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Rose Marie Reynolds
 Deputy Attorney
 General

SEC Regulatory Hearing 06/12/12

The State Environmental Commission (SEC) held a meeting on Tuesday, June 12, 2012 at 9:30 a.m. The meeting was held as a video conference in Carson City and Las Vegas. The meeting location in Carson City was the [Bryan Building](#), 901 South Stewart Street (2nd floor, Tahoe Room).

In Las Vegas the meeting location was the [Nevada Division of Environmental Protection](#), 2030 E. Flamingo Rd. Suite 230.



1) Public Comments: Members of the public are invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself had been included on an agenda as an item for possible action. Public comment will be limited to ten minutes per person at the discretion of the chairperson. (For Discussion)

2) Approval of the Agenda: [Agenda](#) (For Possible Action)

3) Approval of the Meeting Minutes

(A) [Read /Download the February 15th 2012 draft summary meeting minutes \[19 Pages 517.KB\]](#) or [listen to the verbatim audio file](#) (For Possible Action)

4) Petition for Variance: Clark County School District: (For Possible Action)

The Clark County School District (CCSD) is requesting a two-year variance from the use of alternative fuel for its gasoline-powered support fleet vehicles as allowed under NAC 486A.200. The variance would allow the CCSD to use conventional gasoline instead of reformulated gasoline, which is the alternative fuel currently being used. The variance would also allow the purchase of non-alternative fuel vehicles for the support fleet.

In approving variances, the Commission may consider whether compliance with NRS 486A/NAC 486A would: (1) void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component; (2) result in financial hardship to the owner or operator of a fleet; (3) be impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or any other reason which the Commission determines is appropriate.

In making application to the Commission for a variance, the CCSD has completed SEC Form #6 (Variance for Alternative Fueled Vehicles). In its application, the CCSD cites

STAFF

John B. Walker
Executive Secretary
Carson City

financial hardship as the principal reason for the requested variance. It also mentions that biodiesel alternative fuel will continue to be used in the pupil transportation portion of its fleet.

◆ CCSD Variance Request 

5) **Penalty Assessments for Air Quality Violations:** Summary Table 

A. **Joy Engineering** — Penalty Assessments for Air Quality Violation No. 2400; failure to install and operate required air pollution controls for a crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1442-2702. Recommended penalty \$8,400.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

B. **Barrick Cortez** — Penalty Assessments for failure to conduct required compliance source testing for pipeline carbon reactivation kilns as set forth in Class I Air Quality Operating Permit AP1041-2141. Recommended penalty \$3,000.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

C. **Road and Highway Builders** — Penalty Assessments for failure to operate required air pollution controls for crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1611-2306. Recommended penalty \$4,080.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

D. **A & K Earth Movers** — Penalty Assessments for failure to install and operate required air pollution controls for crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1442-0035.02. Recommended penalty \$20,280.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

NDEP Regulatory Petitions

Bureau of Air Quality Planning

6) **R038-12: Ambient Air Quality Standards:** (For Possible Action)

The Nevada Division of Environmental Protection (NDEP) is proposing to amend NAC 445B.22097, "Standards of quality for ambient air," and NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." The

agency is proposing to update the national ambient air quality standards (NAAQS) portion of the standards table in NAC 445B.22097 to align it with the federal standards currently in effect. If adopted, this regulation may be sent to the U.S. Environmental Protection Agency for approval into the Nevada state implementation plan.

In NAC 445B.221, the agency is proposing to adopt federal regulations by reference that will provide a deferral for carbon dioxide emissions from bioenergy and other biogenic sources under the Prevention of Significant Deterioration (PSD) and Title V permitting programs. This will allow Nevada's industry to defer the application of the PSD and Title V permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources for three years. The regulation will also revise methods for measuring filterable PM10 and PM2.5 and condensable particulate matter emissions from stationary sources.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP. (SEC #P2012-03)

Documents in Adobe PDF File Format

- **March 05, 2012** — LCB Transmittal Letter
- **March 05, 2012** — Agency Draft Regulation [6 pages]
- **March 05, 2012** — SEC Form 1 [2 Pages]
- **March 05, 2012** — SEC Form 4 [1 Pages]
- **April 04, 2012** — April 23rd Workshop Notice & Agenda
- **April 12, 2012** — LCB Draft Regulation [9 Pages]
- **April 23, 2012** — Workshop Audio Recording (mp3) 
- **April 23, 2012** — Workshop Minutes [31 Pages - 14MB]
- **June 22, 2012** — Filing Statement Cover Letter to LCB
- **June 22, 2012** — Filing Statement [3 Pages]
- **June 22, 2012** — Filing Form
- **September 14, 2012** — LCB Adopted Regulation [12 Pages]
- **October 3, 2012** — Regulation Transmittal Letter — State Library & Archives

Bureau of Mining Regulation & Reclamation

7) R044-12: Mining Reclamation: (For Possible Action)

The Nevada Division of Environmental Protection (NDEP) is proposing to amend certain sections of state regulations contained in NAC 519A that govern reclamation of land subject to mining operations. Pursuant to the Governor's Executive Order 2011-01, this regulation would repeal the provision that allows a lesser surety amount than currently required to complete certain reclamation activities. The proposed regulation would remove requirement for submission of an annual fee or arrangement of a third-party review if a corporate guarantee is used for financial assurance.

The regulation further requires reclamation plans to reference use of "Best Management Practices" for erosion and sediment control, as well as, describe methods for noxious weed control during reclamation. Revisions are also made to certain provisions related to the use of insurance as a reclamation surety. Finally the regulation would clarify information needed for the transfer of a permit, it would require reclamation cost

estimates reflect a third-party contractor performing the work, and it would add a provision that NDEP consider comments from local land use management agencies regarding postmining private land uses.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community and there will be no additional costs to NDEP for enforcement of the proposed regulation. The regulation does not address fees, and it is essential to the functions and operations of the agency.

While the regulation is no more stringent than what is established by federal law, it does overlap with other regulations of the Federal Bureau of Land Management (43 CFR 3809). Specifically, the reclamation cost estimate required by the regulation represent the cost which would be incurred by the state or federal agency having jurisdiction over the mining lands proposed for reclamation. (SEC #P2012-04)

Documents in Adobe PDF File Format 

- **March 15, 2012** — LCB Transmittal Letter
- **March 15, 2012** — Agency Draft Regulation [9 pages]
- **March 08, 2012** — SEC Form 1 [2 Pages]
- **March 08, 2012** — SEC Form 4 [1 Pages]
- **March 28, 2012** — Workshop Notice [1 Pages]
- **March 28, 2012** — Workshop Fact Sheet [1 Pages]
- **March 28, 2012** — Workshop Agenda [1 Pages]
- **April 18 & 24, 2012** — Workshop Minutes[3 Pages]
- **May 01, 2012** — LCB Draft Regulation [16 Pages]
- **July 11, 2012** — Filing Statement Cover Letter to LCB
- **July 11, 2012** — Filing Statement [3 Pages]
- **July 11, 2012** — Filing Form
- **September 14, 2012** — LCB Adopted Regulation [19 Pages]
- **October 3, 2012** — Regulation Transmittal Letter — State Library & Archives

8) Administrator's Briefing to the Commission: NDEP's Administrator will brief the Commission about the recent approval of NDEP's regulations, which included SEC's Rules of Practice that were adopted by Commission in February 2012. (For Discussion)

9) Public Comment (For Discussion) Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson. (See Nevada Open Meeting Law Manual - Page 58 and 81)

10) Adjournment

Additional Information

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to

make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

As required by the provisions of chapters [233B](#) and [241](#) of Nevada Revised Statutes, the [public notice for this hearing](#) was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230) and at the Nevada Department of Wildlife (1100 Valley Road, Reno, Nevada).

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are also available on the State Environmental Commission's website at: SEC.NV.GOV. All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the [Legislative Counsel Bureau's website](#)

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on June 5th, 2012.

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