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OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

July 1, 2021

**NEVADA ATTORNEY GENERAL'S STATEMENT FOR
SAFE DRINKING WATER ACT—STATE PRIMACY PROGRAM
(40 C.F.R. § 142.12)**

I hereby certify:

1. I am a duly sworn Deputy Attorney General for the State of Nevada pursuant to Nevada Revised Statutes (NRS) 228.080,ⁱ and authorized to make this certificate on behalf of the State of Nevada, Department of Conservation and Natural Resources, Nevada Division of Environmental Protection, pursuant to NRS 228.110.ⁱⁱ

2. The Nevada State Legislature has codified Nevada's water control statutes in NRS chapter 445A, generally, and Nevada's Safe Drinking Water Act is codified specifically in NRS 445A.800 to 445A.955, inclusive. These statutes generally and specifically were lawfully adopted and are enforceable under Nevada law and the Nevada State Constitution. Nevada's statutes adequately authorize State authorities to meet the requirements of Primacy.

3. The State Environmental Commission possesses regulatory authority over drinking water standards under NRS 445A.855, and water systems under NRS 445A.860. The State Environmental Commission has lawfully exercised its regulatory authority and has adopted regulations, which are codified in the Nevada Administrative Code, NAC chapter 445A, inclusive. Recently adopted regulations may still be in the codification process conducted by the Nevada Legislative Counsel Bureau and may not, as of the date of this Certificate, be completed. However, a regulation is effective upon its filing with the Nevada Secretary of State and is effective and enforceable regardless of any outstanding subsequent formality of codification in the NAC. *See* NRS 233B.070.

4. In accordance with the Safe Drinking Water Act as amended, and 40 C.F.R. 142.12(c)(1)(iii), in my opinion the laws of the State of Nevada to carry out the program set forth in the Primacy Revision Package for the Disinfectant/Disinfection Byproducts Rule submitted by the Nevada Division of Environmental Protection, Bureau of Safe Drinking Water, have been duly adopted and are enforceable. The specific authorities provided are contained in statutes *or* regulations that are lawfully adopted at the time this Statement is approved and signed and will be fully effective by the time the

Re: Nevada Attorney General's Statement For
Safe Drinking Water Act—State Primacy Program

July 1, 2021

Page 2 of 3

program is approved.

5. Nevada's environmental audit privilege and immunity law is codified as NRS 445C.010 through 445C.120, inclusive. The State Environmental Commission has promulgated accompanying regulations in the Nevada Administrative Code (NAC) 445C.010 through 445C.140, inclusive. Under certain conditions a self-disclosure of a violation of an environmental requirement provides a privilege and qualified immunity from administrative fines and civil penalties. A violated "environmental requirement" that can be disclosed is specifically defined in NRS 445C.030 to expressly include several environmental statutory schemes. However, Nevada's Safe Drinking Water Act, NRS 445A.800 through 445A.955, inclusive, is not included as an "environmental requirement" under the audit privilege and immunity law.

6. Nevada's environmental audit privilege and immunity law does not affect the Nevada Division of Environmental Protection's ability to meet enforcement and information gathering requirements under the Safe Drinking Water Act because NRS 445C.010 through 445C.120, inclusive, and its accompanying regulations do not apply to the program set forth in the Primacy Revision Package for the Disinfectant/Disinfection Byproducts Rule. The Safe Drinking Water Act program set forth in the Primacy Revision Package for the Disinfectant/Disinfection Byproducts Rule is administered by the Nevada Division of Environmental Protection, Bureau of Safe Drinking Water; Nevada's environmental audit privilege and immunity law does not affect the Safe Drinking Water Act program administered by the Nevada Division of Environmental Protection, thus the program set forth in the Primacy Revision Package for the Disinfectant/Disinfection Byproducts Rule is unaffected by the State of Nevada's environmental audit privilege and immunity law cited above.

Sincerely,



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ⁱ NRS 228.080 Deputies: Appointment; duties; oaths; restrictions on private practice of law.

1. The Attorney General may appoint as many deputies as he or she may deem necessary to perform fully the duties of his or her office. All deputies so appointed may perform all duties now required of the Attorney General.

2. Before entering upon the discharge of his or her duties, each deputy so appointed shall take and subscribe to the constitutional oath of office, which must be filed in the Office of the Secretary of State.

Re: Nevada Attorney General's Statement For
Safe Drinking Water Act—State Primacy Program

July 1, 2021

Page 3 of 3

3. Except as otherwise provided in NRS 7.065, deputy attorneys general shall not engage in the private practice of law.

[1:15:1908; RL § 4135; NCL § 7314] + [2:15:1908; RL § 4136; NCL § 7315]—(NRS A 1967, 1488; 1971, 1424; 1973, 677; 1981, 1272; 1985, 255; 1989, 203; 1993, 2528).

ii NRS 228.110 Legal adviser on state matters arising in Executive Department; limitation on employment of private attorney by Executive Department; claims in violation void.

1. Except as otherwise provided in NRS 228.111 to 228.1118, inclusive, or by specific statute:

(a) The Attorney General and the duly appointed deputies of the Attorney General shall be the legal advisers on all state matters arising in the Executive Department of the State Government.

(b) No officer, commissioner or appointee of the Executive Department of the Government of the State of Nevada shall employ any attorney at law or counselor at law to represent the State of Nevada within the State, or to be compensated by state funds, directly or indirectly, as an attorney acting within the State for the State of Nevada or any agency in the Executive Department thereof unless the Attorney General and the deputies of the Attorney General are disqualified to act in such matter.

2. All claims for legal services rendered in violation of this section shall be void.

[1:235:1931; 1931 NCL § 7313.01] + [Part 2:235:1931; 1931 NCL § 7313.02] + [3:235:1931; 1931 NCL § 7313.03]—(NRS A 1963, 1191; 2015, 336).