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Before The State Of Nevada Environmental Commission

In Re:)
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Gopher Construction's Appeal of NOAVs)
1992, 1993, 1994, 1995, 2057, and 2058.)
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ORDER

On February 15, 2007, a hearing panel of the State Environmental Commission (Panel) convened to hear the above-entitled appeal. Don W. Tibbals appeared on behalf Gopher Construction (Gopher). Janet Hess, Deputy Attorney General, represented the Nevada Division of Environmental Protection (Division). The Panel listened to the arguments of counsel for the Division and to the Appellant, and to the testimony of witnesses called. Based on the evidence presented and the arguments of the parties:

1. The Panel upheld Notice of Alleged Violation (NOAV) 1992, alleging that Gopher emitted fugitive dust on two occasions in June, 2005, at its sand and aggregate plant located at the Black Mountain Industrial Minerals Pit east of Fernley, NV. The Panel attached a fine of ten thousand dollars (\$10,000) to this violation.
2. The Panel overturned NOAV 1993, alleging that Gopher failed to report the excessive emission of fugitive dust on two occasions in June, 2005, at its sand and aggregate plant located at the Black Mountain Industrial Minerals Pit east of Fernley, NV.
3. The Panel upheld NOAV 1994, alleging that Gopher failed to use proper emission suppression techniques on two occasions in June, 2005, at its sand and aggregate plant located at the Black Mountain Industrial Minerals Pit east of Fernley, NV. The Panel attached a fine of ten thousand dollars (\$10,000) to this violation.

- 1 4. The Panel upheld NOAV 1995, alleging that the Gopher failed to conduct the Initial
2 Opacity Compliance Demonstration required under their air quality operating permit
3 prior to the June, 2005, inspections at its sand and aggregate plant located at the
4 Black Mountain Industrial Minerals Pit east of Fernley, NV. The Panel attached no
5 fine to this violation, finding that Gopher made a good-faith attempt to comply with
6 this requirement.
- 7 5. The Panel upheld NOAV 2057, alleging that Gopher was operating equipment
8 without applying for and receiving an operating permit or a modification to an
9 existing operating permit in August, 2006, at its facility located at 245 Mull Lane,
10 Fernley, NV. Gopher admitted this violation. The Panel attached a fine of ten
11 thousand dollars (\$10,000) to this violation.
- 12 6. The Panel upheld NOAV 2058, alleging that Gopher emitted fugitive dust in August,
13 2006, at its facility located at 245 Mull Lane, Fernley, NV. The Panel attached a fine
14 of ten thousand dollars (\$10,000) to this violation.

15 Therefore, it is ORDERED that Gopher Construction pay a total fine of forty thousand
16 dollars (\$40,000) to the State Environmental Commission for the violations contained in
17 Notices of Alleged Violation 1992, 1994, 2057, and 2058. The fine will be distributed to the
18 Lyon County School District as required under NRS 445B.640(5).

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20 Dated this ____ day of February, 2007.

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23 Ira Rackley, Panel Chair
24 State of Nevada Environmental Commission
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