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July 27, 2009

John Walker, Executive Secretary
Nevada State Environmental Commission
901 South Stewart Street, Suite 4001
Carson City, NV 89701

REQUEST TO VACATE AND RESET THE TIME OF HEARING

**Appeals of Revised Class II Air Quality Operating Permit (Bango Oil LLC)
AP 2992-1473**

Please let this letter serve as a formal request to reschedule the Bango Oil appeal hearing, currently set for Tuesday, July 28, 2009, at 9:30a.m. *See* NAC 445B.894 (“Upon good cause shown, the Commission may vacate and reset the time of hearing”). Bango Oil requests this continuation due to the unavailability of a witness, Mr. Randy Soule.

When this hearing was originally scheduled, the undersigned notified Mr. John Walker that Mr. Soule would not be available for the new hearing date. Mr. Walker determined that Mr. Soule would not be necessary and that the hearing could proceed without Mr. Soule being present. At the end of the day on Thursday, July 23, 2009, counsel received from Mr. Walker and Ms. Rose Marie Reynolds an outline of the procedures for the upcoming hearing. That outline made it clear that rebuttal testimony could be quite extensive and could involve testimony rebutting all of the testimony received at the April 29 hearing. Moreover, the outline stated, “The appeal panel members may ask final questions of witnesses who have already testified. It is important to have the witnesses present at the July 28 hearing who testified at the April 29 hearing.”

Upon counsel’s receipt of this outline, the undersigned contacted Ms. Reynolds to let her know that Mr. Soule would not be present, and there was concern that that conflicted with the clear directive in the outline. That prompted a discussion of rebuttal testimony that might occur at the hearing and on which Mr. Soule’s testimony might be critical. In addition, counsel then sent an email attempting to clarify the scope of rebuttal testimony that might be introduced at the hearing to determine whether Mr. Soule’s testimony would be critical and whether a postponement would be necessary.

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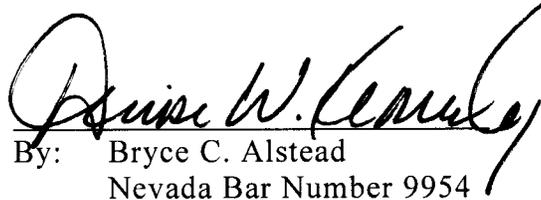
In those email exchanges, it became clear that appellants intend to introduce new evidence on odor issues at the facility. If such evidence is allowed, Bango will be prejudiced by not having Mr. Soule present to respond to such evidence. While Bango Oil recognizes that this postponement request comes only the day before the hearing, it was initially made on Friday, July 24, 2009, putting appellants on notice that such a request had become necessary. Moreover, until Bango Oil's receipt of the procedural outline and email exchanges with appellants, it had determined, in discussion with Mr. Walker, that no further testimony from Mr. Soule would be necessary. That does not now appear to be the case especially if appellants are permitted to introduce new evidence on their odor concerns.

NDEP has represented that it is agreeable to a continuance of the hearing. While appellants do not agree, they have not indicated that they will be prejudiced by a continuance.

Accordingly, to avoid prejudice to Bango Oil and for good cause shown, Bango Oil respectfully requests that the Commission vacate the hearing currently set for July 28, 2009, and reset at the Commission's earliest convenience.

Respectfully Submitted,

HOLLAND & HART LLP


By: Bryce C. Alstead
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¹ By an April 29, 2009, Order of the Commission, Ms. Kennedy has been admitted Pro Hac Vice for these proceedings.