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January 23, 2009

**Via USPS and EMail: jbwalker@ndep.nv.gov**

John B. Walker, Executive Secretary  
State of Nevada  
State Environmental Commission (SEC)  
901 S. Stewart Street  
Suite 4001  
Carson City, NV 89701

**Re: Rockview Farms, Inc. - NDEP  
Client-Matter No. 17423.001  
*In re: ACE Petition for Declaratory Order or Advisory Opinion  
(01.08.2009)*  
Motion to Vacate and Reset Hearing**

Dear Mr. Walker:

This is in regard to the Amargosa Citizens for the Environment's Petition for Declaratory Order or Advisory Opinion filed on January 8, 2009 and the Nevada State Environmental Commission's Notice of Hearing dated January 16, 2009.

Enclosed is a Motion to Vacate and Reset Hearing filed on behalf of Rockview Farms, Inc., as Operator of the Ponderosa Dairy.

Please contact me if you have any questions regarding the Motion. Thank you for your attention to this matter.

Sincerely,

Parsons Behle & Latimer

John R. Zimmerman

/sdl

Enclosure

cc: Rose Marie Reynolds, SEC/DAG (Via USPS and EMail: [rreynolds@ag.nv.gov](mailto:rreynolds@ag.nv.gov))

1 PARSONS BEHLE & LATIMER  
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5 *Attorneys for Rockview Farms, Inc.*

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8 BEFORE THE STATE ENVIRONMENTAL COMMISSION  
9 STATE OF NEVADA  
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11 *In re:*  
12 *Amargosa Citizens for the Environment,*  
13 *Petition for Declaratory Order or Advisory*  
*Opinion filed January 8, 2009.*

14  
15 **ROCKVIEW FARMS, INC., MOTION TO VACATE AND RESET**  
**HEARING ON PETITION FOR DECLARATORY ORDER OR ADVISORY OPINION**

16 COMES NOW, Rockview Farms, Inc., by and through its attorneys of record, Parsons  
17 Behle & Latimer, and hereby moves the Nevada State Environmental Commission to vacate and  
18 reset the hearing to consider the Petition for a Declaratory Order or Advisory Opinion filed by the  
19 Amargosa Citizens for the Environment (ACE). This Motion is made on the ground that  
20 Rockview Farms' Ponderosa Dairy is directly targeted in the Petition and its representative is  
21 unable to attend the hearing scheduled on February 11, 2009.

22  
23 Rockview Farms owns and operates the Ponderosa Dairy and will be directly and  
24 substantially affected by the Commission's consideration of the Petition but its representative is  
25 unable to attend the February 11, 2009 regulatory hearing. Therefore, Rockview Farms requests  
26 the Commission to vacate and reset the hearing date as authorized under NAC 445B.894(1).  
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1 Under NAC 445B.894(1), the Commission may, for good cause, vacate and reset the time  
2 for a hearing. Here, ACE's Petition should not be considered at the February 11, 2009 regulatory  
3 hearing because the Ponderosa Dairy is the only target of the Petition and its representative is  
4 unable to attend in order to properly respond to the allegations and requests in the Petition.  
5 Clearly Rockview Farms' will be directly and substantially affected by the Commission's  
6 consideration of ACE's Petition because ACE seeks a declaratory order that NDEP should  
7 modify the existing permit and require groundwater monitoring at the Ponderosa Dairy.  
8 Notwithstanding the procedural and substantive defects of ACE's Petition, the Commission  
9 should vacate and reset the time of the hearing to a time in which the Permittee is able to attend  
10 and provided an opportunity to respond. Rockview Farms' representative, Ed Goedhart, serves in  
11 the Nevada Assembly and cannot attend the February 11th regulatory hearing because of his  
12 legislative obligations.

13 Administrative procedures for declaratory orders by the Commission should facilitate, not  
14 complicate, the process of obtaining a decision regarding an agency's position on a particular  
15 matter and resetting the Petition hearing date will allow Rockview Farms the opportunity to  
16 respond. Based on Rockview Farms' direct interest in the Petition, Mr. Goedhart's inability to  
17 attend the February 11th hearing, and ACE's interest in an open and serious discussion on the  
18 merits of the Petition, the Commission should reset the hearing on the Petition as permitted under  
19 NAC 445B.894(1).

20 Accordingly, Rockview Farms respectfully requests that the Commission reset the Petition  
21 hearing to a date agreed upon by the Commission, NDEP, Rockview Farms, ACE, and any other  
22 interested party.  
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AFFIRMATION

Pursuant to NRS 239B.030, the undersigned hereby affirms that the preceding document does not contain the Social Security number of any person.

PARSONS BEHLE & LATIMER

DATED this 23 day of January, 2009

By: John R. Zimmerman  
Jim B. Butler, NSB# 8389  
John R. Zimmerman, NSB# 9729