Agenda

Clark County Air Pollution Control Hearing Board

Wednesday, December 11, 2019 – 1:30 P.M.
Clark County Building Department
Presentation Room
4701 West Russell Road
Las Vegas, NV

Hearing Board Members
Daniel Sanders, Chair
Evan S. Wishengrad, Esq., Vice-Chair
Elspeth Cordua
Ryan L. Dennett, Esq.
Tom Foster, P.E.
William Kremer
Lauren Rosenblatt

Deputy District Attorney
Jason Patchett

Air Quality Staff
Marci Henson, Director
Shibi Paul, Compliance & Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

- Items on the agenda may be taken out of order.
- The Air Pollution Control Hearing Board may combine two or more agenda items for consideration.
- The Air Pollution Control Hearing Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.
- To request a copy of the supporting materials for an agenda item, please contact Sherrie Rogge at sherrie.rogge@clarkcounty_nv.gov or (702) 455-0354. Supporting materials are available for inspection at the Clark County Department of Air Quality office located at 4701 West Russell Road, Las Vegas, NV 89118 or on our website at: http://www.clarkcounty_nv.gov/AirQuality/compliance/Pages/Compliance_EnforcementNotices.aspx.
1. **OATH OF OFFICE**
   A. George T. Foster, P.E. (Professional Engineer Member)
   Term of Office: 10/2/19 through 10/1/22

2. **CALL TO ORDER**

3. **PUBLIC COMMENT**
   No action may be taken upon a matter raised under this item until the matter itself has been specifically included on an agenda. Public comments may be considered on specific agenda items. Please clearly state your name and address for the record. Speaking time will be limited to five (5) minutes per person.

4. **APPROVAL OF MINUTES**
   Approval of August 14, 2019 meeting minutes. (For possible action)

5. **REPORT BY DEPARTMENT OF AIR QUALITY STAFF**
   A. General update.
   B. Presentation by UNLV - Pollen Monitoring Program.
   C. Informational session from Air Quality on the process and procedures for investigating and enforcing the rules associated with Certificates of Exemption for low or no-pollinating Fruitless Mulberry or European Olive trees, chain of custody from growers and distributors to nurseries, and local nurseries obligations. (Requested by Chair Sanders and Board Member Rosenblatt)

6. **PUBLIC HEARINGS – REQUEST FOR CERTIFICATE OF EXEMPTION**
   1. **DESERT FORREST NURSERY, LLC.** – 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 December 8, 2019. (For possible action)
   
   2. **PONTO NURSERY, 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 December 8, 2019. (For possible action)
   
   3. **VALLEY CREST TREE COMPANY dba BRIGHT VIEW TREE COMPANY** – 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 February 22, 2020. (For possible action)
   
   4. **VALLEY CREST TREE COMPANY dba BRIGHT VIEW TREE COMPANY** – Request for renewal of Certificate of Exemption for distributing and marketing low or no-pollinating olive trees (Swan Hill®) for the next three (3) years. The current Certificate expires on February 22, 2020. (For possible action)
7. **IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETING**

8. **PUBLIC COMMENT**
   No action may be taken upon a matter raised under this item until the matter itself has been specifically included on an agenda. Public comments may be considered on specific agenda items. Please clearly state your name and address for the record. Speaking time will be limited to five (5) minutes per person.

9. **ADJOURNMENT**

The Presentation Room is accessible to individuals with disabilities. With forty-eight (48) hour advanced request, a sign language interpreter may be made available by contacting (702) 455-0354 or TDD (702) 385-7486 or Nevada Relay toll-free (800) 326-6868, TT/TDD. Assistive listening devices are available upon request.

This notice and agenda was posted or caused to be posted at the following locations:
- Clark County Operations Center, West, 4701 W. Russell Road, Las Vegas, Nevada
- Las Vegas City Hall, 495 S. Main Street, Las Vegas, Nevada
- Henderson City Hall, 240 S. Water Street, Henderson, Nevada
- North Las Vegas City Hall 2250 Las Vegas Blvd. North Las Vegas, Nevada
- Boulder City, City Hall, 401 California Avenue, Boulder City, Nevada
- Mesquite City Hall, 10 E. Mesquite Boulevard, Mesquite, Nevada
- CC Government Center, 500 S. Grand Central Parkway, Las Vegas, Nevada
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

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 it’s 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. 163rd 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:

______________________________
Daniel Sanders, Chair

______________________________
Date
• **Planning (August 1 – November 30, 2019)**
  - Criteria Pollutants
    - Carbon Monoxide (CO) - attainment/maintenance
      - Submitted 2nd 10-year maintenance plan in May 2019
      - Waiting EPA action/response
    - Ozone (O₃)
      - 1997 Ozone NAAQS is still under first 10-year maintenance
        - Working on 2nd 10-year maintenance plan due June 2021
      - 2015 Ozone NAAQS is still marginal based on 2016, 2017, and 2018 data
      - Working with RTC and airport on conformity issues
        - Submitted emissions budget revision to 1997 ozone maintenance plan
        - Submitted a letter of commitment to again revise the 1997 ozone maintenance plan emissions budget to reflect potential interferences arising from the 2015 ozone NAAQS
        - Waiting on emissions estimates from DOA contractor
    - PM₁₀ - attainment/maintenance
      - Initial planning for 2nd 10-year maintenance plan due June 2022
    - PM₂.₅ – attainment
    - Nitrogen dioxide (NO₂) – attainment
    - Sulfur dioxide (SO₂) – attainment
    - Lead (Pb) – attainment

  - Performance Metrics for August- November 2019
    - Increment Modeling: 8 major, 43 minor source reviews
    - Review/Analysis of agency air quality actions: 52
    - Processed records requests: 117
    - Public information and communication: 13 public outreach events which have yielded 3,572 engagements.

• **Monitoring**
  - Implemented 2019 Annual Monitoring Network Plan
    - Stations located in neighborhoods to assess exposure levels to the general population.
    - Three new sites were scheduled to open by the end of 2018, but being delayed due to circumstances beyond DAQ’s control. The sites are anticipated to be open by mid-2020. The new sites will be located in the SW, SE, and NE portions of the valley.
    - Network also characterizes pollution transported into Clark County and background levels natural to Clark County.
• **Stationary Source Permitting**
  - 244 permits issued (Aug-Nov)
  - 235 permits issued on time (96%)
  - 1083 active operating permits
  - Year’s end performance
    - Processed 44% more permit applications compared to 2018
    - Issued 53% more permits compared to 2018
    - Reduced late permits by 50% compared to 2018
    - Completed permitting actions equivalent to 97% more allotted hours compared to 2018
  - Program Highlights:
    - Complete overhaul of Minor Source Permit Application with significant revisions to improve user experience.
    - Another phase of enhancements to online mineral processing application and emissions tool to improve user experience.
    - General permit program development progressing (GDO) – first three permits expected to go into public participation at start of New Year.

• **Compliance: Dust Permits and Vacant Land**
  - Issued 1,078 dust permits from August 2019 through November 2019; averaged 4.68 days to issue a dust permit
  - Conducted 2,927 construction inspections from August 2019 through November 2019
  - In the last meeting, the board asked how much acreage is permitted. As of December 6, 2019, there are 1,940 active permits with a total of 27,573.3 acres of permitted area.
  - Year’s end performance
    - Conducted 35% more construction site inspections compared to 2018
    - Issued 20% more dust permits compared to 2018
    - Average days to issue a dust permit was improved to 4.9 days in 2019 compared to 6 days in 2018

• **Compliance: Stationary Sources, Complaints and Enforcement**
  - Conducted 263 stationary source inspections from August 2019 through November 2019
  - Received and responded to 439 complaints from August 2019 through November 2019
  - Notices of Violation (NOVs) issued from August 2019 through November 2019
    - 34 for construction
    - 26 for stationary sources
    - 3 for asbestos
  - Assessed $332,941 in penalties from August 2019 through November 2019
    - $49,665 has not yet been adjudicated

**Agenda Item 5A**
In the last meeting, the board asked how many NOVs are a result of complaints. Out of the 63 NOVs issued between August and November of 2019, 16 resulted from complaints which is approximately 25%.

Year’s end performance
- Conducted 30% more on-site stationary source inspections compared to 2018
- Average issuance time for NOVs was reduced by 35% compared to 2018
- Met complaint response/resolution timelines for at least 98% of all complaints received in 2019 compared to 94% in 2018

**Small Business Assistance Program**
- Responded to 691 requests for assistance (479 for permitting assistance and 212 for compliance assistance) from August 2019 through November 2019.
- SBA provided two workshops for the regulated community during October covering compliance inspections and permit requirements.
- Continues to proactively contact stationary source permittees that are within 30 days from the deadline to renew their permits to offer assistance preparing their renewal application.
- Has started providing training for large gasoline dispensing companies to train their managers about federal and local air quality requirements.
- Both SBA Specialists are providing front counter assistance to Dust Permitting Customers.
- Both SBA Specialists are visiting sources that are not required to maintain a permit, but are subject to federal requirements for gasoline dispensing, surface coating and dry cleaning to providing compliance assistance.

**Regulation Updates**
- AQR Section 4 – Control Officer, and AQR Section 7 – Hearing Board and Hearing Officer, AQR Section 9 – Civil Penalties are scheduled for a public hearing before the Board of County Commissioners on December 17, 2019.
- Have started meetings for management review of Section 18 – Fee Rule. The Request for Proposal for a consultant to assist with reevaluating the fee structure should be ready by the end of January 2020.
- Completed staff and supervisory review of AQR 94 – Permitting and Dust Control for Construction Activities. Management review will begin once the Best Management Practices are rewritten by staff. (First quarter 2020).
CCSD/UNLV POLLEN PROGRAM

Principal Investigator
Professor Mark Buttner

Co-Principal Investigator
Professor Dennis A. Bazylinski,

Allergist
Dr. Joram Seggev

UNLV
SCHOOL OF
PUBLIC
HEALTH

Agenda Item 5B
National Allergy Bureau (NAB) Pollen and Mold Certification Process

• Certified separately as a pollen counter or as a mold counter in order to use a Burkard Spore Trap or the equivalent.
• Stations agree to provide data on a timely bases to the NAB.
• Required training course(s) and a web-based qualifying exam.
• NAB counters must be a member of the AAAAI or the ACAAI or participate in a station where the director is a member of one of these associations.
Burkard Sampler

- NAB stations counting molds and pollen grains operate with a volumetric air sampler, which are manufactured in England. Stations only counting pollen grains may operate with rotation impact samplers, which are manufactured in the U.S. or Canada.
Burkard Sampler

- **Air Sampler**
  - Burkard recording volumetric spore trap
  - Impaction sampler
  - Efficient for small spores (mold)
- **Key features**
  - Wind-oriented
  - Sealed chamber with one orifice
  - Air flow rate: 10 L/min
  - 7-day or 24-hour sampling head
  - Clock revolves drum (A) or slide carriage (B) at 2 mm/hour
Pollen and Mold Collection Sites

- UNLV- National Allergy Bureau Certified Site - June, 2014
- Jerome D. Mack Middle School - March, 2015
- Sunrise Acres Elementary School - March, 2018
- Joe M. Neal Elementary School - March, 2015
- Palo Verde High School - March, 2015
- Jean - September, 2014
Site Locations on the Map
Site Locations

- **Jerome D. Mack Middle School**
  - Southeast/6.5 miles from UNLV/ Lamb Blvd and Karen Ave.
- **Sunrise Acres Elementary School**
  - Southeast/5.8 miles from UNLV/ Stewart and N 28th St.
- **Joseph M. Neal Elementary School**
  - Northeast/20 Miles from UNLV / N Rainbow and Azure Dr.
- **Palo Verde High School**
  - Northwest/20 miles from UNLV / W. Charleston and S Pavilion Center Dr.
- **Jean**
  - I-15 South/29 miles from UNLV
Pollen Trend for 2018

• After a peak in 2017, total tree pollen concentrations showed a decrease in 2018, possibly due to a shorter winter and an earlier spring. Weed and grass pollen also showed an increase in 2017 compared to the other years.

• Continued monitoring is needed to determine the annual pollen trends to provide timely forecasts for the community.

• 2019 ?
Inspection and Enforcement Procedures – AQR Section 44
Origin of Section 44

- Clean Air Act does not contain provisions to regulate pollen or trees.
- As a result of increased complaints about pollen sensitivity, the Clark County Health District (now the Southern Nevada Health District), in January 1991, adopted Section 44 into the Air Quality Regulations to prohibit the planting or selling of fruitless mulberry and traditional European olive trees.
- These two tree types were deemed the worst pollinators (highly allergenic) and a public nuisance.
  - Mulberry trees are popular because they make good shade trees.
  - Olive trees transplant well and do well in arid climates.
Section 44 – Prohibitions on Planting, Selling, or Offering to Sell Fruitless Mulberry and European Olive Trees

- Section 44.2.1 - “No Person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.”

- Section 44.3.1 - Cultivars (cultivated varieties) of low pollinating Fruitless Mulberry or European Olive may be exempt from the above restrictions if the person who grows them for commercial distribution applies for and receives a “Certificate of Exemption” from the Hearing Board. Certificates are good for only 3 years, then must be renewed.

- Certificates of Exemption do not exist for Fruitless Mulberry trees (as there are no known low pollinating Fruitless Mulberry trees).
Fruitless Mulberry (Morus Alba “Fruitless”)

- Morus Alba Fruitless (photo below) produces pollen but no fruit (male tree). Not allowed to be sold.
- White Fruiting Mulberry (produces no pollen but bears fruit). Legal.
Recent Case

- NOV #8969 to a commercial nursery for selling fruitless mulberries (result of a citizen complaint).
- Adjudicated penalty: $1,400
Young Fruitless Mulberry
Olea Europaea (European Olive)
Wilson Olive on UNLV Campus (standard)
**Inspections**

- Periodic and random inspections of commercial nurseries (Moon Valley and Star Nursery are the largest nurseries) and home improvement stores (e.g. Home Depot and Lowes).
- Complaint initiated; most complaints are about grandfathered trees (1000’s of traditional olive trees planted prior to 1991).
- DAQ occasionally receives complaints about pollen from olive trees in the springtime.
Nursery Visits
Swan Hill tagged trees
small container Wilsonii with Ponto Nursery tag
large box Wilsonii
Tag Identification

The Swan Hill Olive
U.S. Federal Trademark No. 2,001,332 (9/96)
Non-Pollinating & Non-Fruiting
Verticillium Wilt Resistant

8/2004 Specimen No. 124198

From
Swan Hill Nurseries, LLC
623-935-0545
www.swanhill.com

Approved by the Clark County, NV Air Pollution Control Hearing Board July 2003
Presence of olives
Enforcement

- Trees with no tags are requested to be pulled from the selling floor; nursery determines fate of plant if it comes from a nursery with no COE.
- Request to see invoice or other documentation for tree to check tag numbers.
- If a new cultivar or if tree is from a nursery without a Certificate of Exemption, nursery manager is informed it can’t be sold and given information about Section 44.
- Photos taken, report compiled and enforcement action (e.g. NOV) recommended.
Recent Cases

- NOV #9252 to home improvement store for selling shrubs (Little Ollie) and cultivars (e.g. Majestic Beauty, Wilsonii) from two different nurseries without a Certificate of Exemption.
- Adjudicated penalty: $3,800
Recent Cases

- NOV #9251 to a commercial nursery for selling shrubs ("Little Ollie") from a nursery without a Certificate of Exemption.
- Adjudicated penalty: $2,700
Recent Cases

- NOV #9257 to a commercial nursery for selling shrubs (dwarf olive bush) from a nursery without a Certificate of Exemption.
- Adjudicated penalty: $500
Possible Future Activities

- Require DNA tree testing on nurseries with COEs at time of application/renewal and once during the exemption period to ensure cultivar is true to type.
- Inspect plant staging areas at developments nearing final completion, and at various landscaping projects.
- Current Administrative challenges and proposed changes
  - AQR Section 7 revisions
Questions?
RE: DESERT FORREST NURSERY – 2019 Renewal of Certificate of Exemption (Wilsonii)

**EXHIBIT LIST**

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<th>EXHIBIT #</th>
<th>DESCRIPTION</th>
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<td>DFN001-DFN003</td>
<td>Staff Report</td>
<td>11/8/19</td>
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<tr>
<td>DFN004-DFN011</td>
<td>Desert Forrest Nursery Distribution Plan and Tag 2016-2018</td>
<td>10/3/19</td>
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<td>DFN012</td>
<td>Notice of Hearing</td>
<td>10/29/19</td>
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<td>DFN013</td>
<td>Affidavit of Publication – LV Review Journal</td>
<td>10/29/19</td>
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<td>DFN014-DFN016</td>
<td>Certificate of Mailing for Hearing Notice</td>
<td>10/28/19</td>
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<td>DFN017</td>
<td>Letter to Desert Forrest Nursery Deeming Application Complete</td>
<td>10/8/19</td>
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<tr>
<td>DFN018</td>
<td>Record of Communication with Desert Forrest Nursery Requesting Additional Documentation for Renewal of Certificate of Exemption</td>
<td>9/30/19 and 10/1/19</td>
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<tr>
<td>DFN019-DFN022</td>
<td>Email to Desert Forrest Nursery with copies of documentation submitted in 2016 for Renewal of Certificate of Exemption</td>
<td>9/24/19</td>
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<tr>
<td>DFN023</td>
<td>Letter to Desert Forrest Nursery Requesting Additional Documentation for Renewal of Certificate of Exemption – Third Request</td>
<td>8/29/19</td>
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<tr>
<td>DFN024</td>
<td>Record of Communication with Desert Forrest Nursery Regarding the Status of his Certificate of Exemption Renewal</td>
<td>8/2/19</td>
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<tr>
<td>DFN025</td>
<td>Letter to Desert Forrest NurseryAcknowledging Receipt of Renewal Request and Requesting Additional Documentation</td>
<td>6/19/19</td>
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<tr>
<td>DFN026</td>
<td>Receipt of Payment from Desert Forrest Nursery for Renewal of Certificate of Exemption</td>
<td>6/13/19</td>
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<tr>
<td>DFN027</td>
<td>Renewal Inquiry Letter to Desert Forrest Nursery</td>
<td>6/10/19</td>
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Application for Renewal of Certificate of Exemption

Applicant: Desert Forrest Nursery, LLC
16835 West Olive Avenue
Waddell, AZ 85355

Purpose:

Desert Forrest Nursery LLC (Desert Forrest) has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii olive for the next three years.

Background:

Desert Forrest acquired Easy Pace Tree Farm (also known as Orangewood Nursery, Inc.) in 2012. On May 6, 1991, Easy Pace submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County. Subsequently, Easy Pace presented a study dated May 13, 1992, by Dr. Nicholas P. Yensen that stated the Wilson olive trees observed released pollen at a level significantly (with a 95% confidence level) below 15% of the level of the Mission Olive. The study used seven Wilsonii olive trees with pollen traps that used “Tangle Foot” sticky paper. Issues were raised regarding the validity of the study whereby the Air Pollution Control Hearing Board granted an exemption for one year to December 10, 1993 with conditions. Further research was completed with the data showing evidence of low pollen potential from the Wilsonii cultivar. On December 9, 1993, after reviewing the consultant’s study, the Board extended the Certificate of Exemption to December 10, 1995. The Board renewed the certificate on October 12, 1995, October 8, 1998, December 6, 2001, December 9, 2004, November 29, 2007, November 4, 2010, October 9, 2013, and again on December 8, 2016 with an expiration date of December 8, 2019 under the name of Desert Forrest Nursery LLC. On June 19, 2019, Desert Forrest submitted an application for renewal of its Certificate of Exemption for growing, distributing, and marketing Wilsonii trees. Additional information was required and received. The application was deemed complete on October 8, 2019.

Regulations:

Clark County Air Quality Regulation (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.
AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.

AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

**Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

**Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on October 29, 2019 notifying the public of the application and inviting public comment. In addition, staff mailed 14 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices, 4701 West Russell Road, Suite 200, Las Vegas, NV, (702) 455-5942.

Anyone may petition to intervene in writing by November 18, 2019. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by November 18, 2019, or ten copies must be brought to the meeting for staff, board members, and the public.

**Conclusions:**

DAQ staff has discussed the Wilsonii olive with representatives of several local nurseries in Clark County that market the majority of these trees. They have received no customer complaints about pollination or fruiting. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate, until sale to consumer (AQR §44.3.3).

2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt
trees under the applicant's control will carry the label provided for in §44.3.3. Shipping invoices must show a copy of Certificate (AQR §44.3.4).

3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).

More Information:

If you would like additional information about this application, please contact Sherrie Rogge at sherrie.rogge@clarkcountynv.gov or (702) 455-0354.
Anna Sutowska
Air Quality Supervisor
Clark County Department of Air Quality
4701 W. Russell Rd., Suite 200

Good afternoon Mr. Wald,

As we discussed over the phone, here are the documents that were submitted previously.

Regards,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Air Quality
4701 W. Russell Rd., Suite 200
For any dust permit information or forms, please go to the link posted below.

http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_DustForms.aspx
Clark County,

I have attached our current and ongoing distribution plan for shipment of our Wilson Olives to landscape projects and retail outlets throughout Clark County Nevada.

You will also find a sample of the numbered identification tags provided by Desert Forrest Nursery L.L.C. which will be attached to each individual tree. These individual numbers will also be referenced on all related shipping documents, along with any other required exemption certification documentation.

If you have any questions or concerns please contact us at 623-935-1859.

Sincerely,

Forrest Wald
Desert Forrest Nursery, L.L.C.
Distribution Plan For Wilson Olives to Clark County, Nevada

Variety Assurance:
Desert Forrest Nursery will ship only Wilson Olives.

Labeling:
Every Wilson Olive shipped from Desert Forrest Nursery will have an individually numbered identification tag attached to the tree.

Documentation:
All Shipping documents will have the individual tag numbers and be accompanied with a copy of our certificate of exemption.

Tracking:
Upon request, Desert Forrest Nursery will provide the DAQ with documentation of any customer that has taken delivery of our Wilson Olive in Clark County, Nevada.

www.DesertForrestNursery.com
## 48" box Olea europea "Wilsonii"

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<td>Gothic Landscape, Inc</td>
<td>SWC N. Walker St. Cadence Crest A Las Vegas,NV</td>
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<td>Gothic Landscape, Inc</td>
<td>6325 S. Valley View Blvd. Las Vegas, NV 89118</td>
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</table>

48" Box Olea europea “Wilsonii”
OLEA EUROPAEAE WILSONI
Plant Pat. #4464

Approved By Clark
County Air Pollution
Control Hearing Board
On 12-08-16

Approved By Pima
County Board
of Supervision
On 01-17-95

Desert Forrest Nursery, LLC
16406 W. Orangewood Ave.
Litchfield Park, AZ 85340
(623) 935-1859
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ’s offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Published: October 29, 2019
Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/29/2019 to 10/29/2019, on the following days:

10 / 29 / 19
CERTIFICATE OF MAILING

I hereby certify that on October 28, 2019, I mailed the following documents:

Notice of Hearing

to the individuals listed below by placing true and correct copies thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

See mailing list attached.

Dated this 28th day of October 2019.

Sherrie D. Rogge, Administrative Secretary
Enforcement Division
Department of Air Quality

Sherrie D. Rogge
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ’s offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Published: October 29, 2019
October 8, 2019

Mr. Forrest Wald  
Desert Forrest Nursery, LLC  
16739 West Olive Avenue  
Waddell AZ 85355

E-mail: forrest@desertforrestnursery.com

Re: Renewal of Certificate of Exemption – Olea Europaea “Wilsonii Olive”

Dear Mr. Wald:

On June 19, 2019, the Department of Air Quality received your request to renew your Certificate of Exemption for the “Wilsonii Olive” and on October 3, 2019 we received the additional material as requested.

Staff has reviewed the documentation you submitted and deemed it complete.

This letter confirms that the renewal of your Certificate of Exemption for the Wilsonii Olive has been scheduled for a public hearing before the Air Pollution Control Hearing Board on December 11, 2019 at 1:30 p.m. The hearing will take place in the Clark County Building Department – Presentation Room, located at 4701 West Russell Road, Las Vegas Nevada 89118. Once finalized, copies of the Hearing Board Agenda and staff’s report to the Board will be sent to you. It is recommended that you attend this hearing to answer any questions by the Hearing Board members. Should you choose not to attend, please provide a detailed statement that supports your request for renewal.

Any additional support documentation you intend to present to the board regarding this matter must either: (1) be submitted to me by 9:00 a.m., Monday, December 2, 2019, so that it can be copied and placed in the board books for distribution to the respective Board Members; or (2) be brought to the meeting, along with ten copies for distribution to staff, board members, and members of the public. Failure to comply with one of these two options may preclude you from presenting these documents to the board at the meeting.

In the meantime, if you have any question, please do not hesitate to contact me at (702) 455-0354.

Sincerely,

Sherrie D. Rogge  
Administrative Secretary

cc: Anna Sutowska, Enforcement Supervisor  
Patricia A. Ringgenberg, Air Quality Specialist II
## VIOLATION PROCESSING SECTION

### RECORD OF COMMUNICATION

<table>
<thead>
<tr>
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<th>Date: 9/30/2019 and 10/1/19</th>
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<tbody>
<tr>
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<tr>
<td>Meeting</td>
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<table>
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<th>Company: Desert Forrest Nursery</th>
<th>Tele #: 602-690-3030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call</td>
<td>From/To: Forrest Wald, Owner</td>
</tr>
</tbody>
</table>

### Summary:

On 9/30/19 at 1:44 p.m., I called Mr. Wald to inquire about the documents he was to submit for the renewal of his Certificate of Exemption following his conversation with Anna Sutowska, Enforcement Supervisor on 9/24/19.

Mr. Wald's voicemail box was full and I was not able to leave a message.

On 10/1/19 at 7:25 AM, I called Mr. Wald (602-690-3030) in an attempt to speak with him about the documents we have been waiting on so we can process the renewal of his Certificate of Exemption.

At the time of my call Mr. Wald's voicemail box was still full and I was not able to leave a message.

On 10/1/19 at 7:27 AM, I called the main number for Desert Forrest Nursery (623-935-1859) and was told by Betsy that Mr. Wald was out and that he didn't have voicemail in his office. She gave me the following number for a different cell phone that he also uses: 602-831-8000.

On 10/1/19 at 7:29 AM, I called Mr. Wald at 602-831-8000 and left a message for him to call me back. In the message, I informed Mr. Wald that we needed to receive the additional documents previously requested as soon as possible. I also informed Mr. Wald that if I wasn't available when he called, to please speak with Anna Sutowska, Enforcement Supervisor.

### Follow-up:

10/2/19 @ 10:37 AM - I called Mr. Wald (602-690-3030) to follow-up on the email that Anna Sutowska, Enforcement Supervisor, had sent him on 9/24/19.

I spoke with Mr. Wald to find out the status of the documents we needed to process his Certificate of Exemption renewal. I informed Mr. Wald that we were running out of time to place him on the 12/11/19 HB Docket and the public hearing notice needed to go to the paper on 10/8/19. Mr. Wald stated he wasn't aware of the deadline and would respond to Anna's email with a cc to me no later than Friday, 10/4/19.

Form Completed By: Sherrie Rogge, Administrative Secretary

DFN018
Good afternoon Mr. Wald,

As we discussed over the phone, here are the documents that were submitted previously.

Regards,

Anna Sutowska  
Air Quality Supervisor  
Clark County Department of Air Quality  
4701 W. Russell Rd., Suite 200  
Las Vegas, NV 89118

Office: 702-455-0666  
Cell: 702-378-9780  
Fax: 702-383-9994

For any dust permit information or forms, please go to the link posted below.

http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_DustForms.aspx
November 21, 2016

Mr. Ryan Breitweiser  
DAQ Enforcement Division  
4701 Russel Road, Suite 200  
Las Vegas, NV 89118

Dear Mr. Breitweiser:

I have attached our current and ongoing distribution plan for shipment of our Wilson Olives to landscape projects and retail outlets throughout Clark County Nevada.

You will also find a sample of the numbered identification tags provided by Desert Forrest Nursery L.L.C. which will be attached to each individual tree. These individual numbers will also be referenced on all related shipping documents, along with any other required exemption certification documentation.

If you any questions or concerns please contact us at 623-935-1859.

Sincerely,

Forrest Wald  
Desert Forrest Nursery L.L.C.

www.DesertForrestNursery.com
Distribution Plan for Wilson Olives to Clark County, Nevada

Variety assurance:

Desert Forrest Nursery will ship only Wilson Olives.

Labeling:

Every Wilson Olive shipped from Desert Forrest Nursery will have an individually numbered identification tag attached to the tree.

Documentation:

All shipping documents will have the individual tag numbers and be accompanied with a copy of our certificate of exemption.

Tracking:

Upon request, Desert Forrest Nursery will provide the DAQ with documentation of any customer that has taken delivery of our Wilson Olive in Clark County, Nevada.
OLEA EUROPÆÆ WILSONI

Approved By Clark County Air Pollution Control Hearing Board
On ###-###

Desert Forrest Nursery, LLC
18406 W. Orangewood Ave.
Litchfield Park, AZ 85340
(623) 935-1859
August 29, 2019

Mr. Forrest Wald, Owner
Desert Forrest Nursery LLC
16739 West Olive Avenue
Waddell AZ 85355

Re: Renewal of Certificate of Exemption – Wilsonii
Third Request

Dear Mr. Wald:

On June 19, 2019 and on August 2, 2019, a letter was sent to you advising that we had received your payment to renew your Certificate of Exemption for the Olea europaea cv. Wilsonii (‘Wilsonii’) tree; however, additional documentation still needed to be submitted.

Your current Certificate of Exemption for the Olea europaea cv. Wilsonii (‘Wilsonii’) trees will expire on December 8, 2019. Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting has been scheduled for December 11, 2019. In order for your renewal to be adequately addressed on that hearing agenda, the following documents need to be submitted:

- A written request to renew your Certificate of Exemption
- Completed Application for Renewal (attached)
- Documentation showing the trees demonstrate they are low pollinating cultivar releases to the atmosphere less than 15% of the pollen released by a sexually mature traditional Olive tree and that this low pollinating capacity is retained by the sexually mature cultivar for at least three years.
- Copies of the current labels showing the exempt status, date of approval of Certificate until sale to consumer.
- Copy of current distribution plan that shows who the trees was sold to, the tag number and the shipping invoice.
- Copy of proposed label following approval of 2019 exemption request.
- Copy of nursery contact information (client list).

Please note these documents and any additional documentation you want to present regarding your renewal must be submitted on or before September 23, 2019.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

cc: Patricia Ringgenberg, Air Quality Specialist II
    Anna Sutowska, Air Quality Supervisor
**Record of:** Telephone Conversation  
**NOV #:** N/A  
**Company:** Desert Forrest Nursery  
**Re:** Certificate of Exemption  
**Call From/To:** Forrest Wald  
**Tele #:** 602-690-3030

### Summary:

Forrest Wald, Owner of Desert Forrest Nursery called in regards to the public hearing notice he received for the August 14, 2019 Hearing Board meeting in which Certificates of Exemptions would be heard. Mr. Wald inquired as to why he wasn't on the agenda.

I informed Mr. Wald that I had sent him an email and a certified letter on 6/19/19 outlining the documents he still needed to submit for his 2019 Certificate of Exemption Renewal and that to date I had yet to receive said documents.

Mr. Wald stated the email address I had utilized was for his sales people and to resend the letter and email to his secretary at accounts@desertforrestnursery.com. He would make sure the required information was submitted.

I also informed Mr. Wald that his current exemption didn't expire until December 8, 2019 and that we are planning to schedule his item for the December 11, 2019 Hearing Board meeting.

On 8/2/19 at 1:10 p.m., I emailed Mr. Wald's secretary sending her a copy of the June 19, 2019 letter I had previously sent along with the new Certificate of Exemption Application for Renewals.

### Follow-up:

None required at this time.

---

Form Completed By: Sherrie Rogge, Administrative Secretary
June 19, 2019

Mr. Forrest Wald
Desert Forrest Nursery, LLC
16739 West Olive Avenue
Waddell AZ 85355

Re: Renewal of Certificate of Exemption - Wilsonii

Dear Mr. Wald:

We are in receipt of your payment to renew your Certificate of Exemption for the Wilsonii trees and am enclosing your receipt for Invoice 037665.

As outlined in Air Quality Regulations (AQR) Subsection 44.3 (copy enclosed), please submit the following documentation:

- Documentation showing the trees demonstrate they are low pollinating cultivar releases to the atmosphere less than 15% of the pollen released by a sexually mature traditional Olive tree and that this low pollinating capacity is retained by the sexually mature cultivar for at least three years.
- Copies of the current labels showing the exempt status, date of approval of Certificate until sale to consumer.
- Copy of current distribution plan that shows who the trees was sold to, the tag number and the shipping invoice.
- Copy of proposed label following approval of 2019 exemption request.
- Copy of nursery contact information (client list).

In addition to the above documentation, we also need, in writing, your request to renew your Certificate of Exemption.

Upon receipt of the required documentation and staff’s review of said documentation, we shall schedule a hearing date in front of the Hearing Board and publish a “Notice of Hearing” in the general newspaper. The public will have 20 days to review your information and provide comment.

We will supply this information to the board and support your request for renewal if the information therein meets the criteria in AQR Subsection 44.3. Please note, these documents and any additional documentation you want to present regarding your renewal must be submitted to my attention by Monday, September 9, 2019.

If you have any questions, please contact me at (702) 455-0354.

Sincerely,

Sherrie D. Rogge, Administrative Secretary
Enforcement Division

Certified Mail #9489 0090 0027 6104 2121 09

cc: Anna Sutowska, Air Quality Supervisor
Patricia Ringgenberg, DAQ Air Quality Specialist II
**Desert Forrest Nursery, LLC**  
16739 West Olive Avenue  
Waddell AZ 85355

---

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**Notes:** Renewal of Certificate of Exemption - Wilsonii Tree

---

**Subtotal:** $149.00  
**Paid:** $(149.00)  
**Adjustments:** $0.00  
**Balance Due:** $0.00
June 10, 2019

Mr. Forrest Wald
Desert Forrest Nursery, LLC
16739 West Olive Avenue
Waddell AZ 85355

Re: Renewal of Certificate of Exemption - Wilsonii

Dear Mr. Wald:

A review of our files indicates your Certificate of Exemption for Olea europaea cv. Wilsonii trees will expire on December 8, 2019.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on October 9, 2019. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal must be submitted on or before July 1, 2019.

In compliance with AQR Subsection 18.9, a filing fee of $149.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality or DAQ and mail it along with your request for renewal to the attention of Sherrie Rogge, Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

SP:sdr

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II
Anna Sutowska, Air Quality Supervisor
RE: PONTO NURSERY – 2019 Renewal of Certificate of Exemption (Wilsonii)

EXHIBIT LIST

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<td>PN001-PN003</td>
<td>Staff Report</td>
<td>11/8/19</td>
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<td>PN004-PN022</td>
<td>Ponto Nursery Distribution Plan and Tag 2017-2019</td>
<td>10/3/19</td>
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<td>PN023</td>
<td>Notice of Hearing</td>
<td>10/29/19</td>
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<td>PN024</td>
<td>Affidavit of Publication – LV Review Journal</td>
<td>10/29/19</td>
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<td>PN025-PN027</td>
<td>Certificate of Mailing for Hearing Notice</td>
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<td>PN028</td>
<td>Letter to Ponto Nursery Deeming Application Complete</td>
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<td>PN029</td>
<td>Record of Communication with Ponto Nursery Requesting Additional Documentation for Renewal of Certificate of Exemption – Fourth Request</td>
<td>9/30/19</td>
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<td>PN030-PN031</td>
<td>Application from Ponto Nursery for Renewal of Certificate of Exemption for Wilsonii Tree and Receipt of Payment of Renewal</td>
<td>9/24/19</td>
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<td>PN032-PN033</td>
<td>Follow-up Email to Ponto Nursery Regarding Status of Renewal Application – Third Request</td>
<td>9/13/19</td>
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<tr>
<td>PN034-PN035</td>
<td>Letter to Ponto Nursery Advising of Upcoming Certificate of Exemption Expiration and Request for Renewal Application and Payment of Fees – Third Request</td>
<td>8/29/19</td>
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<td>PN036-PN037</td>
<td>Follow-up Email To and From Ponto Nursery Advising of Upcoming Certificate of Exemption Expiration and Request for Renewal Application and Payment of Fees – Second Request</td>
<td>7/10/19</td>
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<tr>
<td>PN038</td>
<td>Renewal Inquiry Letter to Ponto Nursery</td>
<td>6/10/19</td>
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</table>
Application for Renewal of Certificate of Exemption

Applicant: Ponto Nursery
P.O. Box 536
Vista, CA 92085

Purpose:

Ponto Nursery has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii olive for the next three years.

Background:

Ponto Nursery obtained mother plants of the Wilsonii olive tree from Easy Pace Tree Farm in August 1996 in order to sell Wilsonii olive liners to other wholesale growers. Liners are propagated plants ready for transplanting into larger containers or the field. Easy Pace Tree Farm obtained their original Certificate of Exemption on December 10, 1992, after presenting evidence acceptable to the Board that the Wilsonii olive released pollen at a level significantly below 15% of the level of the Mission Olive.

On September 3, 2004, Ponto Nursery submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County. After presenting evidence that the Olea Europaea Wilsonii olive trees produce less than 15% of the pollen of traditional European Olive Trees, Ponto Nursery obtained its original certificate on December 9, 2004. The Board renewed the certificate on November 29, 2007, November 4, 2010, October 9, 2013 and again on December 8, 2016 with an expiration date of December 8, 2019. On September 24, 2019, Ponto Nursery submitted an application for renewal of its Certificate of Exemption for growing, distributing, and marketing Wilsonii trees. Additional information was required and received. The application was deemed complete on October 8, 2019.

Regulations:

Clark County Air Quality Regulation (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.
AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County. AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

**Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

**Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on October 29, 2019 notifying the public of the application and inviting public comment. In addition, staff mailed 14 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices, 4701 West Russell Road, Suite 200, Las Vegas, NV, (702) 455-5942.

Anyone may petition to intervene in writing by November 18, 2019. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by November 18, 2019, or ten copies must be brought to the meeting for staff, board members, and the public.

**Conclusions:**

DAQ staff has discussed the Wilsonii olive with representatives of several local nurseries in Clark County that market the majority of these trees. They have received no customer complaints about pollination or fruiting. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate, until sale to consumer (AQR §44.3.3).

2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt
trees under the applicant's control will carry the label provided for in §44.3.3. Shipping invoices must show a copy of Certificate (AQR §44.3.4).

3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).

More Information:

If you would like additional information about this application, please contact Sherrie Rogge at sherrie.rogge@clarkcountynv.gov or (702) 455-0354.
Clark County Air Quality Board
Attention Sherry

Thank you for your patience. To follow are the invoices that contain the Labeling numbers.

We only do the following Tree growers. Their addresses are on the Invoice.
TY Nursery
Pardee Tree
Sunyslope Trees
Brightview (previously Valley Crest)
Moon Valley
Road Runner Tree farms

In 2017 we sold a lot of Wilsons but 2018 and 2019 we struggled with the crops.
Also a Copy of the label, which is now florescent yellow.
If you need anything else, please let me know.

Bet Regards,

Judy Ponto
10/03/2019
Good Afternoon Sherrie,

The Olea Wilsonii are kept at our Gopher Canyon yard and our fruiting olives are kept at our Ramona Dr. location. Each yard does their own production, eliminating any form of mix-up or confusing. We never use any stock other than our own which are planted out.

I hope this answers the questions.

Best Regards,

Judy Ponto
-----Original Message-----
From: judyponto@pontonursery.com [mailto:judyponto@pontonursery.com]
Sent: Friday, October 4, 2019 1:41 PM
To: Sherrie Rogge <Sherrie.Rogge@clarkcountynv.gov>
Subject: Re: FW: Cert. of Exemption - Ponto Renewal –

good Morning Sherrie,
We sell and assortment of plants. Trees, shrubs, grasses, some succulent type items, in quantity and
variety as the customer seem to need. We have been in business since 1956.
We are in the San Diego area and we ship as far north as Chico and as far east as Tuscon in our own
trucks.
We also ship nation wide in boxes.
Hope this answers the question.
Best Regards,
Judy

On 2019-10-03 15:18, Sherrie Rogge wrote:
> Good afternoon Judy,
>
> > Our Air Quality Specialist has a question as to the type of trees
> > and/or shrubs you are selling. Can you respond to her question below?
> >
> >
> > Thank you,
> >
> > Sherrie Rogge
> >
> > Administrative Secretary
> >
> > Compliance Division - Enforcement
> >
> > Clark County Dept. of Air Quality
> >
> > 4701 W. Russell Road #200
> >
> > Las Vegas NV 89118
> >
> > Phone: (702) 455-0354 Fax: (702) 383-9994
> >
> > Email: sherrie.rogge@clarkcountynv.gov
> >
> > FROM: Patricia Ringgenberg
> > SENT: Thursday, October 3, 2019 1:38 PM
TO: Sherrie Rogge <Sherrie.Rogge@clarkcountynv.gov>
SUBJECT: RE: Cert. of Exemption - Ponto Renewal - PLEASE REVIEW

I thought Ponto only had the exemption for the Wilsonii tree; on their application for renewal, she is noting the Little Ollie/Olea Dwarf, which is a bush/shrub and for which I don't think she has an exemption. I thought she sold only the plant liners (starter trees; "babies").

FROM: Sherrie Rogge
SENT: Thursday, October 3, 2019 12:53 PM
TO: Patricia Ringgenberg <RINGGENBERG@ClarkCountyNV.gov>
CC: Scott Jelinek <JELINEK@ClarkCountyNV.gov>; Anna Sutowska <Anna.Sutowska@ClarkCountyNV.gov>
SUBJECT: Cert. of Exemption - Ponto Renewal - PLEASE REVIEW
IMPORTANCE: High

Good afternoon Pat,

Attached is Ponto Nursery's renewal application along with the required document. Would you please review and let me know if I can move forward with placing them on the December Hearing Board agenda?

I have to final the public hearing notice for the paper next Tuesday, so if you could review this information and get back to me as soon as possible I would really appreciate it.

As an FYI, I'm still waiting for Mr. Wald to submit his paperwork for Desert Forrest's COE renewal that we'll also want to put on the December H.B. agenda.

Thank you

Sherrie Rogge

Administrative Secretary

Compliance Division - Enforcement

Clark County Dept. of Air Quality

4701 W. Russell Road #200

Las Vegas NV 89118

Phone: (702) 455-0354 Fax: (702) 383-9994

Email: sherrie.rogge@clarkcountynv.gov
# Sales by Item Detail

**Ponto Nursery**

*January 1, 2017 through October 2, 2019*

<table>
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<tr>
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<th>Date</th>
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OCT-03-2019 10:48 From: PONTO

I.Y. NURSERY
5221 ARVADA ST
TORRANCE CA 90503

17607241974

To: 17023839994

Page: 3/16

8/23/2017

PAIUA VALLEY YARD

8/23/2017

7.016 LABR

OLEA WILSONII LABR1.5
063816-064000=185
065001-066150=1150
066151-066833=681

0.25 504.00

5304.00

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### 7/28/2017

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**Total:** $1,115.10

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**PAID**
08/01/2017

**house pick up**

---

**ROAD RUNNER TRT FARM**  
P.O. BOX 940  
BURRFOGO SPRINGS, CA 92004  

---

**OCT-03-2019 10:48 From: PONTO**  
**To: 17023839994**  
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Total: $16780
# Ponto and Sons

**Sales by Item Detail**

**January 1, 2018 through October 3, 2019**

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Bill To
ROAD RUNNER TREE FARM
P.O. BOX 940
BORREGO SPRINGS, CA 92004

Ship To
Nursery/Rualrunner + Casa del Zorro Nursery
1284 Henderson Canyon Rd., 1284 Henderson
760-315-9912

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Total | $1,728.13 |

PN017
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**Invoice #**
176733

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**Ship To**

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PN019
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**Date**
7/18/2019

**Invoice #**
147517

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**Bill To**

ROAD RUNNER TREE FARM
P.O. BOX 440
BORREGO SPRINGS, CA 92004

**Ship To**

NurseryRoadrunner + Casa del Zorro Nursery
1284 Henderson Canyon Rd., 1284 Henderson
760-315-9912

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**Total**

$873.18
Ponto Nursery
2545 Ramona Drive
Vista, California

OLEA EUROPÆA
WILSONI
072549
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Published: October 29, 2019
Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/29/2019 to 10/29/2019, on the following days:

10 / 29 / 19

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 29th day of October, 2019

Notary

MARY A. LEE
Notary Public, State of Nevada
Appointment No. 09-8941-1
My Appt. Expires Dec 15, 2020
CERTIFICATE OF MAILING

I hereby certify that on October 28, 2019, I mailed the following documents:

Notice of Hearing

to the individuals listed below by placing true and correct copies thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

See mailing list attached.

Dated this 28th day of October 2019.

Sherrie D. Rogge, Administrative Secretary
Enforcement Division
Department of Air Quality
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ’s offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Published: October 29, 2019
October 8, 2019

Ms. Judy Ponto
Ponto Nursery
PO Box 536
Vista CA 92085

Re: Renewal of Certificate of Exemption – Olea Europaea “Wilsonii Olive”

Dear Ms. Ponto:

On September 24, 2019, the Department of Air Quality received your request to renew your Certificate of Exemption for the “Wilsonii Olive” and on October 3, 2019 we received the additional material as requested. I am enclosing your receipt for payment of Invoice #039289.

Staff has reviewed the documentation you submitted and deemed it complete.

This letter confirms that the renewal of your Certificate of Exemption for the Wilsonii Olive has been scheduled for a public hearing before the Air Pollution Control Hearing Board on December 11, 2019 at 1:30 p.m. The hearing will take place in the Clark County Building Department – Presentation Room, located at 4701 West Russell Road, Las Vegas Nevada 89118. Once finalized, copies of the Hearing Board Agenda and staff’s report to the Board will be sent to you. It is recommended that you attend this hearing to answer any questions by the Hearing Board members. Should you choose not to attend, please provide a detailed statement that supports your request for renewal.

Any additional support documentation you intend to present to the board regarding this matter must either: (1) be submitted to me by 9:00 a.m., Monday, December 2, 2019, so that it can be copied and placed in the board books for distribution to the respective Board Members; or (2) be brought to the meeting, along with ten copies for distribution to staff, board members, and members of the public. Failure to comply with one of these two options may preclude you from presenting these documents to the board at the meeting.

In the meantime, if you have any question, please do not hesitate to contact me at (702) 455-0354.

Sincerely,

Sherrie D. Rogge
Administrative Secretary

cc: Anna Sutowska, Enforcement Supervisor
Patricia A. Ringgenberg, Air Quality Specialist II

Enclosure: Receipt for Invoice #039289
Record of: 
Telephone Conversation  
Meeting  

Date:  9/30/2019  Time:  13:03  

Company: Ponto Nursery  

NOV #  N/A  

Tele #:  800-300-6003  

Call  
From/To: Judy Ponto, Owner  

Summary: On 9/30/19 at 1:03 PM, I spoke with Mrs. Judy Ponto regarding her renewal application for her Certificate of Exemption that is due to expire on 12/8/19.

I explained to Mrs. Ponto that I had received the first page of her application and the check, but she had not submitted any of the backup material.

Mrs. Ponto requested I email the list to her again and she would fax the documents back to me this afternoon.

At 1:38 pm., an email was sent to Mrs. Ponto outlining the items that needed to be submitted along with my fax number as requested.

Follow-up:

Form Completed By: Sherrie Rogge, Administrative Secretary
Application for Certificate of Exemption of Low Pollinating Trees

New Application ☐ Renewal Application ☑

Primary Entity Name: Ponto Nursery

DBA (if applicable):

Nature of Business: nursery

Physical Address: 2545 Ramona Dr
Vista Ca, 92084

Phone Number: 800-300-6003

Mailing Address: PO Box 536
Vista CA 92085

Name & variety of tree seeking exemption: Olea Wilsonii

Responsible Official: Judy Ponto

Title: Owner

Email Address: Judyponto@Pontonursery.com

Mailing Address: PO Box 536
Vista Ca 92085

Phone Number: 800-300-6003

See page 2 of this application for a list of information required for the hearing by Air Quality Regulations and the Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures.

AQR Sections 44 (Prohibitions on Planting, Selling, or Offering to Sell Fruitless Mulberry and European Olive Trees) and Section 18 (Permit and Technical Service Fees) can be found at http://www.clarkcountynv.gov/airquality/regulations/Pages/Rules_CurrentRulesandRegulations.aspx.

Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures can be found at http://www.clarkcountynv.gov/AirQuality/Compliance/Pages/Compliance_EnforcementForms.aspx.

Return application with payment to Sherrie Rogge via mail at Clark County Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or e-mail at sherrie.rogge@clarkcountynv.gov. Checks made payable to DAQ or Department of Air Quality.
# Invoice Details

**PONTO NURSERY**  
P O BOX 536  
VISTA CA 92085  

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**Notes:**

- **Subtotal:** $149.00
- **Paid:** ($149.00)
- **Adjustments:** $0.00
- **Balance Due:** $0.00
Good afternoon Judy,

After our phone conversation on September 4th, I've been checking our mail on a daily basis to see if your check and renewal packet had come in.

As of this afternoon's mail delivery, I have yet to receive your check and paperwork.

You might want to check with your bank to stop payment on check #20573 since it hasn't been received. Since we are so close to the deadline for submitting your payment and the necessary paperwork (due 9/23/19), may I suggest you send everything to us via Federal Express? Please be sure to use my mailing address as shown below my signature. Your check needs to be made payment to DAQ or Clark County Department of Air Quality.

If you have any questions, please do not hesitate to contact me. I am getting ready to leave the office now, but will be back in on Monday, September 16th.

Thank you,

Sherrie Rogge
Administrative Secretary
Compliance Division - Enforcement
Clark County Dept. of Air Quality
4701 W. Russell Road #200
Las Vegas NV 89118
Phone: (702) 455-0354 Fax: (702) 383-9994
Email: sherrie.rogge@clarkcountynv.gov

-----Original Message-----
From: judyponto@pontonursery.com [mailto:judyponto@pontonursery.com]
Sent: Thursday, August 29, 2019 7:46 AM
To: AQ Enforcement <AQEnforcement@ClarkCountyNV.gov>
Subject: Re: Renewal of Certificate of Exemption - Wilsonii Trees - 3rd Request
Importance: High

On 2019-08-29 08:33, AQ Enforcement wrote:

Good Morning Sherrie, Sorry you needed to ask for this confirmation more than once. I will be there. I will put them in the mail this week, along with my check.
Dear Ms. Ponto,

The attached documents were sent to you today via certified mail:


2. Certificate of Exemption Renewal Application

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

PLEASE CONFIRM RECEIPT OF THESE DOCUMENTS BY RESPONDING TO THIS EMAIL.

Thank you,

Sherrie Rogge

Administrative Secretary

Compliance Division - Enforcement

Clark County Dept. of Air Quality

4701 W. Russell Road #200

Las Vegas NV 89118

Phone: (702) 455-0354  Fax: (702) 383-9994

Email: sherrie.rogge@clarkcountynv.gov
August 29, 2019

Ms. Judy Ponto
Ponto Nursery
PO Box 536
Vista CA 92085

Re: Renewal of Certificate of Exemption – Wilsonii
Third Request

Dear Ms. Ponto:

On June 10, 2019 and on July 10, 2019, a letter was sent to you advising that your Certificate of Exemption for Olea europaea cv. Wilsonii ("Wilsonii") trees will expire on December 8, 2019.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on December 11, 2019. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal along with a renewal application must be submitted on or before September 23, 2019.

In compliance with AQR Subsection 18.9, a filing fee of $149.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality or DAQ and mail it along with your request and the renewal application to the attention of Sherrie Rogge, Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

SP:sdr

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II
    Anna Sutowska, Air Quality Supervisor
On 2019-08-29 08:33, AQ Enforcement wrote:

Good Morning Sherrie, Sorry you needed to ask for this confirmation more than once.
I will be there. I will put them in the mail this week, along with my check.
I look forward to seeing you again,
Judy

> Dear Ms. Ponto,
> The attached documents were sent to you today via certified mail:
> 2. Certificate of Exemption Renewal Application
> If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.
> PLEASE CONFIRM RECEIPT OF THESE DOCUMENTS BY RESPONDING TO THIS EMAIL.
> Thank you,
> Sherrie Rogge
> Administrative Secretary
> Compliance Division - Enforcement
> Clark County Dept. of Air Quality
> 4701 W. Russell Road #200
> Las Vegas NV 89118
> Phone: (702) 455-0354 Fax: (702) 383-9994
> Email: sherrie.rogge@clarkcountynv.gov
Dear Ms. Ponto,

Please see the attached letter that was sent to you via Certified Mail #9489 0090 0027 6092 2609 91 and via email on June 10, 2019. The letter concerns the renewal of your Certificate of Exemption for the Wilsonii trees in Clark County, Nevada. Your current exemption will expire on December 8, 2019. I have tentatively scheduled your renewal for the Hearing Board meeting on October 9, 2019.

If you would like your renewal to be considered on that date, please submit your renewal request and the filing fee of $149.00, payable to the Department of Air Quality or DAQ, to me by Wednesday, July 31, 2019.

Please note that on July 9, 2019 the certified letter was returned to us as undeliverable. If you would please confirm your mailing address it would be appreciated.

If you have any questions or concerns, please feel free to call or email me.

PLEASE CONFIRM RECEIPT OF THESE DOCUMENTS BY RESPONDING TO THIS EMAIL.

Thank you,

Sherrie Rogge
Administrative Secretary
Compliance Division - Enforcement
Clark County Dept. of Air Quality
4701 W. Russell Road #200
Las Vegas NV 89118
Phone: (702) 455-0354  Fax: (702) 383-9994
Email: sherrie.rogge@clarkcountynv.gov
Subject: Renewal of Certificate of Exemption - Ponto Nursery - Wilsonii Trees

Importance: High

Dear Ms. Ponto:

The attached documents were sent to you today via certified mail:

1. Renewal of Certificate of Exemption – Wilsonii Trees
2. Air Quality Regulation Section 44

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Thank you,

Sherrie Rogge
Administrative Secretary
Compliance Division - Enforcement
Clark County Dept. of Air Quality
4701 W. Russell Road #200
Las Vegas NV 89118
Phone: (702) 455-0354 Fax: (702) 383-9994
Email: sherrie.rogge@clarkcountynv.gov
June 10, 2019

Ms. Judy Ponto
Ponto Nursery
PO Box 536
Vista CA 92085

Re: Renewal of Certificate of Exemption - Wilsonii

Dear Ms. Ponto:

A review of our files indicates your Certificate of Exemption for Olea europaea cv. Wilsonii trees will expire on December 8, 2019.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on October 9, 2019. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal must be submitted on or before July 1, 2019.

In compliance with AQR Subsection 18.9, a filing fee of $149.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality or DAQ and mail it along with your request for renewal to the attention of Sherrie Rogge, Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

cc: Patricia Ringenberg, DAQ Air Quality Specialist II
    Anna Sutowska, Air Quality Supervisor
RE:  BRIGHTVIEW TREE COMPANY – 2019 Renewal of Certificate of Exemption (Wilsonii)

EXHIBIT LIST

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<td>BrightView Tree Company Distribution Plan and Tag 2017-2019</td>
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<td>Notice of Hearing</td>
<td>10/29/19</td>
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<td>Renewal Inquiry Letter to BrightView Tree Company</td>
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Application for Renewal of Certificate of Exemption

**Applicant:** BrightView Tree Company
3200 West Telegraph Road
Fillmore, CA 93015

**Purpose:**

BrightView Tree Company (BrightView) has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii olive for the next three years. Valley Crest Tree Company was renamed BrightView Tree Company in 2015.

**Background:**

On December 30, 2004, Valley Crest Tree Company submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County. Valley Crest Tree Company purchased low-pollinating Wilsonii olive trees from Ponto Nursery. Ponto Nursery had been granted a Certificate of Exemption for their low-pollen cultivar. Ponto Nursery provided a letter stating they provided approved seedlings to Valley Crest Tree Company for future selling and planting in Clark County. After presenting evidence that the Wilsonii olive trees produce less than 15% of the pollen of traditional European Olive Trees, Valley Crest Tree Company obtained its original certificate on February 10, 2005. The Board renewed the certificate on November 29, 2007, November 4, 2010, October 9, 2013, and again on February 22, 2017 with an expiration date of February 22, 2020. On September 13, 2019, BrightView submitted an application for renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County.

**Regulations:**

Clark County Air Quality Regulation (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.

AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.
AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

**Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

**Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on October 29, 2019 notifying the public of the application and inviting public comment. In addition, staff mailed 14 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices, 4701 West Russell Road, Suite 200, Las Vegas, NV, (702) 455-5942.

Anyone may petition to intervene in writing by November 18, 2019. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by November 18, 2019, or ten copies must be brought to the meeting for staff, board members, and the public.

**Conclusions:**

DAQ staff has discussed the Wilsonii olive with representatives of several local nurseries in Clark County that market the majority of these trees. They have received no customer complaints about pollination or fructification. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate, until sale to consumer (AQR §44.3.3).

2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt trees under the applicant’s control will carry the label provided for in §44.3.3. Shipping invoices must show a copy of Certificate (AQR §44.3.4).

3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).
More Information:

If you would like additional information about this application, please contact Sherrie Rogge at sherrie.rogge@clarkcountynv.gov or (702) 455-0354.
August 28, 2019

Ms. Sherrie Rogge  
Department of Air Quality  
4701 Russel Road, Suite 200  
Las Vegas, Nevada 89118

Dear Ms. Rogge, I have attached our Application for Certificate of Exemption of Low Pollinating Trees and our distribution plan for shipment of our Olea 'Wilsonii' olives trees to landscape projects and nurseries in Clark County Nevada.

In addition, I have attached a sample of our identification tags that BrightView Tree Company attaches to each tree shipped to Clark County Nevada. A copy of our shipping document which displays our exemption certification documentation is also attached.

If you have any questions please let me know.

Sincerely,

Robert L. Crudup, Jr.
President  
Brightview Tree Company
August 28, 2019

Distribution Plan for Olea ‘Wilsonii’ Olives to Clark County, Nevada

Variety Assurance:

BrightView Tree Company will only ship Olea ‘Wilsonii’ olive trees that are true to name.

Labelling:

Each Wilson olive shipped into Clark County, Nevada will have an identification label attached to the tree which indicates the name of the tree and the Certificate of Exemption number.

Documentation:

All shipping documents will have the horticultural name, the order and certificate of exemption stamp.

Tracking and Verification:

Upon request, BrightView Tree Company will cooperate with the Clark County Department of Air Quality to provide documentation and delivery detail of shipments as required.
Shipping Document
SO/744941

Sold To: 1659851 Par-3 Landscape and Maintenance Inc.
4610 Wynn Rd, Ste B
Las Vegas NV 89103

Ship To: 19058087 Foley Project
11795 Stardust Dr
Las Vegas NV 89135

Ordered: 10/3/2018 ALEX
(702) 253-7878 Business
(702) 253-7879 Fax
Requested: 10/3/2018 MPOTEET
PO#: 484818 J.18128
Auth: CPN CPN1003MKP
Art 702.581.0798

Quantity Item Item# Location
Shipped Description
5.000 Olea europaea 'Wilsonii' 6190260 201806401S
60" Box Multi 538791

** TAGGED * Tagged RSL * Approved by Alex @ Pa
3 **

ORDER AND CERTIFICATE OF EXEMPTION
For Swan Hill Olives and Wilson Olives
Air Quality Control Board
Clark County, Nevada

Driver Signature Date Customer Signature Date
CALIFORNIA NURSERY STOCK CERTIFICATE
FOR INTERSTATE AND INTRASTATE SHIPMENTS
NO. A-4900

This plant material or nursery or premises from which this shipment was made has been inspected and found free from especially injurious plants pests and disease symptoms.

THIS SHIPMENT NEED NOT BE HELD FOR INSPECTION IN CALIFORNIA

Issued by: Los Angeles County Agricultural Commissioner, Alameda County Agricultural Commissioner, Orange County Agricultural Commissioner, San Joaquin Agricultural Commissioner, Ventura County Agricultural Commissioner and California Department of Agriculture, Sacramento 95814

TERMS AND CONDITIONS

1. TERMS AND CONDITIONS OF PAYMENT: TERMS ARE "DUE UPON RECEIPT OF INVOICE". All invoices NOT paid by the 10th of the month following invoice date are subject to a 1-1/2% monthly service charge; 18% ANNUAL PERCENTAGE RATE. In the event it becomes necessary for BrightView Tree Company to file suit to enforce payment of past due amounts, such suit may be brought in Los Angeles County, California, at the option of BrightView Tree Company. BrightView Tree Company shall be entitled to collection fees, actual attorney fees, court costs and SERVICE CHARGES AT 1-1/2% PER MONTH (18% PER ANNUM), OR SUCH OTHER LEGAL MAXIMUM RATE AS IS ALLOWED IN ANY OTHER THAN THE STATE OF CALIFORNIA, ON ALL AMOUNTS FOUND TO DUE AND PAYABLE. All purchases are deemed made and payment is due at principal place of business of BrightView Tree Company in Calabasas, California.

2. Any claims as to condition of material must be made at time of delivery. After material has been accepted in good condition, we cannot be responsible for improper handling, planting, exceptional weather, or lack of proper maintenance. Plants are not guaranteed to live, and our liability in all instances is limited to the purchase price.

3. Buyer acknowledges, guarantees and warrants to BrightView Tree Company that the person signing this contract, any future invoices evidencing materials purchased pursuant to this contract, any shipping document, delivery order or receipt is a person authorized to sign the same. In the event the buyer wishes to specify or limit persons in authority to order and purchase on their behalf, it shall be the buyer's responsibility to submit and update such a list in writing.

4. Financial statements, credit information supplied by buyer or by others on behalf of buyer, and agreements, are part of this contact. Any false or misleading information constitutes a fraudulent misrepresentation.

5. As a matter of course, PRELIMINARY NOTICES are filed on each order delivered from our office. Please be prepared to provide the required information prior to delivery, and preferably, at the time that you place your order.

6. A freight charge will be added to all orders delivered. Deliveries out of state may require additional freight charges.

7. All deliveries are made based on subjective schedules, and all promises of shipment or delivery are approximated as closely as possible by BrightView Tree Company, but in no event will BrightView Tree Company assume any responsibility for delays in shipment or delivery, and shortages due to causes beyond our reasonable control.

8. The acceptance of any individual order and terms of payment to all sales and order are subject to approval by the Credit Department of BrightView Tree Company.

9. NON WARRANTY: We give no warranty, express or implied, as to description, quality, productiveness or any other matter, of trees or plants we sell, other than original price of the stock at the date of sale.

10. RETURNED CHECKS are subject to $25.00 returned check fee in ALL instances.

11. All sales are made pursuant to these conditions, and all orders are received with the understanding that they are placed under these conditions.
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ’s offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Published: October 29, 2019
AFFIDAVIT OF PUBLICATION

STATE OF NEVADA
COUNTY OF CLARK) SS:

DEPT OF AIR QUALITY
STE 200
4701 W RUSSELL RD
LAS VEGAS NV 89118

Account # 22354
Ad Number 0001073390

Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/29/2019 to 10/29/2019, on the following days:

10 / 29 / 19

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 29th day of October, 2019

Notary

MARY A. LEE
Notary Public, State of Nevada
Appointment No. 09-8941-1
My Appt. Expires Dec 15, 2020

NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two certificates of exemption for non-pollinating and low-pollinating "Wilsonii" olive trees from Desert Forest Nursery; and an application for the renewal of a Certificate of Exemption for non-pollinating "Wilsonii" olive trees from Ponto Nursery.

A public hearing on these applications has been scheduled for December 11, 2019, at 3:30 p.m. in the Clark County Building Department Presentation Room, 4701 West Russell Road, Las Vegas, NV during the regular meeting of the Clark County Air Pollution Control Hearing Board. The applications and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV 702-455-2500.

PUBLISHED: October 29, 2019
LV Review-Journal

BVTC010
CERTIFICATE OF MAILING

I hereby certify that on October 28, 2019, I mailed the following documents:

Notice of Hearing

to the individuals listed below by placing true and correct copies thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

See mailing list attached.

Dated this 28th day of October 2019.

[Signature]

Sherrie D. Rogge, Administrative Secretary
Enforcement Division
Department of Air Quality
NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for the renewal of two Certificates of Exemption for non-pollinating and fruitless ‘Wilsonii’ and ‘Swan Hill Olive®’ trees from BrightView Tree Company (formerly Valley Crest Tree Company); an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Desert Forrest Nursery; and an application for the renewal of a Certificate of Exemption for non-fruiting, low pollinating ‘Wilsonii’ olive trees from Ponto Nursery.

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Published: October 29, 2019
September 23, 2019

Robert Crudup, Jr.
President and COO
Brad Bowers
Brightview Tree Company
3200 West Telegraph Road
Fillmore CA 93015

Re: Application for Certificate of Exemption – Olea Europaea “Wilsonii”

Dear Mr. Crudup and Mr. Bowers:

On September 13, 2019, the Department of Air Quality received your request and application to renew your Certificate of Exemption for the “Wilsonii” Olive Tree. I’m enclosing your receipt for payment of Invoice #039124.

Staff has reviewed your renewal application and the documentation you submitted and deemed it complete.

This letter confirms that the renewal of your Certificate of Exemption for the “Wilsonii” olive tree has been scheduled for a public hearing before the Air Pollution Control Hearing Board on December 11, 2019, at 1:30 p.m., in the Clark County Building Department – Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada 89118. Once finalized, copies of the Hearing Board Agenda and staff’s report to the Board will be sent to you. Should you choose not to attend, please provide a detailed statement that supports your request for renewal.

Any additional support documentation you intend to present to the board regarding this matter must either: (1) be submitted to me by 9:00 a.m., Wednesday, December 4, 2019, so that it can be copied and placed in the board books for distribution to the respective Board Members; or (2) be brought to the meeting, along with ten copies for distribution to staff, board members, and members of the public. Failure to comply with one of these two options may preclude you from presenting these documents to the board at the meeting.

In the meantime, if you have any question, please do not hesitate to contact me at (702) 455-0354.

Sincerely,

Sherrie D. Rogge
Administrative Secretary

cc: Anna Sutowska, Enforcement Supervisor
Patricia A. Ringgenberg, Air Quality Specialist II

Enclosure: Receipt for Invoice #039124
Application for Certificate of Exemption of Low Pollinating Trees

<table>
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<tr>
<th>Primary Entity Name: Valley Crest Tree Company</th>
<th>Phone Number: 805-524-3939</th>
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<tr>
<td>DBA (if applicable): BrightView Tree Company</td>
<td>Mailing Address: 3200 West Telegraph Road Fillmore, California 93015</td>
</tr>
<tr>
<td>Nature of Business: Wholesale Nursery</td>
<td></td>
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<tr>
<td>Physical Address: 3200 West Telegraph Road</td>
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<tr>
<td>Fillmore, California 93015</td>
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</table>

Name & variety of tree seeking exemption:

Olea 'Wilsonii'

Responsible Official: Brad Bowers
Title: Production Manager
Email Address: Brad.Bowers@Brightview.com
Mailing Address: 3200 West Telegraph Road Fillmore, California 93015
Phone Number: 805-524-3939

Signature of Authorized Person
Date: 09-04-19

See page 2 of this application for a list of information required for the hearing by Air Quality Regulations and the Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures.

AQR Sections 44 (Prohibitions on Planting, Selling, or Offering to Sell Fruitless Mulberry and European Olive Trees) and Section 18 (Permit and Technical Service Fees) can be found at http://www.clarkcountynv.gov/airquality/regulations/Pages/Rules_CurrentRulesandRegulations.aspx.

Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures can be found at http://www.clarkcountynv.gov/AirQuality/Compliance/Pages/Compliance_EnforcementForms.aspx.

Return application with payment to Sherrie Rogge via mail at Clark County Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or e-mail at sherrie.rogge@clarkcountynv.gov. Checks made payable to DAQ or Department of Air Quality.
# Air Quality Program Receipt

Clark County Nevada Department of Air Quality  
4701 W Russell Road, Suite 200, Las Vegas, NV 89118  
Phone (702) 455-5942 Fax (702) 383-9994  
AirQuality@clarkcountynv.gov

---

BRIGHTVIEW TREE COMPANY  
3200 WEST TELEGRAPH ROAD  
FILLMORE CA 93015

---

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09/13/2019 CHECK (00137301)  
PAYMENT  
($149.00)

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**Notes:** Certificate of Exemption for Olea europaea cv Wilsonii Tree - Renewal Application

---

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---

BVTC016
August 28, 2019

Robert Crudup, Jr., President and COO
Brad Bowers
Valley Crest Tree Company dba
BrightView Tree Company
3200 West Telegraph Road
Fillmore CA 93015

Re: Renewal of Certificate of Exemption – Wilsonii

Dear Messrs. Crudup and Bowers:


Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on December 11, 2019. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal and the attached renewal application must be submitted on or before September 23, 2019.

In compliance with AQR Subsection 18.9, a filing fee of $149.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality or DAQ and mail it along with your request for renewal to the attention of Sherrie Rogge, Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

SP:sdr

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II
Anna Sutowska, Air Quality Supervisor
RE:  BRIGHTVIEW TREE COMPANY – 2019 Renewal of Certificate of Exemption  
(Swan Hill®)

EXHIBIT LIST

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<td>BrightView Tree Company Distribution Plan and Tag 2017-2019</td>
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<td>Notice of Hearing</td>
<td>10/29/19</td>
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<td>Affidavit of Publication – LV Review Journal</td>
<td>10/29/19</td>
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<td>Letter to BrightView Tree Company Deeming Application Complete</td>
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<td>Application from BrightView Tree Company for Renewal of Certificate of Exemption for Swan Hill Trees and Receipt of Payment</td>
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<td>Renewal Inquiry Letter to BrightView Tree Company</td>
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</table>
Application for Renewal of Certificate of Exemption

Applicant: BrightView Tree Company
3200 West Telegraph Road
Fillmore, CA 93015

Purpose:

BrightView Tree Company (BrightView) has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating Olea europaea trees known as the "Swan Hill Olives®" for the next three years. Valley Crest Tree Company was renamed BrightView Tree Company in 2015.

Background:

On December 30, 2004, Valley Crest Tree Company submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Swan Hill in Clark County. Valley Crest Tree Company purchased low-pollinating Swan Hill live seedlings from Swan Hill Nursery, LLC. Swan Hill Nursery, LLC had been granted a Certificate of Exemption for their low-pollen cultivar. Swan Hill Nursery, LLC provided a letter stating they provided approved seedlings to Valley Crest Tree Company for future selling and planting in Clark County. After presenting evidence that the Swan Hill olive trees produce less than 15% of the pollen of traditional European Olive Trees, Valley Crest Tree Company obtained its original certificate on February 10, 2005. The Board renewed the certificate on November 29, 2007, November 4, 2010, October 9, 2013, and again on February 22, 2017 with an expiration date of February 22, 2020. On September 13, 2019, BrightView submitted an application for renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating Olea europaea trees known as the "Swan Hill Olives®" in Clark County.

Regulations:

Clark County Air Quality Regulation (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.

AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.
AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

**Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

**Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on October 29, 2019 notifying the public of the application and inviting public comment. In addition, staff mailed 14 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices, 4701 West Russell Road, Suite 200, Las Vegas, NV, (702) 455-5942.

Anyone may petition to intervene in writing by November 18, 2019. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by November 18, 2019, or ten copies must be brought to the meeting for staff, board members, and the public.

**Conclusions:**

DAQ staff has discussed the Swan Hill Olive with representatives of several local nurseries in Clark County that market the majority of these trees. They have received no customer complaints about pollination or fruiting. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate, until sale to consumer (AQR §44.3.3).

2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt trees under the applicant's control will carry the label provided for in §44.3.3. Shipping invoices must show a copy of Certificate (AQR §44.3.4).

3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).
More Information:

If you would like additional information about this application, please contact Sherrie Rogge at sherrie.rogge@clarkcountynv.gov or (702) 455-0354.
August 28, 2019

Ms. Sherrie Rogge
Department of Air Quality
4701 Russel Road, Suite 200
Las Vegas, Nevada 89118

Dear Ms. Rogge, I have attached our Application for Certificate of Exemption of Low Pollinating Trees and our distribution plan for shipment of our Olea 'Swan Hill Olives®' trees to landscape projects and nurseries in Clark County Nevada.

In addition, I have attached a sample of our identification tags that BrightView Tree Company attaches to each tree shipped to Clark County Nevada. A copy of our shipping document which displays our exemption certification documentation is also attached.

If you have any questions please let me know.

Sincerely,

Robert C. Crump, Jr.
President
Brightview Tree Company
August 28, 2019

Distribution Plan Olea ‘Swan Hill Olives®’ to Clark County, Nevada

Variety Assurance:

BrightView Tree Company will only ship Olea ‘Swan Hill Olives®’ trees that are true to name.

Labelling:

Each ‘Swan Hill Olives®’ tree shipped into Clark County, Nevada will have an identification label attached to the tree which indicates the name of the tree and the Certificate of Exemption number and a unique and sequential identification number will be included on the face of the tag.

Documentation:

All shipping documents will have the horticultural name, the order and certificate of exemption stamp, and in the case of ‘Swan Hill Olives®, the unique and sequential tree number.

Tracking and Verification:

Upon request, BrightView Tree Company will cooperate with the Clark County Department of Air Quality to provide documentation and delivery detail of shipments as required.
THE
SWAN HILL OLIVE®
U.S. Federal Trademark No. 2,001,332 (9/96)
NON-POLLINATING & NON-FRUITING
Verticillium Wilt Resistant

8/2004 SPECIMEN NO. 237078

FROM
BrightView
Tree Company

APPROVED BY THE CLARK COUNTY AIR POLLUTION CONTROL HEARING BOARD JULY 2017

BVTC006
**Shipping Document**

**Sold To:** BVLD Las Vegas  
BrightView Landscape Development, I  
Location # 1300  
4021 W Carey Avenue  
North Las Vegas NV 89032

**Ship To:** BVLD Las Vegas  
BrightView Landscape Development, I  
Location # 1300  
4021 W Carey Avenue  
North Las Vegas NV 89032

**Order Date:** 1/16/2017  
**Requested Date:** 1/16/2017  
**PO#:** ROBERT C  
**Auth:** BLONG

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</tbody>
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**Driver Signature**:  

**Customer Signature**: 

---

**CERTIFICATE**

For Swan Hill Olives and Wilson Olives  
Air Quality Control Board  
Clark County, Nevada
CALIFORNIA NURSERY STOCK CERTIFICATE
FOR INTERSTATE AND INTRASTATE SHIPMENTS
NO. A-4900

This plant material or nursery or premises from which this shipment was made has been inspected and found free from especially injurious plants pests and disease symptoms.

THIS SHIPMENT NEED NOT BE HELD FOR INSPECTION IN CALIFORNIA

Issued by: Los Angeles County Agricultural Commissioner, Alameda County Agricultural Commissioner, Orange County Agricultural Commissioner, San Joaquin Agricultural Commissioner, Ventura County Agricultural Commissioner and California Department of Agriculture, Sacramento 95814

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Published: October 29, 2019
Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/29/2019 to 10/29/2019, on the following days:

10 / 29 / 19
CERTIFICATE OF MAILING

I hereby certify that on October 28, 2019, I mailed the following documents:

Notice of Hearing

to the individuals listed below by placing true and correct copies thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

See mailing list attached.

Dated this 28th day of October 2019.

Sherrie D. Rogge, Administrative Secretary
Enforcement Division
Department of Air Quality
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Published: October 29, 2019
Nick Bieser  
Plant Industry/Measurement Standards  
District Office  
Nevada Dept. of Agriculture  
2300 E. St. Louis Ave.,  
Las Vegas NV 89104

Dennis Swartzell  
Arid Plant Solutions  
824 Apperson Circle  
Las Vegas NV 89123

Russ Hafen  
Hafen Nursery  
1740 N. Boulder Highway  
Henderson NV 89011

Ashley Jeppson  
Nevada Department of Agriculture  
405 S 21st Street  
Sparks NV 89431

Tyler Bilyk, Manager  
Casa del Zorro Nursery  
d/b/a Roadrunner Tree Farm  
PO Box 3070  
Valley Center CA 92082

Brad Bowers  
Valley Crest Tree Company  
dba Brightview Nurseries  
3200 W. Telegraph Road  
Fillmore CA 93015

Wally Kearns  
Evergreen Nursery  
P.O. Box 9830  
Rancho Santa Fe CA 92067

Ashley Jeppson, Agriculturist  
Plant Industry Division  
Nevada Dept. of Agriculture  
405 South 21st Street  
Sparks NV 89431

Forrest Wald  
Desert Forrest Nursery, LLC  
16739 West Olive Avenue  
Waddell AZ 85355

Anthony Carranza, General Manager  
Sunrise Nursery LLC  
22439 N. 163rd Avenue  
Surprise AZ 85387

Jack Zunino  
JW Zunino & Associates  
3191 S. Jones Blvd.  
Las Vegas NV 89146

Paul Noe  
Star Nursery  
125 Cassia Way  
Henderson NV 89014

Matthew Fichera, Regional Operations Manager  
Moon Valley Nurseries  
9040 S. Eastern Ave.  
Las Vegas NV 89123

Judy Ponto  
Ponto Nursery Inc  
PO Box 536  
Vista CA 92085-0536
September 23, 2019

Robert Crudup, Jr.
President and COO
Brad Bowers
Brightview Tree Company
3200 West Telegraph Road
Fillmore CA 93015

Re: Application for Certificate of Exemption – Olea Europaea “Swan Hill Olives®”

Dear Mr. Crudup and Mr. Bowers:

On September 13, 2019, the Department of Air Quality received your request and application to renew your Certificate of Exemption for the “Swan Hill Olive®”. I’m enclosing your receipt for payment of Invoice #039125.

Staff has reviewed your renewal application and the documentation you submitted and deemed it complete.

This letter confirms that the renewal of your Certificate of Exemption for the “Swan Hill Olives®” has been scheduled for a public hearing before the Air Pollution Control Hearing Board on December 11, 2019, at 1:30 p.m., in the Clark County Building Department – Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada 89118. Once finalized, copies of the Hearing Board Agenda and staff’s report to the Board will be sent to you. Should you choose not to attend, please provide a detailed statement that supports your request for renewal.

Any additional support documentation you intend to present to the board regarding this matter must either: (1) be submitted to me by 9:00 a.m., Wednesday, December 4, 2019, so that it can be copied and placed in the board books for distribution to the respective Board Members; or (2) be brought to the meeting, along with ten copies for distribution to staff, board members, and members of the public. Failure to comply with one of these two options may preclude you from presenting these documents to the board at the meeting.

In the meantime, if you have any question, please do not hesitate to contact me at (702) 455-0354.

Sincerely,

Sherrie D. Rogge
Administrative Secretary

cc: Anna Sutowska, Enforcement Supervisor
Patricia A. Ringgenberg, Air Quality Specialist II

Enclosure: Receipt for Invoice #039125
Application for Certificate of Exemption of Low Pollinating Trees

New Application [ ] Renewal Application [ ]

Primary Entity Name: Valley Crest Tree Company

DBA (if applicable): BrightView Tree Company

Nature of Business: Wholesale Nursery

Physical Address: 3200 West Telegraph Road
Fillmore, California 93015

Phone Number: 805-524-3939
Mailing Address: 3200 West Telegraph Road
Fillmore, California 93015

Name & variety of tree seeking exemption: Olea 'Swan Hill Olives®'

Responsible Official: Brad Bowers
Title: Production Manager
Email Address: Brad.Bowers@Brightview.com
Mailing Address: 3200 West Telegraph Road
Fillmore, California 93015
Phone Number: 805-524-3939

Signature of Authorized Person
Date: 09-04-19

See page 2 of this application for a list of information required for the hearing by Air Quality Regulations and the Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures.

AQR Sections 44 (Prohibitions on Planting, Selling, or Offering to Sell Fruitless Mulberry and European Olive Trees) and Section 18 (Permit and Technical Service Fees) can be found at http://www.clarkcountynv.gov/airquality/regulations/Pages/Rules_CurrentRulesandRegulations.aspx.

Air Pollution Control Hearing Officer/Hearing Board Manual of Procedures can be found at http://www.clarkcountynv.gov/AirQuality/Compliance/Pages/Compliance_EnforcementForms.aspx.

Return application with payment to Sherrie Rogge via mail at Clark County Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or e-mail at sherrie.rogge@clarkcountynv.gov. Checks made payable to DAQ or Department of Air Quality.
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| Notes: | Certificate of Exemption for Olea europaea cv Swan Hill - Renewal Application |

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August 28, 2019

Robert Crudup, Jr., President and COO
Brad Bowers
Valley Crest Tree Company dba
BrightView Tree Company
3200 West Telegraph Road
Fillmore CA 93015

Re: Renewal of Certificate of Exemption – Swan Hill

Dear Messrs. Crudup and Bowers:

A review of our files indicates your Certificate of Exemption for Olea europaea cv. Swan Hill (Swan Hill) will expire on February 22, 2020.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on December 11, 2019. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal and the attached renewal application must be submitted on or before September 23, 2019.

In compliance with AQR Subsection 18.9, a filing fee of $149.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality or DAQ and mail it along with your request for renewal to the attention of Sherrie Rogge, Department of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact Anna Sutowska, Air Quality Supervisor at (702) 455-0666.

Sincerely,

Shibi Paul
Compliance Manager

SP:sdr

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II
     Anna Sutowska, Air Quality Supervisor