



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

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

Agenda

SEC Meeting - December 3, 2014

The State Environmental Commission (SEC) will hold a meeting on Wednesday, December 3, 2014 at 10:00 am in Carson City. The meeting location in Carson City is the Bryan Building, located at 901 South Stewart Street (2nd floor, Tahoe Room). The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this agenda.

The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the SEC may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the SEC may refuse to consider public comment. See NRS 233B.126

1) Call to Order, Roll Call, Establish Quorum (Discussion)

2) Public Comment: (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.

3) Approval of the Agenda: (For Possible Action)

4) Approval of Meeting Minutes: October 8, 2014 (For Possible Action)

5) Penalty Assessments for Air Quality Violations: (For Possible Action)

- a. **A&K Earth Movers, Inc. – Penalty Assessment, NOAV No. 2512 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The recommended penalty amount is \$24,840.00. (For Possible Action)**

- b. **Bango Refining NV, LLC.** – Penalty Assessment, NOAV Nos. 2516 through 2521 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit and also failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit. The recommended penalty amount is \$31,800.00. (For Possible Action)
- c. **Robinson Nevada Mining Company** – Penalty Assessment, NOAV Nos. 2498 through 2506 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit and also failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit. The recommended penalty amount is \$55,100.00. (For Possible Action)

6) RE: R103-14: Bureau of Water Quality Planning - South Fork Humboldt River and South Fork Reservoir Water Quality Standards Revisions

Approve and adopt Regulatory Petition R103-14, as proposed, or take other action as appropriate (For Possible Action)

The NDEP is proposing to revise water quality standards for South Fork Humboldt River and South Fork Reservoir (NAC 445A.1464-445A.1466). Proposed changes include:

- 1) separate out the delineation of South Fork Reservoir from the South Fork Humboldt River;
- 2) revise phosphorus criterion;
- 3) add numeric criteria for total nitrogen, Secchi depth, chlorophyll-a (algae biomass), nitrite, color, total suspended solids, turbidity, chloride, sulfate, alkalinity criteria;
- 4) clarify that the dissolved oxygen criterion applies only in the epilimnion when the reservoir is stratified.

Since its construction in 1989, South Fork Reservoir was protected through water quality standards for the South Fork Humboldt River. Given that the water quality characteristics of a reservoir differ from those of a stream, water quality standards designed for a reservoir were deemed necessary to appropriately protect the beneficial uses within South Fork Reservoir. In addition, criteria for additional parameters are proposed to properly protect the beneficial uses. These updated water quality criteria are based upon more recent data, scientific literature and guidance published by the U.S. Environmental Protection Agency (EPA).

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 the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

7) R118-14 - Bureau of Safe Drinking Water - Public Water Systems Regulation Amendment

Approve and adopt Regulatory Petition R118-14, as proposed, or take other action as appropriate (For Possible Action)

Nevada's Safe Drinking Water Program regulates public water systems using a combination of State regulations and the National Primary Drinking Water Regulations (NPDWR) adopted by reference. The U.S. EPA granted the NDEP primary enforcement responsibility for the NPDWR in 1978. In order to maintain primary enforcement responsibility, the NDEP must adopt regulations that are at least as stringent as new or amended federal regulations.

The purpose of the Revised Total Coliform Rule, which becomes effective on April 1, 2016, is to provide better health protection by decreasing the presence of coliform in drinking water. As required by the SDWA, EPA reviewed the requirements of the 1989 TCR, identified enhancements to the TCR and revised the regulation. In summary, the revisions will require Public Water Systems to identify and fix problems that are associated with the presence of Total Coliform and *E. coli* in their drinking water systems.

The Reduction of Lead in Drinking Water Act of January 4, 2011 is a revision of the existing Lead Free requirements of the SDWA and became effective nationally on January 4, 2014. The US Congress lowered the definition of "Lead Free" for fittings and fixtures from a maximum of 8% lead to a maximum of 0.25% lead. States are required to enforce the revised requirements and failure to address the Reduction of Lead in Drinking Water Act will result in 5% withholding of Federal Grants for the Public Water System Supervision Program.

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 the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of

NDEP.

8) Temporary Regulation P2014-11 - Bureau of Safe Drinking Water - Subdivision Process Amendment

Approve and adopt Temporary Regulatory Petition P2014-11, as proposed, or take other action as appropriate (For Possible Action)

The proposed amendment addresses NAC 445A.340. The NDEP considered this amendment at the request of the Builder's Association of Northern Nevada and the Washoe County Health District. The existing regulation prohibits *any* construction from occurring at a proposed subdivision until a Final Map is approved. An alternative was requested to consider allowing mass grading of a proposed subdivision earlier in the review and approval process. To ensure the protection of public health, the NDEP and Washoe County wanted to maintain a mechanism to ensure that land grading will not negatively impact the engineering design of water and wastewater infrastructure. The proposed amendments will permit for land development to begin with clearing, grubbing and grading upon Agency review and approval of utility "improvement plans" prior to Final Map approval.

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 the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not impose a fee change. Section 5 of the amendment proposes to split an existing fee into two parts to reflect the proposed improvement plan and Final Map processing sequence. The proposed regulation is essential to the functions and operations of NDEP.

9) Arsenic Rule Extensions - Bureau of Safe Drinking Water: (Discussion)

Pursuant to the federal Safe Drinking Water Act and Nevada laws and regulations (NRS 445A.935 & NAC 445A.490.5) the SEC has the authority to grant exemptions for the time necessary to achieve compliance with the federally mandated standard for arsenic in drinking water (10 parts per billion).

In 2006 and 2007, the SEC granted sixty-four exemptions to Nevada water purveyors for an extension of time to achieve compliance with the federal arsenic rule. Following criteria established by the SEC, some exemptions were granted an extension in recurring intervals, including the extensions granted to

ten Public Water Systems in December 2012. Those final extensions will expire on January 23, 2015.

The Nevada Division of Environmental Protection's Bureau of Safe Drinking Water (BSDW) will update the Commission on the status of the final set of Public Water Systems. Any systems failing to achieve compliance with the arsenic standard will be subject to formal enforcement by the BSDW.

10) Administrator's Briefing to the Commission: (Discussion)

NDEP Deputy Administrator, Dave Gaskin, will brief the SEC on major federal rulemaking currently underway and the submitted Bill Draft Requests which may have an impact on NDEP.

11) Public Comment (Discussion)

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12) Adjournment

Additional Information:

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this agenda was posted no later than three working days prior to the hearing at the following locations:

- Nevada State Library & Archives, 100 N. Stewart St., Carson City, NV;
 - Dept. of Conservation & Natural Resources, 901 South Stewart Street, Carson City, NV;
 - Nevada Division of Minerals, 400 W. King Street, Carson City, NV;
 - Nevada Dept. of Wildlife, 1100 Valley Road, Reno, NV
 - Nevada Division of Environmental Protection, 2030 E. Flamingo Rd, Las Vegas;
- Members of the public can inspect copies of the regulation 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.

This agenda and a link to the proposed regulation, including previous drafts, are or will be posted on the Legislative Counsel Bureau's website at:

<http://www.leg.state.nv.us/Register/>.

This agenda and supporting material for the above referenced meeting are posted on the State Environmental Commission's website at: http://sec.nv.gov/main/hearing_1214.htm. Supporting material is also available at the office of the State Environmental Commission, 901 South Stewart St., Suite 4001, Carson City, NV. Anyone desiring supporting material or additional information is invited to contact Valerie King at (775) 687-9374.

Persons wishing to comment on the proposed actions of the 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 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 Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m., November 28, 2014.