

NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NEVADA ENVIRONMENTAL COMMISSION

HEARING ARCHIVE

FOR THE HEARING OF November 9, 1994

HELD AT: Las Vegas, 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

REVISED A G E N D A

NEVADA STATE ENVIRONMENTAL COMMISSION PUBLIC HEARING

The Nevada State Environmental Commission will conduct a public hearing commencing at **9:30 a.m., on Wednesday, November 9, 1994**, Clark County Public Library, West Charleston Branch Lecture Hall, located at 6301 West Charleston, Las Vegas, Nevada.

This agenda has been posted at the Division of Environmental Protection Office, Clark County Commission Chambers and Clark County Public Library, West Charleston Branch in Las Vegas; Reno City Council Chambers and Washoe County Library in Reno; and the Division of Environmental Protection and Nevada State Library in Carson City, Nevada. The Public Notice for this hearing was published on October 10, October 18 and October 26, 1994 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 August 11, 1994 meeting. * ACTION

II. Regulatory Petitions. * ACTION

- A. **Petition 94019 (LCB R116-94)** proposes to permanently amend the Nevada Administrative Code 444.648 and to add amendments to 444A.010 through 444A.140 for regulations governing waste tire disposal. The proposed amendment covers procedures to permit tire recycling facilities, provides for the development of a registration system for waste tire haulers, and establishes standards for the disposal of waste tires at disposal sites.
- B. **Petition 95001** temporarily amends Nevada Administrative Code 445.430 through 445.846, by modification of the effective dates of Nevada's Air Quality Operating Permit Program by extending the date of implementation from November 14, 1994 to a date in the future based on the U.S. EPA Administrator's approval of program. In addition, references in the regulations to Permits to Construct are being deleted and supplanted with references to Operating Permits.

Note: This agenda has been revised to reflect the withdrawal of Petition 94018 (LCB R-115-94) from consideration as before the Environmental Commission on November 9, 1994. This petition was defined as item II.A of the original agenda. It dealt with proposed permanent amendments to NAC 444 regarding the addition of Class IV solid waste landfills to the Nevada Administrative Code.

III. Adoption of the 1994 Handbook of Best Management Practices. * ACTION

IV. Adopt Resolution to the Nevada Legislature regarding the state Chemical Catastrophe Prevention Act. * ACTION

V. Settlement Agreements on Air Quality Violations. * ACTION

- A. Smitten Oil and Tire Company - Notice of Alleged Violation # 1077
- B. Nevada Gold Mining, Inc. - Notice of Alleged Violation # 1119
- C. FNF Mining - Notice of Alleged Violation # 1130

Note: This agenda has been revised to add item V.C., FNF Mining as an item of ratification before the Environmental Commission.

NEVADA STATE ENVIRONMENTAL COMMISSION
REVISED AGENDA, NOVEMBER 9, 1994
Continued

IV. Discussion Items.

- A. Status of Division of Environmental Protection's Programs and Policies
- B. Future Meetings of the Environmental Commission
- C. 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. November 3, 1994.**

NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning **9:30 a.m. on Wednesday November 9, 1994**, at the West Charleston Public Library Branch, Lecture Hall, located at 6301 W. Charleston, **Las Vegas**, 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 94018** proposes to permanently amend Nevada Administrative Code 444.570 to 444.748, disposal of solid waste, by the addition of a new section that defines and establishes standards for "construction and demolition waste". The petition also defines the regulatory framework to establish a new category of Class IV landfills that deal with construction and demolition wastes.
2. **Petition 94019** proposes to permanently amend Nevada Administrative Code 444.648 and to add amendments to 444A.010 through 444A.140 for regulations governing waste tire disposal. The proposed amendment covers procedures to permit tire recycling facilities, provides for the development of registration system for waste tire haulers, and establishes standards for the disposal of waste tires at disposal sites.
3. **Petition 95001** temporarily amends Nevada Administrative Code 445.430 through 445.846, by modification of the effective dates of Nevada's Air Quality Operating Permit Program by extending the date of implementation from November 14, 1994 to a date in the future based on the U.S. EPA Administrator's approval of program. In addition, references in the regulations to Permits to Construct are being deleted and supplanted with references to Operating Permits.

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 and amended will be on file at the State Library, 100 Stewart Street, Division of Environmental Protection, 333 West Nye Lane, Carson City, Nevada, Division of Environmental Protection, 1515 East Tropicana, Suite 395, Las Vegas, Nevada for inspection by members of the public during business hours.

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by 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, 89710, facsimile (702) 687-5856, or by calling (702) 687-4670 extension 3118, no later than 5:00 p.m. on November 3, 1994.

This public notice has been posted at the Division of Environmental Protection, Clark County Public Library and Clark County Commission Chambers in Las Vegas; Reno City Council Chambers and Washoe County Library in Reno; Division of Environmental Protection, and State Library in Carson City, Nevada.

STATE ENVIRONMENTAL COMMISSION
Meeting of November 9, 1994
Las Vegas, Nevada
Adopted Minutes

MEMBERS PRESENT:

Melvin Close, Chairman
William Molini
Harold Ober
Tom Ballow
Russell Fields
Mike Turnipseed
William Bentley
Marla Griswold
Fred Gifford
Joseph Tangredi
Roy Trenoweth

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

MEMBERS ABSENT:

No absentees

The meeting convened at 9:45 a.m. in the Clark County Public Library Lecture Hall located at 6301 West Charleston, Las Vegas, Nevada.

Chairman Melvin Close read the public noticing as defined in the agenda for November 9, 1994.

Item I. Approval of Minutes

Commissioner Ballow asked that the minutes of the August 11, 1994 meeting be changed to reflect his absence. Commissioner Bentley made a motion that the August 11, 1994 minutes amended minutes, noting Commissioner Ballow's absence, be approved. Commissioner seconded the motion. The motion was approved.

Item II. Regulatory Petitions

II-A: Petition 94019.

Petition 94019 (LCB R116-94) proposes to permanently amend the Nevada Administrative code 444.648 and to add amendments to 444A. 010 through 444A.140 for regulations governing waste tire disposal. The proposed amendment covers procedures to permit tire recycling facilities, provides for the development of a registration system for waste tire haulers, and established standards for the disposal of waste tires at disposal sites.

Kristin Kuyper, Division of Environmental Protection Solid Waste Branch, explained

that Petition 94109 addresses the statutory mandates of Assembly Bill 320, passed in 1991, that directed the State Environmental Commission to establish acceptable methods of disposing of waste tires, to develop a permitting program for facilities that accept waste tires from the public, and to establish a registration requirement for waste tire haulers as a means of controlling illegal dumping. Ms. Kuyper distributed copies of, and reviewed suggested amendments to Petition 94109, Sections 1, 4, and 17 changes the Division made in response to a public comment from the Nevada Mining Association.

Section 1, subsection is proposed to read:

"Bulk quantities of waste tires which are disposed of by land filling must be baled, split, chipped or otherwise handled in a manner approved by the solid waste management authority that will prevent whole tires from surfacing, posing a fire hazard or providing harborage for vectors." Ms. Kuyper explained that the intent of this modification is to prevent environmental and public health problems that waste tires have posed at several landfills throughout the state.

Ms. Kuyper explained that Sections 3 through 29 are new sections that set forth permitting requirements for facilities that accept waste tires for processing, recycling, or use as a fuel and registration requirements for waste tire haulers.

Ms. Kuyper reviewed the terms defined in Sections 4 through 9:

"A facility for the management of waste tires";

"a generator of waste tires",

"a hauler of waste tires",

"a passenger tire equivalent" which is a measure of waste tire material; and

"a waste tire".

The Division proposes an amendment to the definition of "a facility for the management of waste tires, to read: "A site where waste tires are deposited for processing, recycling or use as a fuel".

Ms. Kuyper reviewed additional sections of the regulations:

Section 10 establishes the permitting requirement for waste tire management facilities.

Ms. Kuyper explained the purpose of the permit is to set operating standards that reduce the potential risk to the public health and the environment as well as establish financial accountability among the local industry. Ms. Kuyper explained that businesses not required to have a permit are retreading operations that store fewer than 3,000 tires on site; tire retailers that store fewer than 1,500 tires on site; landfills that are permitted by the solid waste management authority and businesses that store fewer than 500 tires on site. The phrase "passenger tire equivalent" is used instead of tires so that materials such as shreds or chips or crumb that is produced by these facilitates are also included in the quantity limit.

Section 11 lists the requirements of a permit application. In summary they are: owner information; a plan of operation; a plan of the tire storage area; an estimate of the amount of tires or tire material that will be received annually; a description of the final use of the tires or processed tire material; proof of compliance with other state or local requirements and an emergency plan and a plan to demonstrate financial assurance.

Sections 12 through 14 set forth the procedures for reviewing permit applications by the solid waste management authority which are: a determination of completeness of the application within 45 days of receipt; an evaluation of the application within 30 days; and, notifying an applicant that the application is complete. In addition, issuance of a public notice; a 30-day public review period; and, issuance or denial of the permit within 15 days after the close of the public review period.

Section 15 states that a permit issued to a certificate owner or operator is: non-

transferable; is valid for 5 years; may be modified by the solid waste management or the permittee; and, may be revoked or suspended.

Section 16 sets forth procedures for renewing a permit.

Section 17 and 18 set forth the operating and design standard for permitted facilities for the management of waste tires. The standards include:

A limit of 5,000 tires or passenger tire equivalent stored on site at any one time and adherence to fire protection standards set forth by the state fire marshal. Ms. Kuyper explained that in order to simplify the language and reduce the duplication between these regulations and state fire marshal regulations the amended language in Section 17, 2 and 3 now reads: "An owner or operator of a facility for the management of waste tires must demonstrate compliance with the codes and standards adopted by the state fire marshal in NAC 444-477.281 and 477.283.

Subsection 3: Any area in which tires are stored outside of a building located at the facility must be enclosed with a fence that limits access to the area.

Ms. Kuyper continued that other operating requirements for a permitted facility include: Protection of waters of the state from potential run-off from the site; control of vectors; the presence of an attendant when tires are accepted from someone other than the owner or operator of the facility; all necessary processing equipment must be present and in operating order before tires are accepted; and, the site must have a final use for the tires or tire material so that 75% of the tires are accepted are removed within one year of receipt.

Section 19 establishes the contents of emergency plan for permitted facilities:

A list of contacts; the type and location of equipment for fighting the emergency or helping to alleviate it; and, a description of the emergency procedures.

Section 20 establishes record keeping requirements for permitted facilities. The following records must be kept on site for three years: copies of hauler manifests; identification of haulers hauling to the facility; the origin and destination of each shipment; the quantity of material received, stored and shipped; and, a copy of the plan for financial assurance.

Section 21 sets an annual reporting requirement for permitted facilities. Reports are due to the solid waste management authority on March 1. The report will contain information on the origin of the tires, the number of tires received and a destination and quantity of products shipped.

Section 22 sets closure procedures for permitted facilities. All tires and tire materials must be removed from the site within 12 months after closure.

Section 23 establishes the requirements for demonstrating financial assurance. The amount of financial assurance must be equal to the estimated cost of having a third party remove all of the tires or tire material from the facility based on the maximum amount of tires or materials stored there at any one time. The amount must be adjusted for inflation and to reflect any changes in operation.

Section 24 references the solid waste regulations to list the various ways financial assurance may be demonstrated.

Section 25 requires the solid waste management authority to inspect the facilities, once they have closed, and notify the permittee and the person who is providing financial assurance that the financial assurance is no longer required when the requirements of the closure plan have been met.

Section 26 sets up a registration program for waste tire haulers:

Haulers must have a registration number issued by the waste management authority, by July 1, 1995; the hauler must be permitted by the Public Service Commission; must identify all

vehicles that will be used to transport tires or tire material and the owners of those vehicles; and comply with any other applicable local requirements. Among the parties that are not required to be registered are: licensed collectors of solid waste; generators who self-haul; governmental agencies and retreaders. Ms. Kuyper explained that registering haulers is intended to reduce the amount of illegal dumping and stock piling.

Section 27 establishes the manifesting requirements for waste tire haulers:

The manifest originates from the place where the hauler takes possession of the tires. The hauler must give a copy of the manifest to the management facility or land-fill owner or operator where the tires are deposited and, return a completed copy to the generator of the tires within 30 days of taking possession of them. A hauler who fails to comply with this manifesting requirement may be subject to enforcement action by the solid waste management authority.

Section 28 requires the hauler to submit semi-annual reports to the solid waste management authority. The report is a summary that will include the type and quantity of tires collected and the origin and destination of the tires. A hauler who fails to comply with this reporting requirement is also subject to enforcement action.

Section 29 states that after July 1, 1995 the waste tire generator cannot contract with a hauler who is not registered as such. A tire generator who self-hauls tires or contracts with a licensed solid waste collector rather than a waste tire hauler must maintain receipts for the disposition of the tires for a period of 3 years. Ms. Kuyper explained that in both Washoe and Clark County the Solid Waste Management Authority is the County Health Department and in the rural counties the Solid Waste Management Authority is the Nevada Division of Environmental Protection.

Commissioner Gifford referred to Section 4 on the hand-out sheet and asked Ms. Kuyper to explain the intended difference between the words "processing" and "recycling"? Ms. Kuyper explained that a processor may not necessarily have a use for that material, they may shred the tires and sell the shreds elsewhere.

Commissioner Gifford referred to Section 10, item 2, and asked how the Division arrived at the numbers 3,000, 1,500 and 500 passenger tires equivalent. Ms. Kuyper explained that those numbers were tailored to types of businesses and how many tires a business expects to keep on site at any time and were established by a survey of other State's regulations. A business that stores less than 500 passenger tire equivalents, and is not otherwise exempted, is required to apply for a permit. The purpose of that regulation is to prevent speculative stock-piling of tires.

Commissioner Gifford referred to Section 18, item 4 which he interpreted to mean that the Division will allow a 25% accumulation rate but 5,000 stored tires is always the maximum. Ms. Kuyper replied yes.

Commissioner Ballow asked why the Division is proposing to regulate haulers of waste tires. Ms. Kuyper explained that the regulation will prevent an illegal hauler from collecting a fee for picking up the tires and dumping them illegally which is prohibited by law. The regulation would be a mechanism to require the tire haulers to report the final destination of the tires to the waste management authority. Ms. Kuyper noted that several haulers currently operating within the state that charge less to pick up the tire than it costs to dispose of the tire at the landfill, resulting in a dumping problem. Manpower to enforce the current anti-dumping laws is not adequate to catch all of the violators.

Commissioner Ballow asked if the \$1.00 surcharge that is now in effect for disposing of a tire will be continue or eliminated. Ms. Kuyper explained the \$1.00 fee charged with the sale of each new tire is the revenue that supports the solid waste management authority and it will

continue.

Commissioner Ober referred to the definition of a tire as being a "tire of a motor vehicle that is not fit to be a tire" and thought that definition could be interrupted as referring only to passenger vehicles and should be more specific. Commissioner Tangredi stated that in a broad sense, the definition is a vehicle driven by a motor which would even include airplane tires. Commissioner Molini stated the definition could be resolved by removing the words "motor vehicle" leaving the definition to read "waste tire means a tire that is not fit for use as a tire". Ms. Kuyper stated that the definition for a tire for a vehicle in NRS 444A is "a tire for a vehicle includes a tire for a motorized vehicle that is 12 inches or larger in diameter but does not include a recapped tire or a used tire which is sold again" and suggested the Commission adopt the statement "a waste tire means a tire for a vehicle as defined in NRS 444A.016". Chairman Close noted that definition includes the words "a recapped tire " and we should redefine waste tire. Commissioner Molini stated that there are tires on construction equipment, farm machinery, horse-drawn wagons, and travel trailers and those should be included in the definition also.

Commissioner Griswold asked Ms. Kuyper how many facilities will be permitted under these regulations. Ms. Kuyper replied she expects less than 10 facilities. There are no facilities currently operating but there are several that are considering operating within the coming year. Commissioner Griswold asked if those are located in the Las Vegas and Reno areas and has some consideration been given to the financial hardship, in hauling cost for disposal per tire, this regulation might place on extreme northeastern Nevada. Ms. Kuyper replied that she did not foresee an increase in cost per tire for a permitted facility versus a non-permitted facility because they have to conform to certain storage standards which do not cause a problem.

Deputy Attorney Jean Mischel referred to Section 1, amended section paragraph 3 and asked if water run-off is a concern of the solid waste management authority? Ms. Kuyper replied that there are no leachable products from waste tires, plus the landfill regulations require groundwater monitoring. Jean Mischel noted the regulations have an all-inclusive list that the authority will be looking at when approving landfills and the Division should cover all of the issues that might arise in landfills. Ms. Kuyper asked if the wording should include the term "or any other risk to public health or the environment". Ms. Mischel replied yes, that is your overall guideline.

Deputy Attorney Jean Mischel referred to Section 10 and the list of exempted businesses and asked why the Division is differentiating between management of waste tires and storage of waste tires. Ms. Kuyper replied that is so the exempted businesses would not be allowed to use the tires as fuel or to recycle them, if there is a facility that is both a tire dealer and a tire processor we would look at the tires that they are storing for processing rather than associated with their tires for sale.

Chairman Close noted the definition in Section 5 "a generator of waste tires means a person who possesses a tire of a motor vehicle at the time it becomes a waste tire" and asked, if I take a tire off of my car and put it in my garage, have I subjected myself to this act? Ms. Kuyper replied that even though you are in essence a generator, unless you store more than 500 tires in your garage you would not be required to obtain a permit.

Chairman Close referenced Section 11, subsection 8, procedures to be used in an emergency. Because the term emergency is so broad, what specific type of emergency do you want covered under this section. Kuyper replied, primarily fire. Chairman Close stated that to limit the responsibility of the local emergency planning committee you should restrict the term emergency to fires. Commissioner Bentley noted that an emergency could also be a flood if tires

are located in a flood plain. Commissioner Ballow noted that tires, when stored outside get water in them and mosquitos breed and spread encephalitis, another health problem. Chairman Close replied a health facility would become involved if there were a mosquito breeding problem, however, there has to be some restrictions to what people can look into insofar as a defined emergency by this regulation. Commissioner Bentley replied, that as far as the regulations go, the permitting agency should evaluate this when granting a permit. Commissioner Turnipseed noted that Section 11 addresses the application form and since the authority is either the Division of Environmental Protection or Washoe County or Clark County Health Departments they will put on the form whatever they perceive the emergency to be. Chairman Close replied that when we have another agency come into the picture we are not aware of what their responsibility is, and I believe we are going too far when we let the other agency deal with an emergency when we have no clue what type of emergency they are referring to. Chairman Close noted that the term emergency also arises in Section 19 where owners or operators of a facility for the management of waste tires have to list the equipment they are going to use in an emergency. If you are thinking only of fire I can see how that requirement can be answered but I think the term emergency is overly broad and should be specific.

Chairman Close noted that Section 26, subsection 2 (a) requires a permit number issued by the hauler of waste tires and asked if that certificate is a necessity. Kristin Kuyper replied that the Public Service Commission (PSC) registers or licenses haulers to haul for hire and these haulers are required to have a PSC identification number on their vehicle. We included this requirement because the PSC has insurance and demonstration of financial ability requirements that we believe are important.

Chairman Close noted that handouts given to the Commissioner's today include concerns regarding Petition 94019 and asked that those handouts which include a letter signed by Fred Couzens, private citizen; a letter signed by Thomas Kiec, President of TireOil, Inc. of Houston, Texas; a letter signed by Bill Upton and Duane Whiting from the Nevada Mining Association and a letter from Tom Green, General Manager of Refuse, Inc. be identified as exhibits and made part of the record of this hearing.

Chairman Close called upon Tom Isola.

Tom Isola, Vice president of Silver State Disposal in Las Vegas addressed 3 items regarding Petition 94019.

1. The regulation is asking that all tires be baled, chipped and split prior to going into a landfill. We presently operate the largest landfill in Clark County, we have been operating landfills for 125 years and we have no problem with the way we have always disposed of waste tires. If this process is adopted you will need to charge the public for that effort, thus you increase the cost for disposal. Recycler's are looking for subsidies, they are looking for the cost of disposal to be higher in order to justify the recycling of tires. We have had people come to us with proposals to recycle from our landfill with that scenario. Class I landfills that are prescribed by Subtitle D should not have to be lined in the bottom as well as on top. A tire has no environmental impact on groundwater or the air quality.
- 2: Regarding hauling, we have an exclusive franchise to handle the solid waste in Clark County which includes Las Vegas, Henderson and North Las Vegas. Tires are

considered a solid waste thus it is illegal for anyone to haul those tires unless they are hauling them for themselves to a landfill or they are hauling them as a recycling product to a recycling facility.

- 3: Regarding Section 29, all city and county ordinances specify that tires are a solid waste. They have to be handled as solid waste and they have to be transported to a solid waste landfill or to a recycling facility. Much of this proposed regulation is already included in the local laws and it is not necessary to repeat them in the state laws.

Chairman Close asked for questions.

Commissioner Griswold asked Mr. Isola for his estimate of the approximate cost of machinery and equipment to process these tires. Mr. Isola replied that set-up costs depended on procedures. If you are going to make them into a product that you can put into an incinerator it could cost many millions of dollars. If you are shredding tires, the cost would be in the hundreds of thousands of dollars. We handle a substantial number of tires at the Apex Landfill and it would cost us in the range of \$100,000 to process them. If tires are placed in a landfill operating on a daily basis there is no problem with disposal.

Deputy Attorney General Mischel noted that in respect to the Mr. Isola's comment about baling, chipping and splitting, that is not a part of the amendment that we are addressing today. That is existing language in Section 1, paragraph 3 of NAC 444.648. Mr. Isola replied that if it exists today they are saying that you can get around it by being approved by the solid waste management authority, which is our operational plan. My concern is with the small communities. If they have to shred or cut the tires, it will require a machine, a machine operator, power to the machine, plus maintenance and operational costs of the machine. That is an unnecessary additional expense if you are already operating the landfill according to the new Subtitle D standards that all landfills in the State of Nevada should be complying with today.

Commissioner Molini asked Mr. Isola if Clark County now required to bail, chip or split waste tires. Mr. Isola replied no. We dispose of waste tires by mixing them with the solid waste. We place them in different layers in a cell. When an entire load of tires arrives at the landfill we place the tires on the bottom and heavier construction demolition or compacted garbage is placed on top of them. Solitary tires are always going to arrive at the landfill in a mixed load of solid waste, in a garbage truck or a pickup truck from the general public and those tires will not be placed in the bottom of a cell.

Deputy Attorney Jean Mischel stated that this regulation proposal is to meet the provision that exempts mixed waste so it would represent a change to Mr. Isola's current operation of incorporating tires with other waste. This proposal attempts to delete that exemption.

Commissioner Bentley noted that Silver State Disposal is currently working under a plan that is approved by the solid waste management authority and if they approve the way he is doing it he does not have to bail, chip or split the tire.

Mr. Isola stated the whole key to making the recycling plants work is to raise the cost of processing tires as a waste product so their operation becomes cost effective. Right now it is not possible for them to compete with disposal costs. They want a tipping fee, a surcharge, and they want a state supplement. Eventually, recycling will become cost effective but it is not cost effective now in any system that I have seen.

Commissioner Bentley asked if, throughout the state at the present time, it is alright to put a whole tire in a landfill under the proper conditions, that they do not have to be baled, chipped and split. Kristin Kuyper replied yes.

David Emme, Supervisor of the Solid Waste Branch, Nevada Division of Environmental Protection stated that the purpose of this proposed regulation is to clean up and clarify the wording in the existing regulation. The intent of this proposed regulation was not to prohibit burying tires in the Apex Landfill in Las Vegas which is acceptable to both the regulatory authority, Clark County Health Department and the Division of Environmental Protection. The Division is trying to get around the haphazard methods and illegal dumping of tires. This problem has not generally been at the larger landfills but at the smaller landfills. With preplanning and thought about the way tires are handled at smaller landfills we can prevent some of the problems without necessarily having to chip, split or bale the tires. Chairman Close asked if Mesquite, Tonopah or Hawthorne can put whole tires in their landfills or must they be chipped, split or baled. Mr. Emme replied that placing tires in those landfills is based on the approval of the waste management authority. Chairman Close asked Mr. Emme how preventing the tire from surfacing is handled. Mr. Emme replied by placement of the tires at the toe of a lift and covering them with construction and demolition waste. If they are mixed in with solid waste there is a potential that they will surface and that is what we are trying to prevent. Chairman Close asked what "harborage for vectors" meant? Mr. Emme replied that piled up tires create a void space so that rats or rodents find habitat or, as was mentioned earlier, collecting water and providing breeding for mosquitos and killer bees.

Chairman Close called upon Thomas Kiec.

Thomas Kiec, President, TireOil Inc. of Houston, Texas stated that his company has been approached by the Northeast Nevada Development Association to bring a tire recycling facility into Elko County and a plant will be set up in the City of Wells. Mr. Kiec explained the tire recycling process. Our company takes scrap automobile tires and cut the tire into small shreds. We continue the process to make various forms of crumb rubber, an industrial commodity that is sold both domestically and internationally. Currently, we hold contracts for 10 million pounds of crumb rubber a month which means processing approximately 6 million tires a year. Unfortunately, not all scrap tires make good crumb rubber, nor can we use all of the scrap tire. The center tread portion can be ground at a reasonable cost to make a fine crumb rubber. The sidewalls contain a beadwire which holds the tire together and that is difficult to process. 70% of the tire can be converted to crumb rubber at an economic cost and 30% cannot. We take the 30% a step further by grinding that material. We remove the metal and tire fluff and that product is then put through a process called pyrolysis. Pyrolysis is basically the heating of a product in a vacuum. From this you get a vapor very rich in hydro-carbon. Essentially, from one tire of crumb put into a vacuum unit you get one gallon of oil and 5 pounds of carbon black, the black pigment. The oil is very rich and low in hydro-carbons and we have a contract to sell the oil to 3 refineries in the Salt Lake City area. Carbon black is a 3 billion pound a year marketplace. However, the traditional carbon black marketplace is not where we have found our markets for reprocessed material. We have some proprietary methods to make our carbon black. There have been failures in the industry in terms of carbon black because it is a very difficult process and we have found non-traditional markets. Our employee, Paul Petrick, has been very active with the State of Maryland in their tire recycling program. Maryland disposes of 8 million tires a year,

recycled either through burning or other methods. Maryland only generates about 4 million tires a year so they are pulling in, and recycling, 4 million tires from outside their area. We have based our economics in Wells on the tires that are available in that area plus tires coming from the Utah and the Salt Lake City area. We plan to process approximately 8,000 tires a day. We have committed to Wells that there will be no outside storage of whole tires, and incoming tires will be processed within 24 - 48 hours, converted into crumb rubber which we will then move. We are planning to invest about \$10 million in the State of Nevada for this plant. To make a tire recycling program work you must have a large volume of product to attract a market for recyclable or resalable oil and you need a large volume of product in order to attract customers for the carbon black industry. This is not an economic product on a small scale. Throughout the United States, 48 states have enacted some type of disposable tire regulations and 27 of those states have banned tires from landfills. In Nevada, you have a unique situation, in terms of landfills, where it does not pose a problem to bury tires as it does in other states. Although burying a tire does not pose a problem you do have a recyclable product and we think if there is a recyclable economic value available then we should take it.

If you examine the tire recycling industry, there are three basic cost centers. There is the collection of the tires which solid waste now handles and you have a very effective method in Las Vegas and Reno. There will be a loss of revenue for them if they cannot collect those tires so they should be allowed to collect those tires. Second, a tipping fee, which is the actual cost of disposing of that tire into a landfill, or the recycling fee. If the tire has to be handled special, there will be an increased cost. If you are asking someone to shred a tire, a cheap piece of equipment will need a lot of maintenance. A more expensive piece of equipment will probably be \$400,000 - \$500,000 to handle the tires that are coming out of the Las Vegas area. The more tires you process, the lower the processing fee. A tire shredder can shred from 200 - 600 tires per hour. The limitation being, how fast can you feed the tires to the unit. So if you are on the high side, the economics come way down. If you are on the low side, the economics go up and that is why we are looking at a volume supply. The third item is the by-products. Nevada has one of the finest engineering departments for rubberized asphalt in the country located at the University of Nevada, Reno. You have tire supplies and tire markets in this area. We can readily pull material from other states and help them solve their problems and we will bring jobs to the area.

Mr. Kiec addressed the comment about tire haulers, a group commonly referred to as "tire jockeys". These people speculate by picking up tires at a dealer and runs them to a retreader and see how many tires of that load he can sell to the retreader for the casings. The rest of the material mysteriously disappears. That is the reason you have to regulate these people. The regulation that you are proposing will place an additional cost on a landfill and if you are going to take that step, you will want to step in a direction that will provide some recycling. I estimate that it would cost each individual in the Las Vegas or the Reno area 25¢ a month for tire recycling, basically \$1.50 per tire. That fee also includes our capability to work with groups to develop more markets and unique products for the tires. For instance, an initial study we have done at Texas A&M University whereby tire fiber can be blended into soil where it acts as a water retention agent, reducing the amount of water required from 50% - 90%, depending on the crop tested the amount of water requirements of that crop.

Mr. Kiec continued, my letter to Mr. Cowperthwaite, Executive Secretary, included comments regarding certain sections of the proposed regulations. I believe the words "baling of tires" should be more specific. The baling of tires is a very dangerous process where 20 or 30

tires are strapped together creating giant bales. The bales are rolled into a landfill, and saying that they are contained is dangerous. In regards to the size reduction, if, as Mr. Isola has pointed out, you create a situation where a landfill operator has to reduce the tire, please do not allow a piece that is bigger than 2" x 2" or 1" x 1". Two years ago, the State of Texas established a program whereby they would pay someone 94¢ to shred a tire but they did not specify a maximum size of the shred. The result is abandoned piles of shredded tires that literally cannot be moved because metal that is exposed from a tire that is shredded into pieces larger than 2" x 2" creates a "grab" situation. You must also use caution because shredded tires will burn more fiercely than a whole tire. In my letter, I suggest that a landfill actually become a temporary storage facility by receiving whole tires from a generator and sitting them aside. TireOil Inc. would work with the landfill by bringing in portable shredders, shred the material and transport that back to the Wells facility for recycling.

Mr. Kiec referred to Section 6, reference to a hauler of waste tires as a "person who transports used tires to be resold or retreadable casings to be retreaded" - this language will create a situation where the tire jockeys will travel through an area, pick up tires on a speculative nature, and what they cannot sell will end up illegally dumped. A good case of an illegal dump is the Henderson quarry. We would like words written into legislation that once a scrap tire has been converted to an approved fuel, which should be a 2" x 2" piece or less, or into crumb rubber, that product no longer poses a threat as a whole tire and should be shipped by common carrier and not regulated haulers. Our facility needs the ability to ship crumb rubber throughout the state, for example from Reno to Wells or Las Vegas to Wells, and we don't want to be restricted by having to hire a specific hauler. A common carrier would be fine provided that all the MSDS sheets and the manifests are correct.

Mr. Kiec addressed the issue of tire recyclers and government and industry working together. We are coming to the State of Nevada, we want to work with industry, mining, solid waste and landfills. We feel our recycling program will be one of the best in the nation and we don't need government interference in regards to pricing, etc.. We estimate it will cost 25¢ per person per month to recycle those tires and to create a research and market development program to find new markets for the products derived from the tires.

Chairman Close asked for questions from the Commissioners.

Commissioner Griswold asked Mr. Kiec if there were other facilities currently operating in the West like the one being proposed for Wells. Mr. Kiec replied, presently there are no such facilities in the West. The closest facility, in Florida, is processing approximately 1 million tires a year.

Kristin Kuyper addressed Mr. Kiec concerns

Mr. Kiec requested that the term "baled" be stricken because it is a dangerous process and allowed that to be a legitimate request.

Section 1 is worded to allow for any type of tire handling method that would prevent any risk to public health and the environment and we do not need to specify specific handling methods.

Minimum size specification for tires that were volume reduced at landfills. The intent of this regulation is to minimize the problems that tires may cause at landfills, such as surfacing and harboring vectors. That would be accomplished by splitting the tire. We are not trying to create a

marketable product, we are trying to eliminate handling problems.

Mr. Kiec recommended temporary tire storage at landfills. Landfills are currently permitted under our solid waste regulations and the way that they store tires would be examined as part of that permit.

Mr. Kiec mentioned that we should not exempt haulers who are hauling retreadable tires from the registration requirements which is a valid point. Section 6 reads "the person who transports used tires to be resold or retreadable casings to be retreaded, if that person was also hauling tires that were not retreadable casings or could not be resold, then they would have to be a registered waste tire hauler". This exemption is strictly for people who are transporting tires that still have some value.

Chairman Close noted that Mr. Kiec raised the issue that once a scrap tire has been converted to an approved fuel or recycled product it can be transported by common carrier and asked Ms. Kuyper if that is allowed by this regulation. Ms. Kuyper replied that they would also have to be a waste tire hauler since they are hauling a waste tire material. There is no fee associated with registering as a waste tire hauler, only a reporting requirement, so there would be no added cost to the tire generator.

Chairman Close asked Mr. Kiec if all his concerns had been addressed.

Mr. Kiec replied that the issue of crumb rubber that has been converted to crumb coming out of a plant must still be hauled by a waste hauler. If that is so, we will use our own vehicles or contract a hauler and get them permitted to haul the product. Commissioner Turnipseed asked Mr. Kiec what type of vehicle is used to transport the crumb rubber. Mr. Kiec explained that the crumb rubber is placed in 1,000 pound boxes, covered with a plastic cap, placed on a pallet, then onto a straight bed truck. Commissioner Turnipseed asked if a common carrier hired to haul the boxes of crumb rubber from Hawthorne to Wells would have to be permitted by the solid waste authority. Commissioner Ballow stated that once it has been recycled it is no longer a waste tire, it becomes a resource. Commissioner Griswold asked what the reason would be for the crumb rubber, if it were contained in that manner, to be regulated. Commissioner Bentley stated that he interprets the definition in Section 6 to mean the hauler is someone that transports waste tires or materials derived from waste tires. If you interpret it closely, crumb rubber is derived from waste tires and requires a permit. But, crumb rubber is not a hazard or a material that needs to be concerned under these regulations. Mr. Kiec stated that it was the same if you make tire derived fuel (TDF). Most tire derived fuel is in 2" or less chips. In order to entice someone to use it as a fuel, the product would normally cost \$14 a ton to make. You are fortunate if you can sell it for \$18 a ton which includes the cost of the freight. Economics would determine if you want to be recycler. It is a critical issue.

Chairman Close stated that the question again is: Why must this by-product be hauled only with a specially permitted trucker? Kristin Kuyper replied the language in Section 6 can be changed. We can remove "or materials derived from waste tires" and replace it that terminology with "a hauler of waste tires means a person who transports waste tires over the highways of the state". Logically, if money has been spent to process the materials they have value and they should not be dumped. Attorney General Mischel stated that a problem may arise if someone who chips a tire before landfilling argues that it is now a material and not a waste tire. You can deal with the distinction of what is valuable and what is not in your definition of waste tire and

include the words "not fit for use as a tire" or put "has no economic use as a tire". Commissioner Griswold asked if the language "a product for resale" could be inserted in the definition. Chairman Close asked Kristin Kuyper to decide where that language should go in the regulation.

Chairman Close called upon Steve Kalish.

Steve Kalish, from Silver State Disposal, also representing Reno Disposal, stated that both companies have the same concerns relating to the proper disposal of tire in landfills. Mr. Kiec used the term "unique to the State of Nevada". Unique in Nevada is the Environmental Commission, Nevada Division of Environmental Protection and the Health Districts all doing a good job. The Commission, health districts, and we who are in the garbage business should be proud of what we have accomplished. We are not in the business of having to raise money to dispose of our waste. Mr. Kalish stated that he was President of Southern Nevada Communities for 5 years and is now a board member for ATE. The Nevada deserts have been proliferated with waste because economic conditions induce people to dump their garbage in the desert instead of dumping it in a legal landfill. We have done a lot in Southern Nevada to clean up the deserts but I am concerned if we make the disposal of tires too expensive the economic choice is going to be that tires are going to wind up in desert ravines, causing a clean-up problem for the next 20 years. The proposed regulations read that to store more than 500 tires will require a license or permit. There are probably 40 or 50 property owners in Las Vegas that would need a permit today because they have thousands of tires stored, It is cheaper to hold them on their property than it is to properly dispose of them. Enforcement is obviously a big issue.

Mr. Kalish referenced the last issue, from Silver State Disposal's concern, is that Mr. Kiec mentioned 25¢ per person, per month for the proper recycling of tires. I am not an accountant but I calculate that to between \$3.5 and \$4.8 million dollars a year revenue, based on Nevada's population. In retrospect, if we landfill our estimate of 1.2 million tires a year at an average of 20¢ - 30¢ per tire, that cost would be \$300 - \$400 thousand. It will cost 10 times more to recycle these tires. Passing on additional costs to the consumers, vendors and business people should also be addressed.

Chairman Close directed the secretary to include the letter from Reno Disposal as part of the record of this hearing.

Chairman Close asked for questions. There were no questions.

Chairman Close called upon Wes Stephenson.

Wes Stephenson from Entire Solutions stated that the concerns he had on Section 6 had already been addressed.

Chairman Close called upon Ralph Dippner.

Ralph Dippner, President of R.S. Dippner, Incorporated and half owner of Southwest Auto Wrecking stated that his business processes approximately 400 cars a month which calculates out to 1600 tires on rims, thus, they would be in violation of this proposed regulation. We don't think there is a need for any part of this regulation because the current laws for fire protection, for wrecking yard governance and for covering disposal sites are adequate. Mr.

Dippner asked what the effect of House Rule 2739, which prohibits the regulation of commerce in terms of the Federal Government, will be. He explained that the Public Service Commission (PSC) will be meeting on November 22 and the PSC have scheduled workshops beginning in 1995 regarding HR 2739. The PSC is not sure if they can permit or regulate anything except on an interim basis, so you may be passing laws here that are in violation of Federal Laws. Mr. Dippner noted that you can't set prices, you can't set routes and you can't set services. Chairman Close asked who had adopted that regulation. Mr. Dippner replied this is Federal Government Regulation 2739, a de-regulation bill. The PSC will no longer be permitting effective January 1, 1995. Ms. Kuyper stated that she was not familiar with Regulation 2739. Mr. Dippner stated that he would give Ms. Kuyper a copy of regulation 2739.

Chairman Close asked for additional comments from the floor.

Duane Whiting, Mine Waste Subcommittee Chairman for the Nevada Mining Association and Environmental Manager for Round Mountain Gold Corporation in Smoky Valley, stated that a letter was submitted to the Commission and asked to clarify the intent of that letter.

We were concerned about the respective approvals that would be granted to the mining industry under the new provision of Section 1, subsection 3. The amendments proposed by the Nevada Department of Environmental Protection today address our concerns. We are required to have our tire disposal approved by the Solid Waste Management Authority and we want to go on record by saying that we support that amendment. I also want to say that the key to any tire recycling program coming into the State of Nevada is based on economics. The proposed recycling site in northeastern Nevada would be attractive to the mines in that area but I doubt that there would be an economic tradeoff in the Western and Southern area of the state. The whole thrust of recycling is to recover an energy resource and obviously their name, TireOil Inc. indicates that they will be doing that. We do not want to waste a resource but if it costs more to haul the material to the center and to process it than the revenue you receive from the recycled product you have not gained any ground. Economics must be considered.

Mr. Whiting stated that a used tire does not impact the waters of the state. The use of mining tires at the marina in Lake Powell exhibits that tires are utilized for boating activities and docks. We are currently allowed to store our mining tires in Class A landfills approved by the state or in mine waste dumps on Bureau of Land Management land. This is an approved practice and we are not aware of any problems as a result of this procedure. Shredding, chipping, etc. has not been required.

Chairman Close asked for questions from the floor.

Tom Isola, Silver State Disposal, addressing shredded, baled or chipped tires noted that people may shred or chip to reduce the volume, enabling them to transport more at a time to a landfill. We don't want this product dumped in the desert in order to cut out the disposal cost.

Kristin Kuyper suggested the following changes to the regulation:
Section 1, number 3:
Strike the word "baled" and change the sentence to read "or otherwise handle in a manner approved by the Solid Waste Management Authority that will prevent whole tires from surfacing

posing a fire hazard, providing harborage for vectors, or causing any other potential risk to public health and the environment."

Section 6: Add subsection 7:

"Person who transports products for resale derived from waste tires."

Commissioner Gifford asked if that would address the concern of the chipping size. If tires are chipped in a size other than what is favorable for the economic market and are not a saleable product, illegal dumping in the desert would increase. Commissioner Bentley replied that the concern in these regulations is basically about illegal dumping and proper handling of the material, the situation that you just defined, that someone hauling the tires for resale ends up dumping them then the product is no longer for resale. He is now an illegal dumper so he would not be exempt - and that would be an enforcement problem. Commissioner Gifford replied that, in terms of his statement, he was more concerned with the person not being permitted than the dumping. We are talking about exclusion terms defined in Section 6, items 1 through 7 and I was coming from a permitting standpoint. Commissioner Bentley stated that if you put dimension numbers in you get into the size of the machine and other issues.

Kristin Kuyper requested a change in Section 9, definition of a waste tire:

Delete the phrase "of a motorized vehicle" so it would read: "waste tire means a tire that is not fit for use as a tire." Deputy Attorney General noted that there is still, potentially, a question when you use the word tire. Does it mean a whole tire, part of a tire or both. Does the Commission read this as any part of the tire? The commission agreed the language is appropriate.

Kristin Kuyper requested a change in Section 11, subsection 8.

Replace the word "emergency" with the word "fire" so it would read: "procedures to be used in a fire which must be reviewed by the local planning committee appointed by the State Emergency Response Commission."

Kristin Kuyper requested a change in Section 19, lead paragraph:

Remove the phrase "in an emergency" and replace it with "a fire".

Ms. Kuyper requested a change in subsection 1: Remove the phrase "or other emergency"

Subsection 2 will read: "A list of the equipment to be used in response to a fire at the facility, the location of that equipment and the manner in which the equipment will be used if a fire occurs".

Change Subsection 3: Delete the phrase "or other emergency"

Commissioner Gifford asked if, in Section 5, line 1, the words "of a motor vehicle" will be removed. Kristin Kuyper replied yes.

Commissioner Gifford stated that to make Section 10 parallel with Section 4, the word "processing" will be added. Kristin Kuyper agreed.

Wes Stephenson, representing Entire Solutions of Las Vegas, suggested a change in Section 6, new number 7.

Change "person who transports items for resale derived from waste tires" to "person who transports marketable products derived from waste tires". He explained that there are entities within the state that transport materials derived from waste products that are no longer for resale, such as the paving companies. Using the words "marketable products" would help out the end user. Kristin Kuyper replied that would be acceptable. Deputy Attorney General Mischel noted this raised the same issue Mr. Gifford discussed which is how you define what is marketable and

what is not marketable. The language that was earlier proposed "the person who transports products for resale" at least took out the balancing act that the authority would have to perform in terms of whether or not the product was valuable or not valuable. Changing the language to "marketable" potentially exempts anybody who makes any change to that tire. Chairman Close asked if a road company hauls recycled tire products to put into their road construction process, would they be exempt. Deputy Attorney General Mischel stated then it could be for resale or reuse. Mr. Stephenson suggested using the term "any end user of the products" which would not indicate the ambiguity of marketability. Commissioner Molini asked if, in a reasonable and prudent application of this regulation, does the Division of Environmental Protection envision requiring Frehner Construction, for instance, to have a waste hauling permit to haul highway rubber material. Deputy Attorney General Mischel suggested the terms "resale or reuse" be used.

Mr. Stephenson asked for a point of clarification in Section 18, subsection 3: Referring to the language "Before a facility for the management of waste tires receives tires for processing, each area where waste tires are cut, chipped, ground or otherwise altered must have the equipment which is necessary to process waste tires in operating condition". Kristin Kuyper stated that refers to the initial start-up of the operation or the facility so it would not cause any interruption in shipments once the facility has been permitted and is operating. Chairman Close noted that the language should read "Before a facility for the management of waste tires initially receives tires for processing, each area where waste tires are cut, chipped, ground or otherwise altered must have the equipment which is necessary to process waste tires in operating condition." Kristin Kuyper replied that is acceptable.

Robert Gross, General Counsel to Silver State Disposal Corporation asked for clarification of the proposed amendments to Section 1, subsection 3. We heard comment previously from the Nevada Division of Environmental Protection to the effect that they were not concerned with or did not believe that this proposed change would have any impact on landfill sites in the urban areas, namely Washoe and Clark County. The amendment proposes that we delete the language "and which are not incorporated in a general landfill". Will that language remain in the amendment? Deputy Attorney General Jean Mischel stated that it is not intended to remain in, the reason is to take out an archaic phrase "general landfill" and to allow the Solid Waste Management Authority to make decisions about what is safe for the public health and environment. According to the explanation, the stacking of tires is currently allowed in landfills as long as they cannot surface. Mr. Gross stated that Silver State Disposal would feel more comfortable if the original language was left in the proposal but to modify it from "general" landfill to "an approved" landfill. Deputy Attorney General stated with the explanation on the record it clarifies the deletion. Commissioner Gifford asked why all the statement has to be removed. Why can't we keep "which is not incorporated with other waste" and strike "in a general landfill". Kristin Kuyper explained that if the statement was left in then the whole section would only refer to tires which were segregated out of the waste stream, in other words tires that were monofilled or put in a separate part of the landfill which is not the intent of the regulation. We want specific methods for handling tires that are incorporated with the other wastes and that is why we removed that section. The Division is not saying that we are going to cause Silver State or any other large urban landfill to handle their tires differently if they do not have a problem with surfacing or other potential handling problems. The purpose of this regulation is to establish handling methods for tires that are incorporated in a general landfill area. Tires that are segregated out and placed elsewhere are usually handled in another manner

that does not cause any problems.

Chairman Close asked Mr. Gross if he felt comfortable with the representations that have been made which will be included in our written record. Mr. Gross replied that he does not have a problem with what has been represented on the record, but that he would feel more comfortable, as General Counsel to Silver State Corporation, if the language remain as proposed. I think we accomplish our goals and the Nevada Division of Environmental Protection accomplishes their goals by leaving the language in. Without specific language in Section 1, I as an attorney, do not have that comfort level. Deputy Attorney General Jean Mischel suggested deleting the phrase in paragraph 3 but amending, rather than repealing, all of paragraph 4. Take out the phrase "in a general landfill" and eliminate the word "should" and use the word "may" and then leave the rest of the language as it is.

Mr. Gross asked the Commission to continue the matter for 30 - 45 days to give the parties involved the opportunity to review the language changes in the regulation. Commissioner Bentley asked Mr. Gross why he had not addressed his concerns to the Nevada Division of Environmental Protection prior to today's hearing. Mr. Gross replied that they had attended the Waste Tire Management Committee meeting and we did address our concerns earlier. Our concerns have not been resolved to our satisfaction. Kristin Kuyper noted Silver State Disposal had not submitted written comments on these regulations. Mr. Gross replied that there is no requirement that he put his concerns in writing but he is attending the hearing today to express his concerns. We want to work with the Nevada Division of Environmental Protection but there is a lot of ambiguity and in light of the significant proposed changes, I think we need some time to work through this document. Deputy Attorney General Jean Mischel stated that the changes that are now being discussed are changes that were specifically noticed pursuant to the Administrative Procedures Act so that there is no procedural need for continuing the matter. Entities had more than 30 days, as required by law, to provide written comment or dialogue. Chairman Close asked Mr. Gross if he would review the petition and present any specific comment or language change request to the Commission after the lunch break.

Chairman Close requested the Division of Environmental Protection, Bureau of Waste Management to review the language in the petition and bring their recommendations back to the Commission after lunch.

Chairman Close adjourned the hearing for lunch at 12:00 noon.

Chairman Close reconvened the hearing at 1:00 p.m.

Chairman Close asked the Bureau of Waste Management for their recommended new language.

Kristin Kuyper stated a simple change, in Section I, subsection 3. Leave in the language which has been marked for deletion which says "and which are not incorporated with other wastes in a general landfill", this language would be reinstated in the regulation but we would replace the word general with "permitted". Section 1, subsection 3 would read "bulk quantities of waste tires which are disposed of by landfilling and which are not incorporated with other wastes in a permitted landfill, must be split, chipped, or otherwise handled in a manner approved by the solid waste management authority that would prevent whole tires from surfacing, causing a fire hazard, providing harborage for vectors or causing any other potential risk to public health and the environment."

Chairman Close reviewed the amendments to Petition 94019. The changes are:

- Section 1: Change the numbering system so that it reads 444.648. Paragraph 3 will read:
"bulk quantities of waste tires which are disposed of by landfilling and which are not incorporated with other wastes in a permitted landfill, must be split, chipped, or otherwise handled in a manner approved by the solid waste management authority that would prevent whole tires from surfacing, causing a fire hazard, providing harborage for vectors or causing any other potential risk to public health and the environment."
- Section 4: "Facility for the management of waste tires means a site where waste tires are deposited for processing, recycling, or use as a fuel."
- Section 5: Delete the words "of a motor vehicle" on the first line.
- Section 6: Add a new paragraph 7: "Person who transports products for resale or reuse derived from waste tires."
- Section 9: Delete the language "of a motor vehicle."
- Section 10: Second line, before the word recycling, add "processing,".
- Section 11, paragraph 8:
Delete the word "emergency" and add the word "fire".
- Section 17: Delete paragraph 2 and 3.
Insert 2: "An owner or operator of a facility for the management of waste tires must demonstrate compliance of the codes and standards adopted by the State Fire Marshal in NAC 477.281 and 477.283".
In paragraph 3: "In the area in which tires are stored outside of a building located at the facility must be enclosed with a fence that limits access to the area".
- Section 18: Insert the word "initially" before the word "receives".
- Section 19: Delete "emergency" and add "fire".
- Paragraph 1: Delete "or other emergency occurs".
- Paragraph 2: Delete "emergency" and add "a fire" and delete "or other emergency occurs".
- Paragraph 3: Delete "or other emergency occurs".
- No additional language changes were noted.

Chairman Close asked for additional comments from the floor. No comments were received. Commissioner Turnipseed moved for adoption of Petition 94019 as amended. Commissioner Ballow seconded the motion. The motion was unanimously approved.

Commissioner Griswold asked Lew Dodgion to explain the status of the fund generated by the \$1 fee on new tires. Mr. Dodgion replied that the \$1 fee for each new tire sold generates approximately \$1.2 million a year. That money is available to the Division of Environmental Protection and to the Clark and Washoe County Health Departments to operate the Solid Waste Management Programs. There is currently a surplus in the fund but I do not have the surplus figure available.

II-B: Petition 95001

Temporarily amends Nevada Administrative Code 445.430 through 445.846 by modification of the effective date of Nevada's air quality operating permit program by extending the date of implementation from November 14, 1994 to a date in the future based on the U.S. EPA approval of the program. The addition references the regulations to permits to construct are being deleted

and supplanted with references to operating permits.

Tom Porta, Nevada Division of Environmental Protection, Air Quality section stated that this petition requests to delay the deadline to implement the Title V permitting program as addressed by the Clean Air Act. On September 15, 1994 the United States EPA Region IX Administrator, Felicia Markus sent us a letter stating that our Title IV Program was going to be moved from November 22, 1994 until May 22, 1995. The reason for the delay is we made some changes to our Title IV Program and submitted those to EPA Region IX. EPA then opted for a 6 month extension on their review of our program. Unfortunately, our regulations were all in place and adopted to become effective on November 15 so we are here to request that the deadline be moved back.

We request definition changes on the listed citations:

NAC 445.4415; NAC 445.4615; NAC 445.4625; NAC 445.4635; NAC 445.4645; NAC 445.46548; NAC 445.628; 445.6945; 445.7042; 445.7044; 445.7046; 445.7054; 445.7056.

The definition will now include the words "effective upon approval of the program by the administrator of the United States Environmental Protection Agency".

Mr. Porta continued, we would like to change the effective date and also change some language in NAC445.707:

Section 1: Remove "permit to construct" and add "operating permit" and also remove the word "single".

Section 2: Remove "one-half of the fee for an initial operating permit must accompany the application" and add "the application filing fee for issuance of a permit or the \$200 fee for replacement of a lost or damaged permit must accompany the application".

Section 4: Delete "a permit to construct" and add "an operating permit".

Section 6: Delete "a permit to construct" and add "an operating permit".

Section 7: Delete "a permit to construct" and add "an operating permit".

NAC 445.7072: Delete the words "permit to construct" from the regulation description; Change effective date and delete the words "permit to construct" and add "an operating permit for".

Section 1: Delete the words "permit to construct" and add "an operating permit".

Section 2: Delete the words "permit to construct" and add "an operating permit".

Section 3: Delete the words "permit to construct" and add "an operating permit".

Section 4: Delete the words "permit to construct" and add "an operating permit".

NAC 445.7073: Change the effective date.

NAC 445.7077: Change the effective date.

NAC 445.709: Change the effective rule date and delete the words "a permit to construct" and add "a modification to an operating permit".

NAC 445.711: Change the effective rule date.

NAC 445.712: Change the effective rule date and in Section 1 remove the word single and process to the and "possession of a valid permit to construct is a prerequisite to obtaining the initial operating permit for a new source".

Section 2: Remove the word "initial".

Section 5: Remove the word "single".

NAC 445.713: Change the effective rule date.

Section 3 delete 445.745 and add 445.7135, a regulation clarification.

NAC 445.7135: Section 28 add the word "annual" for clarification.

NAC 445.715: Change the effective rule date.

NAC 445.7155: Change the effective rule date.

NAC 445.7165: Change the effective rule date.

NAC 445.7191: Section 1: Delete "a Class I" and add the word "an".

NAC 445.7165: Change the effective rule date and also in Section 1 delete the words a
"new permit to construct" and add the words "a new operating permit".

NAC 445.734: Delete "a permit to construct or" and add the word "an".

Mr. Porta stated that completes the requested changes in Petition 95001.

Mr. Porta noted Barrick Goldstrike Mines had expressed concerns regarding these regulation changes. Chairman Close asked that the letter from Barrick, signed by Charles Geary, Vice-president and General Manager be made a part of the record.

Mr. Porta addressed Barrick's concerns:

We did not catch all the effective rule date changes. Barrick was concerned about the existing operating permit program being not affected. As we just reviewed, all the wording has been changed from "permit to construct" to "operating permit" to be more consistent with the new rules. We feel that the existing regulation, NAC 445.704 will still allow us to issue permits in this interim period until the new Title V permit program is approved by EPA.

References to NSR sources or what is called "new source review". We feel this is a moot point in that new source review is only applicable in non-attainment areas. Under our jurisdiction, all areas are in attainment. We feel that Title V will be implemented before any area is designated non-attainment.

In NAC 445.664 the effective date was November 15 - again we would press that 445.664 simply be changed to when the United States Environmental Protection Agency administrator approves our Title V program. The same goes for NAC 445.669, excess emissions. This had an effective rule date "until November 15" and we would like to extend that until the United States Environmental Protection Agency administrator approves our Title V program.

NAC 445.671 to 681, the same request, that we change the effective date from November 15 until the United States Environmental Protection Agency administrator approves our Title V program.

NAC 445.695, change the effective date until the United States Environmental Protection Agency administrator approves our Title V program.

Barrick raised an issue with 445.709 specifying circumstances requiring submission of environmental evaluation. We feel that we have taken care of this with the language change that was proposed for that regulation.

Barrick's final concern referred to not removing the permit to construct term from the heading of the regulation. They have listed NAC 445.704; 445.707; 445.7072; 445.7075 and 445.708 and we would agree that we should remove those words "permit to construct" and put in "operating permit".

Commissioner Turnipseed asked Mr. Porta if, when the Title V Program goes into effect, you will no longer have a "permit to construct" it will just be an "operating permit?" Mr. Porta replied that with the temporary rules addressed today, we are moving from "permits to construct" to "operating permits" and when the Title V Program becomes effective there will no longer be a "permit to construct" it will be an

"operating permit". Commissioner Turnipseed asked if this included a grading plan or site disturbance, except for 5 acres. Mr. Porta replied yes, they will become part of the operating permit.

Deputy Attorney General Jean Mischel explained the importance of Exhibit 5 in the Commissioner's information packet. This exhibit changes all the citation numbers that Tom just reviewed. The exhibit reflects the new citation numbers codified by the Legislative Counsel Bureau. When this proposed regulation is approved by the Commission a reference and motion to the new citations as contained in Exhibit 5 should be included so there is no confusion about the Nevada Administrative Code references. The new citations will be Chapter 445B.

Deputy Attorney General Jean Mischel explained that because this is a temporary regulation, the Commission will have to review it again at the expiration of the legislative session and for the record, if there are no changes, a 30-day public comment period will not be required. The Commission will be able to revisit this on 3 day notice.

Chairman Close called upon Lynn Giraud.

Lynn Giraud, Barrick Goldstrike Mines, noted that Mr. Porta had addressed Barrick's comments and concerns. Ms. Giraud stressed that the effective dates specified in Barrick's letter were very critical, and in addition to the ones in the proposal, needed to be changed. Ideally, anywhere in the regulations where it says November 15, that date should be removed and replaced with the phrase "effective upon approval of the program by the administrator of the United States Environmental Protection Agency" so there is consistency throughout the regulations. We feel that everything should be delayed until Environmental Protection Agency approves the program. Barrick is pleased to work with the Division and we feel that the end product will be a good set of regulations. The permit to construct basically went away on July 1. Since July 1 all new permits that have been issued have been operating permits so the Bureau has started working into that system already. I would also comment that the Nevada Mining Association supports Barrick's comments.

Chairman Close called for comments from the floor.

Ray Bacon, Nevada Manufacturer's Association, stated that he recalls a restriction in Nevada law that states that you cannot have an indefinite date, unless you have some sort of notification procedure and asked if the Division of Environmental Protection will implement a notification procedure to advise permit holders when the effective dates comes into place. Tom Porta replied that there is a phase-in period with the Title V program. Entities have 1 year from the effective date to submit their application. The Division will go through an official notification procedure with every source affected by Title V.

Chairman Close asked for further comments. No comments were received.

Chairman Close asked Tom Porta if the additional changes requested in the Barrick letter are accepted by the Division. Tom Porta replied modifications will be made to the NAC 's addressed in Barrick's letter, namely:

NAC 445.664; 445.668; 445.671 - 681; 445.695; 445.704; 445.707; 445.7072; 445.7075; and 445.708. Commissioner Ballow made a motion that Petition 95001 be adopted with the

modifications and amendments that have been discussed. Commissioner Fields seconded the motion. The motion carried.

Deputy Attorney General Mischel noted that Exhibit #5 becomes a part of Petition 95001 because it modifies the citation numbers to Chapter 445B. Commissioner Molini moved that Exhibit 5, Citations affected by Petition 95001, showing the new citation as related to the old citation become a part of Petition 95001. Commissioner Bentley seconded the motion. The motion carried.

III. Adoption of the 1994 Handbook of Best Management Practices.

Pete Anderson of the Bureau of Water Planning, Division of Environmental Protection, Non-Point Source Program gave a short overview of the 1994 Handbook of Best Management Practices. He explained the purpose of the handbook is to provide federal, state, and local agencies, public and private entities, and individuals a general guidance and reference document to reduce and prevent non-point source pollution. The handbook is intended to provide a basic framework or a starting point for soil and water conservation programs to improve surface and ground water quality in the state. Best Management Practices, better known as BMP's, are typically applied as a system but depending on the specifics of a site can be utilized individually. BMP's are also implemented in both temporary and permanent applications. The selection of BMP's are based upon site specific conditions, which include the environmental and physical conditions of the site, political and social considerations, economics and technical feasibility. BMP's may require the expertise of qualified resource and engineering professionals. Mr. Anderson stated that the handbook is a general guidance which provides baseline understanding of current non-point source pollution controls. The Nevada Handbook of Best Management Practices was originally developed and adopted in 1980. The goal of the updating process was to add new BMP's, revise the document format to improve reader understanding and usefulness and to satisfy the requirements of NAC 445.230. Specific chapters have been developed to address road and construction sites; erosion and sediment controls; agriculture, urban resource management; and mining. A reader can turn to a specific section and quickly access the primary BMP's applicable to his or her needs. The document will also accommodate future editions or revisions without having to reproduce the entire document. Mr. Anderson explained that public input was obtained by a 50-day comment and review period, March 28, 1994 to May 16, 1994. 200 copies of the draft handbook were distributed and specific informational meetings were held with groups and individuals. 95 comments were received federal and state agencies, the private sector and individuals. All comments received were reviewed and addressed with written responses. The comments received resulted in revisions which greatly improved the document. On September 21, 1994 the State Conservation Commission recommended adoption of the 1994 Nevada Handbook of Best Management Practices with the addition of another new BMP on Forest Slash Management and the inclusion of a pullout page with information on specific BMP's. Those revisions were made and the document before you represents the finalized handbook. The Bureau of Water Planning respectfully requests the Nevada State Environmental Commission's review, comments and adoption of the 1994 Nevada Handbook of Best Management Practices.

Chairman Close stated that because this handbook affects so many people, 200 copies does not seem to be a very wide dissemination and asked what efforts were made to make sure that potentially affected people had knowledge of the document. Pete Anderson explained that

the documents were placed in every library in every county and that every federal and state office that deals with resource management and district offices received copies. Comments received were representative from across the state. Chris Freeman, with the State Conservation Commission explained that two Conservation Commission public hearings were held and all conservation districts in the state, affecting 3,000 people in the urban communities were notified. Commissioner Ballow asked if this document was a regulatory document. Chris Freeman replied that the document is intended to be a guidance for implementing water quality practices that can improve water quality. Commissioner Griswold asked if other states have a Best Management Practices Handbook. Chris Freeman replied that some do and Washington and Idaho are now in the process of developing their handbooks. Commissioner Gifford complimented the Bureau of Water Quality Planning and State Conservation office for their efforts and completeness in terms of specific practices. Chris Freeman gave credit to other agencies, the University of Nevada and the Soil Conservation Service noting that the document was a result of a mutual effort. Technical guides in the book were pulled from the Soil Conservation Service; Forest Practices came from the Division of Forestry and the U.S. Forest Service and the Department of Interior and Corps of Engineers so we incorporated other resource information to develop a guide that is all inclusive.

Chairman Close asked for additional questions. No questions were received. Commissioner Ballow made the motion that the Commission adopt the Best Management Practices Handbook. Commissioner Griswold seconded the motion. The motion was unanimously approved.

IV. Adopt Resolution to the Nevada Legislature regarding the state Chemical Catastrophe Prevention Act.

Commissioner Turnipseed noted that this extremely well written resolution, drafted at his urging, gets to the point I wanted to make, that the EPA identify additional industries that should come under a regulatory scheme. The resolution addresses the problem of the Chemical Catastrophe Prevention Act, the State OSHA Plan and the Federal EPA and what they are going to regulate. There was testimony on August 11 that 168 entities within the state would come under the new EPA regulations. This resolution accomplishes what I wanted to accomplish by asking the legislature to combine all those regulatory schemes into one and delegate enforcement authority to the Division of Environmental Protection.

Commissioner Griswold noted that the minutes of August 11, 1994 reflect a great deal of discussion about the financial burden on the regulated community and I don't feel this resolution addresses the Commission's feelings regarding the proposed fee increase presented on August 11. I also have some concern as to the propriety of the Commission taking a position and a recommendation to the legislature in light of the fact that we would be expected to defend that position to the legislature. I am wondering if maybe we aren't moving too fast on this. Chairman Close asked Commissioner Griswold if the resolution should be broadened to encompass more language in dealing with the costs. Ms. Griswold replied, that was an important part of the discussion that really is not addressed in this resolution. Commissioner Turnipseed stated that the request to increase the fees was because the regulated community had decreased from somewhere near 60 to 33 entities. In order to fund the agency, this greatly increased the economic burden on the 33 entities. With the EPA regulations bringing 168 entities into the regulated community, that should greatly reduce the amount of fees paid. Chairman Close noted

that if there are several laws that regulate the same activity our goal should be to combine those. Combining them results in a savings of money. If we as a Commission are secure in our feeling that this is an appropriate step to take I do not have a concern about defending this before the legislature. If we are serious, we must have someone willing to draft and introduce legislation that would accomplish our goal. Commissioner Griswold stated that she felt this resolution indicates that the Commission is serious. Commissioner Molini agreed with Commissioner Griswold's statement regarding our concern in lieu of the discussion about the financial burden on the regulated community. Commissioner Molini asked Mr. Dodgion if more facilities will be coming under the regulations and if so, we may propose to amend the fee structure. Lew Dodgion, Administrator of the Division of Environmental Protection, replied that he was not certain as to the number of facilities in Nevada that will be impacted by the Clean Air Act Program. Mr. Rosse advises me that it will be more than 100. Mr. Dodgion stated that the Clean Air Act Program is not going to happen within the next year, and maybe not for two years. Commissioner Molini asked Mr. Dodgion if the Division has an intent to amend the proposed fee structure. Lew Dodgion replied, when you have a program that regulates 40 businesses you can't amend it on a schedule to regulate 200 businesses unless you have the 200 businesses to regulate. In response to the hearing of August 11 and the comments and concerns about the fee structure. The Division was to bring back a fee proposal to the commission within 6 months so we will be back to you with a revised fee schedule based on a real hard look at the proposed budget. Commissioner Turnipseed read Jolaine Johnson's testimony in the last paragraph of page 20, minutes of August 11; "regarding the number of facilities that will be regulated by that program, according to the list of chemicals that they have adopted, we anticipate 165 facilities in Nevada would be subject to the risk management program requirements". Lew Dodgion commented that he felt it was more important that programs be compatible then that they be combined. To clarify that, if you have a number of facilities that are regulated under one program, if they are also regulated under another program you want to be sure that the things that they do under this program are acceptable to the other program. You don't want to impose the requirements of one program onto other industries that are not involved in that program.

Commissioner Griswold asked Lew Dodgion if the word "merge" was acceptable. Lew Dodgion replied he would prefer to see the word "compatible".

Commissioner Ballow asked Lew Dodgion, if there is, on the state level, a different agency in the Department of Business and Industry that is the state counterpart of OSHA that handles the occupational, safety and health aspects. Lew Dodgion replied that is the Division of Industrial Relations. We have worked with them to try to make the requirements of our program compatible with the OSHA program and to try to avoid duplication of inspections and enforcement actions. We have entered into a memorandum of understanding with Industrial Relations to spell out how to accomplish this goal.

Commissioner Turnipseed asked if the Commission thought the resolution was premature for the 1995 legislature would it be more appropriate to present to the 1997 legislature or do we want to discard the resolution altogether. If the EPA program does not come into effect until 1996 or 1997, the 1995 legislature cannot deal with this. Lew Dodgion replied that the Division does not have the details of the EPA program at this time so we are unable to go to the 1995 legislature. We would not expect it to go to the legislature until 1997 with a proposal to opt into the Federal EPA program. I assume that we would need some statutory authority to do that. Commissioner Molini stated, then that makes this resolution moot at this point in time. Commissioner Turnipseed and Commissioner Griswold agreed that they also thought the

resolution was moot. Commissioner Turnipseed asked if the Commission is still faced with funding the Division requirements until 1997 with fees from the present day regulated community. Lew Dodgion replied yes. Attorney General Mischel noted that was not a legislative issue. It is a regulatory issue which the Commission will be revisiting. Lew Dodgion stated that our request will be revised to reflect a leaner budget. Chairman Close asked if there were more agencies regulating this field than there should be because the essence of Commissioner Turnipseed's August 11 motion was to try to combine these things. Lew Dodgion replied, currently no. When the Federal EPA program comes into effect if you wind up with 3 agencies regulating each area then I will say yes, that is to many. If we have Senate Bill 641 and the Air Program in the Division of Environmental Protection, can get those combined and coordinated under one bureau and we have coordination with the Industrial Relations office then that would work if the programs are compatible.

Commissioner Turnipseed stated, I can't withdraw the motion to adopt the resolution but I could move that the Commission discard or dismiss the resolution and revisit the issue when the EPA comes up with the regulated chemicals and the facilities that handle those chemicals they want regulated. Commissioner Ballow seconded the motion.

Commissioner Molini asked if, when EPA's Clean Air Act Program is in place, when we know there is something to react to, in terms of the legislative approach, and we seek compatibility or consolidation of enforcement, does the Division anticipate getting the delegation of authority from EPA. Lew Dodgion replied that the Division is the likely agency to receive the delegation of authority. Chairman Close asked if that would be the time frame that this issue would be brought back to the Commission, whenever the EPA acts. Lew Dodgion stated maybe the EPA would repeal the amendments of 1990 which would make a lot of folks happy. Chairman Close stated that the motion made by Commissioner Turnipseed and seconded by Commissioner Ballow is to table this resolution to be brought back before the Commission when the EPA acts relative to this matter. He called for a vote. The motion unanimously passed.

Chairman Close apologized to Robert Nisco and called upon him to comment.

Robert Nisco, from Nevada Chemical, spoke in regards to the risk management fee. He stated the fee is a real hardship on the four small swimming pool service businesses in Nevada. The proposed fee represents ½ - 1 % of our gross or 2 - 5% of our net income. We feel it is an outrageous program and an outrageous fee. Mr. Nisco asked if there had been a cost analysis on the actual cost of the safety involved, regarding ton cylinders of chlorine gas. The amount of accidents with ton chlorine containers in the last 70 years has probably been 5 or 6 fatalities. Thus, the proposed fee is a tax and not a safety issue. 90% of those fatalities, according to the chlorine institute, were results of transportation of the ton cylinders so we are not even involved with that. When I received my letter regarding the proposed fee increase, I sent a reply to Mr. Close and that is why I am here today. I know I should have been involved sooner but not everyone knows the procedures, we are small business people. I have only become involved with all the federal regulation last few years and I now spend 2 or 3 days out of every week dealing with nothing but federal, state and local regulations. I feel, the election yesterday, made a statement by the voters to "stop this type of tax". By comparison, big companies pay \$40 to \$50 thousand for the Risk Management Program. Their fee, according to their gross incomes, should be about \$1.5 million compared to the fee that I pay from my gross income. It is a real inequity

for a small business. I am receptive to the idea that they may combine some of these programs to reduce the fee to the individual companies.

Chairman Close asked for a response from the Division.

Lew Dodgion replied that the fee proposal is not before the Commission today, it was addressed on August 11, 1994. The Division was asked to reconsider the fee proposal and bring it back to the Commission in approximately 6 months. We are going through the budget and we will have a leaner budget proposal. We will do our best to inform all the affected businesses in advance of the hearing and we will do our best to make the fees as equitable as we can.

Ray Bacon, Nevada Manufacturers Association asked to speak on the resolution, noting that the Chairman did not call for comments before you disregarded the resolution. Mr. Bacon stated there is duplication in the existing law and we believe that the Environmental Commission should go back to the legislature and ask them to "fix it". The list of chemicals in CAPP does not match with the list of chemicals in PSM. The numbers are different. There are specifics in the statute in CAPP that makes it impossible for the Division of Environmental Protection to administer the law and keep it even close to PSM. We are running on two different treadmills with one foot on each treadmill and it is difficult to know which way to go. You need to go back to the legislature and say "we have a problem - either take the specifics out of CAPP, in the statute in the State of Nevada, or absorb it with the federal statute. It is ridiculous for the Nevada statute to have a list when the Federal Government can change their list by regulation. We think you should send a message to the legislature that there ought to be one fee structure to cover the RMP, PSM and CAPP programs. We also have duplicate regulations in that most of these chemicals and most of these facilities also come under the purview of the local fire department or the State Fire Marshal's office so we really do have, right now, three separate groups that are looking at these same areas. When the federal RMP stuff gets in place, which is admittedly a couple of years out, we are going to have four. We believe it is your responsibility to tell the legislature that you have a problem which is going to get worse and it should be addressed right now. Jolaine Johnson, at the last session, came forward with a strong statement that said "we have a problem with the federal law". She came forward with a recommendation which was solid and would have fixed the problem but her recommendation was summarily dismissed. We still have the problem, we are talking huge fee increases and the number of facilities is going down and we have not done anything about it. Commissioner Ballow stated that unfortunately, at this stage of the game, there is not much that a state agency can do in presenting proposals to the legislature for changes in statutes. Mr. Ballow explained that representative from industry are not ham-strung by the protocol of having to go through the budget office with our legislative proposals. The industry can go direct to a senator or assemblyman and suggest changes. Ray Bacon replied that we fully intend to do that but a recommendation from the Commission, simultaneously with our efforts, may help to get this thing fixed. Deputy Attorney General Mischel asked Mr. Bacon if the Nevada Manufacturer's Association had a bill draft number. Ray Bacon replied that they do not because we were waiting for this action, to see if we had your resolution to combine with ours. We have discussed the issue with the speaker and the bill draft will probably come from the speaker, depending on who we have for a speaker. We think your resolution is appropriate, with minor modifications to say that the intent is to get the one program, one set of regulations, to simplify, and to get to one fee structure. Commissioner

Molini stated that he would be interested in hearing Mr. Bacon's recommended language for the resolution. Mr. Bacon stated that what we really should say is "the Environmental Commission strongly resolves that the State of Nevada Legislature amend the Chemical Catastrophe Act to allow the Division of Environmental Protection to replace, not merge, the CAPP Program with the Federal Regulations as they become enacted". That allows us some time frame as we move into RMP and clearly sets a precedent for where we intend to go. With that one modification, we believe the resolution is appropriate. Chairman Close asked Mr. Bacon if, what he is basically saying is there are more agencies administering a program than are required. Mr. Bacon replied, yes, by at least one and maybe two. Chairman Close stated he did not see why the Commission would not recommend that the agencies be combined. I do not think our resolution will mean a lot, it will require a bill draft but I we should take a stand and say if you have more than one agency regulating an element of the economy, they should be combined to make it more cost and management effective. Mr. Bacon replied that the Nevada Manufacturers Association is not asking the Commission to do the Bill Draft Resolution. We will move forward with that. We are asking you to stand up and advise the legislature that they have a problem.

Commissioner Ballow made a motion that the Commission authorize the chairman to work with Lew Dodgion, review the bill drafts as they come out, and provide support to acquire changes at the legislature. Commissioner Griswold seconded the motion, which is now an authorization. The Commission unanimously approved the motion.

Chairman Close reiterated that the resolution presented will not be adopted; it will be brought back in the future. In the meantime, we will review the bill drafts coming out in the legislature and see what steps might be appropriate.

V. Agreements on Air Quality Violations.

A: Smitten Oil and Tire Company: NOAV 1077

Tom Porta, Nevada Division of Environmental Protection, reported that Smitten Oil and Tire were cited for a soil remediation project in the Carson City area. Subsequent testing showed they were in violation of the emission limit for volatile organic compounds or VOC's. The reason that they failed the emission test is that they did not look at the moisture content of the soil that they were treating and did not anticipate the life expectancy of the carbon. The moisture contaminated the carbon lessening it's control efficiency and for a period of time they went over their permitted allowable emission limit. The project is now complete and the system is no longer there but they subsequently had a regular carbon change out and we agreed for a fine of \$2,500 for the violation.

Chairman Close called for comments. No comments were received.

A motion to approve the Smitten Oil and Tire Company settlement agreement was made by Commissioner Ballow. Commissioner Griswold seconded the motion. The motion carried.

B: Nevada Gold Mining, Inc.: NOAV 1119

Tom Porta reported that as a result of a compliance inspection the inspector found that Nevada Gold Mining's Sleeper project, a wet scrubber, was operating without the water. There were no visible emissions noted from the stack however the permit does require that the scrubber be in operation at all times for this process which happened to be a mercury retort. An audit

program was subsequently implemented which will hopefully prevent this problem from happening again. Nevada Gold Mining, Inc. agreed to a \$500 fine for the violation with the regular audit program.

Chairman Close called for comments.

Commissioner Gifford asked, in terms of the severity of what is happening, how does this violation compare to exceeding the emissions for the volatile organic compounds for the company that did not have past violations but received a fine of \$2,500. This violator has a record of prior violations and this fine is \$500? Tom Porta replied that with the case of Smitten Oil and Tire the Division had a documented emission violation, we had proof that they were in excess of the emission limit. In the case of Nevada Gold Mining there was no documented proof that they were actually exceeding any emission limit. The basic difference is one was a continual 24 hour a day operation with documented emission violation and the other was a violation where all we had documented was the scrubber water liquid was not going to the scrubber.

Commissioner Gifford asked, in terms of a public health hazard, are we looking at a 5 to 1 ratio? Tom Porta replied that Smitten Oil and Tire the location was in downtown Carson City and could impact many people and Nevada Gold Mining Sleeper Project is located in a rural area of Northern Nevada and would impact only their own employees.

Commissioner Molini made a motion to approve the settlement agreement of Nevada Gold Mining, Inc.. Commissioner Bentley seconded the motion. The motion was unanimously approved.

C: FNF Mining: NOAV 1130

Tom Porta reported that as a result of a compliance inspection we found FNF Mining was out operating one of their crushing systems without the required foam and high pressure moisture system. The foaming system adds extra control efficiency for crushing operations. The foam equipment was totally disconnected with no time frame given of how long this had been disconnected. They were cited and subsequently they have put the foaming system at the site and we negotiated a \$2,500 fine.

Chairman Close asked for comments.

Commissioner Ober asked Tom Porta about FNF Mining's past record. Tom Porta replied that their record has been good. Mr. Porta explained that a lot of the larger crushing companies have several operations and what we are trying to work towards with those companies is a regular audit program where a person within their company will regularly visit each site to ensure that their people are operating the required equipment. Because we have reached an agreement with a number of larger companies that have regular audit programs we are starting to see a decrease in the number of violations where a broken piece of equipment is not replaced.

Commissioner Fields made a motion to approve the settlement agreement of FNF Mining. adopted. Commissioner Gifford seconded the motion. The motion was unanimously approved.

IV. Discussion Items

A. Status of Division of Environmental Protection's Programs and Policies.

Low Dodgion stated that he had nothing to bring before the Commission at this time.

B. Future Meetings of the Environmental Commission

David Cowperthwaite, Executive Secretary to the State Environmental Commission, reviewed four items.

1. Bill Draft Requests (BDR):

The legislature is required to send us a current listing of BDR's and, as of November 4, those BDR's that will potentially affect the Commission and the jurisdiction of the Commission are:

BDR - SCR 35: From an energy study committee, will direct the Commission to expand the program for inspecting motor vehicles.

The Division's BDR: Makes certain changes regarding a permit to discharge radioactive and toxic waste.

The Division of Motor Vehicles and Public Safety, Registration Division's BDR: Will provide for biennial emission testing in certain areas.

The Attorney General's BDR: Will limit issues raised and appeals before the Commission.

A BDR request by Clark County: Clarifies the authority of the Environmental Commission.

Mr. Cowperthwaite stated that as we get closer to the legislative session, reports will be provided on issues that affect the jurisdiction of the Commission.

2. Legislative Counsel Bureau (LCB) modification of NAC.

LCB embarked upon a course of modifying Chapter 445 of the Nevada Administrative Code by splitting the chapter into two chapters:

Chapter 445A is Water Regulations

Chapter 445B is Air Quality Regulations and the Commission's Charter.

The Legal Division of the Legislative Counsel Bureau will be publishing these new documents by the end of November. The NAC's will be available in-house and we will be developing a program of contacting people and informing them of these regulatory changes.

Chapter 444 contains the Solid Waste Regulations

That major reform should be available from the Legislative Counsel Bureau this week and our goal is to provide you with full set of Commission Regulations by mid-December.

Commissioner Ballow questioned the new legislative procedure of introducing bills on the 15th of November. It used to be that bills could not be introduced until after the legislature went into session in January and asked if this process is going on and would the bills printed and available. Low Dodgion replied that he was not aware of a new procedure.

3. Small Business Assistance Program.

David Cowperthwaite reported that the Division, through the Clean Air Act and under the Title V Program, is required to have a Small Business Assistance Program. The program provides for an ombudsman. The legislature has approved a work program and we are now attempting to get through personnel the necessary employee classification needed to drive the program. Currently, the program will be funded by the Air Program but over time, we will try to shift it so the financing can occur across the board so we can deliver Small Business Assistance

for all the programs within the Division. The Commission on Economic Development is very excited about the program. I will be managing the program for the Division which we hope to implement by mid-December.

4. Future Commission meetings.

One appeal hearing, The Thatcher Corporation versus the Bureau of Air Quality, is scheduled for November 29, 1994. However, a settlement is being negotiated so we will see if that hearing will proceed as scheduled.

Discussion followed regarding Commission field trips. Because there are a number of issues coming from the Nevada Test Site, David Cowperthwaite suggested a field trip to the Nevada Test Site in the Spring. Commissioner Gifford asked what happened to the idea of a Mining Reclamation field trip. David Cowperthwaite replied that is still do-able but the trip contemplated for 1994 was scrapped because a time when all the members of the Commission could attend could not be determined and traveling to the Elko area with all 11 members became a logistic nightmare. David suggested that a panel visit the mine reclamation areas and report back to the Commission. Commissioner Molini stated that he would like to do the Mining Reclamation trip. Lew Dodgion reported that the Commission has been invited to review the laboratory facilities of Rudy Gunderson in Reno. Mr. Gunderson is a developer of a fuel known as A-55, a mixture of 55% water with naphtha that will burn in a spark-ignited internal combustion engine as well as in diesel engines. Mr. Gunderson has requested that the Division designate A-55 as an alternative fuel under the state program. Mr. Dodgion reported that he has toured the laboratory facility, ridden in his vehicles and is impressed with the demonstration. The Division of Environmental Protection is asking for a proposal to convert several agency vehicles to A-55 so we can test the concept which offers a real reduction to emissions and is an energy savings. Commissioner Bentley asked if it works outside of the laboratory. Lew Dodgion replied that the fuel has been demonstrated with a Washoe County Citifare bus, with 10,000 hours on the engine. They are now tearing that engine down to determine if it really did work. Mr. Gunderson is going into a joint partnership with Caterpillar to develop the fuel. Caterpillar has given him diesel engines to test in his facility and he has given them fuel to use in their facilities. It appears to work, not only in his facility but in army military facilities in Alaska. Chairman Close stated that the Commission would like to see the Reno laboratory of Mr. Gunderson; to have a mining reclamation field trip; a field trip to the Nevada Test site and to also visit the Silver State Disposal state-of-the-art waste facility in Clark County. David Cowperthwaite noted that, because of budget cuts, these field trips will have to be completed in fiscal year 1995.

Commissioner Ballow reported on an item of interest that had crossed his desk on carbonated gasoline. If used in vehicles it is supposed to reduce the carbon monoxide emissions by about 50%. Mr. Ballow has asked a petroleum chemist from the Division of Agriculture to acquire additional information on this new product. David Cowperthwaite stated that the alternative fuels program is going to be expanding in this regulatory area.

C. General Commission or Public Comment

Commissioner Bentley informed the Commission that he is retiring and moving to the West Coast of Florida in December so this would be his last meeting as a member of the State Environmental Commission. Chairman Close praised Commissioner Bentley for his many years

of service and stated that the Commission would miss his wisdom. The members of the Commission expressed their appreciation to Commissioner Bentley.

Chairman Close called for additional public comment. There were no comments.

Chairman Close adjourned the meeting at 3:15 p.m.

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NEVADA STATE ENVIRONMENTAL COMMISSION REGULATORY HEARING EXHIBIT LOG

HEARING DATE: November 9, 1994
 LOCATION: West Charleston Library, Las Vegas, Nevada

#	Item	Item Description	Reference Petition #	Accepted Yes/No
1	Letter	Letter signed by private citizen Fred Couzens, Carson City	94019 (LCB R116-94)	Yes
2	Fax/letter	Letter signed by Thomas M. Kiec, President: TireOil, Inc. Houston, Texas	94019 (LCB R116-94)	Yes
3	Fax/letter	Letter signed by Bill Upton & Duane Whiting: Nevada Mining Association	94019 (LCB R116-94)	Yes
4	Fax/letter	Fax from Lynn Giraud, Barrick Goldstrike Mines Letter signed by Charles R. Geary, Vice President & General Manager	95001	Yes
5	Document (8 pages)	Table of citation transition for Petition 95001	95001	Yes
6	Letter	Letter signed by Tom Green, General Manager of Refuse, Incorporated	94019 (LCB R116-94)	Yes
7				
8				
9				
10				
11				