



Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)

Meeting of June 12, 2012, 9:30 AM

Video Conference
Bryan Building Carson City, Nevada
901 South Stewart Street
And
Nevada Division of Environmental Protection
Las Vegas Office
2030 E. Flamingo Rd.

Members Present:

E. Jim Gans, Chairman
Alan Coyner
Kathryn Landreth
Jim Barbee
Mark Turner
Tom Porta
Cary Richardson
Pete Anderson
Jason King

Members Absent:

Frances Barron
Ken Mayer

SEC Staff Present:

Rose Marie Reynolds, SEC/DAG
John Walker, Executive Secretary

BEGIN SUMMARY MINUTES

The meeting was called to order at 9:30 am by Chairman Jim Gans who stated the hearing was properly noticed and there was a quorum. Chairman Gans then acknowledged that Commissioner Kathryn Landreth was recently reappointed to the Commission by Governor Sandoval; Chairman Gans then moved to the first agenda item.

1) Public Comments (Action Item): Chairman Gans called for public comment; hearing none he moved to agenda item number 2.

2) Approval of Agenda (Action Item): Chairman Gans requested comments on the agenda; hearing none he asked for a motion to adopt the agenda. Commissioner Landreth moved to approve the agenda and Commissioner King seconded; the agenda was approved as written.

3) Approval of the minutes for the February 15, 2012 SEC meetings (Action Item): Chairman Gans requested comments from the Commission on the February meeting minutes. He acknowledged two typographical modifications and then called for a motion to adopt the minutes. Commissioner Landreth moved to approve the minutes and Commissioner King seconded; motion passed unanimously.

4) Petition for Variance, Clark County School District (CCSD) - (Action Item): Chairman Gans introduced Mr. Frank Giordano of the CCSD to the Commission. Mr. Giordano proceeded by presenting the variance request to the Commission. He noted that CCSD is requesting a two-year variance from the use of alternative fuel for its gasoline-powered support fleet vehicles as allowed under NAC 486A.200. The variance would allow the CCSD to use conventional gasoline instead of reformulated gasoline, which is the alternative fuel currently being used. The variance would also allow the purchase of non-alternative fuel vehicles for the support fleet.

He said that CCSD is seeking the variance under the financial hardship provisions allowed under state statutes and that if granted the request would save CCSD approximately \$100,000 annually. He said the cost savings would support two additional teachers in the classroom per year. He also said CCSD is committed to the continued use of biodiesel in the district's large school bus fleet.

Following Mr. Giordano's presentation Chairman Gans called for questions from the Commission, where upon Commissioner Landreth asked why the CCSD was unsuccessful in getting written approval of the variance request from the Clark County Department of Air Quality Management (**see Attachment I, fourth paragraph**). Mr. Giordano responded that Clark County Air Quality stated that no impacts to local air quality would occur since there was little difference in the type of alternative fuel being used by CCSD and regular ethanol based gasoline being sold to the public throughout the Las Vegas Valley.

After hearing from CCSD, Chairman Gans asked if staff from the Nevada Division of Environmental Protection (NDEP) had any comments on the variance request. Mr. Rob Bamford, Chief of NDEP's Bureau of Air Quality Planning, addressed the Commission; he stated that CCSD had completed SEC form 6 (**see attachment II**) and he confirmed with the Clark County Air Quality that the variance would not conflict with the local air pollution planning in terms of impacts to emission credits.

Commissioner King then asked why CCSD is required to use alternative fuel, which is more expensive than currently required ethanol based gasoline, if such fuel has little or no benefit concerning air quality impacts. Mr. Giordano stated that CCSD was just following the letter of the law by using the required alternative fuel. He also said that CCSD does not have the re-fueling infrastructure to support the district fleet with propane or natural gas.

NDEP Administrator Dr. Colleen Cripps then addressed the Commission and reminded everyone that there would be marginal improvements in air quality from the use of alternated fuel. She also stated that the legislature was sensitive to the financial hardships associated with the use of such fuels by public fleets, and that the technologies associated with alternative fuels is ever evolving which may well lead to significant improvements in the reductions of emissions in the future.

Motion: After additional discussion about the differences between reformulated alternative fuels and ethanol based fuels, Commissioner Coyner moved and Commissioner Porta seconded a motion to approve the variance as submitted by CCSD; the motion passed unanimously.

5) Penalty Assessments for Air Quality Violations (Action Items): Mr. Francisco Vega, Bureau of Air Pollution Control, presented the specific violations and recommended penalties for the following four (4) companies listed below (**See Attachment III for additional details**).

- A. Joy Engineering – Penalty Assessment for Air Quality Violation No. 2400; failure to install and operate required air pollution controls for a crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1442-2702. Recommended penalty \$8,400.00.
- B. Barrick Cortez – Penalty Assessment for Air Quality Violation No. 2397; failure to conduct required compliance source testing for pipeline carbon reactivation kilns as set forth in Class I Air Quality Operating Permit AP1041-2141. Recommended penalty \$3,000.00.
- C. Road and Highway Builders – Penalty Assessment for Air Quality Violation No. 2372; failure to operate required air pollution controls for crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1611-2306. Recommended penalty \$4,080.00.
- D. A & K Earth Movers – Penalty Assessment for Air Quality Violation No(s) 2369 & 2370; failure to install and operate required air pollution controls for crushing and screening plant as set forth in Class II Air Quality Operating Permit AP1442-0035.02. Recommended penalty \$20,280.00.

Mr. Vega discussed each of the above referenced Penalty Assessments with the Commission (**See Attachment IV for the specific details**).

Joy Engineering: Regarding the penalty for Joy Engineering, Commissioner Richardson asked about the company’s concern about “over saturation of the product” as a result of dust suppression permitting requirements. Mr. Vega referred the question to Joy Engineering however a representative from the company was not present at the meeting. Commissioner Porta asked about the air basin where the facility is located and if particulate matter was an issue in the air basin; Mr. Vega confirmed that it was.

Motion: After further discussions, Chairman Gans asked for a motion, where upon Commissioner Porta moved for approval of the recommended fine of \$8,400.00 for Air Quality Violation No. 2400. Commissioner Anderson seconded the motion, and it passed unanimously.

Before proceeding to the next penalty assessment Chairman Gans asked Commissioner Landreth to address the Commission. Ms. Landreth referenced NRS 281A.420 and subsequently disclosed a conflict of interest associated with the non-profit organization that employs her. She said her employer has been the beneficiary of substantial charitable contributions from Barrick Gold Corporation, which is the subject of the next penalty assessment on the agenda. She

subsequently abstained from voting on the agenda item solely due to the appearance of impropriety.

Barrick Cortez: Mr. Vega proceeded with background information about the penalty assessment for Barrick Cortez as described under Air Quality Violation No. 2397. Commissioner Porta asked why Barrick had failed to meet the specified testing dates required by NDEP's permitting process where upon Mr. Vegas said the company evidently had problems with its tracking software.

Motion: Without further discussion, Chairman Gans asked for a motion, where upon Commissioner Mark Turner move for approval of the recommended fine of \$3,000.00 for Air Quality Violation No. 2397. Commissioner King seconded the motion, and it passed by majority with Commissioner Landreth abstaining.

Road and Highway Builders: Mr. Vega proceeded once again with background information about the penalty assessment for Road & Highway Builders as described under Air Quality Violation No. 2372. Mr. Vega stated that over past several years Road & Highway Builders have paid more than \$70,000.00 in air quality fines levied by the Commission. Regarding Violation 2397, Commissioner Richardson asked about when dust control systems must be turned on to be in compliance with permitting requirements. Mr. Mike Elges, Deputy Administrator for NDEP, responded by stating that such systems must be running at all times during plant operations. Chairman Gans asked Mr. Vega if the company had any concerns about the fine whereby Mr. Vega said they did not. Commissioner Coyner reminded the Commission that Road & Highway Builders has had numerous violations and thus it appears the fine amounts are being treated as just the "cost of doing business." Chairman Gans acknowledged the comment by Commissioner Coyner and asked for a motion.

Motion: Commissioner Jim Barbee moved to support penalty assessment No. 2372 in the amount of \$4,080.00; Commissioner Turner seconded the motion, and it passed unanimously.

A & K Earth Movers: Mr. Vega proceeded once again with background information about the penalty assessment for A & K Earth Movers in the amount of \$20,208.00 (**See Attachment IV for the specific details**). Commissioner King noted the reason given by the company for failing to follow permit requirements was a communication gap - and he noted that was a disconnect given the company's history of past violation. Chairman Gans asked if a representative from A & K Earth Movers was present and why the company had several recent violations. Mr. Tuck of A & K Earth Movers responded by explaining the violations were assessed for different parts of the company operations, and that six violations over 60 months (5 years) was not that excessive given the size and volume of business conducted in Nevada. Mr. Tuck explained that the primary problem is the permit requirement for installing spray nozzles to control dust during crushing operations; he said the system just doesn't work. Moreover, he said to address the dust issue, the feed stock sent to the crusher is pre-moistened, negating the need for the spray nozzles. Mr. Tuck suggested that the permit requirements should be re-written.

The discussion continued with questions from both Commissioner King and Commissioner Turner. Commissioner Turner asked what were the technical problems involving spray nozzles and Mr. Tuck answered that they would stop working thus forcing shut down of the crushing operations, and that's why the company has adopted the practice of pre-moistening the feed stock. Mr. Tuck said the NDEP is "fining us for something that has no bearing on controlling dust." Chairman Gans then asked Deputy Administrator Mike Elges to respond. Mr. Elges explained to the Commission that industry was involved in developing the general permit for controlling dust for aggregate plant operations (i.e. crushing operations) and that when all pollution control devices are working as designed, the permit conditions are normally met. Next Mr. Bart Hyatt, President of A & K addressed the Commission. He said the company is accepting full responsibility for the violations however he asked the Commission to look at the severity of the fines, noting A & K is a "clean operator." He said the company has a very good track record. Chairman Gans responded by advising Mr. Hyatt that fixing problems such as communication issues with company ground crews after the fact, does not negate the Commission's responsibility to levy fines for air quality violations.

Motion: After no further discussion, Chairman Gans called for a motion whereupon Commissioner Pete Anderson moved to approve the penalty assessment No# 2369 & 2370 in the amount of \$20,280.00. The motion was seconded by Commissioner Porta and passed unanimously.

6) R038-12: Ambient Air Quality Standards - (Action Item): This regulation would amend NAC 445B.22097, "Standards of quality for ambient air," and NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." The regulation also updates the national ambient air quality standards (NAAQS) portion of the standards table in NAC 445B.22097 to align it with the federal standards currently in effect. And when adopted, the regulation will be sent to USEPA for approval into the Nevada state implementation plan.

This regulation was presented to the Commission by Mr. Rob Bamford, Bureau Chief Air Quality Planning. Mr. Bamford noted that the definition of PM 2.5 (particulate matter) was being added to the regulation because PM 2.5 is now a federally recognized criteria pollutant. Other examples of updates to the regulation included adoptions of new federal air quality standards recently approved by USEPA. Mr. Bamford explained that a new 8 hour Ozone standard, a revised nitrogen dioxide one hour standard, a new sulfur dioxide one hour standard, and standards for particulate matter had all been updated by USEPA and are now included in regulation R038-12. Mr. Bamford continued by explaining other technical updates (i.e., adoption by reference) to the regulation to reflect new and revised federal air pollution standards, permitting requirements and testing methods recently adopted by USEPA. He then asked for questions from the Commission.

Commissioner Tom Porta asked Mr. Bamford if any of these federal required changes would put any areas in Nevada in non-compliance, in terms of meeting air pollution standards. Mr. Bamford, with concurrence from Deputy Administrator Mike Elges said no, not at this time. However Mr.

Elges elaborated by stating that additional air quality monitoring would need to be done before any final determinations could be made.

Hearing no further questions from the Commission, Chairman Gans asked for public comments. Mr. Allen Biaggi representing the Nevada Mining Association addressed the Commission. Mr. Biaggi stated that he concurred with NDEP staff that no additional air quality monitoring would be required at this time and that he wanted to make sure that was on the record for today's hearing. His second comment focused on the increased outreach efforts being made by NDEP staff for this regulation and the other regulation on today's meeting agenda. Mr. Biaggi commended NDEP for its efforts to involve the public and industry in the regulation review process.

Motion: Hearing no further public comment on the matter, Chairman Gans asked for a motion from the Commission. Commissioner Landreth moved for acceptance of the regulation (LCB File # R038-12). The motion was seconded by Commissioner King and was unanimously approved.

7) R044-12: Mining Reclamation - (Action Item): This regulation would amend certain sections of state regulations contained in NAC 519A that govern reclamation of land subject to mining operations. Pursuant to the Governor's Executive Order 2011-01, this regulation would also repeal the provision that allows a lesser surety amount than currently required to complete certain reclamation activities. The proposed regulation would remove requirement for submission of an annual fee or arrangement of a third-party review if a corporate guarantee is used for financial assurance.

This regulation was presented to the Commission by Mr. Bruce Holmgren, Bureau Chief Mining Regulation & Reclamation. Mr. Holmgren explained the regulation, noting that certain sections were proposed for repeal, since they contain provision that were out of date and not being used by the regulated community. Mr. Holmgren also stated the regulation would revise several sections specific to mining reclamation to include: erosion control for interim permits; a requirement for erosion control BMPs (Best Management Practices) for mining exploration projects; clarification of documents required for transferring mining permits; a requirement for plans to control noxious weeds, and provisions to allow local government approval of post mining land use on private land. Mr. Holmgren provided the Commission specific details on all of these new or revised provisions contained in the regulation.

Mr. Holmgren responded to questions from the Commission about provisions contained in the regulations dealing with post mining land uses on public and private lands and how approvals from local governments would be addressed. Commission Coyner raised the issue of back filling pits as a required post mining land use by a local government -- noting that such a requirement could end open pit mining in Nevada. Mr. Holmgren responded by saying that NDEP regulations would exempt such a requirement. Mr. Holmgren also said the intent of the post land use provision in the regulation was intended to address what local governments might want to do with industrial facilities that remained after closure of a mine site.

Mr. Dave Gaskin, Deputy Administrator with NDEP addressed the Commission about the subject of post mining land use provision and potential conflicts between state and local government authorities. Mr. Gaskin simply stated that the provisions in the regulation at hand, do not grant any new authorities to local governments for imposing any new land-use restrictions on mining sites. He said the purpose of the provisions is to make post land use decisions more consistent with local governments land use plans. Chairman Gans weighed-in and asked “is the state relinquishing authority to local governments with this provision” where upon Mr. Holmgren said no it is not. After further discussion, Chairman Gans asked for public comments on the provisions contained in R044-12. Hearing none, he asked the Commissioners for any further input where upon Commissioner Coyner reiterated his concerns about potential conflicts between state and local governments over post mine use land uses such as back filling open pits. Commissioner Landreth weighed-in and asked Mr. Allen Biaggi, who represents the Nevada Mining Association to address the Commission. Mr. Biaggi stated that his clients had reviewed the regulation in detail and did not identify any problems with the language about post land uses as they related to state and local authorities. He also said that when he was the Director of DCNR and Administrator of NDEP it was always a challenge working with local government because the state has always seceded land-use decision to local governments.

Motion: Hearing no further public comment on the matter, Chairman Gans asked for a motion from the Commission. Commissioner Porta moved for acceptance of the regulation (LCB File # R044-12). The motion was seconded by Commissioner Landreth and passed with a majority vote; for the record, Commissioner Coyner opposed the motion.

8) Administrator's Briefing to the Commission: NDEP's Administrator Cripps briefed the Commission about the recent approval of NDEP's regulations, which included SEC's Rules of Practice that were adopted by Commission in February 2012. She advised the Commission that with approval of today regulations, NDEP has completed the requirements under Governor Sandoval's Executive Order governing the review of all agency regulations. She also advised the Commission that the regulations adopted in February have finally been approved by the Legislative Commission, and those approvals included the new revisions to the SEC's Rules of Practice. She said NDEP staff and staff of the SEC are also continuing to work on SEC Form 3 which is used to file appeals of final agency actions with the Commission. Administrator Cripps asked if the Commission had any further questions; hearing none, Chairman Gans moved to the next agenda item.

9) Public Comment: Chairman Gans asked all present for any public comments; hearing none he moved to the next agenda item.

10) Meeting was adjourned.

ATTACHMENTS

- ATTACHMENT I: Clark County School District Variance Request.
- ATTACHMENT II: Nevada State Environmental Commission (SEC) Form 6,
Procedure to Petition for a Variance to NRS/NAC Chapter 486A
- ATTACHMENT III: Penalty Assessment: This attachment contains the penalty assessment
table describing each of three specific penalty assessments
- ATTACHMENT IV: Prepared Remarks by Francisco Vega concerning the Penalty
Assessments detailed in Attachment 3

ATTACHMENT I

Clark County School District Variance Request

BOARD OF SCHOOL TRUSTEES

Dr. Linda E. Young, President
Deanna L. Wright, Vice President
John Cole, Clerk
Lorraine Alderman, Member
Erin E. Cranor, Member
Carolyn Edwards, Member
Chris Garvey, Member

Dwight D. Jones, Superintendent

May 15, 2012

RECEIVED

MAY 21 2012

ENVIRONMENTAL PROTECTION

State Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, NV 89701

To Whom it May Concern:

The Clark County School District (CCSD) is requesting a two-year variance from NAC 486A.160 and 486A.180 due to financial hardship. Currently the CCSD imports the Reformulated Gasoline from either Arizona or California dependent upon the time of year. This request for variance if granted will only affect the CCSD support fleet and not the School Bus fleet, which remains powered by Biodiesel fuel. The gasoline-powered vehicles are, but 36% (976 of 2,706 vehicles) of the entire CCSD on road fleet.

The CCSD, as noted in various local and national news outlets is presently experiencing financial difficulties of an unprecedented level. As of this writing, the CCSD is preparing to deal with a budget shortfall of 40 million dollars. The granting of the variance on 486A.180 will free up an estimated \$107,000 per year. The break down on this is \$58,000 in freight charges from the two out of state locations and over \$49,000 in the per gallon price difference between the rack price in Barstow, CA and Phoenix, AZ and the local rack price in Las Vegas. (See attached documentation) While in comparison to the overall CCSD budget shortfall this appears to be a relatively small amount, every dollar saved at the fuel pump is a dollar that can go into the classroom. As this is the primary duty of the CCSD, we must make every effort to do so. In the event that the CCSD does not receive the variance, we will continue to operate as before and make the best of a difficult situation.

We believe that it is in the best interest of the CCSD if the variance is for both 486A.160 and 180 are in place concurrently. Therefore, the CCSD is requesting a variance from 486A.160 regarding the purchasing of vehicles in an effort to alleviate any future concerns that vehicles purchased during this period will cause any problems or issues for the CCSD relating to alternative fuel use.

We were unsuccessful in gaining written approval of the Clark County Department of Air Quality Management for this variance request. During a telephone conversation with the CCDAQM, it became apparent that, they felt that receiving the variance would have no impact locally. Their reasoning was that the fuel used from Arizona and California, is similar to the 10% ethanol fuel currently available to the public in Clark County and therefore should have little impact on the State Implementation Plan control strategy.

Should the financial fortunes of the CCSD improve significantly, it is the intent of the CCSD to drop the variance and once again follow the statutes of NAC 486A.160 and 486A.180. Please note that the CCSD is and continues to be a leader in alternative fuel use in Nevada as demonstrated by our pioneering use of biodiesel in School Buses. A recent example of the CCSD commitment to alternative fuels is our recent return to using B20 after years of B5 use. Financial considerations, forced the CCSD to move away from B20 to B5, but as the prices of the two are presently comparable, we are once again using B20. If you have any questions or concerns regarding this request, please contact me at 702-799-6890.

Sincerely,



Frank Giordano
Director III-Transportation

**Clark County School District
Transportation Department
Unleaded Fuel - Potential Savings**

Assumptions: Calculation below represents potential savings that could be achieved by purchasing Unleaded Fuel (10% Ethanol) from Local Suppliers as opposed to out of town. These savings are derived primarily from reduced Freight Charges and a historically lower OPIS Rack price in the local market. The Gallons shown below represent FY 11 purchases.

Inv Num	Date	Yard	Fuel Type	Gallons	Est		Cost / gal	Frt / gal	Total
					Cost / gal	Frt / gal			
					Saved	Saved	\$\$\$	\$\$\$	\$\$\$
624923	07/01/10	Russell	CA Unleaded (Summer)	4,119	0.02593	0.07470	106.81	307.69	414.49
624921	07/01/10	Arville	CA Unleaded (Summer)	4,117	0.02593	0.07470	106.75	307.54	414.29
627189	07/12/10	Facility Srv Ct	CA Unleaded (Summer)	4,125	0.02593	0.07470	106.96	308.14	415.10
627186	07/12/10	Eastern	CA Unleaded (Summer)	4,131	0.02593	0.07470	107.12	308.59	415.70
631260	07/26/10	Cheyenne	CA Unleaded (Summer)	4,112	0.02593	0.07470	106.62	307.17	413.79
631259	07/26/10	Eastern	CA Unleaded (Summer)	4,112	0.02593	0.07470	106.62	307.17	413.79
631813	07/28/10	Facility Srv Ct	CA Unleaded (Summer)	8,330	0.02593	0.07470	216.00	622.25	838.25
631808	07/29/10	Arville	CA Unleaded (Summer)	4,126	0.02593	0.07470	106.99	308.21	415.20
631816	07/29/10	Facility Srv Ct	CA Unleaded (Summer)	4,227	0.02593	0.07470	109.61	315.76	425.36
631817	07/29/10	Wallace	CA Unleaded (Summer)	4,175	0.02593	0.07470	108.26	311.87	420.13
631809	07/29/10	Russell	CA Unleaded (Summer)	4,132	0.02593	0.07470	107.14	308.66	415.80
631810	08/01/10	Eucalyptus	CA Unleaded (Summer)	7,861	0.02593	0.07470	203.84	587.22	791.05
632941	08/02/10	Cheyenne	CA Unleaded (Summer)	4,163	0.02593	0.07470	107.95	310.98	418.92
632945	08/02/10	Eastern	CA Unleaded (Summer)	4,163	0.02593	0.07470	107.95	310.98	418.92
634858	08/09/10	Eastern	CA Unleaded (Summer)	3,928	0.02593	0.07470	101.85	293.42	395.27
634863	08/09/10	Facility Srv Ct	CA Unleaded (Summer)	4,174	0.02593	0.07470	108.23	311.80	420.03
636056	08/12/10	Facility Srv Ct	CA Unleaded (Summer)	4,133	0.02593	0.07470	107.17	308.74	415.90
636055	08/12/10	Cheyenne	CA Unleaded (Summer)	4,134	0.02593	0.07470	107.19	308.81	416.00
638549	08/23/10	Facility Srv Ct	CA Unleaded (Summer)	4,197	0.02593	0.07470	108.83	313.52	422.34
638547	08/23/10	Russell	CA Unleaded (Summer)	4,170	0.02593	0.07470	108.13	311.50	419.63
638546	08/23/10	Eastern	CA Unleaded (Summer)	3,974	0.02593	0.07470	103.05	296.86	399.90
638548	08/23/10	Eucalyptus	CA Unleaded (Summer)	4,194	0.02593	0.07470	108.75	313.29	422.04
640192	08/27/10	Cheyenne	CA Unleaded (Summer)	4,120	0.02593	0.07470	106.83	307.76	414.60
640191	08/27/10	Arville	CA Unleaded (Summer)	4,121	0.02593	0.07470	106.86	307.84	414.70
640193	08/30/10	Eastern	CA Unleaded (Summer)	4,180	0.02593	0.07470	108.39	312.25	420.63

640194	08/30/10	Wallace	CA Unleaded (Summer)	4,180	0.02593	0.07470	108.39	312.25	420.63
641207	09/01/10	Facility Srv Ct	CA Unleaded (Summer)	8,374	0.02593	0.07470	217.14	625.54	842.68
644192	09/13/10	Cheyenne	CA Unleaded (Summer)	4,188	0.02593	0.07470	108.59	312.84	421.44
644194	09/13/10	Russell	CA Unleaded (Summer)	4,136	0.02593	0.07470	107.25	308.96	416.21
644191	09/13/10	Eastern	CA Unleaded (Summer)	4,191	0.02593	0.07470	108.67	313.07	421.74
644195	09/13/10	Facility Srv Ct	CA Unleaded (Summer)	4,135	0.02593	0.07470	107.22	308.88	416.11
644568	09/15/10	Eucalyptus	CA Unleaded (Summer)	8,382	0.02593	0.07470	217.35	626.14	843.48
645828	09/17/10	Eastern	CA Unleaded (Summer)	4,134	0.02593	0.07470	107.19	308.81	416.00
645826	09/17/10	Arville	CA Unleaded (Summer)	4,134	0.02593	0.07470	107.19	308.81	416.00
646232	09/20/10	Facility Srv Ct	CA Unleaded (Summer)	8,282	0.02593	0.07470	214.75	618.67	833.42
648082	09/27/10	Eastern	CA Unleaded (Summer)	4,187	0.02593	0.07470	108.57	312.77	421.34
648086	09/27/10	Cheyenne	CA Unleaded (Summer)	4,188	0.02593	0.07470	108.59	312.84	421.44
649872	10/01/10	Facility Srv Ct	CA Unleaded (Summer)	8,356	0.02593	0.07470	216.67	624.19	840.86
652465	10/11/10	Eastern	CA Unleaded (Summer)	4,153	0.02593	0.07470	107.69	310.23	417.92
652466	10/11/10	Russell	CA Unleaded (Summer)	4,155	0.02593	0.07470	107.74	310.38	418.12
653807	10/14/10	Facility Srv Ct	CA Unleaded (Summer)	4,059	0.02593	0.07470	105.25	303.21	408.46
653804	10/14/10	Arville	CA Unleaded (Summer)	4,204	0.02593	0.07470	109.01	314.04	423.05
653805	10/14/10	Eastern	CA Unleaded (Summer)	4,356	0.02593	0.07470	112.95	325.39	438.34
653806	10/14/10	Cheyenne	CA Unleaded (Summer)	4,203	0.02593	0.07470	108.98	313.96	422.95
657618	11/01/10	Russell	CA Unleaded (Summer)	4,153	0.02593	0.07470	107.69	310.23	417.92
659944	11/04/10	Facility Srv Ct	CA Unleaded (Summer)	8,342	0.02593	0.07470	216.31	623.15	839.46
656712	11/04/10	Eucalyptus	CA Unleaded (Summer)	4,153	0.02593	0.07470	107.69	310.23	417.92
657613	11/04/10	Arville	AZ Unleaded (Winter)	4,286	0.02593	0.07470	111.14	320.16	431.30
657615	11/04/10	Eastern	CA Unleaded (Summer)	4,283	0.02593	0.07470	111.06	319.94	431.00
657616	11/04/10	Cheyenne	CA Unleaded (Summer)	4,153	0.02593	0.07470	107.69	310.23	417.92
656714	11/04/10	Facility Srv Ct	CA Unleaded (Summer)	4,153	0.02593	0.07470	107.69	310.23	417.92
659939	11/05/10	Wallace	CA Unleaded (Summer)	4,187	0.02593	0.07470	108.57	312.77	421.34
659935	11/05/10	Eucalyptus	CA Unleaded (Summer)	4,287	0.02593	0.07470	111.16	320.24	431.40
661865	11/15/10	Laughlin	AZ Unleaded (Winter)	2,970	0.16390	0.11850	486.78	351.95	838.73
661863	11/15/10	Eastern	AZ Unleaded (Winter)	5,335	0.16390	0.11850	874.41	632.20	1,506.60
664644	11/22/10	Facility Srv Ct	AZ Unleaded (Winter)	8,416	0.16390	0.11850	1,379.38	997.30	2,376.68
665844	11/29/10	Eastern	AZ Unleaded (Winter)	5,462	0.16390	0.11850	895.22	647.25	1,542.47
665846	11/29/10	Cheyenne	AZ Unleaded (Winter)	2,993	0.16390	0.11850	490.55	354.67	845.22
668205	12/06/10	Facility Srv Ct	AZ Unleaded (Winter)	4,219	0.16390	0.11850	691.49	499.95	1,191.45
668200	12/06/10	Eastern	AZ Unleaded (Winter)	4,216	0.16390	0.11850	691.00	499.60	1,190.60
670305	12/10/10	Cheyenne	AZ Unleaded (Winter)	4,161	0.16390	0.11850	681.99	493.08	1,175.07
670329	12/14/10	Russell	AZ Unleaded (Winter)	4,161	0.16390	0.11850	681.99	493.08	1,175.07

671437	12/16/10	Eastern	AZ Unleaded (Winter)	4,218	0.16390	0.11850	691.33	499.83	1,191.16
671438	12/16/10	Facility Srv Ct	AZ Unleaded (Winter)	4,219	0.16390	0.11850	691.49	499.95	1,191.45
672696	12/22/10	Facility Srv Ct	AZ Unleaded (Winter)	8,380	0.16390	0.11850	1,373.48	993.03	2,366.51
674357	12/29/10	Eastern	AZ Unleaded (Winter)	4,098	0.16390	0.11850	671.66	485.61	1,157.28
674356	12/29/10	Arville	AZ Unleaded (Winter)	4,196	0.16390	0.11850	687.72	497.23	1,184.95
676173	01/05/11	Eucalyptus	AZ Unleaded (Winter)	4,248	0.16390	0.11850	696.25	503.39	1,199.64
676170	01/05/11	Cheyenne	AZ Unleaded (Winter)	4,255	0.16390	0.11850	697.39	504.22	1,201.61
677557	01/10/11	Facility Srv Ct	AZ Unleaded (Winter)	8,285	0.16390	0.11850	1,357.91	981.77	2,339.68
677561	01/10/11	Russell	AZ Unleaded (Winter)	4,238	0.16390	0.11850	694.61	502.20	1,196.81
677559	01/10/11	Eastern	AZ Unleaded (Winter)	4,235	0.16390	0.11850	694.12	501.85	1,195.96
681366	01/20/11	Eastern	AZ Unleaded (Winter)	4,183	0.16390	0.11850	685.59	495.69	1,181.28
681365	01/20/11	Cheyenne	AZ Unleaded (Winter)	4,182	0.16390	0.11850	685.43	495.57	1,181.00
682390	01/26/11	Facility Srv Ct	AZ Unleaded (Winter)	4,109	0.16390	0.11850	673.47	486.92	1,160.38
682387	01/26/11	Arville	AZ Unleaded (Winter)	4,209	0.16390	0.11850	689.86	498.77	1,188.62
684153	02/01/11	Eastern	AZ Unleaded (Winter)	4,233	0.16390	0.11850	693.79	501.61	1,195.40
684156	02/01/11	Facility Srv Ct	AZ Unleaded (Winter)	4,233	0.16390	0.11850	693.79	501.61	1,195.40
685432	02/07/11	Russell	AZ Unleaded (Winter)	4,140	0.16390	0.11850	678.55	490.59	1,169.14
685429	02/07/11	Cheyenne	AZ Unleaded (Winter)	4,144	0.16390	0.11850	679.20	491.06	1,170.27
685437	02/07/11	Eucalyptus	AZ Unleaded (Winter)	8,481	0.16390	0.11850	1,390.04	1,005.00	2,395.03
686953	02/09/11	Facility Srv Ct	AZ Unleaded (Winter)	8,495	0.16390	0.11850	1,392.33	1,006.66	2,398.99
686951	02/09/11	Wallace	AZ Unleaded (Winter)	4,303	0.16390	0.11850	705.26	509.91	1,215.17
686950	02/09/11	Eastern	AZ Unleaded (Winter)	4,050	0.16390	0.11850	663.80	479.93	1,143.72
689713	02/18/11	Eastern	AZ Unleaded (Winter)	4,183	0.16390	0.11850	685.59	495.69	1,181.28
689712	02/18/11	Cheyenne	AZ Unleaded (Winter)	4,183	0.16390	0.11850	685.59	495.69	1,181.28
691596	02/24/11	Facility Srv Ct	AZ Unleaded (Winter)	8,662	0.16390	0.11850	1,419.70	1,026.45	2,446.15
692617	03/01/11	Eastern	AZ Unleaded (Winter)	4,118	0.16390	0.11850	674.94	487.98	1,162.92
692614	03/01/11	Arville	AZ Unleaded (Winter)	4,216	0.16390	0.11850	691.00	499.60	1,190.60
694920	03/09/11	Russell	AZ Unleaded (Winter)	4,231	0.16390	0.11850	693.46	501.37	1,194.83
694924	03/09/11	Facility Srv Ct	AZ Unleaded (Winter)	4,232	0.16390	0.11850	693.62	501.49	1,195.12
695860	03/11/11	Cheyenne	AZ Unleaded (Winter)	3,982	0.16390	0.11850	652.65	471.87	1,124.52
695861	03/11/11	Eastern	AZ Unleaded (Winter)	4,083	0.16390	0.11850	669.20	483.84	1,153.04
697413	03/16/11	Facility Srv Ct	AZ Unleaded (Winter)	8,348	0.16390	0.11850	1,368.24	989.24	2,357.48
697417	03/17/11	Wallace	AZ Unleaded (Winter)	4,067	0.16390	0.11850	666.58	481.94	1,148.52
697415	03/17/11	Eucalyptus	AZ Unleaded (Winter)	3,970	0.16390	0.11850	650.68	470.45	1,121.13
699007	03/23/11	Arville	AZ Unleaded (Winter)	4,221	0.16390	0.11850	691.82	500.19	1,192.01
699009	03/23/11	Eastern	AZ Unleaded (Winter)	4,220	0.16390	0.11850	691.66	500.07	1,191.73
701068	03/28/11	Facility Srv Ct	AZ Unleaded (Winter)	8,341	0.16390	0.11850	1,367.09	988.41	2,355.50

700599	03/28/11	Cheyenne	AZ Unleaded (Winter)	4,072	0.16390	0.11850	667.40	482.53	1,149.93	
700600	03/28/11	Russell	AZ Unleaded (Winter)	4,271	0.16390	0.11850	700.02	506.11	1,206.13	
701830	03/30/11	Eastern	AZ Unleaded (Winter)	4,073	0.16390	0.11850	667.56	482.65	1,150.22	
701831	03/30/11	Eucalyptus	AZ Unleaded (Winter)	4,270	0.16390	0.11850	699.85	506.00	1,205.85	
704489	04/11/11	Cheyenne	CA Unleaded (Summer)	4,065	0.02593	0.07470	105.41	303.66	409.06	
704495	04/11/11	Eastern	CA Unleaded (Summer)	4,266	0.02593	0.07470	110.62	318.67	429.29	
705427	04/13/11	Facility Srv Ct	CA Unleaded (Summer)	8,531	0.02593	0.07470	221.21	637.27	858.47	
707033	04/21/11	Eastern	CA Unleaded (Summer)	4,037	0.02593	0.07470	104.68	301.56	406.24	
707036	04/21/11	Eucalyptus	CA Unleaded (Summer)	4,239	0.02593	0.07470	109.92	316.65	426.57	
709882	04/28/11	Facility Srv Ct	CA Unleaded (Summer)	8,478	0.02593	0.07470	219.83	633.31	853.14	
710405	04/29/11	Eastern	CA Unleaded (Summer)	4,337	0.02593	0.07470	112.46	323.97	436.43	
710404	04/29/11	Arville	CA Unleaded (Summer)	4,044	0.02593	0.07470	104.86	302.09	406.95	
711072	05/02/11	Cheyenne	CA Unleaded (Summer)	4,182	0.02593	0.07470	108.44	312.40	420.83	
711073	05/02/11	Russell	CA Unleaded (Summer)	4,187	0.02593	0.07470	108.57	312.77	421.34	
713378	05/11/11	Wallace	CA Unleaded (Summer)	4,177	0.02593	0.07470	108.31	312.02	420.33	
713377	05/11/11	Eastern	CA Unleaded (Summer)	4,082	0.02593	0.07470	105.85	304.93	410.77	
715182	05/13/11	Facility Srv Ct	CA Unleaded (Summer)	8,436	0.02593	0.07470	218.75	630.17	848.91	
715189	05/16/11	Eucalyptus	CA Unleaded (Summer)	8,437	0.02593	0.07470	218.77	630.24	849.02	
716374	05/18/11	Cheyenne	CA Unleaded (Summer)	4,177	0.02593	0.07470	108.31	312.02	420.33	
716376	05/18/11	Eastern	CA Unleaded (Summer)	4,180	0.02593	0.07470	108.39	312.25	420.63	
718943	05/27/11	Facility Srv Ct	CA Unleaded (Summer)	8,438	0.02593	0.07470	218.80	630.32	849.12	
719256	05/31/11	Russell	CA Unleaded (Summer)	4,178	0.02593	0.07470	108.34	312.10	420.43	
719254	05/31/11	Arville	CA Unleaded (Summer)	4,177	0.02593	0.07470	108.31	312.02	420.33	
720721	06/02/11	Eastern	CA Unleaded (Summer)	4,215	0.02593	0.07470	109.29	314.86	424.16	
720719	06/02/11	Cheyenne	CA Unleaded (Summer)	4,213	0.02593	0.07470	109.24	314.71	423.95	
723224	06/13/11	Eastern	CA Unleaded (Summer)	4,199	0.02593	0.07470	108.88	313.67	422.55	
723225	06/13/11	Facility Srv Ct	CA Unleaded (Summer)	4,204	0.02593	0.07470	109.01	314.04	423.05	
725950	06/22/11	Cheyenne	CA Unleaded (Summer)	4,183	0.02593	0.07470	108.47	312.47	420.94	
725954	06/22/11	Facility Srv Ct	CA Unleaded (Summer)	4,183	0.02593	0.07470	108.47	312.47	420.94	
727439	06/27/11	Arville	CA Unleaded (Summer)	4,176	0.02593	0.07470	108.28	311.95	420.23	
727440	06/27/11	Eastern	CA Unleaded (Summer)	4,178	0.02593	0.07470	108.34	312.10	420.43	
727981	06/29/11	Facility Srv Ct	CA Unleaded (Summer)	4,182	0.02593	0.07470	108.44	312.40	420.83	
727985	06/29/11	Wallace	CA Unleaded (Summer)	4,181	0.02593	0.07470	108.41	312.32	420.73	
								49,955.26	58,038.50	107,993.76

Assumptions: Below is 4 Week Average of OPIS Rack Price difference between Phx / Barstow vs Local.

Date	Winter			Summer		
	Phx	LV	Difference	Barstow	LV	Difference
03/01/12	3.42720	3.20910	0.21810	3.33190	3.27850	0.05340
03/08/12	3.43300	3.25700	0.17600	3.23820	3.25230	-0.01410
03/15/12	3.39690	3.24180	0.15510	3.27720	3.25360	0.02360
03/22/12	3.39790	3.29150	0.10640	3.27460	3.23380	0.04080
	4 Week Average		<u>0.16390</u>	4 Week Average		<u>0.02593</u>

Estimated Freight Savings

Winter - Phoenix Frt / gallon 0.13650
 Estimated local Frt Cost 0.01800
 Estimated Savings 0.11850

Summer - Barstow Frt / gallon 0.09270
 Estimated local Frt Cost 0.01800
 Estimated Savings 0.07470

ATTACHMENT II

Nevada State Environmental Commission (SEC) Form 6,
Procedure to Petition for a Variance to NRS/NAC Chapter 486A



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

Nevada State Environmental Commission (SEC) Procedure to Petition for a Variance to NRS/NAC Chapter 486A SEC Form #6

Discussion

Generally, NRS Chapter 486A and NAC Chapter 486A relate to the requirements for the state and political subdivisions to purchase alternative fueled vehicles and use alternative fuels in government fleets. NRS 486A.150 (amended by the Legislature in 2009 through SB 332), effective July 1, 2009, requires the State Environmental Commission (Commission) to establish a procedure for approving variances to the provisions of NRS 486A. In approving variances, the Commission may consider whether compliance with NRS 486A (or the provisions of NAC 486A) would:

- Void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;
- Result in financial hardship to the owner or operator of a fleet;
- Be impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or
- Any other reason which the Commission determines is appropriate.

Any agency requesting a variance from the requirements of the alternative fuels program must submit the following information to the State Environmental Commission for their review. **The petition for variance must be received at least 30 days prior to the Commission hearing in order to be heard as an action item.** The Division of Environmental Protection will review the request for completeness, request additional information, as necessary, and make a recommendation to the Commission on each variance request.

Procedure for Variance to Requirements of NRS/NAC 486A

Provide a response to Sections A-C, as applicable.

A. For requests being made due to voiding a manufacture's warranty, the request must include the following:

- The length of time requested for the variance.

- The specific vehicle(s) for which the variance is being requested, including the year, make, model and VIN for each vehicle and the portion of the warranty that would be affected.
- Documentation from the vehicle or engine manufacturer or the manufacturer's dealer that complying with the alternative fuel requirements of NRS/NAC 486A will void the vehicle's warranty.
- A discussion of any alternatives considered (i.e. the purchase of other alternative fuel vehicles or the use of other compliant fuels) that would mitigate the need for the variance.

B. For requests being made due to financial hardship, the request must include the following:

- The length of time requested for the variance.
- The portion of the fleet to which the request applies:
 - If the request applies to acquisitions of new alternative fuel vehicles (exemption from NAC 486A.160), the request should state which alternative fuel vehicles purchases are affected and the type of vehicle(s) proposed to be purchased in its place.
 - If the request applies to the use of an alternative fuel, state specific fuel(s) to which the request applies (exemption from NAC 486A.180).
- A description of the nature and extent of the financial hardship being experienced by the agency and the financial impact that would be experienced by the agency as a result of compliance with the alternative fuels program. Also indicate what has changed to bring about this financial hardship (e.g. loss of revenue, change in market prices for alternative fuels, etc.)
- The budgetary savings that the fleet expects to realize if the variance is granted. Savings should be broken down by fuel expenditure savings, vehicle acquisition savings, maintenance savings, or any other savings expected.
- Documentation showing that the applicable local air pollution control agency agrees that granting of the variance would not cause a significant adverse impact to a State Implementation Plan (SIP) control strategy.
- A discussion of any alternatives considered that would mitigate the need for the variance.

- A description of how and to what degree financial conditions would have to change before the variance would no longer be needed and the expected time frame for such changes to occur.

C. For requests being made due to unavailability of alternative fuel vehicles or fuels, the request must include the following:

- An explanation of the circumstances surrounding the unavailability of the alternative fuel vehicles or alternative fuels. This explanation should include the types of vehicles and fuels being sought; the agency's unsuccessful attempts to acquire the alternative vehicles or alternative fuels; or, if applicable, the economic impracticality of providing a facility to dispense alternative fuel.
- Documentation showing that the applicable local air pollution control agency agrees that granting of the variance would not cause a significant adverse impact to a State Implementation Plan (SIP) control strategy.
- Discuss any alternatives considered that would mitigate the need for the variance.
- Describe the logistical conditions for the acquisition of alternative fuel vehicles and use of alternative fuels that would have to exist before the exemption would no longer be needed and the expected time frame for such changes to occur.

Agencies requesting a variance from the provisions of NAC 486A must submit a written request to the State Environmental Commission at the following address:

**State Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, NV 89701**

ATTACHMENT III

Penalty Assessment: This attachment contains the penalty assessment table describing each of three specific penalty assessments

NDEP-BAPC PENALTY RECOMMENDATIONS - June 12, 2012

TAB NO.	COMPANY NAME	VIOLATION & PENALTY SUMMARY	NOAV NUMBER	RECOMMENDED PENALTY
4a	Joy Engineering, Storey County	<p><u>NOAV 2400</u> Violation: Failure to install and operate required air pollution controls Requirement: Install and operate wet dust suppression on various emission points Emission Unit : Crushing and Screening Plant</p> <p>Base Penalty: \$1,000, for Class 2 Minor Source Magnitude (Multiplier): 4 Emission Units for 2 Days (8x) Violation History (Adjustment): 1 Violation within the past 60 months Total Penalty: $\\$1,000 \times 8 + (\\$8,000 \times 0.05) = \mathbf{\\$8,400}$</p>	2400	\$8,400
4b	Barrick Cortez, Lander County	<p><u>NOAV 2397</u> Violation: Failure to conduct required compliance source testing Requirement: Conduct required compliance source testing no later than October 18, 2011 Emission Unit : Pipeline Carbon Reactivation Kilns</p> <p>Base Penalty: \$1,000, for Class 1 Major Source Magnitude (Multiplier): 1 Emission Unit for 3 months (3x) Violation History (Adjustment): No Violations within past 60 months Total Penalty: $\\$1,000 \times 3 = \mathbf{\\$3,000}$</p>	2397	\$3,000
4c	Road and Highway Builders, Esmeralda County	<p><u>NOAV 2372</u> Violation: Failure to operate required air pollution controls Requirement: Install and operate wet dust suppression on various emission points Emission Unit : Crushing and Screening Plant</p> <p>Base Penalty: \$600, for Class 2 Minor Source Magnitude (Multiplier): 2 Emission Units for 1 Day (2x) Violation History (Adjustment): 8 Violations within the past 60 months and a repeat of the same violation within the previous 3 years Total Penalty: $\\$600 \times 2 + (\\$1,200 \times 2.40) = \mathbf{\\$4,080}$</p>	2372	\$4,080

NDEP-BAPC PENALTY RECOMMENDATIONS - June 12, 2012

TAB NO.	COMPANY NAME	VIOLATION & PENALTY SUMMARY	NOAV NUMBER	RECOMMENDED PENALTY
4d	A & K Earth Movers, Mineral County	<p><u>NOAV 2369</u> Violation: Failure to install and operate required air pollution controls Requirement: Install and operate wet dust suppression on various emission points Emission Unit : Crushing and Screening Plant</p> <p>Base Penalty: \$1,000, for Class 2 Minor Source Magnitude (Multiplier): 2 Emission Units for 6 Weeks (12x) Violation History (Adjustment): 6 Violations within the past 60 months Total Penalty: \$1,000 x 12 + (\$12,000 x 0.30) = \$15,600</p> <p><u>NOAV 2370</u> Violation: Failure to comply with a permitted emission limit Emission Limit: 20% Opacity Emission Unit : PF1.065, Conveyor C-2 transfer to Grizzly</p> <p>Base Penalty: \$600, for Class 2 Minor Source Magnitude (Multiplier): Extremely High Amount (6x) Violation History (Adjustment): 6 Violations within the past 60 months Total Penalty: \$600 x 6 + (\$3,600 x 0.30) = \$4,680</p>	2369 and 2370	\$20,280

ATTACHMENT IV

Prepared Remarks by Francisco Vega concerning the
Penalty Assessments detailed in Attachment 3

SEC Meeting - June 12, 2012

Compliance and Enforcement Statement

Mr. Chairman, members of the Commission, good morning. For the record, Francisco Vega, Supervisor of the Compliance & Enforcement Branch in the NDEP's, Bureau of Air Pollution Control.

The Commission is authorized under the Nevada Revised Statutes to levy administrative penalties for Major violations of state rules and regulations that protect air quality. Based on a long-standing agreement, the Bureau of Air Pollution Control's Compliance & Enforcement Branch assesses penalties for these violations on behalf of the Commission. All penalty recommendations made today are based on the administrative Penalty Table and Matrix.

I will be making penalty recommendations for 4 facilities involving 5 Notices of Alleged Violation on today's agenda.

Before I begin with the first penalty recommendation, I would like to refer the commission to the table which is included in the folder. This table summarizes the violations and the recommended penalty.

- The first penalty recommendation on the agenda today involves Joy Engineering. Joy operates a crushing and screening operation in the Tahoe-Reno Industrial Center in Storey County, Nevada.
- Before the penalty recommendation, I would like to provide a little history on Joy.
- In September of 2011, an inspection was conducted of the Joy facility. During the inspection the equipment was not operating however it was noticed that several of the required air pollution controls were either missing or broken. In addition Joy was unable to provide any production records. After meeting with Joy and discussing the issues discovered during the inspection and in an effort to work with the company, the NDEP issued a minor violation for failing to conduct required monitoring and recordkeeping. The \$1,750 penalty for the minor violations, determined by the NAC, was paid in full. At the request of Joy, the NDEP went to the facility and walked through the facility to ensure it was clear what was required of them. As a result of the most recent walk through, Joy submitted an application to add additional equipment and make some additional changes. After reviewing the application, NDEP permitting staff notified Joy that they would be required to install air pollution controls in order to meet the federal ambient air quality standards. Although they did

not like it, Joy understood what was required of them in order to get the equipment permitted. The permit was then issued with the required air pollution controls.

➤ A few months later, the same inspector was in the area of the Joy facility, conducting other business, when it was noticed that a large amount of dust was coming from the operation. After a closer look it was discovered that several pieces of equipment did not have their required air pollution controls installed. Joy was made aware of the situation and voluntarily shut down. Joy was able to address the problem and was back in operation the following day.

➤ For a Class 2 source the base penalty for failing to install required air pollution control equipment is \$1,000 per day per emission unit. The violation involves 4 emission units and after reviewing operating records took place for 2 days. Now because there was a previous violation within the last 60 months, the penalty also gets adjusted by 5%. The total recommended penalty of \$8,400.

- Penalty Assessment No. 2 involves Barrick Cortez. Barrick operates the Cortez gold mine in Lander County, Nevada.
 - Their Class 1 permit requires them to conduct testing on the kilns by no later than October 18, 2011.
 - In January, Barrick notified the NDEP that they had missed the testing on the kilns.
 - For a major source the base penalty for failing to conduct required compliance source testing within a timely manner is \$1,000. The compliance source test was approximately 3 months late before the NDEP was notified. Therefore the total recommended penalty is \$3,000.
-

- Penalty Assessment No. 3 involves Road and Highway Builders.

Road and Highway operated crushing and screening equipment in Esmeralda County, Nevada.

- On September 8, 2011, an inspector on their way to another facility noticed an excessive amount of dust coming from the Road and Highway plant. After closer inspection, it was noticed that a couple of emission points did not have the required water sprays turned on. The inspector brought this to the operator's attention, the sprays were turned on and the problem was fixed. Because the issue had been resolved quickly and the inspector was scheduled to be elsewhere, no VEO was conducted.

- Now in 2009 and again 2010, Road and Highway was issued numerous violations for amongst other things failing to operate and/or install required air pollution controls and failing to comply with permitted emission limits. To date, as a result of these violations Road and Highway has paid a total of \$74,300.

- For a Class 2, General source the base penalty for failing to operate required air pollution controls is \$600. Because 2 emission units did not have the required air pollution controls on; the base penalty is multiplied by 2. Now because Road and Highway has been issued violations within the past 60 months and has committed the exact same violation within the past

36 months the penalty is adjusted by 240%. Therefore the total recommended penalty is \$4,080.

- The final penalty assessment on the agenda today involves A & K Earth Movers. A&K operated a crushing and screening operation in Mineral County, Nevada.
- In August of 2011, an inspection of the A&K site was conducted. During the inspection it was discovered that several emission units did not have the required air pollution control installed and others were installed but not operating. At the time no dust problems were observed so a VEO was not conducted. The inspector brought the situation to the attention of the site personnel and explained what needed to be completed. Before leaving the inspector made sure that all controls that were installed were operating.
- The inspector returned 5 days later to make sure the problems discovered before had been fixed. As the inspector was nearing the site he noticed dust coming from the plant. After a closer look the inspector noticed that many of the problems that had been brought to A&K's attention previously had been not been fixed. A&K voluntarily shut the plant down so the problems could be addressed. It was explained to A&K that the plant should not operate again until the controls were installed and operating. In an effort to address the non-compliance situation as quickly as possible; no

VEO was conducted. A&K provided documentation that the controls were installed later that same day and returned to operation the following day.

➤ Approximately 2 weeks later, the same inspector again noticed dust coming from the A&K operation. Once closer it was discovered that some of the water sprays were not turned on. At this time a VEO was conducted in order to evaluate the magnitude of non-compliance. The VEO provided an opacity of approximately 70%; well above the 20% limit. A&K was made aware of the situation, turned the controls on and the plant returned to compliance with the opacity limit.

➤ For a Class 2, General source the base penalty for failing to install required air pollution controls is \$1,000. Based on a review of monitoring records, A&K was found to be in non-compliance for approximately 6 weeks (Aug 1 to Sep 7). The violation also involved 2 emission units; thus the base penalty is multiplied by 12. Now because A&K has been issued violations within the past 60 months the base penalty is further adjusted by 30%. The recommended penalty for NOAV 2369 is \$15,600.

➤ The base penalty for failing to comply with an opacity limits is \$600. Because the opacity was found to be greater than 50% the base penalty is multiplied by 6. Now again because A&K has been issued violations within

the past 60 months the base penalty is further adjusted by 30%. The recommended penalty for NOAV 2370 is \$4,680.

- The total recommended penalty is \$20,280
-