



Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – May 28, 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. GREYSTONE NEVADA, LLC (DCP #41160)

NOV # 8503 - 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 inspection on November 7, 2013 at The Masters construction site, located near Southern Highlands Parkway and Robert Trent Lane, in Clark County, Nevada.

Violation(s) alleged: Subsection 94.9.2
Violation #1 – Subsection 94.9.2

Recommended Penalty: \$1,000

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$1,000**

2. **INSPIRADA BUILDERS, LLC (DCP #43183)**

NOV #8593 – For failing to employ Best Available Control Measures for the purpose of dust control 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 inspection during a Construction Notice on February 26, 2014 at the Inspirada Village 3 construction site, located south of Bicentennial Parkway and Via Firenze, in Clark County, Nevada.

Violation(s) alleged: Subsection 94.9.1
Violation #1 – Subsection 94.9.1

Recommended Penalty: \$2,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

3. **NPL (DCP #43019)**

NOV #8515 – 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 Dust Advisory inspection on January 30, 2014 at the Casino Center & Bridger 2” STL Replacement construction site, located at the northeast and southeast corners of Casino Center Boulevard and Bridger Avenue, in Clark County, Nevada.

Violation(s) alleged: Subsection 94.9.2
Violation #1 - Subsection 94.9.2

Recommended Penalty: \$2,000

Rescheduled from 4/16/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

4. **VIAWEST (Source: 777)**

NOV #8510 – For operating two 1,000 kilowatt diesel emergency generators at a data center facility without a minor source permit after failing to submit a Transfer of Ownership application to Air Quality prior to operating the facility, identified during a full compliance evaluation conducted November 21, 2013 at ViaWest (previously the CoreLink Data Center), located at 304 East Carson Avenue, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.3.1
Violation #1 – Subsection 12.1.3.1

Recommended Penalty: \$2,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

B. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, & Vacant Land NOV's:

1. ENVIRONMENTAL ASSURANCE, LLC (Project Number: 130437)

NOV #8520 – For failing to remove all regulated asbestos-containing material (RACM) and not ensuring the RACM was adequately wet until collected and contained or treated for disposal, identified during routine site inspections on October 1, November 5, and December 11, 2013 of buildings at 1715 McDonald Court, 2420 West Street, and 1512 and 1516 Helen Avenue, all within the Buena Vista Springs I demolition project, located northwest of Martin Luther King Boulevard and Carey Avenue, in Clark County, Nevada.

Violation(s) alleged: Subsection 13.1

Recommended Penalty: \$12,000

40 CFR 61.145(c)(1)

40 CFR 61.145(c)(6)

40 CFR 61.150(a)(1)(iii)

Violation #1 – 40 CFR 61.145(c)(1)

40 CFR 61.145(c)(6)

40 CFR 61.150(a)(1)(iii)

Violation #2 – 40 CFR 61.145(c)(1)

40 CFR 61.145(c)(6)

40 CFR 61.150(a)(1)(iii)

Violation #3 – 40 CFR 61.145(c)(1)

40 CFR 61.145(c)(6)

40 CFR 61.150(a)(1)(iii)

Continued from 4/16/14

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

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$12,000 PENALTY, \$4,000 OF WHICH BE HELD IN ABEYANCE FOR A PERIOD OF ONE YEAR OF SIGNED ORDER TO ENSURE ENVIRONMENTAL ASSURANCE, LLC IS IN COMPLIANCE, AND ASSESSED AN \$8,000 PENALTY. IF ENVIRONMENTAL ASSURANCE, LLC COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

2. **HARMONY HOMES (DCP #40259)**

NOV #8586 – For conducting construction activities prior to obtaining a valid Dust Control Permit; for failing to implement all Best Available Control Measures (BACM) 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 failing to fully implement BACM and allowing a dust plume to travel greater than 100 yards and cross a property line identified during a Dust Advisory inspection on January 30, 2014 at the Parcel 19 construction site, located at the northwest corner of Ford Avenue and Fort Apache Road, in Clark County, Nevada.

Violation(s) alleged: Subsection 94.4.1.

Recommended Penalty: \$6,500

Violation #1 – Subsection 94.4.1

Violation #2 – Subsection 94.9.2

Violation #3 – Subsection 94.11.3

CONTINUED AT THE REQUEST OF HARMONY HOMES.

3. **SOUTHERN NEVADA DIRT SOLUTIONS (DCP #42899)**

NOV#8505 – 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 inspection on December 27, 2013 at the Richard Scott Stockpile construction site, located at 11217 West Torino Avenue in Clark County, Nevada.

Violation(s) alleged: Subsection 94.9.2

Recommended Penalty: \$1,000

Violation #1 – Subsection 94.9.2

SOUTHERN NEVADA DIRT SOLUTIONS CHANGED ITS PLEA TO NON-CONTESTED.

HEARING OFFICER FOUND SOUTHERN NEVADA DIRT SOLUTIONS AND ASSESSED A \$750 PENALTY.

4. **SR CONSTRUCTION (DCP #40651)**

NOV #8513 – For failing to implement Best Available Control Measures (BACM) and allowing a dust plume to travel greater than 100 feet and cross a property line with an opacity of 100 percent; and for failing to implement all BACM 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 during a Dust Advisory inspection on January 30, 2014 at the Federal Justice Tower construction site, located at 501 Las Vegas Boulevard, in Clark County, Nevada.

***Continued on next page**

SR CONSTRUCTION continued

Violation(s) alleged: Subsection 94.9.2
Subsection 94.11.3
Violation #1 - Subsection 94.9.2
Violation #2 - Subsection 94.11.3

Recommended Penalty: \$6,000

Rescheduled from 4/16/14

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$4,000**

**Violation #1 - Subsection 94.9.2 - \$1,000
Violation #2 - Subsection 94.11.3 - \$3,000**

5. THE WHITING-TURNER CONTRACTING CO. (DCP #41981)

NOV #8514 – 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 Dust Advisory on January 30, and routine inspection on February 5, 2014 at the Las Vegas Premium Outlets - Phase III construction site, located at 875 Grand Central Parkway, in Clark County, Nevada.

Violation(s) alleged: Subsection 94.9.2
Violations #1 and 2 - Subsection 94.9.2

Recommended Penalty: \$4,000

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$3,000**

Stationary Sources NOV's:

6. BIG DADDY 1, LLC (Source: 9409)

NOV #8479 – For failing to maintain all Phase I and Phase II vapor recovery equipment in a leak free, vapor tight condition, and in good working order; for installing a Venturi hose in the reverse direction recommended by the manufacturer; for failing to notify Air Quality and conduct annual performance testing prior to the anniversary date of the previous performance test that the source passed; and for failing to provide records of Phase I and Phase II vapor recovery equipment inspections for review, identified during a full compliance evaluation conducted on September 23, 2013 at the Big Daddy's Lamb Gas & Mini Mart Gasoline Dispensing Operation, located at 551 North Lamb Boulevard, in Clark County, Nevada.

***Continued on next page**

- Violation(s) alleged: Subsection 12.8.1
Subsection 52.4(a)(1)
Subsection 52.5(a)(1)
Subsection 52.6(a)(1)
Subsection 52.7(b)(1)
- Violation #1 – Subsections 12.8.1 & 52.4(a)(1)
Permit Condition IV-B-1-e
- Violation #2 – Subsections 12.8.1 & 52.4(a)(1)
Permit Condition IV-B-2-f
Permit Condition IV-B-2-g
- Violation #3 – Subsections 12.8.1 & 52.5(a)(1)
Permit Condition IV-F-1-b
Permit Condition IV-F-1-i
Permit Condition IV-F-3-a
- Violation #4 – Subsections 12.8.1, 52.6(a)(1), & 52.7(b)(1)
Permit Condition IV-E-1
Permit Condition IV-E-2
Permit Condition IV-G-2
Permit Condition IV-G-4

Continued from 4/16/14

HEARING OFFICER DENIED BIG DADDY 1, LLC'S REQUEST FOR A SECOND CONTINUANCE.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$9,000

- Violation #1 – Subsections 12.8.1 & 52.4(a)(1) - \$1,000**
Permit Condition IV-B-1-e
- Violation #2 – Subsections 12.8.1 & 52.4(a)(1) - \$3,000**
Permit Condition IV-B-2-f
Permit Condition IV-B-2-g
- Violation #3 – Subsections 12.8.1 & 52.5(a)(1) - \$3,000**
Permit Condition IV-F-1-b
Permit Condition IV-F-1-i
Permit Condition IV-F-3-a
- Violation #4 – Subsections 12.8.1, 52.6(a)(1), & 52.7(b)(1) - \$2,000**
Permit Condition IV-E-1
Permit Condition IV-E-2
Permit Condition IV-G-2
Permit Condition IV-G-4

7. **CHW SAINT ROSE DOMINICAN HOSPITALS SIENA CAMPUS (Source: 1500)**

NOV #8496 – For exceeding the combined boiler operational limit of 13,140 hours per year for three boilers (Emission Units A04 – A06) during 2011 and 2012; and for failing to maintain the TDS content of each cooling tower circulation water at or below 1,000 ppm, identified during a full compliance evaluation conducted on October 21, 2013 at the CHW Saint Rose Dominican Hospitals Siena Campus facility, located at 3001 East Saint Rose Parkway, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(f)

Recommended Penalty: \$5,000

Violation #1 – Subsection 12.1.4.1(f)
Permit Condition IV-A-3-a

Violation #2 – Subsection 12.1.4.1(f)
Permit Condition IV-B-10

Rescheduled from 4/16/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

Violation #1 – Subsection 12.1.4.1(f) - \$2,000
Permit Condition IV-A-3-a

Violation #2 – Subsection 12.1.4.1(f) - \$1,000
Permit Condition IV-B-10

8. **LAS VEGAS PAVING CORP. (Source: 15392)**

NOV #8506 - For failing to monitor CO emissions for two Caterpillar diesel engine generator sets; for failing to conduct performance testing of the two Caterpillar diesel engines to comply with 40 CFR Part 63, Subpart ZZZZ; and for failing to submit semi-annual reports to Air Quality for the years 2012 and 2013, identified during a full compliance evaluation conducted on November 20, 2013 at the Las Vegas Paving Corp. sand and gravel crushing and screening plant with lime marination and hot asphalt plant, located at Primm, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(d)

Recommended Penalty: \$18,000

Subsection 12.1.4.1(m)(1)
Subsection 12.1.4.1(d)(3)(A)
40 CFR 63.6625
40 CFR 63.6630
40 CFR 63.6612(a)
40 CFR 63.7(c)(2)

Violation #1 – Subsection 12.1.4.1(d), 40 CFR 63.6625 & 63.6630
Permit Condition IV-C-10

Violation #2 – Subsection 12.1.4.1(m)(1), 40 CFR 63.6612(a) & 63.7(c)(2)
Permit Condition IV-D-3
Permit Condition IV-D-4

Violation #3 – Subsection 12.1.4.1(d)(3)(A)
Permit Condition II-C-9

CONTINUED AT THE REQUEST OF LAS VEGAS PAVING CORP.

9. NAV LVH, LLC (Source: 101)

NOV #8491 – For failing to use an HVLP spray gun for all surface coating in spray booths and cleaning all surface coating application equipment in an enclosed container; for failing to ensure all solvent containers with VOC-containing products remain securely closed except during product transfers; for failing to monitor the TDS of two cooling towers recirculation water on a monthly basis and maintaining onsite records of the TDS monitoring; and failing to perform burner efficiency tests on their boilers within the intervals required by the permit, identified during a Full Compliance Evaluation conducted on October 14, 17 , 22 and 24, 2013 at the LVH Las Vegas Hotel & Casino facility, located at 3000 Paradise Road, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(d) Subsection 12.1.4.1(f) Subsection 49.5.3	Recommended Penalty: \$8,000
Violation #1 – Subsection 12.1.4.1(f) <i>Permit Condition IV-B-20</i> <i>Permit Condition IV-B-23</i>	
Violation #2 – Subsection 12.1.4.1(f) <i>Permit Condition IV-B-24</i>	
Violation #3 – Subsection 12.1.4.1(d) <i>Permit Condition IV-C-14</i> <i>Permit Condition IV-E-1</i>	
Violation #4 – Subsections 12.1.4.1(d) & 49.5.3 <i>Permit Condition IV-C-7</i> <i>Permit Condition IV-C-9</i> <i>Permit Condition IV-E-1</i> <i>Permit Condition IV-E-2</i>	

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,500

Violation #1 – Subsection 12.1.4.1(f) <i>Permit Condition IV-B-20</i> <i>Permit Condition IV-B-23</i>	- \$1,500
Violation #2 – Subsection 12.1.4.1(f) <i>Permit Condition IV-B-24</i>	- \$1,500
Violation #3 – Subsection 12.1.4.1(d) <i>Permit Condition IV-C-14</i> <i>Permit Condition IV-E-1</i>	- \$1,500
Violation #4 – Subsections 12.1.4.1(d) & 49.5.3 <i>Permit Condition IV-C-7</i> <i>Permit Condition IV-C-9</i> <i>Permit Condition IV-E-1</i> <i>Permit Condition IV-E-2</i>	- \$1,000

10. RED WOLF RESOURCES (Source: 17067)

NOV #8596 – For exceeding the annual gasoline throughput permit limit of 5,000,000 gallons per year by 91,392 gallons during 2013; and for failing to maintain and operate all Phase I vapory recovery equipment in accordance with the manufacturer’s specification and certification requirements, identified during a full compliance evaluation conducted on February 11, 2014 at the M-Convenience (ARCO) Gasoline Dispensing Operation, located at 4161 St. Rose Parkway in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(f) Recommended Penalty: \$4,000
40 CFR 63.11115(a)
Violation #1 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a)
Permit Condition IV-A-3-a
Violation #2 – Subsection 12.1.4.1(f)
Permit Condition IV-B-1-b-iii

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,500

Violation #1 – Subsection 12.1.4.1(f) & 40 CFR 63.11115(a) - \$1,000
Permit Condition IV-A-3-a
Violation #2 – Subsection 12.1.4.1(f) - \$500
Permit Condition IV-B-1-b-iii

11. S & S FUELS MANAGEMENT, LLC (Source: 9927)

NOV #8517 – For failing to maintain all Phase I vapory recovery equipment in a leak free, vapor tight good working order; for failing to install Phase I product adaptors to prevent loosening or over-tightening during delivery operations; and for failing to maintain complete records of daily Phase I and Phase II inspections, identified during a full compliance evaluation conducted on January 3, 2014 at the 7 Eleven Store #39605 Gasoline Dispensing Operation, located at 3250 North Durango Drive, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1 Recommended Penalty: \$5,000
Subsection 52.4(a)(1)
Subsection 52.6(a)(1)
Subsection 52.7(b)(1)(vii)
Violation #1 – Subsections 12.8.1
Permit Condition III-D-6
Violation #2 – Subsections 12.8.1 & 52.4(a)(1)
Permit Condition III-D-15
Violation #3 – Subsections 12.8.1, 52.6(a)(1) & 52.7(b)(1)(vii)
Permit Condition III-G-4-a - g

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,500

Violation #1 – Subsections 12.8.1 - \$1,000
Permit Condition III-D-6
Violation #2 – Subsections 12.8.1 & 52.4(a)(1) - \$1,000
Permit Condition III-D-15
Violation #3 – Subsections 12.8.1, 52.6(a)(1) & 52.7(b)(1)(vii) - \$500
Permit Condition III-G-4-a - g

12. TOWN SQUARE EXXON (Source: 9617)

NOV #8488 – For failing to submit vapor recovery system test reports to Air Quality within the seven day time period; and for failure to provide daily records of Phase I and Phase II vapor recovery system inspections for 2010, 2011, 2012 and portions of June and September, 2013, identified during a full compliance evaluation conducted on September 13, 2013 at the Town Square Gasoline Dispensing Operation, located at 6085 South Rainbow Boulevard, in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1 Recommended Penalty: \$5,000

Subsection 52.5(a)(2)

Subsection 52.6(a)(1)

Subsection 52.7(b)(1)(vii)

Violation #1 – Subsections 12.8.1 & 52.5(a)(2) (*Calendar years 2012 & 2013*)

Permit Condition VII-D

Permit Condition VII-G-1

Violation #2 – Subsections 12.8.1, 52.6(a)(1) & 52.7(b)(1)(vii)

Permit Condition VI-A

Permit Condition VI-B

Permit Condition VIII-B

Rescheduled from 4/16/14

TOWN SQUARE EXXON TO SUBMIT SEPTEMBER 2012 RECORDS AND REPORT TO AIR QUALITY.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,500

Violation #1 – Subsections 12.8.1 & 52.5(a)(2) (*Calendar years 2012 & 2013*) - \$2,000

Permit Condition VII-D

Permit Condition VII-G-1

Violation #2 – Subsections 12.8.1, 52.6(a)(1) & 52.7(b)(1)(vii) - \$500

Permit Condition VI-A

Permit Condition VI-B

Permit Condition VIII-B

III. ADJOURNMENT

11:15 a.m.