

**Minutes**  
**Nevada State Emergency Response Commission (SERC)**  
**First Quarterly Meeting**

**Clark County Fire Department Training Center**  
**4425 West Tropicana Avenue**  
**Las Vegas, Nevada**

**January 8, 2009**

**Members Present**

Richard Brenner, Co-Chair  
Carl Byrd  
Tom Clark  
Ty Cobb  
Susan Crowley  
Tom Czehowski  
Stacey Giomi  
Jim O'Brien  
Tom Porta  
Jim Reagan  
Frank Siracusa  
Jim Wright, Co-Chair

**Members Not Present**

Larry Farr  
John Helmreich  
Dale Lotspeich  
Craig Nixon  
Dennis Nolan  
Doug Webb

**Staff**

Suzie Adam  
Karen Pabón  
Julie Krom

**Guests**

Kamala Carmazzi  
Kim Ferguson  
Phil Weyrick

**I. CALL TO ORDER**

Jim Wright, Co-Chairman, called the meeting to order at 9:05 a.m.

**II. INTRODUCTIONS**

Members, staff and guests introduced themselves as shown above. A quorum was present.

**III. APPROVAL OF OCTOBER 9, 2008 MEETING MINUTES**

Jim O'Brien made a motion to approve the minutes of the October 9, 2008 meeting. Susan Crowley seconded the motion which was approved unanimously.

**IV. NEW BUSINESS**

**A. Local Emergency Planning Committee (LEPC) Updates (*attending LEPC Representatives*)**

*Carson City LEPC* – Stacey Giomi advised Carson City had several white powder incidents within a few days. The LEPC had a chance to exercise its plan and worked with the Nevada Department of Environmental Protection (NDEP). It was found the envelopes containing the white powder had a form of bacteria that tested positive on two occasions. It was sent to State lab and found to be in the same family as anthrax.

On January 29, 2009 Carson City LEPC will have a workshop exercise with State law enforcement agencies around the Capitol area to discuss jurisdictional issues.

*Lander LEPC* – Carl Byrd advised Lander LEPC had a series of classes taught by the State Fire Marshal's Division (SFM) with ten attendees. The attendees were certified to the hazardous materials operations level. The LEPC would like to work towards the technician level.

The LEPC's response plan and bylaws are up for approval at the LEPC meeting next week.

One of the emergency response trailers purchased with grant funds was on display at the Community Health Fair.

*Clark LEPC* – Mr. O'Brien advised currently there is no final closeout for the HazMat Explo held in November 2008. The HazMat Explo Planning Committee will meet at the end of this month. Mr. O'Brien stated due to the economy the Explo lost money but used a reserve from previous years.

The exercise the LEPC conducted on December 11, 2008 was a six day event. The New Year's Eve preparation exercise had a hazmat piece relating to hazardous materials that are used to de-ice airplanes.

The next exercise of a school bus crash for Clark LEPC is January 29, 2009 at 10:00 a.m. at the Clark County Government Center, Pueblo Room in Las Vegas.

The Critical Infrastructure Protection Plan was adopted by the Clark County Commission on January 5, 2009. The urban area strategy for Homeland Security was also adopted January 5. In addition, Clark County Emergency Management adopted the Household Pets and Service Animals Plan. Mr. O'Brien stated there are federal and state laws requiring the emergency response plans to address household pets and service animals.

*Storey LEPC* – Karen Pabón advised Storey LEPC submitted a LEPC update. The LEPC has completed its Emergency Operation Plan (EOP) updates to meet compliance with the National incident management System (NIMS) according to the Department of Public Safety (DPS)/Division of Emergency Management (DEM) contractor, Dick Mirgon.

There was a significant spill at Golden Gate Refinery. The spill involved 100 gallons of 70 percent diesel and 30 percent gas onto the ground. The NDEP responded to the incident. Also, 300 gallons went into the sewer system which shut down the sewer plant. This is the second incident at the oil refinery in a few months. The first incident was not reported to Storey LEPC and involved a full hazmat response and approximately eight hours on the scene. H2O responded to clean up both the sewer plant and the ground spill. NDEP is on top of this and Storey County intends a fine of \$10,000 for the response. This was a result of employee negligence not malicious intent.

**B. U.S. Environmental Protection Agency Update**

Ms. Pabón advised Mike Ardito was not present, but the US EPA Emergency Prevention, Preparedness, and Response Program Update handouts are available.

EPA conducted a LEPC survey which has been completed. Nevada had a 76 percent response rate.

**C. U.S. Federal Emergency Management Agency (FEMA) Update**

Ms. Pabón advised staff met John Woytak, Nevada's FEMA representative, at the November HazMat Explo. Mr. Woytak advised he is planning to attend SERC's April 2009 meeting.

**D. Occupational Safety and Health Administration Update**

Tom Czehowski advised there was nothing to report.

**E. Nevada Division of Emergency Management Update**

Frank Siracusa stated DEM is contending with the budget deficits and focusing as to how DEM can continue to provide services with the possible budget cuts.

Mr. Siracusa advised DEM has contractors to assist the local governments to become NIMS compliant.

DEM has just updated the State's Comprehensive Emergency Management Plan. After a final review, the plan will be made available.

Mr. Siracusa stated DEM's Response Recovery Guide to local government and State agencies has been updated and will be coming out shortly.

**F. Nevada Division of Environmental Protection Update**

Tom Porta advised NDEP worked with Storey County on the oil refinery

incident. The main issue with the treatment plant was the release killed all the microbes in the plant and when that happens, the plant ceases to function. This incident was a significant event.

Mr. Porta stated he had advised the SERC in the October 2008 meeting about the closing of a mine located north of Elko. The mine is still shut down. NDEP staff has been onsite every week since the incident occurred. The mine should open within the next 60 days.

NDEP has been in contact with Nye County who submitted a bill draft in this Legislative Session to deal with meth labs and the aftermath. After the criminal scene is released counties are dealing with the remaining materials. Nye County is seeking funding and authority to access the sight. Mr. Porta advised the bill is SB60.

#### **G. Nevada State Fire Marshal Update**

Mr. Wright advised the new hazardous materials database went online January 6, 2009. Ms. Pabón stated the E-Pay for the database is not functional at this time.

Mr. O'Brien asked if LEPCs could be provided a copy of the letter sent from SFM to reporting facilities so they are consistent with instructions. A discussion ensued.

Mr. Wright stated the second hazmat technician course in the north is scheduled for the last week of January 2009. Mr. Wright also advised the Training Bureau and the Fire Services Training Standards Committee are meeting with a delegation from the International Fire Service Accreditation College (IFSAC) at the Regional Training Center January 9, 2009. This is a long term process for SFM to get the training program accredited nationally for the Firefighter I, Firefighter II and Hazardous Materials training classes.

#### **H. Report of Legislative Committee**

Jim Reagan advised the Legislative Committee has not met. Mr. Reagan has been reviewing Legislative bills but has not found any pertinent to the SERC.

Members should notify Mr. Reagan or Ms. Pabón if they see a bill of interest to the SERC.

#### **I. Report of Strategic Planning Committee**

Ms. Crowley advised the Strategic Planning Committee has not met. Ms. Crowley stated she and staff need to plan a Strategic Planning Committee meeting to discuss what the Committee has accomplished and possible issues

that need to be addressed. Staff will need to check the member list to see how many are still available.

## **J. Report of Funding Committee**

### **1. Planning and Training Subcommittee**

#### **a. \*Discussion/Recommendation on developing criteria for plan review**

Ms. Pabón advised at the previous SERC meeting members were provided with the criteria from the Planning and Training Subcommittee for reviewing the hazardous materials plans. The Commission did not take action on the criteria. Since that meeting, a few items had been added. A copy of the updated criteria is in the meeting handouts.

Mr. O'Brien advised old copies of the technical guidance for hazard analysis have been found. EPA presented a field course which was an excellent training tool for conducting hazard analysis for legal airborne toxics. Mr. O'Brien contacted Mr. Ardito of EPA about resurrecting that as a course delivery for LEPCs to understand how to do hazards analysis for chemical facilities. Mr. Ardito advised Mr. O'Brien if EPA does not move on this, he will provide the information. Mr. O'Brien stated NRT-1 and 1-A copies were also found. A link to the National Response Team documents is on the SERC website at [www.serc.nv.gov](http://www.serc.nv.gov).

No action was necessary.

## **K. Report of Bylaws Committee**

Ms. Pabón advised there was no meeting and nothing to report.

## **L. Report of Information Technology Committee**

Ms. Pabón advised there was no meeting and nothing to report.

## **M. Report of Policy Committee**

### **1. \*Discussion/Action regarding possible rewrite of Policy 8.1, Hazardous Materials Response Plan and Exercise. Discussions to include but not limited to:**

#### **a. Requirement of State agencies to operate under a hazardous materials plan**

Mr. O'Brien advised there was discussion about State agencies resembling LEPCs when requiring them to operate under a hazardous

materials plan. The Committee decided to experience State agencies applying for grants to determine if change to Policy 8.1 is needed.

No action was taken on items M.1., a., b. and c.

**b. Requirement of State agencies to do annual updates and exercises of hazardous materials plans**

See item M.1.a. of this agenda.

**c. Requirement of Planning and Training Subcommittee to review State agency plans**

See item M.1.a. of this agenda.

**d. Requirement of exercises and integration with Homeland Security Exercise and Evaluation Program (HSEEP)**

Mr. O'Brien advised there was a new form under the Homeland Security Exercise and Evaluation Program (HSEEP) for reporting exercises to the Department of Homeland Security (DHS). If a LEPC was reporting an exercise to DHS on this form it could also be reporting the exercise to SERC. Mr. O'Brien recommended integrating the same form for use by the SERC. Mr. Giomi suggested SERC allow the HSEEP form.

The Policy Committee recommended the Planning and Training Subcommittee review the HSEEP form and make a recommendation to the SERC of whether or not to use the HSEEP form.

**e. Consequences of untimely submission of exercise reports**

Mr. O'Brien stated the Committee discussed the untimely submission of exercise reports and recommended they be submitted with the compliance package due every January.

The Policy Committee recommended the following changes to Policy 8.1:

Policy section, A.3., second sentence of the first paragraph, delete "must" and add "should" to read "Notification of the scheduled exercise should be forwarded to the SERC at least 14 days prior to the exercise."

Procedures section, B.1, second paragraph, delete "reporting an exercise within 60 days" and add "reporting an exercise by January 31<sup>st</sup> of each year."

On page four, number three, add “During February of each year” to the beginning of the paragraph and “and notify each LEPC or State agency of any identified deficiencies” to the end of the paragraph.

On page four, number four, add the sentence “Within 45 days of notification, the LEPC or State agency must respond to the notice of deficiencies” to the beginning of the paragraph.

On page four, add a number five to read “After 45 days, the Planning and Training Subcommittee will submit to the Funding Committee a list of LEPCs and State agencies that have complied with this policy. Only LEPCs and State agencies compliant with this policy will be eligible for funds during the year.”

Ms. Pabón stated on page three, number four of Policy 8.1, staff recommended the Commission review the first sentence regarding State agencies reporting exercises to SERC. A discussion ensued.

Mr. Siracusa asked how this ties in with the requirements of both the State Comprehensive Plans and the Governor’s Executive Order requiring State agencies to have an all hazards comprehensive emergency plan. Mr. O’Brien advised State agencies need to identify to SERC where they have the responsibility for hazardous materials.

Ms. Crowley made a motion to accept the recommended changes to Policy 8.1 and in addition in the Policy section, number four to delete “within 60 days of the exercise or incident” in the first sentence, deleting “Due to mitigating circumstances, the State agency may request an extension of time to submit the exercise report. The Executive Director may approve said request.” and replacing them with “by January 31<sup>st</sup> of each year.” Mr. Giomi seconded the motion which was approved unanimously.

**f. Consequences of failure to notify SERC 14 days prior to exercise**

Action on this agenda item taken under M.1.e.

**2. \*Discussion/Action regarding possible rewrite of policy 8.2, Grant Application, Grant Awards. Discussions to include but not limited to:**

Mr. O’Brien advised the Committee recommended the following changes to Policy 8.2 as a whole which pertains to items M.2., a., b., c. and d.:

On page four, B.2.b., delete “if it falls” and adding “by name, the hazardous materials emergency response plan it operates,” and deleting “an

emergency response plan” after the word “under.” The paragraph shall read “The agency must identify by name, the hazardous materials emergency response plan it operates under and what its role is in that plan.”

Policy section, 1.a., a paragraph was added regarding hiring consultants/contractors.

On page two, a paragraph was added regarding sole source consultant/contractors.

On page two, add the word “eligible” before the word LEPC in the paragraph beginning with “Operation funds” and “but are not limited to” to the end of the paragraph.

On page three, A.1.a., end of the paragraph, add “If a LEPC is not eligible for a grant at the time the awards are approved by the SERC, no operation funds will be awarded. If the LEPC becomes eligible during the fiscal year, operation funds may be awarded at a prorated amount equal to ¼ of the original operation award for each remaining quarter of the fiscal year.”

On page three, A.1.b., add a paragraph regarding hiring consultants/contractors, and another paragraph regarding a sole source consultant/contractor.

On page five, B.2.f., delete the section regarding State agencies participating in a LEPC/SERC meeting.

On page six, G., add a paragraph regarding SERC approving money with contingencies or conditions being met prior to preparation and funding of the grant award, and the grant period commencing on the date designated by the grant cycle or the date compliance is attained, which ever is later.

On page six, I., delete “LEPC” and “if applicable” in the paragraph.

Ty Cobb made a motion to accept the recommended changes to Policy 8.2 regarding requiring State agencies to identify if they fall under a plan, requiring State agencies to participate in and report on exercises of a plan, requiring State agencies to participate in a LEPC/SERC meeting, and exemptions or alternative to requiring two bids for consultant/ contractor work. Tom Clark seconded the motion which was approved unanimously.

**a. Requirement of State agency to identify if it falls under a plan**

Action on this agenda item taken under M.2.

**b. Requirement of State agencies to participate in and report on**

**exercise of a plan**

Action on this agenda item taken under M.1.a.

**c. Requirement of State agencies to participate in a Local Emergency Planning Committee (LEPC)/SERC meeting**

Action on this agenda item taken under M.2.

**d. Possible exemptions or alternative to requirement of two bids for consultant/contractor work**

Action on this agenda item taken under M.1.a.

**3. \*Discussion/Action regarding possible rewrite of Policy 8.2a, License Plate Funding Grant Application, Grant Awards. Discussions to include but not limited to:**

**a. Possible exemptions or alternative to requirement of two bids for consultant/contractor work**

Mr. O'Brien stated this was addressed in item M.1.a. of this agenda regarding consultant/contractor bids.

Action on this agenda item taken under M.3.b.

**b. Possible revisions to grant application evaluation factors**

Mr. O'Brien advised the Committee recommends deleting "State Enhancement Plan" and adding "Homeland Security Strategy" in C. on page two of Policy 8.2a. In addition, on page three under the Procedures section, A., adding "Strategy" after the words "Homeland Security."

Mr. Giomi made a motion to accept the recommended changes to Policy 8.2a regarding consultant/contractor bids and changing the evaluation factors to read "Homeland Security Strategy." Tom Czehowski seconded the motion which was approved unanimously.

**4. \*Discussion/Action regarding possible rewrite of Policy 8.3, Eligibility and Compliance Certification. Discussions to include but not limited to:**

**a. Requirement of State agencies to operate under a hazardous materials plan, annually update and exercise the plan**

Mr. O'Brien stated the Policy Committee recommended deleting 3.d., on

page three of Policy 8.3, regarding participation of State agencies in a LEPC/SERC meeting.

Action on this agenda item taken under M.4.b.

**b. Possible addition of consequences of failure to comply with all eligibility and compliance requirements**

Mr. O'Brien advised the Policy Committee recommended adding a number four to page three of Policy 8.3, "Failure to accomplish all eligibility and compliance requirements could result in denial of a grant award by the SERC. Failure to maintain all eligibility and compliance requirements could result in the suspension or deobligation of the current grant awards by the SERC."

Mr. Byrd made a motion to accept the recommended changes to Policy 8.3 regarding the participation of State agencies in a LEPC/SERC meeting and addition of consequences for LEPC failure to comply with all eligibility and compliance requirements. Ms. Crowley seconded the motion which was approved unanimously.

*The Commission adjourned for a break at 10:26 a.m.*

*The Commission reconvened at 10:37 a.m.*

**5. \*Discussion/Action to develop policy of progressive discipline for LEPCs out of compliance with membership, involvement and administrative items**

Mr. O'Brien stated there was a lawsuit in Illinois regarding a SERC's failure to supervise a LEPC. The Policy Committee does not want to have the Nevada SERC in the same position.

SERC does not have a formal policy to address the progressive steps that would be employed should the SERC be unsuccessful with the measures it currently takes. Mr. O'Brien advised the Policy Committee wants to know if the SERC would like the Committee to develop a policy. The Committee suggested requesting an Attorney General's opinion regarding the possibility of court action. Mr. Porta stated the Commission would want to know what their liability exposure would be.

Mr. O'Brien made a motion to request an informal Attorney General's opinion regarding SERC's liability in the event of a lawsuit for failure to supervise a LEPC. Ms. Crowley seconded the motion which was approved unanimously.

**6. \*Discussion/Action to establish policy designating maximum amounts of grant requests**

**a. \*Discussion/Action on possible elimination of the \$30,000 award maximum for the Hazardous Materials Emergency Preparedness (HMEP) planning grant to allow LEPCs to request additional funding as needed to support a specific project**

Mr. O'Brien stated SERC limits the grant requests for the HMEP planning grant requests. If there is a low volume of grant requests, there is an amount of money not being obligated. Ms. Pabón advised the Policy Committee recommended the HMEP planning grant not fall under any kind of maximum amount to allow for the ability to have a county or a region request in excess of \$30,000 for more costly projects. Ms. Pabón advised the Policy Committee agreed a policy does not need to be established but would be established in the grant application kit. A discussion ensued. The Policy Committee recommended the maximum grant amount be removed from the HMEP planning grant.

Ms. Crowley made a motion to accept the recommended removal of the \$30,000 maximum grant amount for the HMEP Planning grant.

Mr. Reagan seconded the motion which was approved unanimously.

**7. \*Discussion/Action to establish policy prorated operations funding when compliance is met**

Mr. O'Brien stated establishing policy prorated operations funding when compliance is met was addressed in item M. 2.

**8. \*Discussion/Action to establish policy for grant period to commence upon compliance with noted contingencies**

Mr. O'Brien stated establishing policy for grant period to commence upon compliance with noted contingencies was addressed in item M. 4.d.

**9. \*Discussion/Action to establish protocol for LEPCs to provide Emergency Planning and Community Right-to-Know Act (EPCRA) information upon request by the public**

Ms. Pabón advised this item is regarding requests for EPCRA information that staff and LEPCs receive. SERC received a request for Tier II information from an agency for marketing purposes. Ms. Pabón requested an Attorney General's opinion which was received by staff. The opinion provides for a case by case "balancing test." The Policy Committee recommended staff develop a protocol for LEPCs to assist them when they receive requests. A discussion ensued. Ms. Pabón advised based on the

opinion, staff will not provide EPCRA information to agencies requesting this information for marketing purposes due to possible homeland security issues.

A discussion ensued about having the SERC receive all requests made to LEPCs. Mr. Giomi advised it is federal law LEPCs need to set up a repository to accept requests for and provide EPCRA information.

The Commission directed staff to develop protocol for LEPCs for releasing EPCRA information requested by public.

No action was necessary.

**N. \*Discussion/Action regarding possible grant to SERC for fee funds to cover Commissioner travel for the remainder of fiscal year 2009**

Ms. Pabón advised \$4,400 for rent on office space will not be used and was recommended for budget cut. The SERC budget was not cut. Ms. Pabón stated additional funds are needed for Commissioner travel for the remainder of FY 09. SERC has added four more members and there are Commissioners traveling long distances to attend meetings. A budget work program was submitted to move this money to cover member travel expenses. The work program has not gone through yet. A discussion ensued.

Mr. Giomi made a motion to transfer up to \$7,500 from SERC fees for Commissioner travel expenses with the understanding the \$4,400 be used first if the work program is approved. Ms. Crowley seconded the motion. A vote was taken with one member opposing. The motion was carried.

**O. \*Discussion/Action regarding budget performance indicator requiring Commission member attendance to at least one LEPC meeting per year**

Ms. Pabón stated staff has presented budget performance indicators to SERC. These performance indicators are reviewed by the SERC each year.

One of the requirements of these budget performance indicators is SERC members attend LEPC meetings. For the base budget year there was to be 75 percent Commissioner attendance based on performance indicators. From the Commissioners reporting attendance to a LEPC meeting, SERC had 53 percent attendance rate. For FY 09 and 10, the performance standard is set at 80 percent and increasing to 85 percent in FY 11.

**P. \*Discussion/Action regarding Attorney General opinion of requirements to provide information pursuant to EPCRA**

Ms. Pabón stated the Attorney General's opinion of requirements to provide

information pursuant to EPCRA was addressed in item M. 9.

**Q. \*Discussion/Action regarding comments made by the Homeland Security Commission in reference to the United We Stand (UWS) grant awards provided to LEPCs and State agencies**

Ms. Pabón stated the Homeland Security Commission's Executive Director requested her attendance at its November 5, 2008 meeting to provide a report of the use of the UWS grant funds. Ms. Pabón and Richard Brenner attended the meeting. Ms. Pabón provided the Homeland Security Commission with a spreadsheet of the previous two fiscal years which included the agencies name, the amount it had spent or the amount rewarded, the items purchased or the items awarded to purchase.

Dr. Carrison, Chair of the Homeland Security Commission, advised he did not approve funding State agencies with the UWS grants. Dr. Carrison contended the State budget should pay for items such as security gates and key card entry systems. Mr. Keller, also of the Homeland Security Commission, questioned the purchase of radio equipment. Mr. Brenner said Dr. Carrison stated he did not want any grants to go to State agencies. Mr. Brenner also advised Mr. Keller had concerns about communications equipment and satellite phones and did not feel the rural areas needed this equipment. Mr. Brenner explained to Mr. Keller that rural areas did need this type of communication. A discussion ensued.

No action was necessary.

**R. \*Discussion/Action regarding the Executive Order issued by the Governor on November 26, 2008**

Mr. Wright stated there was a letter dated December 19, 2008, and attached to that an Executive Order dated November 26, 2008 issued by the Governor. Mr. Wright, Ms. Pabón and Mr. Brenner met with DEM staff along with the Deputy Director from the Department of Public Safety to discuss the Executive Order.

Mr. Wright stated this direction has no impact on the Commission, and advised the Executive Order is to provide oversight and support to the State employees serving the SERC. Mr. Wright added Administration is trying to look into the various Boards and Commissions and all the problems associated with them. Mr. Wright and Mr. Brenner will still supervise Ms. Pabón. Administrative support will come from DEM. All timesheets and travel claims will go through DEM.

Mr. Reagan asked what other Commissions and public bodies have undergone the same transformation. Mr. Wright advised he knows of none but he was told

other agencies are looking at this. There are differences of how Commissions and Boards have staff assigned to them when the staff is unclassified and it could be handled differently than classified staff. SERC staff is classified.

Ms. Crowley asked if SERC staff would work for DEM. Mr. Wright advised DEM is a support service to staff.

Mr. Siracusa advised as far as this Commission, nothing changes. DEM will only be involved as a State agency that will be the sign off approval on travel or leave forms as these need to be signed through a State agency. Mr. Siracusa stated the Governor's office did not want to see these types of items completed by nonstate employees. The DEM will not interfere in the operation of the Commission.

Mr. O'Brien asked, after 21 years what broke that needs fixing. Mr. Cobb stated only the Governor's Office can answer that question.

Mr. Giomi stated there is an issue in that the Governor signed an executive order making the administrative reporting structure go directly through DPS. There is a SERC Co-chair reporting to DPS and staff administratively going through DEM, also under DPS. Mr. Giomi stated the Executive Order is contrary to State law and recommends requesting an A.G.'s opinion. Mr. Giomi advised in State law the Governor appointed the body of the SERC and in turn that body employed staff. Mr. Giomi does not feel giving the Director of DPS the control of that staff is supported by Nevada Revised Statute.

Mr. Porta stated SERC needs to get an A.G.'s opinion to see if there is a conflict with the Nevada Statutes, and if it needs to be changed.

Mr. Brenner stated he is concerned with the administrative oversight including approval of SERC bills.

Mr. Brenner advised in the meeting with DEM staff, SERC staff and the Co-chairs, they were advised Glade Myler was going to be SERC's Deputy Attorney General (DAG). Mr. Brenner stated he was concerned because of the previous issues having Mr. Myler as SERC's DAG. Mr. Brenner and Ms. Pabón advised Phil Brown, Deputy Director of DPS, about these issues with Mr. Myler.

Mr. Brown advised he would check into this matter.

Mr. Giomi made a motion to request an informal or formal Attorney General's opinion relative to the applicability of NRS 459.738 and any potential conflict with the Executive Order signed by the Governor on November 26, 2008.

Mr. Reagan seconded the motion. A discussion ensued. A vote was taken with Mr. Brenner, Mr. Byrd, Ms. Crowley, Mr. Giomi, Mr. O'Brien, Mr. Porta and

Mr. Reagan voting yes and Mr. Wright, Mr. Clark, Mr. Czehowski and Mr. Siracusa opposing. The motion carried.

**S. \*Discussion/Action regarding possible approval of additional funding needed to implement the E-Pay connectivity to the hazardous materials reporting system**

Ms. Pabón advised at the time of preparing the agenda it was unknown if additional funds would be needed to fix a problem that occurred due to a change by the State's e-pay vendor. The database vendor has already provided the update at no cost.

No action is necessary.

**T. Report of Executive Director**

**1. Compliance Report**

Ms. Pabón advised Elko and Humboldt LEPCs remain out of compliance. Both LEPCs are out of compliance for their updated plan and level of response questionnaire. Staff continues to work with these LEPCs. Ms. Pabón advised she sent a letter to the Humboldt County Commissioners regarding Humboldt LEPC being out of compliance. Staff has not received a response from Humboldt County.

Esmeralda LEPC has fallen out of compliance during the last quarter as their last reported exercise was in October 2007. Ms. Pabón stated staff was notified the LEPC had completed an exercise but did not submit a report yet.

**2. Database update**

Ms. Pabón advised training was completed statewide on the new database system. There were approximately 500 attendees. Staff is working out the logistics of payment on the training contract.

**3. NACs update**

The proposed NAC changes were on the December 16, 2008 Legislative Commission agenda. Ms. Pabón stated a Legislative Commission member questioned the Nevada Administrative Code (NAC) regarding the hazardous materials response plans. Ms. Pabón advised the UWS funding was separate and not subject to those plans. There was another question regarding the intent behind the repealing of the annual progress report requirement from State agencies. Ms. Pabón advised the SERC is awarding money for a piece of equipment or particular training. When

SERC receives an agency's financial report, it is the same as receiving a progress report. Adoption of the NACs was approved.

#### **4. Budget update**

Ms. Pabón advised the biennium budget has been submitted. The travel of SERC Grants and Projects Analyst to the NASTTPO Conference has been cut. There are two work programs pending. One work program is for approximately \$141,000 from Reserves to the SERC grant category to cover what SERC has already awarded. The second work program is for approximately \$500,000 from Reserves to the SFM expenditure category.

In the last quarter, staff attended LEPC meetings in Churchill, Douglas, Lyon and Storey counties. Churchill LEPC's Chair passed away and the Fallon City Emergency Manager is temporarily acting as the County Emergency Manager and has acquired LEPC duties. Churchill LEPC had county management input at the meeting. The LEPC has reviewed its plan and added more detail to it.

Douglas LEPC has almost all of the 13 EPCRA required membership attending the meetings.

Ms. Pabón advised at the previous SERC meeting there was discussion as to what to do with the HMEP planning money. Some suggestions were to fund a commodity flow study, support a contract to develop a model template for hazardous materials emergency response plans throughout the State, and provide statewide resource management. Ms. Pabón spoke with a contact provided by Mr. Giomi and he advised the commodity flow study was the best use of funds.

#### **V. PUBLIC COMMENTS**

Mr. Byrd stated at the SERC meeting in October 2008, the Executive Director of the Indian Health Board was in attendance. He talked about emergency response commission on the inter-tribal basis. Mr. Byrd advised some inter-tribal staff attended the last Lander LEPC meeting and asked if there had been any further communication with the Inter-Tribal Council. Ms. Pabón advised there have been inter-tribal personnel at other LEPC meetings. SERC has tribal contacts and distributes all agendas to them.

#### **VI. ADJOURNMENT**

Mr. O'Brien made a motion to adjourn the meeting at 12:14 p.m.