

John Walker

From: Daniel Galpern <galpern@westernlaw.org>
Sent: Sunday, October 09, 2011 11:10 AM
To: John Walker
Cc: Chris Mixson; Rose Marie Reynolds
Subject: NV Energy Permit to Expand Coal Ash Landfill at Reid Gardner
Attachments: 20110908 Signed Permit w OCR.pdf; 20101108 Moapa and Sierra Club Appeal of SNHD Landfill Decision to the SEC - Updated.pdf

Dear John,

I hope you are well. It was good to see you over the summer at the SEC hearing on the global warming petition.

As I committed to do in my email of May 9, 2011, sent on behalf of the Moapa Band of Paiutes (the Tribe) and the Sierra Club, which email is reprinted below, I am writing to let you know of the final decision of the SNHD regarding NV Energy's application to expand the coal ash landfill at Reid Gardner. On Sept. 9, the SNHD issued Permit # LFOO6-CMF-01. I have attached that for your reference and that of Rose Marie (copied here as well).

The Permit incorporates a number of documents by reference, most centrally the Mesa Landfill Sampling Plan (MLSP). We received that document just 3 weeks. It is not been subject to public review and was not approved by the SNHD, but it is non the less expressly incorporated to and cited to in the Permit. The MLSP is over 28 megabytes, so too large to attach here. However, I have sent that to you through my google.docs site. Please let me know if you have trouble downloading that, and if so I will copy and send it to you on a CD. I will, however, be travelling Monday and Tuesday — back Wednesday.

There are still several documents that the Permit specifies are incorporated into the Permit by reference that we have not received — but that we have requested. I expect that the SNHD will get those to us early next week. These include, among several others, amendments to the MLSP, amendments to the application (the application and amendments are incorporated by reference as conditions of the permit), and a plan for the monitoring of the two longest live isotopes of Radium.

Petitioners Sierra Club and the Tribe are now prepared to move forward with their Appeal of the SNHD decisions, which was provided to you in November 2010 but held in abeyance until final SNHD action. I have attached a copy of that request for appeal here for your reference.

Unless it is not good for you (in which case, please suggest a different day) I will call you on Thursday, Oct 13, to discuss possible hearing dates and briefing schedules.

I will also provide you with a a more definite and detailed statement of the matters being appealed to the SEC within one week of receiving the documents that have been requested of the SNHD but that have not yet provided to my clients (which documents, as indicated above, are incorporated by reference into the Permit). As indicated above, I presume that the SNHD is aggregating these and will be sending them forthwith. But, so as to preclude unwarranted delay in the SEC's review of the SNHD's final actions, if these documents are still not received by my clients by Oct. 17 I will proceed to submit (by Oct. 19) our specific statement of issues for appeal based on an assumption that the SNHD has still failed to respond to our request because the documents themselves have yet to be submitted or else are required to be first approved and have yet to be approved by SNHD.

In addition, in part to preserve all options for review, my clients plan simultaneously to move for declaratory judgment and an extraordinary writ for review with the district court for Las Vegas. At your request, I would be pleased to supply you with a copy of that filing after it is accepted by the court.

Thank you John (and Rose Marie) for your assistance in this matter. I certainly will appreciate your letting me know of any procedural developments or if I can provide to you other information or materials that you require or think would be helpful going forward.

Sincerely yours,

Dan

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On 5/9/11 3:12 PM, "Daniel Galpern" <galpern@westernlaw.org> wrote:

5/9/2011

John B Walker, Executive Secretary
State Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249

Dear John,

Thank you for the call today. We are comfortable with your decision to hold off on moving forward with an appeal to the State Environmental Commission until such time as the Southern Nevada Health District Board of Health acts, or declines to act, on Sierra Club's reconsideration request.

As we discussed, I will let you know how the SNHD Board of Health chooses to proceed on our request to it. In brief, we have sought the Board of Health's action to reconsider its 10/28/2010 decision, by which it approved NV Energy's application to vastly expand its coal ash landfill at Reid Gardner.

Attached is my letter from last week seeking reconsideration at the next Board of Health meeting.

Sincerely yours,

Dan Galpern