

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Fourth Session
March 7, 2007**

The Committee on Health and Human Services was called to order by Chair Sheila Leslie at 1:33 p.m., on Wednesday, March 7, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sheila Leslie, Chair
Assemblywoman Susan I. Gerhardt, Vice Chair
Assemblyman Bob L. Beers
Assemblyman Joseph P. (Joe) Hardy
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblywoman Bonnie Parnell
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Valerie E. Weber
Assemblywoman RoseMary Womack

STAFF MEMBERS PRESENT:

Sarah J. Lutter, Committee Policy Analyst
Katrina Zach, Committee Secretary
Olivia Lloyd, Committee Assistant



OTHERS PRESENT:

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas

Jim Endres, Executive Director, McDonald Carano Wilson LLP,
representing NorCal, Reno, Nevada

John Pappageorge, Attorney, Kummer Kaempfer Bonner Renshaw
Ferrario, representing Republic Services, Las Vegas, Nevada

Joe Johnson, representing Sierra Club, Reno, Nevada

Ed Allison, Attorney, Ed Allison, Inc., representing Waste Management of
Nevada, Reno

Greg Martinelli, Vice President and General Manager, Waste Management
of Nevada, Reno

David Fraser, Executive Director, Nevada League of Cities and
Municipalities, Carson City

Mary Henderson, Attorney, Mary Henderson & Associates, representing
the City of Fallon, Nevada

Randy Robison, Lobbyist, Capitol Strategies, representing the City of
Mesquite, Nevada

Eric Noack, Chief, Bureau of Waste Management, Nevada Division of
Environmental Protection, Reno

Chair Leslie:

The Committee will come to order, please. [Roll.] Before we hear the bill, we
have two Bill Draft Request (BDR) introductions.

BDR 38-870—Makes various changes to provisions relating to child abuse and
neglect. (Later introduced as [Assembly Bill 261](#).)

ASSEMBLYWOMAN MCCLAIN MOVED TO INTRODUCE
BDR 38-870.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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BDR 38-598—Makes various changes to provisions governing the abuse and neglect of children. (Later introduced as [Assembly Bill 263](#).)

ASSEMBLYWOMAN WEBER MOVED TO INTRODUCE BDR 38-598.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We will hear those bills on Wednesday, March 14, 2007. Today we only have one bill. Today we are hearing [Assembly Bill 113](#) from Committee member Ms. Pierce.

[Assembly Bill 113](#): Revises provisions governing municipal solid waste landfills. (BDR 40-925)

Chair Leslie:

We will begin with testimony from Ms. Pierce, and then we will take testimony from the public. First we will hear from proponents of the bill, and then we will take testimony from opponents. We will take testimony from anyone who is neutral last.

Assemblywoman Peggy Pierce, Clark County Assembly District No. 3:

[Assembly Bill 113](#) deals with making landfills safe so that the groundwater in Nevada is clean and drinkable for the next 100 years. [Assembly Bill 113](#) is identical to my [Assembly Bill No. 444 of the 73rd Session](#), which passed the Assembly unanimously, but did not make it out of the Senate.

[Assembly Bill 113](#)'s genesis was a radio report stating that Nevada was to become a big importer of solid municipal waste. This is not the nuclear stuff, but household garbage, the stuff you and I throw away everyday. The radio report also said Nevada does not require landfills to be lined. My bill will require that all new landfills, and all expansions of landfills that accept more 150 tons of waste per day, be lined with an engineered liner and have a leachate collection system. A leachate collection system pulls any liquid that pools on the lined bottom of the landfill so the waste does not eat through the liner.

[Assembly Bill 113](#) will not make Nevada landfills state-of-the-art. These regulations will only put Nevada in line with the very minimum regulations in other states. State-of-the-art landfills includes double-lining with a leachate collection system and a leak detection system between the liners. As the graph I have provided for you shows ([Exhibit C](#)), the small municipal solid waste

landfills will not be affected by A.B. 113. Only the large and mega-large landfills, those that take in 150 tons of waste a day, will be affected.

The idea of landfill liners was first suggested in the 1970s. Since that time, the idea of protecting groundwater from leaking landfills has gained popularity. The standard has become more stringent, from one liner to two liners to two liners with a leachate collection system and a leak detection system between the liners. We should not anticipate that the trend will change over the 100 years. Yes, I said 100 years. A typical landfill is filled over a period of 100 to 150 years. It is not responsible to suggest a business should get a grace period of 100 years from any legislation.

The Nevada Division of Environmental Protection (NDEP) has permitted some landfills without a liner because there was 100 to 300 feet of clay between the landfill and groundwater system. Is that enough? In the late 1970s, a chemical called methyl tertiary-butyl ether (MTBE) was added to gasoline in order for gasoline to burn cleaner. It seemed like a great idea, and it did work. In communities where MTBE was added to the gasoline, air quality improved. In 1995, high levels of MTBE were found in wells in Santa Monica, California. Unlike other components of gasoline, MTBE does not biodegrade and is highly water soluble. Methyl tertiary-butyl ether travels quickly through soil and gravel. Out-of-control MTBE can move up to 9 feet a day. Methyl tertiary-butyl ether is a possible human carcinogen. In 1999, MTBE was phased out, but that was not before 19 states found MTBE in their wells and water systems, with an estimated \$29 billion clean-up price.

What does this have to do with landfills? What if MTBE was placed in a landfill? With a 9 feet-a-day travel time, 1,000 feet of clay protects groundwater from MTBE for about 100 days. Methyl tertiary-butyl ether is no longer a threat, but with 2,300 new chemicals coming on the market each year, there will be another MTBE. It is not a matter of if, but when. What if that chemical is buried in a landfill before we know there is a problem? When that chemical shows up in our groundwater, we will require the owner to dig up the landfill.

Apex, the largest landfill in Nevada, is fully lined with a leachate collection system, and is part of a profitable national company. The notion that these regulations will be onerous to solid waste company is disproved as Apex is a profitable business that operates everyday in Clark County. Landfills are filled in cells. Once one cell is completely filled, they begin to fill another cell. The lining of the landfill goes cell-by-cell. The cost of lining a landfill is spread out over the life of a landfill, which is about 100 to 150 years.

Lining landfills is about protecting groundwater. There are plans to transfer water from the rural counties to Las Vegas. There were plans to transfer water from rural areas to Reno. These plans might not come to fruition, and water in the rural areas might not be transferred to Las Vegas and Reno. Still, water needs to be protected for people living in rural areas.

I do not believe we should allow Nevada to be treated as if it is a large chemical sponge in order to save a few dollars. I do not believe large national municipal solid waste companies should treat Nevada as if it is a wasteland. Be assured that Nevada will be an importer of large amounts of municipal waste. This will be a big business. We will be the landfill for California. Whatever the future holds for Nevada, groundwater needs to be protected for all Nevadans, both urban and rural. We need safe and clean water for people in the next century. I ask for your support of A.B. 113. Thank you for your consideration of this bill, and I will answer any questions from the Committee.

Assemblyman Stewart:

Are the landfills in Laughlin and Apex double-lined or single-lined?

Assemblywoman Pierce:

Apex and Laughlin are single-lined.

Assemblywoman Weber:

How many landfills are in Nevada?

Assemblywoman Pierce:

([Exhibit C](#)) is in your brown folder and shows Apex, the biggest landfill, is lined. Lockwood, the second biggest landfill, is not lined. Carson City is not lined and Laughlin is lined. Fallon, Pahrump, and Elko are not lined. The smaller landfills shown on ([Exhibit C](#)) will not be affected by A.B. 113. Crestline and Rawhide have not opened yet, but they are moving in that direction.

Assemblywoman McClain:

Where is Rawhide?

Assemblywoman Pierce:

Rawhide is southeast of Fallon.

Chair Leslie:

Will Crestline and Rawhide receive 150 tons or more of waste per day?

Assemblywoman Pierce:

Crestline and Rawhide will be enormous. They will be bringing municipal waste from California and who knows where else.

Chair Leslie:

If A.B. 113 passes, the owners of the landfills in Crestline and Rawhide will clearly know the rules.

Assemblywoman Pierce:

Absolutely. As I said, I do not like to think Nevada is a place where anything goes, and we do not care. I am perfectly okay with this as business. The rural areas need the business. People could improve their recycling habits, but there is a certain amount of garbage that has to be buried. If we are going to be the landfill for California, then we need to protect groundwater from the landfills. It needs to be a business in Nevada that we are always happy to have. Nevada is not a wasteland.

Assemblywoman Weber:

Does the State Environmental Commission license an out-of-state company coming to Nevada?

Assemblywoman Pierce:

NDEP licenses the companies. The State Environmental Commission adopts the regulations.

Assemblyman Stewart:

Are the landfills publicly or privately owned? Carson City, Fallon, Pahrump, and Elko are in financial straits. If the landfills are publicly owned, it would be a horrendous burden on them.

Assemblywoman Pierce:

Apex and Lockwood are privately owned. I am not sure about Carson City. I believe that Fallon is municipal. Like I said, the landfills are lined cell-by-cell. They fill it up until it is the size of a mountain, and then they start to fill a new cell. The cost of the lining is spread out over the life of the landfill. It is not an enormous up-front cost.

Chair Leslie:

Thank you. We will start with the proponents of A.B. 113.

Kyle Davis, Policy Director, Nevada Conservation League:

The Nevada Conservation League supports A.B. 113. We think it is good public policy on Nevada's natural resources. As Assemblywoman Pierce mentioned, groundwater is an important issue in Nevada right now. A lot of areas in Nevada depend on groundwater for drinking and farming. It is a good idea to protect those groundwater resources. The bill will not burden companies and municipal areas operating landfills as the provisions in A.B. 113 are not onerous. Assemblywoman Pierce pointed out there are many landfills in Nevada that are lined. In other states, landfills are lined to a greater degree than what A.B. 113 is calling for, and even with the liners in place, the landfills remain a profitable enterprise. Nevada's neighboring states have requirements of lined landfills, and they are still able to operate profitably. I do not think the provisions are burdensome on these companies.

Chair Leslie:

Thank you.

Jim Endres, representing NorCal:

I am testifying on behalf of NorCal, a new business in Nevada. NorCal will be operating and constructing a new landfill in Lincoln County. They support A.B. 113 largely because they believe it is a good practice from both an environmental and business standpoint. All landfills constructed by NorCal are lined, and they intend to comply with this law as well as other laws. NorCal feels the practice of lining landfills is the appropriate thing to do.

Chair Leslie:

That is very helpful. Do you think they will line the landfill whether or not we pass A.B. 113?

Jim Endres:

They intend on doing it whether or not A.B. 113 is passed.

Assemblyman Hardy:

Does NorCal do construction or just waste?

Jim Endres:

That is a different company altogether. NorCal only does solid waste.

Chair Leslie:

Thank you. Please convey our thanks to that company for coming to Nevada and doing things correctly from the beginning. We appreciate that.

Jim Endres:

I will do that. Thank you.

John Pappageorge, representing Republic Services:

I am representing Republic Services of Las Vegas, a solid waste company. As Ms. Pierce stated, our landfills are lined. We have one in Laughlin and one in Apex. In addition to the single-lined landfill at Apex, we have a double-lined landfill for chemical waste.

Chair Leslie:

Has Republic Services always used a liner?

John Pappageorge:

Yes.

Chair Leslie:

When did Republic Services start using a liner?

John Pappageorge:

I would say 1990 or 1991.

Chair Leslie:

It is fairly new.

John Pappageorge:

Yes.

Assemblyman Stewart:

Are there liners at the old landfill on Sunrise Mountain?

John Pappageorge:

No. I believe they are still in process of closing that landfill. It cost \$25 million. It was a difficult procedure to go through.

Assemblyman Stewart:

So whatever is in the landfill on Sunrise Mountain is seeping into the Las Vegas wash?

John Pappageorge:

That is a matter of opinion. It is high enough above the waterline that it will not seep into the water. I should not be addressing this. There have been many tests conducted over the years. It may be a problem or it may not be. Republic Services does not own that landfill.

Chair Leslie:

It is not appropriate for you to speculate, but it is a good point. Are there other questions? [There was no response.] Thank you.

Joe Johnson, representing Sierra Club:

The Sierra Club supports A.B. 113. We feel it is a good compromise. When I was a member of the State Environmental Commission, we took a tour of the landfill at Sunrise Mountain during its closure. A thunderstorm breeched its cap, and made the landfill subject to exposure. Sunrise Mountain is a reason to actively promote A.B. 113.

Chair Leslie:

Are there questions for Mr. Johnson? [There was no response.] Thank you. We will move to the opponents of A.B. 113.

Ed Allison, representing Waste Management of Nevada:

Waste Management operates in Reno, Sparks, Carson City, and North Lake Tahoe. They also operate the landfill in Lockwood. Greg Martinelli is with me today. He is a Reno native and a long-time employee of Waste Management of Nevada. Before I call on Mr. Martinelli, I would like to make a couple observations. First, without reservation, we agree that appropriate safeguards to assure landfills throughout Nevada meet the stringent standards established by federal, state, and local entities must not only be in place, but they have to be enforced and monitored continually. We have no problem with that. While we applaud Assemblywoman Pierce's apparent concern and agree with the ultimate goal of safe water supplies, we have specific objections to A.B. 113.

The landfill in Lockwood, since its inception some forty years ago, is and has been considered an ideal landfill, thanks to Mother Nature and appropriate management and monitoring. It meets and exceeds all government regulations. Although the landfill is heavily monitored, it is probably more monitored than any other landfill in Nevada. We have never had a violation. We are proud of the accomplishments, and we strongly believe that green is good for the communities. Our company spends a ton of money to support that idea. Finally, the reason the federal government and other states around the country have multiple means of handling landfills as opposed to just liners, is that common sense dictates alternatives are not only scientifically acceptable and superior, but also much less costly to the consumer. We all agree landfills must be safe now and in the future. I would ask Mr. Martinelli to explain why Lockwood is the safest, most monitored landfill in Nevada.

Greg Martinelli, Vice President and General Manager, Waste Management of Nevada:

I have a couple comments in rebuttal to Assemblywoman Pierce's statement that Nevada does not require landfills to be lined. That is not true. The landfills are required to be lined, but there are other methods. Nevada adopted the federal standard. There are other ways in which a facility can be lined.

Lockwood is an alternatively designed facility, which means Mother Nature has naturally lined the landfill.

I have provided a picture of the landfill ([Exhibit D](#)). The blue area is the landfill, and the yellow part is the base of the landfill. The various colors are rock, clay, and various types of subsurface material. There are six lysimeters, which are testing devices that detect leachate. We have four monitoring wells that are just below the groundwater. Before anything can get to the groundwater, the lysimeters will tell us whether or not there is any substance leaking through the landfill. Garbage and moisture produce leachate. Nevada's arid climate produces only seven or eight inches of rainfall per year. We do not have enough rainfall to produce leachate, which is why we do not find any when we do our lysimeter testing. We have been putting garbage in Lockwood since 1970, and it has never produced any leachate. Those of us who have lived in Nevada for many years know that this is a dry area. This is why the federal government established the standard that there are other methods to determine water quality. This is how we have treated the landfill in Lockwood.

I would like to make some comments on cost and profitability. There is no question that a landfill company can remain profitable, but most of Waste Management's business in northern Nevada is with local governmental agencies, with which we have franchise agreements. These costs are a pass-through to those communities. The other issue is that the costs for lining this facility would have to be recovered over the life cycle of the landfill. We estimate the expansion would cost \$180 to \$200 million. Once the final design of the facility is made, we will need to determine the cost, and then we will need to begin recovering the costs as soon as possible. The reason the cost is so high is that not only do you need to line the bottom of the landfill, but also the final cap cannot be any less permeable than what is in the liner, so we will have to place a liner on the top as well. That increases the costs.

We are not an un-environmental company, and we would not put ourselves in harm's way of creating an environmental liability, but if science says that the alternative design method is acceptable, then it makes no sense to spend the money if it is not necessary. I would ask the Committee to consider that when you are reflecting on [A.B. 113](#).

Chair Leslie:

Do you have a plan for expansion? If we enact [A.B. 113](#), will it cost \$180 million more?

Greg Martinelli:

Yes. We have about 20 years left. According to the Solid Waste Management Authority in Washoe County, the regulations require us to inform them of our intentions in 20 years. We are planning an expansion on the northern side of our landfill, which encompasses approximately 800 acres. When we figure our costs, we have to include the cost to line the entire facility. You have to start recovering those costs today. You cannot wait 80-100 years. You will need several million dollars to pay for post-closure costs.

Chair Leslie:

I am still having a hard time seeing \$180 million. Is that over the 100 years of the landfill?

Greg Martinelli:

Yes.

Assemblywoman McClain:

I am looking at your diagram ([Exhibit D](#)), and the only thing I understand is the first line. What does the rest mean?

Greg Martinelli:

It is a variety of volcanic rock, clay, and other subsurface materials. I know it is complicated.

Assemblywoman McClain:

These are words I have never seen before.

Greg Martinelli:

You have to do a significant amount of environmental work to determine what is underneath the subsurface materials. You have to drill wells, and do geological and hydrological testing to determine what is below the surface. Science may dictate that garbage cannot be placed in a certain area without a liner. It is a possibility, but we do not know. Our assumption is that the geology is going to be the same, but it may not. If the science tells us we have to put in a liner, obviously we are going to do that. We are not going to do anything that will put is in jeopardy.

Assemblywoman McClain:

Is ([Exhibit D](#)) telling us the landfill is safe without a liner?

Greg Martinelli:

Yes, but I did not make that determination. The State Environmental Commission made that determination.

Assemblywoman McClain:

I just wanted clarification because I have no idea what tertiary sediment is.

Greg Martinelli:

The diagram in ([Exhibit D](#)) shows what the existing landfill looks like. The area we want to expand should look similar to this, but we are not 100 percent sure.

Assemblywoman Pierce:

All landfills have to be capped at the end of the landfill's lifetime, and they all have closing costs. Is this correct?

Greg Martinelli:

That is correct. They all have to be capped.

Chair Leslie:

I am interested in your diagram. If the lysimeters detected leachate, how would Waste Management fix it?

Greg Martinelli:

Again, the federal standard establishes the limits. It is a cumbersome document, as you can imagine. They established certain levels, and if the amount of leachate is above those levels, then there are remediation steps that must be taken. In the worst case scenario, we would have to pump out groundwater, treat it, and inject it back into the earth.

Chair Leslie:

That would be very expensive, I would imagine.

Greg Martinelli:

That is why you do not want to go through the monitoring that Waste Management goes through.

Chair Leslie:

Will the area that Waste Management wants to expand have the same conditions as the existing landfill?

Greg Martinelli:

We have not done any environmental testing yet because we have not received the amendment to our special-use permit in Storey County.

Assemblyman Hardy:

Which side of the Truckee River will the expanded landfill be on?

Greg Martinelli:

It is on the south side.

Assemblywoman Hardy:

How close will the expanded landfill be to the Truckee River?

Greg Martinelli:

It will be half-a-mile closer than the existing landfill.

Assemblyman Hardy:

A mile is really half-a-mile closer.

Greg Martinelli:

The very outer edge of the expansion area is probably a mile from the existing location. The area where we would place waste is approximately half-a-mile away.

Assemblyman Hardy:

Do you have the diagram of the expanded landfill? Have you done soil samples?

Greg Martinelli:

We do not have that.

Assemblyman Stewart:

Are there any studies that compare Waste Management's natural liner to the artificial liners? Is the liner at Apex permanent? Or will it deteriorate and need to be replaced?

Greg Martinelli:

I do not know the answer to your first question. I am sure studies have been done; otherwise, they would have never established the alternative-design method. It took the federal government years to establish regulations. I am not sure where they did the testing.

Chair Leslie:

Are there other questions? [There is no response.] We have another opponent to A.B. 113.

David Fraser, Executive Director, Nevada League of Cities and Municipalities:

Several of our members will be affected by A.B. 113, and therefore we have some concerns. Mary Henderson, who represents the City of Fallon, is with me.

Chair Leslie:

Are you representing other people who are opposed to this bill?

David Fraser:

We have three members from Fallon, Pahrump, and Elko, as well as others who are not on the list. In this case, I am with a representative of the City of Fallon.

Chair Leslie:

I recognize that they are concerned, but if they are going to take a formal position against it, we would like to know.

David Fraser:

Okay. Thank you.

Mary Henderson, representing City of Fallon:

I am representing the City of Fallon, and we are here today to oppose A.B. 113 on behalf of Fallon. I would like to thank Assemblywoman Pierce for taking the time to discuss the bill. We respect her efforts in protecting Nevada's environment for us and future generations of Nevadans. For the record, the City of Fallon is also equally committed to the future of Nevada and the groundwater supplies.

Fallon relocated their municipal landfill in 1994 after an extensive search. They searched in concentric circles 15 to 18 miles outside of Fallon's city limits for an acceptable site that would not require lining. They found a site about 18 miles south of Fallon in a public, isolated basin. The tests indicate it was also an isolated hydrological basin. There are no residential properties near the basin; in fact, it is surrounded by public lands and the United States Navy's bombing range. The reason Fallon chose that site was because of its location, and that there would not be any private development surrounding it.

In 1997, Fallon acquired 230 acres in the basin after the city spent over \$1 million on exhaustive scientific and geological analysis. The city chose the site specifically because of the nature of the soil, clay, and water table at the basin. We drilled down over 700 feet, and did not find groundwater. Federal and state standards are 50 to 100 feet, and the site is in excess of 300 feet above the groundwater table. The landfill is completely lined with impermeable layers of clay, and it is not connected to another basin as far as we can tell.

The Nevada Department of Environmental Protection (NDEP) approved the landfill after a very lengthy process, and found that Fallon's landfill site complies with all state and federal regulations. We began operation of the landfill in 1998. Right now Fallon has only used approximately four acres of the

230 acres of the landfill. The landfill is taking 200 tons of waste per day, which will be impacted by A.B. 113. It is our belief that lining will not add much additional protection to the site because of the scientific process during the site search. The liner has very little public service purpose, and will only add to the cost of the landfill. Fallon is unique because it went through such great lengths to site the landfill.

Assemblywoman Parnell:

A few of us on the Committee on Health and Human Services were at the 1999 hearings on the Childhood Cancer Cluster of the Fallon area. I am curious about Fallon's relocation of the landfill in 1994. Did any testing or conversation during the relocation process cover the groundwater around the landfill? If it did, were those things considered in the relocation of the landfill?

Mary Henderson:

I am really hesitant to give a definitive answer on that. The City of Fallon started the site selection in 1994, and they opened the landfill in 1998. Fallon made this business decision based on the geology of moving the landfill. I do not know if there is any linkage, but I certainly will talk to the Mayor and City Council. I would not want to mislead this Committee.

Assemblywoman Gerhardt:

I am hearing contradictory things about whether or not toxic material can travel through clay. Ms. Pierce provided an example in which it could happen, and yet we are basing our decisions on the fact that we believe material cannot travel through clay.

Mary Henderson:

I am certainly not a scientist, but our decision is based on federal and state regulations, and I think they make those determinations. That is why we did the exhaustive testing. I certainly would not discount Assemblywoman Pierce's statements. It is an issue. The finding was that the clay is impermeable, but I think we need to do some more research on that.

Assemblyman Stewart:

Mr. Fraser, do the landfills in Carson City, Pahrump, and Elko have natural liners?

David Fraser:

I do not represent Carson City as they are a member of the Association of Counties. I would refer to the handout provided by Ms. Pierce.

Chair Leslie:

Do the landfills in Pahrump and Elko have natural liner similar to Fallon's?

Mary Henderson:

I believe Elko's landfill is unlined.

Chair Leslie:

Yes, but do they have the same natural barrier?

Mary Henderson:

I do not know.

Chair Leslie:

Maybe Mr. Fraser could find that out for us.

David Fraser:

You bet. I will be happy to do that.

Chair Leslie:

We have another speaker.

Randy Robison, representing City of Mesquite:

I would like to begin by offering my apologies to Ms. Pierce. I spoke with her about A.B. 113 a week ago, and she showed me the handout ([Exhibit C](#)) that she presented to the Committee today. Mesquite is much closer to the threshold than the chart on ([Exhibit C](#)) indicates. Although we are using strategies to give Mesquite's existing landfill a much longer, useful life, we will be there eventually. We went through a similar site selection process that Fallon went through. We drilled down 700 feet but we did not find groundwater. We have a similar natural barrier, which is one of the reasons why we sited the area. I do not have a report of the subsurface material in the landfill.

Chair Leslie:

No offense intended, but everybody has natural barriers. You are in southern Nevada, and certainly our situation in northern Nevada is quite different geologically. I would think Mesquite would be more like Apex than Lockwood. Does Mesquite have a natural barrier, and Apex does not? Or did Apex decide to line, and Mesquite did not? This is where I start to get very confused.

Randy Robison:

I can only guess, based on my limited understanding of water issues. I also represent the water district in southern Nevada. As I recall, Mesquite's landfill is in a different hydrological basin than Apex. When we sited the landfill, the

federal guidelines required drilling to find a place with a natural barrier. Based on my understanding, there are some differences between Mesquite and Apex. Mesquite is 50 miles away from Apex.

Assemblyman Hardy:

I think I have more dumps in my district than anyone else. Apex does two different things: they mine the gravel and they provide gravel for cement and concrete. I think there is an obvious difference between Mesquite and Apex. Apex is not drilling in the clay. There is a substantial geological difference between the two places.

Assemblywoman Parnell:

Which landfills are privately owned and which are public? I am assuming Fallon, Pahrump, Elko, and Mesquite are publicly owned. Is this correct? I would like to see a list of which landfills are privately owned, such as Republic Services and Lockwood. I would be surprised if there are people here representing private companies.

Randy Robison:

The landfill at Mesquite is a municipally owned facility.

Chair Leslie:

We will find that out, and we will have the policy analyst look into that. Are there any questions? [There is no response.] We have another speaker. Ms. Gerhardt, would you like to restate your question?

Assemblywoman Gerhardt:

We are getting two different answers to our question. Can toxins go through clay? Some are saying no, and Ms. Pierce has research that says it can.

Eric Noack, Chief, Bureau of Waste Management, Nevada Division of Environmental Protection (NDEP):

There is no perfect barrier, but site by site, there is an analysis done to meet a performance standard. In other words, if a landfill were to use a natural barrier, the natural barrier needs to meet the federal performance standard. In some cases, such as Lockwood, there is clay near the surface. In some areas, it would take 1,000 feet of drilling to get to the groundwater.

Chair Leslie:

A lot of us are not experts on this issue.

Assemblywoman Parnell:

Is a natural barrier, such as clay, as safe as using an artificial liner?

Eric Noack:

It has demonstrated to be so, but you have to keep monitoring it to make sure.

Assemblywoman Gerhardt:

If there is a site that does not have these natural barriers, would they be prohibited from using that site as a landfill?

Eric Noack:

Again, it depends on their proposal. A city or company proposes a design to NDEP that meets the performance standards. The performance standard is that the landfill does not transmit leachate to groundwater. NDEP reviews the analysis and the design, and we approve it if it meets the performance standards.

Assemblywoman Gerhardt:

If an area has no natural barriers, and lysimeters were put in, would that meet the performance standards?

Eric Noack:

A lysimeter collects soil moisture as opposed to a groundwater monitoring well. Lockwood, for instance, checks the groundwater for leachate.

Chair Leslie:

Do you have a description of the performance standards? I think this is what we are struggling with. We want to be protective, and we heard alternative-design mentioned several times today. What are the performance standards of alternative-design facilities? Are Nevada's standards less strict than other states? Is there a national standard that every state needs to comply with?

Eric Noack:

We have essentially adopted the federal standard.

Chair Leslie:

That is not my question. Do other states have stricter standards than Nevada? Do other states go beyond the federal standards?

Eric Noack:

Some states have stricter standards. I am not aware of every state.

Chair Leslie:

Some states decided the federal standards are not strict enough to protect the population. Why would other states have stricter standards?

Eric Noack:

They do that to be protective, to be safe.

Chair Leslie:

They do it to be extra cautious. Can you go back to Ms. Gerhardt's question?

Assemblywoman Gerhardt:

If a proposed site is on sand and a lysimeter was put in, would that meet the performance standards?

Eric Noack:

No, that site would probably require a liner. There are some sites that would need a liner, unless the site is able to produce an alternative design that would meet the performance standards. An alternative design can be as protective as a liner.

Assemblywoman Gerhardt:

The performance standards include geology and detecting devices.

Eric Noack:

Correct.

Assemblyman Hardy:

Did the federal performance standards ever fail?

Eric Noack:

There are a couple landfills with low levels of contaminants, but they are being monitored.

Assemblyman Hardy:

These landfills met all the standards and regulations and they still failed?

Eric Noack:

Correct. Sometimes there is vapor transport that can cause these low levels of contaminants to show up in groundwater. Sometimes it is not actually leachate.

Assemblyman Hardy:

Have liners in landfills failed?

Eric Noack:

Not that I am aware of.

Assemblyman Hardy:

My experience with liners is that liners leak. We spend lots of money fixing the leak. I am not enamored with the proposed safety of liners. How long have we had liners? What is the history of liners?

Eric Noack:

The use of liners is a new practice in Nevada.

Assemblyman Hardy:

Nevada does not have a track record with liners like we do with natural lining.

Eric Noack:

What we do have seems fine.

Assemblywoman Koivisto:

Because we live in a very arid, dry climate, do you consider the presence of groundwater?

Eric Noack:

Correct. When we site a landfill, the annual precipitation is the key to performance standards. Low annual precipitation and high annual evaporation create a dry climate.

Assemblywoman Womack:

If you fill up one cell before you fill up the next cell, is the new cell retested to make sure the ground underneath has the same barriers as the first cell? Is it done as a complete project?

Eric Noack:

It is done as a complete project in the beginning. We issue the permit for the lifetime of the site.

Assemblywoman Womack:

Since it takes a long time to fill up one cell, is it possible that as the project continues the base of the new cell could change?

Eric Noack:

That is possible. Yes.

Assemblyman Stewart:

Have you had experience with natural disasters? Perhaps landfills were destroyed by Hurricane Katrina. We do not have hurricanes in Nevada, but we

do have earthquakes. An earthquake could breach both natural liners and artificial liners.

Eric Noack:

I do not have experience with natural disasters. Criterion for an acceptable landfill is that a site must not be located near a seismic zone.

Assemblywoman Parnell:

We are hyper-sensitive to this issue because Nevada has conditions that differ from other states. There was above-ground atomic testing in Nevada. We read stories about arsenic and mercury levels. In order to protect Nevada and future generations, we need to be as conscientious as possible. Because of Nevada's history, there is sensitivity with this issue. We are not anti-landfills.

Chair Leslie:

We are sensitive because our constituents are sensitive. I appreciate those comments. We just want to make sure we are protecting our constituents, but we do not want to put garbage companies out of business. We are trying to figure out the truth, and how to best protect the public.

Assemblyman Hardy:

Are there any dumps that leaked? Have you found any other problems in the landfills?

Randy Robison:

We have regularly scheduled inspections. We have not found many landfills that are a threat to human health or the environment. For the record, I have a prepared statement ([Exhibit E](#)) that states NDEP is neutral on this issue.

Chair Leslie:

Is there anyone else that would like to testify? [There was no response.] Ms. Pierce, would you like to make a closing comment?

Assemblywoman Pierce:

Thank you very much. It has been fascinating listening, and I thank everyone for the testimony and the wonderful questions. From my understanding and research, there are 2,300 new chemicals introduced to the market every year. Once in awhile, regulators slip up and a chemical will reach groundwater unnoticed. I think caution is a good idea. I am suggesting a cautious approach, and that is why I brought A.B. 113 forward.

Chair Leslie:

I will close the hearing on A.B. 113. Is there any other business to come before the Committee? [There was no response.] This meeting is adjourned. [2:44 p.m.]

RESPECTFULLY SUBMITTED:

Katrina Zach
Committee Secretary

APPROVED BY:

Assemblywoman Sheila Leslie, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: March 7, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Committee on Health and Human Services	Agenda
	B	Committee on Health and Human Services	Attendance Roster
	C	Assemblywoman Peggy Pierce	Chart titled <i>Rate of Waste Disposal 2006</i>
	D	Greg Martinelli, Waste Management of Nevada	Chart titled <i>Central Landfill</i>
	E	Eric Noack, Nevada Division of Environmental Protection	Document titled <u><i>A.B. 113 Testimony</i></u>