

Minutes
Nevada State Emergency Response Commission (SERC)
Fourth Quarterly Meeting

Clark County Developmental Services
4701 West Russell Road
Las Vegas, Nevada

October 9, 2008

Members Present

Richard Brenner, Co-Chair
Carl Byrd
Tom Clark
Ty Cobb
Susan Crowley
Tom Czehowski
Stacey Giomi
Dale Lotspeich
Craig Nixon – Teleconferenced
Jim O'Brien
Tom Porta
Jim Reagan
Douglas Webb
Jim Wright, Co-Chair

Members Not Present

Larry Farr
John Helmreich
Dennis Nolan
Frank Siracusa

Staff

Suzie Adam
Shelley Fleming
Karen Pabón

Guests

Larry Curley
Joe Curtis
Gary Davis
Ken Dixon
Kimberly Ferguson
Kerry Lee
Carolyn Levering
Cherie Nevin
Rick Stever

I. CALL TO ORDER

Richard Brenner, Co-Chairman, called the meeting to order at 9:30 a.m.

II. INTRODUCTIONS

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

III. APPROVAL OF JULY 24, 2008 MEETING MINUTES

Dale Lotspeich made a motion to approve the minutes of the July 24, 2008 meeting. Susan Crowley seconded the motion. A vote was called with Tom Clark abstaining due to his absence at the July 24 meeting. The motion was carried.

IV. NEW BUSINESS

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

Carson City LEPC – Stacey Giomi advised Carson City LEPC participated in the Vigilant Guard exercise which involved several local government entities throughout northern Nevada. The local hospital was also involved in the exercise. The LEPC exercised its hazmat emergency response plan. In addition, Carson City LEPC had a Continuity of Government exercise which was not hazmat related. This exercise taxed the local government in its ability to maintain operations over a long term pandemic event.

Clark LEPC – Jim O’Brien advised currently there are 409 registrants for the Hazmat Explo. Mr. O’Brien recognized Carolyn Levering, previous Chairperson of the Hazmat Explo Planning Committee, for all of her time and effort. Mr. O’Brien stated the early bird registration ended October 8, 2008. Nonresidents will now pay a \$249 registration fee.

The Clark LEPC adopted a critical infrastructure protection plan.

The New Year’s Eve tabletop exercise is scheduled for 10:00 a.m., December 11, 2008, at the Clark County Government Center, Pueblo Room, Las Vegas.

Douglas LEPC – Mr. Brenner advised Dick Mirgon is no longer the Douglas Emergency Manager or the LEPC Chair. Karen Pabón stated recent LEPC meeting minutes indicated they may elect Steve Tognoli as the LEPC Chair.

Elko LEPC – Mr. Lotspeich advised a LEPC meeting was held in September 2008. Elko LEPC is still noncompliant. Mr. Lotspeich stated he has been asked to step in as LEPC Chair which he will accept if he is voted in at the next meeting.

Lander LEPC – Carl Byrd advised Lander LEPC held a tabletop drill. The LEPC is planning an actual drill using the same scenario sometime in December 2008. SERC will be notified of the date. The LEPC held an all-day training on the recently published emergency operations plan. Lander LEPC did three additional drills on the same scenario within the County. These drills were a good working use of the emergency plan. There will be hazmat training on December 6-7, and 13-14, 2008. The Department of Public Safety (DPS), State Fire Marshal’s Division (SFM) is providing the training. The Lander LEPC will send a letter of invitation to participate to the respective facilities.

Lander LEPC purchased classroom emergency kits for all Lander County schools with United We Stand (UWS) funds. The School District asked the

LEPC to extend the District's appreciation to the SERC for making the grant money available.

The Lander LEPC purchased two hazmat emergency response trailers. One trailer will be placed in Austin for the Austin/Kingston area and the other will go to Battle Mountain.

Lander LEPC is sending five attendees to Hazmat Explo.

Lincoln LEPC – Ken Dixon advised Margie Gunn has retired and invited the Commissioners and staff to a retirement party. The party will be held at the Panaca High School at 6:00 p.m. on October 23, 2008. Rick Stever has been appointed the new Emergency Manager.

The LEPC conducted an exercise at Alamo. The schools participated in the exercise, as well as the Alamo Fire Department and the Sheriff's Office.

Mineral LEPC – Craig Nixon advised there was nothing to report.

Storey LEPC – Joe Curtis advised Storey LEPC participated in the Vigilant Guard exercise in conjunction with Wal-Mart Distribution Center. The LEPC exercised its hazmat emergency response plan, including a mass casualty event using the new State mass casualty trailer.

The LEPC currently has six staff attending a hazmat technician specialist class in Carson City sponsored by the SFM. The LEPC is sending 10 attendees to Hazmat Explo.

The Storey LEPC 25 foot hazmat apparatus is moving from Virginia City to the Tahoe-Reno Industrial Complex.

The LEPC is continuing participation in Homeland Security with emergency management throughout the State.

In spring 2009, the LEPC will be in the planning phase for hiring a contractor to put on a significant exercise during the latter part of the summer for the quad counties.

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 and pocket calendars are available.

Mr. Brenner advised Gary Derks of the DPS, Division of Emergency Management (DEM) would be at Clark County Emergency Management with

Emergency Response Guidebooks within the next week. The point of contact is Jim O'Brien at 702-455-5710.

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

Ms. Pabón advised our FEMA representative went to Region III and SERC has not been advised of a replacement. There was nothing to report.

Mr. O'Brien stated FEMA and EPA have scheduled a planning session on the water sector on October 29, 2008 in San Francisco, CA.

D. Occupational Safety and Health Administration Update

Tom Czehowski advised there was nothing to report.

E. Nevada Division of Emergency Management Update

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

F. Nevada Division of Environmental Protection Update

Tom Porta advised there is a mine in northern Elko County that laid off approximately 400 employees. The Nevada Division of Environmental Protection (NDEP) responded by sending staff to Elko to ensure the fluid management was safe and secure. There was a mercury spill on Bureau of Land Management (BLM) land near Elko. The NDEP investigated and found all the flasks from the mine were accounted for. NDEP has approximately \$44 million in bonding if the mine fails and NDEP takes over the sight.

G. Nevada State Fire Marshal Update

Jim Wright advised the hazmat technician specialist class training is one of the ongoing training courses SFM has committed too. There is another technician specialist class scheduled for Washoe County. Mr. Wright advised he would like to get the contract renegotiated so SFM can train outside the Reno/Carson area.

Mr. Wright stated he has been assisting Dennis Pinkerton, SFM training officer, with his staffing due to budget reductions. SFM is in the process of filling the Elko training officer position. In addition, SFM has moved its training section back to the SFM's office from the DPS training division.

Mr. Wright advised the SFM Semi-Annual Report has been given to the Commissioners. Mr. Wright is pleased with the amount of training delivered by SFM.

SFM staff continues to work on the administrative fiscal functions of the hazmat database. The contracted project manager has been working with the SFM staff. Staff is working on procedures. SFM is looking to go live sometime in December/January.

Mr. Giomi asked if there was going to be a packet of instructions to go out to facilities explaining how to go online and complete the forms. Mr. Wright advised a packet will need to be developed.

Ms. Crowley stated in the hazmat database training, she understood the patches and loading of the information would not be complete until October 1, 2008.

Ms. Pabón advised the information has been loaded in April 2008.

Ms. Pabón stated the system is currently accessible to responders.

Mr. Wright stated SFM sent letters advising facilities the current hazardous materials permit expiration dates are extended pending the roll out of the new system. Mr. Giomi advised SFM should consider sending the letter to the fire chiefs.

Mr. Wright advised SFM staff need to have procedures in place and set up a help desk prior to this database going live.

Mr. O'Brien recommended the Information Technology (IT) Committee get involved in these issues.

Mr. Curtis attended both the facility class and the responder class and advised it is beneficial for facilities and responders to attend both classes.

Mr. Giomi asked if Carson LEPC would be able to see facilities in the adjoining counties. Ms. Pabón responded the user selects the counties of access when completing the registration.

H. Report of Legislative Committee

Jim Reagan advised the Legislative Committee has not met. Mr. Reagan advised there are several Budget Draft Reports (BDRs) to be tracked based on title only.

Ms. Pabón noted one BDR suggests certain special license plates be approved for motorcycles. This may produce additional UWS revenue.

I. Report of Strategic Planning Committee

Ms. Crowley advised the Strategic Planning Committee has not met and there was nothing to report.

J. Report of Funding Committee

1. *Discussion/Review/Action of fiscal year 2009 U.S. Department of Transportation (USDOT), Hazardous Materials Emergency Preparedness (HMEP) grant applications received from LEPCs and State agencies

Mr. Brenner advised the Committee met on October 2, 2008. Ms. Pabón went through the spreadsheets in the handouts. Ms. Pabón advised the \$16,680 HMEP grant funds remaining from the fiscal year 2008 were obligated towards the Hazmat Explo. In fiscal year 2009, SERC received \$159,230 for the training portion of the HMEP grant, with eighty percent federal funds, and twenty percent State match. Ms. Pabón stated SERC received FEMA training allocation funds of \$19,000, which is also to be used for Hazmat Explo. The total amount available in the training grant is \$194,910. The training funds requested totaled \$204,501. The Funding Committee made a recommendation for a total of \$194,756. The difference is due to mathematical errors and corrections and the Funding Committee's recommendation to fund the grants based on two people per room and two people per vehicle.

Ms. Pabón advised the planning grant had an unused amount of approximately \$6,200 from fiscal year 2008. The date to obligate these funds has passed. The fiscal year 2009 planning grant is for \$103,512. The planning requests totaled \$11,290. Lander LEPC is requesting to include elements of the State evacuation plan within their plan.

Storey LEPC is requesting to include the National Incident Management System (NIMS) typing in its plan. The Funding Committee agreed the NIMS typing was appropriate as it was a Homeland Security requirement and resource directories are NRT-1 requirements. The Committee found there is no need to produce separate directories.

The Funding Committee recommended approval of all requests.

Ms. Pabón advised since the Funding Committee meeting October 2, 2008, DEM withdrew its HMEP grant application. DEM staff will not be able to attend Hazmat Explo.

Churchill LEPC originally requested funding for three attendees to Hazmat Explo. Staff requested a budget narrative to detail the amount requested. When the budget narrative was submitted, the LEPC changed from three to one person attending Hazmat Explo.

The new total amount for the Funding Committee's recommendation is

\$185,628.

Ms. Crowley made a motion to approve the Funding Committee's recommendation for HMEP grants, modified to include DPS, DEM's withdrawal of its grant request and Churchill LEPC's reduction to \$1,084 for the training grant. Mr. Byrd seconded the motion. A discussion ensued. A vote was taken and the motion carried.

2. *Discussion/Recommendation of projects to be funded with additional HMEP Planning grant

Ms. Pabón stated the HMEP Planning grant was for \$40,000 more than previous years. Ms. Pabón asked the Planning and Training Subcommittee and the Funding Committee for suggestions for projects that might be funded through this grant. Grant eligible activities include plans, exercises, regional response teams, commodity flow studies and assessments of local response capabilities.

Ms. Pabón recommended eliminating the \$30,000 grant award maximum to allow a LEPC to request additional funding as needed to support a specific project. The Funding Committee considered the discussion from the Planning and Training Subcommittee, recommended elimination of the grant maximum and suggested possible uses of the grant funds: 1) support hiring a contractor to develop a model/template for the hazmat emergency response plan throughout the State; 2) conduct regional commodity flow studies; 3) provide statewide resource management.

Mr. Giomi stated the Funding Committee recommended the funds be used at the SERC level, eliminate the maximum dollar amount of requests and use for regional projects. Ms. Pabón advised the Funding Committee recommended priority be given to regional projects. The issue of eliminating the grant maximum amount was referred to the Policy Committee.

No action was taken.

K. Report of Planning and Training Subcommittee Committee

1. *Discussion/Recommendation on developing criteria for plan review

Mr. Brenner stated the Committee discussed the criteria for the plan review as noted in the handout. The National Response Training (NRT-1) defines the nine elements the hazardous materials emergency response plan must contain. Mr. Brenner advised the NRT-1 has not been updated in many years. The Planning and Training Subcommittee is working toward having

specific items addressed when developing and reviewing a hazmat emergency response plan. Mr. Brenner advised this is a guideline. Mr. Giomi stated if the Planning and Training Subcommittee and Funding Committee are using this criteria, then the LEPCs should have a copy of this guideline. A discussion ensued.

SERC may provide plan training or seminars. SERC will attempt to locate the NRT-1A in a form to post on its website.

No action was necessary.

L. Report of Bylaws Committee

No meeting was held and there was nothing to report.

M. Report of Information Technology Committee

Mr. Brenner advised the Committee has not met.

Ms. Pabón stated the \$25,000 enhancements to the hazardous materials database have been delivered and put on the test server. SFM staff and the project manager are currently testing the database.

N. Report of Policy Committee

Mr. O'Brien advised the Committee has not met and there was nothing to report.

O. *Discussion/Action on adoption of SERC regulations, Legislative Council Bureau (LCB) File No. R120-08, including recommended actions for modifications resulting from the workshop and public hearing

Ms. Pabón stated pursuant to Nevada rulemaking laws, the SERC held a workshop regarding the proposed changes to the NACs on September 3, 2008. There was no response to this workshop.

Ms. Pabón advised she received an email from the Lander LEPC making some suggestions regarding the requirement to have a denial letter from SFM when requesting hazmat training. Ms. Pabón stated she spoke to Mr. Bennett of Lander LEPC and explained the implementation of the procedure to get a denial letter from SFM was put in place to provide a coordination and efficient use of the hazmat training money available to SFM. The money could only be used for hazmat training. Also, Ms. Pabón explained the SERC NACs could not include requirements to be binding on another agency. Mr. Bennett withdrew his comments.

Ms. Pabón advised the Public Hearing was held just prior to this meeting with no comments made. The Notice provides that written comments would be accepted until October 1, 2008. No written comments were received.

Mr. O'Brien made a motion to adopt the NAC regulations. Mr. Giomi seconded the motion which was approved unanimously.

P. *Discussion/Action regarding documentation submitted by Lincoln LEPC to appeal the decisions of the SERC to deny the fiscal year 2009 SERC grant application due to contingencies not met by the due date; and deny the fiscal year 2009 United We Stand (UWS) grant application due to the evaluation factors not being addressed

Ms. Pabón stated the Emergency Planning and Community Right-to-Know Act (EPCRA), SERC Policy 8.1 and NAC 459.99133 require each LEPC to review its hazmat emergency response plan annually, which is to be received by staff by January 31 of every year. The SERC staff received Lincoln LEPC's emergency response plan on February 13, 2008 and was found noncompliant by the Planning and Training Subcommittee on February 29, 2008.

Ms. Pabón gave a summary in chronological order of the events leading to the submission of an appeal from Lincoln LEPC regarding the denial of fiscal year 2009 SERC grant application. Lincoln LEPC was given a contingency to correct phone numbers in its emergency response plan and was given 45 days to become compliant. The corrections were not made by the 45 day due date, and even after the plan was submitted, incorrect phone numbers still existed in the plan. At the SERC quarterly meeting on July 24, 2008, the SERC deobligated the 2009 SERC grant for failure to meet the contingency.

The UWS grant application kit and SERC Policy 8.2a require the following evaluation factors be addressed in the grant application and advise they will be used by the SERC when considering funding of grant applications submitted pursuant to this policy: 1) threat and risk mitigation, 2) infrastructure protection mitigation, and 3) the accomplishment of objectives of initiatives in the State Enhancement Plan for Homeland Security. Ms. Pabón stated on July 7, 2008 the Funding Committee discussed these requirements and recommended denial of the Lincoln LEPC grant application to the SERC. At the SERC quarterly meeting on July 24, 2008, SERC denied the funding for the UWS grant application for Lincoln LEPC due to failure to address the evaluation factors in the application as required by the application kit and SERC policy.

Mr. Dixon of Lincoln LEPC gave a brief background on the four LEPC representatives attending this SERC meeting. Mr. Stever advised Ms. Gunn could not attend this meeting due to health issues. Mr. Stever also advised

Lincoln LEPC did try to meet the qualifications. There was no intent to miss any items. Mr. Dixon advised this will not happen in the future. The LEPC will take a more active roll to ensure things get taken care of.

Ms. Crowley recognized Ms. Gunn for her hard work over the years.

Ms. Crowley made a motion to consider the circumstances, the fact Lincoln LEPC is currently in compliance, and that its falling out of compliance was due to a medical situation. A discussion ensued regarding the wording of the motion. Ms. Crowley withdrew her motion.

A discussion ensued. Mr. Giomi summarized the LEPC was not compliant because of phone numbers being incorrect. Ms. Pabón advised the LEPC was noncompliant for not having an updated hazmat emergency response plan.

Mr. Giomi made a motion to reverse the SERC decision and award the 2009 SERC grant to Lincoln LEPC and the \$4,000 operations grant, and uphold the denial of the 2009 UWS grant application due to the evaluation factors not being addressed. Mr. O'Brien seconded the motion. Ms. Pabón stated the total grant award is \$33,980. A discussion ensued. A vote was taken with the motion being carried.

Q. Executive Director

1. Budget

Ms. Pabón stated the fiscal year 2008 State budget closed balancing forward \$499,072 to SFM from surcharge fees and \$781,317 to SERC in SERC fees and interest. Staff is working on formulas with the State Budget Office and State Treasurer's Office regarding the interest. When completed, a portion of the interest will be allocated to the SFM representing the interest earned on the SFM portion of the funds since 2004.

2. Hazardous Materials Database

Ms. Pabón advised training has been provided throughout the State with the Reno classes coming at the end of this month. The training was well received. Staff from SFM attended the first several days and Ms. Pabón and Suzie Adam attended training in Carson City. There are still problems on the responder module of the database which are being worked through.

3. Compliance Report

Ms. Pabón stated Douglas, Elko, Humboldt, and Pershing LEPCs are currently noncompliant.

Douglas LEPC – Douglas LEPC has a meeting scheduled for next week which will bring them into compliance. The LEPC also needs to submit the required form for a hazardous material exercise.

Elko LEPC – SERC staff has had contact with Elko over the last several months. The LEPC is actively working towards compliance. Elko LEPC's plan was submitted to the Planning and Training Subcommittee. There were discussions between the subcommittee chair and Gary Corona of Elko LEPC. After review, the LEPC's updated plan was still found to be out of compliance.

Humboldt LEPC – Staff has had no contact with Humboldt LEPC since May 2008. The LEPC has not submitted a hazmat emergency response plan along with other administrative items. Ms. Pabón advised it might be appropriate to notify the county government of Humboldt LEPC's noncompliance. In addition to the hazmat plan, Humboldt LEPC is out of compliance on the Level of Response Plan Questionnaire, no meetings held, and several other items. A discussion ensued. The SERC recommended a letter be sent to the county government officials.

Pershing LEPC – Ms. Pabón stated Pershing LEPC has not reported on an exercise since July 2007. Staff received notification Pershing LEPC scheduled an exercise in May 2008, but has not received an exercise report. Staff sent an email to Pershing LEPC but has not received a response.

4. Request for Attorney General Opinion of public information request pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA)

Ms. Pabón advised SERC staff routinely receive and respond to requests for Tier II, EPCRA chemical information. The requests are for marketing/research purposes.

Ms. Pabón received an email from the Arizona SERC advising of EPA's and the Office of General Council's (OGC) interpretation of EPCRA. Tier II information is to be provided for specific facilities only and not for blanket requests for marketing/research purposes. The Arizona SERC also forwarded emails from a particular individual making such a request who became threatening in his comments to Arizona. Ms. Pabón received a request on August 28, 2008 from the same individual. Ms. Pabón requested an informal opinion from the Attorney General's office regarding the OGC interpretation in conjunction with public record laws.

On September 22, 2008, Ms. Pabón received a verbal opinion from the AG's office there was nothing in Nevada law which contradicts the EPCRA law and the OGC's opinion. Ms. Pabón requested a written opinion from the

Deputy Attorney General (DAG). Ms. Pabón was contacted by the DAG advising the opinion could not be put in writing as it is not the AG's practice, despite the fact SERC has several written opinions on file from DAGs. The DAG advised Ms. Pabón the only way to receive a written opinion was to request a formal opinion which goes through a review process at the AG's office.

Ms. Pabón submitted a request for a formal written opinion on October 1, 2008 to the Senior Deputy AG at DMV/DPS. In the meantime, Ms. Pabón notified the individual making the request the DAG upheld the opinion of the OGC and the SERC would not be providing the requested information.

Ms. Pabón advised staff routinely receives requests from two other companies for information for particular chemicals, and staff will need to advise these companies of the DAG opinion.

Ms. Pabón advised a Deputy Attorney General has been assigned to SERC.

V. PUBLIC COMMENTS

Ms. Pabón advised the next SERC meeting will be January 8, 2009 in Las Vegas.

Mr. Stever stated he would like to thank the SERC for providing the opportunity to meet with them.

Larry Curley, Executive Director of the Indian Health Board of Nevada located in Reno spoke briefly about the function of the Indian Health Board. With the aid of grant funds, the Indian Health Board is working with hazardous programming and the pandemic flu virus. The Indian Health Board is doing a hazardous probability analysis of all tribal clinics in Nevada. Through the Public Health and Human Services Division, there are three distribution sights for dispensing the pandemic flu virus: Owyhee, Battle Mountain and Ely Shoshone.

The Indian Health Board also does mass evacuation training with the tribes. A special group is researching the identification and location of all elders and handicapped individuals in case of evacuation.

Recently, tribal emergency response management program directors have been meeting. They have contacted the Inter-tribal Council of Nevada and requested there be an emergency response commission within the inter-tribal councils of Nevada. The model is taken from the Inter-Tribal Emergency Management Commission (ITERC) in Arizona. Mr. Curley recommended having the tribal council give a presentation at the next SERC meeting. The contact person for the Tribal Council is Darrel Crawford at #775-355-0600.

VI. ADJOURNMENT

Mr. O'Brien made a motion to adjourn the meeting at 12:10 p.m.