

Email: Dan Galpern to Lina (Carolyn) Tanner of 9-28-10

Lina,

I want to be sure to request for the following document among those that NDEP is searching for:

Converse, 2007, Geotechnical Data Report, 320-acre Mesa Fly Ash Storage, Feb 20, 2007.

This document was listed in the Encyclopedia as document No. 332. Even if it is with NPC, we believe it should have been submitted to NDEP.

Thank you.

Dan

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Email to Lina (Carolyn) Tanner of 9-27-10

Lina,

Thank you for your response.

I have made arrangements with Legal Copy Cats to receive the documents you had sent there.

Regarding the other documents that you will advise us about — namely those within possession of the BWPC, please consider this a public records request of the BWPC or any other part of NDEP that may have those documents. We appreciate your action to secure these for us as soon as possible.

For your information, I took your suggestion to contact Tom Woodworth to seek his assistance in (1) securing those documents that were referred to in the Reid Gardner Station AOC Encyclopedia of Supporting Documentation but have not yet been located at or provided to us by NDEP, and (2) securing a site visit of the Reid Gardner facility. Tom's clients have directed him to decline both requests.

**From:** Daniel Galpern [<mailto:galpern@westernlaw.org>]

**Sent:** Wednesday, September 22, 2010 12:35 PM

**To:** Woodworth, Thomas

**Subject:** FW: Sierra Club Records Request

Thomas Woodworth  
Assistant General Counsel

NV Energy, Inc.  
6226 West Sahara Ave, MS 03A  
Las Vegas, NV 89146  
(702) 402-5694  
[twoodworth@nvenergy.com](mailto:twoodworth@nvenergy.com)

Hi Tom,

I look forward to hearing back from you today, if possible, about meeting with yourself and NV Energy personnel in charge of operations with respect to the RG waste ponds and landfill(s). We would appreciate if these meetings could be set for Oct 4, from 830-1030am, at your offices in Las Vegas, or else at another location in Las Vegas, or else at 930am in Moapa NV.

In addition, we would greatly appreciate it if NV Energy would kindly supply us with the documents, on the attached, that NDEP maintains it does not have in its possession. Please see the attached "NDEP Redline re Location..." Receiving these in electronic, searchable form would be most convenient.

Thank you very much.

Dan

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Email to Lina (Carolyn) Tanner of 9-15-10

Dear Lina,

Thank you for your note. ....

...as for our requests for documents and meetings, we eagerly await your response. While, as you note, our request for an appeal was filed July 2, our requests before and since that time to complete the record, ... still have not been fulfilled, and it is for that reason that establishing a briefing and hearing schedule at this time is manifestly premature.

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Excerpts of email to Lina (Carolyn) Tanner of 9-13-10

Hi Lina,

Please see the attached two pdf documents, in response to your email and, as well, in request of several other necessary documents, in request of a meeting, and in request to conduct a site visit.

Please let me know. Thank you.

Yours,

Dan

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Excerpts of letter to Lina (Carolyn) Tanner attached to 9-13-10 Email

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Hi Lina:

This is to respond to your email of last week (9/8/10), and to make several additional requests of NDEP.

As to existing documents that we have sought that are clearly in the possession of NDEP in Las Vegas, I have contacted Legal Copycats as you suggested, although we would appreciate if these documents could be provided to us directly and quickly from NDEP.

We found two of the documents we were seeking on the BCA website, but that reduces only a bit the 55 or so documents that we need that were listed on the Reid Gardner Station AOC Groundwater Investigation Encyclopedia of Supporting Documentation. Please see the attached, revised file.

Regarding the other documents not denoted on the Encyclopedia of Supporting Documentation as at NDEP, we would be very surprised to learn that these are not in fact in the position of NDEP. These documents, after all, are support documents providing detail that BCA will have needed to verify and retain to be able to review commitments made and compliance achieved (or not) over time with various relevant administrative orders and requirements.

It is difficult to believe, for example, that permit applications to NDEP, or NV Energy correspondence in response to NDEP comments, or other NPC/NDEP correspondence, or notices of violations regarding pond discharges, or even geotechnical evaluations of the ponds, or corrective action plan responses to NDEP – that these have not been retained by NDEP.

... I should just speak with Shannon Harbour directly about this, and I am fine to do so unless that is not acceptable to you (and, if so, please let me know).

If, after that is done, the documents really do appear to be missing or not otherwise available to NDEP, I ask that NDEP request them immediately from NV Energy or its contractor.

There is some additional information that we need, as well.

1. The record supplied to us had only a small share of quarterly ground water monitoring reports. The additional ones we need are:

2002 1Q-4Q

2003 1Q-4Q

2004 1Q-4Q

2005 1Q-4Q

2006 1Q-3Q

2008 1Q-4Q

2009 1Q-3Q

2010 2Q

2. The quarterly groundwater monitoring reports that we do have fail to contain information on water recovered from the interstitial leak detection / leak collection layer between the primary and secondary HDPE liners for the newly double-lined ponds. Please provide all such information, at least from 2002 to current, including the one due on 7/28/2010.

3. During our August review of NDEP documents housed in Carson City, Jeryl noted that NV Energy had not yet submitted any hydrogeologic site assessment reports and engineering design reports for the 3 proposed evaporation ponds in the Mesa area (M-1, M-2, and M-3) described in the 2010 groundwater discharge permit (NV91022). I would like to call Jeryl to seek updated information about this, again unless you deem that unacceptable and let me know (as above).

4. We request the following materials relating to the existing ponds that are not in the record that has to date been provided to us:

a) documentation from NVE and/or NDEP that the liner systems were properly installed and documentation on the hydraulic performance of the drainage net.

b) documentation from NVE and/or NDEP on the performance and operation of the leak collection system for all existing ponds (pump rates, volumes, etc.).

c) documentation from NVE and/or NDEP on analysis of flood potential of the Muddy River, potential effect on existing ponds in the flood plain, and mitigation.

5. We request the following additional documents:

The updated O&M Manual and the updated Sampling and Analysis Plan that NV Energy is required to submit to you this month.

6. We reprise our prior request to meet with or, at minimum, to have a phone call, with Shannon Harbour and her staff and Jeryl Gardner and his staff, so that we can gain further understanding of the record, potentially reduce the amount of time needed for the contested hearing, reduce costs being incurred by my client, reduce costs for your client, and also potentially, depending on the answers to our questions, allow formation of terms of a settlement.

The questions we wish to put to Ms Harbour and Mr. Gardner and their staff include the following, and as I noted previously, we would be willing to submit a fuller list of topics to discuss prior to such discussion.

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[Questions omitted here so as not to get into the substance of Sierra Club's concerns about the adequacy of current permit protections.]

7. Finally, for now, would you please arrange, or direct me to the proper person to arrange, for three colleagues and myself to conduct a site visit of the Reid Gardner evaporation ponds and related facilities. At this time, we would like to do this at 9am on 10/4/2010.

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Experts of second document attached to 9-13-10 email to Lina (Carolyn) Tanner

Documents Required by Sierra Club

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**From Reid Gardner Station AOC Groundwater Investigation  
Encyclopedia of Supporting Documentation**

[Request of approximately 75 documents (4 pages) not listed here.]

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Excerpt of email from Dan Galpern to Jeryl Gardner and Lina (Carolyn) Tanner on 9/8/2010

Greetings Jeryl:

I hope you are well.

It appears that a number of documents referred to in the “Reid Gardner Station AOC Groundwater Investigation Encyclopedia of Supporting Documentation” (by Stanley Consultants, Inc. February 2010 (Draft)), were not among those provided to us by disk and were not available in the files that Emily Rhodenbaugh reviewed with the assistance of our expert.

Some or all of these documents may be essential to our understanding of what has occurred at the NDEP-regulated waste evaporation ponds.

Please see the list below. The document number listed in parentheses at the end of each reference is the document number in the Encyclopedia.

In addition, although NDEP supplied us with a number of documents related to the AOC for the ponds, we would appreciate receiving the more recent AOC-related materials, namely since April 1, 2010.

We would prefer these documents provided in a searchable pdf format by CD, and sent to myself and to Eliot Lips, addresses below.

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Elliott W. Lips  
Principal Engineering Geologist  
Great Basin Earth Science, Inc.  
2241 E. Bendemere Circle  
Salt Lake City, Utah 84109  
(801) 599-2189  
[elips@gbearthscience.com](mailto:elips@gbearthscience.com)

**Materials required by WELC, as denoted in “Reid Gardner Station AOC Groundwater**

**Investigation Encyclopedia of Supporting Documentation”**

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Except of email to Lina (Carolyn) Tanner on 9/1/10

Dear Lina,

It was very nice to speak with you today. To follow up both (1) with respect to a couple of our questions, and (2) setting up a meeting:

(1) We would appreciate your putting the following questions to the relevant persons at NDEP.

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What data and analysis do NDEP and/or NVE have ... [re TDS] between 2002 and 2010?

A secondary question is this: NDEP has crafted an ostensibly “zero-discharge permit.” What set of rules did NDEP follow for the definition and standard of design for such permit? We have presumed it is 445A.385 for the definition and 445A.424 for the operation and design requirements, but we didn’t see these cites in the permit.

(2) In addition, we would like to meet with the follow persons to discuss the permit and the evaporation ponds situation at Reid Gardner:

NDEP’s John Palm, Al Tinney, Jim Najima and Shannon Harbour and, if warranted, with NV Energy. [Please correct me on spelling.] Two good dates for us for such a meeting include Sept 10 (any time during work hours) or Oct 8 in the afternoon.

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We look forward to working with you on this matter.

Thank you.

Dan

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