



Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – November 19, 2014

Hearing Officer: Sandra Reed Bottino

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. J. R. SIMPLOT COMPANY (Source: 138)

NOV #8634 – For submitting the 2013 Annual Compliance Certification to Air Quality 63 days after the January 30, 2014 deadline, for the Simplot Silica Products silica sand mining/milling facility, located at 665 Simplot Road near Overton, Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 12.5.2.8(e)

Recommended Penalty: \$8,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$8,000

2. **KB HOME LV, INC. (DCP #43463)**

NOV#8628 – 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 July 21, 2014 of the Buffalo Estates construction site, located northwest of West Post Road and South Buffalo Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,000

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000

3. **WILLIAM LYON HOMES (DCP #42857)**

NOV#8629 – For failing to install a functional trackout control device and 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; identified while responding to a citizen's complaint on August 6, 2014 at the Rhapsody South construction site, located at the southeast corner of La Madre Way and Bruce Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

B. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, & Vacant Land NOV's:

1. **ARK CONSTRUCTION, INC. (DCP #43730)**

NOV #8616 – For allowing trackout to extend greater than 50 feet and 0.25 inch in depth on paved roadways allowing soils to become dry and conducive to the formation of fugitive dust by vehicular traffic; for failing to install a Dust Control Permit (DCP) sign prior to commencing construction activities; and for failing to have a complete copy of the DCP on site, identified while responding to a citizen's complaint on June 10, 2014 at the Silverado Shopping Center construction site, located at the southeast corner of Silverado Ranch and Las Vegas Boulevards, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,500

Violation #1 – Subsection 94.11.6

Violation #2 – Subsection 94.7.7.2

Violation #3 – Subsection 94.6.10

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,250

Violation #1 – Subsection 94.11.6 - \$1,000

Violation #2 – Subsection 94.7.7.2 - \$125

Violation #3 – Subsection 94.6.10 - \$125

2. **BEAZER HOMES (DCP #42543)**

NOV#8622 – For failing to install a functional trackout pad allowing soils to be tracked out onto a paved road extending greater than 50 feet, and failure to employ Best Available Control Measures to eliminate emissions of fugitive dust by not cleaning the trackout by the end of the workday, identified while responding to a citizen’s complaint on June 23, 2014 at the Rancho Bella construction site, located northeast of Spencer Street and Eldorado Lane, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000

Violation #1 – Subsection 94.9.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

3. **WARMINGTON RESIDENTIAL NEVADA, INC. (DCP #42272)**

NOV #8617 – For failing to fully implement Best Available Control Measures and allowing a dust plume to extend 100 feet or more, horizontally or vertically, from the point of origin on June 17, 2014 at the Gallery construction site, located at the northeast corner of Blue Diamond Road and Buffalo Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$4,000

Violation #1 – Subsection 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

Stationary Sources NOVs:

4. **24-SEVEN GAS AND FOOD MART, LLC (Source: 17232)**

NOV #8609 – For operating a Gasoline Dispensing Operation (GDO) from August 1 through December 25, 2012 without the authority of a Minor Source Permit issued by the Clark County Department of Air Quality; for failing to install vapor recovery and product adaptors that prevent loosening or over tightening of fittings during normal delivery options; for failing to maintain all Phase I vapor recovery equipment to be leak free and vapor tight and in good working order; and for failing to conduct initial vapor recovery system testing required by the permit and failed to conduct vapor recovery testing for 2013, identified during a full compliance evaluation conducted on April 9 and 11, 2014 of the 24-Seven Gas and Food Mart GDO, located at 2424 East Russell Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$8,000

Violation #1 – Subsection 12.1.3.1

Violation #2 – Subsection 12.1.4.1(f), 40 CFR 63.11115(a) & 40 CFR 63.11118(b)(1)

Permit Condition IV-B-1-b-ii

Permit Condition IV-B-1-b-iii

Violation #3 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a)

Permit Condition IV-B-1-d-iii

Violation #4 – Subsection 12.1.4.1(d) & 40 CFR 63.7(a)(2)

Permit Condition IV-D-4-a

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FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,500

- Violation #1 – Subsection 12.1.3.1 - \$1,000
- Violation #2 – Subsection 12.1.4.1(f), 40 CFR 63.11115(a) & 40 CFR 63.11118(b)(1) - \$1,500
 - Permit Condition IV-B-1-b-ii*
 - Permit Condition IV-B-1-b-iii*
- Violation #3 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a) - \$1,500
 - Permit Condition IV-B-1-d-iii*
- Violation #4 – Subsection 12.1.4.1(d) & 40 CFR 63.7(a)(2) - \$1,500
 - Permit Condition IV-D-4-a*

- 5. **CHARLESTON NEVADA PROPERTY, LLC (Source: 9850 - prior to change of ownership)**
 NOV #8618 – For operating a Gasoline Dispensing Operation (GDO) without a valid operating permit issued by Air Quality; for failing to apply the required management practices for operating a GDO; for failing to install devices that prevent loosening or over-tightening of the Phase I product adapters; for failing to maintain the Phase I vapor recovery equipment to be vapor tight; and for having a fill adapter cap missing its gasket, identified during a full compliance evaluation conducted on May 6, 2014, of the Charleston Nevada Property GDO facility, located at 3965 East Charleston Boulevard, in Clark County, Nevada.

Violation(s) alleged: Recommended Penalty: \$4,000
 Violation #1 – Subsection 12.1.3.1
 Violation #2 – Subsection 13.2, 40 CFR 63.11116(a) & 40 CFR 63.11118(b)

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

- Violation #1 – Subsection 12.1.3.1 - \$1,000
- Violation #2 – Subsection 13.2, 40 CFR 63.11116(a) & 40 CFR 63.11118(b) - \$1,000

- 6. **HI-AM INC. (Source: 9739)**
 NOV #8619 – For failing to install a CARB-certified device that prevents the over-tightening or loosening of the Phase I vapor recovery equipment and failing to maintain the Phase I vapor recovery equipment to be leak free, vapor tight, and in good working order; for failing to conduct vapor recovery system testing during calendar years 2012 and 2013 and for submitting a notification to perform vapor recovery testing more than 23 months beyond the required test date; and for failing to provide records to Air Quality of Phase I and Phase II vapor recovery equipment inspections for the period from May 2011 through May 2014, identified during a full compliance evaluation conducted on May 6 and 14, 2014 at the S & K Mini Mart Gasoline Dispensing Operation, located at 1625 North Lamb Boulevard, in Clark County, Nevada.

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HI-AM INC. (Source: 9739) continued

Violation(s) alleged: Recommended Penalty: \$5,000
Violation #1 – Subsections 12.8.1 & 52.4(a)(1)
Permit Condition III-D-6
Permit Condition III-D-7
Violation #2 – Subsections 12.8.1, 52.5(a) & 52.5(d)
Permit Condition III-F-3
Violation #3 – Subsections 12.8.1, 52.6(a)(1), 52.7(a)(1), 52.7(a)(2) & 52.7(b)(1)(vii)
Permit Condition III-G-1
Permit Condition III-G-2
Permit Condition III-G-4

FOUND IN VIOLATION.

PENALTY ASSESSED: \$4,000

Violation #1 – Subsections 12.8.1 & 52.4(a)(1) - \$1,000
Permit Condition III-D-6
Permit Condition III-D-7
Violation #2 – Subsections 12.8.1, 52.5(a) & 52.5(d) - \$2,000
Permit Condition III-F-3
Violation #3 – Subsections 12.8.1, 52.6(a)(1), 52.7(a)(1), 52.7(a)(2) & 52.7(b)(1)(vii) - \$1,000
Permit Condition III-G-1
Permit Condition III-G-2
Permit Condition III-G-4

7. MR. K'S LV LLC (Source: 17312)

NOV #8610 – For failing to install and design vapor recovery and product adaptors so as to prevent the over-tightening or loosening of fittings during normal delivery operations; and for failing to maintain and operate all Phase II vapory recovery equipment in accordance with the manufacturer's specification and certification requirements; and for failing to maintain all Phase II vapor recovery equipment in good working order, identified during a full compliance evaluation conducted on February 19, 2014 at the Arco AMPM #83316 Gasoline Dispensing Operation, located at 3701 West Sahara Avenue, in Clark County, Nevada.

Violation(s) alleged: Recommended Penalty: \$4,000
Violation #1 – Subsection 12.1.4.1(f) & 40 CFR 63.11118(b)(1)
Permit Condition IV-B-1-b-vii
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

Continued from 9/24/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

Violation #1 – Subsection 12.1.4.1(f) & 40 CFR 63.11118(b)(1) - \$1,000
Permit Condition IV-B-1-b-vii
Violation #2 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a) - \$1,000
Permit Condition IV-B-1-d-ii
Permit Condition IV-B-1-d-iii

8. PIONEER GYPSUM MINING, INC. (Source: 868)

NOV #8598 – For installing and operating a 100 KW diesel-fired, continuous-duty generator without first obtaining a permit from Air Quality that authorizes such construction and operation; for failing to conduct initial performance testing, and failing to monitor CO emissions of the 757-horsepower generator set to comply with 40 CFR Part 63, Subpart ZZZZ, identified during a full compliance evaluation conducted on January 7, 2014 at the Pioneer Gypsum Mining, Inc., a nonmetallic gypsum mining facility, located at Nevada Sunrise Land northeast of Las Vegas, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

Violation #1 – Subsection 12.1.1.1

Permit Condition II-9

Violation #2 – Subsection 13.2, 40 CFR 63.6595(a)(1) & 40 CFR 63.6612(a)

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

Violation #1 – Subsection 12.1.1.1

- \$1,000

Permit Condition II-9

Violation #2 – Subsection 13.2, 40 CFR 63.6595(a)(1) & 40 CFR 63.6612(a)

- \$2,000

9. LUNAS CONSTRUCTION CLEAN UP INCORPORATED (Source: 17187)

NOV #8624 – For installing and operating a larger Air Curtain Burner than that allowed in their Portable Minor Source Permit; for over loading/charging the Air Curtain Burner with construction/demolition waste materials and allowing open flames to reach approximately 10-20 feet above the air burner without permission of the Control Officer; for charging the Air Curtain Burner with products other than 100 percent wood waste, or clean lumber; for failing to submit a preconstruction siting analysis; for failing to submit a waste management plan; for failing to properly train operators of the Air Curtain Burner; for failure to submit a deviation and status report; for allowing the discharge of contaminants in excess of an average of 20 percent opacity for a period of more than 6 consecutive minutes; and for failing to maintain various records for the operation of the incinerator, identified during a full compliance evaluation conducted on July 9 and 11, 2014, and a partial compliance evaluation conducted as a follow-up on July 22, 25, 28, and 29, 2014 of Lunas Construction Clean Up Incorporated solid waste refuse facility, located at 4830 East Cartier Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$40,000

Violation #1 – Subsection 12.1.3.1

Permit Condition II-A-8

Violation #2 – Subsection 12.1.3.1

Permit Condition IV-A-3-a

Violation #3 – Subsection 42.1

Violation #4 – 40 CFR 60 Subpart CCCC

Violation #5 - 40 CFR 60.2045

Violation #6 – 40 CFR 60.2055

Violation #7 – 40 CFR 60.2070

Violation #8 – 40 CFR 60.2225

Violation #9 – Subsection 12.1.3.1

Permit Condition IV-A-2-a

Violation #10 – Subsection 12.1.3.1

Permit Condition IV-E-4

Permit Condition IV-E-5

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LUNAS CONSTRUCTION CLEAN UP INCORPORATED (Source: 17187) continued

BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE AGREEMENT WHICH IS INCORPORATED INTO THE ORDER.

SINCE LUNAS CONSTRUCTION CLEAN UP INCORPORATED ADMITS TO VIOLATION #1, AIR QUALITY WITHDREW VIOLATIONS #2 THROUGH #10, AND LUNAS CONSTRUCTION CLEAN UP INCORPORATED AGREED TO SURRENDER THEIR OPERATING PERMIT (SOURCE: 17187).

HEARING OFFICER APPROVED PROPOSED AGREEMENT AND SIGNED THE ORDER, WHICH INCLUDES A \$5,000 PENALTY TO BE PAID IN FULL 90 DAYS (2/19/15) FROM TODAY'S DATE.

III. ADJOURNMENT

11:23 a.m.