



Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – September 20, 2017

Hearing Officer: Lona Webb

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

1. 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

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$1,000.00 PENALTY TO BE PAID IN FULL WITHIN 30 DAYS OF THE SIGNED ORDER.

2. MGM RESORTS INTERNATIONAL (Source ID: 825)

AMENDED NOV #8954 – For installing and operating 110 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.

**Continued on the next page.*

MGM RESORTS INTERNATIONAL continued

Violation(s) alleged:

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

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$120,000.00 PENALTY TO BE PAID IN FULL WITHIN 30 DAYS OF THE SIGNED ORDER.

3. **SWITCH, LTD. (Source ID: 16304)**

NOV #8994 – For failure to obtain an Authority to Construct prior to installing three diesel-fired engines; and failing to identify unpermitted emission units in the 2016 Annual Compliance Certification report, as identified during a full compliance evaluation conducted on May 1, 2017 at the Switch, Ltd. facility at 7135 South Decatur Boulevard, in Clark County, Nevada.

Violation(s) alleged:

- Violation #1 – Permit Condition II-A-1
Permit Condition II-B-1
- Violation #2 – Permit Condition II-D-6-c

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$5,000.00 PENALTY TO BE PAID IN FULL WITHIN 30 DAYS OF THE SIGNED ORDER.

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. **D. R. HORTON, INC. (DCP #46146)**

NOV #8979 – For failing to maintain site soils in a stabilized condition 24 hours a day, seven days a week, as identified during routine and follow-up inspections on May 12, 2017 at the Dean Martin Pyle construction site located near Dean Martin Drive and Pyle Avenue, 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

2. **LOFTCO, LLC (Parcel 161-27-403-003)**

NOV #8986 – For failing to apply best available control measures and causing the release of a fugitive dust plume which crossed the property line, as identified during routine inspection on June 6, 2017, at the parcel located at 5875 Emerald Avenue, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 92.4.2

Recommended Penalty: \$2,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

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

NOV #8991 – For allowing tracked out soil debris greater than 50 feet and 0.25 inch in depth on paved roadways, and for handling material in a manner that caused fugitive dust plumes to travel over the property line, as identified during routine and follow-up inspections on June 7 and 8, 2017 at the Northgate Distribution Center Building 8 & 9 construction site 5550 Donovan Way, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.11.6

Violation #2 – Subsection 94.11.3

Recommended Penalty: \$12,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$12,000.00

Violation #1 – Subsection 94.11.6 - \$8,000.00

Violation #2 – Subsection 94.11.3 - \$4,000.00

4. **WELLS CARGO, INC. (Source ID: 12)**

NOV #8985 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on May 25, 2017 at its facility located at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition IV-B-32

Recommended Penalty: \$2,000.00

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

C. CONTESTED CASES

Asbestos, Construction, and Vacant Land Violations:

1. **BEAZER HOMES (DCP #42411)**

NOV #8997 – 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 a routine inspection on May 4 and 9, 2017 at the Dorado Skies Runvee Hobart construction site at the southwest corner of Lamb Boulevard and Tropical Parkway, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,500.00

2. **DC BUILDING GROUP, LLC (DCP #47369)**

NOV #9000 – For failure to implement control measures which resulted in fugitive dust from construction activities that crossed the property line; and failure to have the site superintendent or designated onsite representative successfully complete a Dust Control Class as identified on April 27 and 28, 2017 at the Ala Charter School construction site near Ann Road and Donna Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$4,250.00

Violation #1 – Subsection 94.11.3

Violation #2 – Subsection 94.7.6.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,750.00

Violation #1 – Subsection 94.11.3 - \$3,500.00

Violation #2 – Subsection 94.7.6.1 - \$250.00

3. **DREAM CONSTRUCTION CO., LLC (DCP #47632)**

NOV #8993 – For allowing a fugitive dust plume which extended over 100 feet from the point of origin, as identified during a routine inspection on June 15, 2017 at the Reyes Residence construction site at Lookout Avenue and Greenway Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,500.00

4. **J & J ENTERPRISES SERVICES, INC. (DCP #45733)**
NOV #8973 – For allowing tracked out soil debris greater than 50 feet and 0.25 inch in depth on paved roadways, as identified during routine and follow-up inspections on March 15, April 10 and 11, 2017 at the Torino #3 construction site on Torino Avenue, 300 feet west of Bermuda Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,000.00

Violation #1 – Subsection 94.11.6

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

5. **J. A. TIBERTI CONSTRUCTION (DCP #47283)**
NOV #8981 – For allowing tracked out soil debris greater than 50 feet and 0.25 inch in depth on paved roadways, as identified during a routine inspection on May 10, 2017 at the Southwest Regional Park construction site at 8400 West Robindale Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.11.6

FOUND IN VIOLATION.
PENALTY ASSESSED: \$1,500.00

6. **MASTER BUILT CONSTRUCTION, LLC (DCP #47119)**
NOV #8983 – 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 April 7, 2017 at the Stock Pile Durango/Sunset construction site located on Sunset Road, 325 feet west of Durango Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.9.2

MASTER BUILT CONSTRUCTION, LLC CHANGED ITS PLEA TO NON-CONTESTED.

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

7. **MDDNE, LLC (Parcels 176-18-501-001 & 176-18-501-002)**
NOV #8988 – For operating an unpaved parking lot which is not in compliance with Air Quality Regulations Section 92, as identified during routine inspections on September 30 and November 28, 2016, and April 11, June 7 and 13, 2017, at the parcels located at the northwest corner of Long Boat Key Avenue and South Fort Apache Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,500.00

Violation #1 – Subsection 92.3.1

MDDNE, LLC DID NOT APPEAR.

FOUND IN VIOLATION.
PENALTY ASSESSED: \$2,500.00

8. **PICERNE CONSTRUCTION CORPORATION (DCP #47013)**

NOV #8982 – For failure to obtain a Dust Control Permit for all areas subject to construction activities; handling materials and causing a fugitive dust plume which exceeded 50% opacity using the Instantaneous Method; and failing to have the site’s superintendent or designated representative with a valid Dust Class Card, as identified during a routine inspection on May 16, 2017 at the Tropicana Senior Living construction project, located at West Tropicana Avenue and Conquistador Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,250.00

- Violation #1 – Subsection 94.4.1
- Violation #2 – Subsection 94.11.1
- Violation #3 – Subsection 94.7.6.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,250.00

- Violation #1 – Subsection 94.4.1 - \$0.00**
- Violation #2 – Subsection 94.11.1 - \$1,000.00**
- Violation #3 – Subsection 94.7.6.1 - \$250.00**

9. **ROMEJA INVESTMENTS, LLC (Project #171031)**

NOV #8977 – For failing to notify Air Quality prior to removing regulated asbestos containing materials (RACM); failing to maintain RACM adequately wet; and failing to maintain RACM wastes in leak-tight containers, as identified during multiple site inspections on March 24, 27 and 28, 2017 at a facility located at 4907 Vegas Drive, Suite #130 / 1581 North Decatur Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000.00

- Violation #1 – Section 13.1
*40CFR61 Subpart M, Part 61.145(b)(1) &
40CFR61 Subpart M, Part 61.145(b)(3)(i)*
- Violation #2 – Section 13.1
40CFR61 Subpart M, Part 61.145(c)(6)
- Violation #3 – Section 13.1
40CFR61 Subpart M, Part 61.150(a)(1)(iii)

ROMEJA INVESTMENTS, LLC DID NOT APPEAR.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$6,000.00

- Violation #1 – Section 13.1 - \$1,000.00**
*40CFR61 Subpart M, Part 61.145(b)(1) &
40CFR61 Subpart M, Part 61.145(b)(3)(i)*
- Violation #2 – Section 13.1 - \$2,000.00**
40CFR61 Subpart M, Part 61.145(c)(6)
- Violation #3 – Section 13.1 - \$3,000.00**
40CFR61 Subpart M, Part 61.150(a)(1)(iii)

10. TOPNOTCH SERVICES, INC. (DCP #46799)

NOV #8980 – 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 May 17, 2017 at the Blue Diamond Medical Plaza construction site at the southeast corner of Blue Diamond Road and Mohawk Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$500.00

Stationary Sources Violations:

11. DHALI WAL ENTERPRISES, INC. (Source ID: 15140)

NOV #8978 – For failure to submit annual report for 2016 before the deadline; failure to maintain Phase I vapor recovery equipment in good working order; failure to conduct Phase I and Phase II inspections between January 2016 and May 11, 2017; failure to conduct performance testing on the Pressure/Vacuum Vent valve within three years of the previous test; and failure to maintain gasoline throughput records onsite, as identified during a full compliance evaluation conducted on May 11, 2017 of the Lake Mead Arco #82874 facility at 300 West Lake Mead Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$3,250.00

Violation #1 – Permit Condition II-C-3-a-ii

Violation #2 – Permit Condition IV- B-1-b-iv

Violation #3 – Permit Condition IV-C-3

Permit Condition IV-C-4

Violation #4 – Permit Condition IV-D-1

Violation #5 – Permit Condition IV-E-2-i through k

FOUND IN VIOLATION.

HEARING OFFICER ASSESSED A \$3,250.00 PENALTY, \$1,000.00 OF WHICH BE HELD IN ABEYANCE UNTIL 12/31/17. IF DHALI WAL ENTERPRISES, INC. PROVIDES AIR QUALITY WITH THE RESULTS OF THE PRESSURE/VACUUM VENT VALVE PERFORMANCE TEST BY 12/31/17 THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

12. LV PETROLEUM, LLC (Source ID: 17303)

NOV #8984 – For failure to submit annual reports for 2014 and 2016; exceeding permit limitations on gasoline throughput; failure to maintain Phase I vapor recovery equipment in good working order; failure to conduct performance testing on the Pressure/Vacuum Vent valve within three years of the previous test; and failure to maintain records onsite, as identified during a full compliance evaluation conducted on May 26, 2017 of the U.S. Gas facility at 7790 West Sahara Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,250.00

- Violation #1 – Permit Condition II-C-5-a
- Violation #2 – Permit Condition IV-A-3-a
- Violation #3 – Permit Condition IV-B-1-b-iii
- Violation #4 – Permit Condition IV-D-1
- Violation #5 – Permit Condition IV-E-2-a

FOUND IN VIOLATION.

HEARING OFFICER ASSESSED A \$6,250.00 PENALTY, \$2,000.00 OF WHICH BE HELD IN ABEYANCE. IF LV PETROLEUM, LLC SUBMITS A MINOR SOURCE PERMIT MODIFICATION TO AIR QUALITY BY THE END OF THE DAY (9/20/17) THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

13. TERRIBLE HERBST, INC. (Source ID: 17910)

NOV #8987 – For failure to obtain a Minor Source Permit prior to construction and operation of a gasoline dispensing operation, as identified during a partial compliance evaluation conducted on May 19, 2017 of the unpermitted Terrible Herbst, Inc. gasoline dispensing operation at 7560 Oso Blanca Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000.00

- Violation #1 – Section 12.1.3.1

TERRIBLE HERBST, INC. REQUESTED A CONTINUANCE.

HEARING OFFICER CONTINUED TERRIBLE HERBST, INC.'S CASE TO NOVEMBER 15, 2017.

D. POST-HEARING CASES

1. WELLS CARGO, INC. (Source ID: 12)

NOV #8929 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on January 11, 2017 at its facility at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

- Violation #1 – Permit Condition IV-B-34

HEARING OFFICER APPROVED THE AMENDED ORDER FOR NOVs #8929, 8937, 8940, 8948, AND 8972.

2. **WELLS CARGO, INC. (Source ID: 12)**
NOV #8937 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on February 7, 2017 at its facility at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition IV-B-34

SEE #1 ABOVE.

3. **WELLS CARGO, INC. (Source ID: 12)**
NOV #8940 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on February 15, 2017 at its facility at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition IV-B-34

SEE #1 ABOVE.

4. **WELLS CARGO, INC. (Source ID: 12)**
NOV #8948 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on March 21, 2017 at its facility at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition IV-B-34

SEE #1 ABOVE.

5. **WELLS CARGO, INC. (Source ID: 12)**
NOV #8972 – For causing an odor nuisance as documented in the Minor Stationary Source Compliant Investigation Report conducted on April 27, 2017 at its facility at 7770 West Spring Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Permit Condition IV-B-32

SEE #1 ABOVE.

III. ADJOURNMENT 11:00 a.m.