



APPROVED APC HEARING BOARD
DATE: 12/4/2024
BY: Sherrie Rogge
Board Secretary

Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

October 2, 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 10:11 a.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
Donald Bordelove (Joined via MS Teams)

ABSENT: Troy Hildreth
Amy Lahav

**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

**DEPARTMENT
COUNSEL:** Catherine Jorgenson, Deputy District Attorney

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. Daniel Sanders (Building Contractor Member)
Term of Office: 9/17/2024 through 9/16/2027

FINAL ACTION: Air Quality Supervisor Sutowska administered the Oath of Office to Daniel Sanders.

4. ELECTION OF CHAIR

New term – 10/2/2024 through end of term (For possible action)

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Bartlett, to elect Board Member Sanders to serve as Chair for the period of October 2, 2024 through September 16, 2027.

Motion carried by the following vote:

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

5. APPROVAL OF MINUTES OF THE AUGUST 7, 2024 MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the August 7, 2024 minutes. Being none, he called for a motion.

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

Motion carried by the following vote:

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

6. RESPONDENTS' MOTION FOR A CONTINUANCE AND TO ISSUE SUBPOENAS – Respondents' motion in the matter of Notices of Violation #9907, 9946, 9979, and 10008 submitted to Administrative Secretary on September 24, 2024. (For possible action)

Chair Sanders inquired of Deputy District Attorney Catherine Jorgenson if she had a chance to respond to the respondents' motion for a continuance and what her position was as to whether the Hearing Board should hear this request.

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 (DAQ), stated that she had not responded to the motion since it was just submitted the previous week by Attorney Rock Rocheleau and since it wasn't something that the Board had authorized, it was her position that the Board should not hear the request.

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 presented his case as to why the appeals should be continued and why a new subpoena should be issued because the previous one issued to DAQ is not what the Board ordered.

Ms. Jorgenson responded to the motion. Ms. Jorgenson introduced Exhibits KK through Exhibits VV, labeled "Second List of Additional Exhibits for October 2, 2024 Hearing Board Meeting" to the Board, staff, Mr. Rocheleau and Mr. Yakubik. Ms. Jorgenson went over the email communications between herself and Mr. Rocheleau as it pertained to the subpoena issued to DAQ. Ms. Jorgenson explained how the 2023-2024 summary of the 1,800 closed dust permits was prepared and the parameters of the final report of 110 permits that was provided to Mr. Rocheleau.

Mr. Rocheleau responded.

Joseph Yakubik was sworn in by Chair Sanders. Mr. Yakubik made a statement about the public records requests he made to gather documents on 14 properties.

DISCUSSION: Discussion ensued between the Board and both attorneys regarding the additional documents provided to Mr. Yakubik and Mr. Rocheleau as part of DAQ's additional exhibits, the properties listed in the new subpoena that Respondents were requesting, the 2023-2024 dust permit summary report, and email communications regarding DCOP #50962 between Senior Air Quality Specialist Katrinka Byers, Air Quality Specialist Nahulu Kahananui, and Robert Zinkevich with Nevada Department of Environmental Protection between July 11, 2023 and August 23, 2023.

Anna Sutowska, Air Quality Supervisor, Enforcement Section was sworn in by Chair Sanders. Ms. Sutowska testified on the process taken to prepare the 2023-2024 dust permit summary report.

General discussion ensued amongst the Board.

Chair Sanders called for a motion.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Bartlett, to grant respondents' motion for continuance of NOV's #9907, 9946, 9979 and 10008 to January 2025

(Continued #9981 to January 2025 as well); and granted respondents' motion for a subpoena, in part, to DAQ that DAQ provide:

A. The Excel spreadsheet summarizing close out information for all Dust Control Operating Permits (DCOPs) that DAQ closed out from January 1, 2023 to August 7, 2024 (Excel spreadsheet).

B. If applicable, the DCOPs; notices of noncompliance; notices of violation; permit closure forms including inspector notes; internal notes; and communications identified as ROC or COM in DAQ's database which include those between the inspector and the permit reviewer on closing out areas on a permit and with the permittee and the permit reviewer, for the following sites:

519 Fife APN 179-04-309-001
744 Naples APN 179-04-510-002
740 Naples APN 179-04-510-001
740 Milan APN 179-04-502-008
505 Emden APN 170-04-307-002
721 Milan APN 179-04-503-002
735 Orleans APN 179-04-405-012
628 Kiel APN 179-04-602-004 & 005
539 Milan APN 179-04-701-031
524 Milan APN 179-04-701-028
424 Racetrack APN 179-04-405-011
503 Racetrack APN 179-04-702-004
436 Hull APN 179-04-404-006
504 Emden APN 179-04-307-002
540 Glasgow APN 179-04-309-001
624 Kiel APN 179-04-602-005
628 Kiel APN 179-04-602-004
632 Kiel APN 179-04-602-003
636 Kiel APN 179-04-602-002
640 Kiel APN 179-04-602-001
Dust Control Permit 53319

Any request for records for specific documents from the Permit Closures Report must be relevant and proportional. If there is a question of the documents' relevance or question on proportionality of the request, Counsel would present the request to Board Member Dennett who would, on behalf of the Board, make a determination whether or not they should be provided.

FINAL ACTION: The Board also approved the following schedule: DAQ's response to subpoena due by Friday, October 18, 2024; request for additional documents, if necessary, from appellants due by Friday, November 15, 2024; if documents are requested, DAQ would have until Friday, December 13, 2024 to provide those documents or consult with Board Member Dennett; briefings and exhibits to be presented at the January 2025 Hearing Board meeting to be submitted to Board Secretary no later than 10 days prior to the scheduled date.

Motion carried by the following vote:

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

Mr. Rocheleau asked the Board to either affirm or deny the request to issue the subpoena for Items 1-6 and 8-19 of Exhibit 7 of his Motion for a Continuance and to Issue Subpoenas.

Chair Sanders stated for the record that the Board was denying the rest of Mr. Rocheleau's request.

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

Items 7A-7E were continued to January 2025.

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.

Conduct Hearing and Render Decision
(For possible action)

See actions taken in item 6.

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.

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.

Conduct Hearing and Render Decision
(For possible action)

See actions taken in item 6.

- D. JOSEPH YAKUBIK AND DARCIE 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.

Conduct Hearing and Render Decision
(For possible action)

See actions taken in item 6.

- 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.

Conduct Hearing and Render Decision
(For possible action)

See actions taken in item 6.

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

There were no emerging issues identified by the Board.

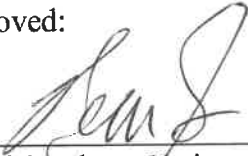
9. PUBLIC COMMENT

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.

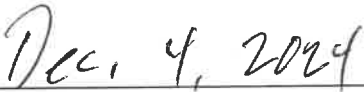
10. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 1:05 p.m.

Approved:



Daniel Sanders, Chair



Date