




Air Pollution Control Hearing Officer Annotated Docket

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

9:00 a.m. – July 30, 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. SETTLEMENT

1. **GREYSTONE NEVADA (DCP #41028)**

NOV #8587 – For failing to implement all Best Available Control Measures (BACM) 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; and for failing to implement BACM and allowing a dust plume to travel greater than 100 yards and cross a property line identified during a Dust Advisory inspection on January 30, 2014 at the Desert Foothills construction site, located at the southeast corner of Fort Apache Road and Warm Springs Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.11.3

GREYSTONE NEVADA AGREES TO FULLY IMPLEMENT THE COMPLIANCE PLAN AT ALL OF ITS EXISTING AND FUTURE CONSTRUCTION SITES PERMITTED BY AIR QUALITY.

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$14,000 PENALTY FOR NOVs #8587 AND 8588.

2. GREYSTONE NEVADA (DCP #41876)

NOV#8588 – For failing to implement Best Available Control Measures (BACM) and allowing a dust plume to travel greater than 100 yards and cross a property line; and for failing to implement all BACM 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 Dust Advisory inspection on January 30, 2014 at the Ford/Ft. Apache construction site, located at the northwest corner of Ford Avenue and Fort Apache Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.11.3

Violation #2 – Subsection 94.9.2

Violation #3 – Subsection 94.9.2

SEE #1 ABOVE.

3. LAS VEGAS PAVING CORP. (Source: 15392)

NOV #8506 - For failing to monitor CO emissions for two Caterpillar diesel engine generator sets; for failing to conduct performance testing of the two Caterpillar diesel engines to comply with 40 CFR Part 63, Subpart ZZZZ; and for failing to submit semi-annual reports to Air Quality for the years 2012 and 2013, identified during a full compliance evaluation conducted on November 20, 2013 at the Las Vegas Paving Corp. sand and gravel crushing and screening plant with lime marination and hot asphalt plant, located at Primm, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 12.1.4.1(d), 40 CFR 63.6625 & 63.6630

Permit Condition IV-C-10

Violation #2 – Subsection 12.1.4.1(m)(1), 40 CFR 63.6612(a) & 63.7(c)(2)

Permit Condition IV-D-3

Permit Condition IV-D-4

Violation #3 – Subsection 12.1.4.1(d)(3)(A)

Permit Condition II-C-9

Continued from 5/28/14

HEARING OFFICER APPROVED PROPOSED SETTLEMENT AGREEMENT, WHICH INCLUDES A \$12,000 PENALTY.

B. 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. **GAUGHAN SOUTH LLC (Source: 15515)**

NOV #8590 – For exceeding the allowable emission limits of PM10, NOx, CO and VOC from one boiler in 2010 (Emission Unit (EU) A08), and two boilers in 2012 (EUs A08 and A09); and for exceeding the 5,000 hours per year operating limit for EU A08 in 2010, and EUs A08 and A09 in 2012, and exceeding the total dissolved solids limit of 1,500 ppm of the cooling tower circulation water from March 2012 through January 2014, identified during a full compliance evaluation conducted on January 21 and 23, 2014 at the South Point Hotel and Casino facility, located at 9777 South Las Vegas Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$5,000

Violation #1 – Subsections 12.8.1 and 12.1.6.3

Permit Condition IV-A-3-b

Permit Condition IV-A-2-b

Violation #2 – Subsection 12.8.1

Permit Condition IV-B-21

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,000

Violation #1 – Subsections 12.8.1 and 12.1.6.3 - \$4,000

Permit Condition IV-A-3-b

Permit Condition IV-A-2-b

Violation #2 – Subsection 12.8.1 - \$1,000

Permit Condition IV-B-21

2. **SMITH'S FOOD AND DRUG CENTERS, INC. (Source: 17011)**

NOV #8591 – For exceeding the annual gasoline throughput permit limit of 4,160,000 gallons per year by 454,234 gallons during 2013, identified during a full compliance evaluation conducted on February 14, 2014 at the Smith's Food and Drug #376 Gasoline Dispensing Operation, located at 2385 East Windmill Lane, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000

Violation #1 – Subsection 12.1.4.1(f)

Permit Condition IV-A-3-a

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,000

C. ACTION REQUIRED AND CONTESTED NOTICES OF VIOLATION

Asbestos, Construction, & Vacant Land NOV's:

1. **ARCHER WESTERN/DEMARIA JV IV (DCP #42208)**

NOV #8601 – For failing to implement Best Available Control Measures and allowing visible emissions of particulate matter to exceed the limits set forth in AQR Subsection 94.11.1 (50 percent opacity), as determined by the Instantaneous Method for evaluation of fugitive dust emissions; and for allowing a water truck driver to work on site without having completed the required Air Quality Dust Control Class, identified during a Dust Advisory inspection on March 26, 2014 at the Phase V – Administration Building and Education Center construction site, located at 6900 North Pecos Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$4,250

Violation #1 – Subsection 94.11.3

Violation #2 – Subsection 94.7.6.2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$2,750

Violation #1 – Subsection 94.11.3 - \$2,500

Violation #2 – Subsection 94.7.6.2 - \$250

2. **ARIZONA PIPELINE COMPANY (DCP #43558)**

NOV #8604.– For failing to implement all Best Available Control Measures necessary to maintain soil stability twenty 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; for failing to keep a complete copy of the Dust Control Permit (DCP) on-site; and for failing to install a DCP sign on site prior to commencing construction activities, identified during a routine inspection on April 15, 2014 at the Panos Manor Staging Yard construction site, located at the southwest corner of Hialeah Drive and Harmon Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,500

Violation #1 – Subsection 94.9.2

Violation #2 – Subsection 94.6.10

Violation #3 – Subsection 94.7.7.1

ARIZONA PIPELINE COMPANY DID NOT CONTEST NOV #8604.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,500

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

Violation #2 – Subsection 94.6.10 - \$250

Violation #3 – Subsection 94.7.7.1 - \$250

3. DISTINCTIVE HOMES (DCP #26045)

NOV #8602 – 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 Dust Advisory inspection on March 25, 2014, and follow-up inspections on April 10 and 11, 2014 at the Distinctive Homes @ Valley View, LLC (aka Canyon Estates I) construction site, located at the northeast corner of Arby Avenue and Hinson Street, in Clark County, Nevada.

Violation(s) alleged:

Violations #1 – 3 - Subsection 94.9.2

Recommended Penalty: \$6,000

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,000

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

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

Violation #3 - Subsection 94.9.2 - \$2,000

4. HARMONY HOMES (DCP #40259)

NOV #8586 – For conducting construction activities prior to obtaining a valid Dust Control Permit; for failing to implement all Best Available Control Measures (BACM) 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 failing to fully implement BACM and allowing a dust plume to travel greater than 100 yards and cross a property line identified during a Dust Advisory inspection on January 30, 2014 at the Parcel 19 construction site, located at the northwest corner of Ford Avenue and Fort Apache Road, in Clark County, Nevada.

Violation(s) alleged:

Violation #1 – Subsection 94.4.1

Violation #2 – Subsection 94.9.2

Violation #3 – Subsection 94.11.3

Recommended Penalty: \$6,500

Continued from 5/28/14

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,000

Violation #1 – Subsection 94.4.1 - \$500

Violation #2 – Subsection 94.9.2 - \$1,500

Violation #3 – Subsection 94.11.3 - \$3,000

5. **LAS VEGAS PAVING CORPORATION (DCP #43296)**

NOV #8603 – 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; and for allowing a dust plume to extend 100 yards or more, horizontally or vertically, from the point of origin; and for allowing construction activities to continue during high wind conditions that cause fugitive dust, identified during a Dust Advisory inspection on April 22, 2014 at the Kyle Canyon Detention Basin construction site, located north of the Lone Mountain pit, south of Grand Teton Drive, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$12,000

Violation #1 – Subsection 94.11.2

Violation #2 – Subsection 94.9.2

Violation #3 – Subsection 94.9.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$12,000

Violation #1 – Subsection 94.11.2 - \$6,000

Violation #2 – Subsection 94.9.2 - \$3,000

Violation #3 – Subsection 94.9.3 - \$3,000

6. **NDX, LLC (DCP #43058)**

NOV #8512 – For conducting construction activities prior to obtaining a valid Dust Control Permit and for failing to employ Best Available Control Measures 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 January 14, 2014 at an unpermitted construction site (later named Lot Clean Up), located at the northeast corner of Jones and Silverado Ranch Boulevards, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$1,500

Violation #1 - Subsection 94.4.1

Violation #2 - Subsection 94.9.1

FOUND IN VIOLATION.

PENALTY ASSESSED: \$750

Violation #1 - Subsection 94.4.1 - \$250

Violation #2 - Subsection 94.9.1 - \$500

7. R & O CONSTRUCTION (DCP #42859)

NOV #8519 – For failing to implement Best Available Control Measures and allowing visible emissions of particulate matter to exceed 50 percent opacity as determined by the Instantaneous Method during a complaint investigation on January 14, 2014 at the MarMaxx Site Work construction site, located at 4100 East Lone Mountain Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$2,000

Violation #1 – Subsection 94.11.3

FOUND IN VIOLATION.

PENALTY ASSESSED: \$1,000

Stationary Sources NOV's:

8. ALSCO INCORPORATED (Source: 30)

NOV #8518 – For failing to conduct semi-annual burner efficiency tests on three boilers in 2011 and 2012; for failing to conduct performance tests on two boilers on or before the 5-year anniversary of the previous tests; and for failing to monitor the total dissolved solids content of the cooling tower recirculation water, identified during a full compliance evaluation conducted on December 26, 2013 at the AlSCO Inc. commercial laundry facility, located at 2300 North Commerce Street, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

Violation #1 – Subsections 49.5.3, 49.5.4, and 12.1.4.1(d)

Permit Condition IV-E-2

Permit Condition IV-E-3

Permit Condition IV-C-10

Permit Condition IV-E-1

Violation #2 – Subsections 49.5.2, 49.4.3.2, and 12.1.4.1(m)(1)

Permit Condition IV-F-5

Permit Condition IV-F-3

Permit Condition IV-D-2-a

Permit Condition IV-D-3

Violation #3 – Subsection 12.1.4.1(d)

Permit Condition IV-C-12

Permit Condition IV-E-1

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ALSCO INCORPORATED TO SUBMIT PERFORMANCE TEST TO AIR QUALITY WITHIN 30 DAYS OF SIGNED ORDER.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

- Violation #1 – Subsections 49.5.3, 49.5.4, and 12.1.4.1(d) - \$1,000**
 - Permit Condition IV-E-2*
 - Permit Condition IV-E-3*
 - Permit Condition IV-C-10*
 - Permit Condition IV-E-1*
- Violation #2 – Subsections 49.5.2, 49.4.3.2, and 12.1.4.1(m)(1) - \$1,000**
 - Permit Condition IV-F-5*
 - Permit Condition IV-F-3*
 - Permit Condition IV-D-2-a*
 - Permit Condition IV-D-3*
- Violation #3 – Subsection 12.1.4.1(d) - \$1,000**
 - Permit Condition IV-C-12*
 - Permit Condition IV-E-1*

9. GREATER NEVADA AUTO AUCTION (Source: 15839)

NOV #8516 – For allowing two standby generators to operate more than one hour per day and more than 12 hours per year during 2010 and 2012; for allowing open containers to be used for storage or disposal of VOC or HAP-containing cloth or paper used for surface preparation and cleanup; and for failing to ensure all containers with VOC or HAP-containing products remain securely closed, except during product transfer identified during a full compliance evaluation conducted December 20, 2013 at the Greater Nevada Auto Auction facility, located at 6600 Auction Lane, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$5,000

- Violation #1 – Subsection 12.8.1
 - Permit Condition IV-A-3-c*
- Violation #2 – Subsection 12.8.1
 - Permit Condition IV-B-4*
 - Permit Condition IV-B-10*
- Violation #3 – Subsection 12.8.1
 - Permit Condition IV-E-3-c*

GREATER NEVADA AUTO AUCTION CHANGED ITS PLEA TO NO CONTEST.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,000

- Violation #1 – Subsection 12.8.1 - \$2,000**
 - Permit Condition IV-A-3-c*
- Violation #2 – Subsection 12.8.1 - \$2,000**
 - Permit Condition IV-B-4*
 - Permit Condition IV-B-10*
- Violation #3 – Subsection 12.8.1 - \$1,000**
 - Permit Condition IV-E-3-c*

10. **LEE HARRISON HOLDING INC. (Source: 17296)**

NOV #8595 – For operating a Gasoline Dispensing Operation without a valid Clark County Air Quality permit from April 11 through August 13, 2013; for allowing Phase I product adaptors to become loose during delivery operations; and for failing to perform an initial annual vapor recovery system test within 30 days of startup of new equipment, identified during a full compliance evaluation conducted February 19, 2014 at Peak Mart, located at 9010 West Flamingo Road, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

Violation #1 – Subsection 12.1.3.1

Violation #2 – Subsection 12.1.4.1(f) and 40 CFR 63.11118(b)(1)

Permit Condition IV-B-1-b-vii

Violation #3 – Subsection 12.1.4.1(d)

Permit Condition IV-D-4-a

Permit Condition IV-D-1

Permit Condition IV-D-2

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,500

Violation #1 – Subsection 12.1.3.1

- \$2,000

Violation #2 – Subsection 12.1.4.1(f) and 40 CFR 63.11118(b)(1)

- \$1,500

Permit Condition IV-B-1-b-vii

Violation #3 – Subsection 12.1.4.1(d)

- \$2,000

Permit Condition IV-D-4-a

Permit Condition IV-D-1

Permit Condition IV-D-2

11. **NEVADA LINEN SUPPLY (Source: 1585)**

NOV #8508 – For installing and operating a 4.185 MMBtu/hr Cleaver Brooks boiler at an industrial laundry facility without first obtaining a minor source permit that authorizes such construction and operation; and for exceeding the hourly permit limits for operating five emission units (EUs) in 2010 and for six EUs in 2011, thus exceeding the allowable emissions specified in the operating permit during 2010 and 2011, identified during a full compliance evaluation, conducted December 9, 2013 at Nevada Linen Supply, located at 3960 West Mesa Vista Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$6,000

Violation #1 – Subsection 12.1.3.1

Permit Condition II-A-9

Violation #2 – Subsection 12.8.1

Permit Condition IV-A-3-a

Permit Condition IV-A-2-b

Violation #3 – Subsection 12.8.1

Permit Condition IV-A-3-b

Permit Condition IV-A-2-b

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NEVADA LINEN SUPPLY continued

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,000

- Violation #1 – Subsection 12.1.3.1 - \$1,000**
Permit Condition II-A-9
- Violation #2 – Subsection 12.8.1 - \$1,000**
Permit Condition IV-A-3-a
Permit Condition IV-A-2-b
- Violation #3 – Subsection 12.8.1 - \$1,000**
Permit Condition IV-A-3-b
Permit Condition IV-A-2-b

12. NEVADA WEST PETROLEUM, LLC (Source: 17214)

NOV #8589 – For failing to maintain all Phase I vapory recovery equipment in accordance with the manufacturer’s specifications and certification requirements; for failing to submit the 2013 annual vapor recovery system test results to the Control Officer within 30 days from the date of the test; and for failing to provide records of Phase I and Phase II vapor recovery equipment inspections from April 29, 2013 through January 22, 2014, identified during a full compliance evaluation conducted on January 23, 2014 at the Fuel Facility Gasoline Dispensing Operation, located at 1570 West Cheyenne Avenue, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$5,000

- Violation #1 – Subsection 12.1.4.1(f) and 40 CFR 63.11115(a)
Permit Condition IV-B-1-b-iii
- Violation #2 – Subsection 12.1.4.1(d)
Permit Condition IV-D-7
Permit Condition IV-D-8
- Violation #3 – Subsection 12.1.4.1(d)
Permit Condition IV-C-3
Permit Condition IV-C-4
Permit Condition IV-E-5

FOUND IN VIOLATION.

PENALTY ASSESSED: \$3,500

- Violation #1 – Subsection 12.1.4.1(f) and 40 CFR 63.11115(a) - \$1,000**
Permit Condition IV-B-1-b-iii
- Violation #2 – Subsection 12.1.4.1(d) - \$2,000**
Permit Condition IV-D-7
Permit Condition IV-D-8
- Violation #3 – Subsection 12.1.4.1(d) - \$500**
Permit Condition IV-C-3
Permit Condition IV-C-4
Permit Condition IV-E-5

13. SMITH'S FOOD AND DRUG (Source: 9925)

NOV #8592 – For exceeding the annual permit limit of 2,659,470 gallons of gasoline during calendar years 2011, 2012 and 2013, and exceeding the permit limit of 126,042 gallons of gasoline during the month of January, 2014; for failing to provide records of Phase I vapor recovery equipment inspections; for failing to submit results of vapor recovery system testing scheduled to be performed on August 5, 2013; and for failing to submit an annual report for calendar year 2011, identified during a full compliance evaluation conducted on February 6, 2014 at the Smith's Food and Drug #342 gasoline dispensing operation, located at 370 North Sandhill Boulevard, in Clark County, Nevada.

Violation(s) alleged:

Recommended Penalty: \$5,500

- Violation #1 – Subsection 12.8.1
Permit Condition IV-A
Permit Condition IV-B
- Violation #2 – Subsections 12.8.1, 52.7(b)(1)(vii), and 52.7(a)(2)
Permit Condition VI-A
Permit Condition VIII-B-1-6
Permit Condition VI-D
Permit Condition VI-E
- Violation #3 – Subsections 12.8.1, 52.5(c), and 52.5 (a)(2)
Permit Condition VII-G-1
Permit Condition VII-D
- Violation #4 – Subsections 12.8.1 and 52.7(d)(1)
Permit Condition IX-B

SMITH'S FOOD AND DRUG DID NOT APPEAR.

FOUND IN VIOLATION.

PENALTY ASSESSED: \$5,500

- Violation #1 – Subsection 12.8.1** - \$2,000
Permit Condition IV-A
Permit Condition IV-B
- Violation #2 – Subsections 12.8.1, 52.7(b)(1)(vii), and 52.7(a)(2)** - \$1,000
Permit Condition VI-A
Permit Condition VIII-B-1-6
Permit Condition VI-D
Permit Condition VI-E
- Violation #3 – Subsections 12.8.1, 52.5(c), and 52.5 (a)(2)** - \$2,000
Permit Condition VII-G-1
Permit Condition VII-D
- Violation #4 – Subsections 12.8.1 and 52.7(d)(1)** - \$500
Permit Condition IX-B

III. ADJOURNMENT

12:33 p.m.