

# NEVADA STATE ENVIRONMENTAL COMMISSION

## ARSENIC EXEMPTION EXTENSION

IN THE MATTER OF THE REQUEST )  
OF THE )  
<< PWS NAME >> )  
FOR AN EXTENSION OF AN )  
EXEMPTION FROM )  
REGULATIONS GOVERNING PUBLIC )  
WATER SYSTEMS, ARSENIC )

### FINDINGS OF FACT

The above entitled matter came before the Nevada State Environmental Commission, hereafter known as the Commission, at a duly noticed public hearing on November 12<sup>th</sup>, 2008. The Commission, having heard the presentation from staff of the Nevada Division of Environmental Protection (NDEP) recommending approval of the extension and having extended an opportunity to the public to be heard, finds as follows:

- The <<PWS NAME >> public water system, hereafter known as the System, was in operation prior to January 23, 2006, the effective date of the revised arsenic standard of 10 parts per billion (ppb).
- The System has a source or sources of drinking water that exceed the revised standard.
- The System was granted an exemption on <<DATE OF EXEMP >>.

The Safe Drinking Water Act, resulting Federal regulations and guidance, and the regulations of the Commission provide for an extension of the exemption if the following conditions exist:

1. The System's population does not exceed 3,300 and arsenic levels are equal to or less than 30 parts per billion (ppb).
2. The System has complied with the exemption public notice requirements.
3. The System is taking practicable steps to become compliant.

Review of the exemption compliance milestones by NDEP staff has found the System meets the above stated conditions. Furthermore, NDEP staff has found that the System has established that it needs financial resources to comply with the maximum contaminant level and has either entered into a financial assistance agreement to make capital improvements or has shown that financial assistance or resources are reasonably likely to be available within the period of time that the exemption will be in effect. In consideration of the above, the System is seeking an extension to allow two additional years to comply, by January 23, 2011.

## CONCLUSIONS

This matter is properly before the Commission pursuant to Nevada Administrative Code (NAC) 445A.489, and the determination of this matter is properly within the subject matter jurisdiction of the Commission.

The Commission specifically finds that the System was in operation prior to January 23, 2006, is unable to comply with the regulation due to compelling factors and no unreasonable risk to public health will result if the extension is granted. The Commission, having considered the relative interests of first, the public and second, the System, being fully advised and by vote, does grant the exemption until January 23, 2011.

## DECISION

It is the decision of the Commission to grant an extension of the System's exemption, effective through January 23, 2011, subject to the following schedule of compliance:

- 1) The System shall provide public notice that the extension was granted on November 12, 2008, and provide proof of posting of such public notice to the BSDW by December 26, 2008. (NRS445A.940) Public notice shall be provided annually while the extension is in effect;
- 2) If not yet completed, the System shall investigate and secure, to the extent that funds are available, all sources of financial assistance by June 23, 2009;
- 3) The System shall complete an evaluation of compliance alternatives, including retaining the services of an engineer and conducting pilot testing as needed to select a final compliance option by January 25, 2010;
- 4) The System shall install, test and have in full operation a treatment system or other compliance option capable of producing drinking water that meets the arsenic standard of 10 ppb by January 23, 2011;
- 5) The System shall provide quarterly progress reports to NDEP by January 10<sup>th</sup>, April 10<sup>th</sup>, July 10<sup>th</sup> and October 10<sup>th</sup> of each year of the extension period; and
- 6) The System shall continue to monitor and report quarterly for arsenic.

Systems serving a population less than 3,300 and with arsenic compliance concentrations less than or equal to 25 ppb may qualify for up to two more two-year extensions if the System demonstrates significant progress during this extension, and additional extensions are approved by the State Environmental Commission.

Date: \_\_\_\_\_

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Lew Dodgion  
Chairman  
Nevada State Environmental Commission