NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NEVADA ENVIRONMENTAL COMMISSION

HEARING ARCHIVE

FOR THE HEARING OF September 10, 1996

HELD AT: Reno, Nevada

TYPE OF HEARING:

YES	**REGULATORY**
	APPEAL
	FIELD TRIP
	ENFORCEMENT
	VARIANCE

RECORDS CONTAINED IN THIS FILE INCLUDE:

YES	**AGENDA**
YES	**PUBLIC NOTICE**
YES	**MINUTES OF THE HEARING**
YES	**LISTING OF EXHIBITS**

A G E N D A

NEVADA STATE ENVIRONMENTAL COMMISSION
PUBLIC HEARING

The Nevada State Environmental Commission will conduct a hearing commencing **9:00 a.m., on Tuesday, September 10, 1996,** at the Division of Wildlife, Conference Room B, 1100 Valley Road, Reno, Nevada.

This agenda has been posted at the Grant Sawyer State Office Building in Las Vegas; the Division of Wildlife and the Washoe County Library in Reno; and the Nevada State Library and Division of Environmental Protection Office in Carson City. The Public Notice for this hearing was published on August 9, August 20, and August 28, 1996, in the Las Vegas Review Journal and Reno Gazette Journal Newspapers.

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 minutes from the March 26, 1996. * ACTION

II. Regulatory Petitions * ACTION

A. **Petition 96011 (R-071-96)** is a proposed permanent amendment to NAC 444A.005 to 444A.470. The petition proposes to expand the definition of recyclable materials, implement Assembly Bill 449 of the 1995 session and require more accurate waste tire hauler manifest reporting. It is proposed that the period for recycling operation reporting be changed from the fiscal year to the calendar year. In addition, local emergency planning committees will not be required to review waste tire facility permits.

B. **Petition 96012 (R-072-96)** is a proposed permanent regulation that amends NAC 444.470 to 444.7499 by making an exemption for Class II landfills from ground waste monitoring standards as provided by the U.S. Congress. The amendments will allow for interim site approval to be revoked if the owner/operator fails to provide adequate permit application documents within one year of notification of application deficiencies. NAC 444.711 is proposed to be amended to require a system for monitoring moisture in unsaturated zones under certain conditions. NAC 444.632 the term "wet garbage" is proposed to be deleted.

C. **Petition 96016 (R-116-96)** proposes to permanently amend NAC 444.842 to 444.976 by adding regulations that establish standards for management of used antifreeze that is considered a hazardous waste and is recycled. The new regulations provide for definitions, establishes applicability, standards for generators, used antifreeze collections centers, transporters and transfer facilities, recycling facilities, and mobile recycling units.

D. **Petition 96017 (R-118-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that describe the cost recovery conditions in which the Division of Environmental Protection may seek costs for its oversight of corrective action activities. The proposed regulations will distinguish between major and minor remediation activities, establish criteria to initiate cost recovery and create methodologies to determine costs that will be reimbursed.

E. **Petition 96018 (R-119-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that detail the processes used to evaluate and remediate contaminated soil, ground water and surface water which will pose a risk to human health or environmental quality. The proposed regulations outline the activities necessary for release reporting, initial response, delineation of contamination, setting of standards, remedial activities and final closure of projects having environmental contamination. In addition, the proposed regulations will allow for the use of site specific risk based evaluations in remedial decisions. Responsibilities between the Division of Environmental Protection and the owner or operator regarding remedial activities are delineated.

F. **Petition 96014 (R-112-96)** is a proposed permanent amendment to NAC 445A.055 to 445A.066. The amendments will allow for interstate reciprocity on laboratory certification in addition to third party site evaluations of water quality laboratories. In addition, the payment of fees will be required prior to certification. A protocol for certification of radiochemical and microbiological contaminants and toxicity bioassay is established. It is proposed to allow for provisional certification and thresholds for revocation of certification. It is proposed that a framework for records and data reporting be established. Evaluation of laboratory sites at least once every two years will be required. Fees for various categories of contaminants are increased in addition to provisions to pay for laboratory site evaluations.

III. Settlement Agreements on Air Quality Violations * ACTION

A. U.S. Department of Energy: Notice of Alleged Violation # 1201

B. Hycroft Resources & Development, Inc.: Notice of Alleged Violation # 1202

C. Las Vegas Paving: Notice of Alleged Violation # 1203

VI. Discussion Items

A. Environmental Commission FY 1998-99 Budget & Indicators
B. State Environmental Conference September 30 to October 1, 1996
C. Status of Division of Environmental Protection's Programs and Policies
D. Future Meetings of the Environmental Commission
E. General Commission or Public Comment

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89710, facsimile (702) 687-5856, or by calling (702) 687-4670 no later than **5:00 p.m. September 4, 1996.**

NEVADA STATE ENVIRONMENTAL COMMISSION
NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning **8:30 a.m. on Tuesday, September 10, 1996**, at the Division of Wildlife's Conference Room B, located at 1100 Valley Road, **Reno**, Nevada. .

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

1. **Petition 96011 (R-071-96)** is a proposed permanent amendment to NAC 444A.005 to 444A.470. The petition proposes to expand the definition of recyclable materials, implement Assembly Bill 449 of the 1995 session and require more accurate waste tire hauler manifest reporting. It is proposed that the period for recycling operation reporting be changed from the fiscal year to the calendar year. In addition, local emergency planning committees will not be required to review waste tire facility permits.

The proposed regulations will have no major economic effect on the regulated businesses. Waste tire haulers and recycling centers may see some minor immediate and long term economic impacts for the meeting of reporting requirements. The public will receive a indirect immediate and long term positive economic benefit due to the reduction in cost by local emergency planning committees having to review recycling facilities. There will no additional cost to the agency as a result of the addition of the proposed regulations. The proposed regulation does not impose a new fee or increase an existing fee.

2. **Petition 96012 (R-072-96)** is a proposed permanent regulation that amends NAC 444.470 to 444.7499 by making an exemption for Class II landfills from ground waste monitoring standards as provided by the U.S. Congress. The amendments will allow for interim site approval to be revoked if the owner/operator fails to provide adequate permit application documents within one year of notification of application deficiencies. NAC 444.711 is proposed to be amended to require a system for monitoring moisture in unsaturated zones under certain conditions. NAC 444.632 the term "wet garbage" is proposed to be deleted.

The proposed regulations will have a positive economic effect on regulated businesses by the reduction in the cost to develop and operate a Class II landfill. The proposed regulation will reduce both immediate and long-term operations of Class II landfills. The elimination of ground water monitoring requirements for Class II disposal sites decrease the total permitting, development and operating costs for small community landfills. This may decrease the overall cost of solid waste disposal in rural Nevada. The public will see a long term stabilization in the cost to dispose of solid waste at Class II landfills.

There will no additional cost to the agency as result of the proposed regulations. The regulations do not duplicate the regulations of the federal, state or governmental agency. The proposed regulation does not impose a new fee or increase an existing fee.

3. **Petition 96014 (R-112-96)** is a proposed permanent amendment to NAC 445A.055 to 445A.066. The amendments will allow for interstate reciprocity on laboratory certification in addition to third party site evaluations of water quality laboratories. In addition, the payment of fees will be required prior to certification. A protocol for certification of radiochemical and microbiological contaminants and toxicity bioassay is established. It is proposed to allow for provisional certification and thresholds for revocation of certification. It is proposed that a framework for records and data reporting be established. Evaluation of laboratory sites at least once every two years will be required. Fees for various categories of contaminants are increased in addition to provisions to pay for laboratory site evaluations.

The regulations will result in higher costs for the regulated community, water quality laboratories, to be certified. The economic beneficial effect will be the more timely processing of certification requests. The immediate effect will be a reduction in the backlog of pending certification actions, thereby opening the door for more competition in the area of water quality testing. The long term effect will be a more responsive and timely response to certification requests. There will be no adverse effect upon the public. The public will receive a beneficial effect by having more qualified laboratories doing business in Nevada. The immediate and long term effect will be the public and it's institutions having more reliable data available on which to base water quality management decisions. This regulation does not overlap or duplicate other governmental agency regulations.

This regulation increases fees for water quality laboratory certification. The amount projected to be collected annually is approximately $ 150,000 or $ 2,000 per regulated facility. The funds will be used to implement the program, including administration and enforcement.

4. **Petition 96016 (R-116-96)** proposes to permanently amend NAC 444.842 to 444.976 by adding regulations that establish standards for management of used antifreeze that is considered a hazardous waste and is recycled. The new regulations provide for definitions, establishes applicability, standards for generators, used antifreeze collections centers, transporters and transfer facilities, recycling facilities, and mobile recycling units.

The proposed regulations will promote recycling of used antifreeze by removing unnecessary burdens. The regulations are expected to be beneficial to businesses in both the short and long term by reducing the waste characterization and paperwork costs associated with management of used antifreeze. The proposed regulations will be beneficial to the public since the regulations may result in an expansion of used antifreeze collection sites. The public will not see an adverse economic affect. There will no additional cost since used antifreeze is currently regulated by the agency. The proposed regulations do not duplicate the regulations of the federal government or any other state agency. This regulation does not impose a new fee or increase any existing fees.

5. **Petition 96017 (R-118-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that describe the cost recovery conditions in which the Division of Environmental Protection may seek costs for it's oversight of corrective action activities. The proposed regulations will distinguish between major and minor remediation activities, establish criteria to initiate cost recovery and create methodologies to determine costs that will be reimbursed.

The proposed regulations are expected to have a beneficial impact to the regulated businesses by clearly defining the corrective action process and the conditions for cost recovery and by allowing flexibility in oversight. No adverse impacts to businesses are anticipated. The immediate and long term impact will be a simplified corrective action process with the overall reduction in costs for corrective actions. No adverse public impacts are anticipated and no significant short or long term effects are anticipated. The proposed regulations will streamline and simplify the remediation process. There will be no additional cost to the agency for the enforcement or implementation of these regulations. The proposed regulations do not duplicate or overlap the activities of any other State entity. The proposed regulations do parallel some of the regulatory requirements of the U.S. EPA through the RCRA (Resource Cost Recovery Act) and CERCLA (Comprehensive Environmental Response, Compensation, & Liability Act). This regulation does not impose a new fee or increase any existing fees.

6. **Petition 96018 (R-119-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that detail the processes used to evaluate and remediate contaminated soil, ground water and surface water which will pose a risk to human health or environmental quality. The proposed regulations outline the activities necessary for release reporting, initial response, delineation of contamination, setting of standards, remedial activities and final closure of projects having environmental contamination. In addition, the proposed regulations will allow for the use of site specific risk based evaluations in remedial decisions. Responsibilities between the Division of Environmental Protection and the owner or operator regarding remedial activities are delineated.

The proposed regulations are expected to have a beneficial impact to the regulated businesses by clearly defining the corrective action process and the conditions for cost recovery and by allowing flexibility in oversight. No adverse impacts to businesses are anticipated. The immediate and long term impact will be a simplified corrective action process with the overall reduction in costs for corrective actions. No adverse public impacts are anticipated and no significant short or long term effects are anticipated. The proposed regulations will streamline and simplify the remediation process. There will be no additional cost to the agency for the enforcement or implementation of these regulations. The proposed regulations do not duplicate or overlap the activities of any other State entity. The proposed regulations do parallel some of the regulatory requirements of the U.S. EPA through RCRA and CERCLA. This regulation does not impose a new fee or increase any existing fees.

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided:

"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption".

Persons wishing to comment upon the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada. Written submissions must be received at least 5 days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 128, in Carson City; and at the Division of Environmental Protection, 555 E. Washington - Suite 4300 for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. Listed below are the locations where the public notice and regulations will be available for inspection and copying:

Carson City Library, 900 North Roop Street, Carson City;
Churchill County Library, 553 South Maine Street, Fallon;
Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas;
Douglas County Library, 1625 Library Lane, Minden;
Elko County Library, 720 Court Street, Elko;
Goldfield Public Library, Fourth & Crook Streets, Goldfield;
Eureka Branch Library, 10190 Monroe Street, Eureka;
Humboldt County Library, 85 East 5th Street, Winnemucca;
Battle Mountain Branch Library, 625 Broad Street, Battle Mountain;
Lincoln County Library, 93 Main Street, Pioche;
Lyon County Library, 20 Nevin Way, Yerington;
Mineral County Library, First & A Street, Hawthorne;
Tonopah Public Library, 171 Central Street, Tonopah;
Pershing County Library, 1125 Central Avenue, Lovelock;
Storey County Library, 95 South R Street, Virginia City;
Washoe County Library, 301 South Center Street, Reno;
White Pine County Library, 950 Campton Street, Ely.

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by the members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89701, facsimile (702) 687-5856, or by calling (702) 687-4670 Extension 3118, no later than 5:00 p.m. on **September 4, 1996**.

This public notice has been posted at the following locations:
Clark County Public Library and Grant Sawyer Office Building in Las Vegas; the Washoe County Library and the Division of Wildlife in Reno;
Division of Environmental Protection and State Library in Carson City.

STATE ENVIRONMENTAL COMMISSION
Meeting of September 10, 1996
Division of Wildlife Conference Room B - Reno, Nevada
Adopted Minutes

MEMBERS PRESENT:
Melvin Close, Chairman
William Molini
Paul Iverson
Mark Doppe
Russell Fields
Marla Griswold
Michael Turnipseed
Roy Trenoweth
Fred Gifford
Joseph Tangredi
Robert Jones

MEMBERS ABSENT:

Staff Present:
Jean Mischel - Deputy Attorney General
David Cowperthwaite - Executive Secretary
LuElla Rogers - Recording Secretary

Chairman Close called the meeting to order at 9:00 a.m. and read the public notice as defined in the agenda for September 10, 1996.

Chairman Close moved to Agenda Item I: Approval of minutes of March 26, 1996.
Commissioner Turnipseed made a motion to approve the minutes as presented.
Commissioner Griswold seconded the motion.
The motion was approved.

Chairman Close moved to Agenda Item II. Regulatory Petitions

A. **Petition 96011 (R-071-96)** a proposed permanent amendment to NAC 444A.005 to 444A.470. The petition proposes to expand the definition of recyclable materials, implement Assembly Bill 449 of the 1995 session and require more accurate waste tire hauler manifest reporting. It is proposed that the period for recycling operation reporting be changed from the fiscal year to the calendar year. In addition, local emergency planning committees will not be required to review waste tire facility permits.

Les Gould, Supervisor of the Solid Waste Branch, Bureau of Waste Management, Division of Environmental Protection, informed the Commission that Exhibit 17 requests several revisions to the proposed language in Petition 96011.
Mr. Gould reviewed Section 1 and requested modification of language in the second sentence to read:
"The report must include the number of tons of material recycled for each type of recycled material and be certified as to its completeness and accuracy by the recycling center. Upon a request by the municipality, the recycling center shall provide any additional information, including bills of lading, manifests, certified scale receipts, etc., which may be necessary to verify the accuracy and completeness of the report". Mr. Gould explained the purpose of adding the additional language is to strengthen the ability of the municipalities to obtain accurate and factual information on recycling efforts in their community.

Mr. Gould requested modifications to the proposed language in Section 2 - Subsection 1: After "recyclable material includes" add "but is not limited to" Mr. Gould explained we feel it is necessary to insert this language to clearly show that the general definition of recyclable material stated in the statutes encompasses more than those items that are specifically listed. Therefore, the food wastes of commercial establishment for agricultural wastes, if returned to the economic mainstream of raw material products, will still meet the statutory definition of recyclable materials.
(j) Delete "including industrial grade shrink wrap"
(l) Delete proposed items "Food wastes, including grease from food establishments"
(m) Delete "Agricultural wastes from crops or animals"
Mr. Gould explained the Nevada Revised Statutes (NRS) has a definition for recyclable materials which states that recyclable material is solid waste which, after processing, can be returned to the economic mainstream of the product for raw materials as determined by the Commission. The Nevada Administrative Codes (NAC) were primarily set up to define and address municipal public recycling programs and sets out the criteria for the Division to grant formal approval to municipal recycling programs. The NAC is primarily oriented for public recycling as opposed to commercial and industrial recycling. Thus, Petition items (l) and (m) were an extension beyond the purpose of the regulation.
Chairman Close asked if the municipality has to make a report on these items as well as those items previously reported and how do they know what to report.
Mr. Gould explained the Bureau mails a form to the municipality that lists many more items than are listed in the NAC.
Commissioner Jones asked if the form is mailed before they start collecting the data or after? How can they keep data on a material if they do not know it is required.
Mr. Gould replied it would be appropriate to send out the form at the beginning of the reporting period so they know what they need to include in their report.
Chairman Close expressed concern that the NAC lists recyclable products and municipalities should be able to depend upon that list. Using the language "but not limited to" seems to grant you the right to expand the list without giving appropriate notice.
Mr. Gould explained the expansion would be based on the definition in NRS 444A.013: "Recyclable material means solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by the state environmental commission." This specific list identifies what can be incorporated and items to be focused on by municipal public recycling programs, but it was never intended to be an all-inclusive list of material that is recyclable and for us to add one item at a time seems to be a piece-meal way of defining recyclable material.
Commissioner Jones noted the problem is not that you will add more things to the list, it is whether you are getting the data to the municipality prior to when they are expected to give you the outcome.
Mr. Gould agreed and suggested adding a statement to Section 1 that reads "submit to the municipality, on a form approved by the Division, a report for the preceding calendar year".
Mr. Gould explained the report has 30 rows for specific entries and additional rows for "other".
A recycling center is guided by the definition for recyclable material and reports that information to us on the form we send. If they are in the business to recycle they are going to keep track of what material is being selected, reprocessed and shipped out.
Commissioner Molini asked how the data on the reporting form is utilized.
Mr. Gould explained the data is used by the Bureau to submit an annual report (required by both NRS and NAC) to

the Legislative Counsel Bureau (LCB) on the recycling rate in the state. The report is valuable to a municipalities planning function, so they can identify the effectiveness of the recycling programs within a development.
Commissioner Molini asked why are you adding "industrial grade shrink wrap" and deleting "food wastes and agricultural wastes".
Mr. Gould explained the purpose is to maintain the intent of definitions in succeeding sections of the regulations which are oriented toward recycling for the public curbside collection programs in residential areas. Curbside regulations and drop-off centers are defined in the statutes. The reports that are submitted can, and should, include additional information beyond what is detailed in this regulation.
David Emme, Bureau Chief, Bureau of Waste Management, explained the confusion comes up with the term "recyclable material". That definition was not supposed to be an all inclusive list of everything that can be recycled because almost anything can, potentially, be recycled. The statute requires counties or municipalities that are greater than 100,000 in population to have programs in place for curbside separation of recyclable materials. The mandate that is in place is: "separation at the source of recyclable material from other solid waste originating from residential premises". We want to define recyclable materials in that context, what could be separated out from residential areas in curbside collection programs. The list we started with did that and we want to get back to that context rather than continually trying to add new materials, trying to establish an all encompassing list of recyclable materials.
Mr. Emme explained, in terms of reporting, this list of materials is not an issue. If you are collecting this list of materials you have to file a report with us and tell us how much of that material you have collected. The reporting requirement is that you also have to include any material that is diverted from a landfill or other similar disposal facility and that is where you capture "any other recyclable material" that might have been collected from industrial or commercial sources. We want data from municipalities that reports all material that is diverted from landfills, whether it comes from residential, commercial, or industrial sources.
Commissioner Molini asked if yard debris is recycled?
Mr. Emme replied there are no municipal compost areas in the state that he was aware of it.
Chairman Close asked, then why is yard debris on the list of recyclable materials that must be reported?
Mr. Emme explained it does not have to be reported if it is not collected. Curbside programs in some areas do collect yard debris.
Mr. Gould continued to Section 3, NAC 444A.120:
We want to delete a date which has no function and we want to change the population number required, so we are consistent with the statute passed in the 1995 legislative session that raised the population threshold from 40,000 to 100,000 people.
Commissioner Griswold asked what communities would be deleted from the program.
Mr. Gould explained there are currently 3 communities, Las Vegas, Reno/Sparks, and Carson City in the program. The population number change deletes Carson City from the program.
Mr. Gould continued, the final change in Section 3, subsection 2, will delete "it will ensure that the municipality will meet the" and add "that the program will contribute to the achievement of the municipality's" goal set forth in NAC 444A.110. Mr. Gould explained the goal was to achieve a 25% recycling rate by the year 1994. It is not appropriate to require them to meet a goal when the time for it has already passed.
Chairman Close asked if any of the municipalities meet that goal and what is the maximum amount that has been reached by any municipality?
Mr. Gould replied no municipality has achieved that goal. Data submitted in the 3 annual reports received reveals

7% for the state as a whole in 1993, and about 12½% in 1994. That is one reason we want to add provisional language to the recycling reporting section. We feel there were errors on the reporting calculations.
Commissioner Turnipseed asked if the 25% is a reduction in tonnage or in volume?
Mr. Gould replied, tonnage.
Mr. Gould continued with revisions in Section 4:
We are changing the recycling reporting period from a fiscal to a calendar year basis to allow additional time for recycling centers and municipalities to report.
We want to modify NAC 444A.140, subsection 3 by deleting the word "be" and adding "Be submitted on a form supplied by the department" and delete the words "attested to by the recycling centers within the municipality" and add "Attest that all recycling center reports have been certified as to completeness and accuracy in accordance with Section 1".
The final change in Section 4 is in Subsection 1. a (2).
Delete "Accepted at a transfer station and the location of the final disposal of material;"
Mr. Gould explained Section 5 relates to the Solid Waste Management Authorities and the Health Districts. We feel it is not our place, as environmental agencies, to establish fire protection standards so the language in Section 5 gives the local fire departments the authority and responsibility. Also, we felt it was not appropriate to have the local emergency planning committee to be involved in the review.
Mr. Gould explained Section 6: The public service commission is no longer issuing the permit number to a hauler of waste tires so that language is eliminated.
Mr. Gould reviewed the changes in Section 7:
We added "number of tires sold for reuse, if any;" to the report which the tire hauler submits to the Solid Waste Management Authority.
Chairman Close called for comments from the Commission.
Commissioner Gifford requested the words trees, bushes, and grass clippings in Section 2 be put in parenthesis because yard debris means material generated from plants.
Deputy Attorney General (DAG) Mischel suggested using the word "including" rather than the parenthetical because a parenthetical will be deleted or reworded by LCB.
Chairman Close called for additional comments from the Commission. There were no comments.
Chairman Close called upon Ben Beam.
Ben Beam, U.S. EnviroMED agreed with the definition of "including but not limited to the following items". NRS 444A says "recyclable materials means "Recyclable material means solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by the state environmental commission." Mr. Beam encouraged the Commission not to limit the definition of recyclable materials in any way.
Mr. Beam stated he understands the need for verification but expressed concern for confidentiality. The Clark County Health Department does not have a good system for keeping records confidential and asked that some type of confidentiality system be put in place because bills of lading, etc. become a matter of public record. I would not want my customer list or anything that I do to be accessible to my competitors through public records. I have no problem with verifying numbers but I do have a problem with specific lists.
Mr. Beam suggested the list say "plastic" instead of "plastic containers" because plastic knives, spoons, forks, toys - all types of plastics can be recycled. I recycle materials that are co-mingled so please use the base material and not specific manufactured items. Technology is changing, who knows what might be economically recyclable tomorrow so that should be as broad as possible.

Chairman Close called upon Ashley Hall.

Mr. Ashley Hall, representing the Nevada Recyclers Association, explained the Association is a non-profit group whose effort is to educate the public, research marketing and marketing techniques so we can expand recycling to make it economically feasible, and to work closely with governmental jurisdictions to improve and enhance recycling. We concur with Mr. Beam's remarks and we agree with a broad definition of recycling as we want to leave those avenues open for growth and development. We support the amendments that have been made today by staff.

Chairman Close called upon Celia Hildebrand.

Ms. Hildebrand distributed an article titled Recycling As An Economic Opportunity in Nevada and displayed the article on the overhead for audience review.

Ms. Hildebrand explained she is a Contractor for the Commission on Economic Development (CED) through the generosity of an NDEP 18-month grant contract. The article distributed is the result of research on recycling as an economic development tool and the benefits to the State of Nevada.

Ms. Hildebrand agreed, how the state defines a material is most important. If old newspaper is considered garbage then it does not come under the qualification to be reused within the state as a manufacturing process. Defining it as a recyclable material that can be used for a manufacturing process, in terms of economic development, helps any company that wants to recycle that old newspaper and turn it back into a product such as cellulose insulation, jiffy pads, etc.. To support NDEP and Petition 96011, we helped write the expanded definition of recyclable material.

Ms. Hildebrand referred to a chart on page 3 of her handout, Value of Selected Recyclable Materials Collected in Nevada in 1995, showing that recyclable materials are not garbage, they are commodities, some traded on the Chicago Board of Trade, and all of these materials are actually traded internationally. We are trying to turn these materials back into a useful product and once they are collected, they are processed, go through a broker, and in some cases, are shipped more than 15,000 miles away.

Approximately 161,000 tons of corrugated cardboard were collected in 1995. I took the average value from a national register that reveals the value of these materials weekly, and you can see that 161,000 tons of corrugated cardboard earned $11 million in the state. This chart reveals that we actually ended up collecting and diverting from the waste stream 336,000 tons of material with an estimated value of $24 million. That represents only about 11% of the waste stream. It is not just garbage because it is creating jobs and business opportunities in the state and it puts recycling in a context other than garbage.

Ms. Hildebrand displayed a list, Potential Investments, on the overhead that showed the average amount paid to a processor for mixed office wastepaper was recently $25/ton. With an investment of $250,000 in machinery, that material can be pulverized, made into jiffy pads and then the value becomes $1,600 a ton. If that material is made into hydroseed mulch the value is $500/ton in product stage. Thus, you are no longer throwing it out or shipping it out-of-state, you are putting that economic gain into the state and using the materials locally.

Ms. Hildebrand explained we import products made of recycled materials that support the dominant industries in Nevada, gaming, tourism, ranching and agriculture. Many of those products could be made in Nevada resulting in a huge economic benefit to the state. I support the Commission in changing this definition and I concur with NDEP with adding "but is not limited to" because materials fluctuate all the time and there needs to be flexibility in the regulations.

Chairman Close recollected that a few years ago it was un-economic to collect old newspapers and asked Ms. Hildebrand if that had turned around.

Ms. Hildebrand explained there are a limited amount of mills in the United States that accept old newspapers,

recycling them back into newsprint or other products. The majority of our newspapers are going to Oregon or Washington and may also be going to Weyerhauser facilities. As larger corporations decide to retrofit their machinery to allow for collecting old newspapers instead of tree pulp, that situation fluctuates. The reason why that market collapsed is because of the international market. As more communities started collecting old newspaper there was a far greater supply than there was a demand. Asia does not have any trees left so much of our paper is shipped there - so Asia controls the international market and the price that is paid for paper. If we had more local options we would not have the price swing. Part of my job is to help develop local industries and your changing the definitions will help me give incentives to industry.

Steve Kalish, representing Silver State Disposal of Las Vegas, commended staff for the work done to tighten down the assembly bill that instituted curbside recycling, the most important part of their change is requiring some type of capabilities for Health Districts to verify numbers. In 1991 when Nevada went to a comprehensive curbside recycling program we asked the public for both participation and financial support. Every year we have been very responsive to the state, as well as to the Health District, responding to how many tons we recycle and where they come from. If a recycler chooses to inflate or deflate his numbers, that has a profound effect on what we are recycling in the State of Nevada. There is nothing worse than to tell the public that we are going to recycle to reduce the solid waste, then later come back saying all their efforts were for naught, that they are paying for something and the percentages are going down. Mr. Gould stated it went from 17% to 12%. I don't believe that participation or volume was down, I believe we inflated numbers in prior years. Later years reflect real numbers. Our volume has gone up 10% - 15% every year and the people of Southern Nevada are recycling as much as they can at curbside. In 1991 we were averaging 4,000 tons of solid material a month to the market place. As of last month we are averaging 9,000 - 10,000 tons. I think the most important thing you can do as a Commission is give the people the teeth to verify these numbers so you have an effective report card. I think we need to tighten those numbers down.

Mr. Kalish responded to Chairman Close's question. Newspaper has been, and will always be, a good commodity for recycling. Las Vegas is recycling between 1,700 and 2,200 tons of newspaper a month, most of it is going to the Pacific Northwest where it is re-processed by the addition of some virgin wood pulp, back to newsprint. We have also shipped to Asia but the domestic mills have been good to us. We have gotten past the peaks and valleys of the bad market times and there is a stable market right now. As long as that stable market stays, we will continue to advance and expand our programs.

Commissioner Jones asked Mr. Kalish if his company or other companies in Nevada are producing manufacturers of the products or are you just exporting the products for recycling.

Mr. Kalish explained almost 100% of what Silver State recycles goes out-of-state, 10% goes to China or Taiwan and 90% stays in the United States. None of it stays in Nevada.

Chairman Close asked if the newspaper recycling program is profitable.

Mr. Kalish explained you had to look at the entire recycling program. Newspaper is one of the better commodities and we recycle 3 types of plastic (milk jugs, soda pop bottles, Wisk and Tide bottles). We also recycle aluminum and tin cans, magazines, telephone books, cardboard, 3 glasses (clear, brown and green), and motor oils at the curb. Some products have a good market, some have a zero market.

Chairman Close asked which product has a zero market?

Mr. Kalish replied the biggest losers right now are glass and motor oil but we are picking up about 4,000 gallons of motor oil a month that would have wound up in a landfill, leaching down into the ground water. We do not look at the program with "which ones make money, which ones lose money" we look at what we need to do to have the best environmental program.

Ms. Hildebrand described recycling programs emerging in the State of Nevada:
A company in Reno has invested in machinery and equipment to manufacture hyroseed mulch. The EDC just awarded them a tax abatement worth 5%. If you are a manufacturing company - and this is why the definition is so important - one incentive is a tax abatement or deferral for purchase of machinery or equipment that would be used in manufacturing.
A company in Las Vegas producing insulation out of old newspapers recently closed because the chemicals that were being added to the insulation were inappropriate;
Another company, manufacturing pallets out of rubber tires and plastics, are looking to located in California because they will export their product to Asia and need a shipping harbor.
Another company opening in Las Vegas within the next two weeks will be processing crumb rubber from tires back into a product that will be used on highways;
A company, Earth Partners, in Fernley, will manufacture a high-density board made of 100% old newspaper and waste paper. This product will be used for furniture, moldings, doors and tables and has been approved by all the standards and testing across the country. EDC is trying to finalize some of their financing right now.
A company from Los Angeles turns old newspapers and wood chips into medium density fiberboard that is used in construction. Several other furniture manufacturers, presently not located in Nevada, use recycled paper products. EDC is trying to get them to locate here.
Ms. Hildebrand stated the University of Nevada in Reno is currently researching 4 or 5 different products that are made from paper that have low water usage.
Commissioner Griswold asked if the proposed regulations and changes will place a new burden on the municipal entities involved.
Mr. Gould replied no and explained the definitions for recycling reporting requirements are already in the regulations. This regulation gives the municipalities the ability to track their collections.
Commissioner Fields asked Mr. Gould to respond to the first witness who raised the concern about bills of lading, manifests, etc. becoming a matter of public record.
Mr. Gould replied at the state level that information is not collected. At the level of municipalities there is a way to address that concern. The municipalities and the recycling centers can work together to establish an ordinance for confidentiality standards for that particular process. Other than that, the regulatory standard could modify what is proposed to eliminate specific names from what is available and requested of municipalities so client lists are not available but manifests, without client names etc., were available.
Chairman Close asked if this was a matter for the municipality to deal with or can the Commission put something in the regulation that maintains some confidentiality.
Mr. Gould stated it would be preferable if the confidentiality standards were developed at the municipal level. The information would be more reliable if the municipality and the collecting agency has the opportunity to see the actual records to verify results. In Section 1 we could incorporate language to exclude client lists.
Chairman Close asked, couldn't you just say "all information shall be kept confidential"?
DAG Jean Mischel explained the state has a very broad public records law that was passed by the legislature and language in our regulations has to be consistent with the public records law. This has been an issue for some time because it is so broad, particularly when you are dealing with client lists or traditionally confidential information. The way the current regulation reads, that information is not only held by the municipality, it is also generated by the municipality and it would be up to them to determine rather or not to adhere to a more, or less, stringent confidentiality interpretation. What Mr. Gould has suggested, specifically excluding client names or deleting client

names, is better than trying to limit the existing public records law. If the regulation is challenged you might have a problem, just because the legislature has already determined that all records held by government agencies are public unless they are declared by statute to be confidential. The Medical Board has been successful in passing very specific confidentiality laws but regulations might not withstand that challenge.

Commissioner Doppe asked DAG Mischel to clarify the nature of this administrative code - the local municipalities will have to create an ordinance at the local level to codify this, so they can, in turn, apply it to the recycling centers in the local areas?

DAG Mischel explained this regulation gives the municipalities the authority to request the information for verification purposes.

Commissioner Doppe asked if this was an enabling type of provision where they can only go so far and no farther?

DAG Mischel explained if they pass an ordinance, as long as they are consistent they can go farther.

Commissioner Doppe noted, so fundamentally, there is not much we can say or do here addressing confidentiality.

DAG Mischel explained the Commission is giving them some guidance in either passing ordinances or making their requests. I would suspect that this would be used in incidents of fraud or suspected fraud and maybe not on a regular basis. Again, that is up to the municipality.

Commissioner Molini recalled the suggestion that item (j), plastic containers, be shortened to "plastics" .

Mr. Gould agreed it would be appropriate for public residential recycling types of plastics.

Chairman Close asked, in Section 2 (j) do you want to delete the words "containers including industrial grade shrink wrap"?

Mr. Gould replied yes.

Chairman Close called for additional comments. No comments were made.

Chairman Close called for a motion.

Commissioner Turnipseed made a motion that Petition 96011 be adopted as amended.

Commissioner Gifford seconded the motion.

The motion carried.

Chairman Close included, as part of the motion, the renumbering of the items on page 3 because of the deletion of lines 13, 14, and 15.

Chairman Close moved to agenda item II-B.

B. **Petition 96012 (R-072-96)** is a proposed permanent regulation that amends NAC 444.470 to 444.7499 by making an exemption for Class II landfills from ground waste monitoring standards as provided by the U.S. Congress. The amendments will allow for interim site approval to be revoked if the owner/operator fails to provide adequate permit application documents within one year of notification of application deficiencies. NAC 444.711 is proposed to be amended to require a system for monitoring moisture in unsaturated zones under certain conditions. NAC 444.632 the term "wet garbage" is proposed to be deleted.

Les Gould, Branch Supervisor, Bureau of Waste Management, explained the most significant modifications to Petition 96012 are to the ground water monitoring requirements to solid waste disposal sites allowing Class II landfills to have a small area, or remote landfill, that is exempt from groundwater monitoring requirements. This is a result of additional flexibility and leniency in the federal solid waste regulations. In March last year, Congress passed a law that excludes the requirement for monitoring ground water from these small landfills. We want to modify that regulation but retain requiring ground water monitoring when such monitoring protects the ground

waters of the state.
Mr. Gould reviewed Petition 96012:
Section 1, Subsection 6: We added allowing the solid waste management authority to revoke an interim approval status for existing solid waste landfills if the owner or operator provides the documents necessary to submit an application for a permit.
Commissioner Gifford asked, Does Subsection 6, line 3 pertain back to the people under item # 4 on the first page. Either they are out of, or still in the business and are a Class I or a Class II site. It seems open-ended. We could add a statement "and in no case after October 9, 1996, for Class I sites and after October 9, 1999, for Class II sites" because after that point they are either permitted or not.
Mr. Gould explained they are required to be permitted by those dates. We want to be able to request the information so I don't think it is necessary to put that language in. If a facility exceeded that deadline date we would issue an administrative order requiring them to get back in compliance with the regulation and those requirements still include, or may include, submittal of permit application documents by a certain date.
Commissioner Gifford asked, then the dates outlined on page 1, item # 4, line 16 - "October 9, 1996, or for Class II sites October 9, 1999," are not that rigid?
Mr. Gould explained those dates are rigid but basically we remove them from just the permitting process according to the regulation in Section 2.
Commissioner Gifford stated the reason I question this, it seems to have a tendency to drag the process out. You already declare specific dates for the option for requesting information, etc. - then after that they are either permitted or not. I don't want to destroy any flexibility you feel you need.
Mr. Gould explained it does not do that.
Chairman Close asked Mr. Gould to repeat the accepted language on Line 6, page 2.
Mr. Gould replied "authority within 1 year after such a request, but in no case later than October 9, 1996, for Class I sites and October 9, 1999, for Class II sites."
Mr. Gould continued, the next sentence, line 7, adds a clause - again to coordinate with our ability to revoke interim approval established for a permit.
Commissioner Gifford stated he understood up to Section 7 that you either have an open or a closed facility. So in terms of interim approval effective until the site is closed, it seems like it is already defined as being open or closed based on declarations made as of November 8, 1993.
Mr. Gould explained item 6 gives them the authority to revoke interim approval, perhaps inferring that they had that approval from subsection 4 on the previous page. If you want to make that explicit in the regulations - again, this in turn requires interim approval which can be revoked by the solid waste management authority.
Commissioner Gifford asked, interim approval for Class I or Class II sites either terminates in 1996 or 1999, correct?
Mr. Gould replied that is correct. We want to strengthen that with the clause in Section 7, to indicate that interim approval can be revoked if -
DAG Mischel stated what Mr. Gifford is questioning is not the interim approval revoked language but the existing language -
Commissioner Gifford agreed. That extends it on for the life of the facility when in fact I keep falling back to either these 1996 or 1999 dates where interim approval is not necessary because they would be permitted at that point.
DAG Mischel suggested referencing Section 4, with the language to read: "is closed pursuant to Section 4".
Commissioner Gifford agreed with that suggested language.

Chairman Close asked Mr. Gould to repeat the revised language.
Mr. Gould explained subsection 7 would read: "The interim approval is effective until the site is closed pursuant to subsection 4, the interim is approval is revoked, or a permit is issued for the site".
DAG Mischel asked Mr. Gould if it is foreseeable that the solid waste management authority would ever suspend interim approval? Do you want to add "suspension" to your language or would it either be a revocation or discontinuing operation?
Mr. Gould explained that would be addressed in enforcement.
DAG Mischel noted the way you have worded subsection 6 gives them just the revocation opportunity.
Mr. Gould asked, should we insert "or suspended"?
DAG Mischel questioned if that would be necessary or useful and noted if you revoke you are starting the permitting process over. If you suspend, a suspension might lapse on its own terms.
Mr. Gould agreed to adding that language.
Chairman Close asked for a review of the language.
Mr. Gould reviewed the revised language:
Page 2, line 3, subsection 6:
"The solid waste management authority may revoke or suspend the interim approval granted pursuant to this section if the owner or operator fails to provide to the authority any documents or other information relating to the application for a permit requested by the authority within 1 year after such a request, but in no case no later than October 9, 1996 for Class I sites and October 9, 1999, for Class II sites.
Page 2, line 7, subsection 7:
"The interim approval is effective until the site is closed, pursuant to subsection 4, the interim approved is revoked or suspended or a permit is issued for the site."
Mr. Gould explained the proposed language changes in Section 2, line 17, regards technical review. This gives the bureau the ability to require substantiating documentation within a definite time frame and the next paragraph concerns the completeness review which is performed by the solid waste management authority within a 45-day period to verify that the completed application has all the necessary elements. After that, we proceed to the technical review. Subsection 2 provides similar language for the technical review from the authority. Line 21, "If the solid waste management authority determines that the application does not comply with all applicable statutes and regulations, it shall mail a notice to the applicant. The notice must specify:
(a) Each statute or regulation with which the applicant has failed to comply;
(b) Any documents or other information which the applicant is required to submit to the authority; and
(c) The period within which the applicant is required to submit to the authority the documents or other information requested pursuant to paragraph (b).
Mr. Gould explained this gives us the ability to require substantiating documentation within accepted time-frames.
Mr. Gould continued, in Section 3, line 23, we are deleting the word "birds" and adding the word "aircraft" because of the parameters of the landfill location. This change occurs again in subsection 2(b), line 4 on page 4.
Commissioner Gifford asked, hazard to aircraft means an increase of the likelihood of a collision between a bird and an aircraft and the previous page reads that "an owner or operator of a new or existing municipal solid waste landfill shall maintain proof that the unit or lateral expansion does not pose a hazard" - how do you assess that and what kind of proof do they have to offer?
Mr. Gould explained these are adopted from federal regulations. The location standard requires landfills to be located a certain distance away from airports. They have to address that in their application and identify if there is a

problem at the site that may pose a threat to aircraft - traffic patterns, etc.

Mr. Gould continued:

Section 4, Subsection 6 on line 20 we delete -"A plan for monitoring water which is in compliance with NAC 444.683" which details the whole ground water plan development that must be submitted for a Class I site. Again, that is to pass on the exemption that was created by congress last year.

In Subsection 5, we alter the language to read "The solid waste management authority may require the owner or operator of a Class II site to install:

1. A system for monitoring ground water which complies with the provisions of NAC 444.7483; or
2. A system for monitoring moisture in the unsaturated zone, if the solid waste management authority determines that the system is necessary to protect the waters of the state from degradation by pollutants or contaminants."

Mr. Gould explained it was necessary to add language to that section so it was not a blanket exemption for all sites no matter what their location or geology was.

Chairman Close asked for questions.

Commissioner Turnipseed asked how many landfills in the state closed, that otherwise would have stayed open, when it became too expensive to comply with the old law with the ground water monitoring.

Mr. Gould explained he could not place a number on that. We are still in the process of implementing these regulations because a two-year extension was granted by the federal government to implementation for the small landfills. Ground water monitoring can be expensive. Currently, a solid waste management authority does have the ability to waive ground water monitoring requirements if the applicant can demonstrate that there is no attempt to contaminate groundwater.

Commissioner Turnipseed stated White Pine County (Ely) was wrestling with whether or not to close their landfill and Fernley and Douglas County built transfer stations. How many others built transfer stations because they could not comply with the ground water monitoring?

Mr. Gould explained it would be difficult to say that the ground water monitoring requirement was the only determining factor. Many factors are built into evaluating whether or not you want to go to a transfer station system or to a disposal site. The Humboldt landfill has recently been issued a permit which does not require ground water monitoring at the site. A few others have been submitted with requests for a waiver of that requirement. Those waiver requests are detailed and require a lot of technical documentation backup to present a good case. The regulations proposed here today would give us the flexibility in addressing the applications.

Commissioner Gifford noted on page 4, in Section 5 you are deleting some specific dates or conditions. You have an October 9, 1997, date and then you say "if the site is new, before the receipt of waste, whichever is later". Does the requirement to install give NDEP the authority if you need to enact the provisions? Does it meet your intent or does it need to be more specific?

Mr. Gould explained an established date could be addressed at the time they submit a permit application.

Chairman Close asked for additional comment from the Commission. There were no comments.

Chairman Close asked for public comment.

Robert Groesbeck, Silver State Disposal Service, addressed Section 4, Subsection 6, deletion of the ground water monitoring requirements. We understood the edict recently issued by congress and we think it is important, particularly in rural areas, and we support that deletion. We do have a problem in regard to Class I landfills. Mr. Gould indicated entities were presented waivers in that regard. I am not talking about waivers for just ground water monitoring, I am talking about waivers as to liners and air permits. The Commission, and certainly the Solid Waste

Management Authorities, need to address that. Our facility, Apex Regional Landfill was built at a cost of about $13 million. We are fully permitted under Subtitle D of RCRA and we are the only landfill in the State of Nevada that has met those requirements. There is a major decision between Class I and Class II landfills. We are not talking about 20 tons or less per day in the urban areas, we are talking about thousands of tons per day and there is a real issue with regards to the pollution of ground water. We just detected about 500 gallons per day of leachate at our facility. We would not have been able to make that detection but for the liner and we have a 1,780 acre landfill. The Boulder City application has asked for a waiver of ground water monitoring and for liner waivers and they are not complying with the Title V air permit requirements. That has to stop. Mr. Gould talked about documents of justification being provided for those exemptions but I have not seen justification. We have been accused that our position is merely one of competition but that is not the case. We all pay if we find out that we are wrong. Liners should have been required in Boulder City, not waived. I have been told by staff, and I agree, they are put in a difficult position because the Solid Waste Management Authority has been delegated that authority. Again, I would like to point out that the delegation is not an abdication and I think the Commission and the NDEP has the authority, when concerns are raised, to address local permitting issues and we ask you to do that, particularly in regards to Class I landfills. For the record, we are not opposed to the proposed changes to Class II landfills. That is a reasonable issue but we would ask this Commission to, at some point in the near future, agenda this public item for action, to give staff the authority to look at the Solid Waste Management Authorities Administration programs in respect to this. We have serious problems that need to be addressed now.

Commissioner Jones asked Mr. Groesbeck if he had any idea how many Class I landfills were operating with exemptions right now?

Mr. Groesbeck replied Mesquite was permitted about 1 year ago with all the aforementioned waivers, and the Boulder City landfill. The easier answer is that we are the only Class I landfill in the State of Nevada that has been required to meet RCRA standards. That needs to be addressed.

Chairman Close asked for additional comments.

Commissioner Jones noted the comments we just heard deserve our directing staff to bring that back in a future agenda. We may have problems out there that we don't even know about and I think it is incumbent upon us to find out about that in the near future.

Commissioner Turnipseed asked, would that be scheduled as a workshop only with no action items?

Chairman Close asked Lew Dodgion for direction.

Lew Dodgion, Administrator for the Division of Environmental Protection, replied NDEP would be happy to look into it.

Commissioner Jones asked, is it possible to just collect the data from the Waste Management Authorities to find out how they are operating under exemptions?

David Emme, Bureau Chief, Bureau of Waste Management explained we do that, and we can give you a report at a future hearing. Nevada statutes use the phrase "solid waste management authority" and that is defined as the Division of Environmental Protection and Health Districts in Clark and Washoe Counties, the regulatory authorities. The statute also gives the Division some limited oversight authority over those two Health Districts and says "the Division shall review their programs to make sure that what they are doing is consistent with the federal subtitle regulations". NDEP entered into identical memorandums of understanding with both Health Districts that says how we will do that and that we will do that on an annual basis. The system is there but we have not reviewed their programs at this point because we are trying to implement our own program. We have participated with Lockwood and the Washoe County Health District but again, we don't sign those permits. We have limited jurisdiction but we

will provide a report to you in the future.
Chairman Close asked the Bureau to provide the Commission with a report.
Chairman Close asked for additional comment. There were no additional comments.
Chairman Close asked for a motion.
Commissioner Turnipseed made a motion that Petition 96012 be adopted as amended.
Commissioner Molini seconded the motion.
The motion carried.

Chairman Close moved to Agenda Item II-C:

C. **Petition 96016 (R-116-96)** proposes to permanently amend NAC 444.842 to 444.976 by adding regulations that establish standards for management of used antifreeze that is considered a hazardous waste and is recycled. The new regulations provide for definitions, establishes applicability, standards for generators, used antifreeze collections centers, transporters and transfer facilities, recycling facilities, and mobile recycling units.

David Emme, Chief, Bureau of Waste Management, explained used antifreeze is currently regulated as a hazardous waste if it exhibits characteristics of toxicity or is mixed with a hazardous waste. Used antifreeze frequently fails the TCLT test for lead, thus is subject to the cradle-to-grave hazardous waste management standard. Used antifreeze is easily recycled as a coolant and some generators have their own equipment to recycle used antifreeze on site. We have issued written determinations of recycling to businesses who have mobile units for recycling antifreeze in Nevada and there is a permanent used antifreeze recycling facility located in Las Vegas.
Mr. Emme continued - U.S. EPA adopted what is referred to as the Universal Waste Pool in May of 1995. The intent of the Universal Waste Pool was to streamline requirements for certain types of hazardous waste that are widely generated by a diverse array of generators yet which can be user-friendly recycled. EPA included batteries, pesticides and mercury containing thermostats as universal waste in the initial rule, but established a mechanism to add other wastes, also for states authorized RCRA Subtitle C programs to add other wastes to the Universal Waste Pool. Nevada adopted the Universal Waste Pool by reference in 1995 and became authorized to support implementation by EPA last month. The proposed standards are less stringent than the current full regulation of hazardous waste. We are contending that used antifreeze meets the following 6 criteria by EPA that defines what a universal waste is:
1) The waste stream or portion must be currently regulated as hazardous waste.
2) The waste stream must not be exclusive to a specific industry but be generated by a wide variety of establishments.
3) The waste stream must be generated by a large number of generators.
4) Systems to be used for collecting and managing the waste must insure close stewardship.
5) The risk posed during accumulation and transporting must be relatively low compared to other hazardous wastes. 6) Regulation of the Universal Waste Pool increases the likelihood that waste will be diverted from nonhazardous waste systems to recycling.
Mr. Emme stated, if used antifreeze is managed according to the standards proposed, we believe there would be little danger to Health and the environment. The intent of the proposed regulation is to reduce the regulatory burden of generators and encourage collection of used antifreeze that is otherwise dumped down storm drains or disposed of in household trash.
Mr. Emme described the regulatory scheme:

Generators may aggregate waste generated at different sites known as an aggregation point and a generator may recycle on site; a local recycler may recycle on site, transport up to 350 gallons himself for off-site recycling, or have a transporter or recycler collect the waste for recycling. Generators are not required to have an EPA identification number (ID#), use manifests, or count used antifreeze as recycling to determine their status as a large recycling generator.

Collection centers may receive waste from generators or from do-it-yourselfer's, must be registered with the state and must comply with rules which include storing material in containers labeled as used antifreeze.

Transporters collect waste from generators. They can hold it up to 35 days at a transfer facility and can perform incidental processing like skimming oil. Transporters and transfer facilities must have an EPA ID#, comply with the Nevada Department of Transportation (NDOT) requirements, keep records, and have secondary containers.

Recycling facilities must have a written determination of recycling issued by the state, comply with storage requirements, have a contingency plan in case of emergencies, maintain an operating records and submit them in a report to NDEP.

Oil recyclers must have a written determination, maintain records and submit them in a report to NDEP.

In response to comments received by the Bureau, Mr. Emme distributed suggested amendments to the proposed regulations (Exhibit 20).

Section 6:

The definition of aggregation point currently reads "facility for the aggregation of used antifreeze" Aggregation point is the term that is used in the used oil regulations. An aggregation point is a place where a generator can bring in and consolidate waste that is generated at other sites that they own. We want to delete "facility for the aggregation of used antifreeze" in the definition and change the language in Section 6 to read:

1."Other used antifreeze generation sites owned and operated by the owner or operator of the aggregation point"

We want to delete "A generator of used antifreeze who is the owner or operator of the facility; or a person who generates used antifreeze from his household."

Section 7:

A comment we received was that the existing definition does not distinguish generators from some of the other categories of some facilities. To clarify the definition we request Section 7 be changed to read:

"Facility for the recycling of used antifreeze" means a facility that receives used antifreeze from off-site, performs recycling of used antifreeze and is permanently stationed at a single facility. The term includes the contiguous land and any structures, other appurtenances or improvements on the land which are used for the recycling of used antifreeze." We want to add "The term does not include generators of used antifreeze that recycle their used antifreeze or have it recycled by a mobile recycler of used antifreeze."

Section 8:

To clarify the definition we would like Section 8 to read:

"Facility for the transfer of used antifreeze" means a transportation related facility where shipments of used antifreeze are stored for more than 24 hours but not more than 35 days during the normal course of transportation. The term includes, without limitation, loading docks and parking areas."

Section 9:

Clarifies the definition for generators.

Section 9 currently reads:

"Generator of used antifreeze" means a person or facility that performs an act or conducts a process which produces used antifreeze." We would like to add "A generator who collect, aggregates, stores, transfers or recycles used

antifreeze in compliance with sections 23 through 27, inclusive, of this regulation shall not as a result of such activities be considered a center for collection of used antifreeze, a facility for recycling of used antifreeze, a facility for the transfer of used antifreeze or a transporter of used antifreeze."

Section 13, Subsection 2:

Add the word "or" to indicate that a transporter is someone who transports used antifreeze but also could be someone who owns or operates a facility for transfer of used antifreeze. That is a tie that signals that a transfer facility for the transfer of used antifreeze is related to transportation.

Commissioner Gifford asked, in Section 9, for the portion you want to add, do you mean a generator who aggregates, stores, etc., is home antifreeze or just antifreeze in general?

Mr. Emme explained, to be in compliance with Sections 23 through Section 27, he can only aggregate his own antifreeze. Those sections spell out what you can do to aggregate, store, transport or recycle used antifreeze and if you go beyond those bounds then you may be considered a transporter -

Section 16, Subsection 3: We ask that the word "Locked" be changed to "Closed". We don't really need containers to be locked.

Commissioner Gifford noted page 3, line 1, defines mobile units. How does Section 18 apply back to these mobile units, dikes, berms, and floors -

Mr. Emme explained the idea of Section 18 is secondary containment for tanks or containers. A mobile unit is a machine that is taken to the generators site -

Jeff Denison, Permitting Section, Bureau of Waste Management, explained that mobile units do not engage in the storage of used antifreeze, they typically perform the recycling in a one-day process. Section 18, where it refers to storage, would not apply to them.

Commissioner Gifford noted it does not say "storing" at all - it just says "or mobile unit for the recycling of used antifreeze". To me that means stored or not.

Jeff Denison explained Section 18 is a requirement for each container which stores used antifreeze at a facility. A mobile person may be contacted to recycle at an entity that is otherwise defined as a facility.

Chairman Close asked why we are even putting "mobile unit" in when they don't store, they process it through their unit.

Mr. Denison replied "mobile unit" could be deleted. A mobile facility by definition is not established as a storage unit at a location, they are temporarily storing and not subject to a container provision.

Mr. Emme agreed to take out "or mobile unit for the recycling of used antifreeze".

DAG Mischel explained the definition for mobile unit does not include "storage at that unit". Even if they are not currently storing, if you take it out owners of mobile units may interpret their facility as being exempt, unless you want to amend the definition.

Mr. Emme stated, all we are talking about here is secondary containment. A mobile unit, if it has containers, is still subject to the requirement in Section 16 that a container be in "good condition, including without limitation, being free from severe rusting, visible structural defects, or deterioration".

Commissioner Gifford suggested inserting the words "or a" between "antifreeze" and "facility". Section 18 would then read "Each container which stores used antifreeze at a facility for the transfer of used antifreeze, or a facility for the recycling of used antifreeze, must have a secondary system for containment which" -

Mr. Emme continued to Section 19 and asked if the Commission wanted to make the same language changes.

Chairman Close replied yes.

Mr. Emme explained Sections 20, 21 and 22 pertain to procedures for spills, releases of used antifreeze and

reporting requirements.
Commissioner Gifford noted there is no time limit defined in Section 21, page 5, line 28 nor in Section 22, page 6, line 22. Is it desirable to state a definite time limit?
Mr. Emme explained there is a reference to the CERCLA requirement of reporting and the state requirement for reporting which we lifted out of the water regulations. We could insert 24 hours in those sections.
Chairman Close asked where that would be inserted -
DAG Mischel explained in Line 10 - Section 22 - page 6, after the word release, and in line 28 - Section 21 - page 5.

Mr. Emme explained the new language will read: "shall report a release within 24 hours by telephone to:"
Section 23:
Mr. Emme requested the correction of a typographical error in Section 23 (a), line 19. The word "this" should be "their" and asked to add the word "points" after the word aggregation on line 21.
Section 24:
Section 24 says that you should not mix your used antifreeze with hazardous waste because antifreeze would then become hazardous waste, no longer subject to these regulations.
Chairman Close asked if oil is mixed with antifreeze would that become hazardous waste?
Mr. Emme replied no.
Commissioner Doppe asked if the words "or both" in Section 24, Subsection 2, line 9, page 7, apply to containers and storage tanks that are above the ground.
Mr. Emme replied yes.
Section 27:
We request a change, using the term "aggregation point" instead of facility in Subsection 2 (c) on line 24.
Commissioner Gifford did not understand the writing style in Section 27. Subsection 2 and Subsection 3 are identical, with the exception of (c) in Subsection 3. Could we eliminate Section 3, beginning with Line 15 under Subsection 2, that reads "The used antifreeze is transported to a center for the collection of used antifreeze which is registered pursuant to Section 25 of this regulation; or" and then give your wording for Item 3 (c) on line 24. The language is repetitive.
Mr. Emme explained that language was drafted by LCB but we can attempt to consolidate that.
DAG Mischel stated the only change would be to add, at the end of Line 16, "or which is owned or operated by the generator". I see no reason for breaking this out either.
Mr. Emme stated we will revise it to read, at the end of Line 16, "or to an aggregation point" and delete Subsection 3 and renumber from there.
Commissioner Gifford questioned contradictory language beginning on Line 26 of page 8 and continuing to page 9. In one case you are saying that the generator can transport it and then you are turning around and saying that the vehicle for transportation has to be owned by the recycling service.
Chairman Close asked why do we care who owns the vehicle?
Mr. Emme explained that says it is a closed move situation where you contract with someone dealing with recycling returning it to you.
Chairman Close asked, what if you sell it to another entity that uses antifreeze? If I don't want to utilize used antifreeze in my operation why are we requiring it to come back to me?
Emme explained, just to close the loop on recycling -
Chairman Close asked, what difference does it make where it goes after it has been recycled? Who uses recycled

antifreeze? If I go to the garage to get antifreeze I am going to find out if I am getting it out of the can or if it is a recycled antifreeze product. Somebody must be able to tell us that so be thinking about that. I don't know why we care to whom it is returned and don't tell us to close the loop, it is not going to work - a loop can be closed by going to a third party, it seems to me.

Mr. Emme explained he thought the intent - Subsection 4 starts off that a generator does not need an ID number -

Mr. Denison explained the provision in Paragraph 4 allows a generator to have his own recycling unit and perform his own recycling as long as he was re-using it. If he was going to market it or sell it to another party then he has to comply with the identification requirement, written determination requirement and other requirements as do the marketers. If you are claiming special status as the owner of a recycling unit you can use that to make allowances to recycle your own. Engaging in the market and resale of used antifreeze is a set of different requirements.

Chairman Close requested that Mr. Emme and Mr. Denison think about the language and get back to us after lunch.

Mr. Emme explained Section 28 through Section 35 applies to transporters and we do not reques changes to these sections. Transporters are supposed to have an EPA ID number and are subject to record-keeping requirements.

Chairman Close asked what sections apply to the homeowner. On page 1 an aggregation point is a home-owner.

Mr. Emme explained the only reference to homeowners would be that aggregation points or collection centers can't accept used antifreeze generated by do-it-yourselfers. There is no standard or regulation that applies to homeowners that says they have to participate in that. The attempt is to expand the opportunity for collection of used antifreeze from the homeowners.

Commissioner Jones acknowledged that goal is worthwhile but what is the incentive for people to do that?

Mr. Emme explained by lessening the girdle on the generators and collection centers we are eliminating a lot of paperwork for a reporting period and not counting the waste antifreeze that is recycled as hazardous waste for determining their status. This affects a facility that is on the threshold between a large and small quantity generator. If it is used antifreeze, that puts you over the edge, making you a large quantity generator, subjecting you to more stringent regulations. Taking this out may change your status, making you a small quantity generator subject to lesser regulations overall.

Commissioner Gifford questioned Section 35, Subsection 4, line 20 on page 13, "if more than 5,000 pounds of used antifreeze is released during transportation". 5,000 pounds was referred to in Section 21, but in a different context. Is 350 gallons the upper limit for transportation?

Mr. Emme explained 350 gallons would be the upper limit for a generator to transport their own waste. There isn't an upper limit established in these regulations for a transporter who might be driving a tanker truck.

Mr. Emme continued:

<u>Section 47:</u>

Correct a typographical error on Page 17, line 2. Delete the word "hazardous" - insert "hazards".

<u>Section 50:</u>

In response to a comment from the public, we propose additional language in Section 50 (c) to add a section to say "the quantity and disposition of used antifreeze accepted and disposed in a manner other than recycling". The reason for this change is, if there was some problem with their through-put - their process, to have to dispose of the used antifreeze because they could not keep up with it or, if for some reason they were disposing of it as a hazardous waste instead of recycling it, we would have that information.

Chairman Gifford questioned the language in line 20 - page 18, subsection (d) which says "The calendar year which the report covers". The next sentence says that you have to have the report in before March 1 of each year, wouldn't it always be the preceding year?

DAG Mischel explained that it is just a date on the report itself. If there is a signature line dated 1995 people could extrapolate and say "this must have been 1994's report". It is much easier for referencing if you just look at the front of the report that says 1994.
Chairman Close suggested the language "The report must be received by the administrator on or before March 1 of the following year."
Mr. Emme explained Sections 51 through Section 55 apply to mobile recycler's. They are also required to submit an annual report so we should make the same change in Section 55, page 20, Subsection 2. "The report must be received by the administrator on or before March 1 of the following year."
Commissioner Molini asked if there is a simple way for a household to recycle antifreeze?
Mr. Emme replied he was not aware of a way. The idea is to expand the number of places that exist so do-it-yourselfer's could take their used antifreeze and have someone else recycle it in the same way that used oil is recycled.
Mr. Molini asked, are there places to take it?
Mr. Emme replied that he was not aware of any locations now but these regulations may change that.
Commissioner Turnipseed asked what the product looks like when it comes back after it has been recycled. Is it in a container labeled "Recycled Antifreeze"?
Mr. Emme replied he did not know what the product standards were but there are ASTM standards that must be met as far as it being re-labeled as a recycled product.
Commissioner Turnipseed noted, technically, because you dilute the pure antifreeze you put into your radiator to a certain threshold, the material you take to a recycler is already diluted. Does recycling remove the water?
Mr. Denison explained most people recycling are the fleet operators, large generators of used antifreeze. They have a distillation system where they dilute the water to their specification.
Chairman Close asked if there is a requirement to label recycled used antifreeze as such.
Mr. Denison replied there is no EPA requirement on the disclosure on the material that is recycled. Most recyclers are also waste generators and I am not aware of anybody that is profitably marketing used antifreeze as a new product.
Commissioner Jones noted, until you find a way to make it financially viable, you are not going to get the homeowner to recycle used antifreeze.
Mr. Denison explained there are efforts to collect and recycle it but to redistribute back to the homeowner is not practical at this point.
Commissioner Doppe asked, for purposes of this petition, in practicality, we are dealing with two things - the fleet users actually recycling and putting the recycled product back into their fleet as a means of saving costs, and the bulk of the used antifreeze which is just looking for a home after it is used, and that is why we come up with aggregating points so they can take it somewhere else. Where is the somewhere else?
Mr. Emme explained most of it is going to out-of-state to recycling facilities but it could go to a permitted facility in Las Vegas authorized to recycle used antifreeze. The whole scheme works best if the antifreeze is kept in Nevada because this scheme only applies to the State of Nevada, unlike the federal regulations. The same scheme is not necessarily in place in California or other bordering states.
Chairman Close called upon Ashley Hall.
Ashley Hall, representing the Nevada Recycling Association, invited the Commission to take a tour of ThermoFlo Corporation in Las Vegas. The firm reconstitutes coolants and antifreeze in a bulk format. Much of the work they do is for major hotel cooling systems. Mr. Hall stated the Nevada Recycling Association supports the proposed

regulations as amended and commended the comments and questions from Commission members.
Chairman Close asked Mr. Hall if the reconstituted product is given back to the hotels, and if so, does the product taken from the Flamingo Hotel go back to the Flamingo Hotel?
Mr. Hall explained it comes in bulk and goes back as bulk. Quality engineering has gone into the concept and development of this facility.
Commissioner Griswold asked if their bulk product ever finds its way to the open retail market.
Mr. Hall replied it could, but at the present time ThermoFlo is concentrating on major hotels and the work that they do goes back into the facility they take it out of.
Commissioner Griswold asked Mr. Hall if he felt it might be wise for the Commission to consider a labeling provision in the regulations.
Mr. Hall asked to pass on that question. What you should do when you visit ThermoFlo is to view the gradation portion to see how well the reconstituted product comes out. Certainly, labeling could be discussed.
Chairman Close called upon Clint Combs - Mr. Combs passed.
Chairman Close called upon Pat Rogers.
Pat Rogers, representing the Nevada Mining Association, noted under the standards for generators there is the requirement that a release of 5000 pounds of used antifreeze triggers a notification of National Response. There is similar language in Section 35 under Subsection 4 for transporters of used antifreeze. That is consistent with federal regulations which establishes a reporting quantity for release of certain chemicals on the federal list, consistent with ethylene glycol. Many facilities have switched to propylene glycol because it is a more environmentally safe chemical and by switching they have avoided reporting to the federal facility for a release of that size. Section 14 identifies used antifreeze as ethylene glycol or propylene glycol. So a release of propylene glycol under these regulations triggers reporting to the federal authorities which would not otherwise be required. Mr. Rogers suggested both Section 21 and Section 35 be changed to read "if more than 5,000 pounds of ethylene glycol is released".
Commissioner Jones asked if there was a limit on propylene glycol.
Mr. Rogers explained there are no limits.
Commissioner Jones asked, is it so environmentally friendly that the amount does not matter at all?
Mr. Rogers explained it is not on the federal standards list so a release would not have to be reported unless it was spilled into a surface water.
Commissioner Molini asked if the larger mines recycle their antifreeze.
Mr. Rogers replied a lot of them do and these regulations, as written, will help that.
Chairman Close asked if they recycle it themselves or do they have a mobile unit come on site to recycle?
Mr. Rogers explained some ship it off site to a recycling facility, some have smaller recycling units that can be installed in their own truck shop.
Chairman Close asked for additional comments. No comments were received.

Chairman Close called for a lunch recess at 11:50 a.m. p.m.
Chairman Close reconvened the meeting at 1:15 p.m.

Mr. Emme presented requested language changes:
<u>Section 21, page 5, line 24:</u>
"In addition to the requirements of Section 20 of this regulation, a person, center or facility that is governed by the

provisions of Sections 23 to 27, inclusive, of this regulation, Sections 28 to 38, inclusive, of this regulation, or Sections 39 to 50, inclusive, of this regulation shall report a release pursuant to the reporting requirements of 40 C.F.R. Part 302, by telephone, within 24 hours to:"

Mr. Emme explained this verifies if it is listed in 40 C.F.R. Part 302 as ethylene glycol that is what has to be reported. If you are not using ethylene glycol you don't have to report it.

Section 35, Subsection 4, on page 13:

Delete the phrase "more than 5,000 pounds of". The language will be "If used antifreeze is released during transportation, the transporter shall comply with the provisions of this section and Section 20 and 21 of this regulation".

Commissioner Doppe asked, it is not envisioned that the aggregation points for the transportation facilities segregate the types of antifreeze that they will be collecting?

Mr. Emme replied not to his knowledge.

Commissioner Doppe continued, if they don't have separate tanks for ethylene glycol and brand X, if they spill it they won't know what it is so how are they going to know whether or not they are supposed to report it? The EPA ID'd person who picks up the product and takes it to the next point down the chain won't know what it is either, except that it is antifreeze. Because they don't know what it is, it seems they should make the phone call.

Mr. Emme agreed. To protect themselves the phone call should be made, whether it is ethylene glycol or propylene glycol. Requiring them to would be more stringent then the federal reporting requirements, but it would be more practical.

Commissioner Jones agreed, segregating the antifreeze in the market would be more onerous than just reporting the spill. By reporting the spill you identify that product and satisfy their need to meet the criteria.

Commissioner Molini asked, when a call is made to the National Response Center what does it trigger? Will the spiller have to implement onerous things as a result of that call?

Mr. Emme replied the worst that could happen is they could get on the CERCLA list, They had a release of a hazardous waste which could trigger a superfund process to assess that release and it might rate as an extra-priority list site.

Chairman Close asked if these regulations encourage or discourage that to occur.

Mr. Emme replied it would be a question of how many 5,000 pound releases occur.

DAG Mischel explained the first step EPA would take is to test the spill. If it is propylene glycol it is not on the list so they won't qualify for CERCLA.

Chairman Close asked, if they are not required to report it under federal rule, if they know what they have in their tank, why should they be required to report it under the state law?

Commissioner Doppe noted that Chairman Close qualifies his statement with "if they know what is in their tank" but I think the likely scenario is that they won't know what is in their tank.

Chairman Close explained the ones he is referring to are the large users who know what they are using. If I am not mistaken, they probably use it for that very purpose, to avoid the federal regulation. Now we are binding them back up again with this regulation.

Commissioner Turnipseed asked if environmentally, there is a big difference between ethylene glycol and propylene glycol?

Mr. Emme replied one is toxic to animals, the other is not.

Chairman Close noted the federal government makes you report on everything. If there is any danger I can't imagine they would let you escape on this if it should be reported.

Commissioner Doppe added they simply may not have listed it yet.
Commissioner Tangredi reported its half-life decomposes rapidly - it has a faster rate of decomposition than crude or heavy oil or petroleum so it is a question of how long it will last in the spill area. If it structured molecularly to last for 5,000 years in the spill area you have a problem. If it disappears or decompose in a week with nary a trace, no problem. What is the spill, a chocolate malted or cyanide? Apparently, the federal government has identified propylene glycol as not on the 10 most-wanted hit list.
Mr. Emme explained the amendment he suggested would read specifically that this is subject to the reporting requirements. If someone chooses, of their own discretion, to report a spill because they are not sure what it is, they are protected.
Commissioner Jones asked if the federal register is changed, would it then automatically change this method.
Mr. Emme explained whenever we cite a federal regulation it is as of the effective date - as in these regulations in Section 21 where we reference 40 C.F.R. Part 302. If propylene glycol is added to the list we would have to update our regulations to be consistent with that effective date.
Chairman Close referred to page 13. If you take out the 5,000 pounds on line 20 a spill of 1 pint would require reporting. I think we have to have some de minimis -
DAG Mischel explained 40 C.F.R. Part 302 does that. Or, you can relate it to Section 21 - just say refer to Section 21.
Mr. Emme agreed. I would take out the 5,000 pounds so line 21 would read "section 20 and 21 of this regulation". So the reporting requirement would be according to the federal requirements.
Commissioner Molini asked why you use pounds instead of gallons -
Mr. Emme explained that is the reportable quantities in 40 C.F.R., a superfund requirement.
Mr. Emme continued:
Section 21 should read "in addition to the requirements of Section 20 of this regulation, a person, center or facility that is covered by the provisions of Sections 23 through 27, inclusive, of this regulation, Section 28 to 38 inclusive, of this regulation, or Sections 39 to 50, inclusive, of this regulation shall report a release pursuant to the reporting requirements of 40 C.F.R. Part 302 as that part existed on October 15, 1996, by telephone, within 24 hours, to:
Chairman Close asked for additional questions from the Commission.
There were no questions.
Chairman Close asked for comments from the public. There were no comments.
Commissioner Turnipseed moved that Petition 96016 be adopted as amended.
Commissioner Gifford seconded the motion.
The motion carried.

Chairman Close moved to Section II - D.

D. **Petition 96017 (R-118-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that describe the cost recovery conditions in which the Division of Environmental Protection may seek costs for its oversight of corrective action activities. The proposed regulations will distinguish between major and minor remediation activities, establish criteria to initiate cost recovery and create methodologies to determine costs that will be reimbursed.

Allen Biaggi, Deputy Administrator, Division of Environmental Protection, explained Petition 96017 defines the conditions and procedures for the Division to enter into corrective action agreements for cost reimbursement recovery from responsible parties. The purpose of the proposed regulation is intended to be voluntary only, and

would be entered into between the Division and responsible parties on large remediation sites in order to reimburse or provide support to the Division for the oversight costs that are incurred in these remediation sites. There is no additional regulatory burden established by these regulations and the statutory authority already exists.
Mr. Biaggi explained copies of the notice of these regulations were sent to approximately 450 Nevada Certified Environmental Managers; the Consulting Engineers Council; Western Petroleum Marketers Association; Sierra Pacific Power; Nevada Mining Association; Nevada Manufacturers Association; a number of law firms who expressed interest; Nevada Power Company; Washoe and Clark County District Health Departments; the Small Business Development Center at the University of Nevada in Reno; the Tahoe Regional Planning Agency; and the Department of Energy. Written comments were received from the DOE and Barrick Goldstrike Mine. I have incorporated their comments, thus I will request minor changes to the regulation.
Mr. Biaggi requested a change to Section 3, line 10:
Omit the words "migrating and" so that the line reads "prevent the element for a chemical from posing a threat or potential threat".
Mr. Biaggi explained Section 4 through 9 are definitions.
Section 10 is a statement of policy which says that the Division shall not seek to recover costs or fees for minor sites but the Division shall seek to recover costs or fees for sites where federal funding, such as the leaking underground storage tanks, or state funding is used.
Mr. Biaggi explained the intent of these regulations is not to be onerous and seek cost recovery on every single action. It is intended to provide a framework to provide the owner and operator and the Division to enter into these agreements on a voluntary basis.
Section 11, line 9 we request changing the word "shall" to the word "may" and after the word fees in that same line, add the words "on a cooperative basis with the owner or operator". That phrase would read "The Division may seek reimbursement for costs or assess fees on a cooperative basis with the owner and operator for major sites as follows".
Chairman Close asked for questions from the Commission.
Chairman Close asked that a letter from White Pine County (Exhibit 2), and a letter from the Antifreeze Coalition (Exhibit 1) be accepted in the record.
Chairman Close referenced Exhibit 4, a letter from Barrick Goldstrike Mines, and asked Mr. Biaggi to discuss the letter.
Mr. Biaggi explained the comments from Barrick were addressed in his requested changes to Petition 96017.
Chairman Close requested Exhibit 4 be included as part of the record on Petition 96017.
Chairman Close asked for comments from the Commission.
DAG Mischel referred to the Section 11 revision that makes it a cooperative fee reimbursement and asked, assuming there is a corrective action required under RCRA, the Division would not seek recovery for its own costs and the person who is the owner/operator would go outside to get corrective action - are you limiting yourself to a suggested procedure?
Mr. Biaggi explained the Division, through the courts and administrative action, later would attempt to seek the costs incurred by the Division through the oversight of that corrective action. In this procedure we would be limiting ourselves on a cooperative basis only, not on a non-cooperative basis.
DAG Mischel asked, in Section 11 - Subsection 2, is it intentional to have the Division as a party to the contract.
Mr. Biaggi explained the contractor would work for the Division but the costs would be paid through the owner and operator.

Chairman Close asked Mr. Biaggi if he had reviewed the following exhibits:
Department of Energy (Exhibit 6); Nevada Power Company (Exhibit 7); letter to the Nevada Mining Association (Exhibit 8); letter to Sierra Pacific Power (Exhibit 9); letter to Nevada Power Company (Exhibit 10); letter from Clark County Health District (Exhibit 11); letter to Clark County District Health Department (Exhibit 12); and letter from Sierra Pacific Power Company (Exhibit 13);
Mr. Biaggi explained Petitions 96017 and 96018 were mailed as a common package. Most of the comments in the listed exhibits address Petition 96018. The only significant comments that addressed Petition 96017 were from DOE and Barrick Goldstrike Mine (Exhibits #4 and #6) and those concerns have been incorporated into the revised language.
Chairman Close asked that Exhibit #4 and #6 be included as part of the record.
Chairman Close called for additional comments. No comments were forthcoming.
Commissioner Doppe made the motion that Petition 96017 be adopted as amended.
Commissioner Jones seconded the motion.
The motion carried.
Commissioner Turnipseed informed the Commission that Mr. Biaggi had recently been promoted to Deputy Administrator of the Division of Environmental Protection and requested the minutes reflect congratulations to Mr. Biaggi from the Commission.
Chairman Close asked that Exhibit #1 - a letter from the Antifreeze Coalition and Exhibit #4 - a letter from Barrick Goldstrike Mines be included as part of the record.
Mr. Emme stated the Antifreeze Coalition is lobbying in Washington for deregulation or exemption of antifreeze as a hazardous waste. Exhibit 1 suggests, rather than establishing management standards for antifreeze that we exempt it and simply leave industry to comply with a set of voluntary management standards which they have attached to the letter. Mr. Emme explained if we did that our state regulations would be less stringent than the federal regulations and we would lose authorization for our hazardous waste program. We have tried to deregulate, to the extent we can, within the umbrella of the universal waste stream so that we are still meeting the standards of the federal hazardous waste regulations. Exempting antifreeze altogether has to be done at the federal level.

Chairman Close moved to Agenda Item 2-E:

E. **Petition 96018 (R-119-96)** proposes to permanently amend NAC 444.842 to 444.976 or by adding new regulations in NAC 445A that detail the processes used to evaluate and remediate contaminated soil, ground water and surface water which will pose a risk to human Health or environmental quality. The proposed regulations outline the activities necessary for release reporting, initial response, delineation of contamination, setting of standards, remedial activities and final closure of projects having environmental contamination. In addition, the proposed regulations will allow for the use of site specific risk based evaluations in remedial decisions. Responsibilities between the Division of Environmental Protection and the owner or operator regarding remedial activities are delineated.

Mr. Biaggi explained the proposed regulations place into a nice tight package the corrective action requirements that are in place in the State and do not include any new or additional regulatory burdens to business and industry.
In October, 1992, in association with industry, we put together a non-hydrocarbon policy to attempt to address how to do cleanups of non-hydrocarbon materials - heavy metals - PCB's - pesticides - herbicides and organic contaminants. We find it works well to put a policy in place, implement that policy, and modify it as necessary, cooperatively with industry. After the policy has been in place for a certain number of years we bring it to the SEC.

A number of the requirements from that 1992 policy are being incorporated into the regulation before you today.
Mr. Biaggi explained the regulatory package went through a 1½ year peer review within our agency, then we conducted extensive public outreach and comment opportunities to the regulated community and public. The proposed regulation was provided to the same entities outlined in Petition 96017, including all Nevada Certified Environmental Managers (CEMs). Paul Liebendorfer, Bureau Chief of our Federal Facilities program, indicated the DOE received our response to their comments. They are not in attendance so I assume that the response we made was satisfactory to them. Barrick Goldstrike Mines provided comments and we have tried to incorporate their concerns so I will be making minor modifications as we go through the regulatory package.
Mr. Biaggi explained Exhibit 19 is a flow chart that gives a step-by-step process of what these regulations are doing. The concept of the regulations deals with 3 environmental media concerns with different degrees of flexibility: 1) soil, 2) ground water, and 3) surface water.
Soil has the greatest amount of flexibility, through an (a) through (k) analysis which allows us to look at the site conditions and specifics of the contaminant involved and determine if we need to continue the process or just close the case. There is also a risk-based evaluation where we once again look in more detail at the specifics of the chemicals of concern and the specific environmental conditions of the site. If those don't work out we then proceed to corrective action and then implement a plan to close the case.
We do not have that much flexibility in ground water. Initially, a variance request is made to the Administrator of the Division. If that is denied we go into corrective action and ultimately close the case. The one difference is that after the cleanup has met the cleanup criteria, we require monitoring of the ground water for 1 year to ensure that those conditions do not return.
Surface water allows us little or no flexibility. Once that material hits the surface water some corrective action needs to be taken and we don't have the time factor we have with ground water and soil.
Mr. Biaggi requested a modification in Section 3 - Page 1 - line 10. Omit the words "which requires an assessment of the potential impact of the substance or waste on public Health or the environment" and add the words "determined as provided in these regulations, at which the director may require corrective action."
Line 10 on would read "water determined as provided in these regulations at which the director may require corrective action".
Mr. Biaggi continued, Clint Case and Paul Liebendorfer from our Federal Facilities Bureau recognized a potential problem with the language in Section 19, so we request the following change:
Section 19 - line 7. Omit the word "do". In line 8 omit the word "not" and omit the colon (:) after the word "to". That introduction will now read: "The provisions of Section 2 to 33, inclusive, of this regulation apply to", then add "all corrective action sites unless these correction actions are subject to permit requirements at:"
Mr. Biaggi explained we are essentially saying these corrective actions requirements apply unless the facility is under corrective action requirements under the solid waste regulations or under the RCRA hazardous waste regulations.
Mr. Biaggi requested a change to Section 20. On line 16 omit the word "the" and add the word "a". On line 17 omit the words "of a hazardous substance, hazardous waste, or a regulated substance". It now reads "is required to give notice of a release pursuant to NAC 445A.345".
Barrick Goldstrike Mine pointed out the way it was worded would have made it more stringent than existing reporting regulations and that was not our intent. We thank Barrick for suggesting those changes.
Mr. Biaggi asked for a revision in Section 26 - Subsection 1 - Subpart (a). We request adding the word "background" between the word "The" and "level" so it would read "The background level or volume of". This is

an important distinction pointed out by Barrick Goldstrike and the Division agrees we should not be setting remediation standards that are lower than background. If there is a naturally occurring element, we should not make the owner or operator clean up what is naturally occurring.

DAG Mischel asked, wouldn't it really depend upon where the effluent is going? For instance, taking something from background contaminated, i.e., arsenic laden, waters and the effluent would eventually hit the Truckee River. Federal requirements would prohibit them from doing anything short of Truckee River levels as opposed to background levels.

Mr. Biaggi explained there is a fine distinction to be made. If a plating shop released lead in the Las Vegas Valley, there is naturally occurring high lead in those areas, so we would require them to clean up to that background level but not below it. It does not make sense if the background level of soils for lead is 10 and we set the cleanup standard for 5. They would dig forever, costs would be prohibitive, and they would never achieve it.

Mr. Biaggi requested a change in Section 26 - subsection 2 - line 16. Omit the period (.) after the word "used" and insert the words "except that the action level shall not be more conservative or restrictive than background." Mr. Biaggi explained Section 31 deals with post corrective action monitoring and criteria. After the cleanup has been completed it will require at least 1 year of monitoring. When the cleanup is complete they either meet the remediation standard or, in subpart (b), criteria out of the UST regulations mentions an asymptotic curve which recognizes that there is a law of diminishing returns that applies to ground water remediation. At some point, regardless of effort, time, or money, you are not going to get it any cleaner. At that point this analysis allows the Division and the owner or operator to say "good enough!"

Commissioner Gifford noted Section 31, line 23, page 10, the statement "but in no case may the Division require monitoring more frequently than once each month" seems unduly restrictive.

Mr. Biaggi explained we do not have a significant need to monitor more frequently than once a month, or even once a quarter. That was put in at the request of industry and the Division agrees it is appropriate.

Mr. Biaggi continued, Section 33, indicates that the administrator may hold public meetings and public outreach activities as he deems necessary with regard to corrective action activities. We feel that the public has a right to know that corrective actions are underway in their community. Section 33 allows us the opportunity to solicit their comments and to undertake public meetings.

Chairman Close asked for questions from the Commission.

Commissioner Turnipseed asked, in your (a) through (k) list in Section 22, do you want to limit yourself to on "b" to irrigation wells or wells for drinking water?

Mr. Biaggi explained item "k" at the bottom of the list, our catch-all, states "Any other information specifically related to the site which the director determines is appropriate". If other issues arise, we can invoke the dreaded item "k" and go after that additional information.

Commissioner Gifford referred to Page 8, lines 25 and 26 - "based on a review of available technology and the prohibitive cost of the corrective action, it is not feasible to achieve the required remediation standard" and asked how prohibitive cost is determined.

Mr. Biaggi replied there is no objective way to describe that because what is cost prohibitive to the Division may not be cost prohibitive to the industry. It provides some flexibility in the regulatory package to take cost into account.

Lew Dodgion, Administrator, NDEP, interjected that the word "prohibitive" could be deleted.

Mr. Biaggi agreed.

Commissioner Gifford explained his concern was not with the word prohibitive, he was concerned on where you

draw the line. $100 would be too much to spend but if it costs $99 we clean it up? I find that subjective.
Mr. Biaggi explained that is the crux of corrective action activities - not only in Nevada but throughout the country. How much money do you spend? This language already exists in mining requirements and in the underground injection control requirements and it does provide additional flexibility, allowing the owner and operator to come to the Division and say "we are trying to go after this 2 parts per billion PCB in the ground water -it is going to cost us $25 million - do you think this is a cost effective way to go on this?" It allows for that dialog to occur between the owner or operator and the Division. We may or may not grant it but at least the opportunity is there for consideration.
DAG Mischel asked Mr. Biaggi if the reason you used the Division as the decision maker in Section 23 and the Director in other sections is because it becomes a staff determination as opposed to an administrative decision?
Mr. Biaggi explained that was intentional.
Chairman Close called for additional questions from the Commission.
There were no additional questions.
Chairman Close called upon Pete Bodily.
Pete Bodily, Barrick Goldstrike Mines, thanked the Bureau for working with them, listening to them, and incorporating the comments submitted into the record. Barrick is encouraged that the antifreeze regulations are less restrictive for generators, the cost recovery regulations will result in a cooperative effort that we encouraged on behalf of the NDEP, and the corrective action regulations addresses the background issue. Barrick supports the petitions as they were amended today.
Chairman Close called for additional public comment.
Joel Mack, Attorney, representing the Henderson Industrial Site Steering Committee, stated if these regulations are adopted these requirements are going to become fixed, enforceable and a matter of law. In the past, we have been satisfied, on a case-by-case basis, to work out specific issues with the state but I think the codification of these regulations will diminish the state's flexibility in addressing the needs and circumstances at various sites in Nevada. We generally support this proposal but we request that the matter be tabled until the next Commission meeting so we could have an opportunity to discuss the impacts of these regulations with the Division. As an alternative to that, recognizing that there are legitimate reasons to get these regulations in place on a permanent basis, we ask for a commitment from the Division to work with the Steering Committee in Henderson, and any other interested parties, to review the regulations and come back with some minor modifications that may be necessary to clear up some of the language.
Mr. Biaggi replied the Division is willing to meet with the Henderson Steering Committee and address their regulatory concerns and bring those concerns back to the SEC at a future date.
Chairman Close asked for additional comments from the public.
No comments were forthcoming.
Chairman Close asked that Exhibits 4, 7, 8, 9, 10, 11, 12 and 13 be made a part of the record.
Commissioner Molini moved for adoption of Petition 96018 as amended.
Commissioner Griswold seconded the motion.
The motion carried.

Chairman Close moved to Agenda Item II-F:

> **Petition 96014 (R-112-96)** a proposed permanent amendment to NAC 445A.055 to 445A.066. The amendments will allow for interstate reciprocity on laboratory certification in addition to third party site

evaluations of water quality laboratories. In addition, the payment of fees will be required prior to certification. A protocol for certification of radiochemical and microbiological contaminants and toxicity bioassay is established. It is proposed to allow for provisional certification and thresholds for revocation of certification. It is proposed that a framework for records and data reporting be established. Evaluation of laboratory sites at least once every two years will be required. Fees for various categories of contaminants are increased in addition to provisions to pay for laboratory site evaluations.

Wendell McCurry, Chief, Bureau of Water Quality Planning, explained Petition 96014 is a proposal that will confirm to Assembly Bill 580 to establish a better and more responsible laboratory certification program. Petition 96014 is a result of numerous discussions with laboratory people, the Health Division, and workshops held in Reno and Las Vegas recently. The existing regulation was the first phase of a laboratory certification program and we consider Petition 96014 the second phase.

Mr. McCurry reviewed Petition 96014.

Sections 2, 3 and 4 are new and relate to record keeping and revocation. This language was added by LCB to allow us to proceed with adopting by reference.

Section 7 allows for third party on-site evaluations by another state, by EPA or by an independent accreditation organization.

Section 10 and 11 add radiochemical, microbiological and toxicity as additional parameters for certification not included in the existing regulations. Section 11 has a provision where the laboratories are required to do an analysis approximately every 6 months on performance evaluation samples. If they miss or fail to determine the values then they automatically drop back to provisional. A question was raised, what if they elect to not run the analysis that time? Our interpretation is if they elect not to run the analysis, that is a failure to produce the right result and they would automatically go back to provisional. If we use the approach of only once a year, allowing a lab to skip a 6 month period, if you missed one time, you were out. This way if you miss the first 6 months and then miss the second 6 months, you are out. You can miss the first 6 months, the second 6 months you pass it, and you are back to full certification. There is really no change to that but the question was raised by one of the laboratories who wanted that on the record as to how that really works.

Mr. McCurry explained Section 13 is a cleanup of a certification period of 1 year versus 3 years. Now, although it says 3 years, in reality the review is every 6 months. They retain their certification but it can be modified during that 6 month period. The same with the 1 year. Every year they apply for certification of the elements they want to be analyzing and pay their fee by July 1 and that is good for a 1 year period. Administratively, we are doing this now. We send out forms, they check what analysis they want to be certified for and what methods they are using and return the form to us and we evaluate to see if they are specifying the proper methods. If they are not, they don't get certified for it. Another main point specifies on-site evaluation every two years. This applies whether you are an in-state or out-of-state laboratory. It specifies conditions for additional inspections and requires the laboratory to submit to the results of a third-party entity such as NSL or EPA. They make a site inspection and submit the result of that inspection within 30 days to us. Laboratories want to make sure there is a level playing field and they are graded for the same criteria. On or before May 15 we send out applications forms for the next year. By June 30 they submit the forms and the fee back to us. If they don't submit the fee and the forms back, they are automatically out of the program.

Mr. McCurry explained Section 15 responds to concerns raised about appropriate reporting changes of personnel, equipment, and location and references Chapters 4, 5 and 6 of EPA's Laboratory Certification Manual.

Section 16 refers to fees. We derived the fees by determining the amount that the Health Division and NDEP would

need to run the program. We divided that amount by the revenue we are currently receiving with a result of 2.5. We then multiplied each previous cost by 2.5 to determine the new fee structure. Additional certification is also provided for, as are the proration of the fees.

Mr. McCurry explained the regulation also spells out about the procedure for evaluating a laboratory located out-of-state. The out-of-state laboratory will pay the total cost of travel and per diem for one or more individuals to go to that state to do the inspection.

Chairman Close noted on page 13 - Subsection 3 - line 4, the fee for certification for additional contaminants is a flat $400. The others seemed to be based on the complexity of the examination but anything not on the list is just $400.

Mr. McCurry explained, if a laboratory purchases equipment and wants to analyze 6 additional parameters not previously approved, they would apply for those additional parameters, pay an additional fee of $400 plus the fee for each parameter, prorated on how many months are left in the year. Also, if an on-site inspection is required they would pay the travel and per diem costs.

Chairman Close asked for questions form the Commission.

Commissioner Gifford noted repetitive language in Sections 7 and 12 where you say "the laboratory certification officer shall make a determination concerning the certification of a laboratory". Is Section 7 needed?

Mr. McCurry explained, in the existing program, we accept the on-site evaluation performed by the state where the laboratory is located and certified with a provision that we would look at that state's program to review if their on-site inspection is comparable to Nevada's.

Commission Gifford stated without that reciprocal agreement, it seems like you are putting in-state groups at a disadvantage. If they are certified out-of-state they have the expense of having to bring in a team from California or Arizona - wherever, to inspect their procedures for certification. Yet a laboratory in California or Arizona that wants to do business in Nevada, you don't do that. You are willing to take that state agencies word as to their credibility. It seems like we are putting our homefolk at an economic disadvantage because they have to pay for the trip for the inspection people to come to their location.

Mr. McCurry explained Subsection 3 in Section 8 resolves that: "A laboratory certification officer determines if the state providing the certification has adopted a certification program that is approved to the certification program adopted by this state and that state accepts the results of the evaluation conducted pursuant to the program". If we accept California's laboratory evaluation, they have to agree to accept ours.

Commissioner Gifford replied it does not say that to me - it means if you look at your requirements and then you look at theirs, and they are comparable, then you will accept theirs but there is nothing in it that says they have to accept ours.

Mr. McCurry explained Section 7 states:"The Division will accept data relating to the analysis of contaminants regulated pursuant to NRS 445A.300 to 445A.703, inclusive, that are submitted from a laboratory located outside of this state if": and

Section 7, Subsection 3 states: "The laboratory certification officer determines that the state providing the certification has adopted a certification program that is equivalent to the certification program adopted by this state and that state accepts the results of evaluations conducted pursuant to that program".

Mr. McCurry explained the intent is for us to accept an evaluation by another state. If we evaluate a certain laboratory in Nevada that wants to be certified in Arizona, Arizona would agree to accept our evaluation.

Commissioner Gifford asked what happens if they don't accept it - are you going to travel to Arizona and/or California and inspect all the labs that are certified to do business in Nevada?

Mr. McCurry replied that is exactly what falls out of this.
Commissioner Gifford asked if Nevada has available staff to inspect all those laboratories.
Mr. McCurry replied no, the way the certification program works, we contract with the Health Division to do the technical part of the program, along with the Safe Drinking Water Act Certification, to prevent duplication of effort, so we have one group of people doing evaluations. Concerns have been raised that this may be a conflict of interest because the person who does this also performs analysis. The Health Division is transferring that function over to the Bureau of Licensure, which is another bureau within the Health Division and job announcements are out to fill these positions. Health also sent one of their people to the EPA training session in June.
We started out with a small number of laboratories and one person, working part-time in addition to other duties, was certifying those labs but that is no longer possible. As a consequence, we have had a problem dealing with certification the last 2 years. That is another reason for the increase in fees because we are talking about staffing 3 additional people to do this. The more we can deal with other states, in terms of reciprocity, the more we can reduce the cost of the program.
Commissioner Jones explained, at our last State Board of Health meeting, Mr. McCurry summarized the historical basis and the evolution, that the laboratory was pulled basically out of the State Health Division and given to Licensure now - primarily because of some difficulties including conflict of interest with the State Lab having to meet a different criteria of that which they were regulating. That is in the process of being solved.
Mr. Jones asked Mr. McCurry if NDEP would still contract with the State Health Division for doing this lab work and if he had reviewed the State Board of Health regulations versus this proposal?
Mr. McCurry explained he had a marked up copy of the regulation adopted by the State Board of Health and I am proposing revisions to Petition 96014 that are identical with what the State Board of Health adopted. We will continue to contract with State Health.
Commissioner Jones explained the one issue the Board of Health dealt with was their difficulty in staffing chemists and regulatory people to meet the demand of getting results back within a 60-day period as the regulations originally required. The Board gave some latitude to allow for them not having to respond within 60 days but that they have to make quarterly reports back to us, to show us how they were progressing with their response time. Do you have 60 days response time built into this?
Mr. McCurry did not believe the Board built that into the regulations -
Commissioner Jones agreed - we did take the 60 days out of the regulation requirements.
Mr. McCurry explained he intended to work with State Health on procedures so that people get responses in a timely manner.
Commissioner Jones stated laboratory representatives in attendance agreed that staffing would take time so I want to be sure that we are not evoking those kinds of time restrictions on response for re-certification - that you are not putting a criteria over the top of that, particularly in light of your contracting with the other labs.
Mr. McCurry explained he carefully reviewed the State Board of Health package and compared time-frames. I found one place I felt was a conflict. The person in the Health Division I talked with did not feel it was a conflict.
Commissioner Gifford asked, regarding the reciprocal agreements among states, if you don't get the type of cooperation that you would like, where does that leave us until you get staff and are we putting local groups at a disadvantage because of that?
Mr. McCurry explained during the transition period we will still utilize the inspection that was done by some of these states. The way this is written, you could have a lab sitting in a state that does not have a program getting inspected by an adjacent state that would have an agreement with us, and we would accept their inspection.

Commissioner Jones explained the genesis of all these regulations, whichever state they are in, are very similar so the chances of there being a major regulatory difference in one of the states is minimal.

Commissioner Gifford stated he was not concerned about the standards as much as the costs involved for getting certification.

Mr. McCurry explained it could drastically drive up the cost if Nevada personnel had to inspect every lab outside the state. That state would be required to pay per diem but not the personnel cost of inspection.

Mr. McCurry referred to his handout (Exhibit 21) of proposed changes to the regulations.

Page 2, Section 4: Change "give notice within 30 days after the effective date of revision" to "give notice of public hearing within 6 months from the date of publication" and change "30 days" to "6 months".

Mr. McCurry explained this language change is identical to what the Board of Health adopted.

Page 5, Section 10, line 25. Insert the word "for" between "criteria" and "acceptance". It should read "criteria for acceptance established by the United States Environmental Protection Agency"

Mr. McCurry continued,

Page 7, Section 11, line 4 of Subsection 3. Change the word "if" to "of".

Page 7, Section 11, line 6, insert the word "satisfactorily" between "to" and "analyze". That will now read "to satisfactorily analyze 80 percent of at least one sample set in each category, -

Page 7, Section 11, line 9, make the same change, adding the word "satisfactorily".

Mr. McCurry explained this assures that it has to be satisfactorily done. Anybody can analyze 80% but it could all be unsatisfactory.

Mr. McCurry continued:

Section 13, page 10, line 4, there is an extra "s". The last word should be "officer".

Section 13, page 10, line 6, change "renewel" to "renewal".

Section 13, page 10, line 7, change the word "in" to "when" so line 7 reads "is terminated will be reinstated when an application is submitted in accordance with the" .

Mr. McCurry continued:

Section 15, page 11, line 3, change Chapter "IV and V" to Chapters "IV, V, and VI".

Section 15, page 11, line 13, change Chapters "IV and VI" to Chapters "IV, V and VI."

Chairman Close asked for questions from the Commission. There were no questions.

Chairman Close called upon Frank Yeamans.

Frank Yeamans, Yeamans Law Firm in Reno, stated that he and his client, John Sabatini of Great Basin Environmental Labs, spent a lot of time with Mr. McCurry and Allen Biaggi on these regulations. We approve the regulations and think that NDEP has done a lot towards solving some of the problems that were in the earlier regulations regarding certification. I was particularly happy to see the time limits placed in the regulations which give everybody an indication of the action time on an application, when they can expect an on-site evaluation, etc.

Mr. Yeamans addressed several issues he wanted the SEC to consider:

Performance evaluation samples, generally 2 each year are sent out by EPA. If a laboratory decides not to take the second 6-month sample, then the laboratory's certification status is down-graded, i.e., if the laboratory is fully certified for sodium and it decided not to take the following sample for sodium it would be automatically downgraded to a provisional certification and following that, it would be decertified. The language on page 6, Section 11 - NAC 445A.062, Subsection 1, is not particularly clear on that point. The issue here is that the certification granted to a laboratory is for a full year (Section 13, page 8, subsection 1). If you give a laboratory certification for one year, and we assume that the certification has a status for a particular contaminant - sodium,

you are fully certified for a year or perhaps you have provisional certification for one year. Is it a conflict to have a lab who has the certification on an annual basis to be down-graded in the middle of that year in which its certification is valid? We see that as a possible conflict between the two sections of the regulations.
Mr. McCurry noted that the procedure was discussed earlier today with a few other lab people who understand it exactly the way I will state it. If you decided not to do the second set you drop down and go to provisional certification. One lab person stated, because of economic reasons he was not going to be analyzing certain things so he did not run the test and he automatically dropped down.
Chairman Close asked, would you take his license from him for that?
Mr. McCurry explained, only on that particular parameter. He would have his certification, good for one year, but the specifics inside that certification would change from full certification for that particular parameter to provisional certification.
Commissioner Tangredi asked, if he does not pay for the second year he is reduced to provisional?
Mr. McCurry explained we are talking about two different things. One is whether or not you run the analysis and the other is if you don't pay the fees by July 1 you automatically lose your certification. If a laboratory failed one six-month period on a parameter, they go to provisional. If they pass it the next six months, they go back to full certification, if they fail, they lose certification on that parameter. This way they have two chances instead of one.
Commissioner Doppe asked if there is a difference in how that person is treated as a full certification holder or provisional?
Mr. McCurry explained it does not effect how they are able to do business or whether or not their analysis is acceptable, it is merely a warning point.
Frank Yeamans agreed with Mr. McCurry but reiterated his point is, all this involves cost to a lab. If the lab voluntarily decides not to take the test it is downgraded. If the lab does take the test and fails to do the analysis correctly it suffers the penalty, but the fact that you are subject to penalty for not even taking the test is a point that might be in conflict with the idea that you do have your certification for a year.
Mr. Yeamans continued, another point is on the use of warning limits of the criteria on which the certification is based. These are throughout the regulations, particularly on page 6, Section 11. The laboratories are required to determine the concentration within the warning limits. These have been traditionally thought to be stricter/tighter limits than acceptance limits which are used by the Board of Health in the Safe Drinking Water Act authorization. We are concerned that NDEP has decided to use the stricter/tighter criteria for warning limits. We would like to understand what the basis is for using that, rather than the acceptance limits which is what the U.S. Safe Drinking Water Act set as the criteria for drinking water criteria, the same criteria that the Board of Health is using in certifying the laboratories under the Safe Drinking Water Act. We believe that the warning limits are stricter or tighter tests as compared to the Board of Health.
Mr. McCurry explained there are two programs, the Safe Drinking Water Act and the Clean Water Act. In the Safe Drinking Water Act, when the EPA reports the results they only report one column called acceptance limits. The statistics they use for that are the same statistics when they report under the Clean Water Act but under the Clean Water Act they report two columns, Warning Limits and Acceptable Limits. The Warning Limits they report under the Clean Water Act are the exact same statistics that are used for the Safe Drinking Water Act, so we are using the same statistics for both programs, in terms of acceptance. When we are evaluating the Clean Water Act lab versus the Safe Drinking Water Act lab we are using the same statistics. EPA gives these printouts showing the acceptance limits and the warning limits for the Clean Water Act and if a person falls outside the warning limits they just put on there "Check for Error". In our regulations, if they fall outside of that range, they would take a loss of certification

and move down to provisional for that particular parameter. I understand the acceptance limits on the Clean Water Act is 99% but the acceptance limits under the Safe Drinking Water Act is 95% so there is a difference in the range, it is a tighter range and granted it is more restrictive but we have not had a problem with this and we feel it keeps us a good program here.

Commissioner Molini asked, if you want to test water for boron or arsenic do you take a known sample? How do you know it is known? Do you put boron in distilled water and ask a lab to test it?

Mr. McCurry explained we collect a water sample and take it to the laboratory and tell them what analysis we want run on it. The lab runs the analysis using the approved methods and the calibration and checks standards against that procedure.

Commissioner Jones explained their calibration has been set up by the samples distributed by EPA that says "original calibration"

Mr. McCurry explained he thought Mr. Molini was asking about a sample that we had just taken from Steamboat Creek -

Mr. Molini replied no, that is not what I meant, but this is a known quantity?

Mr. McCurry replied this is a known quantity all over the country to everybody. It is a set of samples for the Clean Drinking Water Act Program and EPA sends those out all over the country.

Commissioner Jones asked, if you are going to contract with the State Lab to do testing, and the criteria set up by the Health Department is the acceptable standard, what you are explaining is a 4% difference as the variable - 99% versus 95%. Will that require State Lab to run a complete different set of tests? What does that 4% represent in real change.

Mr. McCurry stated what is proposed is the same statistics that are in the Safe Drinking Water Act for acceptance, 95% versus 99%.

Commissioner Jones stated, so you are really getting the same reading you are just listing it differently and meeting different criteria?

Mr. McCurry explained if EPA had just put in one column, "Acceptable", then we would not be having any discussion but they put two columns and called one "Warning Limits" and the other "Acceptance Limits" -

Commissioner Jones asked, does that mean then, that the lab has to run a test more stringently to determine your criteria of warning limits?

Mr. McCurry replied, to be certified, yes.

Commissioner Jones exclaimed, then there is a difference in the tests.

Mr. McCurry explained the Health Division's statistics are identical to what our approval is - they have had to run a more accurate number than what EPA's little printout would show of acceptable versus warning.

Frank Yeamans continued, one thing we would like clarified is on page 8, Section 12, Subsection 4 - "The laboratory certification officer shall make a determination concerning the certification of a laboratory and refuse certification or issue a letter of certification within 30 days after his evaluation". We are really appreciative that NDEP did put in these time limits and we would like to clarify that is indeed 30 days after the on-site evaluation that the certification officer shall make his decision. We want to see that clarified today.

Mr. McCurry explained after the certification officer does an on-site evaluation triggers the time period and 30 days after that he is supposed to make a determination.

Frank Yeamans read a question submitted by one of the laboratories he works with:

> "If a lab has been inspected under the Safe Drinking Water Act (under the Board of Health) is NDEP going to require another inspection under the Clean Water Act"?

Mr. McCurry stated his intent is to prevent as much duplication as possible because duplicated effort costs more money. To answer the question, it will depend on what the parameters are for the certification they are requesting. If the Health Division made an inspection, then the lab later decides it wants to be certified for certain parameters the Health Division observed the lab capable of doing during their inspection, there would very likely not be another inspection. However, if you are talking about using different methods and equipment that has not been evaluated then another inspection would be required. That is the reason we want one inspection to cover both the Clean Water Act and the Safe Drinking Water Act.

Commissioner Turnipseed asked if the lab trying to be certified pay fees to NDEP and additional fees to the Health Department?

Mr. McCurry replied yes.

Commissioner Turnipseed noted the fees are additive. If a lab were to be certified for all of these the fees paid to NDEP would be roughly $4,000. Does this lab also pay $4,000 to be certified for the same constituents to State Health?

Mr. McCurry explained, not necessarily the same constituents. Some of them would be the same constituents but they would be paying a fee to State Health for those.

Commissioner Jones asked, didn't we just hear if they were the same constituents then the inspection would stand for both? I understand that if they are asking for different criteria, different tests, then of course they pay different amounts but if they are both inspecting for the same criteria there is not a duplication of costs and fees, correct?

Mr. McCurry explained there is no duplication of annual fees. There are separate fees under each program but as far as going out and doing an evaluation, an on-site inspection, it depends on what the other is going to be asking for. You have one set of methods for the Drinking Water Act for certain parameters and another set of methods that is approved for the Clean Water Act so they are not always the same method although it is for the same parameter.

Chairman Close interjected, the question is, if they are the same, must the laboratory pay two fees and if so, why?

DAG Mischel explained they are getting different certification.

Chairman Close asked, but if the tests are the same and they passed the test, why do you have to pay the fee twice?

Commissioner Tangredi explained, if a pathologist were to send a blood sample to 3 different laboratories in the United States, utilizing the same blood sample - he would get back 3 different reports. That isn't an anecdotal situation - that is in 60% to 80% of the cases. What we are seeing here is a duplication. The Clark County Health Department and NDEP, both measuring the same parameter. It appears as if they are burdening the applicant with two exams where only one is necessary. In reality, in the laboratory business it is not uncommon to find differing results from different labs and therein lies the protection that a particular object to be tested has, the fact that 2 or 3 laboratories are involved. What we are also seeing is a tremendous financial burden on the applicant, paying all these fees. Where can both meet and justify the two, economically?

Commissioner Jones noted, to make this more complicated, one question asked Wendell was "is NDEP going to contract the State Lab for doing the work"? Wendell replied yes. So you are talking about the same lab doing the same tests - where is the sense in the same lab doing the test and charging two different fee schedules? They are not even getting the advantage that Commissioner Tangredi suggested, that there is a differentiation between labs and results.

Commissioner Tangredi stated in his point of view it appears that there is some economic burden that is weighted against the applicant.

Mr. McCurry explained the Safe Drinking Water Act specifies certain procedures in the Federal Regulations have to be followed. The Federal Regulations specify that all tests be done under Part 136 of the Federal Registry and those

tests are not necessarily the same -
Chairman Close asked, what I am saying, if you have the same test by the Health Department and by the State, conducted by the same laboratory, cannot that be counted for both?
Mr. McCurry explained we are giving two different certifications for one thing. Radiochemistry and microbiology might be two parameters that are the same but I would like to check that out.
Commissioner Molini asked, in the category of contaminant listed in Section 16 - Pesticides - the fee is $500. Does not both the Clean Drinking Water Act and the Clean Water Act require a test for pesticides in water? And if under the Clean Drinking Water Act, if a lab could meet that criteria for drinking water couldn't you certify it to test other waters for pesticides outside of the Drinking Water Act under the auspices of the Clean Water Act?
Commissioner Turnipseed explained they have determined these fees by a necessary amount of money to run their program -
Mr. McCurry noted another issue is, who certifies first? If they come to NDEP first and we certify them then later they decide they want to be certified under the Safe Drinking Water Act but it is the same test, does that means the Health Division does not collect a fee, or vice-versa? The issue is trying to collect enough fees to cover the program in an equitable manner.
Mr. McCurry stated he would commit to, within the next year, working with the Health Division to see if there is anyplace where the same test is ran through both agencies, if both agencies could decrease their cost by a determined percentage for that particular parameter. That would have to be in both sets of regulations.
Chairman Close asked if there was some relevance to the fee charged and the test cost - if the test is performed once, you only have to expend the cost once.
Commissioner Gifford noted no one had testified the fees charged are excessive. The issue is, how do you get the certification. I understand Mr. McCurry is saying if the standards for an element were exactly the same for the Health Department and for NDEP and the Health Department did the test that NDEP would accept the results in terms of meeting certification for that element and you would not run a repeat test, assuming that they were identical.
Chairman Close stated he did not understand it that way -
Commissioner Gifford asked, in terms of certification for what it is being tested for, assuming that you are convinced that their procedures are good procedures, you would not ask for that test to be run again?
Mr. McCurry agreed and explained it was more the other way with the Health Division but I can't tell you some of the parameters that are run under the Clean Drinking Water Act for certain cases.
Mr. Yeamans explained we are not picking on NDEP and we have discussed this with the Board of Health - you are getting 2 certification programs. I agree, if there are different methodologies, different tests, and different techniques, then they should not be accepted across the board. But I agree with what Mr. Coldwell from ColdTec Labs. If they are like analyses we think there should be some attempt to remove the duplication of burden on the laboratories, and also the cost. We have not complained but laboratories are often small, family-owned businesses - my two clients are - and not part of a larger nationwide laboratory. A business may be paying $4,000 - $6,000 a year just for the certification fee in addition to all of the other taxes we pay to operate in Nevada. That is the point that my clients, not here today, would like to point out. We hope we eventually see some melding of the two certification programs so a laboratory that wishes to be certified in both will not have to duplicate the entire effort in order to obtain certification.
Mr. Yeamans concluded, we think Mr. McCurry and NDEP has done a lot towards solving some of the initial problems in this program and we look forward to working with them in the future as this comes on board and staff

is put in place.
Chairman Close asked for additional comments from the public.
Bill Pillsbury, owner of Sierra Environmental Monitoring, stated he would speak for two other laboratories who attended the morning session, but not in attendance this afternoon, Roger Scholl of Alpha Analytical Laboratory and Bill Sharp of High Desert Laboratories. Also, not here today is Max Chem, owner of Chemax Laboratories.
Before you today is the culmination of a years effort, many man hours by staff and private industry, trying to get a better program for certification. I don't think what we have today is perfect nor did I think we had a perfect situation before the State Health Board a few weeks ago. I do think it is important that we move forward. Anything we do is better than what we are doing under today's method of trying to keep a certification program going. Due to lack of staff in the State Health Lab we are faced with many problems but the progress we have made will implement improvement, if enacted today. The regulations that were recently amended by the State Health Board are underway, the Bureau of Licensure and Certification is willing to recruit staff for the implementation of this new certification program. They have hired a microbiologist and a clerical person and are interviewing for chemist positions so they are moving ahead to get this program working for both the Clean Water and the Safe Drinking Water Act. The problems raised today can be worked out as we move forward so I urge the Commission to adopt the amendments proposed by Wendell McCurry and Lew Dodgion. They have done a great job and it has been a pleasure to work with them.
Chairman Close called for additional comments from the public.
No comments were forthcoming.
Chairman Close called for additional comments from the Commission.
Commissioner Jones recalled Mr. McCurry mentioned he would work with the Health Division. I hope that the Commission would suggest they move forward with due diligence in examining the possibility of duplication of fees - where we can eliminate them, if we adopt this today.
Chairman Close agreed.
Commissioner Turnipseed noted it was not a fee to be examined. It is just a license fee. If you want a license to drive an automobile you pay a certain fee and you can upgrade that to a Class C motor carrier by taking the same exam with more questions, but you pay an additional fee for that upgrade.
Chairman Close replied, but there I am driving a vehicle that requires more expertise - here I am taking one examination and I am paying two fees to two different agencies. That does not seem right.
Mr. Pillsbury explained what is getting separated is, it is really going to take extra dollars to run the certification program. Those monies come from the private sector, the ones asking for the upgrade. So the fees get to be kind of a juggling act. There may be some duplication and overlap in the way they are proposed now, and that will have to be refined because we foresee problems. The number of parameters that come under the SEC versus what comes under Health - those have all been taken into account to raise X amount of dollars and the Interim Finance Committee has already approved this. On an initial projection, about 61% of the monies derived from fees will come from the Clean Water Act and 39% from the Safe Drinking Water Act. Those are all based on the number of parameters and the number of laboratories currently involved in the program. We are too concerned over this, even though we are paying twice for one thing. We have concerns, but we are willing to give it a try to see how it works out.
Commissioner Turnipseed asked Mr. Pillsbury, for the total license fee that you would pay under this program, what does that work out per sample? Do you run 4,000 or 40,000 samples a year. Does it work out to $1 or $100 a sample?
Mr. Pillsbury replied he could not answer that. It depends on how business goes for a given year. That is one of the

things we hope to achieve, to bring some of the business back into the state by getting a level playing field that we don't have under the present certification program.
Chairman Close noted if we pass this I would hope that as part of our motion we instruct the Health Department and NDEP to get together and work this fee problem out. Raising fees someplace else to raise the amount of money required may be acceptable, but to charge a guy twice for the same lunch does not seem fair to me.
Commissioner Molini noted the regulated community here today is not really taking strong umbrage with the fees, surprising to me because I see it somewhat like you do. I comment with some degree of trepidation because I don't understand the nuances between the Safe Drinking Water Act and the Clean Water Act and their testing requirements. This appears to me to be a legislative question. Do you need two different entities dealing with the various facets of this program or could it be combined? Consolidating it into one certification entity would rectify this concern.
Chairman Close agreed that might be a valid way of approaching it. This Commission is charged with trying to eliminate duplicate fees.
DAG Mischel explained there is a legislative basis for these fees that the Commission and NDEP has little control over because they have to support the programs they are mandated to conduct. In addition to that, the laboratories derive benefit from the different certifications and they may or may not function with one or the other certification, i.e., they are not required to have the Safe Drinking Water Act certification to do soil testing for certain projects. The labs decide which projects they want to perform, so strictly speaking it is not a duplication of fees for the same service and there is some allocation of fees going on between the two entities.
Lew Dodgion, Administrator, Division of Environmental Protection stated the Division would accept the suggestion from Commissioner Jones. The Commission is aware that we do keep on top of fees. We have appeared before you on a number of occasions requesting fee reductions when fees set were generating more revenue than necessary to run a program. These fees are based on the need to generate a certain amount of revenue to contract with the Health Division to do lab certification programs so we don't have two different programs. If NDEP reduces fees, the Health Division will have to raise a fee under their program in order to generate adequate funds to do the job. The Division will work with the Health Division to make certain that the fees are not more than necessary and that they are not over-charging us in the contract. If we can reduce the fees, at either level, we will do that. We will report back to you and propose a reduction in fees if we find that is appropriate.
Chairman Close called for a motion.
Commissioner Molini moved for adoption of Petition 96014 as amended.
Commissioner Jones seconded the motion.
The motion carried.
Chairman Close asked that exhibits 14, 15 and 16 be entered as part of the record of Petition 96014.

Chairman Close moved to Agenda Item III. Settlement Agreements on Air Quality Violations
Tom Porta, Bureau of Air Quality reported the 3 settlement agreements before are for minor violations.
A: U.S. Department of Energy
Notice of Alleged Violation # 1201 occurred at the Nevada Test Site. An inspection was conducted in April of 1996 and found a blending holding tank type silo which was under construction and they did not have an air quality permit. Subsequent notice of alleged violation was issued and an enforcement conference took place on June 14, 1996. As a result of that conference DOE admitted they should have had the permit in hand before starting construction. We agreed upon a violation fine settlement of $1,000 for that violation.

Chairman Close asked for questions.
There were no questions.
Commissioner Turnipseed moved the settlement be accepted.
Commissioner Molini seconded the motion.
The motion carried.

B. Hycroft Resources & Development, Inc.

Notice of Alleged Violation # 1202. On May 7, 1996, an inspection at Hycroft Resources revealed a lime loading silo for their process which was operating at the time without controls, water sprays were not being utilized. This is a condition of the operating permit for this facility. We subsequently found out that the loader that operates the water sprays had some electrical problems as a result of corrosion. They immediately corrected the problem within 24 hours and admitted they should have paid more careful attention to this particular loading silo because it is dealing with lime. They also agreed to provide for additional corrective action by installing a warning system should this control device fail in the future because lime is quite caustic. The warning device will warn the truck driver if the water sprays are not operating while he is loading because in this particular process you could not actually see behind you as to what is taking place. They have agreed to also enclose the loader and electrical system a little better to prevent the corrosion process that is taking place. A negotiated fine of $600 was agreed upon between NDEP and Hycroft.
Commission Turnipseed moved the settlement be accepted.
Commission Griswold seconded the motion.
The motion carried.

C. Las Vegas Paving.

Notice of Alleged Violation # 1203. A letter from Las Vegas Paving was sent to the Bureau on May 7, 1996, which documented a violation of a permit condition which limited them on production. The violation occurred as a result of throughput on a crushing system, we subsequently modeled that increase in throughput, the overage if you will of the permit limit, and basically find the potential, through air quality modeling, was not there to cause a violation of the Health standards of particulate. Corrective actions were agreed to by Las Vegas Paving. They now have a person directly responsible for overseeing these projects to be sure they stay within the permit limits that are established on their air quality permit. That was sufficient corrective action for us and this person within Las Vegas Paving will be responsible for number of Las Vegas Paving operations in Clark County and outside of Clark County, which is our jurisdiction, and as settlement we agreed to a $600 fine for this infraction.
Commissioner Fields made a motion to accept the settlement.
Commissioner Jones seconded the motion.
The motion carried.

Chairman Close moved to Agenda Item VI. Discussion Items

Item A, Environmental Commission Fiscal Year 1998-99 Budget & Indicators.

David Cowperthwaite, Executive Secretary, referred to the handout relating to the Commission budget.
In FY 96 the Commission was forced to go back to Budget for an extensive work program to make up needed revenue because LCB's charge for drafting regulations raised from $5/hour to $25/hour, pluse we experienced an increase in legal advertising due to additional requirements under 233B. Also, the Commission supports the 7 member Air Quality Compliance Advisory Panel (CAP) which has met 3 times this year. There will be no additional permanent drafting of regulations in FY 97 thus, Category 04 budget is $14,000 versus $27,000 in FY 96. I have

requested equipment funding to purchase an overhead projector and a luggage carrier. In the near future we will be replacing the recorder and obtaining other needed equipment.
Mr. Cowperthwaite explained the Commission is required to report their activities to the budget office and legislature regarding the activities of the Commission and to define performance indicators. The report before you points out the activity that has occurred from 1994 to 1997. We have adopted a number of regulations but and we have received a large number of requests for appeal but practically all those are resolved before the hearing date. Although resolved, substantial work and financial costs are incurred, preparing for a hearing. If the hearing is not held, the Commission does not get the recognition for the work that has been performed in the office. Thus, I show the actual volume of appeal requests versus the number of appeal hearings being held.
The Commission office receives many requests for information - not only for petitions but for other regulatory information. Item 12 reveals the volume of business and the ability of the Commission office to respond to information requests in a timely manner. We are customer responsive.

Discussion Item B: State Environmental Conference September 30 to October 1, 1996.
Mr. Cowperthwaite distributed conference information and informed Commissioner members their registration fee and expenses would be paid by the SEC if they wished to attend the conference.

Discussion Item C: Status of Division of Environmental Protection's Programs and Policies
No report was made.

Discussion Item D: Future Meetings of the Environmental Commission
The next meeting, scheduled for October 22, 1996 in Zephyr Cove, will address permanent Petition 96013 - Standards to Maintain the Water Quality Standards of Lake Tahoe Tributaries.
The water quality workshop will also be held that day.

E. General Commission or Public Comment
No comments were made.
Chairman Close adjourned the meeting at 4:12 p.m.

INDEX

NEVADA STATE ENVIRONMENTAL COMMISSION
EXHIBIT LOG

Hearing Date: September 10, 1996

Location: Division of Wildlife, Reno

#	Item	Item Description	Reference Petition #	Accepted Yes/No
1	2 page letter with attachment	Dated September 5, 1996, from Antifreeze Coalition, John J. Rigby, with attachment "Voluntary Management Standards for Used Antifreeze Generator Facilities"	Petition 96016 R116-96	Yes
2	1 page letter	Dated September 6, 1996, from White Pine County Board of County Commissioners, Wayne Cameron, Chairman	Petition 96012 R072-96	Yes
3	2 page letter	Dated June 19, 1996 from, Nevada Mining Association, Patrick C. Rogers	Petition 96018 R119-96	Yes
4	6 page letter	Dated September 6, 1996, from Pete Bodily, Barrick Goldstrike Mines Inc.	Petition 96016 R116-96 Petition 96017 R118-96 Petition 96018 R119-96	Yes
5	7 page document review sheet	Dated April 29, 1996, from Department of Energy	Petition 96018 R119-96	Yes
6	2 page document review sheet	Dated April 29, 1996, from Department of Energy	Petition 96017 R118-96	Yes
7	1 page letter	Dated May 21, 1996, from Alec R. Hart, Nevada Power Company	Petition 96017 R118-96	Yes
8	2 page letter	Dated June 24, 1996, directed to Paul Scheidig and Patrick Rogers, Nevada Mining Association from Allen Biaggi	Petition 96017 R118-96	Yes
9	1 page letter	Dated June 26, 1996, directed to Karen Schlichting, Sierra Pacific Power Company from Allen Biaggi	Petition 96017 R118-96	Yes
10	1 page letter	Dated June 26, 1996, directed to Alec Hart, Nevada Power Company from Allen Biaggi	Petition 96017 R118-96	Yes
11	2 page letter	Dated May 8, 1996, from Steve Henke and Victor Skaar, Clark County Health District	Petition 96017 R118-96	Yes
12	2 page letter	Dated June 26, 1996, directed to Victor Skaar, Clark County Health District from Allen Biaggi	Petition 96017 R118-96	Yes
13	1 page letter	Dated May 22, 1996, from Karen Schlichting, Sierra Pacific Power Company	Petition 96017 R118-96	Yes
14	2 page letter	Dated August 29, 1996, from Frank Yeamans Law Office	Petition 96014 R112-96	Yes
15	1 page letter	Dated July 3, 1996, from Will Whitmore, City of Elko Water Reclamation Facility	Petition 96014 R112-96	Yes
16	2 page letter	Dated September 9, 1996, from Wendell McCurry, Bureau of Water Pollution Control, to Frank Yeamans Law Office	Petition 96014 R112-96	Yes

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NEVADA STATE ENVIRONMENTAL COMMISSION
EXHIBIT LOG

Hearing Date: September 10, 1996

Location: Division of Wildlife, Reno

#	Item	Item Description	Reference Petition #	Accepted Yes/No
17	Handout	NDEP Handout - Revisions to Petition 96011	Petition 96011 R071-96	Yes
18	Report	Report from Celia Hildebrand, Commiddion on Economic Development	Petition 96011 R071-96	Yes
19	Flow Chart	NDEP - Regulatory Concept	Petition 96018 R119-96	Yes
20	Regulation	NDEP - Amendments to Proposed Petition 96016	Petition 96016 R116-96	Yes
21	1 page document	NDEP - Amendments to Proose Petition 96014	Petition 96014 R112-96	Yes