



APPROVED APC HEARING BOARD  
DATE: December 11, 2019  
BY: Sherrie Rogge  
Board Secretary

## Minutes

### Regular Meeting of the Clark County Air Pollution Control Hearing Board

August 14, 2019

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

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#### 1. CALL TO ORDER

Chair Sanders called the meeting of the Air Pollution Control Hearing Board to order at the hour of 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  
Elspeth Cordua  
Ryan L. Dennett, Esq.  
Tom Foster, P.E.  
William Kremer  
Lauren Rosenblatt

ABSENT: Evan S. Wishengrad, Esq., Vice-Chair

LEGAL COUNSEL: Jason Patchett, Deputy District Attorney

DAQ STAFF: Marci Henson, Director  
Shibi Paul, Compliance and Enforcement Manager  
Anna Sutowska, Air Quality Supervisor  
Sherrie Rogge, Administrative Secretary

#### 2. PUBLIC COMMENT

Chair Sanders asked if there were any persons present in the audience wishing to be heard. There being no one, Chair Sanders closed the public comments.

**3. APPROVAL OF MINUTES OF THE FEBRUARY 13, 2019 MEETING** (For possible action)

Chair Sanders called for comments, changes, or corrections to the February 13, 2019 minutes. Being none, he called for a motion.

**FINAL ACTION:** It was moved by Board Member Kremer, seconded by Board Member Foster that the subject minutes be approved.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Tom Foster, William Kremer, Lauren Rosenblatt, Daniel Sanders

Voting Nay: None

Abstaining: Ryan Dennett

Absent: Evan Wishengrad

**4. PUBLIC HEARINGS - REQUEST FOR CERTIFICATE OF EXEMPTION**

- 1. EVERGREEN DISTRIBUTORS, INC.** – Request for renewal of Certificate of Exemption for distributing and marketing low or no-pollinating olive trees (*Wilsonii*) for the next three (3) years. The current Certificate expires on August 30, 2019. (For possible action)
- 2. EVERGREEN DISTRIBUTORS, INC.** – Request for renewal of Certificate of Exemption for distributing and marketing non-pollinating olive shrubs (*Little Ollie*) for the next three (3) years. The current Certificate expires on August 30, 2019. (For possible action)

Chair Sanders announced Items 4.1 and 4.2 would be heard at the same time since it is the same applicant.

Chair Sanders asked if the representatives from Evergreen Distributors, Inc. would approach the testimony table. Mark Collins, President of Evergreen Distributors, Inc., P.O. Box 9830, Rancho Santa Fe, CA 92067, was sworn in.

**DISCUSSION:** Following introduction of the item, the Board, staff and the representative from Evergreen Nursery spoke regarding: the increase in pollen in the air during the past couple of allergy seasons; the number of trees that Evergreen Distributors is selling and the impact the trees are having on the allergy season; the pollen study conducted by UNLV; whether Air Quality or the Board of County Commissioners has considered limiting the number of olive trees that can be planted in the valley; if there is a method or audit that Air Quality staff uses to ensure the integrity of the tagging of the trees in order to maintain the stock as low- or no-pollinating stock; Air Quality inspection of exemptions; and how the nursery keeps its stock from becoming cross-contaminated from high pollinating trees by producing the trees through asexual reproduction/cuttings from two main trees in their propagation facility.

Chair Sanders opened the public hearing and asked if there were any persons present in the audience wishing to be heard on the matter.

SPEAKER(S): Present

Paul Noe, representing Star Nursery, was sworn in. Mr. Noe spoke about the many species of trees, shrubs, grasses, and flowers that are the high producers of pollen compared to the Wilsonii olive tree that is a low or no-pollinating olive tree. A larger problem is the number of trees coming in from California and Arizona that are being shipped directly to job sites that are not certified by growers nor are they being tagged as exempt.

Tyler Bilyk, Casa del Zorro Nursery, 1284 Henderson Canyon Road, Borrego Springs, CA 92004, was sworn in. Mr. Bilyk spoke on the importance of maintaining the chain of custody between the grower and the buyer. He also spoke on the different types of trees that can be planted and those that grow naturally in the desert, which have much higher pollen counts than the olive trees requiring an exemption.

There being no other persons present in the audience wishing to be heard on the matter, Chair Sanders closed the public hearing.

FINAL ACTION ITEM 4.1: It was moved by Board Member Dennett, seconded by Board Member Rosenblatt to approve the request for a Certificate of Exemption for the next three years.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, Tom Foster, Lauren Rosenblatt, Daniel Sanders  
Voting Nay: William Kremer  
Abstaining: None  
Absent: Evan Wishengrad

FINAL ACTION ITEM 4.2: It was moved by Board Member Cordua, seconded by Board Member Dennett to approve the request for a Certificate of Exemption for the next three years.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, Tom Foster, Lauren Rosenblatt, Daniel Sanders  
Voting Nay: William Kremer  
Abstaining: None  
Absent: Evan Wishengrad

- 3. CASA DEL ZORRO NURSERY dba ROADRUNNER TREE FARM** – Request for Certificate of Exemption for distributing and marketing low pollinating olive trees (Wilsonii) for the next three (3) years. (For possible action)

Chair Sanders asked if the representative from Casa del Zorro Nursery would approach the testimony table. Tyler Bilyk, Manager of Casa del Zorro Nursery, 1284 Henderson Canyon Road, Borrego Springs, CA 92004, approached. Chair Sanders stated that Mr. Bilyk was still under Oath.

DISCUSSION: Following introduction of the item, the Board and the representative from Casa del Zorro Nursery spoke regarding the DNA testing that had been performed on the trees being sold by the nursery, the proposed distribution plan, and the fact these would be the only trees being propagated through asexual reproduction/cuttings at the nursery and distributed to Clark County under this Certificate of Exemption, if granted.

Chair Sanders opened the public hearing and asked if there were any persons present in the audience wishing to be heard on the matter.

SPEAKER(S): None

There being no persons present in the audience wishing to be heard on the matter, Chair Sanders closed the public hearing.

FINAL ACTION: It was moved by Board Member Rosenblatt, seconded by Board Member Foster to approve the request for a Certificate of Exemption for the next three years.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, Tom Foster, Lauren Rosenblatt, Daniel Sanders  
Voting Nay: William Kremer  
Abstaining: None  
Absent: Evan Wishengrad

4. **SUNRISE NURSERY, LLC** – Request for Certificate of Exemption for distributing and marketing low or no-pollinating olive trees (Sunrise Pollenless Olives™) for the next three (3) years. (For possible action)

Chair Sanders asked if the representatives from Sunrise Nursery LLC would approach the testimony table. Mark Sneller, Ph.D., Owner of Aero Allergen Research LLC, who conducted the pollen tests on the trees for Sunrise Nursery, PO Box 12023, Tucson, AZ 85732, and Anthony Carranza, General Manager of Sunrise Nursery LLC, 22439 N. 163<sup>rd</sup> Ave., Surprise, AZ 85387, were both sworn in.

DISCUSSION: Following introduction of the item, Mr. Carranza distributed a handout to the Board showing the operations of the nursery. It was noted these trees come from the mother stock known as “Swan Hill Olive” which is trademarked by another nursery. Therefore, Sunrise Nursery has trademarked their trees as “Sunrise Pollenless Olive.” The Board and both representatives from Sunrise Nursery, LLC spoke regarding: allergens and those species in the valley that contribute to the high pollen count that occurs during the allergy season; the process of grafting a scion from a “Swan Hill Olive” onto a rootstock to produce the “Sunrise Pollenless Olive”; and, the pollen testing that had been performed on the trees being sold by the nursery, the proposed distribution plan, and the fact these would be the only trees being propagated and distributed to Clark County under this Certificate of Exemption, if granted.

Chair Sanders opened the public hearing and asked if there were any persons present in the audience wishing to be heard on the matter.

SPEAKER(S): None

There being no persons present in the audience wishing to be heard on the matter, Chair Sanders closed the public hearing.

FINAL ACTION: It was moved by Board Member Foster, seconded by Board Member Dennett to approve the request for a Certificate of Exemption for the next three years.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, Tom Foster, Lauren Rosenblatt, Daniel Sanders  
Voting Nay: William Kremer  
Abstaining: None  
Absent: Evan Wishengrad

**5. REPORT BY DEPARTMENT OF AIR QUALITY STAFF**

- A. General update.
- B. Update on changes to the internal procedure on assessing penalties for alleged violations of the Air Quality Regulations at Stationary Sources.

DISCUSSION: Following introduction of the item, Director Marci Henson shared updates on the activities of the Department of Air Quality for the period January 2019 through August 2019. Board Member Rosenblatt inquired about the effect on Air Quality of the climate policy bill passed by the legislature that directed the Department of Conservation and Natural Resources to make their greenhouse gas inventory more frequent. Director Marci Henson explained that it does not directly affect the greenhouse gas inventory that Air Quality performs. However, Air Quality has been invited to participate in the upcoming Clean Energy Clean Transportation summit that the Governor's Office of Energy is hosting. Compliance and Enforcement Manager Shibi Paul updated the Board on changes to the department's internal procedure on assessing penalties for alleged violations of Air Quality Regulations at Stationary Sources.

FINAL ACTION: No action was taken by the Board.

**6. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETINGS**

DISCUSSION: Chair Sanders requested an item be placed on a future agenda to discuss the chain of custody for nurseries and distribution centers that have Certificates of Exemption.

Board Member Rosenblatt requested that, in that same discussion, the Board consider whether local nurseries should be required to provide an audit trail to Air Quality's inspectors in regards to how many trees are purchased and from which supplier. In addition to an audit trail, the nurseries may need to be required to perform and pay for DNA testing on their trees on a periodic basis to ensure their stock is clean.

Director Henson recommended adding a discussion item on the agenda for the next meeting for which she would invite UNLV to provide a presentation to the Board about their pollen monitoring program. In addition, staff will give a presentation on the process and procedures for investigating and enforcing the rules associated with Certificates of Exemption.

FINAL ACTION: No action was taken by the Board.

**7. PUBLIC COMMENT**

Chair Sanders asked if there were any persons present in the audience wishing to be heard. There being no one, Chair Sanders closed the public comments.

**8. ADJOURNMENT**

Being no further business, Chair Sanders adjourned the meeting at 3:35 p.m.

Approved:



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Daniel Sanders, Chair

Dec. 11, 2019

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Date