




Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – July 19, 2017

Hearing Officer: Frank J. Cremen

Air Quality Staff: Shibi Paul, Compliance and Enforcement Manager 
Jeffrey Robb, Senior Air Quality Specialist
Pamela R. Thompson, Senior Secretary

The Presentation Room is accessible to individuals with disabilities. With 48-hour advance request, a sign language interpreter or TDD may be made available; phone (702) 455-3126, TDD (702) 385-7486, or TT/TDD: Relay Nevada 711, Toll-Free (800) 326-6868 or (800) 877-1219 (Spanish).

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

II. NOTICES OF VIOLATION

A. SETTLED CASES: The Hearing Officer may approve or disapprove the settlement agreements. If a settlement agreement is approved, the Hearing Officer will enter an order requiring compliance with the settlement agreement, including setting a deadline for payment of any penalty. If a settlement agreement is disapproved, the notice of violation will be rescheduled for hearing at a subsequent meeting.

There are no signed settlement agreements at this time.

B. NON-CONTESTED CASES: The Hearing Officer may approve or disapprove Air Quality staff's proposed order levying the recommended penalty. If the proposed order is disapproved, the notice of violation will be rescheduled for hearing at a subsequent meeting.

1. **BURKE CONSTRUCTION GROUP (DCP #46827)**

NOV #8975 – For handling materials and causing a fugitive dust plume which exceeded 50% opacity using the Instantaneous Method, as identified during a routine inspection on April 3, 2017 at the Marnell Airport Center construction site at East Russell Road and Surrey Street, in Clark County, Nevada.

Violation(s) alleged:
Violation #1 – Subsection 94.11.1

Recommended Penalty: \$2,000.00

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$2,000.00**

2. COPPER CREEK CONSTRUCTION (Project #171045)

NOV #8974 – For failing to submit a demolition notification 10 days prior to initiating demolition activities, as identified during a routine inspection on May 4, 2017 at a facility located at 5690 Boulder Highway, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Section 13.1

40CFR61 Subpart M, Part 61.145(b)(1)(i)

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

3. D. R. HORTON, INC. (DCP #47326)

NOV #8976 – For allowing tracked out soil debris greater than 50 feet and ¼ inch in depth on paved roadways, and failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week as identified during routine and follow-up inspections on May 15 and 19, 2017 at the Elkhorn 40 construction site at 7092 North Tenaya Way, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000.00

Violation #1 – Subsection 94.11.6

Violation #2 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation #1 – Subsection 94.11.6 - \$2,000.00

Violation #2 – Subsection 94.9.2 - \$1,000.00

4. FIRST SOLAR ELECTRIC, LLC (DCP #46440)

NOV #8950 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and creating a fugitive dust plume which travelled more than 100 yards from the point of origin, as identified during routine and follow-up inspections on March 21 and 22, 2017 at the Switch Station 1 and Switch Station 2 construction site at 15995 North Las Vegas Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000.00

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.11.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation #1 – Subsection 94.9.2 - \$1,000.00

Violation #2 – Subsection 94.11.2 - \$2,000.00

5. **KB HOME LV, INC. (DCP #46451)**

NOV #8949 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week, as identified during routine inspections on March 15 and 17, 2017 at the Talesera Hills construction site at 996 Soaring Moon Drive, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Recommended Penalty: \$2,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

6. **MADISON/CHEWY, LLC (Parcel 123-29-601-025)**

NOV #8942 – For failure to implement one or more of the control measures described in Section 92.3.1.2 as necessary to comply with the stabilization standards of Section 92.4.1, as identified during routine and follow-up inspections on October 14, 2016, February 2, 6, 8, 10, 14, 15, 21, 23, 24, March 7, 8, 9, 14, 16 and 21, 2017 at the parcel located at the northwest corner of Tropical Parkway and Range Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 92.3.1

Recommended Penalty: \$9,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$9,000.00

7. **MARTIN HARRIS CONSTRUCTION, LLC (DCP #40789)**

NOV #8947 – For handling materials and causing a fugitive dust plume which exceeded 50% opacity using the Instantaneous Method, as identified during a routine inspection on February 16, 2017 at the Northgate Distribution Center 8 & 9 construction project at 5550 Donovan Way, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.11.1

Recommended Penalty: \$2,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

8. **MASTER BUILT CONSTRUCTION (DCP #47119)**

NOV #8943 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week, as identified during routine inspections on February 7 and 10, 2017 at the Stock Pile Durango/Sunset construction site at West Sunset Road and South Durango Drive, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Recommended Penalty: \$2,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

9. **MGM MIRAGE (Source ID: 282)**

NOV #8970 – For exceeding permit limited hours of operation in 2016, as identified during a partial compliance evaluation conducted on April 13, 2017 at the Mirage Hotel and Casino at 3400 Las Vegas Boulevard South, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Permit Condition IV-A-3-b

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

10. **PNII, INC. (DCP #46949)**

NOV #8955 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and creating a fugitive dust plume which crossed over a property boundary, as identified during routine and follow-up inspections on March 20 and 30, 2017 at the Estates at Tule Springs construction project northwest of Racel and Coke Streets, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000.00

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation #1 – Subsection 94.9.2 - \$1,000.00

Violation #2 – Subsection 94.11.3 - \$2,000.00

11. **RICHMOND AMERICAN HOMES (DCP #46245)**

NOV #8952 – For failing to implement Best Management Practices as stated in the Dust Mitigation Plan, and creating a fugitive dust plume which crossed the property line, as identified during a routine inspection on March 30, 2017 at the Granite Falls 3 construction site at Bradley Road and Sheleheda Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000.00

Violation #1 – Subsection 94.10.1(g)

Violation #2 – Subsection 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation #1 – Subsection 94.10.1(g) - \$1,000.00

Violation #2 – Subsection 94.11.3 - \$2,000.00

12. **STAR NURSERY, INC. (Source ID: n/a)**

NOV #8969 – For selling prohibited fruitless mulberry trees, as identified during a complaint investigation on March 27, 2017 at the Star Nursery facility at 8170 West Charleston Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,400.00

Violation #1 – Subsection 44.2.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,400.00

13. WOODSIDE HOMES OF NEVADA, LLC (DCP #45245)

NOV #8953 – For failing to maintain site soils in a stabilized condition 24 hours a day, seven days a week, as identified during a routine inspection on March 30, 2017 at The Cove Phase 2 construction project at Southern Highlands and St. Rose Parkways, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Recommended Penalty: \$1,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000.00

C. CONTESTED CASES

Asbestos, Construction, and Vacant Land Violations:

1. SHIRON DEVELOPMENT, LLC (DCP #46750)

NOV #8951 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and creating a fugitive dust plume which crossed the property line, as identified during routine and follow-up inspections on March 20 and 30, 2017 at the Vue at Centennial construction site at 7350 West Centennial Parkway, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.11.3

Recommended Penalty: \$3,000.00

SHIRON DEVELOPMENT, LLC DID NOT APPEAR.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation #1 – Subsection 94.9.2 - \$1,000.00

Violation #2 – Subsection 94.11.3 - \$2,000.00

Stationary Sources Violations:

2. LHOIST NORTH AMERICA OF ARIZONA (Source ID: 3)

NOV #8971 – For allowing the creation of fugitive dust plumes originating from the central pit area during a Dust Advisory, as identified during a partial compliance evaluation on April 13, 2017 at the Lhoist North America of Arizona facility at 12101 North Las Vegas Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition II-D-2

Recommended Penalty: \$2,000.00

LHOIST NORTH AMERICA OF ARIZONA REQUESTED A CONTINUANCE.

HEARING OFFICER CONTINUED LHOIST NORTH AMERICA OF ARIZONA'S CASE TO SEPTEMBER 20, 2017.

3. MGM RESORTS INTERNATIONAL (Source ID: 825)

NOV #8954 – For installing and operating 132 unpermitted emission units (EUs); failing to accurately and completely describe the unpermitted EUs and accurately certify the status of compliance in the Annual Compliance Certification; exceeding operational hour limitations on 9 EUs; exceeding emission limitations on a rolling 12-month period on 8 EUs; failing to conduct burner efficiency testing on various EUs; exceeding total dissolved solids in cooling tower water limitation; failing to submit for approval, performance testing protocols no less than 45 days nor more than 90 days prior to the anticipated testing date on various EUs; failure to submit for approval vapor recovery testing notices at least 30 days prior to the anticipated testing date on various EUs; and failure to conduct initial performance testing on EU: BE131 before November 16, 2016, as identified during a full compliance evaluation conducted between February 13 and March 24, 2017 of the MGM Resorts International facilities, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$214,900.00

- Violation #1 – 2016 Permit Condition II-B-1
- Violation #2 – 2016 Permit Condition II-D-5-c
2016 Permit Condition II-D-6-c
- Violation #3 – 2014 Permit Condition III-I-3-b
2016 Permit Condition III-I-3-a
2016 Permit Condition III-E-3-a
2016 Permit Condition III-E-3-d
- Violation #4 – 2014 Permit Condition II-D-6
2016 Permit Condition II-D-7
- Violation #5 – 2016 Permit Condition III-I-2-a
2016 Permit Condition III-E-2-a
- Violation #6 – 2016 Permit Condition III-A-5-c
2016 Permit Condition III-A-5-b
2016 Permit Condition III-E-5-c
2016 Permit Condition III-E-5-b
2016 Permit Condition III-G-5-d
2016 Permit Condition III-H-5-b
2016 Permit Condition III-I-5-d
2016 Permit Condition III-J-5-e
- Violation #7 – 2016 Permit Condition III-A-4-o
- Violation #8 – 2016 Permit Condition II-E-3
- Violation #9 – 2016 Permit Condition III-A-6-e
2016 Permit Condition III-E-6-e
2016 Permit Condition III-I-6-e
- Violation #10 – 2016 Permit Condition III-I-6-a

MGM RESORTS INTERNATIONAL REQUESTED A CONTINUANCE.

HEARING OFFICER CONTINUED MGM RESORTS INTERNATIONAL'S CASE TO SEPTEMBER 20, 2017.

III. ADJOURNMENT 9:10 a.m.