

NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NEVADA ENVIRONMENTAL COMMISSION

HEARING ARCHIVE

FOR THE HEARING OF June 21, 2001

HELD AT: Laughlin, Nevada

TYPE OF HEARING:

REGULATORY

APPEAL

FIELD TRIP

ENFORCEMENT

YES

VARIANCE

(Southern California Edison)

RECORDS CONTAINED IN THIS FILE INCLUDE:

YES

AGENDA

PUBLIC NOTICE

YES

PARTIAL TRANSCRIPT OF THE HEARING (only I & III)

YES

LISTING OF EXHIBITS

NEVADA STATE ENVIRONMENTAL COMMISSION
A G E N D A
June 21, 2001
10:30 A.M.

The Nevada State Environmental Commission will conduct a hearing commencing at **10:30 a.m (Pacific Standard Time), on Thursday, June 21, 2001.** The hearing will be held at the Laughlin Town Hall Meeting Room located at the Regional Government Center, 101 Civic Way, Laughlin, Nevada.

This agenda has been posted at the Grant Sawyer State Office Building in Las Vegas, the Washoe County Library in Reno and at the Nevada State Library & Archives and Division of Environmental Protection in Carson City and the Laughlin Town Hall in Laughlin, Nevada.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

I. Approval of Exhibits of May 10, 2001 Hearing * ACTION

II. Variance Request by Southern California Edison -- Action Item *

Southern California Edison has requested a variance to opacity requirements for the Mohave power generation facility at Laughlin, Nevada. Southern California Edison is requesting the variance pursuant to Nevada Revised Statutes 445B.400 to 445B.430, inclusive. This request is made due to emergency conditions, potentially causing “rolling blackouts” in California. The request would allow Mohave Generating Station to operate at full power producing capacity for limited durations of time in response to Cal-ISO identified emergency conditions.

The State Environmental Commission on June 20, 2000 and December 18, 2000 granted conditional approval of variances to the opacity requirements contained in NAC 445B.354 and 445B.357 and appropriate conditions in Mohave Generating Station Permit 2713 and 2714 for operation at the Mohave Generating Station.

III. Status of Petition 2000-12 (LCB File No. R104-00) Walker Lake & River Water Quality Standards *ACTION

IV. Status of Legislation of the 2001 Session *ACTION ITEM

a. Review of Jurisdictional Transition for Clark County Air Pollution Program

V. Public Comment

Persons with disabilities who require special accommodations or assistance at the meeting are requested to notify David Cowperthwaite, Executive Secretary, in writing at the Nevada State Environmental Commission, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851 or by calling (775) 687-4670, extension 3118 no later than 5:00 p.m. - **June 15, 2001.** The agenda and other pertinent documents relating to this action are available at <http://www.state.nv.us/ndep>. The user should go to the “What’s New” page.

STATE ENVIRONMENTAL COMMISSION

Meeting of June 21, 2001

Laughlin Town Hall

Laughlin, Nevada

Walker Lake Excerpt of Minutes

MEMBERS PRESENT:

Alan Coyner, Vice Chairman

Terry Crawford

Mark Doppe

Fred Gifford

Paul Iverson

Joseph L. Johnson

Steve Robinson

Joey A. Villaflor

MEMBERS ABSENT:

Melvin Close, Chairman

Demar Dahl

Hugh Ricci

Staff Present:

Deputy Attorney General Susan Gray - Deputy Attorney General

David Cowperthwaite - Executive Secretary

Vice-Chairman Coyner: Good morning. My name is Alan Coyner. I am the administrator of the Nevada Division of Minerals, Vice-chairman of the Environmental Commission and I'll be chairing today's meeting. First of all, this is a large crowd for the Environmental Commission. I think it's probably one of our record meetings. Please come in and find an empty seat if you can. It's going to be a long day. We have a number of items to discuss and some are quite contentious so we're looking forward to it. First of all, thank you for having us down to Laughlin as well, those of you that are citizens here. We're happy to be here. This meeting has been properly noticed for the State Environmental Commission to be held here this morning in Laughlin. It has been properly posted. The first item on our agenda is **Item I which is Approval of Exhibits of May 10, 2001 hearing**. This is a housekeeping measure, an action item and I need a motion from the Commission for approval.

Comm. Crawford: I'll move for approval.

Commissioner Johnson: I'll second.

The motion carried unanimously.

Vice-Chairman Coyner: On the order this morning, I know that many of you are here, of course, or most all of you are here for the Southern California Edison item. There is a brief item that we would like to dispose of as a Commission, which is the Walker Lake and Walker River quality standards item. We've been assured by the Division that this will not take a very long time. So I'm going to ask your indulgence for about 10 or 15 minutes so that we can dispose of this agenda item. I'm going to take it out of order. So at this time I'll call on the administrator of the Nevada Division of Environmental Protection, Allen Biaggi.

Allen Biaggi: Thank you Mr. Chairman, Commission members. My name is Allen Biaggi and I'm the Administrator of the Nevada Division of Environmental Protection. The item before you today . . .

Vice-Chairman Coyner: First of all, can everyone hear the speaker from the podium? I didn't think that microphone was on. Thank you.

Mr. Biaggi: The item before you today relates to the standards of the Walker River and of Walker Lake. And as I know the Commission recalls we've had many, many hours of discussion and deliberation concerning this issue both in December of the year 2000 and February of this year. As you'll recall this item was discussed at the last Commission meeting on May 10th and there was a lot of concern and debate at that time about a piece of legislation that was passed by the Nevada legislature, SCR 40, dealing with water quality standards for Walker Lake and Walker River. Since that time we have received some clarification on the impact

of that bill and it essentially invalidated the petition that was brought before you and you approved concerning water quality standards for the lake and for the river. The Commission took some action on the May 10th meeting and we have reviewed the minutes of that meeting and the purpose of my being here today is to ask for some clarification and for some direction from the Commission with regard to moving forward on standards for this very important water body. Since the May 10th meeting and on May 14th to be exact, the Division was provided a copy of a notice sent by the Western Environmental Law Center on behalf of Mineral County to Christine Todd-Whitman, the administrator of the U.S. Environmental Protection Agency and to Laura Yoshi who is the acting regional administrator for EPA in Region IX San Francisco. This is a 60-day notice of intent to sue for Nevada not adopting water quality standards primarily for Walker Lake. We believe it's in the best interest of the State of Nevada to negotiate with the parties of the downstream users and with the upstream agricultural community in an attempt to reach some sort of a settlement that is amicable and best interest of all the parties. We feel this is a much better solution than moving forward into litigation or having U.S. EPA establish standards in lieu of the State of Nevada. So what I'm asking today is a little bit of direction and your support in allowing the Division to move forward and make overtures to both parties in entering settlement discussions for the potential litigation.

Vice-Chairman Coyner: Thank you Allen. And I think you're basically waiting for clarification from this Commission that we in no way restricted you at our last meeting from doing that.

Mr. Biaggi: That's correct. There's some concern that has been expressed by myself, by my staff and others outside of the agency that there's a perception that the Commission directed the Division not to do any further action on the Walker River and move to other water bodies for establishment or review of water quality standards.

Vice-Chairman Coyner: I think at the pleasure of the Commission with regards for clarification on this point and since we do have draft minutes included on our agenda, I'll just point out three portions of those minutes that I believe make it clear that we did not in any way restrict Allen's ability to do so. I draw your attention to page 11 of 19, about the middle of the page when the initial motion was made by Commissioner Gifford and at that position in the middle of the page, page 11, the motion was made, "I move that the Commission do nothing with respect to this petition." Secondly, I'll bring your attention to page 14 of 19, approximately 3/4 of the way down the page, Commissioner Gifford again states, "For clarification on the motion as I made it I did not intend anything on Allen's part. If Allen elects to do something fine. If he wants to invest another two years, that's fine. But the motion did not include that. The motion is simply that at this point in time the Commission do nothing with this petition." And finally, on page 17 of 19 I direct you to Commissioner Crawford's comments about 1/3 of the way down, "I just wanted to clarify on the motion that we don't want to see it back again and the motion doesn't include any instructions for the Division to go do anything and it doesn't include us talking to the Legislative Commission. That's not in the motion?" Then Commissioner Gifford replied, "That's right. It is not." So I think we're fairly clear on that point with regards that we did not intend to restrict Allen's ability to do actions with regards to Walker Lake or Walker River standards.

Commissioner Johnson: For the record this is Commissioner Johnson. That is what I perceived our actions to be at the May 10th meeting.

Vice-Chairman Coyner: Thank you Allen. Any other comment?

Mr. Biaggi: I would just like to point out that Mr. Spooner and Mr. DePaoli are here if they would like to say anything. I think that maybe that would be appropriate.

Vice-Chairman Coyner: Let me officially call for public comment on the Walker River, Walker Lake standards. I will limit your comments to five minutes please. Is there anyone wishing to speak on it? Gordon shakes his head no, all right. In the face of this crowd I would probably say the same thing Gordon.

Mr. Biaggi: No I think that gives us the direction that we need and the clarification that we need in order to move forward and just for the Commission's edification you're likely to see, I hope you're likely to see a revised petition come before you for your September 2001 meeting. Thank you.

Vice-Chairman Coyner: Thank you Allen. Commissioner Doppe?

Commissioner Doppe: I have a comment on that though for you Mr. Biaggi, the record stands obviously as to what our action was, but I would say that a underlying tone at least from my perspective was that we, as a Division, as a Commission, have already spent 18 months negotiating a settlement based on the best science that we had, based on participation from a number of communities that we had and we presented that negotiated settlement, effectively is what it was, to the

State legislature and they told us basically where to put it. And my comment at the time I believe and it's probably in the minutes somewhere was that it would strike me as odd that they would send this back for another 18 months (inaudible) or another 3 months which is spectacular and come up with a negotiated settlement that does work. So I'm going to be very interested to see what you come up with in 3 months that certainly brings 100 years of warring factions together that you weren't able to do in 18 months before. And let's let-her-rip.

Mr. Biaggi: Commissioner Doppe I agree. This is a very contentious issue. As you know, we've been working on it for many, many months. And I think it's worth the effort to try and come up with a settlement, particularly in the face of potential litigation, which is probably going to drag out for many, many, many years. So, you know, I think the Division is willing to put some additional work into this and work with all of the parties and at least give it a shot of trying to come up with something that works for everyone.

Commissioner Doppe: I do have one question for you though. How much time, now that the Division has spent a significant amount of its past 18 months working on this one issue only to have it handed back to us and say you know it doesn't work, how much time are you now going to have to detract from the next body of water where you could have a meaningful impact and we're not going to be able to do it because we're still bogged down at the Walker Lake where we've already come up with a good answer that didn't fly, but it was a good answer.

Mr. Biaggi: Well I think your point is well taken and it is going to take resources away from other water bodies. But if we go into litigation, that's going to take tremendous amounts of resources away from other water bodies as well. So the Division is sort of caught in a catch-22, damned if we are, damned if we don't and we believe, as I said, the best way to settle this is through amicable settlements between all of the parties. I think it's worth pursuing.

Vice-Chairman Coyner: Commissioner Crawford?

Comm. Crawford: Allen I guess I'm curious about the process that you're looking at. As you're aware, there's a number of activities going on with the Walker River system and several litigations already in process and there's discussions of settlement negotiations on the litigation that's already been filed and potential negotiations on the issues on the Walker River system, if you will. Are you looking at participating in those, or setting up a separate negotiation process?

Mr. Biaggi: Mr. Crawford we're looking at a separate process. We believe that there is not a distinct nexus right now between the other litigation and this one and we feel that it would probably be in the best interest of all the parties to keep them separate at this time. They may ultimately be rolled in together, but at this time I think we would do well to keep them apart.

Comm. Crawford: So your process will be purely to work on the water quality standards with all the parties who have expressed an interest in that and try to come back with a petition for standards for the river by September?

Mr. Biaggi: That's correct and one of the things I think we'll be looking at is perhaps addressing those standards that were generally non-controversial. For example, for the river I don't think there was anyone who had tremendous heartburn about what we were proposing for the river. With regard to the lake, it was TDS, perhaps?? chlorides perhaps arsenic that were of greatest concern. Maybe there's something that we can do that gets us some partial standards in place while we work on these more controversial water quality parameters.

Comm. Crawford: As I recall you were at the last meeting you asked us not to make you go back and do this one again. And you were going to move on to the Humboldt River. Will this activity preclude you from moving on to the Humboldt now?

Mr. Biaggi: Well, as I mentioned to Mr. Doppe, it will take resources away from what we're doing on the other river systems, but there's been this tremendous new issue that's come up and that's the 60-day notice of intent to sue. So, we're in there whether we like it or not. We're going to have to address this issue and take it head-on.

Comm. Crawford: The new 800 lb. gorilla?

Mr. Biaggi: That's right.

Commissioner Iverson: Alan?

Vice-Chairman Coyner: Commissioner Iverson?

Commissioner Iverson: Allen I think your approach is really good and in fact I think it will be a learning experience because I think this is not the last conflict we will have over water in the State of Nevada and once you've learned from this exercise and going back and negotiating with those folks that were involved with this, I think will be beneficial to the Commission and to your division as we address other water bodies in the State of Nevada. So I support you and commend you for your interest in resolving this issue.

Mr. Biaggi: Thank you.
Vice-Chairman Coyner: Commissioner Crawford?
Comm. Crawford: **Mr. Chairman if I could maybe if, I agree with you, I don't know that there's a question on it but maybe it would be appropriate that I make a motion that we encourage the Department to move ahead with these negotiations on the finalization of the water quality standards for the Walker River system and wish him well.**
Vice-Chairman Coyner: **There's a motion on the floor from Commissioner Crawford. Is there a second to that motion?**
Comm. Doppe: **I'll second it for a discussion.**
Vice-Chairman Coyner: **Seconded by Commissioner Doppe. The discussion now will range on the implications of that motion in terms of dictating policy to the Division with regards to workload issues and to what extent we want to tell Mr. Biaggi how to do his job.**
DAG Gray: **I would be concerned that that might be a little bit beyond the scope of the agenda. The agenda specifically (inaudible) the petition and I'm afraid that if we were to actually give that direction it would be a little bit beyond that description.**
Vice-Chairman Coyner: **I'm in agreement with the attorney general. So I'm going to strike the motion.**
Comm. Crawford: **I'll withdraw it. (inaudible) for clarification so. . .**
Vice-Chairman Coyner: Any other comment from the Commission on the Walker River, Walker Lake issue? There was none.

Nevada State Environmental Commission
Regulatory Hearing
Exhibit Log

Hearing Date: June 21, 2001

Location: Laughlin

#	Item	Item Description	Reference Petition #	Offered	Accepted
1	9 Page Letter	Letter dated May 21, 2001 from Nader N. Mansour, Southern California Edison to Melvin D. Close, Chairman, Nevada State Environmental Commission regarding Mohave Generating Station Petition for Variance from Nevada Administrative Code §§ 445B.354 and 445B.357.	Mohave Variance	YES	YES
2	7 Page Letter	Letter dated June 5, 2001 from Concerned Citizens of the Tri-State Area to The Environmental Commission of the State of Nevada regarding Mohave Generating Station Petition for Variance	Mohave Variance	YES	YES
3	2 Page Letter	Letter dated May 14, 2001 from Terry Ursini, President and Jo Elle Hurns, Executive Director, Laughlin Chamber of Commerce regarding Mohave Generating Station's Variance Request	Mohave Variance	YES	YES
4	2 Page Letter	Letter dated June 19, 2001 from Rick Moore, Program Officer, Grand Canyon Trust to the Nevada State Environmental Commission regarding Mohave Generating Station Petition for Variance from Nevada Administrative Code §§ 445B.354 and 445B.357.	Mohave Variance	YES	YES
5	1 Page Letter	Letter dated April 2, 2001 from Tom Stockwell, Mohave County District 2 Supervisor to Allen Biaggi, Administrator, NDEP regarding Opacity Variance for Mohave Generation Station.	Mohave Variance	YES	YES
6	1 Page Letter with Fax Transmittal Cover Sheet	Letter dated June 19, 2001 from Peggy Pierce, Conservation Co-Chair, Southern Nevada Group of the Sierra Club to Chairman, Nevada State Environmental Commission regarding the Setting of Standards for Issuing Emission Variances for the Mohave Generating Station.	Mohave Variance	YES	YES
7	5 Page Minutes	Laughlin Town Advisory Board Special Meeting Minutes of April 30, 2001.	Mohave Variance	YES	YES
8	3 Page Minutes	Bullhead City, Arizona Draft Minutes of the June 19, 2001 Bullhead City Council meeting relating to the Mohave Generating Station	Mohave Variance	YES	YES
9	6 Page Order	Nevada Public Utilities Commission Docket No. 00-6033 Order dated June 20, 2001 with Attachments No. 1	Mohave Variance	YES	YES
10	8 Page Presentation	California ISO presentation on the Mahave Project Variance by Tracy R. Bibb, Director of Scheduling and Outage Coordination dated June 21, 2001	Mohave Variance	YES	YES
11	5 Page Presentation	Nevada Power Company presentation for Summer 2001 Preparations as before the State Environmental Commission on June 21, 2001	Mohave Variance	YES	YES
12	19 Page Presentation	Southern California Edison presentation before the State Environmental Commission regarding the Mohave Opacity Variance on June 21, 2001	Mohave Variance	YES	YES

Nevada State Environmental Commission
Regulatory Hearing
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Hearing Date: June 21, 2001

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#	Item	Item Description	Reference Petition #	Offered	Accepted
13	1 Page Letter	Mohave County Board of Supervisors letter dated June 20, 2001 to the State Environmental Commission opposing the Mohave variance	Mohave Variance	YES	YES
14	Pictures	Undated pictures (2) of the Laughlin Mohave powerplant , looking from the Bullhead city airport towards the powerplant showing the plume from the powerplant. Supposed taken on 6-21-2001.	Mohave Variance	YES	YES
15	Newspaper Article	Las Vegas Review Journal article of June 12, 2001 titled "Study links air pollution, heart attacks"	Mohave Variance	YES	YES
16					

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