

1 BEFORE THE STATE OF NEVADA, STATE ENVIRONMENTAL COMMISSION

2 In Re:

3)
4 Appeal of NDPEs Permit NV 00230270286)
5 Rockview Farms, Inc.)
6 (Ponderosa Dairy))

ORDER REGARDING PETITIONS TO
INTERVENE BY ROCKVIEW FARMS
AND AMARGOSA CITIZENS FOR THE
ENVIRONMENT (ACE)

7 On March 31, 2009, this matter came for a preliminary hearing before a panel of the
8 State Environmental Commission ("Commission") on Rockview Farms' Petition to Intervene,
9 Amargosa Citizens for the Environment's ("ACE") Request for Order to Intervene, and
10 Rockview Farms' Opposition to [ACE's] Petition for Leave to Intervene. Appellant John Bosta
11 appeared and represented himself. Appellant Antonio Guerra Martinez appeared and
12 represented himself. Respondent Nevada Division of Environmental Protection ("NDEP")
13 appeared and was represented by its counsel, Bill Frey, Esq. and Janet Hess, Esq. Rockview
14 Farms, Inc. appeared and was represented by its counsel, Jim Butler, Esq. and John
15 Zimmerman, Esq. ACE appeared and was represented by its counsel, John Marshall, Esq.

16 After considering the written petitions to intervene and the opposition, and after hearing
17 the arguments of Bosta and Martinez and counsel for NDEP, ACE and Rockview Farms, and
18 good cause appearing, the panel finds that Rockview Farms as the permittee is a necessary
19 party to the appeal.

20 The panel further finds that ACE filed its petition for leave to intervene on February 13,
21 2009, more than 10 calendar days after Bosta and Martinez filed their notice of appeal in
22 November 2007. ACE represented that the reason for the delay was that it first filed a form for
23 a declaratory order on groundwater monitoring at Ponderosa Dairy, which the Commission
24 considered at its February 11, 2009 meeting and denied, in part, because it would circumvent
25 the contested case process. ACE also represented that it was not filing a separate appeal,
26 that it would be bound by the issues raised in Bosta's and Martinez's appeals, that no
27 prejudice would occur because the appeal process had not occurred, and that it would get the
28 appeals moving if its petition were granted. Bosta and Martinez represented that they had not

1 pushed their appeals because they could not afford counsel. ACE, Bosta and Martinez all
2 agreed that they would present one case at the appeal hearing if ACE's petition for leave to
3 intervene were granted.

4 IT IS THEREFORE ORDERED that Rockview Farms' Petition to Intervene is
5 GRANTED.

6 IT IS FURTHER ORDERED that pursuant to NAC 445B.8915, ACE's Request for
7 Order to Intervene is GRANTED on the condition that Bosta and Martinez understand that
8 ACE will be their legal representative and their appeals will be consolidated pursuant to NAC
9 445B.8957.

10 Dated this ____ day of April, 2009.

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14 Lew Dodgion, Panel Chair
15 State Environmental Commission
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