



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

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

SEC Appeal Hearing

Notice Pursuant to NRS 233B.121 and NAC 445B.891

Date: March 27, 2009

To: Appellants:
Lorraine Griffin
Donald Mello
David C. Mathewson

Respondent:
Nevada Division of Environmental Protection Bureau of Air Pollution Control, Represented by William Frey, SDAG Office of the Attorney General

Intervener:
Bango Oil, LLC
Represented by Bryce C. Alstead, Holland & Hart LLP

From: John B. Walker, Executive Secretary

Subject: SEC Appeal for Revised Class II Air Quality Operating Permit AP2992-1473 - Bango Oil

A three-member panel of the State Environmental Commission (SEC) has scheduled a hearing on the above referenced appeal filed by appellants Lorraine Griffin, Donald Mello, and David C. Mathewson. Each appellant's appeal has been consolidated into one hearing pursuant to NAC 445B.8957.

The appeal hearing will be held at 10:30 a.m. on Thursday, April 09, 2009 in Carson City, Nevada. The hearing will be conducted at the Nevada State Library and Archives, 100 North Stewart Street, Carson City, Nevada - conference room A.

The SEC has jurisdiction to hear this appeal pursuant to NRS 445B.360, NRS 445B.210, and NAC 445B.875 through NAC 445B.899. The Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) sections involved in this appeal are: NRS 445B.100, NRS 445B.115, NRS 445B.300, NRS 459.520, NAC 444.8456, NAC 445B.22087, NAC 445B.287 through 445B.3497, and NAC 445B.3453 through 445B.3477.

Hearing Procedure: Practice before the SEC is governed by the attached regulations found at NAC 445B.875 et seq. The online version is located at: <http://www.leg.state.nv.us/NAC/NAC-445B.html#NAC445BSec875>. NRS 233B.121 to 233B.150 are also applicable.

About the Appeal: In December 2008, the Nevada Division of Environmental Protection (NDEP) issued a public notice announcing it had received an application for a revision to the above mentioned "Class II" Air Quality Operating Permit from Bango Oil, LLC. According to NDEP records, the permit revision allows new construction and revised operations at the Bango facility for processing up to 2,400 gallons/hour of used oil and recycled fuel oil. The permit also reconfigures the existing permit to reflect current operating conditions at the facility.

Following the issuance of the above referenced public notice, on January 28, 2009 NDEP held a public hearing on the permit revision in Fallon, Nevada. On February 13, 2009, NDEP subsequently approved the request for the revision of the Class II Air Quality Operating Permit. Then on February 19, 2009, NDEP issued a "Notice of Response to Comments" which contained specific information about the SEC's appeal process.

On February 20 and 27, 2009, respectively, the above named appellants submitted separate appeals to the SEC on the permit revision issued to Bango Oil. After receipt of the appeals, on March 06, 2009, the SEC sent a letter to Bango Oil advising the company of its opportunity to intervene in the appeal process.

On March 12, 2009, Bango Oil requested to intervene in the appeal, which was granted on March 25. On March 12, 2009, Bango Oil filed a motion to dismiss, a copy of which is attached.

Nature of the Appeal: The appeals allege several points as follows:

- NDEP's decision granting the permit to Bango Oil denies the citizens of Churchill County the right of due process regarding an alleged request by the Churchill County District Attorney to "condition issuance of the Permit" on the granting of an amended Special Use Permit by Churchill County to Bango Oil;
- NDEP's decision granting the permit was taken without regard to complaint(s) filed with Churchill County against Bango Oil concerning possible violations of the company's existing Special Use Permit issued by Churchill County;
- The used oil processed at the Bango facility includes used oil from California designated as hazardous waste;

- Odor is a nuisance that the NDEP has not resolved;
- People at the January 28, 2009 hearing testified to nuisance, perceived health issues, and quality of life issues that have not been addressed by NDEP; and
- The ambient air studies relied on by NDEP "may have been done" when the facility was at its lowest production or not operating at all and are insufficient data for granting the permit.

Related Information: Additional information about this appeal, including all of the documents referenced herein, is available on the SEC website at the following location: http://sec.nv.gov/main/bango09_appeal.htm

Attachments: SEC Rules of Practice (NAC 445B.875)
March 12, 2009 Motion to Dismiss Appeal

cc: Leo Drozdoff, NDEP Administrator
Colleen Cripps, NDEP Deputy Admin.
Mike Elges, NDEP/BAQP
Greg Remer, NDEP/BAPC
Larry Kennedy, NDEP/BAPC
Bill Frey, NDEP/SDAG
Rose Marie Reynolds, SEC/DAG