

**Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)**

Meeting of February 11, 2009, 10:00 AM

Video Conference
Nevada Department of Conservation & Natural Resources
Bryan Building, Carson City Nevada

Nevada Division of Environmental Protection
Las Vegas Office, 2030 E. Flamingo Rd.

Members Present:

Lewis Dodgion, Chairman
Alan Coyner, Vice Chairman
Pete Anderson
(Eugene) Jim Gans
Jason King
Tony Lesperance
Kenneth Mayer
Stephanne Zimmerman

Members Absent:

Frances Barron
Harry Shull

SEC Staff Present:

Rose Marie Reynolds, SEC/DAG
John Walker, Executive Secretary
Kathy Rebert, Recording Secretary

BEGIN SUMMARY MINUTES

The meeting was called to order at 10:00 am by Chairman Dodgion who declared the meeting had been properly noticed and a quorum was present.

Chairman Dodgion introduced new Commission member Jason King, acting State Engineer in the place of Tracy Taylor.

1) Approval of minutes from the November 12, 2008 SEC hearing

Chairman Dodgion asked the Commission if there were any corrections to the November 12, 2008 minutes. There being none, the Chairman asked for a motion to approve.

Motion: Commissioner Mayer moved to approve the minutes, seconded by Commissioner Anderson. Motion carried with one abstention by Commissioner Zimmerman who was not present at the November 12, 2008 hearing.

Chairman Dodgion moved to the next agenda item.

2) Arsenic Rule Extensions

Ms. Jennifer Carr, Chief of the Bureau of Safe Drinking Water, made the presentation regarding the Arsenic Rule and the proposed system extension.

(Begin prepared remarks of Ms. Jennifer Carr)

Good Morning, Mr. Chairman, Members of the Commission.

For the Record, I am Jennifer Carr, Chief of the Bureau of Safe Drinking Water.

At the prior hearing this past November, you'll recall that we discussed, and you approved, thirty-three Arsenic Rule Exemption Extensions. The original arsenic compliance Exemptions expired on January 23, 2009 and we worked to have eligible water systems receive their extensions before that date. You concurred with the NDEP's proposed criteria for Exemption Extension eligibility, which included three requirements. Specifically, that a Public Water Systems had to: (First) serve less than 3,300 customers; (Second) have an arsenic concentration less than or equal to 30 parts per billion and (Third) be making progress toward compliance.

I am here today to discuss the compliance situation for the Searchlight Water Company. The Searchlight Water Company serves approximately 800 people and is operated by the Las Vegas Valley Water District. The District is represented here today by Pat Sampson, in the Las Vegas location. This public water system was properly granted an Arsenic Rule Exemption by the Commission on September 6, 2006 and has been working very diligently to take appropriate actions toward achieving compliance.

When the Bureau was making determinations for Extension recommendations last fall, the NDEP evaluated the monitoring data available to us in September, and we believed the Searchlight Water Company to be in compliance with the drinking water standard of 10 parts per billion. However, new, more current, data became available to the NDEP in December that revealed that their compliance concentration was 11 parts per billion, based on an updated running annual average.

(End prepared remarks of Ms. Jennifer Carr)

Upon completion of Ms. Carr's presentation, Commissioner Gans asked if the (Searchlight) Water System had supplied information indicating the extension would enable them to come into compliance. Ms. Carr answered that the work the System is doing is progressing. There were some right-of-way issues with the BLM and some tortoise habitat issues at the new well site location. The System believes their new test wells will be operational in 2011 and Ms. Carr said there may be another extension request prior to that date. They may need a little more time but they will be close to compliance in a couple years.

Chairman Dodgion asked if there was anyone from the Las Vegas Valley Water District (LVVWD) who wished to speak (LVVWD runs the Searchlight Water System).

Pat Sampson, LVVWD, explained to the Commission that this exemption has existed for three years and bi-annual letters have been submitted advising of the progress being made towards compliance with the regulation. Ms. Sampson invited anyone who wished to discuss this further contact her.

There being no discussion on this matter, Chairman Dodgion asked for a motion.

Motion: Commissioner Gans moved for approval the Searchlight Water System Arsenic Exemption Extension, seconded by Commissioner Anderson; motion approved.

Chairman Dodgion moved to Agenda Item 3.

Air Quality Planning/Air Pollution Control

3. Regulation R190-08: [BART] Best Available Retrofit Technology & Emission Limitations for Major Electric Generating Units

Ms. Adele Malone, a supervisor with the Bureau of Air Quality Planning, presented the changes to this regulation to the Commission.

(Begin prepared remarks of Ms. Adele Malone)

Good morning Mr. Chairman and Commissioners. I'm Adele Malone, a supervisor with the Bureau of Air Quality Planning.

I'm addressing Agenda Item 3 which is LCB File No. R190-08: [BART] regulation which consists of amendments to the 'abbreviations' and 'adoption by reference' sections of NAC Chapter 445B, as well as a new regulation related to the federal regional haze rule for Best Available Retrofit Technology (or BART). The RHR requires certain existing sources to determine and install the best available retrofit emission control technologies for emissions of SO₂, NO_x and PM. The regulation:

- Was presented to the SEC at November 12 Hearing and was adopted.
- Scheduled to go to the Legislative Commission for their approval on December 16; but NDEP PULLED it from their agenda.
- REASON: Error in one of the tables - If you look at the regulation in your book --- in section 4, the second table sets out the BART requirements for NV Energy's Tracy Generating Station. Somewhere between the version of this regulation that went to public workshop and the version that was presented to the SEC last fall a cell in this table was dropped.
- Look under NO_x at the column labeled "Control Type." You'll see that units 1 and 2 have one type of control requirement and unit 3 has something different. In the regulation that was included in your packet last November, the cell containing the control for unit three was missing - the proposed regulation last fall showed BART for all 3 units being LNB w/FGR, which is correct for units 1 and 2, but not unit 3. BART for unit 3 was determined to be LNB with selective noncatalytic reduction, which actually provides a greater reduction in emissions than LNB with FGR at a minimal increase in cost for that unit, as shown in the table in front of you today.
- So, when we realized the error in this table, we made the correction and resubmitted the regulation to LCB; what you have in your packet today is the corrected version and it remains a permanent regulation.

PUBLIC PROCESS:

The public workshop for this petition was conducted in Carson City on October 21st. The correct version of the proposed regulation was workshopped. When we found the error in the table, we contacted NV Energy - the affected facility, and they agreed that we should correct it.

RECOMMENDED ACTION:

In conclusion, the Division recommends that the corrected version of LCB File No. R190-08 as it appears in your packet today be adopted. I'd be happy to answer any questions you may have.

(End prepared remarks of Ms. Malone)

There were no comments to the proposed amendments. Chairman Dodgion asked for a motion.

Motion: Commissioner Anderson moved to adopt the corrected regulation R190-08 as read into the record. Commissioner Mayer seconded; motion passed.

Chairman Dodgion moved to Item 4 on the Agenda.

Waste Management

4. Regulation R153-08: Adopt by Reference Changes to the Federal Hazardous Waste Regulations

Mr. Donald Cripe, Environmental Scientist with the Bureau of Waste Management, presented proposed amendments to this regulation.

(Begin prepared remarks of Mr. Cripe)

Good Morning, Mr. Chairman, Members of the Commission. My name is Donald Cripe, and I am an Environmental Scientist employed by the Nevada Division of Environmental Protection, Bureau of Waste Management. I'm here this morning to present proposed regulation amendments relating to three specific federal rule changes within our yearly adoption by reference update.

A workshop to solicit public comment on the proposed regulations was held September 30, 2008, in Carson City with a video link to Las Vegas. A total of 22 people attended the workshop at both locations. The proposed regulations and notes from the workshop were posted on the SEC website and made available for review and comment via the internet.

This petition covers regulations found in Chapter 444 of the Nevada Administrative Code (NAC) which govern management of hazardous waste. Since changes are continually made at the federal level it is necessary to periodically update the reference to federal regulations in the NAC. Adoption by reference of these changes will allow Nevada to

remain consistent with federal regulations and to enforce the regulations in lieu of the US EPA.

This petition incorporates amendments published in the federal register between July 1, 2007, and July 1, 2008. The citation of July 1, 2007 is proposed to be amended to July 1, 2008 fourteen times in sections 1-4 and 6-14 of the petition. Section 5 of the petition includes language that will exclude from adoption a new federal rule not relevant to Nevada. Allow me to provide a brief description of these federal actions.

The first amendment is titled: *Exclusion of Oil-Bearing Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas*. This rule amends an existing exclusion to the definition of solid waste that applies to oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are reinserted back into the petroleum refining process. This exclusion is conditioned on the materials not having been speculatively accumulated or land disposed. The US EPA is very specific in the applicability section of this rule that it only applies to crude oil refining facilities not used or waste oil recycling facilities. By adopting this amendment, the US EPA added "gasification" to the list of already recognized petroleum refinery processes (for example: distillation, catalytic cracking and thermal cracking units) and added a definition for the term "gasification." There is one Nevada facility located in Railroad valley that is potentially affected by this federal rulemaking.

The second amendment is titled: *National Emission Standard for Hazardous Air Pollutants: Final Standards for Hazardous Waste Combustors*. This rule finalizes amendments to an existing Air Pollution Regulation that contained overlap with Hazardous Waste Regulations 40 CFR Parts 264 and 266. It clarifies compliance monitoring provisions, reporting and recordkeeping and corrects typographical errors and omissions. There is one Nevada source potentially affected by this amendment.

The third amendment is titled: *Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019*. This rule amends federal waste code listing F019 to exempt the wastewater treatment sludge generated from zinc phosphating processes used in automobile assembly. Generators will be required to maintain records on site to show that the waste meets to conditions of the listing. There are currently no Nevada generators that could use this exemption, but it is being included it in the event that this industry locates to Nevada.

The final new regulation is titled: *Criteria for the Safe and Environmentally Protective Use of Granular Mine Tailings Known as "Chat."* This new regulation promulgates mandatory criteria for the environmentally protective use of chat in transportation projects carried out using Federal funds. The chat covered by this rule was produced in the lead and zinc mining areas of Oklahoma, Kansas and Missouri. Since this new regulation does not apply to Nevada sources, today's petition does not include it as an adoption by reference. It will however, be included in the NAC 444.86325 list of exceptions.

There will be no immediate or long-term adverse effect on business or the public. There will be no additional cost to the agency for enforcement of the proposed regulation. The

regulation will not overlap or duplicate any regulations of other state, federal, or local agencies and will not alter fees.

That concludes my testimony. I would be happy to answer any questions you may have. Thank you.

(End prepared remarks of Mr. Cripe)

Motion: Commissioner Coyner moved to approve Regulation R153-08 as presented, Commissioner Anderson seconded, motion approved.

After a 10 minute break to address and fix sound and video issues in Las Vegas, Chairman Dodgion resumed the meeting.

Chairman Dodgion introduced Item 5 on the Agenda.

Other SEC Business

5. Motion to Vacate and Reset Hearing on Petition: Declaratory Order and Advisory Opinion

Chairman Dodgion called upon Mr. Jim Butler, attorney with Parsons, Behle & Latimer representing Rockview Farms and Ponderosa Dairy. Mr. Butler asked the Commission to set aside the hearing of Item 6 on the agenda, the Petition for Declaratory Order and Advisory Opinion, until the dairy's representative, Mr. Goedhart could be present. Mr. Goedhart had a conflict as an Assembly member in the middle of a session.

A discussion ensued between the Commissioners and Mr. Butler to determine Mr. Goedhart's role and position with the dairy and whether Mr. Goedhart is indispensable to this subject. The Commission concluded that someone else could adequately represent the dairy in place of Mr. Goedhart. Chairman Dodgion then asked for a motion.

Motion: Commissioner Anderson moved that the Petition to Vacate and Reset Hearing be denied. Commissioner Coyner seconded; motion passed.

Chairman Dodgion moved to Agenda Item 6 and asked SEC legal counsel, Rose Marie Reynolds, if she had any advice for the Commission.

6. Petition: Declaratory Order and Advisory Opinion

Ms. Reynolds explained that Amargosa Citizens for the Environment, or ACE, had requested the Commission issue a declaratory order on 3 issues.

The first issue is: The Director of the Department of Conservation and Natural Resources should use the powers allocated to the Director in NAC 445A.250(1) to "reasonably require" that all existing wells in close proximity to Ponderosa Dairy, a confined animal feeding operation, be monitored for pollutants and degradation of water quality.

The second issue is: The Director of the Department of Conservation and Natural Resources should use the powers allocated to the Director in NAC 445A.250(1) to "reasonably require" that a groundwater monitoring program should be instituted at Ponderosa Dairy in a manner so as to detect the movement of contaminants from the operation of the dairy.

The third issue is: Sewage as defined in NAC 445A.107 includes dairy feedlots.

Ms. Reynolds expressed concern that issuing such an order on the first two issues is beyond the scope of what the Commission can do under NRS 233B.120 and NAC 445B.888. She read NRS 233B.120 and noted the key word in that statute is applicability. The statute is meant to provide a means of seeking a determination of whether and in what way some statute, regulation or agency decision applies to the factual situation raised by an interested person that has not yet been determined. NDEP has already spoken as to the applicability of monitoring required by NAC 445A.250(1) to the Ponderosa Dairy when it issued the permit in 2007. Thus, there is no longer a question of how the relevant statutes or regulations apply and there is no basis for a declaratory order.

Ms. Reynolds said she did not believe that NRS 233B.120 was intended to allow review of agency decisions for which other means of review are available. To issue a declaratory order would circumvent the contested case process. ACE could have filed a request for hearing after the Ponderosa Dairy permit was issued, but it did not. She noted that John Bosta has requested a hearing regarding the permit issued to Ponderosa Dairy.

Ms. Reynolds said that as far as the third issue was concerned, she believed the Commission could determine whether the definition of sewage found in NAC 445A.107 applies to dairy feedlots.

ACE also requested the SEC to issue an advisory opinion to confirm that in accordance with the duties described in the Nevada Water Pollution Control Act, comprehensive groundwater monitoring is the only way to adequately protect groundwater because it would allow regulators the ability to track pollution from an entire facility and assures that "best management practices" are working. Ms. Reynolds expressed two concerns. First, she thought such an opinion was beyond the scope of NRS 233B.120 because it was seeking a policy statement and not a determination of whether and in what way a statute applies to a factual situation. Second, she thought that if the SEC did issue an opinion, it could be engaging in ad hoc rulemaking because the rulemaking procedure contained in NRS Chapter 233B was not followed. Ms. Reynolds offered a few excerpts from Nevada Supreme Court decisions about rulemaking and advised that an advisory opinion could apply to more than dairy feedlots and was best handled by the regulatory process, not the advisory opinion process.

Chairman Dodgion summarized Ms. Reynolds' advice that the Petition, numbers 3 A & B do not request a determination of applicability but request the Commission to issue an order to require actions by the Division and are beyond the Commission's scope of authority granted by 233B and the NAC. Ms. Reynolds responded "That's correct."

The Chairman then asked if the Petition number 3C (to include dairy feedlots under the broad definition of feedlot) fits into the Commission's scope to make a declaratory order to which Ms. Reynolds answered "Correct."

As to Petition number 3D Chairman Dodgion stated it approaches rulemaking and that is beyond the scope of this hearing and beyond the Commission's authority, which Ms. Reynolds confirmed.

Chairman Dodgion asked Bill Frey, Senior Deputy Attorney General representing NDEP, to speak. Mr. Frey told the Commission that Deputy Reynolds very accurately represented what the statutes and regulations say. He is in complete agreement that it would be inappropriate for the Commission to take action on 3 A, B, & D and that clarification of the definition of feedlot under 3C is acceptable.

In summary, Mr. Frey made three points. First, this is a permit that has already been issued, was publicly noticed, and the opportunity to file an appeal timely has passed. Second, there is already an appeal pending filed by Mr. Bosta. The last point, to the extent that A.C.E. is asking the Commission to establish policy for the Division, is inappropriate. The Commission's role by statute is to establish regulations that the Division will enforce. The details of the policy and implementing those regulations and the statutes have always been an area that has been in the purview of the Division and not the Commission.

In response to a question by Commissioner Coyner, Mr. Frey explained that a new appeal cannot be filed at this time but that there is an appeal that was filed in the statutory time by Mr. Bosta which has not been heard yet.

Chairman Dodgion asked about the status of the pending appeal. Mr. Frey replied that Mr. Bosta had asked for some time to retain either an expert or an attorney. Mr. John Walker explained that there had been some discussions and Mr. Bosta, the SEC, and the Division were prepared to hear the appeal within the next couple months.

Commissioners inquired and determined that A.C.E. had not filed to be an intervenor for that appeal and questioned whether A.C.E. had standing to be intervenor. Ms. Reynolds said that A.C.E. could be an intervenor and that they could, even at this late stage, file such a petition provided a reason for the delay of filing is given. Whether or not such a petition would be granted would be up to the appeal hearing panel.

Chairman Dodgion invited Attorney John Marshall, representing A.C.E., to address the Commission. Mr. Marshall introduced himself and Mr. Bill Barrackman, President of A.C.E. who will also speak from the Las Vegas site of the meeting.

Mr. Marshall said A.C.E. believed Petition Form 2 was the correct manner to bring to the Commission an issue the citizens feel is critically important for public health and the impact of large feeding operations on groundwater. In light of the opinions of the SEC counsel and the NDEP counsel regarding the appropriateness of the petition, Mr. Marshall asked for advice on the way A.C.E. can get their issues to the Commission to hear the

substance of what the citizens are attempting to accomplish. He asked if perhaps there are ways the request can be edited so it is not directed specifically at Ponderosa but at dairy feedlots.

Chairman Dodgion explained that what the A.C.E. petition is attempting to do in the first two items (A & B) is to have the Commission adopt a regulation as opposed to asking a declaratory opinion on an existing regulation. The Chairman said Item C for the inclusion of dairy feedlots into the definition of sewage would need to be elaborated to establish the importance of and need for a change.

Ms. Reynolds advised there would be a notice problem under the open meeting law if the Commission were to fix the drafting problem with the first two issues pertaining to Ponderosa Dairy. These issues would need to be put on an agenda for a future meeting of the Commission. Relating to the regulation and rulemaking issue, there is another petition form and regulation that allows members of the public to ask an agency or commission to consider a regulation and to begin the rulemaking procedure.

Mr. Marshall and Mr. Barrackman pointed out problems with the waste generated by the dairy and impacts to water. Commissioners were asked to read the background material A.C.E. provided (contained in the Commission packet), especially pages 9 and 10 which explains A.C.E.'s issue relating to the sewage definition.

Chairman Dodgion at this time invited Mr. Butler to speak on this agenda item.

Mr. Butler said his legal analysis was consistent with that provided by Ms. Reynolds and Mr. Frey. He added that from a perspective of a permittee, there is a concern about using the petition process to circumvent the permit appeal process. Another concern was in response to Mr. Marshall's discussion to edit the petition to make it more generic. Simply editing the petition doesn't change the nature of the request to put a specific requirement in the rule for groundwater monitoring. Mr. Butler's opinion was that Mr. Marshall would need to request an order or an opinion on the applicability of a regulation. With regard to the sewage definition, if the Commission does decide it has the jurisdiction to look at this, Mr. Butler requested it be looked at quite closely and evaluate the consequences.

Commissioner Lesperance asked for clarification of "feedlots" and "sewage" and to what they relate. His concern is the Commission may be opening a door which would have implications far-reaching to all aspects to agriculture in the state of Nevada.

Mr. Alan Tinney, Supervisor of Permits Branch, Bureau of Water Pollution Control, NDEP addressed the Commission regarding specifically 3C of the A.C.E. petition which requests "Sewage as defined in NAC 455A.107 includes dairy feedlots." He said in reading 445A.107: 1. "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments, feedlots or other places, together with such groundwater infiltration and surface water as may be present. Mr. Tinney said in the exact wording in the regulation, dairy is not specifically mentioned. Even with the words "dairy feedlots" in the definition, the way in which water permits are issued was not likely to change. Dairy

waste is still agriculture waste and is still within the Concentrated Animal Feed Operations (CAFO) program and a CAFO permit is written.

There was a discussion on what constitutes a "feedlot". Mr. Tinney concluded that he does not see positive or negative implications of including "dairy feedlots" in the definition of a feedlot. He said the Division takes protection of any surface or ground waters in the state seriously. Just because something is in a definition doesn't really influence one way or another in determining different directions. CAFO is a CAFO; Ponderosa happens to be a NPDES (National Pollutant Discharge Elimination System) CAFO which also follows the US EPA definitions and directions. NDEP regulations were approved by EPA. The Division follows the same pathways all NPDES CAFOs follow and in fact goes farther in many areas.

Chairman Dodgion asked if there was anyone else who wished to speak on this matter.

Ms. Jackie Picchiani, a resident of Silver Springs, said that a lot of citizens rely on NDEP to protect their health and well-being through the regulatory programs and permitting. She feels more stringent permitting and better state regulatory mechanisms are needed and the citizens need the Commission to stand up for the people of this state to make that happen.

Mr. Barrickman said that the material coming out of the lagoons (at the dairy) should be treated as sewage and be given secondary, tertiary treatment before it's applied to the land so the pathogens are killed.

There being no other questions or comments the Chairman closed the public meeting.

Commissioner Coyner said items 3 A, B, and D will be dealt with as part of the pending appeal process and that changing a definition as specified in item 3C wouldn't change the way the Division does it's work.

Commissioner Gans stated that he finds Ms. Reynolds to be very competent, she takes her SEC responsibilities very seriously and he values her opinions.

Motion: Commissioner Gans moved to deny items A, B, and D and bring item C on sewage to a future hearing once the Commission has had time to hear staff input. Commissioner Lesperance seconded the motion; motion passed.

Chairman Dodgion proceeded to the next Agenda item.

7. Administrator's Briefing to the Commission

Mr. Leo Drozdoff, Administrator of the Nevada Division of Environmental Protection spoke to the Commission on four subjects.

1) Dairies: Mr. Drozdoff spoke in general terms about dairies to provide some perspective regarding statute exemptions or provisions. Concentrated feeding operations have been

explored at a federal level with lawsuits involved and regulations written and re-written. This has been a difficult issue with ambiguity in federal regulations still not resolved. NDEP made a decision several years ago not to wait on a federal outcome in relation to these; to move forward with the program to identify and obtain an inventory of the dairies that existed, establish a working relationship with them, and understand their processes. Then, to put into place general requirements that would satisfy NDEP and the federal government, recognizing that at a federal level, requirements may change. There are provisions to allow permits to be reopened should the need arise. NDEP's strategy was and continues to be to work with communities and people with concerns about facilities. Concerning the pending appeal relating to Ponderosa Dairy, NDEP will continue to work with the facility and neighbors to try to reach a cooperative solution or some level of consensus.

2) Greenhouse Gas Inventory: Mr. Drozdoff referred to an Executive Summary handout (**Attachment 1**). This document, titled "Nevada Statewide Greenhouse Gas Emissions Inventory and Projections, 1990-2020" was created as a requirement of SB422 last session. Although a number of people throughout the state were involved, it is largely a NDEP internal document. The effort was led by Colleen Cripps, Deputy Administrator, and included many of the staff in NDEP air programs and other bureaus. An incredible amount of work went into it; it was prepared extremely well and it is a very substantive document. The document has been delivered to the Legislative Council Bureau and is posted in it's entirety on the NDEP website. NDEP will continue to use this document in many of the activities the Division is undertaking with regard to Climate Change and Greenhouse Gas Emissions including any new federal proposals.

In response to a question from Commissioner Gans, Mr. Drozdoff briefly shared the direction the Division will take. Activities will include continued work in the area of renewable energy and renewable energy transmission, with The Climate Registry, and with members of the Legislature on alternative fuel.

3) LS Power Plant: LS Power intends to move forward with their project and in light of a number of factors NDEP will schedule a public hearing in March inviting the public to comment on the Agency's determination about CO2 and Greenhouse Gas Emissions. These comments will be considered in making a decision regarding the LS Power Plant permit.

4) NV Woodpreserving: In light of some comments made regarding this facility in Silver Springs, Mr. Drozdoff wanted to address this issue. Both NV Woodpreserving and Bango Oil are similar in the complaints by citizens about odors. In both of those cases, NDEP has spent hundreds if not thousands of man-hours at the site, at all times of day and night. There have been a number of actions taken at those facilities. There are certain regulatory requirements the Division has and they have been fulfilled to the max. That doesn't mean satisfaction has been reached for the permittee or the citizen neighbors. The issue of odors is subjective; it doesn't mean there aren't odors out there and it doesn't mean the Division is finished working on this issue. It does mean that the Division's ability to do what the citizens may want is tempered; the facilities are in compliance. Mr. Drozdoff said that the Division takes these matters very seriously and will continue to work

on this issue. Mr. Drozdoff then answered a few clarifying questions for the Commissioners. Chairman Dodgion moved to the last item on the agenda.

8. Public Comment

Ms. Virginia Johnson of Silver Springs spoke to the Commission regarding the odor from the Nevada Wood Preserving Plant in that town. She expressed her feelings that the odor statute is ineffective and something more has to be done. Ms. Johnson provided details in response to a question from Chairman Dodgion about the occurrence of the odor.

Ms. Johnson also made a statement about what she considers raw sewage from "the dairy" (Ponderosa in Amargosa Valley) and the health problems that could result from this going into the ground.

Ms. Jackie Picciani, who also lives in Silver Springs, addressed the Commission. Ms. Picciani expressed her concern that an odor statute is relied upon when there are potentially hazardous air emissions and health issues. Ms. Picciani said she realizes tracking odors is real nebulous and she does appreciate what NDEP has done so far. She would like NDEP to seriously look at how Class II Air Quality Discharge Permits are issued and better ways to address this issue.

The Commission had a few questions for Ms. Picciani regarding the odors and history. The Commission agreed that odors are a tremendously complex problem and difficult to address.

Commissioner Coyner asked for a response from NDEP regarding the wood preserving permit in Silver Springs, what they are monitoring, what has resulted, and the data that has been accumulated.

Mr. Drozdoff said the Division would put together a chronology and information regarding the Nevada Wood Preserving Plant and Bango Oil and present it to the Commission before the next SEC hearing.

The Commission directed that discussion of these two facilities be included on the agenda for the next SEC hearing and that both parties speaking at today's hearing, Ms. Virginia Johnson and Ms. Jackie Picciani be notified.

There being no other comments and no other business, Chairman Dodgion closed the meeting at 12:20 pm.

Minutes prepared by: Kathy Rebert, Recording Secretary

ATTACHMENT

1. Greenhouse Gas Executive Summary Handout

EXECUTIVE SUMMARY

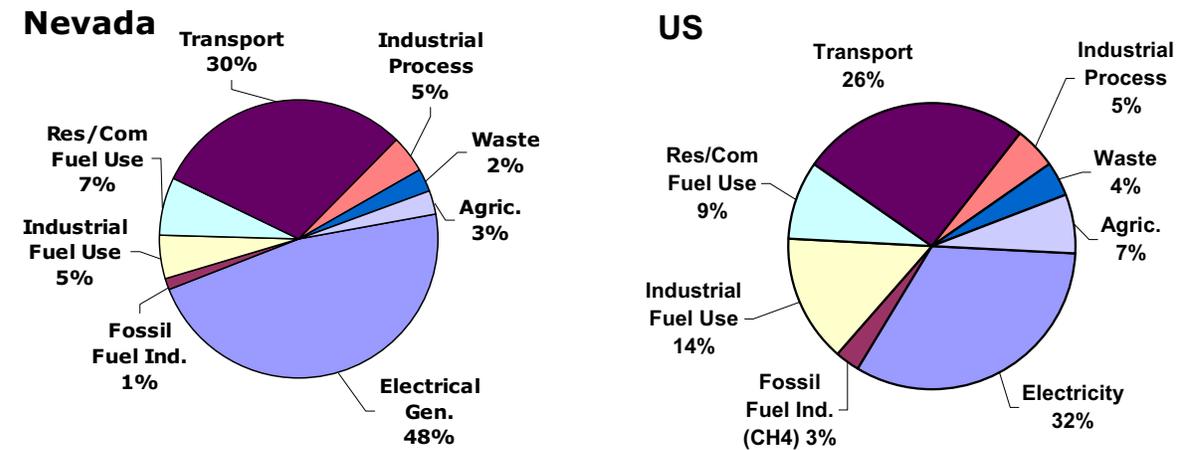
The summary presents a historical and projected State-wide GHG emissions inventory, including a comparison of Nevada's emissions to U.S. emissions, and observations concerning state GHG emission trends and estimation uncertainties. The section concludes with a summary table showing both historic and projected emissions estimates based on the contribution of each emissions sector.

Analysis of Nevada's GHG emissions indicate that for 2005, the most recent year of historical data, Nevada's statewide emissions totaled approximately 56.3 million metric tons of carbon-dioxide equivalent (MMtCO₂e) emissions, an amount approximately equal to 0.8% of total U.S. GHG emissions in that year.¹ CO₂ represented approximately 91% of Nevada's GHG emissions, with CH₄, N₂O, and HFCs/PFCs representing approximately 4%, 3%, and 2%, respectively. SF₆ emissions accounted for less than 0.5% of total emissions in 2005.

Together, the combustion of fossil fuels for electrical generation and transportation accounted for approximately 78% of Nevada's gross GHG emissions in 2005. Emissions in the residential, commercial and industrial sectors, most of which are associated with space and process heating, constituted approximately 12% of total emissions. Industrial process emissions (derived from non-combustion based emissions) comprised another 5% of emissions in 2005, and the emissions associated with agriculture, landfills and wastewater management facilities, and emissions from the fossil fuel industry together accounted for the remaining 6%.

Although the 2005 electrical generation and transportation sectors are the principal GHG emissions sources in Nevada and nationally (see Figure ES.1), electrical generation sector emissions in Nevada comprise a much higher percentage (48% to 32%) of total emissions than they do nationally. Nevada's transportation emissions also constitute a higher percentage than the national average (30% to 26%). These higher values are offset by lower emissions from Nevada's industrial fuel use and agriculture sectors.

Figure ES.1 Gross GHG Emissions by Sector in 2005, Nevada and U.S.

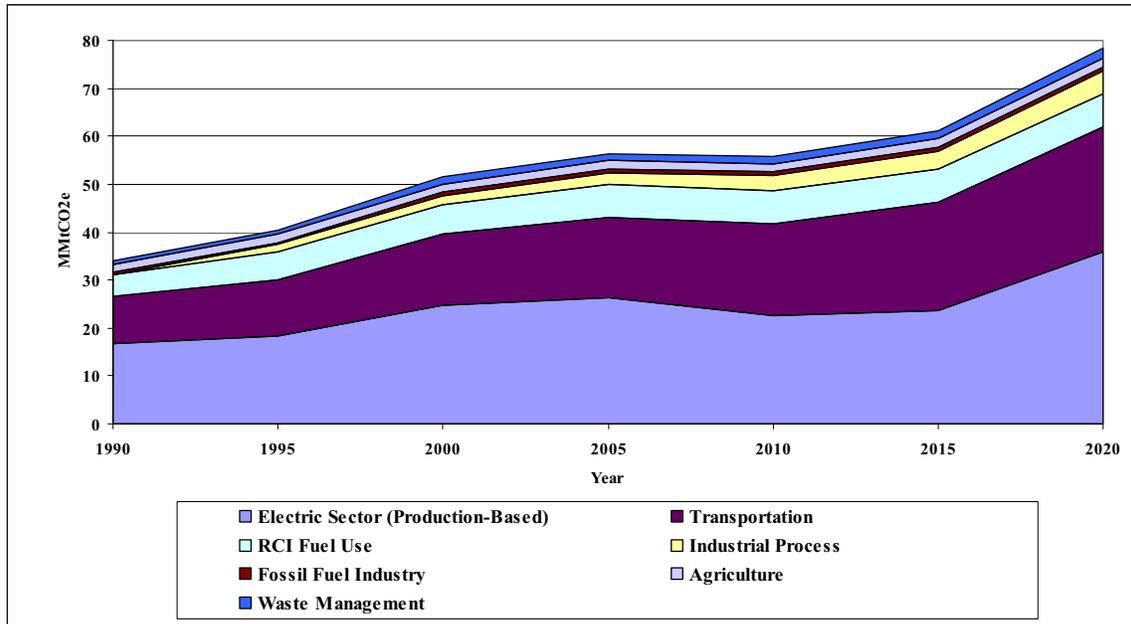


¹ United States emissions estimates are drawn from US EPA 2007. *Inventory of US Greenhouse gas Emissions and Sinks: 1990-2005*.

Trends in annual GHG emissions over the historic and projected emissions periods by source sector are shown in Figure ES.2. These emissions include all six GHGs (carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF₆)), in carbon dioxide equivalents. Between 1990-2005, Nevada's emissions grew from 34.1 MMtCO₂e to 56.3 MMtCO₂e, for an increase of approximately 65%, as compared to 16.3% growth in U.S. GHG emissions during the same period. The emissions increase was largely driven by Nevada's rapid population growth over the same period. Electricity generation and transportation were the two sectors responsible for the majority of the growth in GHG emissions during the last eighteen years.

GHG emissions are expected to increase at a more rapid rate during the projection period, to a total of 78.4 MMtCO₂e by 2020, due to increased electricity production; however, future trends in electrical generation are based on a variety of highly volatile factors. Changes to Nevada's generation infrastructure depend on factors ranging from the cost of new generation and construction, to potential costs of environmental regulations, to tightening credit markets. This uncertainty reduces the degree of confidence in forecasts of future electricity generation emissions. In order to better assess the potential range of emissions, seven different hypothetical scenarios were created and analyzed. The scenarios were selected to include a wide range of possible options: from the construction of no new coal-fired plants to multiple new coal-fired power plants, and include new natural gas plants and the retirement of older coal-fired units. The State-required integrated resource planning (IRP) analysis, used to ensure that future supplies of energy are adequate to meet consumer demand, was used as the base-line for all the projection scenarios and is included in Figure ES.2 and Table ES.1. The results for each of the other scenarios are presented in the Electricity Section. Emissions are expected to increase under all scenarios.

Figure ES.2 Trends in Annual Nevada Gross GHG Emissions by Sector, 1990-2020



A breakdown of net growth in emissions by sector shows that not only are transportation and electric generation the largest producers of GHG in the State, but they are also the sectors that are projected to experience the most future growth. Figure ES.3 shows the net growth in sector emissions, in MMtCO₂e/yr, during both the historic period (1990-2005) and the projection period (2005-2020). The historic bars (green) represent the net increase in emissions from 1990 to 2005, while the forecast bars (blue) represent the expected net gain from 2005 to 2020. The hatched bar represents the variation associated with the different projection scenarios evaluated for the electrical generation sector. Nevada contains two areas, forested lands and agricultural soils, which are estimated to be net sinks (sources of stored or sequestered carbon) for GHG emissions, accounting for approximately -5 MMtCO₂e/yr (these sequestration rates are assumed to remain constant over time and are not included in Figure ES.3).

Figure ES.3 Sector Contributions to Gross Emissions Growth in Nevada, 1990-2020: Historical Growth and Projections of Future Emissions

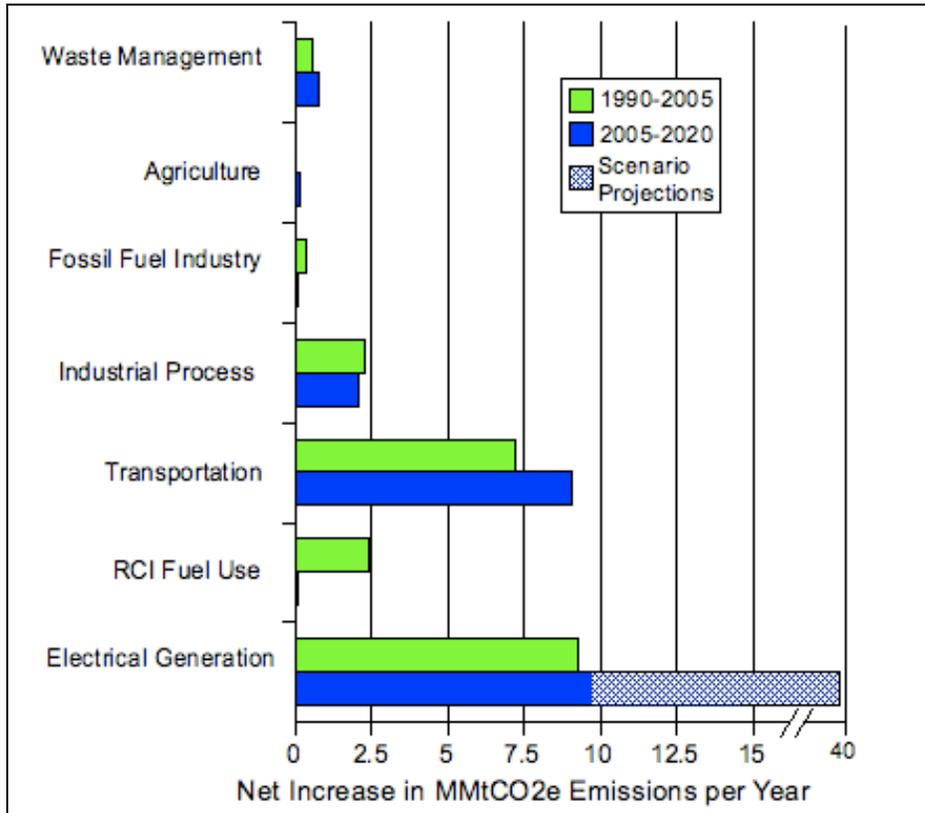


Table ES.1 Nevada Historical and Projected Reference Case Emissions (MMtCO₂e), by Sector^a

Sector	1990	2000	2005	2010	2020
Electrical Generation (Production –based)	16.9	24.8	26.2	22.5	36.0
Coal	15.3	18.1	18.1	8.7	18.0
Natural Gas	1.3	6.6	8.1	13.8	18.0
Oil	0.26	0.06	0.02	0.03	0.03
Electrical Generation (Net-Consumption-Based)	12.7	20.0	22.5	22.0	27.9
Net Imported/Exported Electricity	6.0	6.5	10.1	2.3	0.0
Residential/Commercial/Industrial (RCI)	4.4	6.0	6.8	6.9	6.9
Coal	0.4	0.5	0.4	0.4	0.3
Natural Gas	2.2	3.6	4.3	4.4	4.6
Oil	1.9	1.8	2.1	2.0	1.9
Wood (CH ₄ and N ₂ O)	0.02	0.03	0.02	0.02	0.02
Transportation	9.7	14.9	16.9	19.3	26.0
Motor Gasoline	5.8	8.4	9.8	10.8	14.1
Diesel	1.4	2.7	3.6	4.6	7.1
Natural Gas, LPG, other	0.04	0.06	0.09	0.1	0.2
Jet Fuel and Aviation Gasoline	2.5	3.8	3.4	3.7	4.6
Industrial Process	0.2	2.1	2.5	3.1	4.6
Cement Manufacture (CO ₂)	0.0	0.2	0.2	0.3	0.4
Lime Manufacture (CO ₂)	0.0	0.8	0.8	0.9	1.4
Limestone & Dolomite Use (CO ₂)	0.00	0.04	0.03	0.04	0.06
Soda Ash (CO ₂)	0.01	0.02	0.02	0.02	0.02
Nitric Acid Production (N ₂ O)	0.0	0.3	0.3	0.3	0.3
ODS Substitutes (HFC, PFC, and SF6)	0.002	0.5	1.0	1.5	2.5
Electric Power T & D (SF6)	0.2	0.1	0.1	0.1	0.1
Fossil Fuel Industry	0.4	0.6	0.8	0.9	0.9
Natural Gas Industry	0.4	0.6	0.8	0.9	0.9
Oil Industry	0.03	0.01	0.004	0.003	0.001
Agriculture	1.6	1.8	1.6	1.7	1.8
Enteric Fermentation	0.7	0.7	0.7	0.7	0.8
Manure Management	0.1	0.1	0.2	0.2	0.2
Agricultural Soils	0.8	0.9	0.8	0.8	0.8
Agricultural Residue Burning	0.0001	0.0001	0.0001	0.0001	0.0001
Waste Management	0.8	1.4	1.4	1.5	2.2
Solid Waste Management	0.7	1.2	1.1	1.2	1.7
Wastewater Management	0.1	0.2	0.3	0.3	0.4
Total Gross Emissions (100% in-state)	34.1	51.5	56.3	55.8	78.4
increase relative to 1990		51%	65%	64%	130%
Forestry (sink)	-4.8	-4.8	-4.8	-4.8	-4.8
Agricultural Soils (sink)	-0.2	-0.2	-0.2	-0.2	-0.2
Net Emissions (including sinks)	29.1	46.5	51.3	50.8	73.4
increase relative to 1990		60%	76%	75%	152%

^a Totals may not equal exact sum of subtotals shown in this table due to independent rounding.