

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

**Professional Engineers and Land Surveyor's State Board
1755 E. Plumb Lane, Suite 130
Reno, Nevada**

April 17, 2008

Members Present

Richard Brenner, Co-Chair
Susan Crowley (Teleconferenced)
Larry Farr
John Helmreich
Tim McAndrew, Co-Chair
Senator Dennis Nolan
Jim O'Brien
Tom Porta
Jim Reagan
Douglas Webb
Jim Wright

Members Not Present

Carl Byrd
Tom Czehowski
Stacey Giomi
Frank Siracusa
Doyle Sutton

Staff

Suzanne Adam
Karen Pabón
Cynthia Hoover

Guests

Matthew Bradley
Craig Nixon

I. CALL TO ORDER

Tim McAndrew, Co-Chairman, called the meeting to order at 9:02 a.m.

II. INTRODUCTIONS

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

III. APPROVAL OF JANUARY 10, 2008 MEETING MINUTES

Jim O'Brien made a motion to approve the minutes of the January 10, 2008 meeting. Tom Porta seconded the motion which was approved unanimously.

IV. NEW BUSINESS

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

Clark LEPC – Mr. O’Brien advised Clark LEPC is slowly reducing the large membership requiring an enormous quorum. Clark LEPC is hosting a series of I300 and I400 classes. The Urban Area Strategy working group is meeting April 20, 2008 to do updates, which will be adopted in the May meeting. The planning for the HazMat Explo is moving along.

Mineral LEPC – Craig Nixon, Chair, Mineral LEPC advised there is still no definite date as to when Mineral County will receive the federal mercury stockpile. Mr. Porta added the NV Division of Environmental Protection is working with the defense logistic people to ensure the containers for the mercury are sound. A number of containers have already had to be replaced per NDEP’s request. There are thousands of containers dating back to World War II.

B. U.S. Environmental Protection Agency Update

Mike Ardito was not present, but he provided handouts of the US EPA Emergency Prevention, Preparedness, and Response Program Update.

Karen Pabón advised the comprehensive LEPC 2008 Survey was forwarded by EPA to the LEPCs.

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

Matthew Bradley was present and advised the FEMA Preparedness Division has four openings and one person has been hired.

FEMA is preparing for the Vigilant Guard (Northern Nevada Earthquake) exercise scheduled for June 12-14, 2008.

Mr. Bradley stated the National Incident Management System (NIMS) guidance has been released. The requirements are much the same as the ones for 2007. There is one new requirement and that is to initiate development of a State/Territory-wide system to credential emergency management/response personnel.

The final version release of the National Response Framework (NRF) was January 22, 2008 and went into effect March 22, 2008.

Mr. Bradley advised the IS-800 course (National Response Plan) has been replaced by IS-800 B (National Response Framework) course.

FEMA is offering an L580 (Emergency Management Framework for Tribal Governments) course, April 21-24, 2008 in Phoenix, Arizona. FEMA does have some funds for traveling, or if there is a tribal representative that might be interested in hosting this course, FEMA can work with them. Interested parties may contact Tessa Badua-Larsen at Teresita.badua-larsen@dhs.gov.

D. Occupational Safety and Health Administration Update

Tom Czehowski was not present and there was nothing to report.

E. Nevada Division of Emergency Management Update

Frank Siracusa was not present and there was nothing to report.

Mr. O'Brien stated the National Emergency Management Association (NEMA) received delivery of 100 mission packages under the Emergency Management Assistance Compact (EMAC). Instead of requesting a list of resources for assistance, now an agency can request a mission package, which includes equipment, personnel, etc. It is based on the model of North Carolina's National Guard. Mr. O'Brien advised an agency can go to the NEMA website and download the mission package needed.

F. Nevada Division of Environmental Protection Update

Mr. Porta advised he was going to have his staff at this meeting to give a brief on the Fernley flooding but they could not attend. Mr. McAndrew asked SERC staff to agendize this for the SERC Quarterly meeting in July 2008.

G. Nevada State Fire Marshal Update

Jim Wright, Chief, State Fire Marshal's Division (SFM), advised the Department of Public Safety has a new Director, Jearld Hafen and Deputy Director, Phil Brown.

Mr. Wright stated the contract for Reno/Sparks hazmat technician course is in its final process of approval. The course will cost \$35,000 and is scheduled for May 2008.

Mr. Wright stated SFM has received several requests for training which it could not provide. Denial letters are being sent to the requesting LEPCs.

Mr. Wright advised Ms. Pabón he was scheduled to attend a LEPC meeting in Lyon County, but will not be able to attend due to out of town business.

Mr. Wright advised with budget cuts, SFM is down to two training staff: One staff in the south and one in the north.

H. Report of Legislative Committee

Mr. Reagan advised the Legislative Committee had a joint meeting with the Policy Committee on March 13, 2008 to review policy changes and/or other

items relating to SERC, and revisions, deletions, and additions to the NACs.

Mr. Reagan explained the handouts: one was line items of proposed changes to NACs, and the other is the NACs with the changes made if they are accepted. These changes go to the Legislature Council Bureau (LCB). The LCB finalizes the language of the proposed changes.

- 1. *Discussion/Review/Action on whether to begin the rulemaking process to revise the Nevada Administrative Codes (NACs), sections 459.9912 through 459.99189 relating to SERC processes. See Attachment A for more information on this agenda.**

Mr. Reagan advised the Legislative Committee and Policy Committee (the Committees) recommended no action be taken adding definitions from the Definitions/Glossary page to the NACs.

The Committees recommended no action be taken to change NAC 459.99131, 459.99132, and 459.99137.

The Committees recommended changes to NAC 459.132 (3), 459.99135, 459.99136 (1), 459.138, 459.99139, 459.99141 (1) and (2), 459.99142, 459.99143 (1) and (2), 459.99146, 459.99164, 99167. Most of these NACs had to do with United We Stand (UWS) funding. The uses of UWS funding were not identified properly in the NACs. The Committees felt it was important to address both the UWS funding and other funding in the NACs. The Committees did recommend some changes to policy as well as to the NACs.

Mr. Reagan advised most of the changes were not significant in that they do not change the methodology. In the joint meeting, the Committees were able to identify changes in policies that required change to the NACs. Policy changes are addressed in Item M of this agenda.

Mr. O'Brien made a motion to accept the Committees' recommendations for revisions of NAC 459.9912 through 459.99189. Doug Webb seconded the motion which was approved unanimously.

- 2. *Discussion/Review/Action of SERC policies 8.1 through 8.13 and definitions/glossary for possible migration to the NACs. See Attachment A for more information on this agenda.**

Mr. Reagan advised these policies that needed to be or not be addressed in NACs. Mr. Reagan stated there were some items where there were no changes to the NACs or policy, and in some items there needed to be a change in policy.

The Committees recommended no action be taken.

Ms. Pabón advised these policies have changed over the course of the last two years since the last NAC revision. She asked the Commissioners if the changes made be migrated to NAC.

Ms. Pabón stated the LCB will take these changes and develop the wording.

Mr. Wright encouraged staff to get these changes in to the Legislature because it can be a lengthy process. Ms. Pabón advised SERC is budgeted this fiscal year to pay LCB. There are no funds in FY 09 to pay them.

Mr. O'Brien made a motion the SERC take no action taken.

Mr. Helmreich seconded the motion which was approved unanimously.

I. Report of Strategic Planning Committee

Susan Crowley advised the Strategic Planning Committee has not met and there is nothing to report.

J. Report of Funding Committee

1. Discussion/Review of Hazardous Materials Emergency Preparedness (HMEP) mid-cycle grant applications submitted by Clark, Storey and White Pine LEPCs

Mr. Brenner advised there are funds remaining in both Planning and Training categories of the HMEP grant, but not enough funding to cover both the planning requests. Clark LEPC requested a GIS mapping program. Storey LEPC requested a program for resource management. It is expected new programs through the Department of Homeland Security and Division of Emergency Management will address this issue. White Pine LEPC requested to send two staff to an asbestos refresher training and purchase fire studio training CDs. Ms. Pabón stated the Committee approved Clark and White Pine LEPCs requests and denied Storey LEPC's request.

2. *Discussion/Review/Action of FY 2009 SERC grant applications submitted by Carson City, Churchill, Clark, Esmeralda, Eureka, Humboldt, Lander Lincoln, Lyon Mineral, Nye, Pershing, Storey, Washoe and White Pine counties

Ms. Pabón advised the following is based on fiscal year 09 projections; a balance forward of \$400,000 to FY10, the award of operations grants of \$4,000 and LEPC grants at \$30,000; and funding the HMEP match would leave a remaining balance of \$326,000.

Anticipated items to be deducted from the \$326,000 would be possible hazmat database enhancements, training and project management for the database, and an increase in HMEP grant, which will then increase SERC's match by about \$22,000. The FY09 SERC grants are recommended at \$393,000 plus \$60,000 in Operations category. Two LEPCs are ineligible for grants.

Ms. Pabón further stated it is recommended to decrease Lander LEPC's award by \$650 for phone service, which should be taken out of operations. For Nye LEPC it is recommended SERC fund the training CDs from the training category and decrease the award by \$5,800 by denying maintenance of SCBAs. Ms. Pabón advised this prompted a discussion by the Committee regarding the maintenance costs of equipment that is purchased with SERC grant funds. The Committee requested an inquiry be made of the LEPCs to ensure appropriate maintenance was actually being accomplished, and see if the SERC would need to consider funding sources for maintenance costs.

Ms. Pabón advised she queried the LEPCs and received responses from approximately half of them. Most LEPCs are doing their maintenance as required. Small amounts are funded out of current operations grants, and for larger items it is funded through their budgets.

Mr. O'Brien made a motion to approve the funding requested by the applying LEPCs for the FY 2009 SERC grant. Mr. Farr seconded the motion.

Ms. Pabón advised Nye LEPC was short some quotes for hazmat refresher kit updates. Upon receipt of the appropriate quotes their grant would be reduced by \$868. They are no longer requesting hazmat awareness DVDs. Mr. O'Brien amended his motion to include contingent on receiving quotes from Nye LEPC, which coming in lower than requested would reduce the grant request. Mr. Farr seconded the motion which was approved unanimously.

3. *Discussion/Review/Action regarding letter to Elko and Douglas County Commissions regarding lack of LEPC involvement

Mr. Brenner stated Douglas LEPC currently has four members representing fire, sheriff and emergency management. Ms. Pabón advised staff sent 160 letters to all the facilities in Douglas County in the hazmat database. An industry person emailed Ms. Pabón and related he was interested in becoming a member of the Douglas LEPC. Also, Harry Raub advised there was a second industry person interested, but neither one of these people are on the Douglas LEPC membership list recently submitted. A discussion ensued.

Mr. O'Brien stated the federal law is very specific who must be a member of the LEPC. The district attorney (DA) or county manager need to be advised Douglas LEPC is noncompliant.

Ms. Pabón stated Elko LEPC has not had regular meetings and has not applied for grants for a couple of years. Mr. Farr asked if Douglas LEPC was administratively compliant. Ms. Pabón advised they would not be compliant for another year due to missed quarterly meetings. A discussion ensued.

Ms. Pabón stated Elko LEPC is working on compliance and does not have a problem with their membership.

A discussion ensued regarding involvement of mines, fire academy and SFM staff.

Senator Nolan advised counties tap into other State funding. Staff can go to the Governor's office and advise there are counties that are not compliant. They could withhold the county's other funds until the matter of the LEPC is taken care of.

Mr. Farr suggested the Co-Chairs and Executive Director visit the manager in Elko and discuss this issue.

Mr. O'Brien suggested this issue needs to be agendized for the Policy Committee to develop a progressive discipline policy.

No action was taken.

The Commission took a break at 10:07 a.m.

The Commission reconvened at 10:15 am.

K. Report of Bylaws Committee

1. Discussion/Review of recommended changes to SERC Mission and Vision Statements to include the duty to support preparedness to combat terrorism

Mr. Farr stated since receipt of the United We Stand license plate funding, the SERC's mission has changed to include preparedness to combat terrorism, and needs to be incorporated into the Mission and Vision Statements. Mr. Farr advised the Committee added the words "terrorism and" to the Mission Statement and in the Vision Statement "and terrorism" was added to the second to the last sentence. Mr. O'Brien suggested keeping the wording of both Statements consistent.

Because there were less than 30 days between the Bylaws Committee meeting and this SERC meeting, the Commission will formally adopt these changes at the July 10, 2008 SERC Quarterly meeting. Therefore, no action was taken.

2. Discussion/Review of recommended changes to SERC bylaws to include the duty to support preparedness to combat terrorism

Mr. Farr advised the Committee included the additional role of combating terrorism throughout the SERC bylaws.

Because there were less than 30 days between the Bylaws Committee meeting and this SERC meeting, the Commissioners will formally adopt these changes at the July 10, 2008 SERC Quarterly meeting. Therefore, no action was taken.

3. *Discussion/Review/Action of the LEPC membership lists for compliance with the Emergency Planning and Community Right-to-Know Act (EPCRA)

a. *Discussion/Review/Action regarding sending a letter to Churchill and Douglas County Commissions advising the LEPC is substantially out of compliance with membership requirements

Mr. Farr advised SERC has discussed this previously in this meeting with regards to Douglas LEPC. Ms. Pabón stated Churchill LEPC was short five members. Mr. Farr stated SERC staff has a form available to LEPCs to identify the 13 positions recommended by EPCRA.

Mr. Farr advised the SERC has requested the Policy Committee to look at the situation of noncompliance and progressive discipline. Therefore, no action is necessary.

4. *Discussion/Review/Action of LEPC bylaws for compliance with EPCRA

a. *Discussion/Review/Action to request a letter be sent from the Attorney General's Office to Churchill and White Pine LEPC's regarding less than a simple majority designation of a quorum in LEPC Bylaws

Ms. Pabón advised staff believed the Attorney General's (AG) Office had already sent a letter regarding quorums to White Pine LEPC, but they had not. The recommendation was to send a letter advising White Pine LEPC they needed to change their bylaws because less than a

simple majority of members is in violation of the Open Meeting Law. Russ Peacock, Chair of White Pine LEPC, previously requested an opinion of the White Pine County DA. Ms. Pabón stated staff received a copy of a letter from the White Pine County DA advising Mr. Peacock the LEPC could designate whatever number they wanted in their bylaws and use that as their quorum. The SERC can request the AG's Office make contact informally, or make a formal complaint of a violation of the Open Meeting Law. A discussion ensued. Cynthia Hoover, Deputy AG, advised a complaint needs to be filed and addressed to George Taylor, who works in the Open Meeting Law section of the AG's office. Ms. Hoover advised under NRS definitions, quorum has two meanings: a simple majority of a constituent membership of a public body or another proportion established by law. Therefore, there is a legal question as to whether White Pine LEPC can establish another proportion in its laws.

No action was taken.

L. Report of Information Technology Committee

1. *Discussion/Review/Action regarding prioritization and funding of the hazardous materials database enhancements

Mr. Brenner stated this was ongoing to the purchase of the hazardous materials database system. SFM is focused on collecting fire code information, while SERC is focused on SARA Title III information. Sandy Smith, Department of Information Technology, has been involved with putting the project together and at the March 26 Information Technology Committee, she identified three key areas of concern: audit, user interface and printability.

Mr. Brenner advised the Committee recommended \$25,000 for the enhancements and \$10,000 for a project manager.

Mr. O'Brien made a motion to fund the enhancements for the hazardous materials database totaling \$25,000. Ms. Crowley seconded the motion. A discussion ensued. Mr. O'Brien amended the motion to reflect the new dollar amount of \$25,340. The motion was carried and approved unanimously.

2. *Discussion/Review/Action regarding possible approval of additional funding needed for the hazardous materials database for training, implementation, and hiring a project manager

Ms. Pabón advised Ms. Smith will no longer be able to do the functions of a project manager because of a change in her department. Ms. Pabón stated

Ms. Smith advised it would cost an estimated \$10,000 for a project manager. Ms. Pabón stated the vendor's train the trainer course will be April 21 and 22, 2008. Ms. Pabón advised she contacted Scott Alquist an instructor at Truckee Meadows Community College. Mr. Alquist previously taught at Hazmat Explo. He is willing to enter into an interlocal agreement to provide training statewide to facility users and emergency responders and planners. SFM has had contact with the small business association and have met with personnel who can provide the training. Ms. Pabón stated it would cost approximately \$10,000 to have Mr. Alquist instruct the classes. This includes payment to the Community College for the time Mr. Alquist would spend away from the College at \$50 an hour, plus the travel and per diem expenses.

Ms. Pabón stated there is a master service agreement list through the State showing project managers at various levels.

Mr. O'Brien made a motion to approve an amount not to exceed \$30,000 for a program manager, training and implementation of the hazmat database. Mr. Porta seconded the motion which was approved unanimously.

3. *Discussion/Review/Action regarding budgeting for ongoing costs of the hazardous materials database

Mr. Brenner advised the shortfalls in the State budget will affect the new hazmat database. An additional \$3,600 will be needed for general support and maintenance. Equipment will wear out and need replacement. Mr. O'Brien stated this item should be referred to the Funding Committee to work out with the IT Committee because it is long term. Ms. Pabón advised staff has been notified of the need to have the servers replaced in the next biennium. The estimated cost was given at \$54,000. The SFM has proposed a percentage split of the ongoing costs.

Mr. Brenner advised the IT Committee would meet with the Funding Committee and discuss this item further.

No action was taken.

M. Report of Policy

1. *Discussion/Review/Action of possible revision to Policy 8.2, Grant Application, grant Awards, and 8.2a, License Plate Funding Grant Applications, Grant Award, regarding consultant costs at \$450 per day

Mr. O'Brien advised the Committee recommended eliminating the language that capped the contractor costs of \$450 a day. The Committees recommended, to be more in alignment within the State, the language be

changed to require at least two competitive bids and itemized quotes.

Mr. Porta made a motion to approve the changes to Policies 8.2 and 8.2a as stated above. Mr. Farr seconded the motion which was approved unanimously.

2. *Discussion/Review/Action of possible revision to Policy 8.3, Certified Assurances and Compliance Certification, regarding submission of a Compliance Certification by State agencies with each grant application

Mr. O'Brien advised the Committee recommended deleting the wording in the last paragraph of the Policies Section of Policy 8.3, to state that State agencies are not exempt from submitting a State Agency Compliance Certification with the United We Stand funding.

Mr. O'Brien stated the Committee recommended deleting wording to state bylaws and membership lists must be reviewed and submitted by the LEPC to SERC annually.

Mr. Porta made a motion to approve the changes to Policy 8.3 as submitted. Mr. Farr seconded the motion which was approved unanimously.

N. *Discussion/Review/Action regarding State Fire Marshal's Division Semi Annual Report

Mr. Wright advised per the Memorandum of Understanding between SERC and SFM, a Semi-Annual Report (July 1 through December 31, 2007) was submitted to SERC. Staff advised copies were sent to all Commissioners.

Senator Nolan made a motion to accept the SFM's Semi-Annual Report. Mr. Porta seconded the motion which was approved unanimously.

Mr. Wright advised the next report is due in August 2008, but due to the time it takes to complete the report, SFM will need an extra month to submit it.

O. Status Report on Financial Transactions between the SERC and the State Fire Marshal's Division

Mr. Brenner advised he has been working with Ms. Pabón and Mr. Wright in reference to processing paperwork. A meeting was held in January 2008 after the SERC Quarterly meeting. Mr. Wright, Mr. McAndrew and Mr. Brenner discussed some of the issues. Mr. Brenner stated it is difficult from SERC's standpoint to balance books when information is lacking from SFM's office.

Mr. Brenner advised he and Mr. McAndrew discussed requesting an audit. There are still issues, but SERC and SFM are working on them. Mr. Wright

advised SFM is committed to doing the best job they can to get the information to SERC. A discussion ensued. Mr. Farr requested an audit and asked what the cost would be. He stated an audit is good business practice. SERC co-chairs and staff will continue to work with SFM staff on the issues.

No action necessary.

P. Report of Executive Director

1. Budget/Position upgrade

Ms. Pabón advised as previously directed by the SERC, an upgrade to her position is being included in the budget. Ms. Pabón stated other than the upgrade in database items, the budget will remain status quo with the 3% increase, which may cover operating costs such as increasing travel, telephone bills, etc.

Carson City has agreed to extend SERC's office lease for three more years at the current rate of \$1000 per month. It will go through the Carson City Board of Supervisors for final approval in July 2008.

The hazmat database update – At the previous SERC meeting the Commissioners approved \$10,000 in an enhancement type issue that had been identified at that time. The \$10,000 went towards enhancements needed for conversion of the current data into the new data. The contract was approved and has been fulfilled. IDSi is currently converting the data from the old system to the new system.

NASTTPO – Ms. Pabón advised she and Mr. Brenner attended the National Association of SARA Title III Program Officers (NASTTPO) in Savannah, Georgia during the week of April 7-11, 2008. The conference theme was primarily business networking. There is a new director of the hazmat safety administration section of USDOT. He was very impressed with what he has heard about Hazmat Explo. There was also a day of interaction between the various agencies represented at the conference. NASTTPO has been very active sending letters to Washington D.C. to congressman and senators when it comes to limiting the requirements that are placed on LEPCs.

Ms. Pabón stated she was advised there will be an increase in the HMEP grant. SERC can expect approximately \$108,000 more than what it has had in the past. That is a \$42,000 increase in the Planning grant and \$66,000 in the Training grant.

The Department of Administration, who has a UWS grant from SERC, requested Ms. Pabón inform the SERC of an issue they have. They were awarded \$23,000 to install an electric gate at the Capitol Complex. In

addition, SERC approved an award for the Supreme Court to do the same thing. The Supreme Court has already installed their gate and has identified some major issues. The first being the gate is too slow in opening and closing. There is a concern for emergency response. The cost will be \$5,000 to \$10,000 more to install a gate that meets the needs. The Department of Administration asked if there were any options with this grant. Ms. Pabón suggested they find some additional grant money, or they might consider forfeiting their \$23,000 grant award and reapplying for the \$30,000 in the next UWS grant cycle, which is subject to SERC approval. Mr. O'Brien stated there is a Buffer Zone Protection Plan through DEM State Administrative Agency that may have funding available.

Ms. Pabón advised she received an emailed letter from a Humboldt LEPC member addressed to the Humboldt County Commission advising them they need to set up and fund a position for an emergency manager/LEPC Chair. They have high risk and should be able to put together an effective response capability and house a volunteer hazmat team. Humboldt County is relying on the facilities to respond to emergencies and not taking an active role. The letter was addressed to the Humboldt County LEPC, Humboldt County Commissioners, and Winnemucca City Council and copied to SERC. A discussion ensued. Humboldt LEPC is noncompliant but within reach of compliance. They have been keeping things working.

Compliance – Ms Pabón advised the LEPCs out of compliance are Douglas had no second quarter meeting; Elko is out of compliance on all requirements; Humboldt, Lander, Lincoln, Lyon, Pershing, Washoe and White Pine are all within 45 days of submitting plan updates pursuant to Planning and Training Subcommittee direction. Storey LEPC is out of compliance for submission of the Affidavit of Publication. They have published the EPCRA notification but have not submitted the Affidavit.

Ms. Pabón advised Bruce Ferrel has accepted another position. He has transferred to Health and Human Resources, which is also an upgrade for him. Mr. McAndrew advised the co-chairs and Ms. Pabón will sign a letter thanking Bruce for his years of service and send it to him. Ms. Pabón is hoping she will get approval soon to fill the position.

V. PUBLIC COMMENTS

No public comment.

VI. ADJOURNMENT

Mr. O'Brien made a motion to adjourn the meeting at 11:25 a.m.