



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

July 8, 2011

Re: Notice of Response to Comments & Issuance of Renewal Air Quality Operating Permit
Renewal of Class II Air Quality Operating Permit AP2992-1473.01
Bango Oil, LLC (FIN A0511)

Dear Commentor:

The State of Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) is providing its response to comments received on the draft renewal Class II Air Quality Operating Permit AP2992-1473.01 for Bango Oil, LLC. The response document (enclosed) includes the NDEP-BAPC responses to all persons who commented, and left contact information, on the draft renewal Permit.

The NDEP-BAPC is also providing notice of its issuance of the final renewal Class II Air Quality Operating Permit to Bango Oil, LLC. The renewal Class II Air Quality Operating Permit AP2992-1473.01 and support documents are available upon request. If you have any questions, please call NDEP-BAPC at 775-687-9349.

An appeal of the renewal Class II Air Quality Operating Permit may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and State Environmental Commission (SEC) administrative rules. Appeals must be received within 10 days of receipt of this notice, pursuant to **NRS 445B.340**; a copy of the SEC appeal form is enclosed. Appeals are processed through John Walker, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Mr. Walker can be reached at 775-687-9308, or by fax at 775-687-5856.

Thank you,

Jeff Denison, P.E.
Supervisor, Permitting Branch
Bureau of Air Pollution Control

JD/rp

Enclosure: NDEP-BAPC Response to Comments, Bango Oil
SEC Appeal Form #3

RESPONSE TO COMMENTS, BANGO OIL PUBLIC NOTICE
AND PUBLIC HEARING

July 8, 2011

On June 13, 2010 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) submitted a public notice announcement to the Lahontan Valley News regarding the renewal of the Bango Oil, LLC Class II Air Permit AP2992-1473 (FIN A0511). In response to requests for a public hearing, on January 26, 2011 the NDEP-BAPC held a public hearing in Carson City. Written and verbal comments were received until close of the hearing.

The NDEP-BAPC has completed its review of all verbal and written comments received regarding the renewal of the Bango Oil, LLC Class II Air Quality Operating Permit. All comments are addressed below beginning with written comments dated July 14, 2010, followed by verbal and written comments received during the public hearing.

The following section refers to written comments dated July 14, 2010.

Written July 14 comment No. 1

“New EPA Standards Finalized 6/22/2010, 40 CFR, Parts 50, 53, and 58. USEPA has revoked the 24 hour standard and a new 1 hour standard for SO₂ emissions testing of 75 ppb goes into effect August 23, 2010. USEPA has enacted this new standard because recent studies show that even short term exposure to SO₂ makes people sick. Obviously, there is a grace period for compliance to this standard, but given the fact that this plant does emit SO₂, we expect that NDEP will address this compliance to the new standard in the permit (see Exhibit A, attached).”

NDEP-BAPC Response: The new 1-hour air quality standard established by the USEPA is a national *ambient* air quality standard, not an emission standard that applies directly to individual plants or processes. The standard has not yet been adopted by the NDEP-BAPC. Implementation of the new standard by the NDEP-BAPC requires that the agency develop and implement a new program of ambient air quality monitoring to assess the status of different air basins, classify them with respect to the new 1-hour SO₂ standard, and develop methods of maintaining or attaining compliance with it. Under the rule established by the USEPA, state and local agencies have until June 2013 to implement the program. The NDEP-BAPC must first go through appropriate rulemaking to establish such a standard. Until the necessary changes to the program are made, sources must comply with the current standard.

Written July 14 comment No. 2

“Relevance of the Ambient Air Studies Referenced in the Permit Notice. We would like to know the dates and details of the studies referenced. Given the fact that we have had concerns as to the relevance of

modeling studies based in the Lovelock area rather than the Carson River area before the new standards – we have even greater concern to the relevance of the studies in regards to compliance to the new standards, which recognize that even short term exposure of as little as five minutes can cause adverse health effects. (See Exhibit B, attached, testimony from Dr. Sagebiel and Dr. Miller, from the University of Nevada, Reno faculty members of the Department of Natural Resources and Environmental Science in regards to emissions, testing and odors and Exhibit A New SO₂ standards).”

NDEP-BAPC Response: The dates and details of the air studies – also known as air quality dispersion models - referenced in the public notice were completed by a third party environmental consultant and submitted with the air permit renewal application on October 8, 2009. The NDEP-BAPC conducts another analysis to ensure that what the applicant has provided is correct. The best meteorological data set available for the Carson River Valley is from Lovelock. NDEP-BAPC determined that the Lovelock meteorological data set was as comparable as possible to meteorological conditions that occur at Bango Oil.

Pursuant to NAC 445B.22097 “Standards of Quality for Ambient Air”, NDEP-BAPC shall use the Nevada Ambient Air Quality Standards (NAAQS) in determining whether to issue or deny a permit for a stationary source. The air quality modeling analyses conducted for Bango Oil, pursuant to Nevada air quality regulations, demonstrate compliance with all applicable Nevada ambient air quality standards for all applicable averaging periods. As discussed in the NDEP-BAPC’s Response to Written Comment #1, the new federal 1-hour SO₂ standard is not applicable.

Written July 14 comment No. 3

“Revisions and Corrections Requested by Mr. Francisco Vega, December 1, 2009. In correspondence to Bango Oil, LLC dated December 1, 2009, Mr. Vega outlined many revisions and corrections to data, some of which have been outlined in the notice. It is interesting to note that Mr. Vega points out many inaccuracies in the submitted permit in regards to emission factors and rates. Apparently, according to this letter, there are many emission rates that were wrong. In many instances it appears that a calculation of half the actual required rate was used, and in other instances additional zeros were added to the emission rates in the air dispersion modeling analysis, which of course, greatly changes the outcome of the data. In light of these gross miscalculations, residents express great concerns regarding the accuracy of any data submitted by Bango Oil, LLC. Has there been sufficient detailed and documented accurate data submitted to NDEP? How can we be sure of this? How closely does this air dispersion modeling analysis conform to the revised SO₂ standards for 40 CFR?”

NDEP-BAPC Response: An in-depth review of the application for renewal of the Class 2 air quality operating permit for Bango Oil was conducted by NDEP-BAPC staff to evaluate all air quality aspects of the proposed Bango Oil permit renewal. The technical review conducted by the NDEP-BAPC determined that the proposed revision will meet all applicable State and Federal air quality requirements including all applicable ambient air quality standards. A copy of the technical review was made available for public review and comment and remains available upon request.

Bango Oil submitted sufficient detailed data. The emission values provided are based on actual emissions data taken from stack testing results and Federally-recognized and approved emission factors. Any errors in the original renewal application submittal have been addressed and corrected with revised emission values. As previously discussed (see Response to Written Comment #1), the new federal 1-hour SO₂ standard is not applicable.

Written July 14 comment No. 4

“Carbon Dioxide Emissions. CO₂ is not addressed in the notice, what testing has been done in this regard?”

NDEP-BAPC Response: Carbon dioxide (CO₂) is not addressed because there are currently no standards that apply to CO₂. However, CO₂ concentrations are measured during emission compliance tests in order to determine the molecular weight of the exhaust gas. CO₂ is only measured to determine the volume of the exhaust gas stream.

Written July 14 comment No. 5

“Standard Industrial Classification 2992. This permit classifies Bango Oil under SIC code 2992 “establishments primarily engaged in blending, compounding and re refining lubricating oils and greases from purchased mineral, animal and vegetable materials”. This designation seems to suggest more of a rendering facility as opposed to a refinery or re-refinery of crude oil or used motor oil, specifically a petroleum based product. Is there standard criteria to determine this decision? How is this designation determined? Who was the person or persons in charge that made this decision on this SIC classification?”

NDEP-BAPC Response: The comment accurately describes the classification for Standard Industrial Code 2992. NDEP-BAPC staff determined that the SIC code 2992 designation was appropriate for Bango Oil. In contrast, petroleum refineries engaged in the production of lubricating oils and greases are classified 2911. Pursuant to 40 CFR Part 60, Subpart J – Standards of Performance for Petroleum Refineries, “*Petroleum refinery means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through re-distillation, cracking or reforming of unfinished petroleum derivatives*” [40CFR60.101(a)]. Hence, the raw material processed by a refinery must be petroleum or an unfinished petroleum derivative. Bango Oil does not handle petroleum, which is defined under 40 CFR 60 Subpart J as “*the crude oil removed from the earth & the oils derived from tar sands, shale & coal*” [40CFR60.101(b)]. Because the materials re-refined at Bango Oil constitute finished lubricating oils that are purchased from other facilities, the NDEP-BAPC determined that the facility is appropriately classified under SIC code 2992.

Written July 14 comment No. 6

“Odor. The permit application specifically requires that there will be “no odor that constitutes a nuisance” yet NDEP continued to “dance around” this issue. By doing so, we believe NDEP is not fulfilling their responsibility to the Citizens of the State of Nevada that requires them not only to protect their health and safety, but to protect their right to “peaceful enjoyment of their private property”.

Residents have continued to experience the trespass of nauseous and sickening odors in their homes. We are concerned that the health effects of these emissions have not been adequately addressed. NDEP is adamant that there are specific tests required to measure odor as a nuisance, but doesn't own the equipment necessary to determine whether or not this standard has been breached, or whether Bango Oil is truly in compliance with the current law. Residents should not have to try to prove or disprove these complaints, and the burden of proof should not rest on their shoulders. Many of the population here is elderly and/or economically challenged. Where in this permit application does the modeling or testing that has been done provide a preponderance of information to demonstrate that odors and emissions will NOT impact the surrounding community, the Carson River corridor, Lake Lahontan and the Truckee Canal? We would like a detailed explanation of why Dr. Miller's expert opinion regarding the doubling of plant size and capacity will not double emissions and odors as he surmises, and what data supports this? (see Exhibit B, Sagebiel and Miller, 2/22/2010).

There were never any complaints in regards to air quality before Bango Oil. Shouldn't the State consider “First in Time, First in Right” in the determination for compliance of this permit? This as opposed to, as one Bango lawyer stated publicly, “We have a license to pollute.”

NDEP-BAPC Response: Please be aware that until receipt of this comment letter (in July 2010) the NDEP-BAPC had received only one odor complaint directed at Bango Oil since August 2009; that complaint was filed in January 2010. References to past events rather than “real-time” complaints limit the NDEP-BAPC's ability to respond & investigate.

The NDEP-BAPC has found that a mild to moderate odor is typically present at Bango Oil and in proximity to it. From the time that the NDEP-BAPC first began receiving odor complaints in the area, the NDEP-BAPC considered Bango Oil as a possible source of the complaints. We have conducted investigations, engaged the company, and taken actions to address possible sources of odor. However, based on our investigation and odor sampling completed by Churchill County, none of the odors constitute a violation of the State of Nevada's air quality regulation regarding odors.

NAC 445B.22087 Odors describes the circumstances under which the NDEP-BAPC must investigate odors and the criteria that define a nuisance violation. The regulation is directed at persistent, strong, localized odors; it is not based on a health standard. Based on our experience with other odor complaints, the NDEP-BAPC did not believe that sampling was justified to try to demonstrate that the odors at Bango Oil represented a violation (as defined under NAC 445B.22087). In our view the extensive sampling program undertaken by Churchill County in 2008 verified that determination. None of the sampling to date indicates that the odors constitute a violation under NAC 445B.22087.

Despite the lack of a nuisance violation or conclusive evidence of the source of the odors, the NDEP-BAPC has investigated the complaints. As noted by the commenters, circumstantial evidence - such as the onset of odor complaints shortly after startup of the plant in early 2007 - suggested that Bango Oil may have been the source. Rather than trying to assess whether or not the odors reported by residents represented a nuisance violation, the NDEP-BAPC directed its efforts at investigating processes at Bango Oil (and other facilities) that might be contributing to them. The NDEP-BAPC sought and obtained the cooperation of Bango Oil in these efforts. In February 2009, in its response to comments regarding a proposed permit action, the NDEP-BAPC discussed in detail the results of its investigations and actions taken to abate potential odors. These actions included the elimination of odor-generating processes and requiring Bango Oil to conduct emission tests ("stack" tests) of its process heaters and hydrotreating filtration system to demonstrate that they emit no or insignificant amounts of odor-causing, reduced sulfur compounds. Tests conducted following corrective actions taken by the facility have indicated very low to undetectable concentrations of reduced sulfur compounds.

Since early 2009, the NDEP-BAPC has focused on the possible role of process "upsets" in Bango Oil's re-refining process or emission controls in generating odors. An investigation undertaken in response to a complaint filed in February 2010 with Leo Drozdoff, then Administrator of the NDEP-BAPC, concluded that a process upset similar to that which occurred at a similar facility in Ohio did not occur and was not likely. NDEP-BAPC review of monitoring records maintained by the facility indicated few upsets, none of which correlated with odor complaints. If Bango Oil is the actual source of the odors, the NDEP-BAPC has concluded that they originate either from some undetermined upset condition(s), from fugitive emissions, or from some process or equipment not regulated by the NDEP-BAPC.

Written July 14 comment No. 7

"April 29, 2009 SEC Hearing. At the State Environmental Commission Hearing on April 29, 2009 Mr. Randall Soule stated under oath to the commission, "You will not be bothered by odors from our facility"

However, residents are still "bothered" and even sometimes sickened by the emissions from this plant, and we continue to be concerned about our air quality."

NDEP-BAPC Response: thank you for your comment.

Written July 14 comment No. 8

"Conclusion. Since we still have many questions and concerns and are still experiencing noxious emissions from Bango Oil, we would respectfully request a hearing to address the concerns of all people of Churchill County and the State of Nevada. We would like a full panel assembled to address these questions and concerns to the public. We do not wish for you to send a secretary to record questions to be answered at a later date and after the permit has been issued as has been done in the past. We feel that this may deny us the right as citizens to due process, and although we recognize this method as convenient and cost efficient for you, we feel that you owe us more respect and consideration than that."

NDEP-BAPC Response: The NDEP-BAPC responded to the request by scheduling and holding a public hearing on January 26, 2011, at which the NDEP-BAPC's preliminary determination to issue/deny the proposed permit action was discussed. The NDEP-BAPC's responses to comments received at the hearing are provided in a companion document.

**The following section refers to verbal comments received during
the public hearing held on January 26, 2011.**

Verbal Comment No. 1

I want to submit what I write down and when I call in to the commissioners all last years and this is this year's already January. This is what I wear at night because I can't sleep in my bed, I have to sit up in a recliner I'm 67 years old and I can't sleep in my bed because it's so bad, I vomit, I get headaches, I get nose bleeds and my dogs are throwing up, and I have healthy dogs, they don't throw up food they're throwing up liquid stuff out of their systems. It's unreal what I'm going through you have no idea I work on a navy base, my father was a 20 year government navy man, I've lived all over the United States, never smelt anything so horrid in all my life, I've lived in the valley of Fallon Churchill since 1967 I rode my horses all over the valley, I ran cattle, I did everything and I'm never was so sick in all my life as I'm getting now, I had to go to my supervisor and ask her to put me on 7 hours instead of 8 which they did. I've stepped down from full time position after 16 years to a part time position because I'm so tired, I fell down at work I was so tired, I bruised, they took me to the hospital I bruised my bone down here below my knee and it took me four months to heal up four months for my leg to heal up, it's all on record at the navy base of my fall, I told them I'm so tired because I can't sleep properly at night, if my father was alive he would do something about this cause he knew a lot of people and he would have the authority to do something, he was on top gun he knew about that years ago, he was on the committee he was at the beginnings of the jets in north fork Virginia where we lived and I never smelt any odors like this in my entire life of living in Alameda I was born in San Diego. In yet this tendency we were in Alameda at Moffet Field, Imperial Beach we were all over the place. And never have I seen horrible stuff and I'm about ready to scream because I can't stand it no more, I sat up in my chair last night I couldn't even lie down in my bed and I called in to the commissioners, I've been calling in to the sheriff department ever since we got a new sheriff the other one wouldn't help us but this one is helping us with our complaints and you could see how I live, I'm giving that to you something's got to be done, I had to put one horse down and I got another horse that I'm going to have to put down because she's getting respiratory problems I'm getting respiratory problems every time that comes in I'm (?) my lungs okay, I've said enough.

NDEP-BAPC response #1:

The NDEP-BAPC recognizes that the citizens of Lahontan Valley have been, and continue to be, impacted by odors. The Division has worked diligently for several years to determine the source of those odors and to mitigate them. Because we recognize that it is difficult to demonstrate a violation of the odor standard, if there is a reasonable assertion that a stationary sources is

suspected to be the cause, the Division does not wait to determine if the standard has been exceeded. Rather, we immediately begin working with the potential source to reduce or eliminate the odor through engineering analysis of facility processes and through the application of process changes and/or additional pollution controls. The Division has conducted numerous inspections of the Bango Oil facility, completed detailed engineering process reviews, and asked for process and material changes at points in the operations where potential odors could be generated. As a result, Bango Oil has made process changes and added additional controls all for the purposes of mitigating odors. Source tests have been conducted five times over the past four years and thousands of air samples have been collected and analyzed by Churchill County and NDEP. Despite all of the work completed to date, the NDEP-BAPC has been unable to identify a specific source that would result in odors of the severity that continue to be described by complainants.

Verbal Comment No. 2

Well basically the main thing that I wanted to bring out was that the permit does spell out what is acceptable in or not acceptable in the way of odors and I really feel that NDEP is not always respondent to the complaints that we've had, particularly night time weekend complaints. (?) I've announced at the appeal hearing that one of our people had lung cancer, I am that person. Now of course I'm not going to say that lung cancer can come from many sources the only thing I can say is that at night when I am wearing oxygen I have called in several times to report overwhelming odor in my bedroom which is three miles away from Bango Oil and I think something certainly has to be done I don't know what but you are the people responsible for it as you know, and I think you've been fulfilling your job up to a point but for instance when I called in about my (?) in 2007 (?) appeal hearing nobody came out I called the university I called NDEP nobody tested the (?) the pre (?) and that was the same day that I just did a huge amount of odor and caught and became sick so I'm a little bit angry that there was a lot of emissions on that day anyway NDEP never responded to my complaint about that and the whistle blower report given to Leo Drozdoff now Mr. Kennedy who would be the one who would receive it you or your boss have never heard of it? Why isn't somebody coming out unannounced at night why isn't somebody taking these types of complaints seriously? it's up to you and we are asking you please do something we wouldn't be here I mean look at us, were not the kind of people that are just rebel rousers we have a serious problem there and we're asking for your help. Thank you.

NDEP-BAPC response #2:

Regarding the content of the permit with respect to odors, the permit contains *NAC 445B.22087 Odors* as the applicable regulation; the permittee must comply with the standard established by that regulation. *NAC 445B.22087* describes when the NDEP-BAPC must investigate an odor complaint and the methods it must follow to determine whether an odor constitutes a nuisance violation. As stated by the regulation, an odor that constitutes a nuisance represents a minor air quality violation.

The NDEP-BAPC has been investigating odor complaints in western Churchill County for over 3 years. The NDEP-BAPC began investigating the source of the odor(s) upon receipt of initial complaints made in May of 2007. To date, the NDEP has received over 220 odor complaints from residents. All permitted stationary sources located in this area have been inspected multiple times to determine compliance and to evaluate if any could be causing the reported odor. To date, the source of the odor has not been definitively identified.

The Bango Oil re-refining facility is regarded by the majority of complainants as being the source of the offending odor. In response to complaints the NDEP has conducted 16 facility inspections and dozens of field investigations since May of 2007. NDEP personnel also traveled to several of the complainant's homes in an attempt to directly experience the odor and to obtain firsthand information from the complainants. In contrast to the descriptions of the odor experienced by Churchill County residents, over 10 different NDEP inspectors have visited the site and none have noticed anything other than a mild petroleum-based odor. This odor was not considered objectionable and did not seem to persist beyond the plant's fence line. On two occasions NDEP inspectors were on-site when odor complaints were filed and they did not detect any substantial odors.

In response to the complaints received at the hearing - complaints that the odors were occurring late at night, early in the morning, and on weekends, at times when NDEP staff would not normally be inspecting the facility - the NDEP conducted odor sampling from March 4th through March 8th, 2011. The sampling was conducted late at night, early in the morning and over the weekend in response to the concerns raised. Fourteen samples were collected and analyzed according to three ASTM methods. Only one of the 14 samples had an odor above the blank sample level, at approximate 3X the dilution level; this is well below the 8X level of the State's odor standard.

Verbal Comment No. 3

I have a letter to submit that I would like it to go on file. I (?) and I'm not affected by it I don't believe as the people on the Carson Highway. I do get it and it is very bothersome, my main worry is the odor is a nuisance but it bothers your nose and your throat and your eyes really burn and what scares me is what's in the odor that's making my body or our bodies react that way, because your eyes really, really hurt when that, when you can smell it. So my fear more is what is causing our body to reject this whatever it is I mean the odor, I don't like to live with that either, but if it's not harming me that's not quite as bad I mean don't (?) and (?) thank you.

NDEP-BAPC response #3: Please see response to comment #1.

Verbal Comment No. 4

Yes, my name is Norman Frey I'm a Churchill County Commissioner, and these are my constituents and there not only my constituents they are my neighbors, they've been my friends my whole life many of them, and I would submit that if Mr. Miller were to go the lobby here and take the lid off that bottle, and sit there, that odor would permeate this building and this building would be evacuated. If it was not evacuated, if you ordered the people in your control to go back to work then you would submit them involuntarily to that odor that you'd be sued you'd lose your job, yet you subject these people or not you as a people, but the regulations the environmental control that you have is so minimal that it does not protect these citizens of Churchill County and this is a great concern, because I'm sworn to protect and defend their health safety and welfare, I can't do that. We as a county rely on the Department of Environmental Protection to do that. There's something wrong as Mr. Miller said, the laws, the rules, the regulations that you point to don't go far enough to protect our citizens, once again if you open that vial and he sat down at the lobby for an hour or two everybody would want out of this building. Don't subject

my constituents, my friends, my neighbors, to the same treatment you wouldn't allow happen in this building, thank you.

NDEP-BAPC response #4: **Please see response to comment #1.**

Verbal Comment No. 5

You know I think that I hope that everybody here realizes that we definitely have a problem. I think what concerns these people more is the fact that they haven't even, even though NDEP and the county has allowed Bango Oil to triple their production, that has not been done yet, my concern is what's going to happen when they triple the production we cannot live with it the way it is right now, I mean it's almost impossible for us to live this way NDEP keeps saying it's a county issue, we talked to the District Attorney's office the District Attorney's office says no, NDEP has told us to back off it's a state issue. Right now the only issue is the fact is that we can't live with this, we're to the point that we can't sell our property and we can't live in the area, what can we do what do we do as residents. I know you guys have regulations but somewhere along the line somebody made a big mistake, NDEP made a mistake by believing that Bango Oil said that there wouldn't be any odor and all they have is CO2 and water vapor, were not today, none of us are necessarily concerned about the emissions today should that might tell us in 5 to 10 years, what were concerned about is the damn odor. The odor is what's killing us. Brad Alstead at one of the commissioner meetings stood up and said we have the legal right to pollute and all of just about died when he said that and, I bet he wished he hadn't of said that I wish we could take that vile and pour some of it in his pocket so (?) so he realized what the heck we're going through. Thank you.

NDEP-BAPC response #5: **Please see response to comment #1.**

Verbal Comment No. 6

This is across the street from our house, that was on a perfectly clear sunny day and this is like on a cloudy day, it just kind of holds all that down when we all live and breathe it and I just want to say it burns our eyes, or mine this is me personally burns my nose, my throat, makes me cough, get horrible headaches, I mean there are some days I just couldn't get up, they were like migraines headaches, I mean, I was down, I mean just ill, I have (?) haystacks, so I've been in physical therapy I couldn't even go not because of this but because of the headache was so bad, I could not get there. It feels like the flu coming on, you feel like you have constant allergies, I mean when it clears up all the symptoms go with it, I feel good again. You just feel whipped out, you feel tired, you feel sick, and it just takes something out of you your body is just trying to clear this stuff out of you, so you can feel good again. This stink is bad but I worry about what it is doing to us I feel bad my granddaughter will come out, no you can't go out and play, she gets nose bleeds we live out there most of us and we enjoy the outdoors and we have our horses, but if you go outside it makes you itch I think the contact when you get a little sweat going you know, it sticks to you and it makes your skin itch, makes your head itch. Ever since the plant opened and everything here is like you know, no proof, can't prove it, but my blood pressures been steadily going up, all our neighborhood is having heart issues, I feel like everything we've worked for is being taken away from us, I mean we don't have a lot we just have a small house out in Fallon Nevada, and we worked hard for it, everything we have you know, we're not rich, but I feel like it's being taken away, you know,

it's not like we can sell and move somewhere else, this is where we're going to have to live this is what we're going to have to breathe, probably what's going to kill us is (?) pretty healthy up until recently my husband has had major heart issues neighbors around me major heart issues, I mean we're not just talking little stuff, we're talking heart attacks open heart surgery (?) I mean there all like those kind of things too, strokes, I mean, it has to do with heart and respiratory stuff. And I asked you, what can we do, we've been trying to go through all the channels, nobody seems to help us, it's always like, well, you know, first were just complainers, we have nothing better to do with our time then spend hours and hours at these meetings, and were asking for help, were asking for somebody that least point us in the right direction somebody that will protect us, I mean somebody can at least tell us what were supposed to do to protect ourselves from this, I mean we don't know, were trying, were trying the best we can. And it's interesting we've lived there over 20 years I've never called in an odor until Bango Oil moved in there's people that live around us, they've lived there generations, and were talking like 5 or 6 generations, nobody's called in odors like this before not until Bango moved in, I mean, and then of course they all deny it now but we know. The odor I could even maybe learn to live with the odor part I'm more concerned at this point about my health I mean I am, I'm concerned I mean odor is like pigs and cows and you kind of get used to certain things but this is making us sick, and me sick neighbors are dying, I mean come on, and is there a way maybe that they can only run during day hours when people can be called out so that we can get to the bottom of it instead of it always being captured on weekends when you can't get a hold of anybody. I mean were out there, were living with this and we need help, oh and how do the numbers go down if they haven't started the water filtration, the numbers went down things got better without changing the process, and he said they haven't got the water thing going yet.

NDEP-BAPC response #6: Please see response to comment #1.

Verbal Comment No. 7

Yes, the only thing I'd like to say is that I feel like we are as residents we are struggling to get some results, as residents we are struggling to get some results like for example from the county, they hired the Desert Research Institute to do some studies and those studies have shown that Bango most probably is the root cause of the problem and they are continuing to do studies so I applaud the county for stepping up to the plate. Unfortunately at this point I can't really say but I see that the state, the NDEP is stepping up to the plate. I would like to see the NDEP step up to the plate and commission some studies to identify the root cause of these problems, before again attempting to solve the problem identify the root cause through some independent studies. Stack study, whatever it takes, let's find out what causes that odor. Please step up to the plate and do that before we continue on with this permit. Thank you.

NDEP-BAPC response #7: Please see response to comment #2.

Verbal Comment No. 8

Okay, I have a question that was prepared, it, I found this on the internet it's dated 2008 in 2007. Loraine was always asking the question "how do hazardous oil from California once it crosses the border into Nevada become non-hazardous like you all told us it did"? And then in 2008 you put this out, the written

determination will recognize thermal (?) as a facility for the recycling of hazardous used oil from California so if they have to have a permit to recycle the hazardous used oil from California when you told us it was no longer hazardous when it crossed the border, what's up with that? Well, it's an important question because (?) it was for thermal fluids, but, see, you told us in 2007 that the minute it crossed the border into Nevada it was non-hazardous, but then these people needed a special permit to treat the non-hazardous waste in California. Someone has to be because that needs to be clarified.

I have one more question on DRI, there doing fine testing but this is coming out in our favor, they said (?) they are only allowed to test 3 of the emission sources they need to test all of the emission sources so they know what is going and they need a list from Bango Oil as to what goes in the process so they know what to test for, can you assure us that you're going to have Bango Oil comply so DRI can do the proper testing on the proper emissions? she did, Holly did. I'm just saying that if they need to test all the emissions points then Bango has to comply because if your only testing the 3 it's not going to give us anything, and they (?) say they have to test them all, and they need a list of everything (?) so they know the test coming out, because when you add a chemical here and a chemical there it changes into something, it could be a toxic gas, who knows, we need to know, we need to know what's in those emissions, they need to test all the points they want not just the (?) Bango wants them to test or the test won't prove anything. That's all I have to say but some of these questions need to be answered and these tests need to be done, we need to be assured that what we're breathing in those emissions is not killing us, is not going to shorten our lives, we need to know what's coming out and DRI is going to do that for us if you can make them, Bango allow DRI to test all of the emission sources not just the 3 Bango wants, they need to test them all especially where little Ron Bell (?) take the toxic stuff out, it needs to be tested what's coming out, that vent when he opens it.

NDEP-BAPC response #8: The State of California designates used oil as a hazardous waste; most other states, including Nevada, do not designate used oil as a hazardous waste. Bango Oil does not store used oil but processes it directly, and so is not subject to regulation as a hazardous waste storage facility. Instead, the facility operates as a hazardous waste recycling facility under a Written Determination issued by the NDEP-Bureau of Waste Management; this Written Determination is only necessary for processing used oil that originates in the State of California. The re-refined oil products produced by Bango Oil are not classified or regulated as hazardous waste in Nevada. Regarding any work to be performed by the Desert Research Institute (DRI), the Division has no authority to require Bango Oil to allow DRI to conduct testing of the facility processes.

Verbal Comment No. 9

A couple of things I was hoping you would address a little bit more in your presentation was the new standards for testing of sulfur dioxide and I understand perhaps Bango is maybe exempt from that I'm not up on environmental law but what I did find interesting in some of the information put out by the EPA is the symptoms that people experience when there exposed to sulfur dioxide and those very symptoms are what all these people are experiencing and myself included to somewhat lesser degree because I'm a little farther away but it says people with asthma children and elderly are especially susceptible to health problems associated with breathing SO₂. I don't know that you know I don't feel really comfortable and

reassured that the modeling and the studies that have been done are really adequately testing the amount of the SO₂ that is being emitted in the atmosphere. I'm hoping you can give me some more reassurance of the accuracy of that data and I would hope that the state, the county, desert research institute the people, all of us could perhaps work together and take all of this data and perhaps bleed some more information I think that if one were to take incidents of the complaints, the time, the date, and that sort of thing not only compare it with the meteorological information as Desert Research Institute is doing but perhaps go back to the plant and see what it is there burning at that specific time, and maybe we could, you know, if there was some more investigative research I think we could get a lot more answers but I think that's going to take cooperation. And I'm asking, I'm hoping, that we could have that, and then I'd like to submit for the record this is a copy of the power point presentation done by Desert Research to the county planning commission also his comments in the minutes as he went over the study and explained a lot of the different panels that he presented there. And also several incident reports that were taken by our Sheriff's Department over, over this, the weekend when the incidents were really bad and I wanted to just point out one you can see it right here, this was one done by a complaint was filed by Lawrence Mori and the deputy went out and the pages are sticking together, and you know we started doing this because we feel like nobody's taking anybody's word for it maybe they'll take the Deputy's word for it but it says just the complaint it said they just returned home from a trip and the smell that Bango Oil's putting off is horrendous, the worst they ever smelt.

The deputy says that the RP I'm not sure what that means? Reporting person, the deputy says he met with the reporting person who told me that they are having problems with the smell from Bango Oil again, said there was no odor for about 5 months but now the odor is back and is very strong, foul smell, the deputy said he noted a very strong foul odor of refined petroleum product in the air, he drove down Cadet and Fisherman Access Road and the smell remained very strong. And anyway we have some other documented incidents I think part of the problem would maybe enforcing this by the time you know, anybody could get out from Carson or even sometimes from Fallon it's dissipated already. But there it is and I think that just about does it, again, I'd just like to stress I appreciate what you're doing but still have a lot of unanswered questions as far as the real, the real accuracy of some of these studies and hope a I mean if that little bit of oil can make that much smell and they've got gallons, big tanks full tanks full of thousands and thousands of gallons of this stuff. (?) It's just common sense, you know, that it's we're going to be affected, that's all I have to say.

NDEP-BAPC response #9: The USEPA has recently revised the national ambient air quality standard for sulfur dioxide (SO₂). This is not a standard for testing SO₂, nor is it an emissions standard that applies to an individual process or facility. The standard represents the maximum amount of SO₂ that can accumulate in an area from all sources in the region. As with any new ambient standard there is a phase in period and a requirement for the State to develop a process for showing how the new standard will be addressed. That process is filed with the USEPA and once it is approved then the new requirements are applied to regulated sources. Typically, the USEPA review process takes several years. The NDEP-BAPC is only in the beginning stages of developing the required plan and at this time no additional requirements have been developed beyond those established in the Bango Oil permit.

The commenter also submitted two sets of documents to the NDEP-BAPC for comment. The documents include four Incident Reports filed by the Churchill County Sheriff's Office regarding odor complaints received in January 2011, and a copy of presentation slides that describe a study,

done for Churchill County, by Dr. Darko Koracin and Jerrold McAlpine of the Desert Research Institute. The NDEP-BAPC's comments regarding these documents are provided in the section that refers to written comments received January 26, 2011.

Verbal Comment No. 10

I'm Brad Goetsch, I'm the Churchill County manager. Some of you guys are familiar with me cause I sit on the other side of this table in fact yesterday I was sitting on the side of this table on another state board. I just (?) on that state board we listen to the folks and go out and visit sites for projects and complaints and things that are going on and I go to all the boards they've got that same attitude. I personally encountered this smell over a dozen times, I've been out there a dozen of times sometimes I don't when I'm out in the Bango area, sometimes just driving to Carson, like today, you can roll down your windows and encounter that same odor so it is something that's real and governments supposed to represent and listen to the people and protection is part of your title and we'd like to work with you and achieve that kind of protection of the folks it is important. The county's concerned that the current level and potential increasing level of public interest and impact in this area we continue to receive a relatively large volume of complaints and I brought to be submitted today a record that goes back a number of years that it just has graphs of the number of complaints and the timing of county complaints received and there are some interesting correlations to days of the week and (?) submit that. To NDEP I think we've shared that with you through our planning department in pieces in the past. The residents and you've heard it today claim a quality of life and potential health impacts and again we perceived this as real, we've heard it enough and these people that there's something going on we don't believe it's being made up. The county continues to work with Bango Oil representatives at the company and we've had some responses and we've had changes made by the company but we're told NDEP and the state hold the position that this is there area of responsibility and the county really doesn't have the ability to enforce or take action in this area and we've worked with our DA and are told by him what we can do legally and what we can't do, so we really as a county are relying on the state and on you folks here today to help us with this issue and to be responsive to the folks with this issue. We acknowledge that our own consultants and our own studies and samples you know have been submitted and have shown as the DRI study we talked about (?) the plume studies and things have correlated with the components I've handed in and gave to you, those air masks (?) studies have shown the correlations with the complaints and the (?) that we've gotten. We want to be sure that there proposed and the model claim the emissions that were expected do get some actual data that verifies or correlates that like most studies and most models you make a conceptual model what you think is going to happen but then you go back out and we're doing other water studies and other things in Churchill county right now that we gather data could be sure we confirm that our model is accurate where we adjust our models by the new or confirmed data that we get the (?) from the public that they question or challenge us Bango Oil and the state on their real liability of self-monitoring and self-reporting and that's not just for Bango that's for any company or anybody that comes in to Churchill county or the State of Nevada the public feels there has to be checked by (?) people by government reps that verify that the self-monitoring data that's being reported is accurate and I guess we're here to ask that those steps are taken to ensure that the data that NDEP is considering when they make their decisions is verified and to ensure for us that the public health is being protected. We have had to in the past questions about times there were complaints and are complaints and questions about whether there's a variability in the product that's coming in and you guys got to smell that a little bit

when it was opened here I guess that's one of them. Our question at the county level is there something going on in a very early product that (?) that creates different emissions at different times and is there a way to understand that better or to address that? I guess then that (?) that was submitted today and I personally request that Bango Oil it's got representatives here and NDEP continue to work together and take some action to help these people and to alleviate their concerns and to address the questions that they ask here today. I guess it is Norm that said it if you guys get a lot of other complaints and deal with a lot of other things then it's easy to deal with (?) and get distracted if you take that sample of oil right there and just take it down to your office and open it up and leave it open it will remind you of what these people are getting every day or very often and will help keep you focused on responding to them, I know you don't want to do that but that's, just think about that if it was that way that's why these folks are so persistent in coming back to you it's sitting right there, I would just ask for responsiveness and to please listen to what you heard today (?) and to help us find a way to look in to it and respond to these people's needs.

NDEP-BAPC response #10:

The NDEP-BAPC appreciates the opportunity to restate its position regarding its regulatory authority and that of Churchill County. In an Opinion dated January 9, 2009 (Opinion no. 2009-01), the State Attorney General's office informed Churchill County that there were no statutory or regulatory impediments to the County taking action against nuisances. County Governments throughout Nevada have broad authority to regulate and require the abatement of nuisances including odors. NRS Chapter 244 contains the requirements that Counties must follow for addressing and abating nuisances. Nuisances are broadly defined as "Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life and property." Odors clearly fit within the definition of nuisance.

Please see response to verbal comment 18 which contains a discussion on self-monitoring and self-reporting. The commenter also submitted to the NDEP-BAPC a record of odor complaints received by Churchill County in 2007 through January 24, 2011. The NDEP-BAPC's comments regarding that complaint record are provided in the section that refers to written comments received January 26, 2011.

Verbal Comment No. 11

You've heard probably all of it but I just want to reiterate that on our property and (?) east of Bango Oil about 2 miles. Several years ago we went to our favorite store, Lowe's and picked up some trees, and they are good sized trees and let's say within a couple of months they were dead. In fact we leave them on the property as a reminder of what might be happening to us and anybody on the commission or from the, you folks, you're more than welcome to come out and take a sample or take the tree and analyze it. And on occasion both Barbara and I experience and suffered with respiratory ailments and were basically healthy people cough, headache, burning eyes, throat and unexplained rash that even the doctors can't explain. Now there may be a correlation or may not, we understand that, and I do have some pictures to share with you they're not the greatest but hope they will give you some insight as to where our property

is and this picture there was a fire back in September and the wind went South of Highway 50 about South of Bango, it went straight over Bango and straight down to Ester Moore's place, so then I've got another one that shows the (?) I don't know what the material was it might have been fog, but it shows the air flow also going down to Cadet Road. And also have some copies of reports that we've made on occasion sure they'll match up with what's in there. And, just like to thank the Churchill County leaders for being here and supporting us, thank you very much.

NDEP-BAPC response #11: Thank you for your comments. Please also see response to comment #1.

Verbal Comment No. 12

[additional comment]: I'd like to say something about Richard saying he broke out with a rash. Sharon Boone and I broke out with a rash and my doctor had to put me on steroids just to get rid of that. Tom Wiley, my neighbor up above me, he broke out with a rash and he went to the doctors quite a bit and he couldn't get rid of it and they finally put him on steroids, it's the only way we could get rid of the rashes. The three of us have had rashes and I constantly scratch because I'm outside with my horses and my dogs a lot when I'm not working and I scratch when I come in just like Dona Jermain said and then I actually start itching on my arms somewhat if it's nice outside I take off my jacket and it causes sores I itch so much that I start breaking out with sores again. So I just want to make that known that I believe that all this chemical stuff that's in these emissions are coming down on us and that's what's causing all this, because we've never had any of that before., and I told the commissioners the last time we were in the building there they can have all of my records, my whole life if they want it on my health because I have nothing to hide, nothing, and they can just have it and do they want with it and like I'm telling you we're deteriorating out there, my head hurts right now from him opening that and I'm feeling it in my chest like I do every night and during the day if I'm outside I'm just letting you know that this is a bad, bad situation were in are hands are tied we don't know what else to do, we can't sell our places, I'm going to put my place up for sale to see if I can get out of there that's my retirement home, that is my retirement home with my horses and my dogs I've got couple of years yet that I have to work before I retire and I can't get out of there. We're stuck.

NDEP-BAPC response #12: Please see our response to comment #1.

Verbal Comment No. 13

I was just going to let Rich speak for me because I can't add too much to what anyone else says we are not at home as much as of our neighbors because we work and are out on the road between Reno and Carson. And a lot of times we don't smell the odor until we come into our gate at night, that's why most of our reports are in the after late, like 6, 7, up to 9 o'clock at night. But we're our gate is the same level as Esther's house, that (?) elevation and that's where that (?) inversion air comes from Bango and we don't because I guess because it's heavier whatever it is its heavy we don't get it as often as the people that live down a little bit lower. But when the wind shifts just right it will come up and it smells like somebody's using starter fluid for bar-b-q or something and were on 10 acres so you know were not

getting it from somebody like that, but it's when the wind is blowing directly towards our house from Bango. We get it up at the house but most of the time we just experienced more when we're coming in through our gate you have to open the gate and so I understand why Esther has suffered so much with it cause were what, how many feet higher? About 25-30 elevation wise I checked it with my GPS. So just that small distance difference we don't get it like people in the lower level, the ones that have the most problems. But we're not always home during the day we've been in Carson City every day and Reno every day this week so we probably won't get home until 6 or 7 tonight. Thank you.

NDEP-BAPC response #13: **Thank you for your comments; please see response to comment #1.**

Verbal Comment No. 14

Everybody's covered just about everything we've had to say but I'm going to read my letter anyway. Just to let everybody know how long our town might have lived on the Carson river, my name is Saundra Mori Mello, for the last 3 and a half years my husband Don and other residents in Lahontan Valley below lake Lahontan have been fighting for their lives with county officials and the NDEP over the horrible odor coming on our property and into our homes. These emissions make us very ill some worse than others, maybe because in 2007 in October I had Pneumonia, Pulmonary Embolism and ended up on oxygen for 2 and a half years. My father is Louis Mori, and he is 88 years old, that family has lived on this end our end of Carson River Corridor for over 100 years, my brother Mark and his wife Julie now own and operate the family meat business Lahontan Valley Meat Packing Company. Our grandfather came to Nevada in the late 1800's to make money to send home to his wife and (?) it was nine years before she could join him in Nevada not long after they settled on the Carson River Corridor. Their family owned 3 different ranches on the Corridor of the Carson River, and when mom and dad were married, they settled on the one that is directly across the highway from the oil refinery. When the emissions hit our house on Cadet Road and we live on Cadet Road but we live right on the Carson River. I get severe headaches, then later congestion and then breathing problems we have a lot of elderly people in our neighborhood and young children, sometimes when the emissions are bad I'm afraid to go to sleep at night for fear I might not wake up, the smell is worse in the evenings and early mornings and on holiday weekends they hit us hard. Because no one is going to come out and test, (?) they can say (?) what a joke, their lawyer, the refining company's lawyer stood up at one of our local meetings and this (?) and said they have a right to pollute, they have a special use permit. We need the NDEP to start checking the plant more often without warning them ahead of time; the plant needs to put in scrubbers or whatever it takes to get rid of the smelly emissions. I just have a little bit more. Our little 6 year old granddaughter has continued to get nose bleeds, as a lot of our residents have. In October we had to take her to an Oncologist out of Las Vegas, she cries when the odor enters their home and our home because she's afraid she would get cancer. One Leukemia cluster in a lifetime is enough; Fallon does not need another one. The people are suffering from burning, sore throat, headaches, nose bleeds, coughs, burning eyes, nausea and other flu like symptoms and much much more. We need help from our state the people are getting sick even their small pets are getting sick, our lives have been turned upside down we can't go outside, and sometimes we can't stay inside the odor is so strong, our quality of life has become effected, please try to help us, thank you.

NDEP-BAPC response #14: **Thank you for your comments; please see response to comment #1.**

Verbal Comment No. 15

My name is Joanie Wenger and I reside at 11511 Fullarson Road right next to Holly Butte, and I came here today because I haven't been able to come to hear any of these hearings in Churchill County or EPA and I wanted to come for myself and get educated as to what the true testimony was and not just read it in the paper. And, my first intention was I was going to give a very objective opinion of my non experience with any odors from Bango Oil because I believe I live far enough away and I've always felt that currents are (?) they go more to the South than to the East and I have had no symptoms no any experiences from it whatsoever and I was fine with that until that vial got opened. Within 15 seconds I thought, I thought, I was going to pass out, I'm going to leave as soon as I make this statement because I don't want to be in the room with this, but that can't be what in my opinion, I just can't imagine that that's what Bango Oil is spilling out, this (?) there has to be a system, there has to be some kind of filtration system I'm not that educated enough on this, I haven't done all the homework that all of you have. I going to be perfectly honest right now, but, I have my ex-husbands property is right above Ester's I've spent a lot of time up there in the last two years and I still didn't get the symptoms. I didn't smell anything, and went up their a lot, and up and down that road, I must have been there at the wrong time, I'm not saying that she's crazy a lot of people are saying she's crazy I don't know, I'm not worried about that. When he opened up that bottle in this room and there's no window open I had an immediate reaction to it, and I don't feel very good at all. So hopefully, my point is, is that that's not being let out of those, just a second, let me finish what I'm saying, hopefully that's just not being shot out of those towers without having a filtration system, because that to me would be toxic. My animals are fine, the dogs the cats my trees are fine, the water's fine my health is fine, I don't know what's going to happen to me after today smelling that, and this is not a joke I but it caught me off guard and just absolutely (?) I want to make another point, every person in this room or (?) senior citizens, we're aging, and I've had health problems before (?) a lot of us are getting health problems because we're getting old (?) those things happen, just like you said we got the pulmonary embolism yes, you don't know if you can blame that on Bango Oil. There's certain things we just don't know about SO2 that's for sure, and having you keep that in a bottle and test it, and these rashes, there's lots of other things that can be causing any of it, I'm not saying there is, but there's sometimes when we age all of us know in this room that we have to take better care of our health, I don't know how many of us in this room are on blood pressure pills? Why don't you raise your hand? (?) No, I slept by your house for a whole week, I'm fine with it. (?) Let me make a comment, okay? no one is saying bad about you, I believe that you're having health problems, believe me, I'm sorry your dogs are getting sick I'm sorry that your horses are getting sick, I hope (?) animals don't get sick, he's right next door to you, I don't know that it's fair for you to speak on behalf of Tom Wiley when he's not here. These are my points; I'm just being as objective as I possibly can to let you know that is some nasty stuff that just popped out of that bottle and I hope to God that it is going to have a filter on it or something or else maybe we can shoot it up to space or maybe there's some new technology that we can talk to those guys that say the miners they might have some new thing that can send it way up to space or a fan, a fan will blow it over to my place, I don't want it over there. But what can you do I don't know, I just want to thank you for your time and I wanted to make this observation, thank you.

NDEP-BAPC response #15: **Thank you for your comments.**

Verbal Comment No. 16

I think you guys are going to be a bit taken back by the point I'm going to be making. I'm Bob Johnston I'm a 15 year resident of Churchill County in Fallon. I represent (?) a non-profit organization that represents only retirees and elderly people, a lot of constituents sitting in this room right here. I'm the legislative interns chair representing over ten thousand members in my organization which in reality I represent 40,000 retirees in the State of Nevada. Our organization represents the state retirees here with their insurance and also their retirement, the retirement separate point, but their insurance is I just got through with 2 days of full days going with meetings with medical people, insurance people, and so forth dealing with health problems that deal with (?) and that is exactly our entire project. We deal with everything else there are 943 bills that have been entered into the legislature already 27 of those bills deal with the health and safety of senior citizens and retirees. Our work is cut out for us I feel obligated to our people, I have members in here I have former students in here I have acquaintances in here I have people that I've worked with in here and everything else, and yes, were all getting older. Our health problem at least tells you one thing, it will reverberate all the way down, and (?) this Bango business has already been talked about and several of the legislative people I know about. (?) every day of the session in fact my wife and I both are in the process in moving to Carson we are representatives, legislative representatives, If you want to put it in (?) yes, I am a lobbyist, I lobby only for the health and the welfare of all our seniors regardless of whether they belong to our organization or not. In talking to (?) assembly people and the senators especially from the north, this subject has already come up, it came up yesterday in our discussion for 4 hours of how we dwelt with the different aspects that affect the health of the older people. And so, like I say, you (?) by yourself, it's already spread, and we know what is going to happen here, it's going to be something that we deal with, we deal with the people (?) Vegas, we've already dwelt with some of those problems too, so you guys are not the only ones; however those problems down there have been from sewage treatment plants and stuff like this, not from what you're dealing with here (?) and I travel back and forth to Carson all the time, (?) know how may time that we move back here (?) travel back and forth, I've smelled that, (?) smell that anywhere from (?) in the morning, 5 o'clock in the morning, we smell it when (?) we come home in fact two days ago we (?) meeting over here when we drove over that hill it was 8:30 at night the odor was absolutely horrendous. (?) she's called the people on it and everything else (?) so we have documentation on it, so it's just not this, I live on the other side of Fallon I live in the vicinity of 4 of the largest dairies in Churchill county. When that wind is right I mean to tell you I know what that smell is, and it becomes overpowering for my mother-in-law who has asthma problems and everything else, she was a rancher, and even then the odor that came from those dairies at times, really set her off (?) so I just wanted to let you know, in my aspects I feel a responsibility (?) members in here, in Fallon alone we have 900 state retirees 900 state retirees and I have an obligation to represent them, like I say, the health and safety bills have already been introduced by the Attorney General all the way down (?) all over the state. So, I just wanted you to know (?) have problems.

NDEP-BAPC response #16: Please also see response to comment #1.

Verbal Comment No. 17

Again, there is, this issue, first of all I want to say that Bango did give this to me and ... this is actually a fuel that is used to re-distill the oil so this is actually burns so this is not exactly characteristic but I'll

take your word for it that it's a similar odor, but this is actually burned and without a lot of control. So any way, it just wanted to mention it's not exactly the odor, the odor is complicated though and but it can be pulled apart we did a quick run over a period of a week and it is a very complicated mixture but I think there is reason to be very, very careful of this (?) because it begins as a compound as similar to organic phosphates insecticides these (?) so it is not, I can't tell you there's a toxicity, toxic component to this but you can't tell me there isn't either because it simply is not known but it comes from a stock that could be very problematic and I think that's an important an almost a compelling reason to spend more time on this to understand what the chemistry is of it but it's not going to be an inexpensive process to do that. The source is probably almost certainly (?) scientist from DRI now at UNR and I were involved with discussion with the county the county commissioner he was present there. The source is probably fairly well known it is probably this material but (?) stacks of this I don't think there's a lot of debate about where they or there may well be but I don't think there is. And certainly I think it's been established just over the last few years I think Don, Esther and I'm not sure who else came into my office about three years ago now and said we've got a problem here we need help on, because I've been working with some Silver Springs folks. This one is complicated but it's not unsolvable the real question now is the reasonable source or reasonable place where it comes from. A lot of complaints and the modeling data has shown that the source is almost certainly the Bango Oil and so I think the question is now at the NDEP are you going to enforce this state regulation? Because if the Saint Croix device is probably not appropriate, it simply isn't going to work but there is established odor from Bango Oil that's causing these people tremendous amounts of discomfort and so the question is are you going to enforce you say we can't enforce because we don't have the authority it's time then to begin very quickly to begin looking at new odor regulation that would solve these people's problems because we don't know what the toxicity is it may be significant but just the impact on their health and wellbeing is unquestionable and I think something really needs to be done on this specific problem.

NDEP-BAPC response #17:

The Nevada Administrative Code (NAC) 445B.22087 prohibits the discharge of offensive odors from stationary sources. This regulation requires the NDEP to investigate an odor when more than 30 percent of the people exposed believe that an odor is objectionable. An odor violation is determined only when two or more odor measurements are taken within one-hour and determined to be detectable after being diluted eight-times (8X) with odor-free air. This standard only applies to facilities that are subject to air quality permitting requirements and is designed to address strong, localized, persistent odors.

Determining the number of people exposed and how many find an odor objectionable, make this regulation difficult to implement. Likewise, obtaining odor samples is difficult because many odors occur intermittently and are highly transient. Because of the difficulty in meeting the criteria established in the odor regulation, the NDEP does not wait to determine if a significant number of people in an area find an odor objectionable. Rather, when an odor complaint is made, or when a potential source of an odor is identified, the NDEP works with facility owners and operators to reduce or eliminate an odor through engineering analysis of facility processes and through the application of process changes and/or additional pollution controls. Any modification made to the process by the facility owner or operator is typically voluntary. If resolution cannot be reached and the NDEP continues to receive complaints, then odor samples are taken and analyzed by a qualified lab. Should the lab analysis demonstrate that the odor is above the allowed threshold, a violation

would be issued and a penalty assessed.

The Bango Oil facility began operating in March of 2007. The NDEP began receiving odor complaints in May. Early in NDEP's investigation a comprehensive engineering analysis of the facility's processes was conducted. NDEP identified two processes as the most likely sources of odors. The NDEP required sampling of the two processes to identify the presence of odor causing compounds. The sampling showed that six sulfur compounds were present in the gas stream of one of the process heaters in concentrations well above established American Society for Testing and Materials (ASTM) thresholds known to generate noxious odors.

Bango Oil agreed to make several process changes to reduce the sulfur emissions from the process heater and other identified potential sources. In addition to these process changes, an evaporation pond was identified as potential source of odors. The pond was closed and removed in October of 2007. Following each process change, the NDEP required emissions testing. Over a 2-year period this facility conducted 5 separate series of emissions tests (by contrast, a source of this size is normally required to test once every five years). The sampling conducted by Bango Oil showed that concentrations of sulfur compounds from these processes were reduced to undetectable levels and overseen by NDEP after the changes were made.

Independent of the NDEP, in 2008 Churchill County began ambient odor sampling in an effort to identify the source of the odor(s). The sampling conducted by the County utilized a hand-held real time monitoring device. To date, the County has collected 2,740 samples at the perimeter of the Bango Oil plant and in the vicinity of the residences of complainants. No odors were detected in 2,731 samples, and in nine samples odors were only strong enough to be detected at a 2X dilution level; well below the 8X dilution level of the State's odor standard. In Churchill County's report to the County Commission dated October 3, 2008, J. Rick Whimple states, *"The evidence collected during this investigation has shown that the Bango Oil facility is not discharging an odor that amounts to a nuisance, the facility is not discharging a hazardous substance, the facility is not in violation of any permit issued by NDEP, the facility is not in violation of State law or County ordinance, there is more than one point source for odors in the area and the level of the odors do not exceed a 2 dilution threshold level indicating that the odors in the area, no matter the source, are very mild to mild"*.

In response to the complaints heard at this hearing, the NDEP conducted odor sampling from March 4th to March 8th, 2011 (please also see response to comment #2). The sampling was conducted late at night, early in the morning and over the weekend in response to the concerns raised. The sampling was conducted using a device that captures a sample of the air which is then sent to a lab for analysis. Fourteen samples were collected and analyzed according to three ASTM methods. Only one of the 14 samples had an odor above the blank sample level, at approximate 3X the dilution level; still well below the 8X level of the State's standard.

The NDEP-BAPC is implementing and enforcing all applicable air quality regulations including NAC 445B.22087 for offensive odors. To date, the NDEP has not determined that a violation of the odor standard has ever occurred.

Verbal Comment No. 18

My name is Arthur Mallory: I'm the Churchill County District Attorney and I just want it on the record for the benefit for the people here hearing this testimony. Number one we don't allow drunk drivers to self-report okay, we take the man and give him a (?) you might want to think about how your procedures work in that regard especially in this day and time. If you trust everyone that's great, if not I'm not saying anything bad about anyone personally, think about how your regulations work that's one. Number two many of you've watched the Washoe county commission meetings the Clark county commission meetings you see the people come in with ten (?) formal hats talk about (?) and stuff like that. That is not this group, most of this group, most of these people I've known over 20 years and they are reasonable citizens who are here voicing their reasonable complaints. There not a bunch of rebel rousers we don't see them in every commission meeting screaming about the noise the dump trucks make, these folks are sincere, and you need to realize that. And number three, I'm sorry that I missed this but I'll be glad to repeat it and number three I will suggest that time you have a meeting a bigger room, okay, because I believe you might even have more people at the next meeting if this is any indication. So I would ask if you'd please keep in mind we all work for the people not for ourselves not for the state government we work for the people who work the state is owned by half of the people, let's please try to keep that in mind as we try to go through that process and hopefully we can get something done for our citizens has been mentioned earlier, thank you very much.

NDEP-BAPC response #18:

The NDEP has conducted 16 inspections of the Bango Oil facility and dozens of field investigations since May of 2007. Those inspections identified some infractions of the air quality regulations and conditions of Bango Oil air quality permit. The NDEP-BAPC issued violations accordingly, required Bango Oil to make all necessary changes to return to compliance and pay appropriate penalties for the violations.

Bango Oil is required to conduct routine emissions testing that NDEP-BAPC compliance personnel observe to ensure its accuracy and integrity. In 2007, required testing showed that six sulfur compounds were present in the gas stream of one of the process heaters in concentrations well above established American Society for Testing and Materials (ASTM) thresholds known to generate noxious odors. Several process changes were made to reduce the sulfur emissions from the process heater and other identified potential sources.

All regulated sources, including Bango Oil, are required to maintain specific process and operational records and submit various reports as specified throughout the air quality operating permit. Those records are routinely audited by NDEP-BAPC personnel for compliance. Failure to maintain required records or submit required reports result in appropriate enforcement. Falsification of records or documents can result in not only a significant monetary penalties, the NDEP-BAPC also has the authority to proceed with prosecution for any criminal offense.

Verbal Comment No. 19

(?) I'll be representing Bango Oil and I don't need to tell you guys this is a regulatory hearing, all the regulations are met. The permit needs to be approved, it already has been approved, were dealing with the same permit that was approved two years ago were dealing with the state environmental commission, the environmental commission approved that (?) the only thing since then I've been through less (?) and to just to respectfully disagree with what (?) said, I do completely agree that if you have a drunk driver out there you got to find him, you go out and find him and run your test, they go over .8 you arrest them. Similar to us we go over an 8.0 dilution ratio you arrest us. We have the regulations, the regulations are changed it might be a different story but this isn't the forum to change that, thank you.

NDEP-BAPC response #19: **Thank you for your comments.**

Verbal Comment No. 20

I didn't fill out one of those cards but I have a comment. I'm a resident of Carson Highway and we do get our share of the smell that you folks have all talked about and just as I sat here my eyes began weeping that's the first thing that happens, it wasn't strong enough to bring on the call to the (?) but I feel tired, really, but what I'm saying I feel like I'm just darn glad to have been here today because I finally found somebody that admitted that the smell came from Bango Oil I've been working on that getting nowhere, thank you. I was born and raised on the place that I've (?) never, never had a smell like that, (?) a long time, so that is not oil that there doing out there, it's something else like they said, at night is when you get it. The other night coming from Fallon for a meeting (?) you could smell it, it got in my house and it took 5 days to get the smell out because it got in my curtains. And I am getting (?) or anything, and it's bad. I just want to say Phyllis Baker lives right across the road from me and I've never smoked also, I never smoked a cigarette my whole life.

NDEP-BAPC response #20: **Please see response to comment #1.**

Verbal Comment No. 21

Unidentified: *I'd like to just make a comment on the remarks that the lady from (?) made, what you need to understand from her point of view, and I'm sure she's being honest and she has just not experienced the things that we have, but the topography of where her ex-husband lives is the same elevation as where we live and there's also a mound of sand fill behind where he lives it goes Bango Oil is here there's a mound and he lives right at about the same elevation as we do, so I don't think the wind currents going to come from Bango and swing all the way in and then back out again. So I'm sure she hasn't experienced any of that unless you have you don't understand how bad it is, so that's the only thing, I just wanted to clear that up (?) his place is not in the correct what inversion liner to the wind.*

NDEP-BAPC response #21: **No response necessary.**

The following section refers to written comments received January 26, 2011.

Written January 26, 2011 comment No. 1

Esther Moore: *No written comment made; submitted to the NDEP-BAPC monthly calendars from January 2010 through January 25, 2011, describing odors she experienced.*

NDEP-BAPC response #1: The NDEP-BAPC acknowledges receipt of your calendars, they will be added to the complaint record. As noted in our response to written July 14 comment No. 6, the NDEP-BAPC's ability to investigate events that have occurred in the past is very limited. Please see response to verbal comment #1.

Written January 26, 2011 comment No. 2

Holly Bute: *Submitted two sets of documents to the NDEP-BAPC for comment. One document is a copy of the presentation slides that describe a study, done for Churchill County, by Dr. Darko Koracin and Jerrold McAlpine of the Desert Research Institute (DRI). The presentation, entitled "Odor Analysis Using Meteorological Data and Dispersion Modeling," was given on November 10, 2010 to the Churchill County Commission. According to the slides, the study was done in two parts: "Preliminary links between complaints and meteorological data," and "Preliminary links between the complaints and the computer model results (emissions, meteorology, transport, and dispersion)." Ms. Bute also submitted four Incident Reports filed by the Churchill County Sheriff's Office regarding odor complaints received on January 16-17, 2011.*

NDEP-BAPC response #2: According to the presentation slides provided, in the first part of the study the researchers compared the wind direction to location of 23 complaints and concluded that there was a "likely" correlation between the complaints and Bango Oil. In part 2, at the County's request the researchers' attempted to analyze potential odor "impacts" by modeling the dilution of exhaust gases from three permitted systems (three exhaust stacks) at Bango Oil. The model contains no actual emission data: stack parameters were taken from the air quality operating permit; one of the systems (permitted system 5) has not yet been constructed. The researchers assessed "impacts" by comparing results to a theoretical dilution factor of 41,000 for nitric oxide. The analysis represents a generalized, hypothetical representation of the worst possible impacts that might be expected from any facility in the same location if operated at maximum permitted capacity.

The events covered by the Incident Reports occurred during unseasonably mild weather over the Martin Luther King Holiday weekend; January 16 and 17 had the highest average temperatures for the month of January 2011, as recorded on meteorological stations located in Fallon, Lovelock and Reno. The NDEP-BAPC notes that one of the complainants (incident report C11-00290) reported that there had been "no odor for about 5 months, and now the odor is back." NDEP-BAPC complaint records show that odor complaints typically occur during calm, mild weather, especially during weather inversions in the fall, winter and spring.

Written January 26, 2011 comment No. 3

Brad Goetsch: *Submitted to the NDEP-BAPC a record of odor complaints maintained by Churchill County comprised of (i) graphs indicating the number of complaints (“calls”) received by the County, on days for which the County received complaints, for March 22, 2007 through January 24, 2011; (ii) tables showing the percentage of calls represented by each date for 2007-2001 and on an annual basis; and (iii) tables summarizing the number and percentage of complaints filed by each complainant for 2007-2011 and on an annual basis.*

NDEP-BAPC response #3: The NDEP-BAPC acknowledges receipt of the County’s complaint and complainant information. As noted in our response to comment #1, the NDEP-BAPC’s ability to investigate events that have occurred in the past is very limited. The record compiled by Churchill County indicates that 44 different residences (persons, families, or households) called in 1256 complaints in March 2007 through January 2011. The record shows that four households account for 74.8% of the complaints, and five residences account for over 80% of the complaints.

Written January 26, 2011 comment No. 4

Richard Webberson: *Under the title “Air Flow in Lahontan Valley,” submitted four annotated photos taken in September 2010 of the area between Bango Oil and 12780 Carson Highway. Three of the photos were “enhanced (brightness and contrast) to show the image of air flow.” Also submitted seven odor complaints filed in June 2009 to December 2010 with Churchill County alleging odors emanating from Bango Oil.*

NDEP-BAPC response #4: Thank you for the information. Please see response to verbal comment #1.

Written January 26, 2011 comment No. 5

Sandra Mello: *Submitted letter describing headaches, congestion & breathing problems, nose bleeds, sore throats, coughing, burning eyes and other afflictions resulting from odors she and her family experience at their residence located on Cadet Road near the Carson River. The smell is worse in the evening, early morning and on holiday weekends. Quoting from the letter: “We need the NDEP to start checking the plant more often without warning them ahead of time! The plant needs to put in scrubbers or whatever it takes to get rid of the smelly emission... The odor is so strong that our quality of life has become affected. Thanks.”*

NDEP-BAPC response #5: We appreciate your comments. Please see response to verbal comment #1.

Written January 26, 2011 comment No. 6

Noreen Holman: "I'm writing in regards to the emissions from Bango Oil. Since they opened I have had repeated respiratory problems. Recently hospitalized with pneumonia. Please reconsider any expansions of this plant and consider the health of the residents and our children."

NDEP-BAPC response #6: **Thank you for your letter. Please see response to verbal comment #1.**

Written January 26, 2011 comment No. 7

Donna Jerman: *submitted 12 photographs with Bango Oil in the distance. Eight photos were taken on a clear day, four were taken on a cloudy, damp(?) day. The photos taken on a clear day show a low-lying cloud drifting over Bango Oil, to the west of the facility, and obscuring the hill located north of it; the photos taken on the cloudy day show a narrow plume rising from the facility.*

NDEP-BAPC response #7: **The photographs taken on the cloudy day appear to show a vapor plume rising from the facility.**

Written January 26, 2011 comment No. 8

Sharon Boone: *Submitted the NDEP-BWM's February 21, 2008 "Public Notice and Request for Public Comment upon Issuance of a Written Determination for Recycling of Hazardous Waste" issued to Thermo Fluids, Inc., located in Sparks, Nevada. The Notice describes that the "Written Determination will recognize Thermo Fluids as a facility for the recycling of hazardous used oil from California." In handwritten annotations, the commenter questioned, "If it is hazardous for Thermo Fluids why isn't it hazardous for Bango. They processed it. They need to be under RCRA. Storage tanks?"*

NDEP-BAPC response #8: **In California, used oil is designated as a hazardous waste; used oil is not designated as a hazardous waste in most other states, including Nevada. As described elsewhere, Bango Oil does not store used oil but processes it directly, and so is not subject to regulation as a hazardous waste *storage* facility. Bango Oil has a Written Determination, issued by the NDEP-Bureau of Waste Management, which enables the facility to *recycle* used oil from California.**

Written January 26, 2011 comment No. 9

Marie J. Duncan:

Please consider some of my issues before renewing the Class II Air Quality Operating Permit for Bango Oil.

I am asking you to investigate some of my observations concerning the clean air act, environmental protection status of Bango Oil.

I do believe after talking to some individuals that people believe that we are trying to cause problems and there is no odor or physical problems from the Bango Oil plant.....the fact is, this odor is real, if you want to join us at our homes, you can experience the sensations and then you will wonder, as we do, is this really harmful to our bodies.

I don't know what chemical components are causing the odor we are smelling from Bango Oil I am worried what actually is making my eyes hurt and red, nose have a bad kind of burning sensation or the sensation you get before you sneeze, and my throat feeling very uncomfortable while I am breathing whatever from the Bango Oil plant. I have been having nose bleeds very often for the last two years, don't know if that problem is related or not.

I never got the odor much but the last month it has been pretty constant.....evening, night and mornings (use to be early morning but now seems to be prevalent even at 8 a.m.). I don't know if the moisture in the air contributes to it being so often. I cannot tell you the length of time the odor stays because I smell it if I go outside before I go to bed and then in the mornings when I go out to feed my livestock. One occasion last summer, I got the odor all day. I farm, so it isn't like I can stay in the house out of the elements.....at times I irrigate all night in the summer.....we also own lots of livestock. This is not a make-believe irritant, we really need to know if it is in fact harmful to our health.....our bodies are definitely trying to reject whatever is in the components making the odor.

A gentleman spends lots of time at my house that is on oxygen 24/7whatever is causing physical signs to our bodies really has me worried for him.

With all the new technology, I believe there is some way that Bango Oil can eliminate this odor and the components causing it. If the plant is expanded, I am worried that we will be bothered with stronger odors and the days that we breathe it will be more often. The last month at my home, it has been noticeable almost every night, that had not been the case previously. I always get it when the wind blows but other than that it was only occasionally. Now that it has been frosty or damp, seems the odor is very strong. The quality of air at Swingle Bench definitely has diminished. I believe along with the economy, the presence of the Bango Oil odor has reduced the value of our property. Any person that sells property must disclose this odor from Bango Oil. I do believe that if a person was required to inhale this odor for 24/7, they would have to move. When you smell the odoryou recognize it and it is very distinct....your body reacts immediately to whatever accompanies the odor. I will say that the perfume odor was HORRIBLE, have not smelled it for a long time. The odor is a nuisance, but the reaction of our bodies to the components of the odor is the scary part.

Please consider making Bango Oil do whatever is necessary to stop the odor.....the components of the odor is the scary part.....there must be some technical way to eliminate both. Believe me, this is real. I believe the emissions for a company should be controlled at all times. A company should not be allowed to move in a area and make life unpleasant (if we knew what components were causing the odor, maybe even dangerous) for the residents.. I do believe the people on the Carson Highway are really bothered more by this than I am. I didn't notice it that often until lately.

Thank you for listening to me.....

NDEP-BAPC response #9: **Thank you for your letter. Please see response to verbal comment #1.**

Written January 26, 2011 comment No. 10

Kathi Griffis: *Email dated Jan. 15, 2011 states: "I am writing in regard to a letter I received announcing a meeting on 26 January 2011. I am a concerned resident, living in the vicinity of Bango Oil. There used to be a phone number we could call if we detected an odor, but, conveniently, it is now out of service. Nevertheless, I would like to make it known that we have been noticing an odor pretty regularly since about Thanksgiving of 2010, especially as we drive down the hill that passes the Bango Road turnoff on the Carson Highway. My home is on Spring Flower Lane, and we don't notice the smell very often, but in the past few months it has been very prevalent.*

I am saddened to realize that it is highly unlikely that you or anyone else in Churchill County will do anything about this problem (and it is a problem, despite Churchill County's efforts to sweep this MAJOR MISTAKE under the rug), but I still hope that my opinion at least counts and I would like this email to be on the record.

I don't know what BO is doing that would cause the smell to be more noticeable over the past few months, but it is noticeable enough to cause concern for my more closely located neighbors and my animals.

Thank you for your time and for any efforts you may make towards resolving this problem."

NDEP-BAPC response #10: **Thank you for your letter. Please see response to verbal comment #1.**