

**STATE OF NEVADA
 COMMISSION ON MINERAL RESOURCES MEETING
 Thursday, August 15, 2013 – 12:30 p.m.
 Mizpah Hotel
 100 Main Street
 Tonopah, NV**

COMMISSIONERS IN ATTENDANCE	STAFF IN ATTENDANCE
Fred Gibson (Chairperson) John Snow Dennis Bryan John Mudge Richard DeLong David Parker	Alan Coyner Gary Johnson Jim Faulds Lowell Price Rob Ghiglieri John Muntean Bryan Stockton (Deputy Attorney General)
	John Penton Rachel Wearne Mike Visher Bill Durbin Valerie Kneefel

I. OPENING AND INTRODUCTIONS

Chairperson Gibson called the meeting to order at 12:38 p.m. Alan Coyner introduced Commissioners and Staff in attendance. Bryan Stockton introduced himself as the new Deputy Attorney General. Mr. Coyner noted Commissioner John Stout was absent. He introduced summer interns, Matt Folsom and Gunnar Young, Jaron Hildebrand with Nevada Trucking Association and Noble Energy; Colleen Cripps, Administrator of Nevada Division of Environmental Protection; David Gaskin, Deputy Administrator of Nevada Division of Environmental Protection; Tom Gallagher with Nevada Water Solutions; and, Levi Kryder with Nye County Natural Resources.

II. PUBLIC COMMENT

A. Tom Gallagher, Nevada H2O Water Solutions, LLC, requested to make comments during agenda items VIA and VIE.

III. APPROVAL OF THE AGENDA

Richard DeLong moved to approve the August 15, 2013 meeting agenda. John Snow seconded the Motion. Motion carried unanimously.

IV. MINUTES OF THE MAY 3, 2013 MEETING

Richard DeLong moved to approve the May 3, 2013 meeting minutes. John Snow seconded the Motion. Motion carried unanimously.

V. OLD BUSINESS

A. Request for Support in FY14 of the UNR Mackay School Recruitment and Retention Program in FY15 (Tabled from CMR meeting 5/03/13) – Alan Coyner noted he had advised this item be tabled from the May 3, 2013 meeting in order to wait until mining claim fees could be determined in January 2014. He stated a meeting would be held in October to address mining claim fees. He noted the reserve amount was higher than projected; therefore, he would advise the Commission postpone action on this item until after the first of the year. The Commission discussed and decided to table this item to the October meeting.

B. Update on the NBMG projects funded by the CMR – Jim Faulds, NBMG-UNR, reviewed the following four projects funded by the CMR last year: 1) Sample Curation; 2) Mineral Databases; 3) Exploration Survey; and 4) Framework Studies.

He reported new projects for FY14 include: Sample Curation, which is a continuation project; and MI Reports and Databases, which were included in the Mineral Databases project, but broken into two separate projects for FY14 for better tracking. He stated all projects are on schedule. Work has already begun on the MI Reports. Reports are on schedule to be published at the end of the year. Funding received last year for projects has been carried over to continue operations, maintain legislative mandates and responsibilities, and for staffing and faculty salaries. The 2011 MI Report started in 2012 was completed a few months ago and has been released. Files were being collected for entry in the database. John Muntean added they are using the BLM's database, LR2000, to download plans and permits since permitting began in 1979 and geo-referencing that information into sections. The end product would be a map or a web server with sections of Nevada that can be clicked onto to see this information. Mr. Faulds reported funding has been secured for the Data Preservation project, which focuses on digitizing old mining district files, collections, etc. The goal of the Geologic Framework Studies project is to enhance collaborations with industry. Mr. Faulds reviewed current collaborations in Northern and Southern Nevada.

VI. NEW BUSINESS

A. Overview of Administrative Rulemaking – Bryan Stockton, Deputy Attorney General, explained the difference between NRS and NAC regulations. He stated Nevada Revised Statutes are enacted by the Legislature and can only be changed by the Legislature. A regulation specifies what needs to be done to comply with statutes. Statutes can never be contradicted with a regulation and, if there is a conflict, the statute takes precedence. He reviewed procedures for changing NAC regulations which includes holding public workshops and hearing public comment. Colleen Cripps, Administrator of Nevada Division of Environmental Protection, commented on the 6-month timeline needed to review regulation changes for adoption. Discussion followed. Alan Coyner stated regulations for the Hydraulic Fracturing Program are to be adopted by January 2015; therefore, regulations need to be submitted for review by June 30, 2014.

Tom Gallagher, Nevada H2O Water Solutions, LLC, suggested the Commission consider making a request for a proposal to allow outside contract work for drafting regulations. He offered his services as a consultant for drafting regulations. He suggested the Commission draft regulation language for the Hydraulic Fracturing Program by January 2014 to begin the public process.

B. Request to the CMR to amend NAC 519A.600 to define the amount of “administrative expenses” to be transferred annually from the Bond Pool to the Division – Alan Coyner stated there have been several different methodologies that have been implemented over the years to make the determination for the amount of administrative expenses to be transferred from the Bond Pool to the Division. He suggested the Commission set the amount at 3% of the bonded amount or implement a set amount to be transferred annually. The Commission discussed and decided to recommend amending NAC 519A.600 to set the transfer of administrative expenses from the active bond pool to the general budget at 3% over the four quarters annually.

Richard DeLong moved for the Division to amend NAC519A.600 to include language that administrative expense shall be calculated at 3% of the average of the total amount of bonds enforced average over four quarters of the fiscal year. Dennis Bryan seconded the Motion. Motion carried unanimously.

C. Request to the CMR to amend NAC 519A.610 to provide for the forfeiture of bond pool deposits that cannot be refunded due to nonresponsive participants – Alan Coyner stated there are seven participants who have been non-responsive to the bond pool deposit refund. It was noted all efforts have been exhausted to contact these seven participants, but there has been no response to-date. The Commission discussed and decided no regulation change was needed due to NAC 519A.605, Section 3 which terminates any obligation to refunding bond pool deposits if notification of the refund goes unanswered after 70 days.

At this time, Chairperson Gibson called for a ten-minute break.

D. Approval of a comment letter from CMR to BLM concerning the proposed rule for hydraulic fracturing on Federal Lands – Alan Coyner stated he provided examples of proposed letters received in opposition to the proposed rule for hydraulic fracturing on federal lands. He stated the initial rule garnered approximately 117,000 comment letters. Due to the response, BLM extended the comment period to August 2013 after some revisions were made in response to the initial rule. He explained the Commission needs to determine if they want to submit a comment letter and, if so, to review the proposed letter he drafted on their behalf for any additional revisions.

A question was asked regarding if an EIS was completed in association with the regulations. Gary Johnson replied no. He stated only California's BLM has agreed to complete a scientific study and EIS in regard to leasing. He stated, for the record, the BLM was reaching out to work with the State in understanding the process and every State agency's role in the process.

The Commission discussed and decided not to send a letter because they would be working with the BLM on hydraulic fracturing.

John Snow moved that the Commission on Mineral Resources not send the Department of the Interior-Bureau of Land Management a letter regarding the pending hydraulic fracturing regulations. Richard DeLong seconded the Motion. Motion carried.

E. Discussion concerning the regulations needed in NAC 522 to implement the program concerning hydraulic fracturing – Alan Coyner stated this item has been requested to be agendaized for every meeting in order to start the regulatory process and participation when needed. Today's discussion should begin with the conditions on approval in Noble permits. He stated he would also like to know how many current permits being issued for hydraulic fracturing should be posted on the CMR website, because there is a transparency requirement. Currently, only the first two pages of a permit are posted on-line, per internal policy, and that language on the first two pages of a permit does not identify hydraulic fracturing in the permit. He stated he wanted to know from the Commission, if that is sufficient to meet requirements or should the first two pages of the permit and conditions of approval, which would identify hydraulic fracturing be posted, or the first two pages of the permit, conditions of approval and the entire Down Hole Program be posted.

A comment was made clarifying all points under 1A, B and C are directed by AB 390. The commenter did not agree that the Commission is obligated to post information at this time. Mr. Coyner stated the program has decided that, to meet item C, permits need to be posted and then the question becomes if permits should be posted, per regulation or because the program says it is a good idea. He noted LCB requested permit information and that he informed them they were posted on the CMR website, but he wanted the Commission to be aware that hydraulic fracturing is not mentioned on the first two pages of permits.

A comment was made that a meeting regarding this subject discussed the possibility that the Division's drilling form could be modified with an additional line that asks if wells will be hydraulically fractured or to add a third page to the drilling form that relates to information regarding hydraulic fracturing which could be posted on-line. This process will evolve as the rules and regulations are promulgated; therefore, it is difficult to provide concrete guidance at this time. There is nothing currently in the rules that requires disclosure of hydraulic fracturing of wells. Wells can be drilled and a subsequent action or sundry notice form can be filed with a plan to hydraulically fracture the well.

Lowell Price noted that has recently occurred through one of the operators.

A comment was made that the Commission has somewhat discussed that an operator was obligated to provide information on hydraulic fracturing if that is their intent when a permit is issued.

A comment was made clarifying the permit issued in Ely had the words "hydraulic" and "fracing", initially, but there was no analysis.

A Commissioner stated it was his understanding that permits are public documents; therefore, available to the public. He stated he was not sure why all permits are not posted on-line. Lowell Price noted all permits are posted, but only the first two pages in oil and gas and the first three pages in geothermal.

A comment was made that there was proprietary and confidential information contained in the programs and there are statutes and regulations that allow that information to remain confidential for six months. Lowell Price added if confidentiality is requested.

A comment was made that this discussion should not be consumed by what information should be made public, but more about what the program will look like. He stated the specific items outlined by the Legislature should be discussed. Those items should also be discussed by the group meeting between NDEP and NDOM, specifically the third page of the statute regarding regulating conservation purposes items 1, 2, 3, 4, and 5.

A question was asked regarding if a company knows if they will frac or not when they are supposed to drill a well. It was stated it could be yes or no. The hydraulic fracturing procedure on unconventional wells is a very expensive undertaking ;

therefore, companies would know if wells will be fractured. If wells are drilled with a lot of permeability and not unconventional, which may occur in Nevada, that expenditure could be set aside.

It was asked if companies would be treated differently in regulations if they were fracing versus not fracing. Alan Coyner replied yes and cited the twenty-eight conditions of approval on the Noble permit.

It was asked what would happen if drilling begins, but a company decides not to frac even though they have met the requirements. It was stated the well could be deemed unsuccessful like any exploration venture and it can be abandoned.

A question was asked regarding if the conditions of approval on the Noble permit have been made public. Alan Coyner replied no. It was asked why they have not been made public. Alan Coyner stated no one has asked for them and because the practice of the Division has been to post only the first two pages. He added there is no disclosure requirement to post any permit information.

It was asked if it would be required to show permit information if someone asked to review that information. Alan Coyner stated probably, but he may call the Deputy Attorney General first, because that information is to remain confidential for six months to protect the developer.

A question was asked regarding if the Commission should be discussing regulations at this time. He stated the discussion should be focused on the process in the schedule to address these issues and if these issues should be dealt with in segments. It was stated Mr. Coyner was asking for guidance on how to make information transparent to the public on current wells being drilled that includes some fracing.

It was noted a question was asked earlier regarding what if someone wants to do something before the program is implemented and Bryan Stockton stated it was on an ad-hoc basis or case-by-case. The program is being implemented at this time because of the conditions of approval on the Noble permit because it is a hydro-fracing permit.

Bryan Stockton, Deputy Attorney General, reminded the Commission that the notice provision for this item regards discussion concerning the regulations and that this is where the focus needs to be. Any other discussions need to be discussed under another item or noticed for another meeting. He also mentioned the deadline for submitting regulations and that the Commission also needs to review the confidentiality issue.

Colleen Cripps asked if this could be done, not on a case-by-case basis, but across the board for permits, in general, so there is guidance and not every time there is a request. Bryan Stockton, Deputy Attorney General, stated except for the part that the statute makes confidential. A company would have to show the specific statutory and legal basis for a confidentiality request.

A comment was made that wells being drilled with fracing have to abide by the rules and regulations. It was noted that was being done currently through the conditions of approval. Alan Coyner commented there are other existing regulations that are woven in.

A comment was made regarding why the Commission feels compelled to do anything different in the interim when they should put their effort into finding a process and developing regulations. It was stated the Commission has to satisfy the Industry's request to drill and frac wells between now and a year-and-a-half. A question was asked regarding why old methodology, programs and regulations cannot be relied on or is there concern that the statute no longer allows that. It was stated a good job was being done to allow progress to take place and that discussion should review "big picture" items such as what is going to happen to the CMR under hydraulic fracturing rules being promulgated such as staffing, hearings, and appeals.

It was asked if the Legislature would allow development with conditions of approval while regulations were promulgated versus not allowing development until regulations are in place. Alan Coyner stated that is a reasonable first step.

It was stated the resolution to adhere to frac focus on chemical reporting is on point, but there will be an impact to the Division that needs to be addressed. One issue that needs to be discussed is appeals.

It was noted some guidelines may be needed to discuss this issue because of its broad scope.

It was suggested to hire an outside consultant to assist with addressing issues.

Alan Coyner noted a stakeholder meeting could be held between now and the October Commission meeting.

Colleen Cripps suggested having representatives that could draft an outline of a program and what issues need to be addressed to be presented to the Commission. She noted her agency has reviewed other regulatory programs in other states and tried to do a comparison. They were also reviewing the Colorado program in detail, per a suggestion by the regulatory community. She stated they do not want to create a program that will conflict with other programs. She noted a lot of states are amending their regulations and adding additional requirements due to public interest.

It was suggested a formal task force be established today to review and address issues.

Tom Gallagher, Nevada H2O Water Resources, LLC, suggested the Commission review and approves the first draft of NAC 522 regulations at their October meeting to begin the public workshop/hearing process to have a final hearing in June 2014.

Commissioner Snow stated he would chair the Stakeholder Group, but that the role of the Chair needs to be clearly defined.

Bryan Stockton, Deputy Attorney General, noted if the task force is a Subcommittee of the Commission it will need to comply with Open Meeting Law requirements.

It was suggested to agendaize hiring an outside consultant for the next meeting.

A comment was made regarding the commitment that is needed to the task force irregardless of outside help.

Alan Coyner stated a stakeholder meeting should be held within the next few months with the assistance of NDEP. He noted the program should address the following issues: ground water monitoring, seismic monitoring, and anything in the conditions of approval or does the program only need frac focus. He stated he reported to the Legislature that the Division has the authority to regulate hydraulic fracturing today.

A comment was made that a framework of regulations should be in place by October.

Colleen Cripps stated one stakeholder meeting may not develop a framework of regulations, but could provide an outline of issues that need to be addressed. She expressed concern with expediting this issue too quickly. She stated the Division is also going to have to figure out how to fit this in with their current workflow.

A suggestion was made to have a conference call meeting in the interim to address hiring an outside consultant.

It was stated the process can be initiated with the understanding that there is a limit to what can be contracted out and in getting the contract approved. There also needs to be a demonstration that there is funding for an outside contract and an approval from the Board of Examiners needs to be submitted a month before their meeting.

Colleen Cripps asked if the Commission had certain representatives in mind to serve on the Stakeholder Group. It was suggested to reach out to those individuals who expressed interest during the legislative process.

F. Discussion concerning the adequacy of bonding for the plugging and abandonment of oil, gas, and geothermal wells (NAC 522.230, NAC 534A.250) – Alan Coyner reviewed the process of how oil, gas, and geothermal is bonded in the State of Nevada. He stated Lowell Price also developed a list of wells that are open, but not plugged and abandoned. Commissioner Snow added bonding may get involved in the review of regulations for hydraulic fracturing. He commented that bond amounts should be increased for “problem” wells. Bryan Stockton, Deputy Attorney General, stated this issue was addressed in NRS 522.040 and prefaced by Division requirements of not less than \$10,000 for each well or not less than \$50,000 covering all wells being drilled or to be drilled by one owner in Nevada. Alan Coyner noted this item was for information only and that no action needed to be taken by the Commission.

G. Request to the CMR to amend NAC 522.343 to eliminate the reduced administrative fee for production of new oil and gas – Alan Coyner stated the Commission had reduced the administrative fee for new production in 1999 to \$0.005 per barrel for a period of one year, which was a reduction of \$0.095 from the normal production fee of \$0.10 per barrel. From 1999 to 2012, oil production continued to decline despite the increase in price. There has been no evidence that oil production has increased in Nevada because of the reduced administrative fee. Also, no producer has ever claimed the reduced administrative fee since 1999. The Commission discussed and decided to strike NAC 522.343 to eliminate the reduced administrative fee for the production of new oil and gas.

John Mudge moved to begin the regulatory process to strike NAC 522.343 to eliminate the reduced administrative fee for the production of new oil and gas. Richard DeLong seconded the Motion. Motion carried.

H. Request to the CMR to amend NAC 522.342 to increase the administrative fee paid on oil and gas production – Alan Coyner stated there were two fees: a permit fee and an oil assessment fee. The permit fee is not to exceed \$200.00, which is the current charge. The oil assessment fee is \$0.10 per barrel, which was put in place in 1999 and has not been changed to-date. He explained there is currently minimal funding and management of oil and gas production. He suggested increasing the oil assessment fee to \$0.20. Discussion followed regarding the expenses for oil and gas that exceed the current amount of approximately \$38,000 and inspections that have been completed. Lowell Price noted there may be a greater inspection need as a result of the upcoming audit.

In response to a question regarding the current budget for oil and gas, Alan Coyner explained the fluctuating amounts for oil and gas and commented on the need for the Commission to be more prudent with their finances in the future.

The Commission tabled this item to the October meeting.

I. Request to the CMR to amend NAC 534A.170 to change the definition of a domestic geothermal well – Alan Coyner stated the definition of a domestic geothermal well is inaccurate because the definition of a domestic well has changed from 1,800 gallons of water per day to 2-acre feet of water per year; therefore, the definition of a domestic geothermal well may need to be amended to reflect this change. The Commission discussed and decided to table this item to the October meeting for further review.

J. Request to the CMR to amend NAC 519A.634 to increase the amount of the fee paid per acre for approved surface disturbance on public land – Alan Coyner stated this fee amount has been highly variable since 2004 and was only for plans of operation. An audit was completed for the last three years and approximately \$82,000 was missed. A comment was made on current increases in capital costs. The Commission decided to table this item for further review at their October meeting.

VII. REPORT OF THE ADMINISTRATOR

A. Division of Minerals Activities – Due to meeting time constraints, this item was not addressed.

B. Budget Update

1. Budget Status Report: FY13 to date – Alan Coyner reported revenues for FY13 is approximately \$2.4 million, which is an increase from last year, and expenditures for FY13 is \$2.5 million. The Work Program is projected to receive \$2.1 million and budgeted to spend \$2.4 million, partly due to the sage grouse.

A question was asked regarding the success of the Intern Program. It was reported more sites were visited and secured and more sites were re-visited than last year.

Alan Coyner reported AML was being audited. One specific issue being reviewed is follow-up on the notification process. He noted the notification process has improved because of the addition of new technology.

VIII. PUBLIC COMMENT – There were no public comment requests.

IX. COMMISSION BUSINESS

A. Determination of Time and Place of Next CMR Meeting – The next meeting date will be October 10-11, 2013 in Elko, NV.

X. ADJOURNMENT

There being no further business, the meeting adjourned.