



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 Prehearing Conference
Notice Pursuant to NRS 233B.121, NRS 241.034, and NAC 445B.891**

Date: June 12, 2019

To: Appellant:
ABC Recycling Industries, LLC
Lathrop Mill
Represented by Byron Thomas, Esq.

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

From: Valerie King, CPM, Executive Secretary

Subject: Notice of Prehearing Conference to Rule on Motion for Summary Judgment: Nevada Division of Environmental Protection (NDEP) Reclamation Permit #0171 - Revocation

A three-member panel of the State Environmental Commission (SEC) has scheduled a prehearing conference regarding the above referenced permit. The prehearing conference will be held on June 12, 2020, beginning at 9:00 am.

Pursuant to the Governor's Emergency Directive 006, this meeting will be conducted online and there will be no physical location for the meeting. This meeting can be heard live over the Internet on the NDEP LifeSize meeting system at a meeting link that will be identified in the Agenda no later than three days prior to the prehearing conference. The prehearing conference date was selected after consultation with the parties.

The SEC has jurisdiction to hear this appeal pursuant to NAC 519A.390. The statutes and regulations allegedly violated, as cited in the request for an appeal form submitted by ABC Recycling Industries, LLC. (ABC Recycling) are: NRS 519A.150(9), NRS 519A.200, NRS 519A.210, NRS 519A.260, NAC 519A.220, NAC 519A.235, NAC 519A.390, and NAC 519A.400.

About the Appeal and Prehearing Conference: On February 17, 2020, ABC Recycling filed a request for an appeal hearing.

In summary, ABC Recycling stipulates the grounds for the appeal regarding the Lathrop Mill Reclamation Permit #0171 revocation by NDEP's Bureau of Mining Regulation & Reclamation is:

- (1) The final decision was affected by other error of law.

Specific complaints in the request for an appeal hearing include NDEP's failure to provide test results of the tailings from American Borite, NDEP's failure to perform yearly inspections and approve reclamation activities, NDEP's failure to allow soil enhancements to complete reclamation, NDEP inspector's inconsistencies regarding approval of soil amendments, and NDEP's failure to allow soil enhancements to be produced on-site which prolonged reclamation activities.

On March 11, 2020, NDEP filed a motion for summary judgment. The SEC consequently issued an order on March 12, 2020 granting a prehearing conference to rule on the motion for summary judgment and set a briefing schedule. The issues for this appeal are, or will be, further clarified in the prehearing briefs.

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: https://sec.nv.gov/uploads/documents/SEC_Rules_of_Practice.pdf 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: <https://sec.nv.gov/meetings/abc-recycling-industries-llc-request-for-appeal-hearing>

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NDEP
SEC Appeal Panel
SEC Legal Counsel