



Minutes of the Clark County

Air Pollution Control Hearing Board Meeting

April 9, 2015

I. CALL TO ORDER

Chair Daniel Sanders called the meeting of the Air Pollution Control Hearing Board to order at 1:30 p.m. A quorum was present and Affidavits of Posting of the agenda were provided as required by the Nevada Open Meeting Law. The Affidavits will be incorporated into the official record.

PRESENT: Daniel Sanders, Chair
Evan S. Wishengrad, Esq., Vice-Chair
William Kremer
Craig Schweisinger
Melvin Zeldin

LEGAL COUNSEL: Ofelia Monje, Esq., Counsel for DAQ

DAQ STAFF: Lea Kain, Air Quality Supervisor
Araceli Pruet, Administrative Secretary

OTHERS

PRESENT: Michelle Reily, Big Daddy Oil; Wendy Philley, Big Daddy Oil; Diana Hiegura, Big Daddy Oil; Jeremy Watson, Best Petroleum; Keith Phillips, Best Petroleum; Chuck Richter, DAQ; Shibi Paul, DAQ; Lea Kain, DAQ; Jeffrey Robb, DAQ; Tim Fogarty, DAQ; Scott Rowsell, DAQ

II. PUBLIC COMMENT

There were no public comments.

APPROVED APC HEARING BOARD
DATE: 12/9/15 10/15/15 (AP)
BY: Araceli Pruet
Board Secretary

III. APPROVE MINUTES OF FEBRUARY 5, 2015

Board Member Schweisinger made a motion to approve the minutes, which was seconded by Board Member Zeldin. Chair Sanders asked those in favor of approving the February 5, 2015 minutes to signify by saying aye. It was met by a chorus of ayes. There were no oppositions. The motion passed unanimously.

IV. MATTERS REQUIRING BOARD DISCUSSION/POSSIBLE ACTION

A. APPEALS

1. **BIG DADDY 1, LLC (Source: 9409) – NOV #8479** – Big Daddy 1, LLC is appealing the Air Pollution Control Hearing Officer's Order. On May 28, 2014, the Hearing Officer found Big Daddy 1, LLC in violation of Air Quality Regulations Subsections 12.8.1, 52.4(a)(1), 52.5(a)(1), 52.6(a)(1), and 52.7(b)(1) (Permit Conditions IV-B-1-e, IV-B-2-f, IV-B-2-g, IV-F-1-b, IV-F-1-l, IV-F-3-a, IV-E-1, IV-E-2, IV-G-2, and IV-G-4) 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. A \$9,000.00 penalty was assessed. This appeal was continued from the February 5, 2015 meeting.

Michelle Reily, Regional District Manager, and Wendy Philley, Las Vegas Area Supervisor, were sworn in, appearing on behalf of Big Daddy Oil.

Chair Sanders pointed out a training plan had been submitted after the casebooks were delivered to the board members and asked if Big Daddy was in agreement with the conditions of the Settlement Agreement. Ms. Reily concurred. DAQ Supervisor Lea Kain confirmed a training plan had been submitted and approved by staff, adding that the department was requesting the board approve the Settlement Agreement and that the Order reflect the \$6,000.00 penalty to be paid in a payment plan of \$1,000.00 per month for six months until the total is paid.

Chair Sanders asked for questions or comments from the board members. Board Member Kremer inquired about the training plan. Big Daddy staff offered copies of the plan for board review. Chair Sanders inquired whether staff had reviewed and approved said copy. Ms. Reily confirmed they were copies of the plan reviewed and approved by DAQ staff. Board Member Wishengrad commented on the training plan presented at the last board meeting that was deemed insufficient, clarifying the new plan was sufficient. Ms. Kain concurred, stating the new plan was complete, comprehensive, and acceptable to DAQ. Counsel Monje reiterated copies of the plan were available for board and public review. Chair Sanders asked if any of the board members wanted to review the plan; there were no requests for review.

Board Member Schweisinger inquired about the consequences of an untimely payment and whether it should be addressed in a motion. Ms. Kain responded the full penalty amount would become due if payment was late, acknowledging the agreement did not address failure to pay. Board Member Wishengrad insinuated it would be a breach of the agreement. Ms. Monje proposed language addressing untimely payment could be interlined in the Settlement Agreement as item 7 under

paragraph 4, subsection b, stating "if payment in full is not made by the due date, the entire amount of \$9,000.00 will become due." Board Member Wishengrad suggested, since the agreement had already been fully executed, it be added as a condition of approval of the agreement that untimely payment would be considered a default and the penalty would revert back to the full \$9,000.00. Ms. Monje agreed. Ms. Kain proposed that if the board was in agreement with Ms. Monje's suggestion, it could be reflected in the Order. Chair Sanders agreed it should be reflected in the Order and asked if Big Daddy was in agreement that if payment was not made timely, the penalty would revert back to the full penalty amount of \$9,000.00. Ms. Reily and Ms. Philley concurred. Chair Sanders requested the language be added to the Order.

Board Member Schweisinger stated if the untimely payment conditions are correctly defined, he would move to approve the Settlement Agreement. Chair Sanders clarified the motion would include the stipulation that there be a \$6,000.00 penalty based on \$1,000.00 per month payments until it is paid and, if not paid on time, the penalty would revert back to \$9,000.00. Board Member Schweisinger agreed with the chair's summary and addition to his motion. Chair Sanders pointed out a motion was on the table and asked for a second. It was seconded by Board Member Kremer. Chair Sanders called for a vote on the motion to approve the Settlement Agreement asking those in favor of approving the agreement to signify by saying aye. It was met by a chorus of ayes. There were no oppositions. The motion passed unanimously.

V. REPORT BY DAQ STAFF

There was no report by staff.

VI. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY BOARD AT FUTURE MEETINGS

None identified.


VII. PUBLIC COMMENT

There were no public comments.

VIII. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 1:40 p.m.

Submitted for approval,



Gary D. Miller, Compliance and Enforcement Manager
Department of Air Quality

4-20-15
Date