



CHAIRMAN:
Lew Dodgion
Carson City, NV

SEC Appeal Hearing
Notice Pursuant to NRS 233B.121 and NAC 445B.891

VICE CHAIRMAN:
Alan Coyner
Administrator
Division of Minerals
Commission on Mineral
Resources

Date: August 6th, 2008

To: Appellant:
Alpark Petroleum, Inc., P.O. Box 1600, Elko, NV 89801
Represented by: David M. Stanton, Goicoechea, Di Grazia,
Coyle & Stanton, Ltd., 530 Idaho Street, Elko, NV 89801

MEMBERS

Pete Anderson
State Forester
Division of Forestry

Respondent:
Nevada Division of Environmental Protection, Bureau of
Corrective Actions, Attn: Jim Najima, Chief Represented by:
William Frey, SDAG, Office of the Attorney General

Tony Lesperance
Director, Department of
Agriculture

From: John B. Walker, Executive Secretary

Eugene Gans
Las Vegas, NV

Subject: Appeal - Alpark Petroleum (Crescent Valley Store)
Facility ID 6-000318 & Petroleum Fund Number 1995000039

Kenneth Mayer - Director
Department of Wildlife

Ira Rackley
Las Vegas, NV

Tracy Taylor
State Engineer
Division of Water Resources

A three-member panel of the State Environmental Commission (SEC) has scheduled a hearing on the above referenced appeal filed by David M. Stanton on behalf of Alpark Petroleum, Inc. The appeal hearing will be held at 1:00 pm on August 26, 2008 in Carson City, Nevada. The hearing will be held at the Office of the Attorney General, 100 North Carson Street, Carson City, Nevada - second floor conference room.

Harry Shull
Las Vegas, NV

The SEC has jurisdiction to hear this appeal pursuant to NRS 445A.690. The Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) sections involved in this appeal are: NRS 445A.465, NRS 445A.445, NRS 459.824, NRS 445A.675, NRS 445A.690, NRS 459.852, NAC 459.993 (adopting by reference 40 Code of Federal Regulations (CFR) §§ 280.10 to 280.116, inclusive), 40 CFR § 280.92, 40 CFR § 280.66, NAC 459.9975, NAC 459.9977. Other relevant authorities address management of hazardous materials and storage tanks; such authorities are contained in NRS 456.800 to 459.856 and NAC 459.9921 to 459.999.

Frances Barron
State Board of Health
Las Vegas, NV

Stephanne Zimmerman
Las Vegas, NV

COUNSEL
Rose Marie Reynolds

Hearing Procedure: Practice before the SEC is governed by the attached regulations found at NAC 445B.875 et seq. The online version is located at: <http://www.leg.state.nv.us/NAC/NAC-445B.html#NAC445BSec875>. NRS 445A.605, NRS 445A.610 and NRS 233B.121 to .150 are also applicable.

STAFF
John B. Walker
Executive Secretary

Robert Pearson
Recording Secretary

Appeal Background: On June 5, 2008 the Nevada Division of Environmental Protection (NDEP) Bureau of Corrective Actions issued an "Enforcement Action" to Alpark Petroleum for failure to complete monitoring and site remediation activities for petroleum contaminated soil and groundwater at the Crescent Valley Store located at Nevada Highway 306 and Second Street, Crescent Valley, Nevada. The enforcement action contained a cover letter; "Finding of Alleged Violation," "Order" and SEC appeal Form Number 3. These documents are attached.

In brief, NDEP alleges that Alpark Petroleum was the owner of two 3,000 gallon underground storage tanks that were installed at the Crescent Valley Market on or about January 1, 1967. On September 14, 1992, Arlin Glines, Controller for Alpark Petroleum, signed an EPA Form 7530-1 naming Alpark Petroleum as owner of the tanks. On April 25, 1994, Galen Schorsch, System Manager for Alpark Petroleum, signed a "Notification Data for Underground Storage Tanks" to confirm that information in NDEP files was correct.

On April 8, 1994, Boomer Simpkins, a representative of Alpark Petroleum, reported a release of 100 gallons of gasoline from the tanks. NDEP later discovered that both tanks had failed tightness tests on January 6, 1994.

On May 27, 1994, contractors employed by Alpark Petroleum removed the tanks from the ground, and the tanks were later moved to Alpark Petroleum property for storage and possible reuse.

Alpark Petroleum applied for and received coverage from the State Petroleum Fund. To date, the Fund has reimbursed Alpark Petroleum over \$138,000 for remediation activities at the Crescent Valley Market.

On August 8, 2007, NDEP sent a certified letter to Alpark Petroleum regarding the lack of progress since May 2004. When Alpark Petroleum did not respond, NDEP sent a second letter on November 1, 2007. On November 19, 2007, NDEP received a remediation schedule from JBR Environmental Consultants on behalf of Alpark Petroleum to address cleanup at the site. The schedule called for installation of a pump and treat remediation system at the Crescent Valley Market beginning with testing on January 31, 2008 and full operation by September 15, 2008. NDEP concurred with the remediation schedule on November 20, 2007.

On January 31, 2008, JBR Environmental Consultants notified NDEP that all work at the Crescent Valley Market had ceased during the fourth quarter of 2007.

On March 4, 2008, NDEP sent a certified letter to Alpark Petroleum regarding confirmation of the quarterly monitoring status and implementation of the remediation system schedule. On March 14, 2008, Alpark Petroleum through its attorneys informed NDEP that Alpark Petroleum was not responsible for the site because it was never the owner of the underground storage tanks. On March 27, 2008, NDEP provided Alpark Petroleum with the requested information regarding ownership of the underground storage tanks. As of June 5, 2008, NDEP received no response to its March 27, 2008 letter.

On June 5, 2008 NDEP issued the attached Finding of Alleged Violation and Order. NDEP determined that Alpark Petroleum is in violation of NAC 459.9975, NAC 459.9977 and NRS 445A.465. The Order directs Alpark Petroleum to:

- By July 15, 2008, submit to the NDEP a written reply which states its intention to comply with the Order.
- By July 15, 2008 resume quarterly site ground water monitoring and reporting.
- By July 15, 2008 resume with a schedule for testing and implementation of the remedial action plan.
- Commencing July 31, 2008 submit monthly progress reports due on the last day of the month, to the NDEP regarding the status of the remediation schedule including testing, design, implementation and system operations at the site for the preceding month.
- By July 15, 2008, contact NDEP to arrange a meeting to be held in Carson City to show cause why NDEP should not seek civil penalties for the violations cited.

On July 7, 2008, the SEC received the attached appeal. Alpark Petroleum alleges that it should not be held responsible in relation to the Crescent Valley Store Site because it has obtained information showing that the leaking underground storage tanks were owned by a third party.

Attachments:

June 5, 2008 NDEP Enforcement Action with Finding of Alleged Violation and Order
July 7, 2008 Request for Appeal Hearing NAC 445B.875 et seq
SEC Rules of Practice

cc: Leo Drozdoff, Administrator, NDEP (w/o attachment)
Tom Porta, Deputy Admin., NDEP (w/o attachment)
Art Gravenstein, BCA (w/o attachment)
Joe Sawyer, BCA (w/o attachment)