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7
8 APPEAL HEARING
BEFORE THE STATE ENVIRONMENTAL COMMISSION
STATE OF NEVADA

9 In Re:)
10 Appeal of Water Pollution Control Permit:)
11 **NEV2006504, Beverly Hills Dairy**)
12 _____)

**NDEP'S MOTION TO DISMISS
PURSUANT TO NRS 233B.127(4)**

13 COMES NOW, the State of Nevada, Division of Environmental Protection ("NDEP"), by
14 and through its counsel of record, GEORGE J. CHANOS, Attorney General, and WILLIAM
15 FREY, Senior Deputy Attorney General, and hereby moves the State Environmental
16 Commission ("Commission") for its order dismissing the pending appeals pursuant to NRS
17 233B.127(4).

18 The 2005 session of the Nevada Legislature passed Senate Bill 428 which modified the
19 jurisdictional limits of a contested case. The bill was codified at Nevada Revised Statutes
20 (NRS) 233B.127(4). Chapter 233B of the NRS is commonly referred to as Nevada's
21 Administrative Procedures Act. The purpose of at least a portion of this chapter is to provide
22 state boards and commissions with the legal procedures they should follow in conducting
23 contested cases. This chapter is applicable to the appeals of Beverly Hills Dairy's water
24 pollution control permit. The statute on its face changed the jurisdictional limits of the
25 Commission regarding who can appear before it. The statute requires that the hearing officer
26 not admit as a party anyone who cannot demonstrate a direct financial interest in the
27 outcome. The relevant portion of the statute states:

28 4. Except as otherwise provided in this subsection, a person must
not be admitted as a party to an administrative proceeding in a

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this ____ day of August, 2006, I deposited for mailing a true and correct copy of the foregoing **NDEP'S MOTION TO DISMISS PURSUANT TO NRS 233B.127(4)** on the following parties by first class mail, postage prepaid:

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