

1 **STATE ENVIRONMENTAL COMMISSION**
2 **Meeting of September 18, 2003**
3 Video Conference – Jones Vargas
4 Reno and Las Vegas, Nevada
5 **Draft Minutes**
6

7
8 **MEMBERS PRESENT:**

9 Melvin Close, Chairman
10 Alan Coyner, Vice Chairman
11 Terry Crawford
12 Mark Doppe
13 Don Henderson
14 Ira Rackley
15 Richard Reavis
16 Hugh Ricci
17 Steve Robinson
18

MEMBERS ABSENT:

Demar Dahl
Joey Villaflor

19 **Staff Present:**

20 William Frey, Deputy Attorney General
21 Susan Gray, Deputy Attorney General
22 John Walker, Executive Secretary
23 Marcia Manley, NDEP Ombudsman
24 Sheri Gregory, Recording Secretary
25

26
27 Chairman Close called the meeting to order. He noted that the agenda had been properly noticed
28 in compliance with the Nevada Open Meeting Law and that there was a quorum. He introduced
29 Ira Rackley as a new Commissioner.
30

31 **I. Approval of Minutes from the June 19, 2003 hearing.**
32

33 Commissioner Ricci proposed amending the minutes on page 9, second paragraph,
34 from “. . . Bureau is engaged and RCS . . .” to correct them to read, “. . . Bureau is
35 engaged and NRCS . . .”.
36

37 On motion of Commissioner Doppe the Commission unanimously voted to approve the
38 minutes as amended.
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40
41 Chairman Close opened the discussion on the regulatory petitions.
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43 **II. Regulatory Petitions**
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45 **1. Petition 2003-01 (LCB File R037-03)**
46

47 Permanent amendments to the Environmental Commission’s Rules of Practice;
48 NAC 445B.875 to 445B.899. The new amendments include: provisions allowing
49 consolidation of two or more appeals that are substantially similar, the submittal of
50 pleadings and briefs, acknowledgement of service, stipulation to written testimony, due
51 process and criteria for interveners to intervene in contested hearings, rights of parties of

1 record, conduct of parties at Commission hearings, an expanded definition and due process
2 for subpoenas, and limitations on ex parte communications. Amendments are proposed to
3 NAC 445B.892 by requiring parties requesting subpoenas to be responsible for preparing
4 and effectuating service and NAC 445B.895 to limit the time and scope of examination of
5 witnesses.

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7 Discussion
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9 DAG Gray reported that staff was requesting that Petition 2003-01 be removed from the
10 agenda due to inconsistencies in the language arising from revisions made by the
11 Legislative Counsel Bureau. This petition will be heard at the next meeting.

12
13 The Commission upheld staff's request to remove Petition 2003-01 from the agenda.
14
15

16 **2. Petition 2003-03 (LCB File R064-3)**
17

18 Permanent amendments to NAC 445B.001 to 445B.3497, the air pollution control
19 regulations. The regulation amends NAC 445B.281 to increase and standardize the fines in
20 the schedule for minor violations, including, record keeping, fugitive dust, open burning,
21 incinerator burning, odors, excess emissions, testing and sample reporting, monitoring
22 system reporting, and change of location. First offense is increased to \$250, second
23 offense to \$500 and third offense to \$500.

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25 Discussion
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27 Staff reported the Legislative Counsel Bureau reviewed the temporary language as
28 previously adopted by the Commission and noted that NRS 445B.640 limits the
29 administrative penalties to a maximum penalty of \$500. Therefore, Petition 2003-03 was
30 amended to reflect this change. The original temporary petition reflected a \$750 maximum
31 for the third category of fines.
32

33 On motion of Commissioner Doppe, the Commission unanimously voted to adopt Petition
34 2003-03 as amended.
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37 **3. Petition 2003-04 (LCB File R065-3)**
38

39 Permanent amendments to NAC 445B.001 to 445B.3497, the air pollution control
40 regulations. The proposed regulation amendments include only minor clarifications,
41 technical corrections and the removal of regulations that are no longer applicable. These
42 are necessary to update and correct the NAC. They will also bring Nevada's program more
43 into alignment with the applicable State Implementation Plan.
44

45 Discussion
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47 Staff reported the Legislative Counsel Bureau reviewed the temporary language as
48 previously adopted by the Commission and had made semantics language changes. Staff
49 recommended adoption of Petition 2003-04 as amended by the Legislative Counsel
50 Bureau.
51

1 On motion of Commissioner Robinson, the Commission unanimously voted to adopt
2 Petition 2003-04 as presented by staff.
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5 Chairman Close opened discussion on non regulatory items.
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7 **III. Non Regulatory Information Item – Re-designation of Nevada Side of Tahoe Basin**
8 **for Attainment for CO.**
9

10 Pursuant to Section 107(d) of the 1990 Clean Air Act, the Nevada Division of
11 Environmental Protection (NDEP), is submitting a request to the US Environmental
12 Protection Agency for re-designation of the Nevada side of the Lake Tahoe Basin for air
13 quality planning purposes. NDEP is requesting that this area, Hydrographic Area 90, be
14 re-designated from non-attainment to attainment for the carbon monoxide (CO) National
15 Ambient Air Quality Standard (NAAQS).
16

17 Monitoring data show that the Nevada side of the Lake Tahoe Basin has never violated
18 the one-hour CO NAAQS and has not exceeded the eight-hour standard since 1978.
19 Supporting evidence is included in the “Re-designation Request and Limited
20 Maintenance Plan.” This document provides all the evidence necessary for a re-
21 designation, including an attainment demonstration, a discussion of the control
22 measures leading to emission reductions and a Limited Maintenance Plan.
23

24 Discussion
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26 Staff presented a history and an overview of the request for re-designation to EPA.
27 Recently, EPA indicated that the submittal is satisfactory as to content and on a legal
28 basis. The Commission was provided a copy of the request. Several agencies on the
29 Nevada side of the basin that have a stake in the re-designation were included.
30 Agencies on the California side of the basin that have a role in air pollution control were
31 also included. Staff used the SEC public hearing procedure to solicit public comment.
32 During the 30-day notice period, staff had not received any additional public comment.
33 There will be no change in the SEC’s regulatory responsibilities in the Tahoe basin.
34 Nevada has been in attainment for about 25 years, but had not been designated as
35 being in attainment. This will provide for it being formally recognized. In the re-
36 designation document, NDEP has committed itself to continue monitoring at the current
37 level for at least 10 years. California was designated as attainment in 1998. EPA is in
38 the process of drafting their public notice of approval for the request.
39

40 SEC Commission members (H. Ricci and R. Reavis) posed information questions to
41 NDEP staff; questions were answered to the satisfaction of the SEC members.
42

43 Since this was an informational item, no action was taken.
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45 There was no public comment.
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47 The meeting adjourned at 9:35 a.m.