

Nevada State Dairy Commission Public Meeting
3/19/2014

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STATE OF NEVADA

DEPARTMENT OF AGRICULTURE

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NOTICE OF PUBLIC MEETING
OF THE NEVADA DAIRY COMMISSION

TRANSCRIPT OF PROCEEDINGS

March 19, 2014

Sparks, Nevada

Reported by: Karen Bryson
Certified Court Reporter #120

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APPEARANCES

CHRISTOPHER COOK, Chairman
JOHN COLLIER, Commission Member
TROY CROWTHER, Commission Member (via videoconference)
THOMAS ORZECH, Commission Secretary

ALSO PRESENT:

DENNIS L. BELCOURT, Deputy Attorney General
KATHY EASLY
KIMBERLY WHITFIELD (via videoconference)
RON MARTIN (via videoconference)

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EXHIBITS:

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Exhibit 1

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1 Would you proceed to the first agenda item,
2 please.

3 MR. ORZECH: First agenda item is public
4 comments and discussion.

5 MR. COOK: Okay. Do we have anybody from the
6 public that would like to make a comment or start a
7 discussion?

8 Seeing none, let's move on to the next one,
9 please.

10 MR. ORZECH: Agenda item number two for
11 possible action is a new license application for
12 processing distributor for Blue Bell Creameries,
13 Incorporated, 6957 Speedway Boulevard, Suite 101, in Las
14 Vegas, Nevada, 89115, William Rankin, the CFO.

15 This applicant seeks a license to distribute
16 ice cream, sherbet, novelties, and frozen yogurt in the
17 northern and southern marketing areas. Temporary approval
18 was granted on February 5th, 2014.

19 The applicant's prices and costs have been
20 reviewed by members of the Dairy Commission staff, and are
21 in compliance with this agency's laws and regulations.

22 The applicant will be responsible for the
23 assessments.

24 MR. COOK: Thank you.

25 Do we have anybody present representing this

1 applicant?

2 Is there anything -- apparently not.

3 Is there anything that the staff can add to
4 this or any details that need to be --

5 MR. ORZECH: This company, they're out of
6 Texas, and this is -- this is a brand new -- brand new
7 label. They're not -- they're not going to be
8 manufacturing here but they will be -- they opened up a
9 distribution warehouse out on Speedway Boulevard outside
10 towards the --

11 MR. COOK: Out by the racetrack?

12 MR. ORZECH: Out by the racetrack, yeah.

13 So this is going to be a new -- a new label for
14 the state. And apparently -- I've talked with -- there's
15 been several people that have -- that live, I guess, that
16 are from the Midwest and they're familiar with this brand,
17 and they say it's a pretty good brand, pretty good ice
18 cream.

19 MR. COOK: Okay.

20 MR. ORZECH: This is not Blue Bunny.

21 MR. COLLIER: Okay. All right.

22 MR. ORZECH: Blue Bell.

23 MR. COOK: Blue Bell.

24 MR. ORZECH: Blue Bell.

25 MR. COOK: And never been sold in the state

1 before.

2 MR. ORZECH: No.

3 MR. CROWTHER: Is this -- Tom, is this in the
4 stores now here?

5 MR. ORZECH: It may well be because --

6 MR. CROWTHER: I think it is. In fact, I think
7 I had some last night.

8 MR. ORZECH: Oh, did you?

9 MR. COOK: How was it?

10 MR. CROWTHER: It was good.

11 MR. ORZECH: They -- they -- talking with the
12 fellows from Texas, they said they take a lot of pride in
13 their product. And, yeah, because that's what the
14 temporary was for because they needed to get -- it was one
15 of those -- the situation again where they came into the
16 state and then found out that they needed a license to
17 distribute here. And so that's what the temporary came
18 down to quickly on that.

19 MR. COOK: And at this point the manufacturing
20 is taking place in Texas?

21 MR. ORZECH: Yes. Yes.

22 MR. COOK: Okay.

23 MR. ORZECH: Yeah.

24 Which store, by the way, did you find it in
25 down there?

1 MR. CROWTHER: I believe it was -- my wife got
2 it. I think it was Albertsons.

3 MR. MARTIN: It's in Albertsons, Wal-Mart.

4 MR. CROWTHER: Okay. Louder so they can --

5 MR. MARTIN: It's in Albertsons and Wal-Mart.
6 They were doing the resets last couple of weeks putting it
7 in the stores.

8 MR. COOK: Okay. Would you identify yourself
9 for the record, sir?

10 MR. MARTIN: Ron Martin, Anderson Dairy.

11 MR. COOK: Okay. Thank you, Mr. Martin.

12 MR. CROWTHER: My question is since it's
13 already in the stores, are there past assessments that
14 need to be -- that we need to get? And are they current
15 in those?

16 MR. ORZECH: They'll be -- once they -- they
17 naturally can't pay the assessments until they get the
18 license, so they'll be paying --

19 MR. CROWTHER: Okay.

20 MR. ORZECH: -- from the day they -- they first
21 started distributing here, yeah.

22 MR. COOK: Then there was no problem once they
23 realized they were out of compliance because they didn't
24 have a license?

25 MR. ORZECH: Right.

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1 MR. COOK: They came in line --

2 MR. ORZECH: Yes --

3 MR. COOK: -- very --

4 MR. ORZECH: Yes.

5 MR. COOK: -- quickly?

6 MR. ORZECH: Yes. Oh, yes. Yeah.

7 MR. COOK: Okay. All right.

8 Are there any other comments or questions?

9 Seeing none --

10 MR. CROWTHER: None.

11 MR. COOK: -- entertain a motion?

12 MR. COLLIER: Mr. Chairman, I move that we
13 accept the application for a processing distributorship
14 from the Blue Berry Creameries located at 6957 Speedway
15 Boulevard in Las Vegas, Nevada, Mr. William Rankin, the
16 CFO.

17 This applicant seeks to distribute ice cream,
18 sherbet, novelties, frozen yogurt in both the northern and
19 southern marketing areas.

20 MR. COOK: Let me make a correction to that.
21 You identified it as Blue Berry.

22 MR. ORZECH: I'm sorry, Blue Bell. I
23 apologize.

24 MR. COOK: Okay.

25 MR. CROWTHER: I'll second it with that

1 correction.

2 MR. COOK: Okay. Having a second -- a motion
3 and a second and no dissenting votes, the motion carries,
4 and the license is granted.

5 MR. ORZECH: Agenda item number three for
6 possible action is a license amendment application. It's
7 a peddler distributor amendment for Core-Mark
8 International, 3950 West Harmon Ave., Las Vegas, Nevada,
9 89103, Jenifer Noble, controller.

10 The applicant seeks a license amendment to
11 distribute the Meadow Gold label of fluid milk in the
12 southern Nevada marketing area. Temporary approval was
13 granted on February 13th, 2014.

14 The applicant's prices and costs have been
15 reviewed by members of the Dairy Commission staff, and are
16 in compliance with this agency's laws and regulations.

17 This applicant will be responsible for the
18 assessments.

19 MR. COOK: Okay. And I'm assuming there's
20 nobody representing Core-Mark present? So is there
21 anything you can add to this?

22 MR. ORZECH: The only -- the only thing was
23 they -- Core-Mark has several licenses with us, depending
24 on their distribution warehouses. And this -- this one
25 here, the Las Vegas license, did not have Meadow Gold

1 products at all. And they were asked by one of their
2 customers to carry that, the TruMoo Meadow Gold product.
3 And so they needed to add Meadow Gold to their license.

4 MR. COOK: Pretty straightforward. Just an
5 addition?

6 MR. ORZECH: Yes. Yes.

7 MR. COOK: Okay. Questions or comments from
8 any of the commissioners? Public? Staff?

9 Seeing none, I'll entertain a motion.

10 MR. CROWTHER: I will make the motion to
11 approve the peddler distributor license application --
12 license amendment application by Core-Mark International,
13 Las Vegas, Nevada, to distribute the Meadow Gold label of
14 fluid milk in the southern Nevada marketing area.

15 MR. COLLIER: I'll second that.

16 MR. COOK: Having a motion and a second, and no
17 dissenting votes, motion carries, and the license is
18 granted.

19 MR. ORZECH: Agenda item number four for
20 possible action is approval of the minutes for the
21 February 19th Dairy Commission meeting. And a copy of the
22 changes -- I don't believe they were in the back of it.
23 You got a copy. There was one change, page seven, line
24 18, change the spelling of the word guarantee. And that
25 was -- that was the only correction.

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1 MR. COOK: Okay. Either of the commissioners
2 notice any other changes or updates? Corrections?

3 MR. CROWTHER: No.

4 MR. COOK: None? Okay.

5 I will entertain a motion to approve the
6 minutes from the prior meeting.

7 MR. COLLIER: Mr. Chairman, I make a motion
8 that we approve the minutes of -- from the prior meeting
9 of February the 19th, 2014.

10 MR. COOK: With the noted corrections.

11 MR. COLLIER: With the noted corrections, yes,
12 sir.

13 MR. CROWTHER: Second.

14 MR. COOK: Having a motion and a second, and no
15 dissenting votes, the minutes are adopted from the
16 February meeting.

17 MR. ORZECH: Agenda item five is a staff
18 report, the Dairy Commission report for March 2014.

19 The reduction of the assessment rate on butter
20 took effect on March 1st. And the Fallon dry milk plant
21 is still on schedule to start operation on April 1st. And
22 our current agency reserve is standing at \$333,260.

23 One item I don't have on the report that came
24 up yesterday afternoon late was I received a phone call
25 from Mr. Jay Sarin from Legacy Ice Cream. As you recall,

1 that's -- that's the company we had the civil penalty
2 assessment on from -- back in December.

3 He now wants to be back in that compliance with
4 us again. And I explained to him the procedure he needs.
5 He did not renew his license at the end of December so he
6 has to apply for a new license and pay the penalty.

7 And he's aware of that. And I was -- I was
8 told as of yesterday evening that he was going to have a
9 check in the mail for the 15,000 to us. So we'll wait and
10 see how that goes. And hopefully I'll have all the
11 paperwork in and we'll have him on the agenda for the next
12 month.

13 MR. COOK: The matter of mechanics here, the
14 check will come to us? Or it will go to the state
15 controller?

16 MR. ORZECH: No, the check will come to us, and
17 then we will deposit that into the general fund.

18 MR. COOK: Okay. So we will be aware of it
19 when it --

20 MR. ORZECH: Yes.

21 MR. COOK: -- arrives.

22 MR. ORZECH: Yes. And I did tell him that
23 all his work needs to be done through the office up here,
24 not through Las Vegas, so that there is no confusion on
25 any of the paperwork or anything that's submitted that --

1 that -- he -- he also intends to provide us remittances
2 for the -- he's paid up until the end of December. He did
3 correct that right after we issued that letter.

4 MR. COOK: On his assessments.

5 MR. ORZECH: On his assessments.

6 So he's going to also give us the assessments
7 for the past two months, be January and February.

8 MR. COOK: Has he continued to operate?

9 MR. ORZECH: He apparently has, yes. I don't
10 know that because I'm not -- I don't know when he's going
11 to file. If he filed zero, then he hasn't, but -- so we
12 shall see. Because he does want to continue his business
13 in Nevada.

14 MR. COOK: Okay. May I suggest --

15 MR. CROWTHER: If he comes before us for
16 licensing again, if he applies for that, I -- and I don't
17 know how the other commissioners feel -- but I'd like him
18 to actually appear in person and maybe ask some questions.

19 MR. COOK: Well, since this was not an agenda
20 item, and it may require a vote whether or not he appears,
21 we're going to have to put it on next month as an agenda
22 item about whether we're going to require him to appear
23 for his license.

24 MR. CROWTHER: Well -- or we can -- can we just
25 say -- you know, rather than having to -- have it on the

1 agenda twice, just kind of -- just let him know that if
2 he's not there we'll ask him to come back the next time
3 and appear.

4 MR. COOK: Well, we have the latitude of making
5 him appear when he reapplies or not. And it's -- it's
6 probably going to end up having to be put to a vote of us
7 commissioners. And we cannot do that at this meeting. We
8 have to have that agendized and have to do that next
9 month.

10 MR. CROWTHER: Okay.

11 MR. ORZECH: In the meantime, what I'll do,
12 Troy, if it works out that he does supply everything, I
13 will issue him a temporary to get him at least operating
14 legally. And then we'll have him on the agenda for next
15 month.

16 And, I don't know, is it --

17 MR. CROWTHER: Okay.

18 MR. ORZECH: Is it allowed that I would
19 recommend that he attend the meeting? Can I do that or --

20 MR. BELCOURT: That's -- that doesn't take a
21 decision of this commission --

22 MR. ORZECH: Okay.

23 MR. BELCOURT: -- that's fine.

24 MR. ORZECH: Okay. Okay. That's -- okay.
25 That's what I shall do.

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1 MR. CROWTHER: I'm sorry, what was that? I
2 didn't --

3 MR. ORZECH: I will strongly recommend to
4 Mr. Sarin that he attend the meeting next month.

5 MR. CROWTHER: Right, that was all I was
6 saying --

7 MR. ORZECH: Okay.

8 MR. CROWTHER: -- is just kind of give him a
9 head's up.

10 MR. COOK: And more than likely it would be
11 down there in Vegas. You'd get to go --

12 MR. CROWTHER: Okay.

13 MR. COOK: You'd get to go toe-to-toe with him
14 if you wanted.

15 MR. CROWTHER: I don't mind.

16 MR. COOK: You put on your regulator hat and
17 get real mean and nasty.

18 MR. CROWTHER: No. I just -- I just want to
19 find out what happened, and why the unresponsiveness.

20 MR. ORZECH: If he gives you the type of
21 indication he gave me, he's going to have a lot of
22 excuses. I mean, that's the -- so --

23 MR. CROWTHER: Okay. I'll -- I'll wait to
24 hear -- I'll wait to hear his -- to hear from him.

25 MR. COOK: Okay. Well, let's put it on the

1 agenda for next month.

2 MR. ORZECH: If everything comes in line.

3 MR. COOK: If everything comes in line, right.

4 Also, can you give us an update on what the
5 direction of the class one prices are doing right now? Do
6 you have any idea where they're headed or --

7 MR. ORZECH: I don't have the sheet with me.

8 MR. COOK: Okay. I'm just curious if the -- if
9 the drought is starting to affect feed prices and --

10 MR. ORZECH: I wouldn't even speculate on what
11 effect the drought has on. I actually got phone calls
12 from the press regarding that, and that's pure
13 speculation.

14 I mean, there's so many things that affect the
15 price of milk. We've been in a drought situation for the
16 past three years so -- it's -- it's -- it depends who you
17 talk to as far as --

18 MR. COOK: Oh, yeah --

19 MR. ORZECH: -- the prices.

20 MR. COOK: -- I'm well-aware of that.

21 Okay. That concludes your report?

22 MR. ORZECH: That's it.

23 MR. COOK: Let's press onto the next agenda
24 item.

25 MR. ORZECH: Agenda item number six is

1 consideration of any other matters relating to the dairy
2 industry.

3 MR. COOK: Anything you want to bring up, Troy?

4 MR. CROWTHER: No.

5 MR. COOK: John?

6 MR. COLLIER: No.

7 MR. COOK: Okay. Put that one aside and move
8 on to the last one.

9 MR. ORZECH: Agenda item number seven is public
10 comment and discussions.

11 MR. COOK: Okay. Anybody from the public want
12 to comment or start a discussion?

13 Mr. Martin, since you're it?

14 MR. MARTIN: The only question I would have is
15 Legacy going to -- they'll be continuing to stay open
16 because they've been open without the license? They will
17 continue to stay open? You'll allow that?

18 MR. ORZECH: We can allow that, yeah. As long
19 as they make up all the assessments that are due, which
20 they have.

21 Now, if they -- if they decide not to, then
22 we're going to have to take other action, and then it's
23 going to be -- I'll be consulting with our legal attorney
24 on what action we can take.

25 MR. CROWTHER: Well, currently they do not have

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1 a valid license; is that correct?

2 MR. ORZECH: That's correct.

3 MR. CROWTHER: So how can they still be
4 operating?

5 MR. COOK: In violation of the law.

6 MR. ORZECH: The same way they were in
7 violation for three years.

8 MR. COOK: We want to appoint you as the head
9 of the Nevada State Dairy Commission Las Vegas SWAT team.
10 Can you go out and shut them down?

11 MR. CROWTHER: Well, I was just -- I mean,
12 we -- now it sounds like we now know that they're -- they
13 are still operating in violation.

14 MR. ORZECH: Well, that -- I don't know that
15 again. I don't know that they are. Like I said, if he
16 submits the remittance sheets that says he's done zero
17 business, then he may not have. He may not be doing
18 business.

19 MR. CROWTHER: Well, I think we just heard that
20 he is.

21 MR. MARTIN: He continues to stay open now. He
22 is open now. He's doing business now.

23 MR. CROWTHER: It just seems if he is a
24 competitor of others who are licensed and who are
25 currently in compliance, that doesn't seem really fair

1 that -- that he continues to operate. I don't know what
2 the recourse is, but --

3 MR. COOK: Hang on, Troy.

4 MR. BELCOURT: Dennis Belcourt.

5 My recommendation is to -- is to -- since this
6 was not agendized, is if we want to talk about that issue,
7 to bring it up at the next meeting with the agenda item
8 that you plan on having. And I can consult with Tom
9 about -- about, you know, what options there are in the
10 meantime.

11 MR. ORZECH: Okay.

12 MR. COOK: Yeah, so we'll -- we'll put it on
13 the agenda for next month. And if we can determine
14 whether or not he has in fact been operating outside of
15 the boundaries of the law without a license, then maybe
16 Dennis can -- can figure --

17 MR. CROWTHER: I -- I wouldn't -- as part of
18 that, I guess, for our legal counsel, I'd like to see if
19 there's a -- you know, I know we've issued a penalty for
20 the past non-compliance, but is there something that -- a
21 penalty that should be issued or can be issued for every
22 month that he's operating without a license?

23 MR. BELCOURT: Certainly that --

24 MR. CROWTHER: That's a question. I -- I
25 realize we can't make any motions or anything, but --

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1 MR. BELCOURT: I'll look into that --

2 MR. CROWTHER: -- something to think --

3 MR. BELCOURT: -- certainly.

4 MR. COOK: Yeah, I share your concern, Troy.

5 If the man has continued to operate after we notified him
6 he had no license, then we need to pursue that as a -- as
7 a separate violation, I would assume, a separate issue.

8 MR. ORZECH: I won't say that.

9 MR. COOK: Okay.

10 MR. ORZECH: I mean, it's -- it's -- you got to
11 be consistent with what you do. Consistency in enforcing
12 regulations has got to be done. And if you want to put a
13 violation on everybody that's not in compliance right now,
14 I'll fill this agenda.

15 MR. COOK: Well, I think the issue of operating
16 without a license deliberately and knowingly is a little
17 bit different than -- than -- not necessarily
18 consistently.

19 MR. ORZECH: Like -- again -- again, I'll say
20 consistent. So basically what you're saying then is all
21 the licensees that we had that did not complete their
22 application by the 31st of December I should have written
23 a violation against them?

24 MR. COOK: But did they --

25 MR. CROWTHER: I think this is completely

1 different.

2 MR. ORZECH: No, no, no. Oh, no, it's the
3 same -- it's the exact same type of thing.

4 As of the 31st of December those licensees did
5 not have a license. Now, we allowed them more time to
6 complete the process of obtaining their license. The
7 regulations do not even allow that. It's what this agency
8 has done. So technically every single one of those were
9 in violation as of the 31st of December.

10 Now, to put this guy in the same boat then
11 we'll have to issue violations against every single one of
12 those ones from December 31st or you're not applying your
13 laws consistently.

14 MR. COOK: Where does the issue of intent
15 arrive?

16 MR. CROWTHER: Yeah, I --

17 MR. ORZECH: The regulation --

18 MR. CROWTHER: Sorry, but I -- I'm sorry, but I
19 see this as completely different than -- than the
20 situation you're describing.

21 MR. ORZECH: You may see it --

22 MR. CROWTHER: I mean, this is a --

23 MR. ORZECH: The regulations do not get into
24 intent. It specifically says the license is good until
25 the 31st of December.

1 What we have done in the past -- and it's been
2 long before I ever got here -- is we've allowed them time
3 after the 31st of December to get their license in line.

4 MR. COLLIER: Is that in writing?

5 MR. ORZECH: No.

6 MR. COLLIER: It's not a policy of the
7 commission to do that?

8 MR. ORZECH: It's not -- it's not in writing.

9 MR. COLLIER: Perhaps it should be.

10 MR. ORZECH: The regulations are what we go by.
11 The regulation say as of the 31st you do not have a
12 license.

13 MR. COLLIER: How many -- how many are we
14 talking that were out of compliance?

15 MR. ORZECH: How many of the -- there was quite
16 a few.

17 MS. EASLY: About a hundred, almost half.

18 MR. ORZECH: So -- and what Kathy does is she
19 works along with me, keeps me -- and we -- to get all
20 these people -- to get everything in line so we can get
21 these licenses properly done. But this --

22 MR. CROWTHER: And out of those --

23 MR. ORZECH: This goes on every year.

24 MR. CROWTHER: Out of those hundred how many
25 are now in compliance and about how long did it take them

1 to get in compliance?

2 MS. EASLY: I -- I have two more -- I still
3 have two licensees, they've paid their renewal fee and
4 their late fee, but I still need their unit cost and price
5 worksheet. But other than that they've all -- by the 31st
6 of January, they were in compliance.

7 MR. ORZECH: And, see, plus, then you're going
8 to have to go back with the -- again, with these companies
9 that start business here and do not have a license, do I
10 violate them for the ones that come in and then say I
11 didn't realize I needed one?

12 I mean, at what point do you want to extend
13 this? You got to -- like I said, consistency in enforcing
14 the law is critical. And we have been consistent in that
15 we allow people to come into compliance as long as they're
16 willing to work with us. The ones that --

17 MR. CROWTHER: I understand that. Therein --
18 therein is the difference in what we're talking about.
19 These folks have not -- they went three years without
20 being willing to work with us.

21 MR. ORZECH: And -- and what he's telling me
22 now is he wants to work with us to get -- to get things
23 back in line. So I either work with him to get this in
24 line or I now write him another violation.

25 But if I do that then I believe we're going to

1 have to write violations for every single one of the other
2 licensees that did not comply as of the end of the year of
3 being -- of having a license.

4 MR. CROWTHER: Well, I -- again, this is
5 something maybe we can get a legal --

6 MR. COOK: Yeah. Troy, let me -- let me let
7 Dennis take the floor for a second.

8 MR. CROWTHER: Yeah.

9 MR. BELCOURT: Yeah, I prefer from an open
10 meeting law standpoint to put this on the next agenda as
11 a -- maybe a separate item, you know, to discuss licensing
12 renewals and commission policy and whether we need to
13 revisit the regulations. I'll take a look at the
14 regulations for -- to better advise you at that point if I
15 may.

16 MR. COOK: Okay.

17 MR. BELCOURT: And I'll talk to Tom and
18 we'll -- and we'll have some thoughts for you on that
19 agenda item.

20 MR. COOK: All right. That sounds -- sound
21 advice for me.

22 MR. CROWTHER: Okay. Yep.

23 MR. COOK: Certainly something for discussion
24 in a formal setting, so --

25 MR. CROWTHER: Right.

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1 MR. COOK: Okay. All right.

2 Anything else?

3 MR. COLLIER: Nothing that I can think of.

4 MR. COOK: All right. There being nothing else
5 to be brought before this commission, let us adjourn this
6 meeting.

7 MR. BELCOURT: Public opinion?

8 MR. ORZECH: We just did it.

9 MR. COOK: Okay.

10 (Exhibit 1 marked.)

11

12 (9:23 a.m. proceedings concluded.)

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BOARD SIGNATURE PAGE

CHRISTOPHER COOK, CHAIRMAN

TROY CROWTHER, COMMISSION MEMBER

JOHN COLLIER, COMMISSION MEMBER

TOM ORZECH, COMMISSION SECRETARY

1 STATE OF NEVADA,)
) SS.
2 COUNTY OF WASHOE.)

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5 I, Karen Bryson, a Certified Court Reporter
6 in and for the County of Washoe, State of Nevada, do
7 hereby certify:

8

9 That on March 19, 2014, I reported the
10 proceedings entitled herein;

11

12 That the foregoing transcript is a true and
13 correct transcript of the stenographic notes of the
14 proceedings taken by me in the above-captioned matter to
15 the best of my knowledge, skill, and ability.

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Karen Bryson, CCR #120

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