



APPROVED APC HEARING BOARD
DATE: 10/2/2024
BY: [Signature]
Board Secretary

Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

August 7, 2024

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

1. CALL TO ORDER

Chair Sanders called the meeting of the Air Pollution Control Hearing Board to order at the hour of 1:33 p.m. A quorum was present and Affidavits of Posting of the agenda were provided as required by the Nevada Open Meeting Law. The Affidavits will be incorporated into the official record.

PRESENT: Daniel Sanders, Chair*
Ryan L. Dennett, Vice-Chair
Daniel Bartlett
Troy Hildreth
Amy Lahav

ABSENT: Donald Bordelove
Elspeth Cordua
*Daniel Sanders, Chair, left the meeting at 1:37 p.m.

DEPARTMENT
COUNSEL: Catherine Jorgenson, Deputy District Attorney

HEARING BOARD
COUNSEL: Nichole Kazimirovicz, Deputy District Attorney

DAQ STAFF: Jodi Bechtel, Deputy Director
Shibi Paul, Compliance and Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

2. PUBLIC COMMENT

Chair Sanders asked if there were any persons present in the audience wishing to be heard. There being no one, Chair Sanders closed the public comments.

3. OATHS OF OFFICE

A. Ryan Dennett (Attorney Member)
Term of Office: 10/17/2023 through 10/16/2026

FINAL ACTION: Air Quality Supervisor Sutowska administered the Oath of Office to Ryan Dennett.

4. ELECTION OF VICE-CHAIR

New term – 8/7/2024 through end of term (For possible action)

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Hildreth, to elect Board Member Dennett to serve as Vice-Chair for the period of August 7, 2024 through October 16, 2026.

Motion carried by the following vote:

Voting Aye: Ryan Dennett, Daniel Bartlett, Troy Hildreth, Amy Lahav, Daniel Sanders
Voting Nay: None
Abstaining: None
Absent: Donald Bordelove, Elspeth Cordua

5. APPROVAL OF MINUTES OF THE DECEMBER 6, 2023 MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the December 6, 2023 minutes. Being none, he called for a motion.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Hildreth, that the subject minutes be approved.

Motion carried by the following vote:

Voting Aye: Daniel Bartlett, Troy Hildreth, Amy Lahav, Daniel Sanders
Voting Nay: None
Abstaining: Ryan Dennett
Absent: Donald Bordelove, Elspeth Cordua

Chair Sanders excused himself from the meeting at 1:37 p.m., and Vice-Chair Dennett presided over the meeting with a quorum still present.

6. APPEAL OF HEARING OFFICER DECISION (For possible action)

A. ASSURED DEVELOPMENT, INC. AND JOSEPH YAKUBIK, INDIVIDUALLY (DCOP #50962) – NOV #9907 – On June 17, 2024, the Hearing Officer found Assured Development, Inc. and Joseph Yakubik in violation of Sections 94.5(n)(1) and (2), and 94.13(b) of the AQRs for failure to implement control measures for long-term stabilization, as described in Best Management Practice (BMP) 11 at permit closure, as identified by Air Quality Specialist Nahulu Kahananui and Senior Air Quality Specialist Katrinka Byers during a permit closure inspection on July 13, 2023, a complaint investigation on August 2, 2023, and follow-up inspections on August 9, 11 and 17, 2023, at the Milan Customs construction project, located at the northeast corner of Milan Street and Berlin Avenue, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$5,000.00.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

Vice-Chair Dennett confirmed that attorneys for both sides were present and ready to present their case.

Rock Rocheleau, Esq., Nevada Bar No. 15315, 600 South Tonopah Drive, Suite 300, Las Vegas NV 89106, Attorney for Respondents Assured Development Inc., Atlas Holdings International LLC, Joseph Yakubik, and Darcie Yakubik stated he was present and ready to present his case.

Catherine Jorgenson, Deputy District Attorney, State Bar No. 006700, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Division of Air Quality (Air Quality), stated she was present and ready to present her case.

Vice-Chair Dennett recommended that Items 6A, B, C, D and E should be heard together. He inquired if there was any objection to holding the public hearings at this time and allowing testimony on all notices.

Deputy District Attorney Jorgenson suggested the Board should first hear the respondent's amended motion on NOVs 9907, 9946, 9979, and 10008; and then hear Air Quality's motion on NOVs 9907, 9946, 9979, 9981, and 10008. Following those motions, Ms. Jorgenson recommended that the Board consider and approve a briefing schedule for all five cases before conducting the hearing and rendering a decision.

Rock Rocheleau, Attorney for the Respondents, agreed.

Vice-Chair Dennett announced that the Board would hear the Respondent's arguments for the amended motion for appeal, opening of discovery, request for continuance, and hearing master reassignment in regard to NOVs 9907, 9946, 9979 and 10008.

DISCUSSION: Mr. Rocheleau presented arguments for his client's amended motion for appeal, opening discovery, and request for continuance for NOVs 9907, 9946, 9979 and 10008. Mr. Rocheleau stated the reason for a continuance is that time is needed for discovery to take place; however, the reassignment of a Hearing Master won't be necessary since all four cases would now be heard by this Board when originally, he thought the case would go back to the Hearing Officer. Mr. Yakubik responded to a question from the Board.

Ms. Jorgenson responded to the motion to open discovery presenting the argument that Nevada Rules of Civil Procedure do not apply to the APC Hearing Board and it is not authorized to open formal discovery. The Board is authorized to issue subpoenas for specific documents. For that reason, Mr. Rocheleau's motion for discovery should be denied.

Mr. Rocheleau inquired if an oral motion from the respondent with specific requests of the documents he wants would work.

Ms. Jorgenson stated that since the allegation appears to be selective enforcement on the use of BMP11 for the closeout of dust permits relating to NOV 9907, Air Quality could put together a report that would show all of the dust permits that were closed out in 2023 and 2024 to date so that it is concurrent to what is going on with Mr. Yakubik's permits. From there, Air Quality would narrow it down to those permits closed in 2023 and 2024 that included long term stabilization of right of ways and road shoulders, approximately 400, and what was approved by Air Quality to close the permit or if the closure was put back on the permittee to resolve any outstanding BMP11 issues.

Vice-Chair Dennett inquired of Mr. Rocheleau whether this kind of a summary would be sufficient.

Mr. Rocheleau stated that it would be an excellent start; but there is no guarantee that he will not come back to the Board and request more documents.

Vice-Chair Dennett stated that he thought the Board was willing to entertain an oral motion to give Mr. Rocheleau discovery and asked Mr. Rocheleau whether this proposal would provide Mr. Rocheleau with what he needed.

Mr. Rocheleau stated that he couldn't guarantee that he wouldn't ask for more. He finished by stating he believed some sort of continuance allowing evidence was proper.

Ms. Jorgenson stated that Air Quality is suggesting that it put together a document indicating how the permits involved with BMP11 were closed out.

Vice-Chair Dennett inquired whether Mr. Rocheleau could obtain the actual close out documents from that list through a public records request. Ms. Jorgenson agreed.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Hildreth to continue these hearings to allow for the oral motion of the respondent and to grant a subpoena on behalf of the respondent to the Division of Air Quality, that they provide a summary of all dust permits closed out in calendar year 2023 and 2024 to date, and provide in that summary specific information about the BMP11 compliance of those properties to the respondents.

Motion carried by the following vote:

Voting Aye:	Daniel Bartlett, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay:	None
Abstaining:	None
Absent:	Donald Bordelove, Elspeth Cordua, Daniel Sanders

Vice-Chair Dennett moved to the next motion which is Air Quality's request for issuance of a subpoena for NOVs 9907, 9946, 9979, 9981, and 10008.

DISCUSSION: Ms. Jorgenson stated that in this motion there are four sets of documents and evidence that Air Quality is seeking.

1. Records related to the formation, management, and dissolution, if applicable, of Assured Development, Inc.; Atlas Holdings International LLC; Milan Customs LLC; and Global Equity Holdings, Inc. The reason why Air Quality is seeking this information is to have some definitive information as to who actually controls these companies or who controlled them if they no longer exist. There has been some confusion as to who is actually in charge of the businesses and who actually has controlling authority.
2. Video and/or audio recordings from all cameras mounted on the Yakubik's residence that is related to NOV 9981, showing the property outside the house from January 16, 2024 through April 30, 2024, during daylight hours. There have been allegations that a drop ball test was never done. In addition, Mr. Yakubik testified that he didn't know what the bobcat was being used for and that the property located next door was not being used for access or staging.
3. Any video and/or audio records and photographs made or taken by Mr. Yakubik on his phone or by other means and video and/or audio recordings and photographs made or taken at the direction of any of the Respondents that shows Air Quality enforcement specialists on Mr. Yakubik's property or one of the six custom lots from July 1, 2023 through May 31, 2024.
4. Complete copies of all bodycam footage and other documents that Joseph Yakubik and/or Darcie Yakubik received from the City of Henderson for an incident that occurred on January 19, 2024 at the Yakubiks' residence that is the subject of NOV 9981. There have been allegations in the motion and in testimony about the idea of trespassing and that two Air Quality enforcement officers had to be removed from the site by police officers on that date.

Ms. Jorgenson stated that these are the four various things that Air Quality is seeking in a subpoena to be issued by the Board in accordance with NRS 445B.

Vice-Chair Dennett inquired if the bodycam video was from the City of Henderson police department.

Ms. Jorgenson stated it was; however, Mr. Yakubik has already received that video and Air Quality would like to have copies of whatever he received.

Vice-Chair Dennett inquired of Mr. Rocheleau if he had any issues with the motion for a subpoena.

Mr. Rocheleau stated that he didn't. There may be some privileges with the Limited Liability Corporations because Mr. Yakubik has investors and stockholders; however, if there are any, he would inform Ms. Jorgenson. As for the footage around Mr. Yakubik's property, they have no problem as long as it's on the outside and it will be for however long his ring camera records. In regard to the photos on Mr. Yakubik's personal phone, that will need to be discussed as to whose expense that will be and how far they have to go into his phone to get those photos.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to approve Air Quality's motion for issuance of a subpoena, and the subpoena that was presented in their motion as being complete.

Motion carried by the following vote:

Voting Aye:	Daniel Bartlett, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay:	None
Abstaining:	None
Absent:	Donald Bordelove, Elspeth Cordua, Daniel Sanders

Vice-Chair Dennett stated the next item on the agenda for these five NOV's would be to consider and approve a briefing schedule.

DISCUSSION: Vice-Chair Dennett inquired as to how long it takes for the Division of Air Quality to respond to a public records request.

Ms. Jorgensen stated that under the Public Records Law, we have five days to respond, either by providing the documents or telling Mr. Rocheleau when they would become available. However, for the documents related to the summary report, the response should be fairly quick because we will be gathering them already.

Discussion was held between both parties, the Board and staff as to what the briefings would entail and when they would be due.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Bartlett, to have both subpoenas issued by Monday, August 12, 2024 and the response to the subpoenas by both parties to be due no later than Thursday, August 29, 2024; briefings and exhibits that will be presented at the October 2, 2024 hearing to be submitted no later than Thursday, September 19, 2024; all in advance of the next hearing to be held on October 2, 2024 where the Board will hear the cases and render a decision.

Motion carried by the following vote:

Voting Aye: Daniel Bartlett, Troy Hildreth, Amy Lahav, Ryan Dennett
Voting Nay: None
Abstaining: None
Absent: Donald Bordelove, Elspeth Cordua, Daniel Sanders

B. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) – NOV #9946 – On June 17, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b) of the AQRs for failure to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk while performing routine patrol resulting in an initial inspection on November 8, 2023, and follow-up inspections on November 15 and 20, and December 11, 2023, at the 732 & 724 Naples | 729 Milan construction project (parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006), located at 732 North Naples Street, 729 North Milan Street, and 724 North Naples Street, respectively, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$5,937.50.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

C. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) – NOV #9979 – On June 17, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b), and 94.4.1(a) of the AQRs for failure to fully implement Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week; and for failing to obtain a Dust Control Operating Permit prior to commencing construction activities, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk while performing follow-up inspections on January 10, 17, and 22, 2024, at the 732 & 724 Naples | 729 Milan construction project (parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006), located at 732 North Naples Street, 729 North Milan Street, and 724 North Naples Street, respectively, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$4,000.00.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule

- (For possible action)
- 4. Conduct Hearing and Render Decision
(For possible action)

D. JOSEPH YAKUBIK AND DARCIÉ YAKUBIK, INDIVIDUALLY (Construction Project #57592) – NOV #9981 – On June 17, 2024, the Hearing Officer dismissed the violations alleged in NOV #9981 finding Joseph Yakubik and Darcie Yakubik not in violation of Sections 94.13(a) and (b) and 94.4.1(a) of the AQRs for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week; and for failing to obtain a Dust Control Operating Permit prior to commencing construction activities, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk, and Air Quality Supervisor David Dean during a routine patrol resulting in an initial inspection on January 17, 2024, and follow-up inspections on January 19 and February 14, 2024, at the 1028 Athens Avenue construction project (parcel numbers 160-33-801-021 and 160-33-801-020), located at 1024 and 1028 Athens Avenue, in Clark County, Nevada.

- 1. Air Quality’s Motion for Issuance of Subpoena
(For possible action)
- 2. Consider and Approve a Briefing Schedule
(For possible action)
- 3. Conduct Hearing and Render Decision
(For possible action)

E. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) - NOV #10008 – On May 23, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b) of the AQRs for failure to fully implement Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk during a follow-up inspection on March 21, 2024, at the 724 Naples & 729 Milan construction project (parcel numbers 179-04-510-005, 179-04-510-006, and 179-04-599-023), located at 724 North Naples Street and 729 North Milan Street, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$1,250.00.

- 1. Respondents’ Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
- 2. Air Quality’s Motion for Issuance of Subpoena
(For possible action)
- 3. Consider and Approve a Briefing Schedule
(For possible action)
- 4. Conduct Hearing and Render Decision
(For possible action)

7. REPORT BY DEPARTMENT OF ENVIRONMENT AND SUSTAINABILITY STAFF

A. General Update

DISCUSSION: Jodi Bechtel, Deputy Director, gave an update relating to moderate nonattainment classification for Ozone, implementation of a new SIP to reduce our emissions to reach those attainment standards, and upcoming PM_{2.5} attainment challenges during the winter months due to the lowering of the National Ambient Air Quality Standards.

Shibi Paul, Compliance Manager, gave an update on the Compliance section's activities over the last couple of months. A more detailed report will be provided at the September 16, 2024 Hearing Board meeting.

B. Ethics Training Update.

DISCUSSION: Administrative Secretary Sherrie Rogge provided an update on the Ethics Training Program that was recently adopted by the County Commissioners at the March 5, 2024 meeting. An email will be sent to the Hearing Board with a link to the Ethics Committee's website with instructions to complete the first nine (9) YouTube videos, complete the attestation form and return it to Ms. Rogge no later than September 30, 2024.

8. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETINGS

Deputy District Attorney Jorgenson stated that an appeal of a Hearing Officer's decision had been filed, separate from the above five cases. Instead of trying to hear that appeal at the same time as the other cases, she inquired if the Board would like to meet in September to hear the appeal separately, have an earlier start time to the October 2nd meeting, or both.

The Board Members indicated they would be available on September 16, 2024 for another Board meeting.

9. PUBLIC COMMENT

Vice-Chair Dennett asked if there were any persons present in the audience wishing to be heard. There being no one, Vice-Chair Dennett closed the public comments.

10. ADJOURNMENT

Being no further business, Vice-Chair Dennett adjourned the meeting at 3:31 p.m.

Approved:



Ryan Dennett, Vice-Chair

Date

10-2-24