



Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – April 16, 2014

Hearing Officer: Sandra Reed Bottino
Staff: Gary Miller, 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 may be made available; phone 676-1500, TDD 676-1834, or Relay Nevada toll-free (800) 326-6868 TTY/TDD.

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

II. MATTERS REQUIRING HEARING OFFICER ACTION

A. REVOCATION OF OPERATING PERMIT DUE TO NON-PAYMENT OF AIR QUALITY FEES
The Hearing Officer may revoke the following operating permits due to non-payment of the Required Annual Air Quality fees as required by Section 18 of the Clark County Air Quality Regulations.

1. **UNLIMITED FINISHING LLC (SOURCE: 15925)**
NOV #8554 issued on 2/11/2014 Outstanding Balance: \$704.28

Invoice Number: 002831
Invoice issued: 12/2/2013
Invoice due date: 1/1/2014

Late fee assessed 45 days after invoice issued date

Because the respondent paid the outstanding balance in full, Air Quality agrees to accept the payment amount of \$704.28 to resolve this NOV.

NOV TAKEN OFF CALENDAR; NO ORDER.

B. SETTLEMENT

1. **KMI ZEOLITE INCORPORATED (Source: 680)**

NOV #8499 – For allowing fugitive dust to become airborne without taking reasonable precautions and allowing the discharge of fugitive dust to travel in excess of 100 yards from the point of origin and cross a property line, identified during a partial compliance evaluation conducted during a Dust Advisory on October 28, 2013 at the KMI Zeolite Incorporated facility, located at HCR 31, Sandy Valley in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(c)
Subsection 12.1.4.1(f)

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES AN \$18,000 PENALTY, \$12,000 OF WHICH BE HELD IN ABEYANCE FOR A PERIOD OF ONE YEAR OF SIGNED ORDER TO ENSURE KMI ZEOLITE INCORPORATED IS IN COMPLIANCE, AND ASSESSED A \$6,000 PENALTY. IF KMI ZEOLITE INCORPORATED COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

2. **LAS VEGAS PAVING CORPORATION (Source: 105)**

NOV #8485 – For allowing emissions greater than 20 percent opacity for a period or periods totaling more than three minutes in any 60 minute period from a hot mix asphalt plant, identified during a partial compliance evaluation conducted on August 6 and December 13, 2013 at the Las Vegas Paving Corporation Lone Mountain facility, located west of CR215 on Lone Mountain Road in Clark County, Nevada.

Violation(s) alleged: Subsection 26.1
40 CFR 60.92(a)(2)

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$3,000 PENALTY AND A TIMELINE FOR INSTALLATION OF NEWER HOT MIX ASPHALT PLANT TO REPLACE THE OLDER HOT MIX ASPHALT PLANT.

3. **TERRIBLE HERBST OIL COMPANY (Source: 9789)**

NOV #8480 – For failing to maintain all Phase I vapory recovery equipment in a leak free, vapor tight condition, and in good working order; and for failing to attach a spill bucket to the top of the retention ring on one of the underground storage tanks, identified during a full compliance evaluation conducted on October 2, 2013 at the Terrible Herbst #277 Gasoline Dispensing Operation, located at 1100 East Lake Mead Parkway in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1
Subsection 52.4(a)(1)

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT FOR NOV'S #8480, 8497, AND 8511, WHICH INCLUDES THE DEVELOPMENT OF A TRAINING PLAN THAT WILL BE PRESENTED TO STATIONS MANAGERS, A TIMELINE FOR THE INSTALLATION OF SWIVEL ADAPTORS AT 45 OF ITS FACILITIES IN CLARK COUNTY, AND A \$16,000 PENALTY, \$13,000 OF WHICH BE HELD IN ABEYANCE FOR A PERIOD OF ONE YEAR OF SIGNED ORDER TO ENSURE TERRIBLE HERBST, INC. IS IN COMPLIANCE, AND ASSESSED A \$3,000 PENALTY. IF TERRIBLE HERBST, INC. COMPLIES WITH THESE TERMS THEN THE SUSPENDED AMOUNT WILL BE WAIVED.

4. **TERRIBLE HERBST, INCORPORATED (Source: 9428)**

NOV #8497 – For failing to maintain all Phase I vapory recovery equipment in a leak free, vapor tight condition, and in good working order; for failing have a CARB-certified device which prevents loosening or over tightening of the Phase I product adapter; for installing submerged fill-pipes with discharge points higher than 6.0 inches from the tank bottom; and for failing to maintain all Phase II vapory recovery equipment in a leak free, vapor tight condition, and in good working order, identified during a full compliance evaluation conducted on October 21, 2013 at the Terrible Herbst #163 Gasoline Dispensing Operation, located at 306 North Boulder Highway in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1
Subsection 52.4(a)(1)

SEE #3 ABOVE.

5. **TERRIBLE HERBST, INC. (Source: 9722)**

NOV #8511 – For failing to maintain all Phase I vapory recovery in a leak free, vapor tight condition, and in good working order; for failing to have a CARB-certified device which prevents loosening or over tightening of the Phase I product adapter, and for failing to maintain complete daily inspection logs for review, identified during a full compliance evaluation conducted on December 11, 2013 at the Terrible Herbst #204 Gasoline Dispensing Operation, located at 1412 West Craig Road in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1
Subsection 52.4(a)(1)
Subsection 52.6(a)(1)
Subsection 52.7(b)(1)(vii)

SEE #3 ABOVE.

C. NON-CONTESTED NOTICES OF VIOLATION WITH AGREEMENT: The Hearing Officer may approve or disapprove the agreed settlement. If disapproved, the Notice of Violation will be scheduled for another hearing. Non-contested Notices of Violation are undisputed matters and may be taken together unless there is a request to take one separately.

1. **D. R. HORTON, INC. (DCP #40820)**

NOV #8500 – For conducting construction activities prior to obtaining a valid Dust Control Permit and 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, identified during a routine site inspection on November 7, 2013 and follow-up inspections on November 13 and 18, 2013 at the Denali construction site, located at the southwest corner of Erie Avenue and Rainbow Boulevard in Clark County, Nevada.

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D. R. HORTON, INC. continued

Violation(s) alleged: Subsection 94.9.2
Subsection 94.4.1
Violation #1 – Subsection 94.9.2
Violation #2 – Subsection 94.9.2
Violation #3 – Subsection 94.4.1

Recommended Penalty: \$3,500

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,500

Violation #1 – Subsection 94.9.2 - \$1,000

Violation #2 – Subsection 94.9.2 - \$2,000

Violation #3 – Subsection 94.4.1 - \$500

D. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, & Vacant Land NOV's:

1. CALIDA CONSTRUCTION, LLC (DCP #42171)

NOV #8502 – 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 inspection on November 19, 2013 at the Elysian at Southern Highlands construction site, located at 12000 Southern Highlands Parkway in Clark County, Nevada.

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

Recommended Penalty: \$1,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$500

2. ENVIRONMENTAL ASSURANCE, LLC (Project Number: 130323)

NOV #8520 – For failing to remove all regulated asbestos-containing material (RACM) and not ensuring the RACM was adequately wet until collected and contained or treated for disposal, identified during routine site inspections on October 1, November 5, and December 11, 2013 of buildings at 1715 McDonald Court, 2420 West Street, and 1512 and 1516 Helen Avenue, all within the Buena Vista Springs I demolition project, located northwest of Martin Luther King Boulevard and Carey Avenue in Clark County, Nevada.

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ENVIRONMENTAL ASSURANCE, LLC continued

Violation(s) alleged: Subsection 13.1
40CFR 61.145(c)(1)
40CFR 61.145(c)(6)
40CFR 61.150(a)(1)(iii)
Violation #1 – 40CFR 61.145(c)(1)
40CFR 61.145(c)(6)
40CFR 61.150(a)(1)(iii)
Violation #2 – 40CFR 61.145(c)(1)
40CFR 61.145(c)(6)
40CFR 61.150(a)(1)(iii)
Violation #3 – 40CFR 61.145(c)(1)
40CFR 61.145(c)(6)
40CFR 61.150(a)(1)(iii)

Recommended Penalty: \$12,000

CONTINUED AT THE REQUEST OF ENVIRONMENTAL ASSURANCE, LLC.

3. PN II DBA PULTE HOMES OF NEVADA (DCP #39266)

NOV #8494 – 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 inspection on November 7, 2013 at the Tierra Vista construction site located southeast of Mountain’s Edge Parkway and Montessouri Street in Clark County, Nevada.

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

Recommended Penalty: \$1,000

PN II DBA PULTE HOMES OF NEVADA CHANGED ITS PLEA TO NON-CONTESTED.

**FOUND IN VIOLATION.
PENALTY ASSESSED: \$1,000**

Stationary Sources NOV’s:

4. BASIC FOOD FLAVORS (Source: 401)

NOV #8490 – For failing to conduct subsequent performance testing on a Cleaver-Brooks boiler (Emission Unit B04) within the required five-year period (more than eight months beyond the required test date), identified during the review of a performance test protocol submitted to Air Quality on November 5, 2013 at the Basic Foods Flavors operation, located at 3950 East Craig Road in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.4.1(d)
Subsection 49.4.2
Subsection 49.4.3.2
Violation #1 – Subsections 12.1.4.1(d), 49.4.2, & 49.4.3.2
Permit Condition IV-D-2
Permit Condition IV-D-4

No penalty recommended.

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BASIC FOOD FLAVORS continued.

AIR QUALITY CLARIFIED THE DATES BASIC FOOD FLAVORS IS REQUIRED TO CONDUCT A PERFORMANCE TEST FOR EMISSION UNITS B04 BY APRIL 1, 2018, AND B06 BY AUGUST 30, 2015.

HEARING OFFICER APPROVED REQUIRED PERFORMANCE TESTING DATES.

5. BIG DADDY 1, LLC (Source: 9409)

NOV #8479 – For failing to maintain all Phase I and Phase II vapor recovery equipment in a leak free, vapor tight condition, and in good working order; for installing a Venturi hose in the reverse direction recommended by the manufacturer; for failing to notify Air Quality and conduct annual performance testing prior to the anniversary date of the previous performance test that the source passed; and for failing to provide records of Phase I and Phase II vapor recovery equipment inspections for review, identified during a full compliance evaluation conducted on September 23, 2013 at the Big Daddy's Lamb Gas & Mini Mart Gasoline Dispensing Operation, located at 551 North Lamb Boulevard in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1

Recommended Penalty: \$9,000

Subsection 52.4(a)(1)

Subsection 52.5(a)(1)

Subsection 52.6(a)(1)

Subsection 52.7(b)(1)

Violation #1 – Subsections 12.8.1 & 52.4(a)(1)

Permit Condition IV-B-1-e

Violation #2 – Subsections 12.8.1 & 52.4(a)(1)

Permit Condition IV-B-2-f

Permit Condition IV-B-2-g

Violation #3 – Subsections 12.8.1 & 52.5(a)(1)

Permit Condition IV-F-1-i

Permit Condition IV-F-3-a

Permit Condition IV-F-1-b

Violation #4 – Subsections 12.8.1, 52.6(a)(1), & 52.7(b)(1)(vii)

Permit Condition IV-E-1

Permit Condition IV-E-2

Permit Condition IV-G-2

Permit Condition IV-G-4

CONTINUED AT THE REQUEST OF BIG DADDY 1, LLC.

6. BLUEGREEN CLUB 36 OWNERS ASSOCIATION, INC. (Source: 16156)

NOV #8498 – For installing and operating three 1.999 MMBtu/hr Raypack Modulating Vertical Boilers without first obtaining a permit that authorizes such construction and operation; for allowing the TSD content of the cooling tower circulation water to exceed 1,800 ppm during parts of 2009, 2010, 2011 and 2012; and for failure to submit monthly operating hours or fuel consumption for three Laars boilers, daily operating hours and fuel consumption for emission unit B01, monthly operating hours for the Evapco cooling tower, and TSD content of the tower circulation water during parts of 2010 and 2012, identified during a full compliance evaluation conducted on October 18, 2013 at the Bluegreen Club 36 timeshare resort facility, located at 372 East Tropicana Avenue in Clark County, Nevada.

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BLUEGREEN CLUB 36 OWNERS ASSOCIATION, INC. continued

Violation(s) alleged: Subsection 12.1.1.1
Subsection 12.8.1
Violation #1 – Subsection 12.1.1.1
Permit Condition II-9
Violation #2 – Subsection 12.8.1
Permit Condition IV-B-12
Violation #3 – Subsection 12.8.1
Permit Condition IV-G-3

Recommended Penalty: \$5,000

**AIR QUALITY AGREED FOR BLUEGREEN CLUB 36 OWNERS ASSOCIATION, INC.
TO SUBMIT PERMITTING APPLICATION BY MAY 16, 2014.**

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,500

Violation #1 – Subsection 12.1.1.1 - \$1,500
Permit Condition II-9
Violation #2 – Subsection 12.8.1 - \$1,500
Permit Condition IV-B-12
Violation #3 – Subsection 12.8.1 - \$500
Permit Condition IV-G-3

7. BRADY LINEN SERVICES (Source: 10201)

NOV #8484 – For installing and operating 22 natural-gas laundry dryers and four petroleum dry cleaning machines without first obtaining a permit that authorizes such construction and operation; for installing, but not operating, two additional petroleum dry cleaning machines without first obtaining a permit that authorizes such construction; for failing to conduct an initial performance test for two of the unpermitted dry cleaning machines with capacity ratings that qualify them as an affected facility under 40 CFR 60, Subpart JJJ; for failing to perform semi-annual burner efficiency tests on two Hurst Boilers (Emission Units: A11 and A27) within the intervals required by the permit; and for submitting a performance test protocol for the two Hurst Boilers 67 days beyond the required date, identified during a full compliance evaluation conducted on August 27, 2013 at the Brady Linen Services facility, located at 1 West Mayflower Avenue in Clark County, Nevada.

Violation(s) alleged: Subsection 12.1.1.1
Subsection 14.1
Subsection 49.4.2
Subsection 49.4.3.2
Subsection 49.5.3
Subsection 49.6.1.2
Subsection 49.6.1.3
40 CFR 60.624
40 CFR 60.625
40 CFR 60.8(a)

Recommended Penalty: \$10,000

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BRADY LINEN SERVICES continued

- Violation #1 – Subsection 12.1.1.1
Permit Condition II-9
- Violation #2 – Subsection 14.1, 40 CFR 60.624, 40 CFR 60.625, & 40 CFR 60.8(a)
Permit Condition IV-B-12
- Violation #3 – Subsections 49.5.3, 49.6.1.2, & 49.6.1.3
Permit Condition IV-E-2
Permit Condition IV-E-3
Permit Condition IV-G-2
- Violation #4 – Subsections 49.4.2 & 49.4.3.2
Permit Condition IV-F-3
Permit Condition IV-F-5

FOUND IN VIOLATION.

PENALTY ASSESSED: \$8,000

- Violation #1 – Subsection 12.1.1.1 - \$2,500
Permit Condition II-9
- Violation #2 – Subsection 14.1, 40 CFR 60.624, 40 CFR 60.625, & 40 CFR 60.8(a) - \$1,500
Permit Condition IV-B-12
- Violation #3 – Subsections 49.5.3, 49.6.1.2, & 49.6.1.3 - \$1,500
Permit Condition IV-E-2
Permit Condition IV-E-3
Permit Condition IV-G-2
- Violation #4 – Subsections 49.4.2 & 49.4.3.2 - \$2,500
Permit Condition IV-F-3
Permit Condition IV-F-5

8. FOUR QUEENS HOTEL AND CASINO (Source: 76)

NOV #8507 – For installing and operating three 1.95 MMBtu/hr RBI water heaters, a 1.046 MMBtu/hr Hurst water heater, and two emergency generator sets without first obtaining a permit that authorizes such construction and operation; and for exceeding the allowable emissions from each standby emergency diesel engine by exceeding each unit's permitted hourly limit of 17.33 hours per year, identified during a full compliance evaluation conducted on November 21, 2013 at the Four Queens Hotel and Casino facility, located at 202 East Fremont Street in Clark County, Nevada.

- Violation(s) alleged: Subsection 12.1.1.1
Subsection 12.1.6.3
Subsection 12.8.1.1
Subsection 15.6.1
Recommended Penalty: \$4,000
- Violation #1 – Subsections 12.1.1.1 & 15.6.1
Permit Condition I-10
- Violation #2 – Subsections 12.8.1.1 & 12.1.6.3
Permit Condition III-A-2
Permit Condition II-B

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

- Violation #1 – Subsections 12.1.1.1 & 15.6.1 - \$1,500
Permit Condition I-10
- Violation #2 – Subsections 12.8.1.1 & 12.1.6.3 - \$1,500
Permit Condition III-A-2
Permit Condition II-B

9. **RICHARDSON C-STORE CORP. (Source: 9134)**

NOV #8486 – For failing to maintain all Phase I vapory recovery equipment in a leak free, vapor tight condition, and in good working order; for failing to install devices that prevent loosening or over tightening of the Phase I product adaptors; for failing to provide records of Phase I vapor recovery equipment for portions of 2010, 2012 and 2013; and failing to record daily inspections of the Phase II vapor recovery equipment during April 2011 and 10 days in September 2013, identified during a full compliance evaluation conducted on October 8, 2013 at the Windmill Station Gasoline Dispensing Operation, located at 1465 East Windmill Lane in Clark County, Nevada.

Violation(s) alleged: Subsection 12.8.1 Recommended Penalty: \$3,000

Subsection 52.4(a)(1)

Subsection 52.6(a)(1)

Subsection 52.7(b)(1)(vii)

Violation #1 – Subsections 12.8.1 & 52.4(a)(1)

Permit Condition V-B-4

Permit Condition V-B-5

Violation #2 – Subsections 12.8.1, 52.6(a)(1), & 52.7(b)(1)(vii)

Permit Condition VI-A

Permit Condition VI-B

Permit Condition VIII-B

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,250

Violation #1 – Subsections 12.8.1 & 52.4(a)(1)

- \$1,500

Permit Condition V-B-4

Permit Condition V-B-5

Violation #2 – Subsections 12.8.1, 52.6(a)(1), & 52.7(b)(1)(vii) - \$750

Permit Condition VI-A

Permit Condition VI-B

Permit Condition VIII-B

III. ADJOURNMENT

10:42 a.m.