

BEFORE THE STATE ENVIRONMENTAL COMMISSION

STATE OF NEVADA

MOTION TO ASSOCIATE COUNSEL

In Re:

**Appeals for Revised Class II Air Quality
Operating Permit AP 2992-1473, Bango
Oil LLC**

Intervening party Bango Oil LLC, by and through its undersigned counsel of Bryce C. Alstead, Esq., of Holland & Hart LLP, hereby moves the State Environmental Commission (the "Commission") for an order permitting Denise W. Kennedy, Esq., also of Holland & Hart LLP, to practice before this Commission for the purposes of this matter only, pursuant to Nevada Supreme Court Rule 42 ("SCR 42"). Denise W. Kennedy, Esq., having complied with the requirements of SCR 42, hereby submits a "Verified Application for Association of Counsel", attached hereto as **Exhibit "A"**, a "Certificate of Good Standing" from the State of Colorado, attached hereto as **Exhibit "B"**, and the "State Bar of Nevada Statement", attached hereto as **Exhibit "C"**. This Motion is supported by the following Points and Authorities and any oral argument or other testimony before the Commission.

Points and Authorities in Support of Motion to Associate

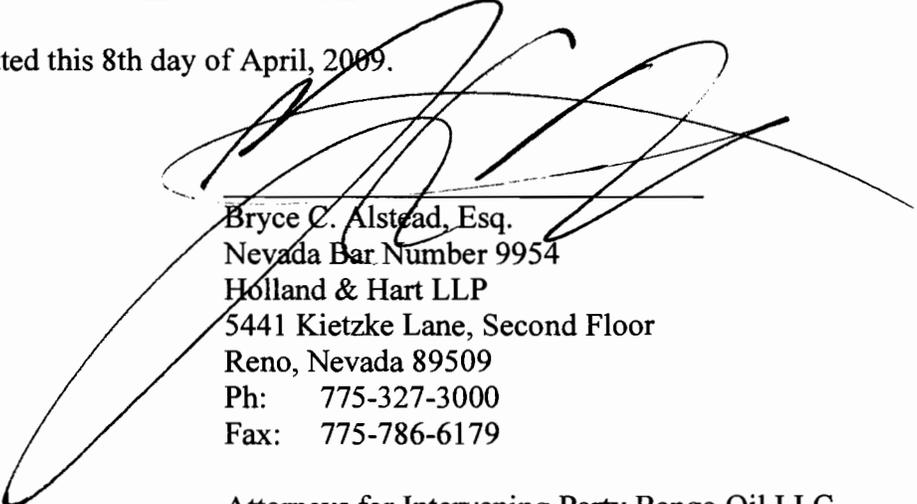
Nevada Supreme Court Rule 42 governs the admission to practice of an attorney not admitted to the Nevada Bar. SCR 42(15). Pursuant to SCR 42(3)(c)(2), a motion to associate counsel must be filed with the court or administrative body where the cause is pending and must include the following exhibits: (a) the applicant's original verified application; (b) the applicant's original certificate of good standing; and (c) a statement from the State Bar of Nevada. SCR 42(3)(c)(2). This motion includes each of the required exhibits pursuant to SCR 42, and it therefore should be granted.

The granting or denial of a motion to associate counsel is discretionary. SCR 42(6); *see, generally, PepsiCo Inc. v. Roque*, 743 So.2d 160 (Fla. Ct. App. 1999) (holding that no lawful basis existed upon which court could have properly exercised its discretion to deny *pro hac vice* status); *State v. White*, 386 S.E.2d 25 (W. Va. 1989) (overturning lower court's denial of *pro hac vice* status to out-of-state counsel). In this matter, the admission of Ms. Kennedy is critical to the preparation and presentation of intervener Bango Oil LLC's claims and defenses because of Ms. Kennedy's expertise with air quality matters, her familiarity with the operations of Bango Oil LLC as well as the subject Class II Permit, and her knowledge of the relevant facts of this matter.

Accordingly, pursuant to SCR 42, intervening party Bango Oil LLC requests an order of this Commission permitting Denise W. Kennedy, Esq. to practice before the Commission for the

purpose of this matter only. Pursuant to SCR 42(3)(c)(3), a proposed order granting this motion to associate is concurrently filed with this Commission.

Respectfully submitted this 8th day of April, 2009.



Bryce C. Alstead, Esq.
Nevada Bar Number 9954
Holland & Hart LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89509
Ph: 775-327-3000
Fax: 775-786-6179

Attorneys for Intervening Party Bango Oil LLC

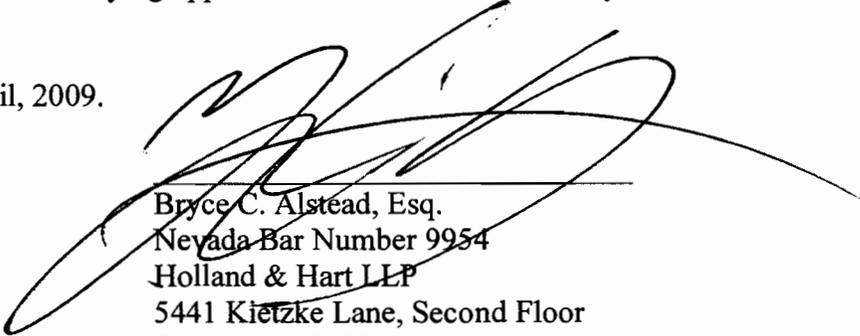
NOTICE OF MOTION

To: All Interested Parties; and

To: All Counsel of Record

PLEASE TAKE NOTICE that Intervening Party, Bango Oil LLC, will bring the foregoing MOTION TO ASSOCIATE COUNSEL for decision on the 9th day of April, 2009, or whichever date the hearing on the underlying appeals in this matter is ultimately rescheduled to, before this Commission.

Dated this 8th day of April, 2009.



Bryce C. Alstead, Esq.
Nevada Bar Number 9954
Holland & Hart LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89509
Ph: 775-327-3000
Fax: 775-786-6179

Attorneys for Intervening Party Bango Oil LLC

CERTIFICATE OF SERVICE

I certify that on April 8, 2009 I served a copy of the foregoing document to the following
by

- U.S. Mail, postage prepaid
- Hand Delivery
- Fax
- Electronic Service by LexisNexis File & Serve

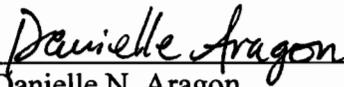
Donald Mello
13999 Cadets Road
Fallon, NV 89406

David C. Mathewson
1265 Mesa Dr.
Fernley, NV 89408

Lorraine Griffin
1260 Carson Hwy.
Fallon, NV 89406

Leo Drozdoff, Administrator
Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249

Bill Frey
Senior Deputy Attorney General
555 E. Washington, Suite 3900
Las Vegas, NV 89101



Danielle N. Aragon

Exhibit "A"
Verified Application for Association of Counsel

3. Petitioner has been retained personally or as a member of the above named law firm by _____
Bango Oil, LLC to provide legal representation in
connection with the above-entitled matter now pending before the above referenced court.

4. Since Nov. 1 of 1985, petitioner has been, and presently is, a member of good
standing of the bar of the highest court of the State of Colorado where petitioner regularly practices
law.

5. Petitioner was admitted to practice before the following United States District Courts, United
States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states
on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

	<u>DATE ADMITTED</u>
<u>U.S. District Court of Appeals</u>	<u>01-16-87</u>
<u>9th Circuit Court of Appeals</u>	<u>10-24-02</u>
<u>D.C. Circuit Court of Appeals</u>	<u>03-73-03</u>

6. Petitioner is not currently suspended or disbarred in any court except as hereinafter provided
(Give particulars; e.g., Court, jurisdiction, date): None

7. Petitioner is not currently subject to any disciplinary proceedings by any organization with
authority at law except as hereinafter provided (give particulars, e.g. court, discipline authority, date,
status): None

8. Petitioner has never received public discipline including, but not limited to, suspension or
disbarment, by any organization with authority to discipline attorneys at law except as hereinafter

provided (give particulars, e.g. court, discipline authority, date, status): None

9. Petitioner has never had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked except as hereinafter provided (give particulars, e.g. date, administrative body, date of suspension or reinstatement): None

10. Petitioner, either by resignation, withdrawal, or otherwise, has never terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings except as hereinafter provided; None

11. **Petitioner or any member of Petitioner's firm** with which Petitioner is associated has/have filed application(s) to appear as counsel under Supreme Court Rule 42 during the past three (3) years in the following matters: *(do not include Federal Pro Hacs)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied</u>
05-15-06	CV02-02362	2nd Judicial District Court	
11-20-07	A521533	8th District Court	
09-08-08	51114	Supreme Court	Granted
09-08-08	51114	Supreme Court	Granted
09-19-08	A566869	8th District Court	Granted

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:

Bryce C. Alstead, who has offices at
First Name Middle Name Last Name
5441 Kietzke Lane, Second Floor, Reno, Washoe,
Street Address City County
89511, (775) 327-3000.
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties:

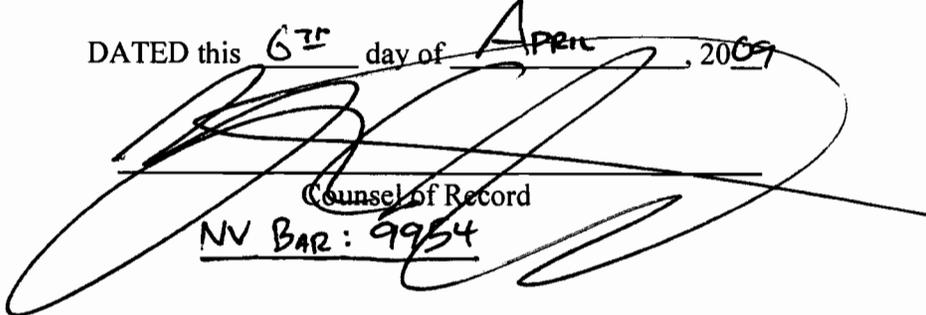
NAME	MAILING ADDRESS
<u>Lorraine Griffin</u>	<u>12960 Carson Hwy, Fallon, NV 89406</u>
<u>Donald Mello</u>	<u>13999 Cadet Rd, Fallon, NV 89406</u>
<u>David C. Mathewson</u>	<u>1265 Mesa Dr, Fernley, NV 89408</u>
<u>Nevada Division of Environmental Protection</u>	<u>901 S. Stewart St, Carson City, NV 89701</u>
<u>Bango Oil, LLC</u>	<u>22211 Bango Rd, Fallon, NV 89406</u>

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I BRYCE C. ALSTEAD hereby consent as Nevada Counsel of Record to the designation of Petitioner to associate in this cause pursuant to SCR 42.

DATED this 6th day of April, 2009


Counsel of Record
NV BAR: 9954

STATE OF Nevada)
) ss
COUNTY OF Washoe)

Subscribed and sworn to before me

this 6th day of April, 2009
Danielle Bacus-Aragon
Notary Public



Exhibit "B"
Certificate of Good Standing

SUPREME COURT



State of Colorado

STATE OF COLORADO, ss:

I, Susan J. Festag Clerk of the Supreme Court of the State of Colorado, do hereby certify that

DENISE WINSOR KENNEDY

has been duly licensed and admitted to practice as an

ATTORNEY AND COUNSELOR AT LAW

within this State; and that his/her name appears upon the Roll of Attorneys and Counselors at Law in my office of date the 1th day of November A. D. 1985 and that at the date hereof the said DENISE WINSOR KENNEDY is in good standing at this Bar.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Supreme Court, at Denver, in said State, this

6th day of April A. D. 2009

Susan J. Festag

Clerk

By Sharon H. Kanyler

Deputy Clerk

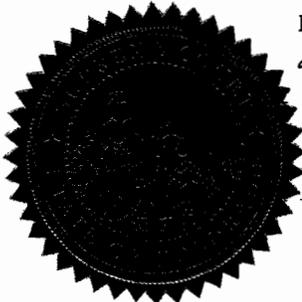


Exhibit "C"
State Bar of Nevada Statement

1 STAT

2
3 BEFORE THE STATE ENVIRONMENTAL COMMISSION
4 STATE OF NEVADA

5 Case No. AP2992-1473

6 IN THE MATTER OF
7 BANGO OIL AIR
8 PERMIT AP2992-1473

9 _____ /
10 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
11 42(3)(b)

12 THE STATE BAR OF NEVADA, in response to the application of
13 Petitioner, submits the following statement pursuant to SCR42(3):

14 SCR42(6) **Discretion.** The granting or denial of a motion to associate
15 counsel pursuant to this rule by the court is discretionary. The
16 court, arbitrator, mediator, or administrative or governmental
17 hearing officer may revoke the authority of the person permitted to
18 appear under this rule. Absent special circumstances, repeated
19 appearances by any person or firm of attorneys pursuant to this rule
20 shall be cause for denial of the motion to associate such person.

21 (a) **Limitation.** It shall be presumed, absent special
22 circumstances, and only upon showing of good cause, that
23 more than 5 appearances by any attorney granted under
24 this rule in a 3-year period is excessive use of this
25 rule.

26 (b) **Burden on applicant.** The applicant shall have the
27 burden to establish special circumstances and good cause
28 for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

1. DATE OF APPLICATION: 4/7/2009

2. APPLYING ATTORNEY: Denise W. Kennedy, Esq.

3. FIRM NAME AND ADDRESS: Holland & Hart, 555 17th Street, Ste.
3200, Denver, CO 80202

1 4. NEVADA COUNSEL OF RECORD: Bryce Alstead, Esq., 5441 Kietzke
2 Ln., 2nd Flr., Reno, NV 89511

3 5. There is no record of previous applications for appearance by
4 petitioner within the last three(3) years.

5 DATED this April 7, 2009

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7 
8 Mary Jorgensen
9 Member Services Coordinator
10 Pro Hac Vice Processor
11 STATE BAR OF NEVADA
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