



Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – November 18, 2015

Hearing Officer: Sandra Reed
Staff: Gary Miller, Compliance and Enforcement Manager
Lea Kain, Air Quality Supervisor

CR for Gary Miller
LK

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. SETTLEMENT

1. SMITH’S FOOD AND DRUG CENTERS, INC. (Source IDs: 09925, 15504, 15596, 15601, 16409, 16461, 17359, Smith’s Store #346 (unpermitted source), 17428, 17427, and 16487) NOV #8666 – For installing, operating, or making a modification to a minor source without a minor source permit that authorizes such construction, operation, or modification at the following Smith’s Stores, in Clark County, Nevada:

- Smith’s Store #342, located at 370 North Sandhill Boulevard;
- Smith’s Store #349, located at 10180 West Tropicana Avenue;
- Smith’s Store #355, located at 450 Nellis Boulevard;
- Smith’s Store #334, located at 2355 East Centennial Parkway;
- Smith’s Store #311, located at 8050 South Rainbow Boulevard;
- Smith’s Store #351, located at 6130 West Tropicana Avenue;
- Smith’s Store #332, located at 7140 North Durango Drive;
- Smith’s Store #346, located at 10616 South Eastern Avenue;
- Smith’s Store #350, located at 4600 East Sunset Road;
- Smith’s Store #348, located at 1000 North Green Valley Parkway; and
- Smith’s Store #354, located at 3850 East Flamingo Road.

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SMITH'S FOOD AND DRUG CENTERS, INC. continued

Violation(s) alleged:

- Violation #1 – Section 12.1.3.1
Permit Condition II-G
- Violation #2 – Section 12.1.3.1
Permit Condition III-A-14
- Violation #3 – Section 12.1.3.1
Permit Condition II-G
- Violation #4 – Section 12.1.3.1
Permit Condition III-A-14
- Violation #5 – Section 12.1.3.1
Permit Condition II-G
- Violation #6 – Section 12.1.3.1
Permit Condition II-G
- Violation #7 – Section 12.1.3.1
Permit Condition II-A-8
- Violation #8 – Section 12.1.3.1
- Violation #9 – Section 12.1.3.1
Permit Condition II-A-8
- Violation #10 – Section 12.1.3.1
Permit Condition II-A-8
- Violation #11 – Section 12.1.3.1
Permit Condition II-G

Continued from 9/16/15

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$22,000.00 PENALTY, \$16,500.00 OF WHICH BE HELD IN ABEYANCE FOR A TOTAL OF TWELVE MONTHS OF THIS SETTLEMENT AGREEMENT TO ENSURE SMITH'S FOOD AND DRUG CENTERS, INC. IS IN COMPLIANCE, AND ASSESSED A \$5,500.00 PENALTY. IF SMITH'S FOOD AND DRUG CENTERS, INC. COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

B. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, and Vacant Land NOV's:

1. ARK CONSTRUCTION, INC. (DCP #44971)

NOV #8734 – 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 19, 2015 of the Raising Canes Restaurant construction site, located at 3535 West Tropicana Avenue, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Recommended Penalty: \$2,000.00

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$1,750.00**

2. **DISCOVERY PROPERTY COMPANY, LLC (DCP #44742)**

NOV #8729 – For failing to implement all Best Available Control Measures necessary to maintain soil stability 24 hours a day, seven days a week, allowing soils to become dry and loose, conducive to the formation of fugitive dust by either mechanical disturbance or wind erosion; and for allowing a dust plume to extend 100 feet or more, horizontally or vertically, from the point of origin on May 14, 21, 22 and 26, 2015 at the Summerlin Village 17 construction site, located west of Town Center Drive between Flamingo Road and Tropicana Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$7,000.00

Violation #1 – Subsection 94.11.3

Violation #2 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,500.00

Violation #1 – Subsection 94.11.3 - \$1,000.00

Violation #2 – Subsection 94.9.2 - \$4,500.00

3. **DISCOVERY PROPERTY COMPANY, LLC (DCP #44742)**

NOV#8740 – For allowing a dust plume to travel greater than 100 yards; for failing to fully implement all control measures necessary to maintain soil stability 24 hours a day, seven days a week; and for allowing a dust plume with an opacity greater than 50% during a Construction Notice, as identified during site inspections on September 9, 10 and 15, 2015 at the Summerlin Village 17 construction site, located west of Town Center Drive between Flamingo Road and Tropicana Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$7,000.00

Violation #1 – Subsection 94.11.2

Violation #2 – Subsection 94.9.2

Violation #3 – Subsections 94.11.1 & 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$6,000.00

Violation #1 – Subsection 94.11.2 - \$2,000.00

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

Violation #3 – Subsections 94.11.1 & 94.11.3 - \$3,000.00

4. **FORE CONSTRUCTION (DCP #42737)**

NOV#8727 – 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 inspection on June 4, 2015 of the Summerset Hills Apartments construction site, located at Dean Martin Drive and Irvin Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$500.00

5. **TRADE WEST CONSTRUCTION, INC. (DCP #44429)**

NOV #8738 – 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 26, 2015 of the Jim Wilson Sediment Removal construction site, located at 350 Canyon Crest Boulevard, in the City of Mesquite, Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$500.00

6. **WEST COAST CONTRACTORS OF NV, INC. (DCP #44798)**

NOV #8735 – 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 4 and 6, 2015 of the Brooks Channel Flood Control Project construction site, located at Losee Road and Brooks Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000.00

Violation #1 – Subsection 94.9.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,500.00

Stationary Sources NOVs:

7. **DURANGO PETROLEUM, LLC (Source ID: 17406)**

NOV #8733 – For exceeding permitted annual gasoline throughput; failing to install, maintain and operate Stage I vapor recovery equipment according to the manufacturer's specifications in a manner consistent with safety and good air pollution control practices for minimizing emissions, and for failing to conduct initial vapor recovery system testing required by Air Quality Regulations and the permit, as identified during a partial compliance evaluation conducted on June 24, 2015 of the US GAS 2, located at 3675 South Durango Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000.00

Violation #1 – Section 12.1.4.1(b)

Permit Condition III-A

Permit Condition III-A-1

Permit Condition III-A-2

Violation #2 – Section 12.1.4.1(f)

Permit Condition IV-B-1-b-iii

Violation #3 – Section 12.1.4.1(d)

Permit Condition IV-D-2

Permit Condition IV-D-4-a

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FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000.00

- Violation #1 – Section 12.1.4.1(b) - \$1,000.00
Permit Condition III-A
Permit Condition III-A-1
Permit Condition III-A-2
- Violation #2 – Section 12.1.4.1(f) - \$1,000.00
Permit Condition IV-B-1-b-iii
- Violation #3 – Section 12.1.4.1(d) - \$1,000.00
Permit Condition IV-D-2
Permit Condition IV-D-4-a

8. RODY YOUSIF DBA BOULDER STOP (Source ID: 17344)

NOV #8726 – For failing to maintain Stage I 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 June 24, 2015 of the Boulder Stop, located at 100 Ville Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000.00

- Violation #1 – Subsection 12.1.4.1(f)
Permit Condition IV-B-1-b-iv
Permit Condition IV-B-1-b-viii
Permit Condition IV-B-1-b-x
- Violation #2 – Subsection 12.1.4.1(d)
Permit Condition IV-D-4-a

Continued from 9/16/15

FOUND IN VIOLATION.

PENALTY ASSESSED: \$6,000.00

- Violation #1 – Subsection 12.1.4.1(f) \$3,000.00
Permit Condition IV-B-1-b-iv
Permit Condition IV-B-1-b-viii
Permit Condition IV-B-1-b-x
- Violation #2 – Subsection 12.1.4.1(d) \$3,000.00
Permit Condition IV-D-4-a

9. TITANIUM METALS CORPORATION (Source ID: 19)

NOV #8730 – For failing to submit the 2014 Annual Emissions Inventory Report to Air Quality before the March 31, 2015 deadline; for submitting an incomplete Annual Compliance Certification; and for failing to conduct permit required opacity observations and maintain records, for the Titanium Metals Corporation metallic minerals processing facility, located at 181 North Water Street, in Clark County, Nevada.

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TITANIUM METALS CORPORATION continued

Violation(s) alleged:

Recommended Penalty: \$16,000.00

- Violation #1 – Subsection 18.6.1
 - Permit Condition II-C-5-a*
 - Permit Condition II-C-5-b*
- Violation #2 – Subsection 12.5.2.8(e)
 - Permit Conditions II-D-6-d-i through iv*
- Violation #3 – Subsection 12.5.2.6(d)
 - Permit Conditions II-E-1 through 4*
 - Permit Conditions III-A-5-a and b, III-A-7-c*
 - Permit Conditions III-B-5-a and b, III-B-7-c*
 - Permit Conditions III-C-5-a and b, III-C-7-c*
 - Permit Conditions III-D-5-a and b, III-D-7-c*
 - Permit Conditions III-E-5-a and b, III-E-7-c*
 - Permit Conditions III-F-5-a and b, III-F-7-c*
 - Permit Conditions III-G-5-a and b, III-G-7-c*
 - Permit Conditions III-H-5-a and b, III-H-7-c*

FOUND IN VIOLATION.

PENALTY ASSESSED: \$12,000.00

- Violation #1 – Subsection 18.6.1** **- \$3,000.00**
 - Permit Condition II-C-5-a*
 - Permit Condition II-C-5-b*
- Violation #2 – Subsection 12.5.2.8(e)** **- \$3,000.00**
 - Permit Conditions II-D-6-d-i through iv*
- Violation #3 – Subsection 12.5.2.6(d)** **- \$6,000.00**
 - Permit Conditions II-E-1 through 4*
 - Permit Conditions III-A-5-a and b, III-A-7-c*
 - Permit Conditions III-B-5-a and b, III-B-7-c*
 - Permit Conditions III-C-5-a and b, III-C-7-c*
 - Permit Conditions III-D-5-a and b, III-D-7-c*
 - Permit Conditions III-E-5-a and b, III-E-7-c*
 - Permit Conditions III-F-5-a and b, III-F-7-c*
 - Permit Conditions III-G-5-a and b, III-G-7-c*
 - Permit Conditions III-H-5-a and b, III-H-7-c*

10. KMI ZEOLITE, INC. (Source ID: 680)

NOV #8725 – For discharging visible emissions from the baghouse (Emission Units: A01, A02, A05, B01, B02, B03, B06 and B07) in excess of 7.0 percent opacity; and for failing to notify Air Quality of excess emissions as required by Air Quality Regulations and the Minor Source Permit, identified during complaint investigations conducted on June 26 and July 10, 2015 of the KMI Zeolite, Inc. facility, located at HCR 31, Box 52, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$16,000.00

Violation #1 – Section 12.1.4.1(c)

Permit Condition IV-A-2-f

Violation #2 – Section 12.1.4.1(d) and 25.2.1

Permit Condition II-C-6

FOUND IN VIOLATION.

PENALTY ASSESSED: \$12,000.00

Violation #1 – Section 12.1.4.1(c) - \$4,000.00

Permit Condition IV-A-2-f

Violation #2 – Section 12.1.4.1(d) and 25.2.1 - \$8,000.00

Permit Condition II-C-6

III. ADJOURNMENT

11:00 a.m.