

**NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
NEVADA ENVIRONMENTAL COMMISSION**

HEARING ARCHIVE

FOR THE HEARING OF August 1, 2003

HELD AT: Reno, Nevada

TYPE OF HEARING:

**REGULATORY
APPEAL
RECONSIDERATION xx
FIELD TRIP
ENFORCEMENT
VARIANCE**

RECORDS CONTAINED IN THIS FILE INCLUDE:

YES - AGENDA & PUBLIC NOTICE

YES - MINUTES OF THE HEARING

No - LISTING OF EXHIBITS

PUBLIC NOTICE

NEVADA STATE ENVIRONMENTAL COMMISSION PUBLIC HEARING AGENDA

As provided by Nevada Revised Statutes (NRS) Chapter 233B and Nevada Administrative Code (NAC), inclusive, a panel of the Nevada State Environmental Commission will conduct a teleconference hearing of the **Petition for Reconsideration** of Great Basin Mine Watch to the Commission's decision of June 10th, 2003 regarding the Gold Quarry water pollution control permit. **The teleconference will be on Friday August 1, 2003 at 10:00 am PST.** The public location to participate in teleconference will be provided at the Nevada Department of Wildlife, 1100 Valley Road, Reno, Nevada.

The public may access the telephone conference of the Commission by dialing **1-866-624-9391. Your participant pass code number is 994149 # when prompted.** Your entry into the phone conference will be signaled with an entrance tone. You do not need to identify yourself. Call between 10:00 a.m. and 10:05 a.m. The meeting will commence no later than 10:06 a.m. PST. There are a limited number of phone lines available for this meeting, so members of the public should contact the Executive Secretary, John Walker at 775-687-9308 prior to the teleconference for access to this teleconference. See below for further instructions.

This agenda has been posted at the Grant Sawyer State Office Building in Las Vegas, the Department of Wildlife and the Washoe County Library in Reno, the Department of Cultural Affairs (Division of Library and Archives), and the Division of Environmental Protection Offices in Carson City, Nevada.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

I. Telephone Protocols -- Discussion by Commission Legal Counsel

II. Call of Commission Appeal -- Panel Member Roster and Query of Participants

The Appeal Panel Roster will be called by the Executive Secretary

III. Reconsideration Request by Great Basin Mine Watch – Action Item

Great Basin Mine Watch, Tom Myers, Executive Director, 505 S. Arlington Street, Suite 110, Reno, Nevada 89510 requests reconsideration of the Commission's decision of July 8, 2003 to affirm the decision dated September 20, 2002 by the Nevada Division of Environmental Protection regarding the Water Pollution Control Permit NV0022268 for the Newmont Mining Corporation's Gold Quarry Mine.

The Nevada Division of Environmental Protection, Bureau of Water Pollution Control on September 20, 2002, issued a renewal of Water Pollution Control Permit NV0022268 to the Newmont Mining Corporation for continued dewatering of the Quarry Gold Mine located six

miles north of the town of Carlin. The Division asserts that the permit was issued in accordance with Nevada Administrative Code 445A.070 through 445A.447 for continued discharge of groundwater that is treated as required, to Maggie Creek and subsequently to the Humboldt River. The Division asserts that the discharge limitations are prescribed to meet water quality standards assigned to the lower reach of Maggie Creek and the Humboldt River.

The Commission on July 23, 2003 received a petition for reconsideration of the Commission's July 08, 2003 Finding of Fact, Conclusion of Law and Order regarding the appeal of September 30, 2002. The Commission will act upon the briefs filed in the matter of reconsideration. The Commission will not be receiving any new testimony in the matter of the reconsideration. The Commission will be responding to the provision of NAC 445B.899, subsection 5: "The commission will grant or deny a petition for reconsideration or rehearing with 10 days after the date of the filing of the petition. The denial of a petition may be on the record without a separate decision."

Participants in the call will not be bridged until the Chairperson/Initiator (the Commission's Executive Secretary) dials in and enters his pass code. When the Chairperson hangs up, the conference ends and any participants still on the line are disconnected. **If a caller experiences any line problems during their conference call they need to push *0*0 (star, zero, star, zero), sending a tone to a Sprint Representative.** Upon notification the Sprint Representative will come on the line to identify the Conference Bridge and problem. The Chairperson will ask the Sprint Representative to mute the participants so they do not hear the conversation between the Sprint Representative and the Chairperson.

IV. General Commission or Public Comment

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of the Executive Secretary, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851; by facsimile to (775) 687-5856; or by calling (775) 687-9310 no later than 5:00 p.m. July 29, 2003.

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STATE ENVIRONMENTAL COMMISSION
Great Basin Mine Watch Appeal
Gold Quarry Mine
August 1, 2003
Teleconference - NDOW
1100 Valley Road
Reno, Nevada
Reconsideration Verbatim Minutes

MEMBERS PRESENT:

Terry Crawforth, Chairman
Don Henderson, Member
Steve Robinson, Member

Staff Present:

Deputy Attorney General Susan Gray, Deputy Attorney General
John Walker - Executive Secretary
Marcia Manley - Recording Secretary

Others in Attendance:

See Attached Attendance Roster

John Walker: Hi. Who just joined the call?
Tom Olson: Tom Olson with the BLM.
John Walker: Thanks Tom. We're just waiting for other participants to join. My name is John Walker.

Tom Olson: Oh okay.
John Walker: Hi. Who just joined the call?
Allen Biaggi: This is Allen Biaggi and Leo Drozdoff.
John Walker: Hi Allen. We're waiting for others to join.
James Wadhams: This is James Wadhams and Deanne Rymarowicz from Wadhams and Akridge representing (inaudible).

John Walker: Thank you for joining the call.
Nicole Rinke: Hi.
John Walker: Who just joined?
Nicole Rinke: Nicole Rinke.
John Walker: Hi Nicole. Thank you for joining the call. We're still waiting.
Nicole Rinke: Okay great.
John Walker: Hi. Who just joined the call?
Russ Fields: Russ Fields and Jonathan Brown with Nevada Mining Association.
John Walker: We're just waiting for others. Thank you.
Scott Hardt: This is Scott Hardt. I've also joined.
John Walker: Thanks Scott.
Scott Hardt: And Paul Pettit with Newmont has joined.
John Walker: Hi. Who just joined the call?
Susan Gray: This is Susan Gray.

John Walker: Hi Susan.

Susan Gray: Hi John.

John Walker: We're still waiting.

Susan Gray: Okay.

Chairman Crawforth: Susan?

Susan Gray: Yes?

Chairman Crawforth: Terry Crawforth.

Susan Gray: Hi Terry. How are you doing?

Chairman Crawforth: I'm well. Thank you. We need a full panel, is that correct?

Susan Gray: Yes we do.

Chairman Crawforth: Okay. Mr. Henderson is roaming somewhere. We haven't heard from him yet. Steve Robinson and I are here.

Susan Gray: Is that the only person we're waiting for?

Chairman Crawforth: Yes. I think all the parties are here except for Don.

Susan Gray: Okay.

John Walker: Just so everyone knows Don is in Sacramento and is probably trying to call in from a cell phone. So, we're hoping for the best here. We're calling Don independently on his cell phone now.

Susan Gray: Okay.

Commissioner Henderson: Hi. This is Don.

Chairman Crawforth: It's about darn time. Where have you been?

Commissioner Henderson: I'm sorry. Time got away from me Terry. Can you hear me okay?

Chairman Crawforth: Yes. Ms. Gray?

Susan Gray: Yes?

Chairman Crawforth: I have on the agenda that you're supposed to first tell us of telephone protocols.

Susan Gray: Okay. I will start this off. My name is Susan Gray. I represent the State Environmental Commission. We've done this before, but I'll just go through the rules real quick. Before you speak, please identify yourself so everybody will know who is talking and we can get that in the record and try as much as possible not to speak over other people while they're talking. Commissioner Crawforth will try to direct it as much as possible. So go on from there Terry.

Chairman Crawforth: That's all we're going to get from you, huh?

Susan Gray: Yes.

Chairman Crawforth: Okay. If we could first have the, our new, what are you now?

John Walker: Executive Secretary.

Chairman Crawforth: Our new executive secretary call the roll on the three panel members?

John Walker: Hi everyone. This is John Walker. I am the new executive secretary. Let me say the two panel members are here: Steve and Terry. And Don you're on the line?

Commissioner Henderson: I am.

John Walker: So, we'll consider that the roll call.

Chairman Crawforth: Okay then I would also ask that we all go through the process to identify ourselves again and who we're with. Everybody, we'll start with the other two parties that are here.

Bill Frey: This is Bill Frey and I represent the Division of Environmental Protection.

Chairman Crawforth: Okay.

Marcia Manley: Marcia Manley. I'm with the Environmental Commission.
Chairman Crawford: Others for the State?
Allen Biaggi: This is Allen Biaggi and Leo Drozdoff with the Division of Environmental Protection.
Chairman Crawford: And others for Newmont?
Scott Hardt: This is Scott Hardt with Temkin, Wielega and Hardt, counsel for Newmont.
Jim Wadhams: This is Jim Wadhams and Deanne Rymarowicz with Wadhams and Akridge, counsel for Newmont.
Paul Pettit: This is Paul Pettit, environmental manager for Newmont.
Chairman Crawford: And Great Basin Mine Watch?
Nicole Rinke: Yes, this is Nicole Rinke for Great Basin Mine Watch.
Chairman Crawford: And do you have anybody else?
Nicole Rinke: No. They're all at a board meeting. They left me out by myself.
Chairman Crawford: Okay. Are there others on the call? Bureau of Land Management?
Tom Olson: Tom Olson, Bureau of Land Management.
Russ Fields: We have Russ Fields and Jonathan Brown with the Nevada Mining Association.
Chairman Crawford: Have we missed anybody? This is the time set for a reconsideration hearing for the matter of Gold Quarry and permits issued by the Department of, Division of Environmental Protection and findings of this panel on July 8th and a reconsideration of those findings. And I need to ask Susan, do we need to proceed with the, Great Basin first?
Susan Gray: Yes. That's the best way to go is let Great Basin make their presentation, which what's included in their brief here and then we'll (inaudible) the State and Newmont to respond to that and then at that point in the meeting (inaudible) make the decision as to whether or not they will consider modifying their earlier decision.
(Phone ringing noise interruption)
Chairman Crawford: Okay Ms. Rinke you have the floor or the line or whatever the case may be.
Nicole Rinke: Okay. Well I think that everything that we want to say is already in the petition for reconsideration so in the interest of keeping it brief, I'll just refer to the brief. And that's it.
Chairman Crawford: Has somebody new just joined us? Okay. That's pretty brief.
Nicole Rinke: Yes. It's all in there.
Chairman Crawford: I understand. I think it's very complete. Mr. Frey?
Bill Frey: Mr. Chairman. This is Bill Frey and as Ms. Rinke said our opposition I think is fully briefed to the petition. There was no new legal argument raised and I think you can make a decision on the briefs. Thank you.
Chairman Crawford: Mr. Hardt?
Scott Hardt: I will concur with Mr. Frey. I believe all of the issues are laid out in the brief. I was unable to identify any new issues or analyses in the petition for reconsideration that the Commission did not previously have an opportunity to consider and we'll rest on the briefs as well.
Chairman Crawford: Okay. Then nobody has any other comments or motions or objections to proceeding from here then? Hearing none, I would ask the panel members if they have any questions or comments. Don? Okay. Then I guess we'll

hold this in abeyance for a moment until we find Don. Ms. Gray? If we can't find Don, get hooked up with him, have we met our obligation for a hearing within 10 days if we postpone this for a couple of more days until we can get it back together here? I understand that all of our deliberations need to be in a public forum, publicly noticed and etc. and I'm assuming to take that action would require the cooperation of the parties?

Susan Gray:

Yes and I think Nicole's concern would probably be that she needs to file a petition for judicial review by I believe August 8th. So, if the parties would agree, we could agree to give her some additional time to do that after we get this reconsideration hearing going.

Chairman Crawford:

Well, we wouldn't have much choice but to do that.

Susan Gray:

Unless that's Don right there.

Commissioner Henderson:

I'm back.

Susan Gray:

Okay. There we go.

Chairman Crawford:

I don't know how much you heard Don, the Great Basin Mine Watch, the State, and Newmont have all, they all feel that the briefs that have been filed, which you should have, are complete and they don't have any other comments or motions. So we've brought it back to the panel for comments and questions.

Commissioner Henderson:

Okay. Very well.

Chairman Crawford:

Do you have any comments or questions?

Commissioner Henderson:

No. I've read all the briefs and I understand them fully. I congratulate each of the parties for doing such a good job.

Commissioner Robinson:

This is Steve Robinson. I've also read the briefs. I have no comments or questions.

Chairman Crawford:

Okay. Anybody have anything else for the good of the order? I'd be looking for a motion.

Commissioner Robinson:

This is Steve Robinson. I would move to affirm the decision of June 10 in Elko.

Commissioner Henderson:

Could you repeat that motion Steve?

Commissioner Robinson:

I would move to affirm the decision that the Commission made in Elko on June 10.

Commissioner Henderson:

Okay. I heard it.

Chairman Crawford:

Was that a second or a comment?

Commissioner Henderson:

I guess my question is, is that what we're asked to do, is to affirm the decision or to deny the reconsideration?

Chairman Crawford:

Counsel?

Susan Gray:

It's probably more appropriately stated as to deny the petition for reconsideration.

Commissioner Robinson:

All right. Let me try a restating of the motion then. I would move to deny the petition as submitted.

Commissioner Henderson:

I would second.

Chairman Crawford:

Further discussion?

Susan Gray:

This is Susan Gray. I would just request that somebody state the reasons for this motion, their findings and the basis for making the motion so I can have it in the record.

Commissioner Henderson: Steve I guess I can add to that if it's appropriate. I found no new information provided in this petition than what was submitted and considered at the original hearing.

Commissioner Robinson: This is Steve Robinson. I would agree with that and as everyone else did in these proceedings, we've all read the materials. So that's why I didn't restate it, Susan.

Susan Gray: I just needed something for the record.

Chairman Crawford: Hearing nothing further, I'll call for the vote. All in favor of the motion to deny the petition to reconsider our previous findings say aye.

Commissioner Henderson: Aye.

Commissioner Robinson: Aye.

Chairman Crawford: Aye. That's three aye's. No opposed? Any other comments for the good of the cause here? Then this hearing is closed and I thank you all for your earlier briefs and for your participation this morning and your patience.

The hearing adjourned at 10:25 a.m.