

Dated: August 10, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 04-18771 Filed 8-16-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7800-7]

### Notice of Proposed Administrative Consent Agreement and Final Order Pursuant to Section 309(g)(4) of the Clean Water Act: In the Matter of E.J. Mahoney Construction

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 309(g)(4)(A) of the Clean Water Act, ("CWA"), 33 U.S.C. 1319(g)(4)(A), notice is hereby given of a proposed Consent Agreement and Final Order ("CA/FO"), which resolves penalties for alleged violations of sections 301(a) of the CWA, 33 U.S.C. 1311(a). The respondent to the CA/FO is E.J. Mahoney Construction ("Respondent"). Through the proposed CA/FO, Respondent will pay \$3,000 as a penalty for alleged violations involving its failure to obtain coverage under either a CWA National Pollutant Discharge Elimination System (NPDES) individual permit, or the NPDES General Permit #NVR100001 for Storm Water Discharges From Construction Activities for Indian Country within the State of Nevada (the "NPDES Construction General Permit"), prior to engaging in construction activity associated with development of the Deer Lodge Park residential subdivision located on individual Indian allotment land in Douglas County, Nevada.

**DATES:** For 30 days following the date of publication of this notice, the Agency will receive written comments relating to the proposed CA/FO.

**ADDRESSES:** Requests for copies of the proposed CA/FO should be addressed to: Richard Campbell, Attorney Advisor, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, Mailcode: ORC-2, San Francisco, CA 94105.

Comments regarding the proposed CA/FO should be addressed to: Danielle Carr, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Comments should reference the following information:

**Case Name:** In the Matter of E.J. Mahoney Construction.

**Docket Number:** CWA-9-2004-0003.

#### FOR FURTHER INFORMATION CONTACT:

Richard Campbell at the above address or by telephone at (415) 972-3870, or by e-mail at [campbell.rich@epa.gov](mailto:campbell.rich@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Respondent E.J. Mahoney Construction is an "operator", as that term is defined at 40 CFR part 122, in control of day to day construction activities at the Deer Lodge Park residential subdivision. Construction activities associated with development of the Deer Lodge Park residential subdivision were unpermitted under either an individual NPDES permit or a NPDES Construction General Permit for six months in 2003. During this period, construction activity at the Deer Lodge Park site involved grading of roads, installation of a water tank, and installation of a well site. Storm water from the Deer Lodge Park construction site drains to a tributary of the East Fork Carson River. Pursuant to the proposed CA/FO, Respondent has consented to the assessment of a \$3,000 penalty in this matter, and has certified that it will obtain coverage under a NPDES permit for construction activities at Deer Lodge Park.

##### II. General Procedural Information

Any person who comments on the proposed CA/FO shall be given notice of any hearing held and a reasonable opportunity to be heard and to present evidence. If no hearing is held regarding comments received, any person commenting on this proposed CA/FO may, within 30 days after the issuance of the final order, petition the Agency to set aside the CA/FO, as provided by section 309(g)(4)(C) of the CWA, 33 U.S.C. 1319(g)(4)(C). Procedures by which the public may submit written comments or participate in the proceedings are described in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 CFR part 22.

Dated: July 28, 2004.

**Alexis Strauss,**

Director, Water Division, Region IX.

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## FEDERAL COMMUNICATIONS COMMISSION

[CCB/CPD 97-39, 97-41, DA 04-2474]

### Petitions for Waiver of 6.5 Percent Price Cap Local Exchange Carrier X-Factor

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice, termination of proceeding.

**SUMMARY:** This document provides notice of the termination of the petitions for waiver of the 6.5 percent productivity-based "X-factor" for price cap local exchange carriers adopted by the Commission in a 1997 order. The petitions for waiver have been withdrawn by the petitioners.

**DATES:** Effective September 16, 2004, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

**ADDRESSES:** Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1530.

**SUPPLEMENTARY INFORMATION:** On July 14, 1997, Citizens Utilities Company (Citizens) filed an emergency petition for waiver of the Commission's rules requiring it to apply a productivity X-factor of 6.5 percent under the price cap rules as established in the 1997 *Price Cap Review Order*, 62 FR 31939, June 11, 1997. On August 13, 1997, the Southern New England Telephone Company (SNET) also filed a petition for waiver and/or amendment of the Commission's rules establishing a 6.5 percent productivity X-factor. On October 7, 2003, SBC, SNET's parent company, filed a request to withdraw its petition. On August 2, 2004, Citizens filed a request to withdraw its petition. The Citizens Petition and the SNET Petition are dismissed without prejudice. Since the filing of the Citizens Petition and the SNET Petition, the Commission has revised its rules regarding the 6.5 percent productivity X-factor. The changes to the Commission's X-factor rules and the passage of time have mooted the issues raised in the Citizens Petition and the SNET Petition. Therefore, these proceedings will be terminated effective 30 days after publication of this Public Notice in the **Federal Register**, unless