ndep
NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
protecting the future for generations

STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

December 18, 2012

CERTIFIED MAIL
9171 9690 0935 0011 8856 93

MR. GARY WILSON
MCDERMITT WATER SYSTEM
MCDERMITT COMMUNITY BOARD
PO BOX 36
MCDERMITT, NV. 89421

RE: FINAL Arsenic exemption extension for the MCDERMITT WATER SYSTEM Public Water System, NV0000162

Dear Mr. Wilson;

On December 5th, 2012, the Nevada State Environmental Commission (SEC), acting on recommendations from the Bureau of Safe Drinking Water (BSDW), granted the MCDERMITT WATER SYSTEM Public Water System (PWS) a final extension to the arsenic compliance exemption, which is now scheduled to expire on January 23rd, 2015. Public notice is required upon receipt and again once a year while the system is operating under an extension. The public notice shall include the reasons for the extension, the date the extension was issued, and the steps the PWS is taking to become compliant.

At the hearing, the SEC clearly expressed concern regarding all ten systems receiving this extension. ***Please read this agreement fully.*** As noted on the first page, no further extensions of this Arsenic Exemption are available from the Commission. The System *must* be in compliance with the drinking water standard by January 23, 2015. Because compliance with the arsenic MCL of 0.010 mg/L is based on a Running Annual Average, all compliance samples taken in calendar year 2014 *must* average to 0.010 mg/L or less. Likewise, the SEC has directed the BSDW to be very strict with the **May 1, 2014** deadline in the extension that requires the system have their compliance option in place and operational. The SEC has strongly advised the BSDW to pursue formal enforcement if the May 1, 2014 deadline is not met.

During the time frame of the extension, the PWS *must* meet *each* compliance milestone outlined in the attached exemption extension. The PWS is required to submit quarterly progress reports to the BSDW for the duration of this extension in order for staff to monitor progress toward compliance. In the event that the BSDW has concerns over a water system achieving compliance the SEC will request that a PWS representative appear at the SEC's December, 2013 hearing.

If you have any technical questions related to your arsenic extension, please contact Bert Bellows at 775-687-9525 or bbellows@ndep.nv.gov.

Sincerely,

Jennifer L. Carr, PE, CEM
Chief, Bureau of Safe Drinking Water

Encl (2) Exemption Extension, PN Template

Cc w/: Barbara Ferguson McDermitt Community Board, PO Box 36, McDermitt, NV 89421
Kirk Peterson, SPB Utility Services, 430 Stoker Ave, Suite 207, Reno, NV 89503
Ec: Bert Bellows, P.E., Bureau of Safe Drinking Water
Jim Balderson, P.E, Engineering Supervisor, BSDW
Andrea Seifert, P.E., Drinking Water Supervisor, BSDW
Judy Neubert, SDWIS Database Administrator, BSDW
System File

NEVADA STATE ENVIRONMENTAL COMMISSION

ARSENIC EXEMPTION EXTENSION

IN THE MATTER OF THE REQUEST	)
OF THE	)
MCDERMITT WATER SYSTEM	)
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 December 5th, 2012. 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 MCDERMITT WATER SYSTEM 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 December 4th, 2007.

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:

7. The System's population does not exceed 3,300 and arsenic levels are equal to or less than 20 parts per billion (ppb).
8. The System has complied with the exemption public notice requirements.
9. 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, 2015.

In accordance with the Nevada Administrative Code, no further extensions of this Arsenic Exemption are available from the Commission. The System *must* be in compliance with the drinking water standard by January 23, 2015. Interim milestones included below *must* be strictly adhered to.

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, 2015.

DECISION

It is the decision of the Commission to grant an extension of the System's exemption, effective through January 23, 2015, subject to the following schedule of compliance:

1) **By January 21st, 2013,** the System shall provide public notice that the extension was granted on December 5th, 2012, and provide proof of posting of such public notice to the Nevada Division of Environmental Protection, Bureau of Safe Drinking Water (NDEP-BSDW) per NRS 445A.940. ***Public notice shall be provided annually while the extension is in effect and proof of posting shall be provided to the NDEP-BSDW within 10 days completion.***
2) **By May 1, 2014,** the system shall have:
    a. Installed, tested and have in full operation a treatment system or other compliance option capable of producing drinking water that meets the arsenic standard of 10 parts per billion (0.010 mg/L)
3) **By January 23, 2015,** the system shall demonstrate that the Running Annual Average of arsenic data from the System's delivered water is in compliance with the standard of 10 ppb.
4) The System shall provide quarterly progress reports to NDEP-BSDW by January 10th, April 10th, July 10th and October 10th of each year of the extension period; and
5) The System shall continue to monitor and report quarterly for arsenic to the NDEP-BSDW.

Date: December 5, 2012

E James Gans, Chairman
Nevada State Environmental Commission