Supervisor for Water Pollution Control, presented the regulatory petition to the Commission. Mr. Brothers explained that one of the items to come from the Governor's Drought Forum was Supply Augmentation and long range planning. The proposed regulation provides a clear regulatory pathway for indirect potable reuse projects and will encourage the expansion of reclaimed water use throughout Nevada. During the drought there was an increased urgency to address issues of water conservation and resource planning. A Reuse Steering Committee had been formed consisting of NDEP, various water agencies and city and county representatives. The committee's goal was to update reclaimed water regulations and to add indirect potable reuse. The Committee worked nearly 18 months coordinating the regulation proposal.

The proposed regulation includes a new category of reclaimed water, A+, which is suitable for indirect potable reuse. This category must meet drinking water standards and standards for pathogen removal. Indirect potable reuse project applicants are now required to hold a public workshop concerning the proposed project, provide sufficient public notice and a public comment period. Applicants must submit the comments they receive and their responses to the comments to NDEP as part of the application. The permit application must have project details and an engineering evaluation and report.

The regulation also includes new fee categories for indirect potable reuse projects through spreading basins and injection wells. Mr. Brothers stated that there has been an adjustment of language from treated effluent to reclaimed water. In addition, administrative continuance of UIC permits has been added to be consistent with other permitting activities. Onsite sewage disposal systems with flow rates of 5,000 gallons per day or greater will be considered a class V, which is consistent with current EPA UIC reporting.

Mr. Brothers informed the Commission on the extensive outreach that was conducted by NDEP and the outcome. NDEP received numerous letters of support for the proposed regulation amendments ([Attachment 5](#)). Mr. Brothers and Bureau Chief, Mr. Bruce Holmgren, then answered questions from the Commissioners.

Chairman Gans asked for public comment from Las Vegas. Mr. Dan Fischer, Deputy General Manager at Clark County Water Reclamation District, spoke in favor of the regulation. Mr. Fischer stated that this extension of Nevada's water resources is necessary and believes that the way the regulation has been written will protect public health. He also stated that the process was a cooperative effort by everyone involved and that all stakeholders were able to participate in the process.

In Carson City, Mr. Rick Warner, Senior Engineer with Washoe County, came forward to address the Commission. Mr. Warner had been a member of the Reuse Steering Committee. He applauded NDEP and all the groups that worked on the regulation. He stated that Washoe County also believes the regulation is protective of the environment and public health.

Motion: Commissioner King moved to adopt regulation R101-16. Commissioner Turner seconded the motion. It passed unanimously.

10) Administrator's Briefing to the Commission: (Discussion) Ms. Jennifer Carr, Deputy Administrator, spoke in place of Administrator Dave Emme. Ms. Carr informed the Commission that DCNR will have a new Director. Mr. Bradley Crowell starts December 12, 2016. He currently serves as the US Department of Energy Assistant Secretary for Congressional Intergovernmental and External Affairs. He is a senior advisor to the Secretary of Energy with a background working for the Natural Resources Defense Council. She stated that NDEP is looking forward to meeting him and introducing him to the programs.

Ms. Carr announced that the vacant Deputy Administrator position had been filled by Mr. Jeff Kinder. Mr. Kinder served as the Bureau Chief of Air Pollution Control and will continue to oversee the Air programs in his new position.

Ms. Carr stated that NDEP received Grant funding from EPA that allows States to identify priority projects that are unfunded. Utilizing just under \$90,000.00, NDEP will embark on a project to partner with school districts for voluntary lead and copper sampling in over 400 Nevada Elementary Schools. The project is targeted towards achieving a greater understanding of the possible existence of lead in elementary school drinking water and culinary water use. The project is currently in early outreach efforts to Nevada's rural counties where older or historic schools may have outdated fixtures or drinking water fountains. If a problem is identified, NDEP wants to be part of the solution. Therefore, approximately two thirds of the funding will provide revenue for NDEP to purchase replacement water fountains, culinary faucets and fixtures for installation in the school. If the problem is larger, such as piping, NDEP has identified USDA funding that may be able to help.

11) Public Comment: (Discussion) Chairman Gans asked for public comments. Hearing none, he asked when the next SEC meeting is scheduled. Ms. King stated the next meeting is scheduled for May 3, 2017.

10) Adjournment: (Discussion) Meeting was adjourned at 11:58 am

The audio recording of this meeting is available at http://sec.nv.gov/main/hearing_0517.htm