

Doc Number: **0814758**

12/18/2012 11:42 AM

OFFICIAL RECORDS

Requested By:

DC/PUBLIC WORKS

DOUGLAS COUNTY RECORDERS  
Karen Ellison - Recorder

Page: 1 of 16 Fee: \$ 0.00

Bk: 1212 Pg: 4916



Deputy ar

Assessor's Parcel Number: N/A

Date: DECEMBER 17, 2012

Recording Requested By:

Name: EILEEN CHURCH, PUBLIC WORKS  
(RR)

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

SUBGRANT AMENDMENT #2012.282

(Title of Document)

This page added to provide additional information required by NRS 111 312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

FILED

2012.282

2012 DEC 17 PM 2:46

**AMENDMENT # 1 TO SUBGRANT DEP-S 11-039**

Between the State of Nevada  
Acting By and Through Its

TED THUAN  
CLERK

Nevada Department of Conservation and Natural Resources,  
Division of Environmental Protection  
901 S. Stewart Street, Carson City, NV 89701-5249  
Phone: (775) 687-9452 Fax: (775) 687-9561

and

Douglas County  
PO Box 218  
Minden, NV 89423  
Phone: (775) 7828-6274

1. **AMENDMENTS.** For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original subgrant dated May 13, 2011, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

a. The expiration date is changed from December 31, 2012 to June 30, 2013.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Subgrant consisting of 13 pages) is attached hereto, incorporated by reference herein and made a part of this amended subgrant.

3. **REQUIRED APPROVAL.** This amendment to the original subgrant shall not become effective until and unless approved by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original subgrant to be signed and intend to be legally bound thereby.

Paul T. Tschann  
Subgrantee's Signature Douglas County

Public Works Director 11/15/12  
Subgrantee's Title Date

Colleen Cripps  
Agency Signature Colleen Cripps, Ph.D.

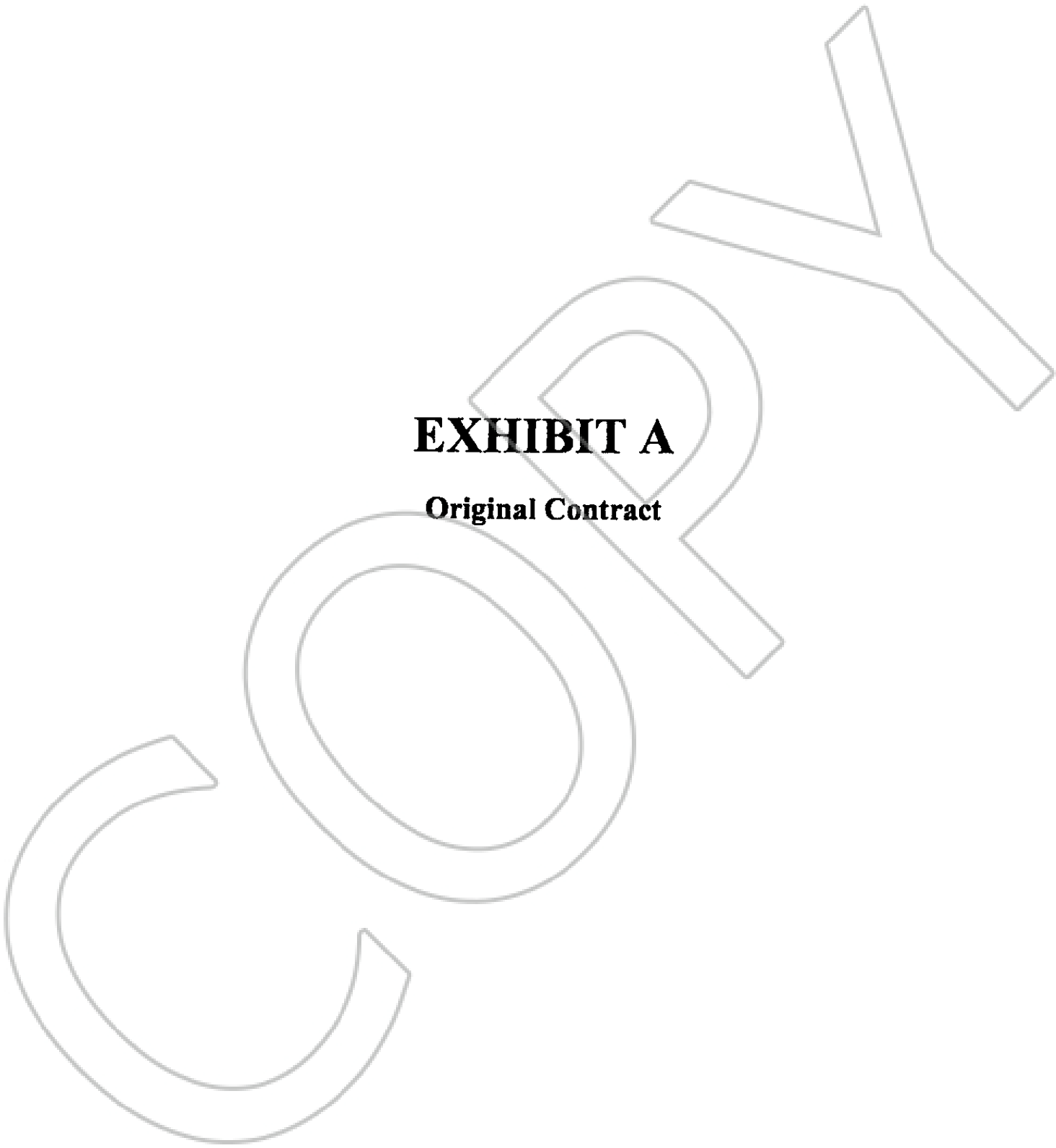
Administrator - NDEP 11/21/12  
Title Date

Sandra L. Nettbauer  
Bureau Signature - Sandra L. Nettbauer

Contract Manager 11/17/12  
Title Date

# **EXHIBIT A**

**Original Contract**



## SUBGRANT AGREEMENT

A Subgrant awarded by:

Department of Conservation and Natural Resources, Division of Environmental Protection  
901 S. Stewart Street, Carson City, NV 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-9561

and awarded to Subgrantee:

Douglas County  
hereinafter the "Subgrantee"  
PO Box 218  
Minden, NV 89423  
775-782-8274

WHEREAS, 40 CFR Part 31.37, NRS 445A.265 and NRS 445A.450 authorize the Division of Environmental Protection to award subgrants of federal financial assistance to local governments for the purposes set forth in authorizing statutes; and

WHEREAS, it is deemed that the project purposes hereinafter set forth are consistent with the federal grant agreement that provides support of the subgrant;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

- 1. REQUIRED APPROVAL.** This Subgrant shall not become effective until and unless approved by appropriate official action of the governing body of each party.
- 2. DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
- 3. SUBGRANT TERM.** This Subgrant shall be effective from Nevada Division of Environmental Protection Administrator's approval to December 31, 2012, unless sooner terminated by either party as set forth in this Subgrant.
- 4. TERMINATION.** This Subgrant may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Subgrant may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Subgrant shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Subgrant is withdrawn, limited, or impaired.
- 5. NOTICE.** All notices or other communications required or permitted to be given under this Subgrant shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
- 6. INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Subgrant incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK (consisting of 6 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

- 7. CONSIDERATION.** Subgrantee agrees to provide the services set forth in paragraph (6) at a cost of \$N/A per N/A with the total Subgrant or installments payable: QUARTERLY not exceeding \$79,425.00. In addition, the State does not agree to reimburse Subgrantee for expenses unless otherwise specified in the incorporated documents. Any intervening end to an annual or biennial appropriation period shall be deemed an automatic renewal (not changing the overall Subgrant term) or a termination as the results of legislative appropriation may require.

8. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Subgrant are also specifically a part of this Subgrant and are limited only by their respective order of precedence and any limitations expressly provided.

9. **INSPECTION & AUDIT.**

a. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the other party, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with any applicable regulations and statutes.

b. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the other party, the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. **Period of Retention.** All books, records, reports, and statements relevant to this Subgrant must be retained by each party for a minimum of three years from the date of final payment by the State to the Subgrantee, and all other pending matters are closed. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. **BREACH; REMEDIES.** Failure of either party to perform any obligation of this Subgrant shall be deemed a breach. Except as otherwise provided for by law or this Subgrant, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages. If the court awards reasonable attorney's fees to the prevailing party, reasonable shall be deemed \$125 per hour.

11. **LIMITED LIABILITY.** The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Subgrant liability of both parties shall not be subject to punitive damages. To the extent applicable, actual Subgrant damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

12. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Subgrant if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Subgrant after the intervening cause ceases.

13. **INDEMNIFICATION.** Neither party waives any right or defense to indemnification that may exist in law or equity.

14. **INDEPENDENT PUBLIC AGENCIES.** The parties are associated with each other only for the purposes and to the extent set forth in this Subgrant, and in respect to performance of services pursuant to this Subgrant, each party is and shall be a Subgrantee separate and distinct from the other party and, subject only to the terms of this Subgrant, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Subgrant. Nothing contained in this Subgrant shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Subgrant or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach

16. **SEVERABILITY.** If any provision contained in this Subgrant is held to be unenforceable by a court of law or equity, this Subgrant shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Subgrant unenforceable.
17. **ASSIGNMENT.** Neither party shall assign, transfer or delegate any rights, obligations or duties under this Subgrant without the prior written consent of the other party.
18. **OWNERSHIP OF PROPRIETARY INFORMATION.** Unless otherwise provided by law or this Subgrant, any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Subgrant), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Subgrant shall be the joint property of both parties.
19. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
20. **CONFIDENTIALITY.** Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Subgrant.
21. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Subgrant on behalf of each party has full power and authority to enter into this Subgrant and that the parties are authorized by law to perform the services set forth in paragraph (6).
22. **GOVERNING LAW; JURISDICTION.** This Subgrant and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Subgrant.
23. **ENTIRE AGREEMENT AND MODIFICATION.** This Subgrant and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Subgrant specifically displays a mutual intent to amend a particular part of this Subgrant, general conflicts in language between any such attachment and this Subgrant shall be construed consistent with the terms of this Subgrant. Unless otherwise expressly authorized by the terms of this Subgrant, no modification or amendment to this Subgrant shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Subgrant to be signed and intend to be legally bound thereby.

**SUBGRANTEE**

By: *Michael A. Olson*  
Signature - Douglas County

Name: Michael A. Olson

Title: Chairman Date: May 5, 2011

**DIVISION**  
By: *Colleen Cripps*  
Signature

Name: Colleen Cripps, Ph.D.

Title: Administrator Date: 5/13/11

**BUREAU**  
By: *Sondra L. Neudauer*  
Signature

Name: Sondra L. Neudauer

Title: Contract Manager Date: 5/13/11

Subgrant Control Number: DEP-S 11-039  
Grant Number: FS - 99993002  
Division Number: 94  
Grant Expiration Date: 06/30/12  
CFDA Number: 66.468

Revised 05/19/09

## CONTACT PAGE

**Project – Implement the (Douglas County) Contaminant Source Management Plan  
and the Public Education Plan**

**ORGANIZATION:** Douglas County, Public Works

**DUNS#:** 010984979

**CONTACT PERSON:** Cathe Pool, PE

**MAILING ADDRESS:** P.O. Box 218  
1120 Airport Rd., Bldg F-2  
Minden, NV 89423

**PHONE NUMBER:** 775-782-6274

**E-MAIL:** [cpool@co.douglas.nv.us](mailto:cpool@co.douglas.nv.us)

**CONTRACT TOTAL:** \$79,425.00

**NDEP:** Kim Borgzinner

**MAILING ADDRESS:** Nevada Department of Environmental Protection  
Bureau of Water Pollution Control  
901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701

**PHONE:** (775) 687-9503

**E-MAIL:** [kborgzinner@ndep.nv.gov](mailto:kborgzinner@ndep.nv.gov)



## Scope of Work

### Douglas County WHPP Workplan- 2011 Update

This section summarizes specific action items previously included in the Douglas County WHPP prior to initiating the recent county wide planning approach. The strategies were developed to meet the objectives of the WHPP and keep the plan up to date. As the lead agencies in the county wide planning approach, Douglas County proposes the implementation measures and schedule outlined below which has been updated to demonstrate completed actions and reflect ongoing work and updates to proposed work which consider county wide planning efforts:

**A. Implement the (Douglas County) Contaminant Source Management Plan and the Public Education Plan:**

Priority should be given to potential contaminant sources within or near wellhead protection areas. The following activities should be implemented as funding becomes available:

- A. Above Ground Storage Tanks: Douglas County and other purveyor utility workers should be trained to recognize ASTs that pose an immediate threat to groundwater quality. Utility workers that recognize such a threat should report all instances to Jerry Walker, Utilities Superintendent so that action can be taken.

**Workload and Budget:** Assume no significant impact to workload or budget. Final presentation of WHPP to Utility Staff will serve as training.-Completed

**This task was completed for Douglas County water service areas but a more comprehensive plan will be incorporated into the County wide WHPP and a more comprehensive County wide approach will be taken.**

- B. Leaking Underground Storage Tanks: It is recommended that a LUST Identification and Reduction Plan be developed by Douglas County, with the cooperation of the BCA. This Plan should address LUSTs with the highest potential for impacting local groundwater quality near the County's drinking water wells first. The integration of information compiled for the WHPP, and BCA data on remedial activities, will result in a data set that clearly highlights areas requiring immediate action.

The best way to ensure the proper organization of relevant data is for the WHPP Team to identify a member (possibly a Douglas County employee or a consultant)

to act as a point of contact with BCA, to supervise the exchange of information, and coordinate the warranted action.

**Workload and Budget:** Assume 200 hours using an in house staff salary of \$75.625 per hour = \$15,125.

**This task was completed for Douglas County water service areas but a more comprehensive County wide study and action plan will be incorporated into the County wide plan.**

- C. **Production Facilities:** A minimum security standard should be set for every public drinking water well in Douglas County. Douglas County Utilities will lead this effort and address, at a minimum, fencing, barbed wire, vehicle and man gates, lighting and landscaping. Upgrades will be completed (where feasible and pending funding availability) to bring the security at each well up to that standard.

**Workload and Budget:** For the first implementation cycle, assume that 3 well sites will be improved at a cost of \$5,000 per site = \$15,000.

- D. **Abandon PCS Wells:** This task was revised to incorporate abandoning of wells that are inactive, located within sensitive protection areas and that will never be put back into service. In the Douglas County Utilities service area, three wells were previously abandoned; and the County proposes to abandon four additional wells. **Sheridan Acres well on Eva Crt., South Nowlin well, North Clapham well and the old China Springs well. These wells do not meet the minimum construction standards, water quality standards or water quantity requirements for public drinking water wells.** Improperly abandoned wells located in wellhead protection areas have been categorized as a potential contaminant source in wellhead protection areas throughout the county. Subsequently, improperly abandoned wells throughout the county will continue to be inventoried and prioritized for future abandonment. Wells from other purveyors will also be considered for abandonment projects depending on funding availability.

**Workload and Budget:** Assume \$6,200 per well x 3 wells and \$10,800 for the China Springs Youth Camp well = \$29,400.

- E. **Zoning and Subdivision Ordinances and Site Plan Review:** Zoning ordinances are typically comprehensive land-use requirements designed to direct the development of an area, where certain land uses may be restricted or regulated in WHPAs. The support of Douglas County, Town of Minden and Town of Gardnerville are critical to the long-term success of the Wellhead Protection Program.

The ultimate objective is to have the WHPP included in the Master Plan and to have ordinances or other acceptable controls that address land use issues (zoning) in specified WHPAs. Development Review procedures should be established to direct development in the wellhead protection areas, to minimize incompatible land use.

Initially, this issue should be discussed with representatives from local building and planning departments in an effort to begin developing a process to address local wellhead protection areas. Representatives from local building and planning departments should be invited to join the WHPP Team, and participate in the implementation process.

**Workload and Budget:** The impact to workload could be significant, but is difficult to estimate. Allocate 160 hours for a Douglas County staff member to initiate discussions and coordination among the local jurisdictions pertaining to land use planning in WHPAs using an internal billing rate of \$75.625 per hour = \$12,100.

**Note:** Additional staff time will be supported by Douglas County as a cost sharing measure for the Master Plan amendment effort

F. **Public Education:** Two target audiences should be considered; local business owners located in protection areas, and schoolchildren. The first part of this effort might consist of using a form letter and brochure to contact property owners whose properties are located in a proposed or existing a WHPA, a second mailing and brochure would target certain businesses (auto repair shops, for example) within the WHPAs. Information designed to present wellhead issues and protection efforts could be furnished, while opening a channel for communication between Douglas County, residents and business owners.

The second part of this effort should consist of presentations made to all middle school aged children in Douglas County. This would be a cooperative effort with the Douglas County School District.

**Workload and Budget:** Public Education -Develop the brochures, organize printing and mailings = \$2,000. Assume 5,000 properties are affected, cost to reproduce the brochures and mail = \$3,000. Also, assume a budget of \$2,800 for a groundwater model, buttons, pencils, magnets, etc. Total budget = \$7,800.

**This effort will be used to develop materials that can be used County wide and the mailings will be to all properties in WHPA's for all purveyors. This task will be a joint effort with the state consultant for presentations and public outreach.**

**Implementation Budget and Schedule:**

The total budget for implementation of the Revised Contaminant Source Management Plan and the Public Education Plan is **\$79,425**. Implementation of these activities can begin immediately. However, certain activities may coincide with the availability of funding. For example, Douglas County may seek implementation funds from NDEP, which are applied for in the spring of each year and are typically available in the fall. With that in mind, the schedule for implementation would be as follows:

- April 2011: Apply to NDEP for funding of the implementation cycle.
- May 5, 2011 Obtain approval from the BOCC to accept the grant.
- July 2011: Begin implementation of Contaminant Source Management Plan and Public Education Plan as detailed above.
- December 2012: Finish implementation activities, evaluate progress.

**Total Budget: \$79,425.00**

**BUDGET**

**Douglas County- Invoice Summary**

Category	Budget	Previous Expenditures	Current Expend.	Cumulative Expend.	Balance Remaining
Salaries	\$19,800.00	\$0.00	\$0.00	\$0.00	\$19,800.00
Fringe Ben.	\$4,950.00	\$0.00	\$0.00	\$0.00	\$4,950.00
Admin. Costs	\$2,475.00	\$0.00	\$0.00	\$0.00	\$2,475.00
Education Supplies	\$7,800.00	\$0.00	\$0.00	\$0.00	\$7,800.00
(Sub-Total)	\$35,025.00	\$0.00	\$0.00	\$0.00	\$35,025.00
Well Site Improvements	\$15,000.00	\$0.00	\$0.00	\$0.00	\$15,000.00
Subcontractor Well Abandonment	\$29,400.00	\$0.00	\$0.00	\$0.00	\$29,400.00
<b>TOTALS</b>	<b>\$79,425.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$79,425.00</b>

**Douglas County**

Title	SALARIES			FRINGE BENEFITS	ADMIN COSTS	TOTAL S+F+A
	Hourly Rate	Hours Worked	Total Salary	25 % of Salary	10% of Salary + Fringe	
Engineer, public works staff	\$55.00	360	\$19,800.00	\$4,950.00	\$2,475.00	\$27,225.00
<b>TOTALS</b>			\$19,800.00	\$4,950.00	\$2,475.00	\$27,225.00

**ATTACHMENT B:  
ADDITIONAL AGENCY TERMS & CONDITIONS  
SUBGRANT CONTROL #DEP-S 11-039**

1. The Nevada Division of Environmental Protection shall pay no more compensation than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits) for individual consultants retained by the Subgrantee or by the Subgrantee's contractors or subcontractors. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. The current Level 4 rate is \$74.50 per hour.
2. **NDEP shall only reimburse the Subgrantee for actual cash disbursed.** Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the Subgrant, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Subgrantee to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Subgrantee shall provide with each invoice a detailed fiscal summary that includes the approved Subgrant budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Subgrantee shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Subgrant amount.
3. The Subgrantee shall, as part of its approved scope of work and budget under this Subgrant, provide third party match funds of not less than: \$N/A. If match funds are required, the Subgrantee shall comply with additional record-keeping requirements as specified in 40 CFR 31.24 and Attachment N/A (Third Party Match Record-Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Subgrant.
4. Unless otherwise provided in Attachment A (Scope of Work), the Subgrantee shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.
5. All payments under this Subgrant are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Subgrant, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Subgrant. If funds are not received from either source for the specific purposes of this Subgrant, NDEP is under no obligation to supply funding for this Subgrant. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Subgrant. Nothing in this Subgrant shall be construed to provide the Subgrantee with a right of payment over any other entity. If any payments that are otherwise due to the Subgrantee under this Subgrant are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Subgrantee if sufficient funds later become available.
6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.
7. Any funds obligated by NDEP under this Subgrant that are not expended by the Subgrantee shall automatically revert back to NDEP upon the completion, termination or cancellation of this Subgrant. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Subgrantee. The Subgrantee shall have no claim of any sort to such unexpended funds.
8. The Subgrantee shall ensure, to the fullest extent possible, that at least the "fair share" percentages as stated below for prime contracts for construction, services, supplies or equipment are made available to organizations owned or controlled by socially and economically disadvantaged individuals (Minority Business Enterprise (MBE) or Small Business Enterprise (SBE)), women (Women Business Enterprise (WBE)) and historically black colleges and universities.

	MBE/SBE	WBE
Construction	12%	10%
Services	07%	25%
Supplies	13%	28%
Equipment	11%	23%

The Subgrantee agrees and is required to utilize the following seven affirmative steps:

- a. include in its bid documents applicable "fair share" percentages as stated above and require all of its prime contractors to include in their bid documents for subcontracts the "fair share" percentages;
- b. Include qualified Small Business Enterprises (SBEs) Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation lists;
- c. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- d. Divide total requirements, when economically feasible, into small tasks or quantities to e. permit maximum participation of SBEs, MBEs, and WBEs;
- e. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- f. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of commerce as appropriate; and
- g. If a subcontractor awards contracts/procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Subgrantee shall complete and submit to NDEP a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Subgrant is in effect and within fifteen (15) calendar days after the termination date of this Subgrant.

10. The books, records, documents and accounting procedures and practices of the Subgrantee or any subcontractor relevant to this Subgrant shall be subject to inspection, examination and audit by the State of Nevada, the Division of Environmental Protection, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States or any authorized representative of those entities.

11. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Subgrantee in the performance of its obligations under this Subgrant shall be the joint property of both parties. Such items must be retained by the Subgrantee for a minimum of three years from the date of final payment by NDEP to the Subgrantee, and all other pending matters are closed. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Subgrantee, at the Subgrantee's expense, to NDEP. NDEP does not warrant or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, report or product of any kind that the Subgrantee may disclose or use for purposes other than the performance of the Subgrantee's obligations under this Subgrant. For any work outside the obligations of this Subgrant, the Subgrantee must include a disclaimer that the information, report or products are the views and opinions of the Subgrantee and do not necessarily state or reflect those of NDEP nor bind NDEP.

12. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Subgrant, the Subgrantee shall clearly state that funding for the project or program was provided by the Nevada Division of Environmental Protection and, if applicable, the U.S. Environmental Protection Agency. The Subgrantee will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

13. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Subgrant is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Subgrant or after the conclusion of the use of the property for the purposes of this Subgrant during its term, be returned to NDEP at the Subgrantee's expense.

Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Subgrantee shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Subgrant purposes unless otherwise agreed to in writing by NDEP.

For any unauthorized use of such property by the Subgrantee, NDEP may elect to terminate the Subgrant and to have the property immediately returned to NDEP by the Subgrantee at the Subgrantee's expense. To the extent authorized by law, the Subgrantee shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees.

14. The Subgrantee shall use recycled paper for all reports that are prepared as part of this Subgrant and delivered to NDEP. This requirement does not apply to standard forms.

15. The Subgrantee, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Subgrant by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees. NDEP, to the extent provided by Nevada law, shall indemnify and save and hold the Subgrantee, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Subgrant by NDEP or NDEP's agents or employees.

16. The Subgrantee and its subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the work plan (Attachment A). The property owner will be informed of the program, the type of data to be gathered, and the reason for the requested access to the property.

17. This Subgrant shall be construed and interpreted according to the laws of the State of Nevada and conditions established in OMB Circular A-102. Nothing in this Subgrant shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this Subgrant shall be brought in the First Judicial District Court of the State of Nevada. The Subgrantee and any of its subcontractors shall comply with all applicable local, state and federal laws in carrying out the obligations of this Subgrant, including all federal and state accounting procedures and requirements established in OMB Circular A-87 and A-133. The Subgrantee and any of its subcontractors shall also comply with the following:

- a. 40 CFR Part 7 - Nondiscrimination in Programs Receiving Federal Assistance From EPA
- b. 40 CFR Part 29 - Intergovernmental Review Of EPA Programs And Activities.
- c. 40 CFR Part 31 - Uniform Administrative Requirements For Grants And Cooperative Agreements To State and Local Governments;
- d. 40 CFR Part 32 - Governmentwide Debarment And Suspension (Nonprocurement) And Governmentwide Requirements For Drug-Free Workplace (Grants);
- e. 40 CFR Part 34 - Lobbying Activities;
- f. 40 CFR Part 35, Subpart O - Cooperative Agreements And Superfund State Contracts For Superfund Response Actions (Superfund Only); and
- g. The Hotel And Motel Fire Safety Act of 1990.

18. The Subgrantee shall neither assign, transfer nor delegate any rights, obligations or duties under this Subgrant without the prior written consent of NDEP.

**CERTIFIED COPY**

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

Exhibit A  
DEP-S 11-039-1  
Page 13 of 13

DATE: Dec 17, 2012  
[Signature] Clerk of the [Signature] Judicial District Court  
of the State of Nevada, in and for the County of Douglas.  
By [Signature] Deputy