




Air Pollution Control Hearing Officer Annotated Docket

Clark County Building Department – Presentation Room
4701 West Russell Road, Las Vegas, NV

9:00 a.m. – January 21, 2015

Hearing Officer: Frank J. Cremen, Esq.

Staff:

 Gary Miller, Compliance and Enforcement Manager
Lea Kain, Air Quality Supervisor

The Presentation Room is accessible to individuals with disabilities. With 48-hour advance request, a sign language interpreter may be made available; phone 676-1500, TDD 676-1834, or Relay Nevada toll-free (800) 326-6868 TTY/TDD.

I. **CALL TO ORDER** 9:00 a.m.

II. **MATTERS REQUIRING HEARING OFFICER ACTION**

A. NON-CONTESTED NOTICES OF VIOLATION WITH AGREEMENT: The Hearing Officer may approve or disapprove the agreed settlement. If disapproved, the Notice of Violation will be scheduled for another hearing. Non-contested Notices of Violation are undisputed matters and may be taken together unless there is a request to take one separately.

1. **TARGET CONSTRUCTION, INC. (DCP #42266)**

NOV#8632 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; identified during a routing compliance inspection on September 10, 2014 of the Shoppes at Summerlin construction site, located at 10973 Summerlin Center Drive, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Recommended Penalty: \$1,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000

B. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, & Vacant Land NOV's:

1. **D. R. HORTON, INC. (DCP #41955)**

NOV#8615 – For failing to employ Best Available Control Measures and not having a trackout control device at the site ingress/egress points, and allowing trackout to extend greater than 50 feet and 0.25 inch in depth on paved roadways; failing to maintain dust control by cleaning trackout from paved surfaces, at a minimum, by the end of the workday or evening shift, shift/day; and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during routine compliance inspections on June 2 and 3, 2014 at the Orchard construction site, located at 7207 Grand Teton Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$10,000

- Violation #1 – Subsection 94.9.1
- Violation #2 – Subsection 94.11.6
- Violation #3 – Subsection 94.11.6
- Violation #4 – Subsection 94.9.1

Rescheduled from 11/19/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$9,000

- Violation #1 – Subsection 94.9.1 - \$1,750**
- Violation #2 – Subsection 94.11.6 - \$1,750**
- Violation #3 – Subsection 94.11.6 - \$2,750**
- Violation #4 – Subsection 94.9.1 - \$2,750**

2. **D. R. HORTON, INC. (DCP #42268)**

NOV#8627 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for allowing a dust plume to extend 100 feet or more, horizontally or vertically, from the point of origin on July 17, 2014 at the Gibson Plaza construction site, located at 330 Carousel Parkway, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

- Violation #1 – Subsection 94.9.2
- Violation #2 – Subsection 94.11.3

Rescheduled from 11/19/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$6,000

- Violation #1 – Subsection 94.9.2 - \$2,000**
- Violation #2 – Subsection 94.11.3 - \$4,000**

3. FIRST SOLAR ELECTRIC, LLC (DCP #43874)

NOV #8637 – For allowing a dust plume to extend 100 yards or more, horizontally or vertically, from the point of origin; and for failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified while responding to a citizen's complaint on October 15, 2014 at the Copper Mountain Solar 2 – Phase 2 construction site, located at 585 Eldorado Valley Road, west of U.S. Highway 95, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000

Violation #1 – Subsection 94.11.2

Violation #2 – Subsection 94.9.2

FIRST SOLAR ELECTRIC, LLC AGREES NOT TO CONTEST NOV #8637.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

Violation #1 – Subsection 94.11.2 - \$2,000

Violation #2 – Subsection 94.9.2 - \$1,000

4. LAS VEGAS PAVING CORPORATION (DCP #43149)

NOV #8644 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during routine compliance inspections on October 15 and 16, 2014 of the NDOT #3546 construction site, located along Interstate 15 North, from Apex to Logandale, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$4,000

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.9.2

LAS VEGAS PAVING CORPORATION AGREES NOT TO CONTEST NOV #8644.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$4,000

Violation #1 – Subsection 94.9.2 - \$2,000

Violation #2 – Subsection 94.9.2 - \$2,000

5. RICHMOND AMERICAN HOMES OF NEVADA, INC. (DCP #43079)

NOV #8638 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during routine compliance inspections on September 25, October 6, 8, 9 and 10, 2014 of the Granite Falls construction site located at the northwest corner of Iron Mountain and Bradley Roads in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$14,000

- Violation #1 – Subsection 94.9.2
- Violation #2 – Subsection 94.9.2
- Violation #3 – Subsection 94.9.2
- Violation #4 – Subsection 94.9.2
- Violation #5 – Subsection 94.9.2

RICHMOND AMERICAN HOMES OF NEVADA, INC. CHANGED ITS PLEA TO NON-CONTESTED.

HEARING OFFICER FOUND RICHMOND AMERICAN HOMES OF NEVADA, INC. IN VIOLATION AND ASSESSED A \$14,000 PENALTY.

6. RYLAND HOMES NEVADA, LLC (DCP #43117)

NOV#8633 – For allowing a dust plume to extend 100 yards or more, horizontally or vertically, from the point of origin; and for failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during a routine site inspection on September 18, 2014 at the Encanterra construction site, located at the northeast corner of Cimarron and Sunset Roads, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000

- Violation #1 – Subsection 94.11.2
- Violation #2 – Subsection 94.9.2

RYLAND HOMES NEVADA, LLC AGREES NOT TO CONTEST NOV #8633.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

- Violation #1 – Subsection 94.11.2 - \$2,000**
- Violation #2 – Subsection 94.9.2 - \$1,000**

7. SIGNAL ENERGY, LLC (DCP #43619)

NOV #8631 - For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during routine compliance inspections on August 28, September 12, 16 and 22, 2014 of the Searchlight Solar Project construction site, located approximately one mile northwest of Searchlight, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$7,000

- Violation #1 – Subsection 94.9.2
- Violation #2 – Subsection 94.9.2
- Violation #3 – Subsection 94.9.2
- Violation #4 – Subsection 94.9.2

SIGNAL ENERGY, LLC AGREES NOT TO CONTEST NOV #8631.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$7,000

- Violation #1 – Subsection 94.9.2 - \$1,000**
- Violation #2 – Subsection 94.9.2 - \$2,000**
- Violation #3 – Subsection 94.9.2 - \$2,000**
- Violation #4 – Subsection 94.9.2 - \$2,000**

Stationary Sources NOVs:

8. CERTAINTEED GYPSUM & CEILING TILE MANUFACTURING, INC. (Source: 16164)

NOV #8643 – For utilizing (installing) a liquid bactericide product in the wet manufacturing process that constituted an emission activity (unit) that was not specified in Authority To Construct/Operating Permit, Source: 16164; for failing to conduct daily visual observations and logs of baghouse emissions for the period between February 2010 and September 2014; for failing to conduct monthly control equipment inspections and associated logs for the period between February 2010 and September 2014; and for failing to submit an annual emission inventory report to Air Quality for the calendar year 2013, identified during a full compliance evaluation conducted on September 23, 26, and October 10, 2014 for the period of February 24, 2010 to September 23, 2014 of the CertainTeed Gypsum & Ceiling Tile Manufacturing facility, located at 3838 Civic Center Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$8,000

- Violation #1 – Subsection 16.4.2
Permit Condition II-9
- Violation #2 – Subsection 16.4.2
Permit Condition IV-B-6
Permit Condition IV-E-2
- Violation #3 – Subsection 16.4.2
Permit Condition IV-B-7
Permit Condition IV-G-3
- Violation #4 – Subsection 16.4.2
Permit Condition IV-H-1
Permit Condition IV-H-2

CONTINUED AT THE REQUEST OF CERTAINTEED GYPSUM & CEILING TILE MANUFACTURING, INC.

9. **CHARLIE BROWN CONSTRUCTION INCORPORATED (Source: 15923)**

NOV #8641 - For failing to comply with the provisions contained in 40 CFR 63, Subpart ZZZZ, Subsection 63.6595 regarding non-emergency reciprocating internal combustion engines greater than 500 horsepower; for failing to conduct an initial performance test on Emission Unit B05, a Caterpillar 817 horsepower diesel generator in accordance with 40 CFR Part 63, Subpart ZZZZ; for failing to conduct daily visual emissions checks for visible fugitive dust, or provide any proof of any corrective actions taken during the operation to remediate fugitive dust; and for failing to conduct required observations or maintain records of opacity for the length of the haul road, or provide a log of dust control measures applied to haul roads, parking lots or vacant areas, or provide records of operation for each engine/generator, identified during a full compliance evaluation conducted on October 1 and 3, 2014 at the Charlie Brown Construction Incorporated construction sand and gravel mining facility, located on Puli Road between El Campo Grande and West La Mancha Avenues, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$11,000

Violation #1 – Subsection 13.2 & 40 CFR 63

Violation #2 – Subsection 16.4.2 & 40 CFR 63.6612(a)

Permit Condition IV-F-4

Violation #3 – Subsection 16.4.2

Permit Condition IV-B-4

Violation #4 – Subsection 16.4.2

Permit Condition IV-G-3

BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE SETTLEMENT AGREEMENT.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES AN \$8,000 PENALTY, OF WHICH \$6,000 WILL BE HELD IN ABEYANCE FOR TWELVE MONTHS. IF CHARLIE BROWN CONSTRUCTION INCORPORATED COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED. CHARLIE BROWN CONSTRUCTION INCORPORATED AGREES TO PAY THE ASSESSED PENALTY OF \$2,000.

10. **LAS VEGAS ROCK, INC. (Source: 486)**

NOV #8594 – For failing to comply with the applicable emission limitations and operating limitations for a non-emergency reciprocating internal combustion Volvo diesel engine, with greater than 500 horsepower, no later than May 3, 2013 (deadline as determined by 40CFR Part 63, Subpart ZZZZ (§63.6595), identified during a review of an AQR Section 12.1 permit application on March 6, 2013 for the Las Vegas Rainbow Rock Quarries, located approximately five miles northwest of Goodsprings, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$8,000

Violation #1 – Subsection 13.2

Rescheduled from 5/28/14

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LAS VEGAS ROCK, INC. continued

BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE SETTLEMENT AGREEMENT.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES AN \$8,000 PENALTY, OF WHICH \$6,000 WILL BE HELD IN ABEYANCE FOR TWELVE MONTHS. IF LAS VEGAS ROCK, INC. COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED. LAS VEGAS ROCK, INC. AGREES TO PAY THE ASSESSED PENALTY OF \$2,000.

11. MAVERIK COUNTRY STORES, INC. (Source: 9917)

NOV #8640 – For failing to install a CARB-certified device that prevents the over-tightening or loosening of the Phase I vapor recovery equipment; for failing to maintain the Phase I vapor recovery equipment to be leak free, vapor tight, and in good working order; for failing to conduct annual performance tests for 2014 within the 12-month time frame since the prior test; for failing to report results for the performance test conducted on March 28, 2012 to Air Quality within seven days; and for failing to maintain records of daily inspections of the vapor recovery equipment, identified during a full compliance evaluation conducted on September 16, 2014 for the period of September 23, 2010 to September 16, 2014 of the Maverik Country Store #267 Gasoline Dispensing Operation located at 230 North Moapa Valley Boulevard in Overton, Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$8,000

- Violation #1 – Subsection 52.3(c)(4)
Permit Condition IV-B-1-e
Permit Condition IV-B-1-f
- Violation #2 – Subsection 52.3(c)(4)
Permit Condition IV-F-2-a
- Violation #3 – Subsection 52.3(c)(4)
Permit Condition IV-F-1-c
- Violation #4 – Subsection 52.6(a) & 40 CFR 63.11125(b) ,
Permit Condition IV-G-2

CONTINUED AT THE REQUEST OF MAVERIK COUNTRY STORES, INC.

12. MEL CLARK INCORPORATED (Source: 15195)

NOV #8635 (Amended) – For installing and operating a 749 horse power non-emergency generator, and a power screen with two associated stackers without first obtaining a permit from Air Quality that authorizes such construction and operation; for failing to provide proof an initial performance test was conducted on the non-emergency generator in accordance with 40 CFR Part 63, Subpart ZZZZ; and for failing to conduct and produce records of daily visual emissions checks for visible emissions from two non-emergency generator emission units; identified during a full compliance evaluation conducted on July 29 and August 12, 2014 at the Mel Clark Incorporated non-metallic mineral processing plant, located near Lone Mountain, referred to as the Lone Mountain Pit, in Clark County, Nevada.

**Continued on the next page*

MEL CLARK INCORPORATED continued

Violation(s) alleged:

Recommended Penalty: \$8,000

Violation #1 – Subsection 12.1.3.1

Violation #2 – Subsection 12.1.3.1

Violation #3 – 40 CFR 63, Subpart ZZZZ, Subsection 63.6612(a)

Violation #4 – Subsections 12.1.4.1(d) & 12.1.4.1(d)(2)

Permit Condition IV-C-1

Permit Condition IV-E-1-a

FOUND IN VIOLATION.

HEARING OFFICER ASSESSED AN \$8,000 PENALTY, AND ORDERED MEL CLARK INCORPORATED TO CONDUCT THE REQUIRED PERFORMANCE TEST WITHIN 60 DAYS OF THE SIGNED ORDER.

13. VEGAS EXPRESS #2 (Source: 17361)

NOV #8639 – For failing to maintain Phase I vapor recovery equipment to be leak free, vapor tight, and in good working order; for failing to maintain Phase II vapor recovery equipment in good working order; and for failing to conduct daily inspections of Phase I and Phase II vapor recovery systems, or maintain records between June 9, 2014 and September 29, 2014, identified during a full compliance evaluation conducted on October 1, 2014 of the Vegas Express #2 Gasoline Dispensing Operation, located at 4401 East Bonanza Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

Violation #1 – Subsection 12.1.4.1(f), 40 CFR 63.11115(a) & 40 CFR 63.11118(b)(1)

Permit Condition IV-B-1-b-iii

Permit Condition IV-B-1-b-iv

Violation #2 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a)

Permit Condition IV-B-1-d-ii

Permit Condition IV-B-1-d-iii

Violation #3 – Subsections 12.1.4.1(d) & 12.1.4.1(d)(2)

Permit Condition IV-C-3

Permit Condition IV-C-4

Permit Condition IV-E-2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$4,500

Violation #1 – Subsection 12.1.4.1(f), 40 CFR 63.11115(a) & - \$1,500

40 CFR 63.11118(b)(1) - \$2,000

Permit Condition IV-B-1-b-iii

Permit Condition IV-B-1-b-iv

Violation #2 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a) - \$1,500

Permit Condition IV-B-1-d-ii

Permit Condition IV-B-1-d-iii

Violation #3 – Subsections 12.1.4.1(d) & 12.1.4.1(d)(2) - \$1,500

Permit Condition IV-C-3

Permit Condition IV-C-4

Permit Condition IV-E-2

III. ADJOURNMENT

9:45 a.m.