



APPROVED APC HEARING BOARD
DATE: Dec. 28, 2025
BY: Shirley D. Page
Board Secretary

Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

December 4, 2024

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

1. CALL TO ORDER

Chair Sanders called the meeting of the Air Pollution Control Hearing Board to order at the hour of 1:31 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
Ryan L. Dennett, Vice-Chair
Donald Bordelove (Joined via MS Teams)
Troy Hildreth
Amy Lahav

ABSENT: Daniel Bartlett

HEARING BOARD

COUNSEL: Nichole Kazimirovich, Deputy District Attorney
Tyler T. Smith, Deputy District Attorney

DAQ STAFF:

Marci Henson, Director
Shibi Paul, Compliance and Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sheenaleigh Lucas, Senior Air Quality Specialist

DEPARTMENT

COUNSEL: Catherine Jorgenson, Deputy District Attorney

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 SEPTEMBER 16, 2024, AND OCTOBER 2, 2024, MEETINGS (For possible action)

Chair Sanders called for comments, changes, or corrections to the September 16, 2024, and October 2, 2024, minutes. Being none, he called for a motion.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, that the subject minutes be approved.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Donald Bordelove, Troy Hildreth, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Daniel Bartlett

The Board took item 7.B out of order and heard it after item 3. Counsel for Holcim – SWR, Inc. and representatives for Holcim were in attendance. No one was required to appear for items 4, 5, 6, or 7.A.

RECESSED: 3:29 p.m.
RECONVENED: 3:51 p.m.

Chair Sanders called the meeting back to order.

4. STATUS CHECK REGARDING NOVs #9907, #9946, #9979, #9981, AND #10081 #10008

Correction made in the title of item 4: #10081 to #10008.

- A. Update on Appellants' representation.
- B. Schedule hearing on appeal of Hearing Officer orders in the matter of Notices of Violation: #9907 issued to Assured Development, Inc. and Joseph Yakubik; #9946, #9979, and #10008 issued to Atlas Holdings International LLC and Joseph Yakubik; and #9981 issued to Joseph Yakubik and Darcie Yakubik for January 16, 2025, at 10:00 a.m. or January 21, 2025, at 10:00 a.m.
(For possible action)
- C. Schedule date to submit pre-hearing briefs, exhibits, and witness lists.
(For possible action)
- D. Update on additional records requests.

Catherine Jorgenson, Deputy District Attorney, State Bar No. 006700, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Division of Air Quality (Air Quality), provided the Board with an update. There has been difficulty in setting a date with Mr. Yakubik for the appeals hearing in January. Administrative Secretary Sherrie Rogge contacted Mr. Yakubik and Mr. Rocheleau, Attorney for Appellants Assured Development Inc., Atlas Holdings International

LLC, Joseph Yakubik, and Darcie Yakubik, notifying them that the Board would have a quorum for January 21st. Mr. Rocheleau notified her on October 22nd that he was not available on that date. Ms. Rogge responded with additional dates: January 23rd, 27th, and 28th. In addition, Ms. Jorgenson offered January 16th as a possible date. On November 6th, Ms. Rogge followed back up with Mr. Rocheleau and Mr. Yakubik about their availability on January 16th, 23rd, 27th, and 28th. On November 14th, Mr. Yakubik sent Ms. Rogge an email that Mr. Rocheleau is no longer representing the appellants on the appeals of NOVs #9907, #9946, #9979, #9981, and #10008 and that he is available on January 28th. That same day, Ms. Jorgenson requested for Ms. Rogge to add a status check to the December 4th Hearing Board agenda to address the scheduling issues. Mr. Yakubik replied to the email that he was not available on December 4th and asked about the procedure to engage Mr. Dennett to discuss the items that he agreed to review and weigh in on. Ms. Jorgenson replied to Mr. Yakubik that the deadline to request additional documents was November 15th as per the Board's direction from the October 2nd meeting. Also, since he wasn't going to be available for the status check, Ms. Jorgenson offered to discuss what the status check would entail if they agreed upon it beforehand. Mr. Yakubik did not respond.

Mr. Yakubik submitted a document to the Board the evening of December 3rd addressing the four points to be discussed at the meeting. Mr. Yakubik requested a separate hearing for each of the NOVs, itemized how much time he needed to present each case, a proposed schedule for pre-hearing briefs and exhibits, and an update on additional records requests. In addition, he updated the Board on appellants' representation.

Ms. Jorgenson notified the Board that the records request to which Mr. Yakubik was referring to in his letter was submitted by him on August 19th and 20th, and according to his email at the time, did not have anything to do with the appeals of the NOVs.

Ms. Jorgenson submitted four emails into evidence: August 20, 2024 @ 3:04 p.m. Email, August 21, 2024 @ 8:07 a.m. Email, November 14, 2024 @ 10:58 a.m. Email, and November 14, 2024 @ 12:24 p.m. Email.

DISCUSSION: Discussion ensued amongst the Board and Ms. Jorgenson regarding the scheduling of the Hearing Board meeting to address the five appeals.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to continue NOVs #9907, #9946, #9979, #9981, and #10008 to 9:00 a.m. on January 28, 2025, at which time the hearings on all appeals will be conducted. Each side will be given an equal amount of time to present their case. Prior to January 28, 2025, Vice-Chair Dennett, Department Counsel, and Mr. Yakubik will determine the specific time for each NOV.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Donald Bordelove, Troy Hildreth, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Daniel Bartlett

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to approve the deadline for parties to submit pre-hearing briefs, witness lists, and exhibits to Board Secretary no later than close of business January 17, 2025.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Donald Bordelove, Troy Hildreth, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Daniel Bartlett

5. ETON TRANSPORTATION CORP. (DCOP #57148)

NOV #9994 – On November 5, 2024, the Hearing Officer found ETON Transportation Corp. in violation of Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Air Quality Specialist Canduella Rowsell, Senior Air Quality Specialists Katrinka Byers and Andrew Kirk, and Air Quality Supervisor David Dean during a routine inspection on January 8, 2024, and follow-up inspections on January 9 and 17, 2024 at the Stratford-1 construction project, located at 2596 Stratford Avenue, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$3,500.00. Respondent appealed.

- A. Schedule hearing on appeal for February 5, 2025, at 10:00 a.m.
(For possible action)
- B. Schedule date to submit pre-hearing briefs, exhibits, and witness lists.
(For possible action)

Chair Sanders announced items 5 and 6.

Board Member Hildreth disclosed that ETON Transportation Corp. is currently renting land from Las Vegas Paving for whom he works. Board Member Hildreth does not have any communications with Mr. Moe Truman, and there is no financial agreement between himself and appellants.

Vice-Chair Dennett recused himself due to a conflict of interest and did not participate in this item.

Ms. Jorgenson notified the Board that the appellants are represented by Russell G. Gubler of Johnson & Gubler, P.C. She has spoken to Mr. Gubler who informed her that he and his client are available on February 5, 2025, at 10:00 a.m. for a Hearing Board meeting on the appeals of NOVs #9994 and #10078. They also agreed that January 22, 2025, would be a suitable date for the submission of pre-hearing briefs, exhibits, and witness lists.

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Lahav, to approve the following schedule: hearings on appeals for NOVs #9994 and #10078 to be conducted on February 5, 2025, at 10 a.m.; pre-hearing briefs, exhibits, and witness lists to be presented at the February 5, 2025, Hearing Board meeting to be submitted to board secretary no later than January 22, 2025.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Donald Bordelove, Troy Hildreth, Amy Lahav
Voting Nay: None
Abstaining: Ryan Dennett
Absent: Daniel Bartlett

Vice-Chair Dennett returned to the meeting.

6. **ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC D/B/A ETON, AND MOE TRUMAN, INDIVIDUALLY (DCOP #57148) NOV #10078** – On November 5, 2024, the Hearing Officer found ETON Transportation Corp., Environmental Transportation of Nevada, LLC d/b/a ETON, and Moe Truman, individually, in violation of Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, and Section 4.1(d)(1) for refusing entry or access to the Control Officer who requests entry for purposes of inspection, as identified by Air Quality Specialists Canduella Rowsell and Noel Crandall, and Senior Air Quality Specialist Andrew Kirk during a routine inspection on July 17, 2024, and follow-up inspections on July 25 and 31, 2024, and August 7 and 14, 2024, at the Stratford-1 construction project, located at 2596 Stratford Avenue, in Clark County Nevada. The Hearing Officer assessed a penalty amount of \$17,250.00. Respondents appealed.

- A. Schedule hearing on appeal for February 5, 2025, at 10:00 a.m.
(For possible action)
B. Schedule date to submit pre-hearing briefs, exhibits, and witness lists.
(For possible action)

See actions taken in item 5.

7. **APPEAL OF HEARING OFFICER DECISION (For possible action)**

- A. **GYP SUM RESOURCES, LLC (Part 70 Operating Permit, Source ID: 17286) NOV #10036** – On September 19, 2024, the Hearing Officer found Gypsum Resources, LLC in violation of their 2022 Permit conditions II.B.1, II.D.8, III.G.4.a, and III.D.5 for installing and operating an unpermitted Doosan, diesel-fired, continuous-duty, 755 horsepower (hp) engine during the period from November 22, 2023, through January 29, 2024, an unpermitted Cummins, diesel-fired, continuous-duty, 1,350 hp engine during the period from October 13, 2023, through March 31, 2024, and for operating the unpaved haul road to the R07 mine at a length of 4.8 miles round trip exceeding the permitted length of 1.2 miles round trip, without first obtaining an Authority to Construct (ATC) permit from the Control Officer; for failing to report a deviation in the 2023, 2nd semi-annual report that the unpaved haul road (Emission Unit: B04) length was modified in October 2023; and for failing to have a certified opacity reader on-site at all times the Facility was operating for a total of 134 days during the period of October 1, 2023, through March 31, 2024, as identified by Senior Air Quality Specialist Scott Rowsell during a full compliance evaluation on March 27, 2024 at the gypsum processing operation located at 8360 Nevada Highway 159, in Clark County, Nevada. Prior to the Hearing, Air Quality amended NOV #10036 to correct a miscalculation in the recommended penalty amount for the two unpermitted engines in Violation #1. The amended penalty amount for the unpermitted Doosan, diesel-fired, continuous-duty, 755 hp engine is \$9,314.08. The amended penalty amount for the Cummins, diesel-fired, continuous-duty, 1,350 hp engine is \$13,622.06. The amended recommended total

penalty amount for NOV #10036 is \$34,915.54 reflected on pages 2 and 8 of the NOV and Exhibit A, the Penalty Calculation Table. The Hearing Officer assessed a penalty amount of \$34,915.54 with \$1,855.54 of that penalty to be held in abeyance with the stipulation that Gypsum Resources LLC does not have new violations of AQRs in the same or similar category as 2022 Permit condition II.B.1 before September 19, 2025, takes steps to mitigate/correct existing violation #1 by submitting an ATC application to Air Quality within 30 days of the date of the Hearing Officer Order, and pays the reduced penalty within 30 days of the date of the Hearing Officer Order. (For possible action.)

Chair Sanders, Vice-Chair Dennett, and Board Member Hildreth recused themselves due to conflicts of interest and did not participate in this appeal.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Bordelove to approve the settlement agreement for NOV #10036, which includes a total sum of \$30,415.54 to be paid in full within 30 days of the signed Board order.

Motion carried by the following vote:

Voting Aye:	Donald Bordelove, Amy Lahav
Voting Nay:	None
Abstaining:	Danny Sanders, Ryan Dennett, Troy Hildreth
Absent:	Daniel Bartlett

Chair Sanders, Vice-Chair Dennett, and Board Member Hildreth returned to the meeting.

B. HOLCIM - SWR, INC. (Part 70 Operating Permit, Source ID: 372)

NOV #10048 – On September 19, 2024, the Hearing Officer found Holcim-SWR, Inc., in violation of the 2022 Permit condition III.B.31 for allowing controllable particulate matter from the Haul Road (Emission Unit: H06) to become airborne, and 2022 Permit condition III.D.12 for allowing fugitive dust to become airborne without taking reasonable precautions, as identified by Senior Air Quality Specialist Michael Newell while performing an inspection during routine surveillance on June 22, 2024 at the sand and gravel, hot mix asphalt, and ready-mix concrete operation known as Holcim – SWR Inc.: Sloan Quarry located at 5300 Sloan Road, in Clark County, Nevada. The Hearing Officer assessed a penalty of \$1,875.00 with \$375.00 of that penalty to be held in abeyance with the stipulation that Holcim-SWR, Inc., does not violate AQRs before September 19, 2025, and pays the reduced penalty within 30 days of the date of the Hearing Officer Order. (For possible action.)

Chair Sanders recused himself due to a conflict of interest and did not participate in this appeal hearing.

Vice-Chair Dennett announced the item.

Monique S. Jammer, Esq., Nevada Bar No. 15420, 9555 Hillwood Drive, Second Floor, Las Vegas NV 89134, Attorney for Appellant, Holcim-SWR, Inc. (Holcim).

Catherine Jorgenson, Deputy District Attorney, State Bar No. 006700, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Division of Air Quality (Air Quality).

During the presentation of the case, Vice-Chair Dennett swore the following people in for questioning:

Michael Newell, Senior Air Quality Specialist, Stationary Source Section
Scott Jelinek, Air Quality Supervisor, Stationary Source Section
Anna Sutowska, Air Quality Supervisor, Enforcement Section

Ms. Jammer and Ms. Jorgenson both made opening statements.

Holcim's arguments in regard to NOV #10048 are: that the type of controllable particulate matter that permit condition III.B.31 contemplates is not emissions from the haul road itself, but the emissions from the materials in the truck; Air Quality failed to follow required procedures to establish that the dust emissions observed on June 22, 2024, exceeded opacity limits as set by AQR 26 or Holcim's permit; permit condition III.B.31 does not allow Holcim the opportunity to self-regulate and is a catch-all provision that allows Air Quality unfettered discretion to assess any dust emissions as a violation. In addition, Holcim requested that the Board overturn the Hearing Officer Order from September 25, 2024.

Ms. Jorgenson presented the facts of Air Quality's case pertaining to the appeal of NOV #10048. Ms. Jorgenson called Mr. Newell and Mr. Jelinek to testify.

Ms. Jammer cross examined Mr. Newell and Mr. Jelinek.

The Board asked Mr. Newell and Mr. Jelinek follow-up questions.

Ms. Jammer made a closing statement. Holcim's position is that permit condition III.B.31 is a catch-all provision that does not take into account AQR 26 for opacity which makes it a subjective permit condition. It renders Holcim powerless in policing itself in regard to dust emissions from the haul road. Holcim does not agree that the fugitive dust observed was significant. There are standards, clear procedures, clear policies in place that allow Air Quality to confirm that a violation has occurred before they assess a violation and penalty against Holcim. Air Quality failed to do so.

Ms. Jorgenson made a closing statement. The dust emissions observed in Mr. Newell's video are not subjective. The dust emissions are observable. The fact that there were dust emissions is not subjective. Permit condition III.B.31 is one of the conditions cited in the NOV. It originates from a State Implementation Plan (SIP)-approved rule that is enforceable and has been in Holcim's permit for many years. The haul road on June 22, 2024, was observed to be dry, loose, and powdery soil. That was also an objective observation. In addition, Mr. Newell did not observe any application of any type of control measures. Holcim chooses to apply water to the haul road to mitigate dust, but other control measures can be applied such as pavement, surfactant, dust palliative, or crushed asphalt. Permit condition III.D.42 states that if there is inconsistency between standards and requirements, the most stringent standard or requirement shall apply which, in this case, is permit condition III.B.31.

The Board discussed the arguments made by both parties.

Ms. Jorgenson questioned Air Quality Supervisor Anna Sutowska in regard to the recommended penalty.

General discussion ensued between the Board.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Hildreth, to affirm the Hearing Officer Order in the matter of NOV #10048 finding the violation did occur.

Motion carried by the following vote:

Voting Aye:	Donald Bordelove, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay:	None
Abstaining:	Daniel Sanders
Absent:	Daniel Bartlett

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Hildreth, to affirm the Hearing Officer Order in the matter of NOV #10048 assessing a \$1,875 penalty, \$375 of which is to be held in abeyance until September 19, 2025. If Holcim-SWR, Inc., does not violate the AQRs before September 19, 2025, and pays the reduced penalty within 30 days of the date of the Hearing Board Order, then the suspended amount of \$375 will be waived.

Motion carried by the following vote:

Voting Aye:	Donald Bordelove, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay:	None
Abstaining:	Daniel Sanders
Absent:	Daniel Bartlett

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Hildreth to accept the following findings of fact and conclusions of law: the Board heard an appeal of the Hearing Officer's decision with regard to NOV #10048 for a fugitive dust incident while Holcim was operating under stationary source operating permit, Source ID: 372, issued on November 6, 2019. The officer observed that on June 22, 2024, haul trucks were operating at the subject site, and there were inadequate dust control measures taken on the haul roads causing significant incidents of uncontrolled fugitive dust in violation of the subject permit specifically conditions III.B.31 and III.D.12. The permit conditions stipulated that the permittee should have both precluded fugitive dust and taken reasonable measures to ensure that fugitive dust was not discharged from these haul roads. As part of the de novo appeal of the NOV, the Board has found that the NOV is appropriately entered for violation of permit conditions III.B.31 and III.D.12 and a fine for the violation of those permit requirements has been entered in the amount of \$1,875.00 with \$375.00 of that being held in abeyance, pending no further violations by Holcim-SWR, Inc., Source ID: 372, prior to September 19, 2025.

Motion carried by the following vote:

Voting Aye:	Donald Bordelove, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay:	None
Abstaining:	Daniel Sanders

Absent: Daniel Bartlett

Chair Sanders returned to the meeting at 3:29 p.m.

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

There were no emerging issues identified by the Board.

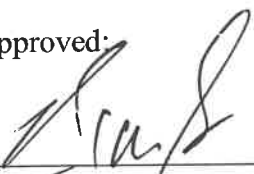
9. PUBLIC COMMENT

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.

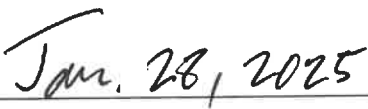
10. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 4:43 p.m.

Approved:



Daniel Sanders, Chair



Date