



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission [SEC.nv.gov](http://SEC.nv.gov)

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

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

**Meeting of June 18, 2024, 9:00 AM**

Bryan Building, Bonnie B. Bryan Room, 1<sup>st</sup> Floor,  
901 South Stewart Street  
Carson City, NV

Video Conference  
375 East Warm Springs Rd., Ste. 200  
Las Vegas, NV

**Commissioners Present:**

Tom Porta, Chairman\*  
Jason King, Vice Chairman  
Kacey KC  
Kathryn Landreth\*  
J.J. Goicoechea  
Tom Smith\*  
Adam Sullivan  
Tina Mudd  
Fred Reeder  
\*participated remotely

**Commissioners Absent:**

Alan Jenne  
Rob Ghiglieri

**SEC Staff Present:**

Chricy Harris, SEC/DAG  
Sheryl Fontaine, Executive Secretary  
Kendra Valladon (acting), Recording  
Secretary

**Members of the Public Present:**

Lawrence Bazel

**BEGIN SUMMARY MINUTES**

**1) Call to order, Roll Call, Establish Quorum: (Discussion)** The meeting was called to order at 9:00am by Chairman Tom Porta. Sheryl Fontaine, the Executive Secretary, confirmed that the hearing was properly noticed and that a quorum was present. She asked if there was a member from the AG's office. Chricy Harris, Deputy Attorney General, identified herself. Ms. Fontaine then proceeded with reviewing the housekeeping rules for the meeting. Chairman Porta inquired if there were any changes to the posted agenda. Ms. Fontaine and the Commissioners indicated that no changes had been made.

**2) Public Comment: (Discussion)** Chairman Porta called for public comment on non-agendized items. There were no public comments.

**3) Approval of the minutes for the March 21, 2024, SEC meetings: (Action Item)** Chairman Porta requested comments from the Commission regarding the March meeting minutes. Hearing none, Chairman Porta asked for a motion.

**Motion:** Commissioner Goicoechea moved to approve the minutes and Commissioner Landreth seconded. The minutes were unanimously approved.

**4) Q&D Construction, LLC. - NOAV No. 3080 as amended (For Possible Action)** Andrew Tucker, Chief of the Bureau of Air Quality Planning (BAQP), introduced Michelle Gover, Supervisor of the Enforcement branch to present the penalty to the Commission.

Ms. Grover explained that Q&D held multiple air permits with the Division and that the violation concerned their Class II permit for Maggie Creek Ranch Pit in Elko County, issued on March 21, 2024. This permit covered operations including a crushing and screening plant, aggregate marination plant, and hot mix asphalt plant. During a routine inspection on August 1, 2023, the Division found two unpermitted emission units—an asphalt plant screen and a blower motor—which led to NOAV 3080. Ms. Grover emphasized that all emission units onsite were required to be permitted under Nevada Administrative Code (NAC) regulations. These regulations ensure that stationary sources, including temporary ones, obtain an Air Quality Operating Permit before starting construction and operation. Proper permitting is crucial for understanding and, if necessary, mitigating a source's impact on air quality. Ms. Grover then detailed the penalty assessment using the matrix provided, explaining that the Division had proposed a fine of \$30,000, calculated at \$3,000 per emission unit per month for five months. This penalty took into account Q&D's cooperation with the Division in returning to compliance, as well as the absence of other mitigating factors or any violations at the facility in question in the last five years.

Chairman Porta asked for any questions from the Commission. Commissioner Reeder asked about the unpermitted plant screen and blower motor at Q&D. Ms. Grover confirmed these units were both on-site without proper permitting, citing oversight rather than intent. Chairman Porta sought clarification on the blower motor's role and emissions, which Ms. Grover explained included fuel-related pollutants. Commissioner Reeder noted Q&D representatives were present for additional insights. Commissioner Sullivan queried Mr. Tucker about the differences between Class II and Class II General permits. Mr. Tucker clarified that general permits streamlined the process for more common units that are operated similarly across the state, such as crushing/screening plants, hot-mix asphalt plants, lime marination plants, etc.; while Class II covered units that are considered minor source but have more variability in how they are used. Commissioner Goicoechea inquired if the current blower motor had replaced a previous one or was used elsewhere and if the original had been permitted. Ms. Grover confirmed that it was a replacement, mentioning that the original blower motor was also unpermitted. Commissioner Tina Mudd asked if the unpermitted blower motor had been accounted for in the recent modeling. Ms. Grover advised that she wasn't sure had been included previously but was now part of the updated permit submission. Chairman Porta then asked if recent changes affected Q&D's emission levels to a different permit class, to which Mr. Tucker clarified that the modeling results wouldn't alter their classification.

Chairman Porta asked if there were any additional questions from the Commissioners. Seeing none, he invited any representatives from Q&D to come forward and make a comment.

Kevin Linderman and Matt Mannens stepped forward on behalf of Q&D, introducing themselves. Mr. Linderman explained that Q&D had hired an environmental consulting company for modeling, noting that the transfer point leading to the screening unit was overlooked during this process. He then went on to described how most lime trucks had a removable blower motor to blow lime into the guppy, although in this case, the guppy had a permanently attached blower motor that was not commonly used, resulting in it being overlooked. Mr. Linderman further stated that Q&D had

been collaborating closely with the Division to regain compliance. He emphasized to the Commission that emissions from these units remained well below exceedance levels, ensuring Q&D did not harm the environment inadvertently.

Mr. Linderman introduced Matt Mannens as overseeing Q&D's desert operations and commented on the size of the fine, inquiring about possible local projects instead of solely monetary penalties.

Chairman Porta invited questions from the Commissioners. Commissioner Mudd sought clarification on the blower motor and the offloading process for trucks. Mr. Linderman and Mr. Mannens explained that the blower motor was optional for truck use but was operational for when it was needed.

Chairman Porta asked what measures were implemented to prevent future oversights. Mr. Linderman explained that environmental consultants typically inspect everything in person and mentioned the modeling was conducted during COVID and Q&D's transition from a COLA to a Class II permit, which may have created the confusion that allowed for the oversight. Mr. Mannens added that they had discussed having an enforcement agent inspect before Q&D began operations to ensure compliance with the applied-for permit.

Chairman Porta then asked for any further questions from the Commission. Seeing none, he inquired about comments from the public. With none forthcoming, Chairman Porta closed the public comment period for agenda item 4 and returned to the Commission for discussion. Commissioner Mudd disclosed her working and professional relationship with Q&D through the AGC but confirmed it would not affect her ability to vote on the agenda item. Chairman Porta acknowledged the disclosure and called for a motion.

**Motion:** Commissioner Katheryn Landreth moved to approve Findings of Fact and Conclusions of Law for NOAV No. 3080.

Commissioner Mudd asked for clarification on if the chance for mitigation was included in the Findings of Fact. Chairman Porta asked if this was to include offsetting cash payment in forms of a project. Commissioner Mudd agreed, specifying that it should be within the guidance of the Department, directing a question to Ms. Grover on if the Department had guidance for this. Ms. Grover detailed that a supplemental environmental project would add 25% to the total amount. Commissioner Goicoechea clarified that this would be a \$40,000 investment into the project as opposed to the \$30,000 fine. Mr. Tucker clarified that the raised amount would be \$37,500. Chairman Porta asked the Q&D representatives if Q&D would be agreeable to this additional amount that would be required to be invested into the community via a supplemental project. Mr. Linderman advised that they would be agreeable to it, but they were not sure how it would work, asking for clarification. Mr. Tucker explained that typically, it would be a project that improves air quality in some way, but explained there is some flexibility on what the project might be and that the Division and Q&D would need to coordinate to find something that would work. Chairman Porta asked Mr. Linderman if this was acceptable. Mr. Linderman answered that they would prefer the money go to a local project and not just sit in an account somewhere. Commissioner Goicoechea suggested working with NDF as there are a lot of projects in that area to help eliminate risk of fire and that this was a good opportunity to think outside the box and work with partners to get more done. Chairman Porta then asked Commissioner Landreth if she would be willing to amend her motion.

**Motion:** Commissioner Katheryn Landreth moved to approve the Findings of Fact and Conclusions of Law for NOAV No. 3080 with the amendment that the penalty be changed to \$37,500 in conjunction with a supplemental environmental project. Commissioner Goicoechea seconded. The motion passed unanimously.

**5) Regulatory Petition - LCB File No. R075-24 - Bureau of Air Quality Planning: (For Possible Action)** Mr. Tucker introduced Ken McIntyre as the new supervisor of the planning and data management branch within the air program. He explained that this branch provides support and works on their regulatory petitions and would be providing some background information. Mr. McIntyre introduced the petition, explaining that NDEP had proposed repealing NAC 445B.326, thereby removing the provision for affirmative defense for noncompliance with emission limitations during emergencies. Previously, NAC 445B.326 had allowed a source to assert an affirmative defense if specific conditions were met: notifying NDEP within two days, demonstrating that an emergency occurred, identifying the cause of the emergency, and operating the facility properly while taking all reasonable steps to minimize excess emissions. Mr. McIntyre further explained that federal regulations adopted by the EPA and published in the Federal Register on July 21, 2023, had required states to remove emergency affirmative defense provisions from their Title V operating permit programs. Revisions to the Title V programs had to be submitted to the EPA by August 21, 2024. Historically, affirmative defense had rarely been used by regulated facilities. During the May 23, 2024, public workshop, questions were raised about whether the removal of affirmative defense would affect only Title V permit holders. To ensure uniformity across permitting programs, the removal affected both Title V and non-Title V permits.

Mr. McIntyre then asked the Commission if there were any questions. Commissioner Mudd sought clarification on whether the changes would affect all classes of permits, from five down to one. Mr. McIntyre responded that it would impact all Class I and Class II permit programs, as those were currently the only permit programs in place. Commissioner Mudd further acknowledged that there was no choice due to federal supremacy and asked about any concerns regarding the cooperative relationship between NDEP and operators, and their current modes of communication. Mr. Tucker responded, stating that this change would not diminish NDEP's discretion in enforcement actions; it would simply eliminate the automatic invocation of affirmative defense. He noted that in his six years of involvement with enforcement, there had been no cases where a facility had invoked an affirmative defense. Mr. Tucker emphasized that NDEP always conducted enforcement conferences with companies, listened to their perspectives, and did not rely solely on reports. Chairman Porta asked about the distinction between a plant upset and an emergency situation, clarifying whether this included natural disasters. Mr. Tucker explained that aside from natural disasters, emergency situations could involve safety issues at a site, such as emergency generators powering equipment for safety purposes, and losing power resulting in their failure. Chairman Porta queried if these changes would affect the Commission's ability to allow emissions above limits. Mr. Tucker reassured that expectations for facilities would remain unchanged. Chairman Porta then confirmed that the Division would retain discretion in its interactions with facilities going forward. Seeing no further questions from the Commission, Chairman Porta invited comments from the public. With none forthcoming, he called for a motion.

**Motion:** Commission Goicoechea moved to approve LCB File No. R075-24. Commissioner KC seconded the motion, and it passed unanimously.

**6) Regulatory Petition - LCB File No. R076-24 - Bureau of Air Quality Planning: (For Possible Action)** Mr. Tucker introduced the petition, explaining that NDEP was proposing to repeal and amend several sections in NAC 445B. He stated that these changes had been identified during the review of state regulations directed by Governor Lombardo's executive order 2023-003, issued on January 12, 2023. NDEP aimed to repeal 445B.22057 and 445B.2206, which pertained to the decommissioned Reid Gardner Power Station, which has been decommissioned. Additionally, NDEP sought to remove provisions related to Class III and IV operating permits which were removed in 2016. Finally, NDEP proposed to eliminate requirements for monitoring systems installed before September 11, 1974, as no sources meeting those criteria existed anymore. Mr. Tucker further explained that NDEP proposed amendments to various sections of NAC to streamline regulations no

longer necessary or required. These amendments also removed regulations referring to sections that are being repealed in this petition. He clarified that these changes would not alter requirements for these types of sources in the state but would clarify any inconsistencies between regulations. Lastly, NDEP proposed to amend NAC 445B.3257, subsections 3, 4, and 5, allowing Class II sources to modify their Air Quality permits, such as renaming emissions units and equipment, without increasing emissions.

Mr. Tucker summarized the public workshop held on May 23, 2024, including questions about the impact of proposed amendments regarding temporary engines. He then invited questions from the Commission. Chairman Porta inquired whether Unit 4 at Reid Gardner was now shut down. Mr. Tucker confirmed it had been decommissioned and believed no other structures remained.

Seeing no further questions from the Commission, Chairman Porta opened the floor for public comment. Hearing none, he called for a motion.

**Motion:** Commissioner Landreth moved to approve LCB File No. R076-24. Commissioner KC seconded. The motion passed unanimously.

**7) Administrator's Briefing to the Commission: (Discussion)** Ms. Jennifer Carr, Administrator of NDEP, briefed the Commission on a personnel shift, explaining that Rob Kuczynski, who had been with the NDEP Mining program for some time, was retiring. Ms. Carr then briefed the Commission on NDEP's new Reno location, emphasizing that this move aimed to improve staff retention by reducing commute times and providing room for growth. She stated that approximately half of the Division staff from the Carson City office reside in Reno and would likely relocate to the new office, with the move expected sometime after September 1, 2024. Ms. Carr noted that NDEP had already received interest from former employees about returning due to this change. Additionally, industry members expressed enthusiasm about having a Reno office for easier access to assistance. Chairman Porta asked about the current vacancy rate. Ms. Carr explained that NDEP was still experiencing a 18% vacancy rate and had been facing challenges in recruiting engineers.

Ms. Carr continued, explaining that many regulations were currently undergoing LCB approval. She mentioned that approximately 17-18 petitions would need to be heard by the Commission in the following months. Ms. Carr anticipated that the September hearing would include four or more petitions, including a proposed regulation branch fee increase for Mining, which had budgetary implications requiring approval to be incorporated into the budget. Additionally, two Air Quality petitions and a Water Pollution Control regulation concerning holding tanks, driven by timing issues related to infrastructure development for new industrial and commercial projects, would be presented. Ms. Carr added that a regulation on battery and solar panel recycling might also be introduced. Looking ahead, Ms. Carr informed the Commission that Air Quality had three additional petitions related to statements in the Governor's executive order, emphasizing her staff's thorough review and commitment to necessary amendments. Chairman Porta asked for clarification about the petition process, inquiring whether the Division needed to submit those petitions to LCB for approval, after which the Commission could approve and proceed with making them permanent at any time in the future. Ms. Carr agreed and explained that each petition had a two-year time frame associated with it. She anticipated that the Division would be able to address the proposed agenda items over the course of the next four meetings, spanning approximately a year.

**8) Public Comment: (Discussion)** Chairman Porta asked for public comment. There was none.

**9) Adjournment: (Discussion)** Chairman Porta asked for a motion to adjourn.

**Motion:** Commissioner KC moved to adjourn. Commissioner Mudd seconded the motion. Meeting was adjourned at 10:02 am.

The audio recording of this meeting is available at [https://sec.nv.gov/uploads/mtg\\_0624/SEC-Hearing-audio\\_061824.mp3](https://sec.nv.gov/uploads/mtg_0624/SEC-Hearing-audio_061824.mp3).