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2 **BEFORE THE STATE OF NEVADA**  
3 **STATE ENVIRONMENTAL COMMISSION**

4 In the Matter of:

5 APPEAL OF GROUNDWATER  
6 POLLUTION CONTROL PERMIT NO.  
NEV2020104

**ORDER ON APPEAL**

7 **PROCEDURAL HISTORY**

8 On March 7, 2022, Great Basin Resource Watch (“GBRW”) filed its appeal of the  
9 Nevada Division of Environmental Protection’s (the “Division”) issuance of Water  
10 Pollution Control Permit No. NEV2020104 (the “Permit”) to Lithium Nevada Corporation  
11 (“LNC”) for the proposed Thacker Pass lithium mining project. GBRW’s appeal form  
12 claimed that the Division’s final decision was: (1) arbitrary or capricious or characterized  
13 by abuse of discretion; (2) clearly erroneous in view of the reliable, probative, and  
14 substantial evidence on the whole record; (3) affected by other error of law; and (4) made  
15 upon unlawful procedure.

16 On March 15, 2022, LNC filed a Petition for Leave to Intervene in the appeal. The  
17 Petition was unopposed and the Commission granted LNC’s request for intervention on  
18 April 15, 2022.

19 The Commission established a briefing schedule on GBRW’s appeal. The Division,  
20 GBRW, and LNC (collectively, the “Parties”) agreed to waive the twenty-day hearing  
21 requirement contained within NRS 445B.350.

22 On April 23, 2022, GBRW filed its opening brief. The Division and LNC each filed  
23 response briefs on May 20, 2022. GBRW filed its reply brief on June 10, 2022.

24 On June 9, 2022, LNC filed a Motion to Strike the Report of Steven Emerman (the  
25 “Emerman Report”). GBRW submitted the Emerman Report to the Division for the first  
26 time in its opening brief. LNC’s Motion to Strike argued that the Emerman Report must  
27 be struck under NAC 445B.8914(5), which provides that the Commission may not  
28 consider evidence that was not submitted to the Division before the issuance of the final

1 decision being appealed unless (1) the Division allowed a period of public comment before  
2 the Division took the action and (2) the Commission determines that reasonable cause  
3 exists for the failure of a party to submit the evidence. In its June 10, 2022 reply brief,  
4 GBRW argued that reasonable cause existed for its failure to submit the evidence. On  
5 June 13, 2022, the Chairman of the Commission granted LNC's Motion to Strike in part  
6 and denied in part. Pursuant to that decision, the Emerman Report was stricken from the  
7 record, however references to the report were permitted in opening statements prepared  
8 and presented by GBRW.

### 9 SUMMARY OF COMMISSION APPEAL HEARING

10 On June 28, 2022, a five-member panel of the Commission convened to hear  
11 arguments concerning the grounds of the appeal. The Commission Panel consisted of  
12 Chairman Tom Porta, Vice Chair Jason King, and Commissioners Jocelyn Torres, Mark  
13 Turner, and Mike Visher. The SEC panel was represented by Deputy Attorney General  
14 Asheesh S. Bhalla.

15 GBRW was present and represented by Julie Cavanaugh-Bill of the Cavanaugh-  
16 Bill Law Offices. The Division was present and represented by counsel, Senior Deputy  
17 Attorney General Daniel Nubel of the State of Nevada, Office of the Attorney General.  
18 LNC was present and represented by Laura Granier and Ashley Peck of Holland and  
19 Hart LLP.

20 The hearing proceeded in due course. The Parties were each permitted up to thirty  
21 minutes for an opening statement, twenty minutes for a reply to opening statements, and  
22 twenty minutes rebuttal. Additionally, the Commission was given time to question the  
23 Parties on any relevant matters. Public comment was allowed on three separate  
24 occasions.

25 Following arguments, the Commission deliberated on the issues surrounding the  
26 appeal. After deliberation on the merits of the legal arguments on appeal, the  
27 Commission unanimously voted to affirm the Division's decision to issue the Permit due  
28 to GBRW's failure to demonstrate any of the grounds for an appeal under NAC 445B.890.





1           5.       The Division’s issuance of the Permit was not affected by other error of law;

2           6.       The Division’s issuance of the Permit was not clearly erroneous in view of  
3 reliable, probative and substantial evidence on the whole record; and

4           7.       The Division’s issuance of the Permit was not arbitrary or capricious or  
5 characterized by abuse of discretion.

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**ORDER**

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THEREFORE, based on the foregoing:

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The Division’s decision to issue Water Pollution Control Permit No. NEV2020104 is  
10 hereby affirmed.

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DATED this 8th day of July, 2022.

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STATE ENVIRONMENTAL COMMISSION

16

DocuSigned by:

*Tom Porta*

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TOM PORTA, CHAIR

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**CERTIFICATE OF MAILING**

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I hereby certify that on the 8th day of July 2022, I deposited for mailing at  
21 Carson City, Nevada, a true copy of the attached document, sent via Certified U.S. Mail  
22 to:

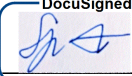
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14 Attorneys for Lithium Nevada Corp.

15 DocuSigned by:  
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17 E6935143639845C...  
18 Sheryl Fontaine  
19 Executive Secretary  
20 State Environmental Commission

21 cc: Rachel Mullane, acting, State Environmental Commission Recording Secretary  
22 Asheesh S.Bhalla, State Environmental Commission Counsel, Deputy Attorney  
23 General  
24 State Environmental Commission File  
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