



Annotated Agenda
Clark County Air Pollution Control Hearing Board
February 18, 2021 – 9:30 AM
Clark County Building Department
Presentation Room
4701 West Russell Road
Las Vegas, NV

Note:

- Social distancing will be practiced during this meeting. Attendees will be asked to keep appropriate spacing (six (6) feet) away from each other. The use of masks/face coverings by all attendees during the meeting is required.
- Items on the agenda may be taken out of order.
- The Air Pollution Control Hearing Board may combine two (2) 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 at any time.
- No action may be taken on any matter not listed on the posted agenda.
- Please turn off or mute all cell phones and other electronic devices.
- Please take all private conversations outside the room.
- With a twenty-four (24) hour advance request, a sign language interpreter or other reasonable efforts to assist and accommodate persons with physical disabilities, may be made available by calling (702) 455-0354, TDD at (702) 385-7486, or Relay Nevada toll-free at (800) 326-6868, TD/TDD
- To request a copy of the supporting materials for an agenda item, please contact Sherrie Rogge at sherrie.rogge@clarkcountynv.gov or (702) 455-0354. Supporting material is/will be available on our website at: http://www.clarkcountynv.gov/AirQuality/compliance/Pages/Compliance_EnforcementNotices.aspx.
- If you do not wish to attend the meeting in person but desire to provide written general public comment or public comment on an individual agenda item, please submit your comments prior to **8:00 AM, FEBRUARY 18, 2021**. You can submit your comments to AQEnforcement@ClarkCountyNV.gov. Be sure to include your name, address, the agenda item number on which you are providing comment, and your comment. Comments will not be read into the record, but will be included as back-up materials for the record. All comments received will be compiled into a document and shared with members of the public body, meeting attendees, and on the public body's website.

Hearing Board Members

Daniel Sanders, Chair
Elspeth Cordua
Ryan L. Dennett, Esq.
Tom Foster, P.E.
Troy Hildreth
William Kremer
Lauren Rosenblatt

Deputy District Attorney

Catherine Jorgenson

Air Quality Staff

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

1. **OATHS OF OFFICE**

- A. Lauren Rosenblatt (Lay Member)
Term of Office: 11/3/2020 through 11/2/2023
- B. Ryan Dennett (Attorney Member)
Term of Office: 11/3/2020 through 11/2/2023
- C. William Kremer (Lay Member)
Term of Office: 11/3/2020 through 11/2/2023
- D. Troy Hildreth (Lay Member)
Term of Office: 11/3/2020 through 11/2/2023

ACTION: ANNA SUTOWSKA, AIR QUALITY SUPERVISOR, ADMINISTERED THE OATHS OF OFFICE TO LAUREN ROSENBLATT, RYAN DENNETT, WILLIAM KREMER AND TROY HILDRETH

2. **CALL TO ORDER** 9:40 a.m.

3. **PUBLIC COMMENT**

NONE

4. **ELECTION OF VICE-CHAIR**

New term – 2/18/2021 through end of term
(For possible action)

Air Quality Regulations Subsection 7.1(b)(1)(H) states, “The Hearing Board shall select a Chair, Vice-chair, and any other officers it deems necessary.”

ACTION: NOMINATED BOARD MEMBER DENNETT TO SERVE AS VICE-CHAIR FOR THE PERIOD OF FEBRUARY 18, 2021 THROUGH NOVEMBER 2, 2023

BY: Board Member Sanders

SECOND: Board Member Rosenblatt

VOTE: 7-0

VOTING AYE: Elspeth Cordua, Ryan Dennett, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt, Danny Sanders

VOTING NAY: None

ABSTAINING: None

ABSENT: None

5. **APPROVAL OF MINUTES**

Approval of August 12, 2020 meeting minutes.
(For possible action)

ACTION: APPROVED MINUTES AS RECOMMENDED

BY: Board Member Kremer

SECOND: Board Member Foster

VOTE: 7-0

VOTING AYE: Elspeth Cordua, Ryan Dennett, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt, Danny Sanders

VOTING NAY: None

ABSTAINING: None

ABSENT: None

6. **APPEALS OF HEARING OFFICER DECISIONS**

A. **GYP SUM RESOURCES, LLC (Part 70 Source ID: 17286)**

NOV #9412 – On September 17, 2020, the Hearing Officer found Gypsum Resources, LLC in violation of the Clark County Air Quality Regulations and Permit conditions for failing to report intermittent compliance in the 2018 and 2019 Annual Compliance Certification (ACC) Reports; for failing to report permit deviations in the 2nd Semi-annual Report for 2018, the 1st Semi-annual Report for 2019 and the 2nd Semi-annual Report for 2019, due by January 30, 2019, July 30, 2019, and January 30, 2020, respectively; for failing to provide at least seven days written notice to the Control Officer prior to replacing the continuous-duty diesel engines, EU: C01, C05 and C08; for replacing the continuous-duty diesel engine, EU: C07 with an engine rated at a higher horsepower without first obtaining an Authority to Construct (ATC) Permit from the Control Officer; for operating EUs: B02 and B03 throughout the entire Full Compliance Evaluation (FCE) period as unpaved haul roads when they were both permitted as paved; for exceeding the actual and potential emission limitations during the entire FCE period by operating EUs: B02 and B03 as unpaved haul roads; for exceeding the ANFO consumption limit of 75 tons per any consecutive 12-month period for 16 consecutive months; for exceeding the operational limit of 4,200 hours per any consecutive 12 month period for EU: C06 for 16 consecutive months; for exceeding the operational limit of 4,800 hours per any consecutive 12 month period for EU: C03 for 16 consecutive months; for failing to maintain moisture at a minimum of 1.5% in 40 weekly samples at six locations not controlled by baghouses; for failing to maintain moisture at a minimum of 2.5% in two weekly samples at one location for overburden operations; for failing to maintain and provide records for the continuous-duty diesel water pump (EU: C07) prior to its replacement; for conducting blasting operations during a Dust Advisory on April 2, 2019; for failing to take precautions and allowing fugitive dust emissions from the unpaved BLM Haul Road, EU: B01; for allowing haul trucks to exceed the speed limit of 15 mph on the unpaved BLM Haul Road, EU: B01; for failing to conduct and provide records of twice per day Method 22 Evaluations on all EUs, for eight instances; for failing to conduct and provide records of monthly baghouse inspections of the interior of CD: D01 and D02 for eight non-consecutive months, and an additional six months where the CD identification was not recorded; for failing to provide a Standard Operating Procedure for the purpose of maintenance for Baghouse #1, CD: D01, and Baghouse #2, CD: D02; for failing to conduct and provide records of weekly moisture testing; for failing to submit records of moisture test results with both 2019 semi-annual reports, due by July 30, 2019 and January 30, 2020; and for replacing the continuous-duty diesel engine, EU: C01 with an engine rated at a higher horsepower without first obtaining an ATC Permit from the Control Officer, as

identified by Senior Air Quality Specialists Camon Liddell and Scott Rowsell during a FCE conducted on February 26, 2020 and by Scott Rowsell during an offsite partial compliance evaluation conducted on May 5, 2020 of the gypsum processing operation located at 8360 Nevada Highway 159, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$294,600. Gypsum Resources appealed the Air Pollution Control Hearing Officer's Order. (For possible action)

Chair Sanders recused himself and did not participate in this appeal.

Vice-Chair Dennett recused himself and did not participate in this appeal.

Deputy District Attorney Jorgenson recommended the remaining board members elect a Chair Pro Tem for this appeal.

Board member Rosenblatt volunteered to chair this portion of the meeting if the board was so inclined.

ACTION: NOMINATED BOARD MEMBER ROSENBLATT TO SERVE AS CHAIR PRO TEM FOR THE APPEAL OF NOV #9412, GYPSUM RESOURCES LLC
BY: Board Member Foster
SECOND: Board Member Kremer
VOTE: 5-0
VOTING AYE: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt
VOTING NAY: None
ABSTAINING: None
ABSENT: Ryan Dennett, Danny Sanders

RECESS: 9:45 a.m.

RECONVENE: 9:47 a.m.

ACTION: DETERMINED THE AUTOMATIC STAY AFFORDED BY GYPSUM RESOURCES LLC CHAPTER 11 BANKRUPTCY PETITION DOES NOT APPLY IN THIS PROCEEDING
BY: Board member Kremer
SECOND: Board member Cordua
VOTE: 5-0
VOTING AYE: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt
VOTING NAY: None
ABSTAINING: None
ABSENT: Ryan Dennett, Danny Sanders

ACTION: AFFIRMED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9412 FINDING THE VIOLATIONS DID OCCUR
BY: Board Member Foster
SECOND: Board Member Kremer
VOTE: 5-0

VOTING AYE: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt
VOTING NAY: None
ABSTAINING: None
ABSENT: Ryan Dennett, Danny Sanders

ACTION: **AFFIRMED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9412 ASSESSING A PENALTY IN THE AMOUNT OF \$294,600**

BY: Board Member Cordua

SECOND: Board Member Kremer

VOTE: 5-0

VOTING AYE: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt

VOTING NAY: None

ABSTAINING: None

ABSENT: Ryan Dennett, Danny Sanders

RECESS: 11:55 a.m.

RECONVENE: 12:14 p.m.

B. M.P. TRUST AND MICHAEL PERRY (Project #191086) – Continued from 8/12/2020

NOV #9394 – On June 25, 2020, the Hearing Officer found M.P. Trust and Michael Perry in violation of 40 CFR 61, Subpart M, Parts 61.145(a), 61.145(b)(1), 61.145(b)(3)(i), 61.145(c)(8), 61.145(c)(6)(i), 61.150(a)(1)(iii) and 61.150(a)(1)(iv) (adopted by reference in Section 13.1 of the Air Quality Regulations) for failing to thoroughly inspect the Facility for the presence of asbestos-containing materials prior to conducting renovations activities; for failing to notify Air Quality 10 days prior to the removal of regulated asbestos-containing material (RACM) from the facility; for failing to have at least one onsite representative trained in the provisions of the National Emission Standards for Hazardous Air Pollutants asbestos regulations and the means of complying with them; for failing to adequately wet all removed RACM and ensure it remained wet; for failing to seal all asbestos-containing waste material in leak tight containers while wet; and for failing to label waste containers with warning labels, as identified during inspections by Air Quality Specialist Kevin Adoor beginning on November 15, 2019, at a facility operated by M.P. Trust and Michael Perry located at 1430 East Desert Inn Road, in Clark County, Nevada. An \$11,600 penalty was assessed. M.P. Trust and Michael Perry appealed the Air Pollution Control Hearing Officer’s Order.

(For possible action)

ACTION: **AFFIRMED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9394 FINDING THE VIOLATIONS DID OCCUR**

BY: Board Member Rosenblatt

SECOND: Board Member Kremer

VOTE: 7-0

VOTING AYE: Elspeth Cordua, Ryan Dennett, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt, Danny Sanders

VOTING NAY: None

ABSTAINING: None

ABSENT: None

ACTION: MODIFIED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9394 REDUCING THE ASSESSED PENALTY FROM \$11,600 TO \$10,100
BY: Board Member Rosenblatt
SECOND: Board Member Dennett
VOTE: 2-5
VOTING AYE: Ryan Dennett, Lauren Rosenblatt
VOTING NAY: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Danny Sanders
ABSTAINING: None
ABSENT: None
Motion did not pass.

ACTION: AFFIRMED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9394 ASSESSING A PENALTY IN THE AMOUNT OF \$11, 600
BY: Board Member Sanders
SECOND: Board Member Foster
VOTE: 6-1
VOTING AYE: Elspeth Cordua, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt, Danny Sanders
VOTING NAY: Ryan Dennett
ABSTAINING: None
ABSENT: None

- C. **M.P. TRUST AND MICHAEL PERRY (Project #201010) – Continued from 8/12/2020**
NOV #9409 – On June 25, 2020, the Hearing Officer found M.P. Trust and Michael Perry in violation of 40 CFR 61, Subpart M, Parts 61.145(b)(1), 61.145(b)(3)(i), 61.145(c)(1), 61.145(c)(6)(i), 61.145(c)(8), and 61.150(a)(1)(iii) (adopted by reference in Section 13.1 of the Air Quality Regulations) for failing to notify Air Quality 10 working days prior to the removal of regulated asbestos-containing material (RACM) from the facility in quantities greater than 160 square feet and/or 35 cubic feet; for failing to remove all RACM from the Facility prior to renovation; for failing to adequately wet all removed RACM and ensure it remained wet; for failing to have at least one onsite representative trained in the provisions of the National Emission Standards for Hazardous Air Pollutants asbestos regulations and the means of complying with them; and for failing to seal all asbestos-containing waste material in leak tight containers while wet, as identified by Air Quality Specialist Kevin Adoor while performing a routine patrol on February 11, 2020 at an apartment building located at 1430 East Desert Inn Road, in Clark County, Nevada. A \$22,500 penalty was assessed. M.P. Trust and Michael Perry appealed the Air Pollution Control Hearing Officer’s Order.
(For possible action)

ACTION: AFFIRMED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9409 FINDING THE VIOLATIONS DID OCCUR
BY: Board Member Kremer
SECOND: Board Member Foster
VOTE: 7-0
VOTING AYE: Elspeth Cordua, Ryan Dennett, Tom Foster, Troy Hildreth, William Kremer, Lauren Rosenblatt, Danny Sanders

VOTING NAY: None
ABSTAINING: None
ABSENT: None

RECESS: 2:40 p.m.
RECONVENE: 2:53 p.m.

ACTION: MODIFIED THE HEARING OFFICER ORDER IN THE MATTER OF NOV #9409 REDUCING THE ASSESSED PENALTY FROM \$22,500 TO \$16,875
BY: Board Member Dennett
SECOND: Board Member Rosenblatt
VOTE: 5-2
VOTING AYE: Ryan Dennett, Tom Foster, William Kremer, Lauren Rosenblatt, Danny Sanders
VOTING NAY: Elspeth Cordua, Troy Hildreth
ABSTAINING: None
ABSENT: None

7. **IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETING**

NONE

8. **PUBLIC COMMENT**

NONE

9. **ADJOURNMENT** 3:53 P.M.

The Presentation Room is accessible to individuals with disabilities. With twenty-four (24) 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