



# Agenda

## Clark County Air Pollution Control Hearing Board

December 8, 2016 – 1:30 P.M.  
Clark County Building Department  
Presentation Room  
4701 West Russell Road  
Las Vegas, NV

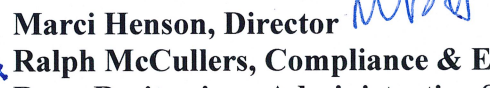
### Hearing Board Members

Daniel Sanders, Chair  
Evan S. Wishengrad, Esq., Vice-Chair  
Ryan L. Dennett  
Tom Foster, P.E.  
William Kremer  
Karen Purves  
Craig Schweisinger

### Deputy District Attorney

Leslie A. Nielsen, Esq.

### Air Quality Staff

 Marci Henson, Director  
Ralph McCullers, Compliance & Enforcement Manager  
Ryan Breitweiser, Administrative Secretary

- Items on the agenda may be taken out of order.
- The Air Pollution Control Hearing Board may combine two or more agenda items for consideration.
- The Air Pollution Control Hearing Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.
- To request a copy of the supporting materials for an agenda item, please contact Ryan Breitweiser at [ryan.breitweiser@clarkcountynv.gov](mailto:ryan.breitweiser@clarkcountynv.gov) or (702) 455-0354. Supporting materials are available for inspection at the Clark County Department of Air Quality office located at 4701 West Russell Road, Las Vegas, NV 89118 or on our website at: [http://www.clarkcountynv.gov/AirQuality/compliance/Pages/Compliance\\_EnforcementNotices.aspx](http://www.clarkcountynv.gov/AirQuality/compliance/Pages/Compliance_EnforcementNotices.aspx) .

**I. CALL TO ORDER**

**II. PUBLIC COMMENT**

No action may be taken upon a matter raised under this item until the matter itself has been specifically included on an agenda. Public comments may be considered on specific agenda items. Please clearly state your name and address for the record. Speaking time will be limited to five (5) minutes per person.  
(Discussion only)

**III. OATH OF OFFICE**

Tom Foster, P.E. (Engineer Member)  
Reappointed by the Board of County Commissioners on October 4, 2016  
Term of Office: 10/04/16 - 10/03/19

**IV. APPROVAL OF MINUTES OF AUGUST 11, 2016 MEETING**

Approval of August 11, 2016 meeting minutes.  
(For possible action)

**V. PUBLIC HEARINGS**

**A. REQUEST FOR CERTIFICATE OF EXEMPTION**

**DESERT FORREST NURSERY, LLC** formerly Orangewood Nursery, Inc. dba Easy Pace Tree Farm – Conduct a public hearing and approve a request for renewal of a Certificate of Exemption for distributing and marketing of low pollinating olive trees for the next three (3) years. The current Certificate expires on December 9, 2016.  
(For possible action)

**VI. BUSINESS ITEMS**

**B. REQUEST FOR CERTIFICATE OF EXEMPTION**

**PONTO NURSERY, INC** – Approve a request for renewal of a Certificate of Exemption for distributing and marketing of low pollinating olive trees for the next three (3) years. The current Certificate expires on December 9, 2016.

(Public hearing held on and continued from August 11, 2016 meeting)

(For possible action)

**REPORT BY DEPARTMENT OF AIR QUALITY STAFF**

1. Settlement of Notice of Violation issued to Tronox, LLC.
2. General update

**VII. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY BOARD AT FUTURE MEETINGS**

Identification of topics for future meetings.

**VIII. PUBLIC COMMENT**

No action may be taken upon a matter raised under this item until the matter itself has been specifically included on an agenda. Public comments may be considered on specific agenda items. Please clearly state your name and address for the record. Speaking time will be limited to five (5) minutes per person.

(Discussion only)

**IX. ADJOURNMENT**

The Presentation Room is accessible to individuals with disabilities. With forty-eight (48) hour advanced request, a sign language interpreter may be made available by contacting (702) 455-0354 or TDD (702) 385-7486 or Nevada Relay toll-free (800) 326-6868, TT/TDD. Assistive listening devices are available upon request.

This notice and agenda was posted or caused to be posted at the following locations:

- Clark County Operations Center, West, 4701 W. Russell Road, Las Vegas, Nevada
- Las Vegas City Hall, 495 S. Main Street, Las Vegas, Nevada
- Henderson City Hall, 240 S. Water Street, Henderson, Nevada
- North Las Vegas City Hall 2250 Las Vegas Blvd. North Las Vegas, Nevada
- Boulder City, City Hall, 401 California Avenue, Boulder City, Nevada
- Mesquite City Hall, 10 E. Mesquite Boulevard, Mesquite, Nevada
- CC Government Center, 500 S. Grand Central Parkway, Las Vegas, Nevada



## **Minutes of the Clark County**

### **Air Pollution Control Hearing Board Meeting**

**August 11, 2016**

#### **I. CALL TO ORDER**

Chair Daniel Sanders called the meeting of the Air Pollution Control Hearing Board to order at 1:31 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  
Evan S. Wishengrad, Esq., Vice-Chair  
Craig Schweisinger  
Ryan L. Dennett  
Karen Purves

**ABSENT:** William Kremer

**LEGAL COUNSEL:** Leslie A. Nielsen, Esq.

**DAQ STAFF:** Ralph McCullers, Compliance and Enforcement Manager  
Ryan Breitweiser, Administrative Secretary

#### **OTHERS**

**PRESENT:** Lea Kain, DAQ; Jeffrey Robb, DAQ; Pam Thompson, DAQ;  
Patricia Ringgenberg, DAQ; Paul Noe, Star Nursery

## **II. PUBLIC COMMENT**

There were no public comments.

## **III. APPROVE MINUTES OF APRIL 21, 2016**

Chair Sanders called for comments, changes, or corrections to the April 21, 2016 minutes. Board Member Schweisinger motioned the minutes be approved. The motion was seconded by Vice-Chair Wishengrad. Chair Sanders called for a vote on the motion, and asked those in favor of approving the minutes from the meeting on April 21, 2016 to signify by saying aye. It was met by a chorus of ayes. There was no opposition. The motion passed.

## **IV. BUSINESS ITEMS**

### **A. CERTIFICATE OF EXEMPTION**

Chair Sanders stated all three business items fall in the same category and are topics the board has heard in the past. He continued, saying the first two business items are renewals of Certificates of Exemption, and the third is a new request for a Certificate. Chair Sanders noted that the representative from Ponto Nursery, Inc. (Ponto) was unable to attend the meeting, but a representative from Evergreen Distributors, Inc. (Evergreen) is in attendance. The Chair stated he will have discussion on all three Certificates at one time, then vote on each agenda item separately.

Board Member Purves then asked what the grain count associated with “less than 15% of the pollen released by a . . . traditional European Olive tree” (Clark County AQR 44.3.2) was as mentioned in the Air Quality Regulation. Paul Noe approached the testimony table and stated he is employed by Star Nursery, but here to testify on behalf of Evergreen. Mr. Noe was then sworn in. He stated he is aware of the 15% of the traditional olive tree low pollinating requirements, but is unaware of the grain count number associated with that requirement. Chair Sanders stated his understanding is this strain of olive tree was DNA tested to meet air quality requirements of Southern Nevada. Ralph McCullers, Department of Air Quality (DAQ) Compliance and Enforcement Manager, confirmed that Chair Sanders’ statement was correct.

Vice-Chair Wishengrad pointed out a misspelling on Evergreen’s tree tag (bates stamped EDR0003). Then Board Member Purves asked if all non-pollinating trees are fruitless or if some non-pollinating trees can bear fruit. Mr. Noe stated if plants do not pollinate, then they will not bear fruit. He continued, stating that Wilsonii olive trees are not non-pollinating or fruitless. They can produce fruit, but it will be 15% or less than traditional olive trees.

- 1. PONTO NURSERY, INC** – Request for renewal of Certificate of Exemption for distributing and marketing of low pollinating olive trees for the next three (3) years. (Current Certificate expires: December 9, 2016.)

Mr. McCullers requested the action on business item 1 be postponed until the next Hearing Board meeting in October or December. He explained that new information has been presented

to staff which necessitates additional review before DAQ can recommend the board renew Ponto's Certificate of Exemption. He explained that Ponto's distribution plan was initially submitted in 2004, and recently received invoices make it necessary to postpone the renewal until DAQ receives more information from Ponto. Chair Sanders asked if Ponto is aware of the postponement and if the postponement will affect their business. Mr. McCullers stated the information from Ponto was made available on Wednesday (1 day prior) and Ponto's current Certificate of Exemption is valid until December 9, 2016. Board Member Schweisinger made a motion to defer the request for renewal of Ponto Nursery's Certificate of Exemption until the next meeting. Vice-Chair Wishengrad then asked Mr. McCullers what type of further investigation must be completed, and if he could expound upon what type of issue was discovered. Mr. McCullers responded stating that staff has determined that the nursery is selling labels, and the postponement is an attempt to correlate trees to the labels that were sold. He explained that Ponto sells very small plants or liners, and Ponto has stated attaching labels to the plants is not practical. Mr. McCullers stated he has seen invoices which state how many labels have been sold, but DAQ is looking to associate each label with evidence of a tree being sold. Vice-Chair Wishengrad then asked Mr. Noe if he is aware of sellers that Evergreen and Ponto have in common. Mr. Noe stated he is not aware of any. Chair Sanders asked for clarification that the continued investigation only affects Ponto Nursery. Mr. McCullers replied that only Ponto is affected. Board Member Dennett asked who the nurseries obtained the labels from. Mr. McCullers stated the nurseries print their own labels, which contain sequential numbers for tracking. Board Member Dennett asked if DAQ is investigating if Ponto sold more labels than trees. Mr. McCullers responded stating that at this time DAQ is merely trying to associate sold labels with sold trees. Vice-Chair Wishengrad asked if Mr. McCullers was referring to bates stamp PNR0012-0016. Mr. McCullers confirmed he was. Chair Sanders returned to the motion to continue business item 1, renewal of Certificate of Exemption for Ponto Nursery until the next meeting. Board Member Dennett seconded the motion. Chair Sanders called for a vote on the motion, and asked those in favor of to signify by saying aye. It was met by a chorus of ayes. There was no opposition. The motion passed.

Mr. McCullers requested that business item 1 be noticed as a public hearing. He continued, stating that there is public comment on the agenda, but he would like the record to show that the business items are part of a public hearing. Board Member Schweisinger requested clarification of the request. Leslie Nielsen, Deputy District Attorney, explained that DAQ Procedure Manual contemplates each item on the agenda be publicly noticed for public hearing, which is different than complying with the open meeting law. She then stated that by public hearing, DAQ means that there has been a public notice published in the newspaper, and the public is invited to comment on a specific agenda item. In order for DAQ to not incur a second publication fee for a public hearing notice when business item 1 is taken up at the next meeting, Ms. Nielsen requests the record be clear that the hearing was opened to public comment, but no member of the public wanted to comment, and the public hearing was closed. Vice-Chair Wishengrad asked for further clarification of why agenda items must be open hearings when the open meeting law declares the proceedings as open. Ms. Nielsen referenced the Board of County Commissioners agenda, and stated that their agenda has business items and public hearings separated. She then stated the Chair opens and closes public hearings, and the significance for the board is the public hearing rules are outlined in the procedures manual, not in Nevada law or the rules. Ms. Nielsen would like the public hearing opened and closed so the record is clear no one wanted to testify on the topic. Board Member Schweisinger requested that to facilitate the Chairman, some verbiage be added to the agenda referencing the public hearing. Chair Sanders stated that typically he

would open up the topic for members of the public to participate, but if a more strict approach to the public hearing portion of the agenda is necessary, he would do so. The Chair then recognizes that no one is in the audience to speak on the matter, and then closed the public hearing portion of item 1.

2. **EVERGREEN DISTRIBUTORS, INC.** – Request for renewal of Certificate of Exemption for distributing and marketing of low pollinating olive trees for the next three (3) years. (Current Certificate expires: December 9, 2016.)

Chair Sanders opened up business item 2 to public comment. Seeing none, Chair Sanders closed the public hearing portion of business item 2 and requested a motion. Board Member Schweisinger moved to approve the request. Chair Sanders reiterated the motion was to approve the request to renew the Certificate of Exemption for Evergreen Distributors, Inc. for another 3 years. The motion was seconded by Board Member Dennett. Chair Sanders called for a vote on the motion, and asked those in favor of to signify by saying aye. It was met by a chorus of ayes. There was no opposition. The motion passed.

3. **EVERGREEN DISTRIBUTORS, INC.** – Request for Certificate of Exemption for distributing and marketing of low pollinating olive trees for the next three (3) years.

Chair Sanders opened up business item 3 to public comment. Seeing none, Chair Sanders closed the public hearing portion of business item 3, and requested a motion. Board Member Dennett asked if this strain of tree is similar to the Wilsonii olive tree, which was covered in business item 2. Mr. Noe answered, stating the Little Ollie is a dwarf version of the olive tree, which was segregated out of an olive field. He elaborated that most strains are acquired by mutation. He stated the Little Ollie has been available for about 20 years. He added that Evergreen has been growing it for at least that long. He said the Little Ollie is a small, slow growing, and bushy olive tree, and is typically used as a shaped shrub in landscape. Mr. Noe also stated that he has never seen a Little Ollie olive tree flower. He referenced the “mother plant” which Evergreen uses to propagate all of their Little Ollie plants to sell, and he said that Mark Collins, owner of Evergreen Nursery, has not seen the mother plant flower in the 20 – 25 years of its use.

Board Member Schweisinger moved to approve the request. Chair Sanders reiterated the motion was to approve the request in item 3 for Evergreen Distributors, Inc. The motion was seconded by Board Member Dennett. Chair Sanders called for a vote on the motion, and asked those in favor of to signify by saying aye. It was met by a chorus of ayes. There was no opposition. The motion passed.

## **V. REPORT BY DAQ STAFF**

Mr. McCullers briefly introduced himself and spoke about his background in the environmental industry and successes as the Environmental Director to the Poarch Band of Creek Indians. Mr. McCullers then provided a brief update to the Members on the process revision work being done by the minor source permitting department [*Updates are continued in agenda item V-3*].

1. Board Member Request for Personal Identifiers - Mr. McCullers stated DAQ staff has contacted the majority of volunteer boards in Clark County, and according to the research, it is common

practice that board members are not supplied with personal identifiers. Vice-Chair Wishengrad stated he is a member of the Lone Mountain Citizens Advisory Council (Lone Mountain). He explained that board members on the advisory board are given business cards. Mr. McCullers asked Ryan Breitweiser, DAQ Administrative Secretary, if the Lone Mountain Citizens Advisory Board was one that DAQ contacted. Mr. Breitweiser stated that he did not have that information in front of him. He explained that many of the smaller advisory boards were difficult to get in touch with. Board Member Schweisinger then stated he serves on and participates in various community groups, and introduces himself as a volunteer member of the Air Pollution Control (APC) Hearing Board. He commented that a name badge would help him to be identified as a representative volunteer of the APC Hearing Board, and alleviate him explaining his role. Board Member Schweisinger further clarified that his request was not for business cards or for a county ID; however a name badge would be useful when attending community meetings. Vice-Chair Wishengrad described the Lone Mountain business card, stating they listed the name of the council on front and listed all of the council members on the back. Vice-Chair Wishengrad further explained that the cards are not personalized, and all council members use the same business cards. Board Member Schweisinger asked Ms. Nielsen if board members are prohibited from having business cards. Ms. Nielsen stated there is not legal prohibition against board members receiving business cards. Mr. McCullers added he will bring the board members opinions regarding personal identifiers to the Director of DAQ and have a definitive answer at the next board meeting.

2. Transfer of Certificate of Exemption – *[Taken up during agenda item VI]* Mr. McCullers stated that DAQ has received a request to transfer a Certificate of Exemption from a company holding an existing Certificate of Exemption to the parent company who purchased the company and its inventory. He mentioned that there is not regulation to govern this type of transfer, and it is the first time this type of request has been seen by DAQ. Chair Sanders stated if the transfer can be completed administratively the board would not have an issue. Board Member Schweisinger added that if material changes to operations and distribution occur during the transfer, it would need to appear before the board.
3. Programmatic Update – *[Continued from earlier in agenda item V]* Mr. McCullers commented on the August 1, 2016 move to paperless Dust Control Permit applications, and added that applicants without computer access have the ability to complete applications for dust permits on 2 workstations at the DAQ offices near the front counter. He added that July was used as a transition month to inform applicants of the upcoming change to paperless applications, and the paper option has now been removed. Board Member Purves asked Mr. McCullers how DAQ would proceed if an applicant turned in a paper application, and how the change has been received by the public. Mr. McCullers responded by saying that applicants who come to the office in person are instructed to use the workstations to enter their information and paper applications received by mail are informed via email and phone of the change in process, and asked to complete the form online. He also mentioned that the paperless system has been well received without any complaints to date.

Board Member Schweisinger requested an updated organizational chart, and Chair Sanders asked for DAQ staff to email the charts to the Board Members.



**VI. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY BOARD AT FUTURE MEETINGS**

Vice-Chair Wishengrad mentioned he recently received a copy of the open meeting manual, and requested further clarification be given at the next meeting regarding public notification processes for APC Hearing Board meetings. Board Member Schweisinger commented on the distinction between a public meeting and a public hearing. Ms. Nielsen stated the meeting has been noticed properly, however public hearing items on the agenda should be opened to public comment, and referenced Clark County Board of County Commissioner meeting procedures. Vice-Chair Wishengrad reiterated that with additional attention being given to public comment and notice across the County, he would like the notification process to be revisited at the next Hearing Board meeting. Chair Sanders requested public hearing items be noted in the agenda so the Chair has prompts to open and close public hearing items. Board Member Schweisinger confirmed this would be a good practice.

*[Item V-2 was taken up at this time]*

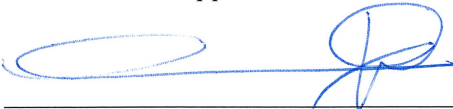
**VII. PUBLIC COMMENT**

There were no public comments.

**VIII. ADJOURNMENT**

Being no further business, Chair Sanders adjourned the meeting at 2:13 p.m.

Submitted for approval,



Ralph McCullers, Compliance & Enforcement Manager  
Department of Air Quality

Date

11/23/2016



**STAFF REPORT**  
**July 11, 2016**

**Application for Renewal of Certificate of Exemption**

**Applicant:** Ponto Nursery  
2545 Ramona Drive  
Vista, CA 92085

**Purpose:**

Ponto Nursery has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii olive for the next three years.

**Background:**

Ponto Nursery obtained mother plants of the Wilsonii olive tree from Easy Pace Tree Farm in August 1996 in order to sell Wilsonii olive liners to other wholesale growers. Liners are propagated plants ready for transplanting into larger containers or the field. Easy Pace Tree Farm obtained their original Certificate of Exemption on December 10, 1992, after presenting evidence acceptable to the Board that the Wilsonii olive released pollen at a level significantly below 15% of the level of the Mission Olive.

On September 3, 2004, Ponto Nursery submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County. After presenting evidence that the Olea Europae Wilsonii olive trees produce less than 15% of the pollen of traditional European Olive Trees, Ponto Nursery obtained its original certificate on December 9, 2004. The Board renewed the certificate on November 29, 2007, November 4, 2010, and again on October 9, 2013 with an expiration of December 9, 2016. A request for renewal was received on June 27, 2016.

**Regulations:**

Clark County Air Quality Regulations (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.

AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.

AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

### **Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

### **Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on July 11, 2016, notifying the public of the application and inviting public comment. In addition, staff mailed over 20 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-3206.

Anyone may petition to intervene in writing by July 25, 2016. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by July 25, 2016, or ten copies must be brought to the meeting for staff, board members, and the public.

### **Conclusions:**

DAQ staff has discussed the Wilsonii olive with representatives of several local nurseries in Clark County that market the majority of these olive trees. They have received no customer complaints about pollination or fruiting. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

- 1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate until sale to consumer (AQR §44.3.3).
- 2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt trees under the applicant's control will carry the label provided for in §44.3.3. Shipping invoices must show copy of Certificate (AQR §44.3.4).
- 3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).

### **More Information:**

If you would like additional information about this renewal application, please contact Ryan Breitweiser at [ryan.breitweiser@clarkcountynv.gov](mailto:ryan.breitweiser@clarkcountynv.gov) or (702) 455-0354.

## Ryan Breitweiser

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**From:** Judy Ponto <judypono@pontonursery.com>  
**Sent:** Thursday, August 11, 2016 9:56 AM  
**To:** Ryan Breitweiser  
**Subject:** Re: Clark County Certificate of Exemption Renewal

Good Morning Ryan and Pat,

I am so sorry to have confused the issue. I do not sell or provide any labels to anyone that has not purchased the Olea Wilsonii from me. Because of the size of the plant when shipped it is not possible to attach a label. My containers are 2 1/2" tall and the plant is 3 to 4" tall when it is sold.

We sell far more customer for sale to the California growers. Some of the larger nursery do ship to Nevada as well. I do make sure the client understands your program. I have not nor would I support anyone who cheats.

I hope this explains the issue of labeling at the time of sale. Clark county has made it very simple to comply to the rules, there is not reason not to comply.

Thank you for time and patience,  
Sincerely  
Judy Ponto  
Ponto Nursery

**PONTO AND SONS WHOLESAL NURSERY**

**ATTN:** Ryan Bretwieser  
**AT:** Annual Quality Award  
**FROM:** Jay Photo  
**DATE:** Aug 9 2016  
**FAX NUMBER:** 701-383-9994

2016 AUG 10 A 7:19  
RECEIVED  
CC-DADM

**MESSAGE:** Ryan Thank you for your help you made my life much easier  
If I missed anything, please feel free to call

Thank Again  
Jay Photo

Growers of premium quality liners

Since 1958

(800) 300-6003 phone

(760) 724-1974 fax

PN004



**PONTO & SONS WHOLESALERS**  
P.O. BOX 536  
VISTA, CALIFORNIA 92085-0536  
(760) 724-6003

RECEIVED  
CC-DAQM

2016 AUG 10 A 7:19

Mr. Ryan Bretweiser

Air Quality Board  
4701 W Russell Road Suite 200  
Las Vegas Nv 89118

Dear Mr. Breitweiser,

Thank you for opportunity to file may request by fax. Due to family illness it would have been difficult to manage the trip.

We have been selling the Olea Wilsonii to wholesale nurseries in California for shipment to Nevada. These nurseries are well established prominent nurseries who understand the importance of the Air Quality Board.

All trees that the customer designates for Nevada are issue labels that are sequentially numbered. These labels numbers are recorded on the invoice. Attached is a copy of the label product code and a copy of the invoice ( on plain paper ) so you will have copies of the numbers issued.

At the last meeting I was ask to make my labels more visual to the inspectors. When we ordered new labels we made them "canary yellow" to make it easier to be seen.

Our records are complete. I think we have meet your request. If we have not please fill free to ask for any addition compliances.

Thank you again for your help,

Sincerely,

Judy Ponto  
Ponto Nursery

PN005

Ponto & Sons Wholesale Nursery  
Sales by Item Detail  
January 1, 2013 through August 1, 2016

Type	Date	Num	Memo	Name	Qty	Sales Price	Amount	Balance
Service								
LABEL (OLEA WILSONII LABELS)								
Invoice	04/17/2013	169011	OLEA WILSONII...	PARDEE TREE COMPA...	1,200	0.25	300.00	300.00
Invoice	04/14/2014	170373	OLEA WILSONII...	PARDEE TREE COMPA...	500	0.35	175.00	475.00
Invoice	09/03/2015	172596	OLEA WILSONII...	COINERS NURSERY	50			475.00
Invoice	04/14/2016	173339	OLEA WILSONII...	T.Y. NURSERY	2,100	0.12	252.00	727.00
Invoice	06/21/2016	173643	OLEA WILSONII...	T.Y. NURSERY	10,220	0.25	2,555.00	3,282.00
Invoice	07/28/2016	173821	OLEA WILSONII...	SUNNYSLOPE NURSERY	300	0.25	75.00	3,357.00
Total LABEL (OLEA WILSONII LABELS)					14,370		3,357.00	3,357.00
Total Service					14,370		3,357.00	3,357.00
<b>TOTAL</b>					<b>14,370</b>		<b>3,357.00</b>	<b>3,357.00</b>



# Invoice

Date	Invoice #
4/17/2013	169011

**PAID**  
05/13/2013

**Bill To**

PARDEE TREE COMPANY  
PO BOX 240  
BONSALL CA 92003

**Ship To**

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			4/17/2013			

Quantity	Item Code	Description	Price Each	Amount
1,200	LABEL	OLGA WILSON II LABELS 27101-27200, 27601-27700, 25801-25900, 25901-2600, 26901-27000, 26801-26900 27001-27100, 26701-26800, 27301-27400, 27201-27300, 27701-27800, 28701-28800	0.25	300.00

<b>Total</b>	\$300.00
--------------	----------

PN007

**PAID**  
**05/09/2014**

4/14/2014

170373

PARDEE TREE COMPANY  
PO BOX 240  
WONSATL, CA 92003

4/14/2014

500 LABEL

OLIA WILSONII LABELS

0.35

175.00

28151-28175, 27901-27925, 28251-28275,  
27851-27875, 22756-22800, 22876-22900,  
22851-22874, 22976-23000, 22801-22825,  
27926-27950, 22826-22850, 22902-22925,  
22951-22975, 27551-27575, 22926-22950,  
27876-27900, 26101-26125  
28501-28525, 28401-28425

\$175.00

**PN008**

**PAID**

9/3/2015

172596

COINERS NURSERY  
P.O. BOX 7FE  
LA VERNE, CA 91750

COINER NURSERY  
3000 B STREET  
LA VERNE CA 91750

9/3/2015

50 LABEL

OLEA WILSONII LABELS 31226-31250  
&31201-31225

\$0.00

**PN009**

7/28/2016 173821

SUNNYSLOPE NURSERY  
4025 E. LA PALMA AVE# 203  
ANAHEIM, CA. 92807-1716

VALLEY CENTER

7/28/2016

300 LABEL

OLEA WILSONII LABELS 43221 - 43520

0.25

75.00

\$75.00

PN010

**PAID**  
**07/25/2016**

6/21/2016

173643

T. Y. NURSERY  
5221 ARVADA ST  
TORRANCE CA 90503

PAUMA VALLEY YARD

6/21/2016

2,184 OLW1	OLEA WILSONII 39	0.85	1,856.40
39 FL	FLATS	0.35	13.65
FS	FUEL SURCHARGE	20.00	20.00
10,220 LABEL	OLEA WILSONII LABELS 33000 - 43220	0.25	2,555.00
-39 FL	FLATS	0.35	-13.65

\$4,431.40

**PN011**

**PAID**  
**07/25/2016**

4/14/2016

173339

T.Y. NURSERY  
5221 ARVADA ST  
TORRANCE CA 90503

PAUMA VALLEY YARD

4/14/2016

2.100 LABEL

OILFA WILSONII LABELS

0.12

252.00

THE FOLLOWING BLOCKS OF NUMBERS:

31251-31999

32001-32999

31200-31001

30999-30757

30626-30700

30621-30625

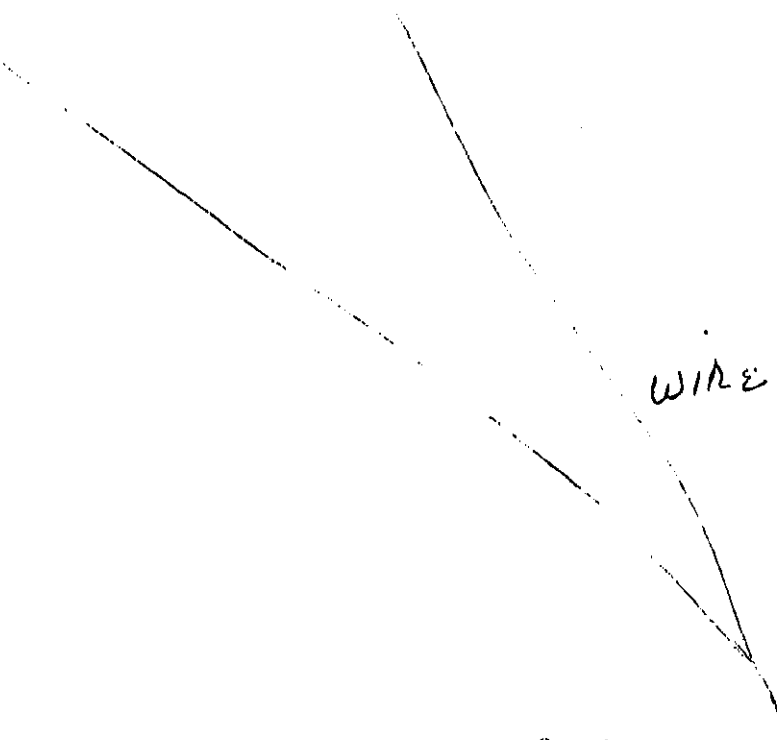
\$252.00

**PN012**



**PONTO & SONS WHOLESALE NURSERY**  
**PO BOX 536**  
**VISTA, CA 92085**

*Quality Liner Growers Since 1958*  
**760-724-6003**  
**800-300-6003**  
**Fax 760-724-1974**



*WIRE*

*Metal  
Granit*

Approved by  
 Clark County  
 Dept of Air Quality  
 Las Vegas, NV

**Ponto Nursery**  
**2545 Ramona Drive**  
**Vista, California**

**OLEA EUROPAEA**  
**WILSONI**

**071976**

*Canary yellow*

*-Numbered*

**PN013**

## NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received applications for a Certificate of Exemption for non-pollinating and fruitless trees from Evergreen Distributors, Inc. and renewal of Certificates of Exemption for low-pollinating olive trees from Evergreen Distributors, Inc. and Ponto Nursery, Inc. A public hearing on these applications has been scheduled for August 11, 2016, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The application and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354 or at [http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance\\_AirQualityEnforcement.aspx](http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_AirQualityEnforcement.aspx).



**AFFIDAVIT OF PUBLICATION**

STATE OF NEVADA)  
COUNTY OF CLARK) SS:

DEPT OF AIR QUALITY  
SUITE 200  
4701 W RUSSELL RD  
LAS VEGAS NV 89118

Account # 22354  
Ad Number 0000834086

Eileen Gallagher, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 07/11/2016 to 07/11/2016, on the following days:

07 / 11 / 16

**NOTICE OF HEARING**  
The Clark County Department of Air Quality (DAQ) has received applications for a Certificate of Exemption for non-pollinating and fruitless trees from Evergreen Distributors, Inc. and renewal of Certificates of Exemption for low-pollinating olive trees from Evergreen Distributors, Inc. and Ponto Nursery, Inc. A public hearing on these applications has been scheduled for August 11, 2016, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The application and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354 or at [http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance\\_AirQualityEnforcement.aspx](http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_AirQualityEnforcement.aspx).  
PUB: July 11, 2016  
LV Review-Journal

*ISI Eileen Gallagher*  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 11th day of July, 2016

Notary *Mary Lee*

MARY A. LEE  
Notary Public State of Nevada  
No. 09-8941-1  
My Appt. Exp. Nov. 13, 2016

**CERTIFICATE OF MAILING**

I hereby certify that on July 11, 2016, I mailed the following document:

**Notice of Hearing**

To the individuals listed below by placing a true and correct copy thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

**See mailing list attached.**

Dated this 11th day of July 2016.



---

Ryan Breitweiser

Boething Treeland Farms, Inc.  
23475 Long Valley Road  
Woodland Hills, California 91367

Bonsai of Nevada  
5558 Rawhide Court  
Las Vegas, Nevada 89120

Davis Nursery  
P.O. Box 364146  
North Las Vegas, Nevada 89036-8146

Hafen Nursery  
1740 North Boulder Highway  
Henderson, Nevada 89015-4124

Hurley's Nursery  
9675 Redwood Street  
Las Vegas, Nevada 89139-7331

Ladybug Nursery  
412 Key West Court  
Boulder City, Nevada 89005

Majestic Color Growers  
3125 South Hollywood Boulevard  
Las Vegas, Nevada 89122-3606

Moon Valley Nursery  
9040 South Eastern Avenue  
Las Vegas, Nevada 89123-3262

Mountain States Wholesale  
824 Apperson Circle  
Las Vegas, Nevada 89123-0543

Plant World Nursery  
5301 West Charleston Boulevard  
Las Vegas, Nevada 89102

Vista Nursery  
20 North Gibson Road  
Henderson, Nevada 89014-6704

Peggy McKie Agriculturist IV, Nursery  
Program Manager  
Nevada Department of Agriculture  
405 S. 21st Street  
Sparks, Nevada 89431-5557

Jack Zunino  
JW Zunino & Associates  
3191 South Jones Boulevard  
Las Vegas, Nevada 89146

John Augustine  
Desert Tree Farm  
2744 East Utopia Road  
Phoenix, AZ 85080

Brad Bowers  
Valley Crest Tree Company  
3200 West Telegraph Road  
Fillmore, California 93015

Wally Kearns  
Evergreen Distributors, Inc.  
P.O. Box 503130  
San Diego, California 921503130

Jerry Mangham  
Easy Pace Tree Farm  
P.O. Box 277  
Waddell, Arizona 85355

Judy Ponto  
Ponto Nursery, Inc.  
P. O. Box 536  
Vista, California 92085-0536

Frank Rauscher  
Star Nursery  
125 Cassia Way  
Henderson, Nevada 89014

David Turner  
Turner-Greenhouse  
4455 Quadrel Street  
Las Vegas, NV 89129

## Ryan Breitweiser

---

**From:** Ryan Breitweiser  
**Sent:** Wednesday, October 12, 2016 11:24 AM  
**To:** 'judypono@pontonursery.com'  
**Cc:** Patricia Ringgenberg  
**Subject:** Clark County APC Hearing Board Meeting December 8, 2016

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	'judypono@pontonursery.com'		
	Patricia Ringgenberg	Delivered: 10/12/2016 11:24 AM	Read: 10/12/2016 11:36 AM

Good morning Mrs. Ponto,

I hope everything is going well. As a reminder, the renewal of your Certificate of Exemption was continued to the next meeting of the Clark County Air Pollution Control (APC) Hearing Board. The APC Hearing Board is scheduled to meet on December 8, 2016, at 1:30 p.m. Patricia Ringgenberg will be in contact with you soon to advise you on what our department needs before the next hearing.

As always, please feel free to call or email if you have any questions or concerns.

Best Regards,

Ryan Breitweiser  
Clark County Department of Air Quality  
4701 W. Russell Road, Suite 200  
Las Vegas, Nevada 89118  
Direct Line: (702) 455-0354  
Main Number: (702) 455-5942/Fax: (702) 383-9994

**RECORD OF  
COMMUNICATION**

- Dust Control Permitted Site     Phone Call  
 Stationary Source                 In Person  
 Other

Date: 8/17/16

**NAME:** Judy Ponto

**TITLE/POSITION:** Owner

**COMPANY:** Ponto Nursery

**PHONE NUMBER:** (760) 724-6003

**SUBJECT:** Continuance of Wilsonii Certificate of Exemption renewal request until next hearing

**SUMMARY OF COMMUNICATION**

I called Mrs. Ponto and informed her that the Hearing Board has continued her Certificate of Exemption renewal request until the next hearing.

**CONCLUSIONS, ACTIONS TAKEN OR REQUIRED**

None necessary.

**Route to:** 1 \_\_\_\_\_, 2 \_\_\_\_\_, 3 \_\_\_\_\_, File \_\_\_\_\_.

August 4, 2016

CERTIFIED MAIL #9171 9690 0935 0128 7711 00

Mrs. Judy Ponto  
Ponto Nursery  
P.O. Box 536  
Vista, California 92085-0536

E-Mail: [judypono@pontonursery.com](mailto:judypono@pontonursery.com)

**Re: Renewal of Certificate of Exemption (Wilsonii)**

Dear Mrs. Ponto:

This will confirm that the above-described matter has been scheduled for hearing before the Air Pollution Control Hearing Board on August 11, 2016, at 1:30 p.m. in the Clark County Building Department - Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada 89118. Enclosed is a copy of the Exhibit List and corresponding documents that were distributed to the respective board members concerning this matter.

If you have any questions, please contact me at (702) 455-0354.

Sincerely,



Ryan Breitweiser, Administrative Secretary  
Enforcement Division

RMB:rb

Attachments: Exhibit List

July 1, 2016

CERTIFIED MAIL #91 7199 9991 7031 1245 7136

Mrs. Judy Ponto  
Ponto Nursery  
P.O. Box 536  
Vista, California 92085-0536

E-Mail: [judyponto@pontonursery.com](mailto:judyponto@pontonursery.com)

**Re: Renewal of Certificate of Exemption**

Dear Mrs. Ponto:

We are in receipt of your request to renew your Certificate of Exemption. Please be advised this matter has been scheduled for hearing before the Air Pollution Control Hearing Board on August 11, 2016, at 1:30 p.m. at the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas. An agenda will be sent to you prior to the hearing.

You may want to attend this hearing to answer any questions by the board members. Should you choose not to attend, please provide a detailed statement that supports your request for renewal, including tree type, distribution method, nursery contact information, etc. See the requirements outlined in Air Quality Regulations (AQR) Subsection 44.3 for more specifics (**copy enclosed**). We will supply this information to the board and support your request for renewal if the information therein meets the criteria in AQR Subsection 44.3. Please note, this statement and any additional documentation you want to present regarding your renewal must be submitted to my attention by Monday, July 25, 2015 so that it can be copied and placed in the board books for distribution to the respective board members.

If the board acts favorably on your request, an Order will be prepared requiring the submittal of a distribution plan that identifies your procedures for tracking and distributing the subject trees.

If you have any questions, please contact me at (702) 455-0354.

Sincerely,



Ryan Breitweiser, Administrative Secretary  
Enforcement Division

Attachments

1. Air Quality Regulations (AQR) Subsection 44.3
2. Receipt of payment

## Ryan Breitweiser

---

**From:** Judy Ponto <judypono@pontonursery.com>  
**Sent:** Friday, July 01, 2016 10:22 AM  
**To:** Ryan Breitweiser  
**Subject:** Re: Certificate of Exemption Renewal Request

Good Morning Ryan, It was a pleasure talking with you as well and look forward to seeing you in LV in August. We will be there to renew our licenses for the Olea Wilsonii.

We may even have a little fun.

See you soon,

Judy Ponto

Ponto Nursery

800-300-6003



June 20, 2016

CERTIFIED MAIL #91 7199 9991 7031 1245 7105

Ms. Judy Ponto  
Ponto Nursery  
P.O. Box 536  
Vista, California 92085-0536

E-Mail: [judypono@pontonursery.com](mailto:judypono@pontonursery.com)

**Re: Renewal of Certificate of Exemption**

Dear Ms. Ponto:

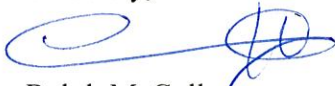
A review of our files indicates your Certificate of Exemption for Wilsonii trees will expire on December 9, 2016.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on August 11, 2016. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal must be submitted on or before July 5, 2016.

In compliance with AQR Subsection 18.9, a filing fee of \$140.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality and mail it along with your request for renewal to the attention of Ryan Breitweiser, DAQ, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact me at (702) 455-1604.

Sincerely,



Ralph McCullers  
Compliance and Enforcement Manager

RM/rb

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II



**STAFF REPORT**  
**November 9, 2016**

**Application for Renewal of Certificate of Exemption**

**Applicant:** Desert Forrest Nursery L.L.C.  
16739 West Olive Avenue  
Waddell, AZ 85355

**Purpose:**

Desert Forrest Nursery L.L.C. (Desert Forrest) has applied for a renewal of its Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii olive tree for the next three years. Desert Forrest has also requested the transfer of the Certificate of Exemption from Orangewood Nursery, Inc. dba Easy Pace Tree Farm, who Desert Forrest Nursery acquired in 2012, to Desert Forrest Nursery, L.L.C.

**Background:**

On May 6, 1991, Easy Pace submitted its original application for a Certificate of Exemption for growing, distributing, and marketing low-pollinating olive trees known as the Wilsonii in Clark County. Subsequently, Easy Pace presented a study dated May 13, 1992, by Dr. Nicholas P. Yensen that stated the Wilson olive trees observed released pollen at a level significantly (with a 95% confidence level) below 15% of the level of the Mission Olive. The study used seven Wilsonii olive trees with pollen traps that used “Tangle Foot” sticky paper. Issues were raised regarding the validity of the study whereby the Air Pollution Control Hearing Board granted an exemption for one year to December 10, 1993 with conditions. Further research was completed with the data showing evidence of low pollen potential from the Wilsonii cultivar. On December 9, 1993, after reviewing the consultant’s study, the Board extended the Certificate of Exemption to December 10, 1995. The Board renewed the certificate on October 12, 1995; October 8, 1998; December 6, 2001; December 9, 2004; November 29, 2007; November 4, 2010; and again on October 9, 2013 with an expiration date of December 9, 2016. Desert Forrest has been doing business as Easy Pace Tree Farm since 2012, and on July 7, 2016, Desert Forrest inquired about renewing the certificate under the name Desert Forrest Nursery L.L.C. A request for renewal was received on October 26, 2016.

**Regulations:**

Clark County Air Quality Regulations (AQR), Section 44, establishes the requirements related to the planting, selling, or offering to sell Fruitless Mulberry and European Olives trees within the boundaries of Clark County.

AQR §44.2.1 states after April 1, 1991, no person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.

AQR §44.3.1 states cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from §44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

AQR §44.3.5 states such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

### **Procedures for Exemptions:**

Procedures for addressing exemptions and renewals are spelled out in the Hearing Board Manual of Procedures. These procedures include submitting an application, publication of a Notice of Hearing in a newspaper of general circulation, intervention by a petition by any interested person, presentation of evidence, and possible filing of findings of fact and conclusions of law at the close of the proceeding.

### **Public Comment:**

A Notice of Hearing was published in the Las Vegas Review Journal on November 10, 2016, notifying the public of the application and inviting public comment. In addition, staff mailed over 20 public notices to valley nurseries and interested parties. The application and supporting documents are available for public review during normal business hours at the Clark County Department of Air Quality (DAQ) offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354.

Anyone may petition to intervene in writing by November 25, 2016. The name, address, and telephone number of the petitioner or their authorized representative must be set forth. It must contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceedings. A statement as to whether the petitioner intends to present evidence must be included. Copies of these documents must be submitted by November 25, 2016, or ten copies must be brought to the meeting for staff, board members, and the public. The Hearing will be held on December 8, 2016, at 1:30 pm and will be located in the Presentation room at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354.

### **Conclusions:**

DAQ staff has discussed the Wilsonii olives with representatives of several local nurseries in Clark County that market the majority of these olive trees. They have received no customer complaints about pollination or fruiting. In conclusion, staff recommends approval of the request for renewal, with the following conditions:

- 1) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of Certificate until sale to consumer (AQR §44.3.3).
- 2) The applicant shall present a distribution plan to the Control Officer to assure that only exempt trees under the applicant's control will carry the label provided for in §44.3.3. Shipping invoices must show copy of Certificate (AQR §44.3.4).
- 3) Such certificates expire in three (3) years. The applicant may renew it for three (3) year increments (AQR §44.3.5).

### **More Information:**

If you would like additional information about this renewal application, please contact Ryan Breitweiser at [ryan.breitweiser@clarkcountynv.gov](mailto:ryan.breitweiser@clarkcountynv.gov) or (702) 455-0354.

# Desert Forrest Nursery, LLC

16835 W Olive Avenue Waddell, AZ 85355

Phone (623) 935-1859

Fax (623) 505-9626



November 21, 2016

Mr. Ryan Breitweiser  
DAQ Enforcement Division  
4701 Russel Road, Suite 200  
Las Vegas, NV 89118

Dear Mr. Breitweiser:

I have attached our current and ongoing distribution plan for shipment of our Wilson Olives to landscape projects and retail outlets throughout Clark County Nevada.

You will also find a sample of the numbered identification tags provided by Desert Forrest Nursery L.L.C. which will be attached to each individual tree. These individual numbers will also be referenced on all related shipping documents, along with any other required exemption certification documentation.

If you any questions or concerns please contact us at 623-935-1859.

Sincerely,

Forrest Wald  
Desert Forrest Nursery L.L.C.

# Desert Forrest Nursery, LLC

16835 W Olive Avenue Waddell, AZ 85355

Phone (623) 935-1859

Fax (623) 505-9626



November 21, 2016

## Distribution Plan for Wilson Olives to Clark County, Nevada

### Variety assurance :

Desert Forrest Nursery will ship only Wilson Olives.

### Labeling :

Every Wilson Olive shipped from Desert Forrest Nursery will have an individually numbered identification tag attached to the tree.

### Documentation :

All shipping documents will have the individual tag numbers and be accompanied with a copy of our certificate of exemption.

### Tracking:

Upon request, Desert Forrest Nursery will provide the DAQ with documentation of any customer that has taken delivery of our Wilson Olive in Clark County, Nevada.

# OLEA EUROPAE WILSONI

Plant Pat. #4464

Approved By Clark  
County Air Pollution  
Control Hearing Board  
On ##-##-###

Approved By Pima  
County Board  
of Supervision  
On ##-##-###



Desert Forrest Nursery, LLC  
16406 W. Oranewood Ave.  
Litchfield Park, AZ 85340  
**(623) 935-1859**

17000

## NOTICE OF HEARING

The Clark County Department of Air Quality (DAQ) has received an application for a renewal of a Certificate of Exemption for non-pollinating and fruitless trees from Desert Forrest Nursery L.L.C. (formerly Orangewood Nursery, Inc. dba Easy Pace Tree Farm). A public hearing on the application has been scheduled for December 8, 2016, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The application and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354 or at [http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance\\_AirQualityEnforcement.aspx](http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_AirQualityEnforcement.aspx).

### BOARD OF COUNTY COMMISSIONERS

STEVE SISOLAK, Chairman • LARRY BROWN, Vice Chairman  
SUSAN BRAGER • CHRIS GIUNCHIGLIANI • MARILYN KIRKPATRICK • MARY BETH SCOW • LAWRENCE WEEKLY  
DONALD G. BURNETTE, County Manager

**DF006**



**AFFIDAVIT OF PUBLICATION**

STATE OF NEVADA)  
COUNTY OF CLARK) SS:

**DEPT OF AIR QUALITY  
SUITE 200  
4701 W RUSSELL RD  
LAS VEGAS NV 89118**

**Account # 22354  
Ad Number 0000874000**

Eileen Gallagher, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 11/11/2016 to 11/11/2016, on the following days:


11 / 11 / 16

**NOTICE OF HEARING**  
The Clark County Department of Air Quality (DAQ) has received an application for a renewal of a Certificate of Exemption for non-pollinating and fruitless trees from Desert Forrest Nursery L.L.C. (formerly Orangewood Nursery, Inc. dba Easy Pace Tree Farm). A public hearing on the application has been scheduled for December 8, 2016, at 1:30 p.m. in the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas, NV, during the regular meeting of the Clark County Air Pollution Control Hearing Board. The application and supporting documents are available for public review during normal business hours at DAQ's offices at 4701 W. Russell Road, Suite 200, Las Vegas, NV, 702-455-0354 or at [http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance\\_AirQualityEnforcement.aspx](http://www.clarkcountynv.gov/airquality/compliance/Pages/Compliance_AirQualityEnforcement.aspx).  
PUB: November 11, 2016  
LV Review-Journal

*Eileen Gallagher*  
151 Eileen Gallagher  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 11th day of November, 2016

Notary *Mary Lee*

 **MARY A. LEE**  
Notary Public State of Nevada  
No. 09-8941-1  
My Appt. Exp. Nov. 13, 2016

**CERTIFICATE OF MAILING**

I hereby certify that on November 11, 2016, I mailed the following document:

**Notice of Hearing**

To the individuals listed below by placing a true and correct copy thereof enclosed in a sealed envelope, postage prepaid, for collection and mailing following our ordinary business practices for mailing. The envelope was addressed as follows:

**See mailing list attached.**

Dated this 11th day of November 2016.



---

Ryan Breitweiser

Boething Treeland Farms, Inc.  
23475 Long Valley Road  
Woodland Hills, California 91367

Hafen Nursery  
1740 North Boulder Highway  
Henderson, Nevada 89015-4124

Majestic Color Growers  
3125 South Hollywood Boulevard  
Las Vegas, Nevada 89122-3606

Plant World Nursery  
5301 West Charleston Boulevard  
Las Vegas, Nevada 89102

Jack Zunino  
JW Zunino & Associates  
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Wally Kearns  
Evergreen Distributors, Inc.  
P.O. Box 503130  
San Diego, California 92150-3130

Frank Rauscher  
Star Nursery  
125 Cassia Way  
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Bonsai of Nevada  
5558 Rawhide Court  
Las Vegas, Nevada 89120

Hurley's Nursery  
9675 Redwood Street  
Las Vegas, Nevada 89139-7331

Moon Valley Nursery  
9040 South Eastern Avenue  
Las Vegas, Nevada 89123-3262

Vista Nursery  
20 North Gibson Road  
Henderson, Nevada 89014-6704

John Augustine  
Desert Tree Farm  
2744 East Utopia Road  
Phoenix, AZ 85080

Jerry Mangham  
Easy Pace Tree Farm  
P.O. Box 277  
Waddell, Arizona 85355

David Turner  
Turner-Greenhouse  
4455 Quadrel Street  
Las Vegas, NV 89129

Davis Nursery  
P.O. Box 364146  
North Las Vegas, Nevada 89036-8146

Ladybug Nursery  
412 Key West Court  
Boulder City, Nevada 89005

Mountain States Wholesale  
824 Apperson Circle  
Las Vegas, Nevada 89123-0543

Peggy McKie Agriculturist IV, Nursery  
Program Manager  
Nevada Department of Agriculture  
405 S. 21st Street  
Sparks, Nevada 89431-5557

Brad Bowers  
Valley Crest Tree Company  
3200 West Telegraph Road  
Fillmore, California 93015

Judy Ponto  
Ponto Nursery, Inc.  
P. O. Box 536  
Vista, California 92085-0536

Forrest Wald  
Desert Forrest Nursery, LLC  
16739 W. Olive Avenue  
Waddell, AZ 85355

October 27, 2016

CERTIFIED MAIL #9171 9690 0935 0128 7716 50

Mr. Forrest Wald  
Desert Forrest Nursery L.L.C.  
16739 West Olive Avenue  
Waddell, AZ 85355

E-Mail: [fwreality@cox.net](mailto:fwreality@cox.net)

**Re: Renewal of Certificate of Exemption**

Dear Mr. Wald:

We are in receipt of your request to renew your Certificate of Exemption. Please be advised this matter has been scheduled for hearing before the Air Pollution Control Hearing Board on December 8, 2016, at 1:30 p.m. at the Clark County Building Department - Presentation Room, 4701 West Russell Road, Las Vegas. An agenda will be sent to you prior to the hearing.

You may want to attend this hearing to answer any questions by the board members. Should you choose not to attend, please provide a detailed statement that supports your request for renewal, including tree type, distribution method, nursery contact information, etc. See the requirements outlined in Air Quality Regulations (AQR) Subsection 44.3 for more specifics (copy enclosed). We will supply this information to the board and support your request for renewal if the information therein meets the criteria in AQR Subsection 44.3. Please note, this statement and any additional documentation you want to present regarding your renewal must be submitted to my attention by Monday, November 21, 2016 so that it can be copied and placed in the board books for distribution to the respective board members.

If the board acts favorably on your request, an Order will be prepared requiring the submittal of a distribution plan that identifies your procedures for tracking and distributing the subject trees.

If you have any questions, please contact me at (702) 455-0354.

Sincerely,



Ryan Breitweiser, Administrative Secretary  
Enforcement Division

**Attachments**

1. Air Quality Regulations (AQR) Subsection 44.3
2. Receipt of payment

October 11, 2016

CERTIFIED MAIL #9171 9690 0935 0128 7716 12

Mr. Forrest Wald  
Desert Forrest Nursery, LLC  
16835 W. Olive Avenue  
Waddell, AZ 85355

**Re: Renewal of Certificate of Exemption**

Dear Mr. Wald:

Department of Air Quality (DAQ) has been in contact with you regarding your Certificate of Exemption for Wilsonii trees which will expire on December 9, 2016.

Air Quality Regulations (AQR) Subsection 44.3.5 states “the applicant may renew a certificate for three year increments.” An Air Pollution Control Hearing Board meeting is scheduled before the expiration date on December 8, 2016. In order for your renewal to be adequately addressed on that hearing agenda, your request for renewal and Certificate transfer must be submitted on or before October 21, 2016.

In compliance with AQR Subsection 18.9, a filing fee of \$140.00 for a Certificate of Exemption Renewal is required. Please make your check payable to the Clark County Department of Air Quality and mail it along with your request for renewal to the attention of Ryan Breitweiser, DAQ, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231.

If you have any questions, please contact me at (702) 455-1604.

Sincerely,



Ralph McCullers  
Compliance and Enforcement Manager

RM:rb

cc: Patricia Ringgenberg, DAQ Air Quality Specialist II

**RECORD OF  
COMMUNICATION**

- Dust Control Permitted Site
- Stationary Source
- Other
- Phone Call
- In Person

Date: 8/17/16

**NAME:** Forrest Wald

**TITLE/POSITION:** Owner

**COMPANY:** Desert Forrest Nursery

**PHONE NUMBER:** (602) 690-3030

**SUBJECT:** Scheduling of the renewal request and transfer of Certificate of Exemption for the next Hearing Board meeting.

**SUMMARY OF COMMUNICATION**

I called Mr. Wald and informed him that the renewal of Easy Pace's Certificate of Exemption and the transfer of the Certificate to Desert Forrest Nursery will be scheduled for the next Hearing Board meeting.

**CONCLUSIONS, ACTIONS TAKEN OR REQUIRED**

None necessary.

**Route to:** 1 \_\_\_\_\_, 2 \_\_\_\_\_, 3 \_\_\_\_\_, File \_\_\_\_\_.

# Desert Forrest Nursery, LLC

16739 W Olive Avenue Waddell, AZ 85355

Phone (623) 935-1859

Fax (623) 505-9626

Forrest@desertForrestNursery.com



July 7, 2016

We are interested in changing our Certificate of Exemption from Easy Pace to Desert Forrest Nursery, LLC since we purchased this companies inventory and assets in 2012. We have been using the DBA Easy Pace but would like to see if it is possible to change. If we could be included in the August 11, 2016 meeting we would like to attend. Please call me with any questions or concerns at 602-690-3030.

Sincerely,

Forrest Wald

16835 W. Olive Avenue

Waddell, AZ 85355

forrest@desertforrestnursery.com

623-935-1859 Office

602-690-3030 Cell

# Tronox to pay \$505K settlement for hazardous emissions at Henderson plant



Industrial plants in Henderson, Nevada. (John Gurzinski/Las Vegas Review-Journal)

By **MICHAEL SCOTT DAVIDSON**  
**LAS VEGAS REVIEW-JOURNAL**

Clark County and an Oklahoma City-based chemical company have reached a record settlement related to allegations that the company's Henderson plant underreported its emissions and operated without a proper permit for nearly 20 years.

Tronox must pay the county \$505,000 in civil penalties.

It will be the largest monetary penalty the county's Department of Air Quality has collected during its 15 years in operation, department director Marci Henson said. The previous highest amount was \$150,000.

Tronox's penalty is substantially less than the nearly \$1.35 million the county originally sought.

Henson said the amount dropped because Tronox was willing to scale back some of its onsite operations in order to dramatically reduce the amount of hazardous air pollutants it emits locally.

"It's not the money that matters to us, other than to impress upon the source to not do it again," Henson said.

Tronox agreed to shut down two of its four hearth furnaces before July 2018 and halve emissions from processing raw manganese ore to produce electrolytic manganese dioxide.



Electrolytic manganese dioxide is the main product of Tronox's plant inside the Black Mountain Industrial Center, across Lake Mead Parkway from downtown Henderson. It's a black powder that's the energy source in alkaline batteries.

But emissions from the production process are listed as hazardous in the Clean Air Act, Henson said. At excessive levels they can cause neurological and respiratory issues.

Tronox's emissions were nowhere near those levels, Henson said, but they were nearly nine times higher than allowed by permit at the company's plant in Henderson.

The Department of Air Quality first noticed the excessive emissions in 2013 during a compliance evaluation.

"The testing revealed their emissions levels were substantially greater than what they previously represented," Henson said. "It was absolutely clear to us that they were operating as a major source for manganese compound (emissions) and that they had been exceeding their permitted emission levels with the permit they did have."

Henson said Tronox should have had applied for a Title V operating permit by 1996, according to the Clean Air Act. The company submitted an application for one in 2014, but the county is requiring independent testing of emission levels at the plant this year before staff will issue the new operating permit.

Tronox will continue to operate as it comes into compliance with the settlement's terms, which were finalized at the Air Pollution Control Hearing Board's Nov. 16 meeting.

"We are implementing the agreed solutions and feel these changes will benefit our community and Tronox," plant manager Rick Stater wrote in a statement to the Review-Journal this week.

The Black Mountain Industrial Center in Henderson has existed since the early 1940s. Tronox is a spinoff of Kerr-McGee Corp. and previously operated at the site under that name.

Contact Michael Scott Davidson at [sdavidson@reviewjournal.com](mailto:sdavidson@reviewjournal.com) or 702-477-3861. Find [@davidsonlvj](https://twitter.com/davidsonlvj) on Twitter.