

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-fourth Session
April 30, 2007**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 3:30 p.m. on Monday, April 30, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Mike McGinness, Vice Chair
Senator Mark E. Amodei
Senator Joseph J. Heck
Senator Bob Coffin
Senator Michael A. Schneider
Senator Maggie Carlton

GUEST LEGISLATORS PRESENT:

Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Susan E. Scholley, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Shirley Parks, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Nevada Conservation League
Delmo Andreozzi, Assistant City Manager, City of Elko
Tom Woodward, Senior Project Manager, Vector Engineering, Incorporated
Mary Henderson, City of Fallon
Randy Robison, City of Mesquite
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Ed Allison, Waste Management
Greg Martinelli, General Manager, Waste Management of Nevada

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Leo M. Drozdoff, P.E., Administrator, Division of Environmental Protection,
State Department of Conservation and Natural Resources
Mike Elges, Chief, Bureau of Air Pollution Control, Division of Environmental
Protection, State Department of Conservation and Natural Resources
Russell A. Fields, Nevada Mining Association
Joseph (Joe) Johnson, Toiyabe Chapter Sierra Club
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company

CHAIR RHOADS:

Assembly Bill (A.B.) 462 was referred to this Committee, but it really belongs in the Senate Committee on Government Affairs. We need to rerefer the bill to that committee.

ASSEMBLY BILL 462 (1st Reprint): Revises provisions relating to the sale or lease of real property by governmental entities. (BDR 26-901)

SUSAN SCHOLLEY:

This bill pertains to public land sales and is a cleanup, housekeeping bill from A.B. No. 312 of the 73rd session.

SENATOR CARLSON MOVED TO REREFER A.B. 462 TO THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RHOADS:

There is a request for action on Bill Draft Request (BDR) R-1484, commending the Division of Forestry of the Department of Conservation and Natural Resources for its distinguished 50 year service. It is a Senate concurrent resolution.

BILL DRAFT REQUEST R-1484: Commends the Division of Forestry of the State Department of Conservation and Natural Resources for its distinguished 50-year history of service. (Later introduced as Senate Concurrent Resolution 36.)

SENATOR COFFIN MOVED TO INTRODUCE BDR R-1484.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RHOADS:

We will begin the hearing on A.B. 113 with a presentation by Assemblywoman Peggy Pierce.

ASSEMBLY BILL 113: Revises provisions governing municipal solid waste landfills. (BDR 40-925)

ASSEMBLYWOMAN PEGGY PIERCE (Assembly District No. 3):

Assembly Bill 113 deals with landfills and how to make them safe so the groundwater of Nevada is clean and drinkable for the next 100 years. I have a prepared testimony that I will read ([Exhibit C](#)). The genesis of A.B. 113 was a report I heard on the radio saying that Nevada was about to become a big importer of solid municipal waste. This is not the nuclear stuff. It is household garbage, the stuff you and I throw away every day. The radio report also said Nevada does not require that landfills be lined. This is why I am bringing the issue forward.

I have provided you with a graph ([Exhibit D](#)) that shows the small municipal solid waste landfills will not be affected by A.B. 113. Only the large and the mega-large landfills, those that take in 150 tons of waste a day are affected. Lining landfills is about protecting groundwater. There are, right now, plans to transfer water from the rural counties to Las Vegas. There have been plans in the past to transfer water from rural areas for use in Reno. Maybe water in the rural areas will be left where it is, but it still needs to be protected as drinking water. Whatever the future holds for this State's groundwater, all of it needs to be protected, for any and all Nevadans, both urban and rural, who will want to drink safe, clean water into the next century.

CHAIR RHOADS:

Are there any questions? How many landfills with 150 tons of waste materials a day are here in Nevada that could have these liners installed?

ASSEMBLYWOMAN PIERCE:

The graph I provided shows 5 landfills over the 150 tons of waste a day.

CHAIR RHOADS:

What are they doing in other western states? Do any of the states mandate liners?

ASSEMBLYWOMAN PIERCE:

I have looked, but I do not have that information.

KYLE DAVIS (Nevada Conservation League):

We support this bill. Assemblywoman Pierce has outlined the arguments for the bill very well. If we are importing waste from other areas, then we must take due care to protect the groundwater. I am willing to work with the Committee if concerns need to be addressed.

DELMO ANDREOZZI (Assistant City Manager, City of Elko):

The City of Elko is in opposition to A.B. 113. The City of Elko is in the process of submitting a lateral expansion of its facility with an engineered liner that utilizes scientific data and geological conditions for the site by grading, placing and compacting a clay liner with a leachate collection system, without a geosynthetic liner. There may be some possible additional costs, but they can prevail and may not provide any more protection than what the City of Elko is proposing to do. Elko does fall into the category of the 150 tons of waste a day landfill. It will require a liner or not, based on the merits of the site's specific scientific data. Any landfill, regardless of size, is going to be a threat to area groundwater. It is either in a suitable location or it is not.

CHAIR RHOADS:

What kind of liner did you say Elko is installing?

MR. ANDREOZZI:

We are proposing to use a clay liner and a leachate collection system. It is an engineered liner using another method rather than a synthetic liner.

CHAIR RHOADS:

Which would cost more, the synthetic liner or the clay liner?

MR. ANDREOZZI:

The geosynthetic membrane would cost more. We already have the clay liner on site so that we can prepare each landfill cell for use.

SENATOR COFFIN:

I need some definition. Geosynthetic sounds like a flexible liner. Is this because they are located in a potential earthquake fault?

TOM WOODWARD (Senior Project Manager, Vector Engineering, Incorporated):

I am a professional engineer working for Vector Engineering from northern California. We have been employed by the City of Elko for many years. We have made a full study of all the landfills in Nevada. To answer your question, the synthetic liner does not account for any fault or movement of the subgrade.

SENATOR COFFIN:

Is one better than another if there were to be a shift of the earth?

MR. WOODWARD:

Not really. Typically when that sort of movement happens, it tears up everything, so whether it was a clay or geosynthetic liner would not matter. What we would like to see, rather than the law mandating the geomembrane in every case, is the law as it currently reads. Chapter 444.560 of the *Nevada Revised Statutes* (NRS), allows the Division of Environmental Protection (DEP), Department of Conservation and Natural Resources, to evaluate the condition and accept an engineering determination as to how each site and circumstance is appropriate. We could put together a technical documentation showing that we cannot produce leachate because the environmental conditions are so dry. There are other areas of Nevada that would certainly produce leachate.

SENATOR SCHNEIDER:

Basically, I have been told that all liners will eventually leak. The liners crack over time and soon there is leakage. I think we all understand what Assemblywoman Pierce is attempting. We do not want contaminants leaking into our groundwater. Why would we not want to consider this bill?

MR. WOODWARD:

We are placing dry municipal waste that is compacted in place. There is very little precipitation in Elko, but in other areas of Nevada, there is more humidity. Our point is the environmental conditions and geological conditions working together mandate whether or not there should be a liner. An engineering modeling or study should be done. Virtually all states have regulations about a liner system. Waste tonnage is not the criteria for the regulation. They base the regulations on engineering assessments. Is the leachate going to produce or not? They are asking for a technical evaluation of each specific site. In the event a regulation is needed, then it is required.

SENATOR HECK:

Do you have any idea of the amount of municipal waste containing toxic, hazardous chemicals? We are not dumping hazardous chemicals into municipal waste fields. Is that correct?

MR. ANDREOZZI:

We operate a class 1 landfill, and we are not permitted to accept any hazardous materials, only materials that qualify under our permit. Basically, household waste and construction demolition type materials, but not hazardous waste.

SENATOR SCHNEIDER:

How do you know what is being put into the dumpster? I could clean out my garage and toss out some chemicals such as paint or acid cleaners into the dumpster. How would you know I did this?

MR. ANDREOZZI:

Household hazardous waste is exempted under current law. We are more concerned about major amounts of hazardous waste. This is not permitted in the landfill.

SENATOR AMODEI:

Do you have monitoring requirements for groundwater? Is there a standard requirement?

MR. ANDREOZZI:

The City of Elko does have a groundwater monitoring well on-site. We went through a very extensive tier-two permit testing for gas monitoring recently.

This is part of the air permit at the landfill. We are able to demonstrate the City of Elko is essentially producing no methane gas that would require capture.

SENATOR AMODEI:
How about groundwater?

MR. ANDREOZZI:
We have not picked up anything of concern for our constituents at this time.

SENATOR AMODEI:
Do you have an ongoing program to monitor groundwater as it may be affected by the operation of the facility? So far, your facility is doing well.

MR. ANDREOZZI:
That is correct. We have had no negatives so far. We have been a permitted facility since 1995.

MARY HENDERSON (City of Fallon):
On behalf of the City of Fallon, I oppose A.B. 113. We certainly respect Assemblywoman Pierce's efforts and her commitment to the environment. The City of Fallon shares her commitment to protecting Nevada's groundwater. We operate a municipal landfill approximately 18 miles south of Fallon in Churchill County. It is in an isolated basin with negative levels of groundwater recharge. In 1997 the City of Fallon made this land selection for the landfill after extensive, exhaustive and expensive scientific and geologic analysis and testing. It has cost the City of Fallon in excess of \$1 million. We are not a large city and so this is quite an expenditure of funds to make sure we have the right location. The site was chosen because there is no need of a liner in the landfill. The conditions of the basin are near perfect for a landfill. The DEP permitted the landfill after a very lengthy process that found we were in compliance with all Nevada and federal laws and regulations. We began operations there in 1998. We are about 100 acres and we are currently taking in about 200 tons of waste a day. It is our position that a liner would add no protection because of the site location, the geology and scientific findings. It would only add to the cost of the landfill. It will provide no meaningful public purpose.

RANDY ROBISON (City of Mesquite):
The City of Mesquite would echo the testimony of the City of Fallon. We have been through an extensive site location process for our landfill. We had a

significant expense, as well. Our city continues to grow. Our landfill is moving quickly to 150 tons a day.

SENATOR COFFIN:

I have a concern with where the Mesquite landfill is located. I want to know where you are in town. You are close to a tributary for Lake Mead. How far is the landfill from this area and how far above this area? Would the Virgin River be affected by any leakage?

MR. ROBISON:

Our landfill is located about three miles north of the Virgin River. I am not familiar enough with the hydrology to know how the water flows.

SENATOR COFFIN:

One of the reasons Las Vegas moved the landfill from Sunrise Mountain was because it was about three miles away from the Las Vegas Wash. You must be careful how close you are to the Virgin River, because leakage could then endanger Lake Mead. How is your landfill engineered? There could be cause for concern.

MR. ROBISON:

I am not familiar with the history of the engineering process of the site.

J. DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):

In support of our members, we want the record to reflect our opposition of this bill.

SENATOR SCHNEIDER:

What would be the cost if you were able to line these landfills with some sort of manufactured membrane as opposed to clay? What would be the cost for a city or county?

MR. FRASER:

I do not have that information.

ASSEMBLYWOMAN PIERCE:

The cost is \$15,000 an acre.

SENATOR SCHNEIDER:

How many approximate acres are there to these landfills?

ASSEMBLYWOMAN PIERCE:

As an example, Lockwood, which is located in Reno, is currently 550 acres and future expansion is planned to 800 acres total.

ED ALLISON (Waste Management):

I represent Waste Management which owns and operates Reno Disposal, Sparks Sanitation, Capitol Sanitation in Carson City, Independent Sanitation at North Lake Tahoe and operates the so-called "Lockwood" landfill several miles north and east of Sparks. With me today is Greg Martinelli who is General Manager of the aforementioned companies in northern Nevada. Before Mr. Martinelli speaks, I would like to make several observations ([Exhibit E](#)).

GREG MARTINELLI (General Manager, Waste Management of Nevada):

The federal government did an exhaustive study of the permitting process for landfills and that process was adopted by Nevada. Lockwood is currently permitted under an alternative design scenario. I have provided you with a cross section of a landfill ([Exhibit F](#)). The arid climate is one reason we have the alternative design at Lockwood. There is an extensive monitoring program. I have provided a handout, "Talking Points on A.B. 113," to outline Waste Management's position ([Exhibit G](#)). If we could find someone to do a liner for our facility for \$15,000 an acre, we would take them up on it. It costs \$105,000 an acre to line the landfill. There are installation fees as well as the liner's cost. It is a significant amount of money. Current regulations call for a top liner for the landfill, which adds to the expense.

SENATOR COFFIN:

I can see why this is a good site. The substrata are absorbent types of rock. Sandstone and soapstone tend to hold the moisture, should there be any. This bill addresses only municipal solid waste landfills. Does this mean municipally operated? Could there be any other type of landfills out there?

MR. MARTINELLI:

This is for only municipal solid waste. They are class 1 facilities. It is not hazardous waste.

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SENATOR COFFIN:

At Lockwood I would imagine you get waste from out of state.

MR. MARTINELLI:

We receive 1,500 tons of waste a day from the Sierra Nevada Range.

SENATOR COFFIN:

I thought we had more landfills, two or three other massive landfills, some of them in old open-pit mining areas. Am I correct?

MR. MARTINELLI:

I am not aware of any other large landfills that have been permitted. There is a site being considered in Rawhide. I do not know if it has been permitted as yet.

LEO M. DROZDOFF, P.E., (Administrator, Division of Environmental Protection,
State Department of Conservation and Natural Resources):

We have permitted what is referred to as the Rawhide facility. It is not in operation.

SENATOR COFFIN:

How large is this facility? Where is it located? Is it going to be rail delivery?

MR. DROZDOFF:

It is south of Fallon about 80 miles. It could be truck or rail delivery at this point.

SENATOR COFFIN:

How do you control what goes into the landfill facilities?

MR. DROZDOFF:

There are certain operating plans that are filed with the agency. The plans are evaluated and inspectors do a follow-up to spot check landfill facility records.

SENATOR COFFIN:

You could get all sorts of waste materials. It may not always be household waste. Could you receive industrial waste? It might contain enough liquid in itself to be leachate. We are all concerned about the long-term effects of this issue.

MR. DROZDOFF:

I agree. The communities do a great job enforcing their local ordinances. I cannot say there is no possibility that toxins could get into the landfill facility.

SENATOR COFFIN:

Did you support A.B. 113 in the Assembly? What is your professional opinion as the DEP? If we do not adopt the bill, can we be sure that the water supply will be safe whether we pass the bill or not?

MR. DROZDOFF:

The agency is officially neutral on the bill. We have completed no fiscal note. It does not affect us. It basically establishes a different standard for our use. We have been cooperative with Assemblywoman Pierce. It is fair to say the synthetic liner would provide an extra layer of comfort; however, if we thought there was a current landfill problem, we would propose something right away. We have a standard in place that allows the agency to do a rigorous analysis and this can yield the fact that a synthetic liner has to be in place. In other cases it does not. We implement our authority appropriately, and I do not view groundwater being in jeopardy.

SENATOR COFFIN:

Do you monitor wells? How do you do your inspections? Can you verify there is no leachate occurring or that a certain amount is under the solid waste? Do you examine the well logs?

MR. DROZDOFF:

The monitoring results come to us quarterly. We do go into the field and inspect as well. We look at the site and review records for accuracy. We ask if there are any obvious issues that pertain to waste materials that should not be there. We do spend time monitoring to make sure there is no leachate occurring. We do examine the well logs.

ASSEMBLYWOMAN PIERCE:

Mr. Martinelli is correct. I misread my notes. It is \$105,000 to \$115,000 per acre and the cost is over a period of time.

CHAIR RHOADS:

We will close the hearing on A.B. 113. We will open the hearing on A.B. 67.

ASSEMBLY BILL 67 (1st Reprint): Revises provisions governing the control of air pollution. (BDR 40-568)

MR. DROZDOFF:

I have with me today Colleen Cripps, Ph.D., Deputy Administrator, Air and Waste Programs and Mike Elges, Chief, Bureau of Air Pollution Control both with the DEP. We are here to discuss and answer any questions you may have on the DEP bill, A.B. 67. I have prepared my testimony and I will refer to it ([Exhibit H](#)). The purpose of the bill is twofold. It establishes a new funding mechanism for the Division's air-quality program. The second section of this bill proposes to increase the maximum amount the State Environmental Commission may establish in an administrative fine from \$500 to \$2,000.

Before I wrap up, I wanted to go over the new mock-up that you have been given ([Exhibit I](#)). This is a proposed amendment 3859 to A.B. 67. We have discussed these proposed changes with the environmental community such as the Sierra Club, Nevada Conservation League and the power-producing industries and it is my understanding they are satisfied with the language.

SENATOR MCGINNESS:

Help me with the process. The State was allocated mercury points and we are now able to sell some to various industries that use them. Is this how it works?

MIKE ELGES (Chief, Bureau of Air Pollution Control, Division of Environmental Protection, State Department of Conservation and Natural Resources):

This program was developed with a budget for Nevada. It is designed in two parts. The first phase essentially works through the calendar year of 2018. It allocates 570 mercury allowances to Nevada. After 2018 the number drops to about 224 mercury allowances. We structured our program to ensure the existing utilities today do not have to go out to the open market, the "national pool," and buy mercury allocations. We have set aside some of the mercury budget allocated for Nevada to go to the existing utilities. The second part of the program deals with growth. A portion of the budget is essentially set into another account that deals with allowances that would be distributed with new growth. The most important part is an incentive program that rewards companies, whether existing or new, for their mercury emission reduction. They get a return value equal to the amount that is reduced. This is an overview of the mechanics behind the distribution of mercury allocation as far as the industry is concerned. We are optimistic there will be a balance of mercury that

does not have to be distributed within those three different sectors. This bill addresses a balance of the budget for Nevada.

SENATOR MCGINNESS:

My concern is that we will get to the point where we have no new construction of power plants or refineries. Will we eventually have to rely on someone else?

MR. ELGES:

The way we have designed the program is to optimize what is provided in the budget. If we were to fall under the federal program the way it is designed by default, we would have only 3 percent of the total state budget that would go to new construction. We know this is not enough to accommodate the new construction. We are trying to decide what to do to get the mercury out of the environment, while at the same time we are trying to not prevent new growth and development. This program is designed to balance all these issues.

SENATOR HECK:

What is the purpose of retiring the credits as opposed to keeping them in a bank or selling them?

MR. DROZDOFF:

For a variety of reasons, Nevada received a fair share of the mercury budget. We want to make sure the industry we serve is sufficiently cared for. We have a good understanding of who is in need, but we also want to ensure the environment is benefiting. This is the logic behind retiring the mercury credits. We can do both. We can provide for our economic needs with a leftover budget that allows the state to be good stewards of the environment and retire some in the industry. Hopefully, we can make a recognizable reduction in mercury emissions.

SENATOR HECK:

You are confident that you can predict what will happen between now and 2018.

MR. ELGES:

We are reviewing in detail what the industry is emitting and projecting the possible mercury reductions. The new projects are thoroughly scrutinized. We have a high level of confidence about emissions with the newer power plants.

This budget is set on an annual basis. It is not a one-shot deal, but it will be evaluated annually.

SENATOR COFFIN:

Mercury scares all of us. It is an insidious chemical. We are now discovering how dangerous it is to humans and the environment. Do you feel conflicted at times? You said you want to help the industry you serve, but you are charged to protect the environment for the people. Do we have a problem?

MR. DROZDOFF:

It is just the opposite. We have our marching orders. We are charged to protect the environment and public health with regard to the industries we regulate. We have an excellent record in the manner of how we regulate these varied issues. I like to call it fair but firm.

SENATOR COFFIN:

You have raised the penalty fees from \$500 to \$2,000. Is this still at the level of doing business?

MR. DROZDOFF:

It is important to note the vast majority of people we regulate play by the rules and do not need to pay a fine, whether it is \$500 or \$2,000. The point in the raise for penalty fees is to make it an economic disincentive for those who are breaking the rules. The fining capability as well as other regulatory fining accomplishes this goal.

RUSSELL A. FIELDS (Nevada Mining Association):

I am here today in support of A.B. 67. I have spoken at some length with the administrator of the DEP, Leo Drozdoff, about the bill. I have reviewed the amendment to the original bill passed by the Assembly and I have seen the mock-up that clarified the intent of some of the language. The Nevada Mining Association believes this is good public policy. We have no problem with the increased penalty fee.

JOSEPH (JOE) JOHNSON (Toiyabe Chapter Sierra Club):

We have reviewed the original Assembly bill and the mock-up. We want to go on record that the Sierra Club is opposed to a cap and trade program. Regarding mercury, the state may have legal challenges to the federal rule. There are

legalities between federal and state mercury credits programs. We believe the federal program is not acceptable. Therefore, we will support this bill.

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company):
I want to state that Nevada Power Company and Sierra Pacific Power Company support A.B. 67. The sale and trading of pollution credits and allowances is not a new concept, but the state has never before been allowed to manage these accounts. They are administered at the federal level. This is not the case under adopted Nevada Clean Air Mercury Rule which was spoken of earlier by the DEP. At the present time, the Division's revenue authority is limited to the collection of permit fees and receipt of gifts of federal grants. Extending their authority to allow the sale of pollution emissions allocations or credits would provide the opportunity to fund the implementation of the Nevada Clean Air Mercury Rule. We did work with DEP on the original proposal and the bill's amended language.

CHAIR RHOADS:

We will close the hearing on A.B. 67. There being no other business before us today, we will adjourn at 4:55 p.m.

RESPECTFULLY SUBMITTED:

Shirley Parks,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____