




Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – January 20, 2016

Hearing Officer: Frank J. Cremen

Staff:  Chuck Richter, Acting Compliance and Enforcement Manager
Lea Kain, Air Quality Supervisor

The Presentation Room is accessible to individuals with disabilities. With 48-hour advance request, a sign language interpreter or TDD may be made available; phone (702) 455-3126, TDD (702) 385-7486, or TT/TDD: Relay Nevada 711, Toll-Free (800) 326-6868 or (800) 877-1219 (Spanish).

I. **CALL TO ORDER** 9:00 a.m.

II. **MATTERS REQUIRING HEARING OFFICER ACTION**

A. *ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION*

Asbestos, Construction, and Vacant Land NOV's:

1. **AXE VENTURES, LLC (APNs 178-02-111-041 and 178-02-111-042)**

NOV #8739 – For operating an existing unpaved parking lot or storage area in Hydrographic Basins 212, 216 or 217, without implementing one or more of the control measures described in Section 92.3.1.2 as necessary to comply with the stabilization standards of Section 92.4.1 as identified during routine compliance inspections on February 17, April 24, and September 9, 2015 of APN's 178-02-111-041 & 178-02-111-042 located at 911 and 919 Empire Mesa Way, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,500.00

Violation #1 – Subsection 92.3.1

BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE SETTLEMENT AGREEMENT.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$1,500.00 PENALTY, OF WHICH \$1,500.00 WILL BE HELD IN ABEYANCE THROUGH DECEMBER 31, 2016. IF AXE VENTURES, LLC COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED. AXE VENTURES, LLC AGREES WITH THESE TERMS; THEREFORE, NO PENALTY AMOUNT WILL BE ASSESSED.

2. **CENTURY COMMUNITIES OF NEVADA, LLC (DCP #45330)**
NOV #8747 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during a routine compliance inspection on September 25, 2015 of the Meadow Ridge construction site located at Horse Drive and Jones Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,000.00

Violation #1 – Subsection 94.9.2

CENTURY COMMUNITIES OF NEVADA, LLC AGREES NOT TO CONTEST NOV #8747.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000.00

3. **COMPLETE DEMO SERVICES (Project Number: 152005; DCP #45056)**
NOV #8736 – For failing to notify Air Quality of all structures subject to renovation or demolition activities prior to conducting renovation and demolition activities, as identified during a routine site inspection on July 29, 2015, located at 405 North 6th Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – 40CFR61, Subpart M,
Part 61.145(b)(3)(i)

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000.00

4. **FISHER SAND & GRAVEL COMPANY (DCP #45008)**
NOV #8749 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during a routine compliance inspection on September 14, 2015 of the NDOT 3508-Boulder City Bypass Phase I Package 2B & 3 construction site, located at 2594 Dawson Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000.00

5. **K & N CONSTRUCTION, INC. (DCP #44728)**
NOV #8741 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during a routine compliance inspection on August 28, 2015 of the Rainbow & Badura Building 3 & 4 construction site, located at 7020 South Rainbow Boulevard, in Clark County, Nevada.

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Violation(s) alleged:
Violation #1 – Subsection 94.9.2

Recommended Penalty: \$1,000.00

K & N CONSTRUCTION, INC. FAILED TO APPEAR.

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$1,000.00**

6. LHSC, INC. (DCP #42439)

NOV #8745 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion, identified during routine compliance inspections on September 8 and 22, 2015 of the St. Andrews, Spanish Bay, Spyglass Hills construction site, located at Canyon Crest and Oasis Boulevards, in Clark County, Nevada.

Violation(s) alleged:
Violations #1 and 2 – Subsection 94.9.2

Recommended Penalty: \$2,000.00

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$2,000.00**

7. NEVADA RESIDENTIAL CONSTRUCTION, LLC (DCP #42670)

NOV #8742 – For failing to employ Best Available Control Measures, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for conducting construction activities outside the boundaries of the current Dust Control Permit; identified during routine inspections on September 8, 22 and October 14, 2015 at the Santa Theresa Estates construction site, located at 829 Santa Theresa Way, in Mesquite, Clark County, Nevada.

Violation(s) alleged:
Violation #1 – Subsection 94.9.2
Violation #2 – Subsection 94.4.1

Recommended Penalty: \$4,500.00

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$3,750.00**
Violation #1 – Subsection 94.9.2 - \$3,000.00
Violation #2 – Subsection 94.4.1 - \$750.00

8. NEVADA RESIDENTIAL CONSTRUCTION, LLC (DCP #n/a)

NOV #8743 – For failing to employ Best Available Control Measures, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for conducting construction activities without first obtaining a Dust Control Permit; identified during routine inspections on September 22 and October 14, 2015 at a custom residential construction site, located in the Masters Planned Community, in Mesquite, Clark County, Nevada.

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NEVADA RESIDENTIAL CONSTRUCTION, LLC continued

Violation(s) alleged:

Recommended Penalty: \$ 3,000.00

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.4.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,500.00

Violation #1 – Subsection 94.9.2 - \$2,000.00

Violation #2 – Subsection 94.4.1 - \$500.00

9. NEVADA RESIDENTIAL CONSTRUCTION, LLC (DCP #n/a)

NOV #8744 – For failing to employ Best Available Control Measures, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for conducting construction activities without first obtaining a Dust Control Permit; identified during routine inspections on September 22 and October 23, 2015 at a custom residential construction site, located 1516 Pomegranate Trail, in Mesquite, Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$ 2,000.00

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.4.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000.00

Violation #1 – Subsection 94.9.2 - \$1,000.00

Violation #2 – Subsection 94.4.1 - \$1,000.00

10. NEVADA RESIDENTIAL CONSTRUCTION, LLC (DCP #41009)

NOV #8746 – For failing to employ Best Available Control Measures, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for conducting construction activities outside the boundaries of the current Dust Control Permit; identified during routine inspections on September 8, 22 and October 14, 2015 at the Stonehaven construction site, located at the northeast corner of Wingate Drive and Kensington Avenue, in Mesquite, Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$ 4,500.00

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.4.1

AIR QUALITY WITHDREW SUBSECTION 94.4.1 AND THE RECOMMENDED PENALTY FOR VIOLATION #2.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

Violation#1 – Subsection 94.9.2 - \$3,000.00

Violation #2 – Subsection 94.4.1 – Withdrew violation

11. TRADE WEST CONSTRUCTION, INC. (DCP #45305)

NOV #8737 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week and allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; identified during two separate complaint investigations on August 18 and 25, 2015 of the City Cemetery construction site, located at 451 Falcon Ridge Parkway, in Mesquite, Clark County, Nevada.

Violation(s) alleged:
Violations #1 and 2 – Subsection 94.9.2

Recommended Penalty: \$2,000.00

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$2,000.00**

Stationary Sources NOV's:

12. BOB MOORE, LLC (Source ID: 17315)

NOV #8663 – For failing to provide written notice of the change in location where the source will operate as required by the Portable Minor Source permit and the AQR; for failing to submit a plan demonstrating the amount of materials brought to the site with the intent to burn in the Air Curtain Incinerator; for failing to conduct an initial performance test for opacity on the Air Curtain Incinerator; for failing to keep records for the following: visible emission checks, daily and monthly amounts of wood waste, clean waste, yard waste brought to the site to burn in the Air Curtain Incinerator, daily throughputs, equipment inspections, initial and annual opacity tests, and sulfur content and the cetane index of the diesel fuel; and for failing to submit an application for a Title V operating permit for the facility as per federal regulations, identified during a full compliance evaluation conducted on January 14, 2015 for the period of January 2, 2014 through January 14, 2015 of the E & M Enterprises, Inc. (now known as Bob Moore, LLC) solid waste refuse facility, located at the Anniversary Mine in the Lake Mead National Recreation Area, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$15,000.00

- Violation #1 – Subsection 12.1.4.1(d)
Permit Condition II-D-1
- Violation #2 – Subsection 12.1.4.1(c)
Permit Condition IV-B-2
- Violation #3 – Subsection 12.1.4.1(d) &
40 CFR 60 Subpart CCCC, Subsection 60.2255
Permit Condition IV-D-1
Permit Condition IV-D-2
- Violation #4 – Subsection 12.1.4.1(d)
Permit Condition IV-E-4-a through g
Permit Condition IV-E-5-a through d
- Violation #5 – 40 CFR 60 Subpart CCCC, Subsection 60.2242

Rescheduled from 5/20/15

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BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE SETTLEMENT AGREEMENT.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$2,000.00 PENALTY.

13. GYPSUM RESOURCES, LLC (Source ID: 17286)

NOV #8731 – For failing to operate pollution control equipment as stipulated in their permit and generating fugitive dust plumes which traveled greater than 100 yards on multiple occasions; for failing to pave interior plant haul roads as permitted; for exceeding opacity limits as determined during a Visible Emissions Evaluation (VEE); for exceeding annual throughput production limitations; for failing to take reasonable precautions to prevent fugitive dust; for failing to utilize water sprays in the process; for failure to maintain personnel onsite certified to conduct VEEs; for failure to conduct initial performance testing before the regulatory deadline; for failing to conduct required inspections and monitoring; for failure to maintain monthly records of vehicle miles traveled (VMT); for failure to maintain monthly records of generator activity; for exceeding annual throughput for the blasting area, the ANFO usage, the truck loading usage, and VMT; for failing to comply with New Source Review permitting requirements; and for operating without a Part 70 Operating Permit as identified during a full compliance evaluation conducted on July 16 and 21, 2015 for the period of September 10, 2013 through July 21, 2015 at the Blue Diamond Hill Gypsum non-metallic mineral processing plant, located at 14000 Blue Diamond Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$331,900.00

- Violation #1 - Section 12.1.4.1(r)
Permit Condition IV-B-4
- Violation #2 - Section 12.1.4.1(r)
Permit Conditions II-A-9 and IV-A-1-a
- Violation #3 - Subsection 26.1.1 and Section 12.1.4.1(f)
Permit Condition IV-A-2-a
- Violation #4 - Section 12.1.4.1(c) & (f)
Permit Condition IV-A-3-b
- Violation #5 - Section 12.1.4.1(c) & (f)
Permit Condition IV-B-1
- Violation #6 - Section 12.1.4.1(c) & (f)
Permit Condition IV-B-2
- Violation #7 - Section 12.1.4.1(c) & (f)
Permit Condition IV-B-4
- Violation #8 - Section 12.1.4.1(d)
Permit Condition IV-C-18
- Violation #9 - Section 12.1.4.1(d) & (m)
Permit Condition IV-D-2-a
- Violation #10 - Section 12.1.4.1(d)(2)
Permit Condition IV-E-4-a
- Violation #11 - Section 12.1.4.1(d)(2)
Permit Condition IV-E-5-c

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GYPSUM RESOURCES, LLC continued

- Violation #12 - Section 12.1.4.1(d)(2)
Permit Condition IV-E-5-d
- Violation #13 - Section 12.1.4.1(d)(2)
Permit Condition II-C-6-b-iii
- Violation #14 - Section 12.3
- Violation #15 - Section 12.5

CONTINUED AT THE REQUEST OF GYPSUM RESOURCES, LLC.

14. LAS VEGAS PAVING CORPORATION (Source ID: 15364)

NOV #8748 – For installing and operating a 71 horse power non-emergency generator without first obtaining a permit from Air Quality that authorizes such construction and operation; for failing to install required pollution control equipment; and for failing to conduct required inspections and monitoring as identified during a full compliance evaluation conducted on October 1, 2015 for the period of February 14, 2012 through October 1, 2015 at the Las Vegas Paving portable non-metallic mineral processing plant, located at the southwest corner of Tropicana Avenue and Nellis Boulevard, in Clark County, Nevada.

Violation(s) alleged: Recommended Penalty: \$6,000.00
Violation #1 – Subsection 12.1.3.1
Violation #2 – Subsection 12.1.4.1(c) & (f)
Permit Condition IV-B-2
Violation #3 – Subsection 12.1.4.1(d)
Permit Condition IV-C-11-a & b

BOTH PARTIES AGREED TO SETTLE NOV. AIR QUALITY AGREES TO ACCEPT THE SETTLEMENT AGREEMENT.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$3,000.00 PENALTY.

15. ZOZO NELLIS, LLC (Source ID: 17375)

NOV #8732 – For failing to maintain Stage I vapor recovery equipment according to the manufacturer’s specifications and causing vapors to escape the system; for failing to maintain Stage II vapor recovery equipment according to the manufacturer’s specifications and causing vapors to escape the system; and for failing to conduct initial vapor recovery system testing required by the permit, as identified during a full compliance evaluation conducted on May 14, 2015 of the ZOZO Nellis, located at 6101 West Vegas Drive, in Clark County, Nevada.

Violation(s) alleged: Recommended Penalty: \$6,000.00
Violation #1 – Section 12.1.4.1(f)
Permit Condition IV-B-1-b-iii
Violation #2 – Section 12.1.4.1(f)
Permit Condition IV-B-1-d-ii
Violation #3 – Section 12.1.4.1(d)
Permit Condition III-D-2

CONTINUED AT THE REQUEST OF ZOZO NELLIS, LLC.

III. ADJOURNMENT

10:10 a.m.