

Advisory Opinion No. 99-22

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Advisory Opinion of MARK E. FRENCH, Public Employee.

This Opinion is in response to a first-party opinion request filed with the Nevada Commission on Ethics (Commission) by Mark E. French. Mr. French is employed by the State of Nevada Dairy Commission as an Area Supervisor for the Las Vegas office.

Mr. French is contemplating starting a small, part-time business that would provide services to special fuel users inside and outside Nevada. Special fuel is mainly diesel fuel and is used primarily by the trucking industry and operators of off-road equipment such as backhoes and dirt graders.

He would not provide services to any individual or business that he had any control over via his position at the Dairy Commission. He would run the business out of his home with the assistance of his wife.

Specifically, Mr. French asked if opening this part-time diesel fuel business would be a violation of any of the provisions contained in Nevada's Ethics in Government Practice Act.

A hearing on the opinion request was held on May 21, 1999. Mr. French appeared and presented testimony. At the conclusion of the hearing, Mr. French waived his statutory right to confidentiality so this opinion will be publicly distributed.

Based on the foregoing, the Commission makes the following Findings of Fact, Conclusions of Law, and Opinion.

FINDINGS OF FACT

1. Mr. French is an employee of the State of Nevada Dairy Commission.
2. He wishes to open and operate a small, part-time business out of his home.
3. His wife would assist him in running the business.
4. The business would provide services to special fuel users inside and outside Nevada.
5. He would primarily serve the trucking industry and operators of off-road equipment such as backhoes and dirt graders.
6. He would not provide services to any individual or business that he had any control over via his position at the Dairy Commission.

OPINION

The Commission has jurisdiction in this matter pursuant to NRS 281.511(1). Based upon the Findings of Fact, the Commission concludes that Mr. French is a public employee as defined in NRS 281.436.

Since Mr. French's business will not deal with any individual or business related to the dairy industry, the Commission does not see that Mr. French would violate any provisions of Nevada's Ethics in Government Practice Act by opening the business described above and testified to at the hearing. However, if Mr. French discovers that a

client of his is before the Dairy Commission requesting a license, it would be appropriate for Mr. French to disclose this relationship to the Commission pursuant to NRS281.501.

CONCLUSION

Mr. French would not be violating any ethical provision by opening his part-time diesel fuel business.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific circumstances. The provisions of the NRS quoted and discussed above must be applied on a case-by-case basis, with results which may vary depending on the specific facts and circumstances involved.

DATED: January 29, 2000.

NEVADA COMMISSION ON ETHICS

By: /s/ MARIO RECANZONE, Vice Chairman