



APPROVED APC HEARING BOARD
DATE: February 18, 2021
BY: Sherrie Rogge
Board Secretary

Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

August 12, 2020

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 1:34 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
Elspeth Cordua
Ryan L. Dennett, Esq.
William Kremer
Lauren Rosenblatt (arrived at 1:40 p.m.)

ABSENT: Tom Foster, P.E

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

Chair Sanders announced that social distancing would be practiced during the meeting. Attendees were asked to keep the appropriate spacing of 6 feet away from each other. The use of masks or face coverings by all attendees during the meeting is required.

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. APPROVAL OF MINUTES OF THE DECEMBER 11, 2019 MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the December 11, 2019 minutes. Being none, he called for a motion.

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

Motion carried by the following vote:

Voting Aye: Ryan Dennett, William Kremer, Daniel Sanders

Voting Nay: None

Abstaining: Elspeth Cordua

Absent: Tom Foster, Lauren Rosenblatt

4. APPEALS OF HEARING OFFICER DECISIONS (For possible action)

A. M.P. TRUST AND MICHAEL PERRY (Project #191086)

NOV #9394 – On June 25, 2020, the Hearing Officer found M.P. Trust and Michael Perry in violation of 40 CFR 61, Subpart M, Parts 61.145(a), 61.145(b)(1), 61.145(b)(3)(i), 61.145(c)(8), 61.145(c)(6)(i), 61.150(a)(1)(iii) and 61.150(a)(1)(iv) (adopted by reference in Section 13.1 of the Air Quality Regulations) for failing to thoroughly inspect the Facility for the presence of asbestos-containing materials prior to conducting renovations activities; for failing to notify Air Quality 10 days prior to the removal of regulated asbestos-containing material (RACM) from the facility; for failing to have at least one onsite representative trained in the provisions of the National Emission Standards for Hazardous Air Pollutants asbestos regulations and the means of complying with them; for failing to adequately wet all removed RACM and ensure it remained wet; for failing to seal all asbestos-containing waste material in leak tight containers while wet; and for failing to label waste containers with warning labels, as identified during inspections by Air Quality Specialist Kevin Adoor beginning on November 15, 2019, at a facility operated by M.P. Trust and Michael Perry located at 1430 East Desert Inn Road, in Clark County, Nevada. An \$11,600 penalty was assessed. M.P. Trust and Michael Perry appealed the Air Pollution Control Hearing Officer's Order.
(For possible action)

B. M.P. TRUST AND MICHAEL PERRY (Project #201010)

NOV #9409 – On June 25, 2020, the Hearing Officer found M.P. Trust and Michael Perry in violation of 40 CFR 61, Subpart M, Parts 61.145(b)(1), 61.145(b)(3)(i), 61.145(c)(1), 61.145(c)(6)(i), 61.145(c)(8), and 61.150(a)(1)(iii) (adopted by reference in Section 13.1 of the Air Quality Regulations) for failing to notify Air Quality 10 working days prior to the removal of regulated asbestos-containing material (RACM) from the facility in quantities greater than 160 square feet and/or 35 cubic feet; for failing to remove all RACM from the Facility prior to renovation; for failing to adequately wet all removed RACM and ensure it remained wet; for failing to have at least one onsite representative trained in the provisions of the National Emission Standards for Hazardous Air Pollutants asbestos regulations and the means of complying with them; and for failing to seal all asbestos-containing waste material in leak tight containers while wet, as identified by Air Quality Specialist Kevin Adoor while

performing a routine patrol on February 11, 2020 at an apartment building located at 1430 East Desert Inn Road, in Clark County, Nevada. A \$22,500 penalty was assessed. M.P. Trust and Michael Perry appealed the Air Pollution Control Hearing Officer's Order.
(For possible action)

Department of Environment and Sustainability (DES), Division of Air Quality (Air Quality) Compliance and Enforcement Manager Shibi Paul informed the Board that a request for continuance had been received from Mr. Perry for both of his appeals (NOV #9394 and NOV #9409) to the next regularly scheduled meeting of the Air Pollution Control Hearing Board. Mr. Paul stated the next meeting would be December 2, 2020 and that Air Quality is not objecting to the continuance.

Chair Sanders inquired of staff as to whether the site was contained or not.

Air Quality Supervisor Anna Sutowska reported that in June, the site pertaining to NOV #9409 had been abated, was contained and had been inspected by the department's inspector.

Board Member Kremer inquired as to why there were two NOVs when they appear to be identical with the only difference being the two different sets of fines.

Mr. Paul explained that per AQR Section 9, penalties are calculated for each day of observed violation. In this case, two NOVs were issued for observed violations in November and when the inspector went back to the site in January.

Chair Sanders called for a motion.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Cordua to grant the continuance of appeal for NOV #9394 and NOV #9409 to the December 2, 2020 Air Pollution Control Hearing Board meeting.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, William Kremer, Lauren Rosenblatt, Daniel Sanders

Voting Nay: None

Abstaining: None

Absent: Tom Foster

5. DISCUSS AND RECOMMEND AMENDMENT OF AQR SECTION 44 (For possible action)

DISCUSSION: Compliance and Enforcement Manager Shibi Paul introduced the item. This item is based on the discussion from the last Hearing Board meeting and former Board Member Wishengrad's request for amendment of this section. The process for amending Section 44 would be for staff to draft the language based on the Board's recommendation. There would be an opportunity for the public to provide comments and then the item would go to the BCC for approval and adoption of the amendment.

Question was raised by Board Member Dennett as to how often inspections would take place at staging areas in newly developing areas or if it would be the property owner's responsibility to request an inspection of the trees being planted on his/her property. Mr. Paul recommended that inspections at commercial and residential development staging areas be at the department's discretion and not a mandatory requirement; nor should it prohibit the department from issuing a Certificate of Exemption (COE).

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Rosenblatt directing staff to amend AQR Section 44 with the following changes: 1) make the exemption process an administrative process instead of requiring Board approval; 2) require DNA tree testing by the nurseries with a COE at the time of application/renewal as proof the trees are low or non-pollinating; 3) require nurseries with COEs to provide one additional DNA test during the exemption period to ensure the cultivar is true to type; and, 4) require Air Quality to inspect plant staging areas at developments nearing final completion and at various landscaping projects to ensure the only type of olive trees being planted are those with a COE.

Motion carried by the following vote:

Voting Aye: Elspeth Cordua, Ryan Dennett, William Kremer, Lauren Rosenblatt, Daniel Sanders
Voting Nay: None
Abstaining: None
Absent: Tom Foster

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

There were no items identified by the Board.

7. PUBLIC COMMENT

Air Quality Supervisor Anna Sutowska distributed the department update for the period of January 1 – July 31, 2020. Ms. Sutowska stated that due to the projected length of the meeting, this item had not been placed on the agenda and was for their review only.

Chair Sanders asked if anyone had questions for staff in regards to the report.

Board Member Rosenblatt asked why and what measures can be taken to address the NAAQS ozone non-attainment area around the airport since the non-attainment is due mostly to that particular region.

DES Assistant Director Jodi Bechtel reported that Air Quality had funded a study that was supposed to have been completed this year to give Air Quality a better understanding of what is going on with the ozone. Answers to questions such as what is producing the ozone, what is causing the increase in ozone, and what programs the County could implement to help reduce the ozone level. NOAA was tasked to conduct the study; however, they could not deploy teams to Las Vegas due to the Covid-19 Pandemic. Since the study has to be conducted during the ozone season (April through June) staff is hoping that NOAA will be able to mobilize their team next year.

Air Quality does prepare exceptional event reports for observed exceedances of the NAAQS when they are believed to be influenced by wildfires, transport or other situations that may be going on. The weather, the heat and the wildfires all contribute to the increase in ozone levels.

Otherwise, the Planning section does establish the pollutant levels for the stationary source program. Air Quality complies with the Clean Air Act and permits at the required levels.

Mr. Paul informed the Board that Air Quality doesn't regulate aircraft emissions that are concentrated around the airport and it also doesn't regulate mobile emissions as they are outside of Air Quality's jurisdiction. Staff quantifies and submits certain information about mobile emissions to the EPA but that is all.

Board Member Cordua inquired as to how the Sustainability and Climate Action Plan will work with the GHG emissions reductions in the State plan that is due out in December 2020 as recently announced by the Governor.

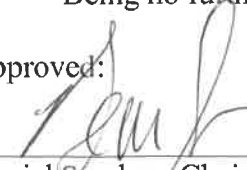
Ms. Bechtel reported that Air Quality has been in discussions with the State and they have already completed their 2019 GHG emissions report and shared it with Air Quality. DES has offered to update the Southern Nevada Regional GHG Emissions Report that was done by the Southern Nevada Regional Planning Coalition in 2014. In addition to updating the report, DES has offered to do a more detailed regional look at our GHG emissions, in particular those that feed up into the larger State plan. Air Quality should be able to get our regional inventory completed within the next several months.

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.

8. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 2:00 p.m.

Approved:



Daniel Sanders, Chair

2/18/21

Date