Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)

Meeting of October 14, 2015 9:00 AM

Nevada Legislative Building
401 South Carson Street, Room 2135
Carson City, NV

Members Present:
E. Jim Gans, Chairman
Tom Porta, Vice Chairman
Mark Turner
Cary Richardson
Kathryn Landreth
Bob Roper
Rich Perry
Tony Wasley

Members Absent:
Jim Barbee
Jason King

SEC Staff Present:
Jennifer Chisel, SEC/DAG
Valerie King, Executive Secretary
Misti Gower, Recording Secretary

Members of the Public Present:
Lory Price, Member of the public

BEGIN SUMMARY MINUTES

1) Call to order, Roll Call, Establish Quorum: (Discussion) The meeting was called to order at 9:00 am by Chairman Jim Gans. Ms. King, the Executive Secretary, confirmed the hearing was properly noticed and that a quorum was present.

2) Public Comments: (Discussion) Chairman Gans called for public comment. Ms. Lory Price, a resident of Silver Springs, came forward to address the Commission regarding Clean Dried Processing. Ms. Price stated the following: she is a twenty year resident and a senior citizen. There was no environmental impact study done for the plant. The smell is horrendous and has affected her health. There are also diesel trucks that run all night making her has to deal with the diesel smell too. She feels that she will be forced to move because she cannot live under the existing conditions. The plant has upgraded its machinery, which makes things better, but you can still smell the cooking potatoes. She is very upset with the state for not protecting its citizens and allowing them to be subject to this. Last year when the plant was shut down they had pallets of potatoes stacked twenty feet high that were rotting. It smelled like a landfill. Our walls and ceilings were black with flies. She ended by saying she felt it was a dirty, nasty trick putting the plant there. It has been an absolute nightmare.

3) Approval of Agenda: (Action Item) Chairman Gans took a moment to introduce Jennifer Chisel to the Commission. Ms. Chisel is the Commission's new Deputy Attorney General. She was formally with the Gaming Commission as their investigating agent. Ms. Chisel stated she felt the work the Commission does is interesting and important and is pleased to be a part of it.

Chairman Gans asked if there were any changes or comments regarding the agenda. Hearing none, he asked for a motion.

Commissioner Landreth moved to approve the agenda and Commissioner Roper seconded. The agenda was unanimously approved.

4) Approval of the minutes for the May 6, 2015 SEC meetings: (Action Item) Chairman Gans requested comments from the Commission on the October meeting minutes. Hearing none, he asked for a motion.

Commissioner Turner moved to approve the minutes from May 6, 2015 and Commissioner Roper seconded. The agenda was unanimously approved.

5) Penalty Assessments for Air Quality Violations: (Action Item) Mr. Jeff Kinder, Bureau Chief of Air Pollution, and Mr. Travis Osterhout, supervisor of the Compliance and Enforcement Branch, presented the violations to the Commission. The handouts provided during the meeting are included as attachments to the meeting minutes.

A. Clean Dried Processors, Inc. — NOAV Nos. 2524, 2526 and 2529 for alleged failure to comply with applicable conditions of an operating permit. The recommended penalty amount is $14,075.00.

B. Florida Canyon Mining, Inc. – NOAV No. 2554 for alleged failure to comply with the requirements for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit. The recommended penalty amount is $2,585.00.

Clean Dried Processors, Inc.: (Attachment 1) Mr. Kinder informed the Commission that Clean Dried Processing, Inc. (CDPI) operates a food drying natural gas-fired burner in Silver Springs under the requirements of a Class III permit. On August 22, 2014 it was discovered that CDPI had installed a burner in July and the unit was being operated without a valid air permit. During an inspection in October 2015 it was discovered that CDPI had not posted the operating permit near the stationary source and had not been monitoring and recording the hours of operations or gas usage required in its permit.

In December 2014, three NOAVs were issued. Failure to post the permit was issued as a warning. The other two were for failure to have an operating permit and failure to comply with recordkeeping and monitoring requirements. Based on the penalty matrix the penalty amount would be $11,200.00 for these violations.

In January 2015, Air Pollution Control (APC) received a complaint against the CDPI facility. APC staff observed the burner exceeding the opacity established in the permit. An emissions test conducted by BAC staff determined the opacity from the stack exceeded the permitted opacity limit by 56%. In February 2015 another NOAV was issued for failing to comply with an emission limitation.

Mr. Travis Osterhout walked the Commission through the penalty matrix for each of the violations. The APC total recommended penalty for all NOAVs is $14,075.00.

Commissioner Richardson disclosed that his company had constructed the original Clean Dried facility. He has had conversations with Clean Dried and was made aware of these violations through economic development meetings. He stated it would not affect his judgment and he intended to vote.

A representative for CDPI was not present but Mr. Richard Erickson, President at Clean Dried Process, had summited a letter to the SEC in response to the penalty that was given to the Commissioners (Attachment 2). Chairman Gans felt the letter was well written but expressed concern over the fact that Mr. Erickson tried to blame NDEP for the violations. Chairman Gans also could not find anything in the letter to justify the Commission cutting the penalty in half, as was being asked.

Chairman Gans asked staff if there is an odor problem at the plant. Mr. Osterhout informed the Commission that he APC had received seven complaints from five people since the plant began operations in August 2014. The complaints were regarding odor and health problems such as breathing issues and not feeling well. Mr. Osterhout offered comments regarding issues Mr. Erickson had listed in his letter.

The Commission expressed concerns about CDPI. They also questioned how companies can receive information regarding permits needed when starting a business in Nevada.

Motion: Commissioner Perry moved to approve the recommended penalty of $14,075.00 for Air Quality Violations No. 2524, 2526 and 2529. Commissioner Landreth seconded the motion and it passed unanimously.

Florida Canyon Mining, Inc.: (Attachment 3) Mr. Kinder explained that Florida Canyon operates a gold mining and processing facility in Imlay under the requirements of a Class II permit. In March 2015, APC received an Annual Emission Report (AER) from Florida Canyon for the 2014 calendar year. Upon review it was noted that information had not been provided on four systems. The air permit requires that production and emissions information for all systems be submitted each calendar year.

During the enforcement conference held in May 2015, Florida Canyon explained that several recent personnel changes had led to the incomplete reporting. The bureau understands that can be a contributing factor but there was an absence of emissions for the same systems in the 2013 submittal as well. In June 2015, one NOAV was issued for failure to report annual emissions information for four systems.

Mr. Travis Osterhout walked the Commission through the penalty matrix for the violation. The APC total recommended penalty is $2,585.00.

Chairman Gans asked if there was a representative from Florida Canyon present and there was not. After a brief discussion, the Chairman asked for a motion.

Motion: Commissioner Landreth moved to approve the recommended penalty of $2,585.00 for Air Quality Violation No. 2554. Commissioner Richardson seconded the motion and it passed unanimously.

6) Permanent Regulation R020-15 Bureau of Safe Drinking Water Subdivision Process Amendment: (Action Item) Mr. Jim Balderson, Engineering Branch Supervisor for Safe Drinking Water, presented the regulation update to the Commissioners. The SEC approved this regulation modification as a temporary regulation in May. The temporary regulation is due to expire in November. The regulatory petition before the Commission is the amendment that has been reviewed by LCB and, if adopted, will become the permanent amendment. Mr. Balderson stated that LCB did make some language modifications; however, the changes did not affect the intent of the temporary regulation (Attachment 4). Mr. Balderson briefed the Commission on the history of the temporary amendment and answered questions from the Commissioners.

Motion: Vice Chairman Porta moved to adopt regulation R020-15 and the proposed amendment. Commissioner Turner seconded the motion and it passed unanimously.

7) R027-15 Bureau of Air Quality Planning – Ambient Air Quality Standards: (Action Item) Mr. Jeff Kinder, Bureau Chief for Air Pollution Control, and Adele Malone, the Planning Branch Supervisor, presented the regulation to the Commissioners. Mr. Kinder explained that the proposed regulation revises the annual fine particulate matter standard from 15.0 to 12.0 micrograms per cubic meter and removes the annual PM10 standard. New definitions for PM2.5 and PM10 are also proposed to clarify that direct gaseous emissions from a source that condense to form particulate matter at ambient temperatures are included in the definition terms, as required by federal regulations.

Ms. Malone stated that the amendments are in response to a federal requirement. When the U.S. Environmental Protection Agency (EPA) promulgates new or revised national ambient air quality standards, states must submit a plan which provides for implementation, maintenance and enforcement.

Motion: Commissioner Perry moved to adopt regulation R027-15. Commissioner Landreth seconded the motion and it passed unanimously.

8) R028-15 Bureau of Air Quality Planning – Adopt by Reference: (Action Item) Mr. Kinder explained that the proposal amends NAC 445B.221, the adoption by reference section. This section allows APC to adopt federal standards and be the delegating authority for industry in Nevada. This is a routine update that was last done in 2012.

Ms. Malone stated that the changes are all amendments to existing federal regulations. There are no new ones. By adopting the regulations it allows NDEP to be the regulatory authority in Nevada.

Motion: Commissioner Landreth moved to adopt regulation R028-15. Vice Chairman Porta seconded the motion and it passed unanimously.

9) R054-15 Bureau of Air Quality Planning – Voluntary Emission Reduction Credit Program: (Action Item) Mr. Kinder told the Commission that NDEP is proposing a voluntary program intended to assist in growth and economic development in areas designated as nonattainment for a national ambient air quality standard (NAAQS). It is important to note that at this time all of Nevada's 17 counties are in attainment. The program will provide offsets for a new major stationary source wishing to locate in a nonattainment area or for an existing facility to make a major modification. The program is based on federal guidelines and provides for the creation, banking, transfer and use of Emission Reduction Credits (ERC). In a nonattainment area, if a facility reduces emissions through an operation change, a reconfiguration or a shutdown, the

program will allow the facility to request credit for the reductions and bank a reduced portion of the credit for future use or sale.

Mr. Kinder stated that some NDEP regulated facilities in Clark County currently hold credits for emission reductions that were granted in an operating permit. However, there is no mechanism for those credits to be used. This provides a mechanism for possible future nonattainment area designations in Nevada. In order for a new major stationary source or major modification to an existing source to locate in a nonattainment area, the USEPA requires emission offsets or reductions.

A letter was submitted to the Commission from Ms. Starla Lacy at NV Energy. Ms. Lacy address several concerns associated with the proposed program but was unable to attend in person. Executive Secretary, Ms. Valerie King, read the letter into the record (Attachment 5).

Ms. Malone explained that APC staff had received Ms. Lacy's letter and had an opportunity to address the concerns. NDEP's program is based on the federal program, upon a closer look there has been modifications to the federal program regarding NV Energy's concerns. APC was also submitting a revision to their proposal (Attachment 6). Ms. Lacy had also sent an emailed to Ms. Malone supporting the program design with the revision (Attachment 7).

Motion: Commissioner Perry moved to adopt regulation R054-15 with the amendment. Commissioner Roper seconded the motion and it passed unanimously.

10) R052-15 Bureau of Mining Regulation and Reclamation – Reclamation: (Action Item) Mr. Bruce Holmgren, Water Pollution Bureau Chief, presented the regulation update to the Commission. He stated that NDEP is proposing to amend Chapter 519A of the NAC to include a section which defines mine impacted waters. NAC 519A.270 and NAC 519A.345 would be revised to require a reclamation plan that describes the measures which may be required to stabilize, manage, control or treat mine impacted waters from waste and development rock piles, open pit mines and underground mines. NAC 519.360 is amended to require the cost for stabilization, management, control and treatment of mine impacted waters to be included in the reclamation project bond. It also provides authority for NDEP to bond for long-term management cost.

Mr. Holmgren responded to questions from the Commission to clarify the amendment.

Motion: Commissioner Landreth moved to adopt regulation R052-15. Vice Chairman Porta seconded the motion and it passed unanimously.

11) R063-15 Bureau of Corrective Action – Spill Reporting Hotline: (Action Item) Ms. Rebecca Bodnar, Superfund Branch Supervisor for Corrective Actions, and Mr. Matt Donaldson presented the regulation changes to the Commission. Ms. Bodnar explained that currently NDEP maintains a Spill Hotline that people call. The regulatory change will allow for the online and faxed submission of spill reports in addition to the existing twenty-four hour call-in Spill Hotline. If it is a significant spill they will still need to phone the Hotline to report it.

Mr. Donaldson explained that the spill reporting hotline is a central dispatch for other programs, including dispatch to cities and counties.

Motion: Commissioner Perry moved to adopt regulation R027-15. Commissioner Landreth seconded the motion and it passed unanimously.

12) Administrator's Briefing to the Commission: (Discussion) Mr. Dave Emme, Administrator for NDEP, informed the Commission of staff changes, the first being that he was Dr. Colleen Cripps replacement. Mr. Emme stated he has been with the Division for twenty-six years and has been Administrator for four months. Deputy Administrator Dave Gaskin took a position at NDOT and was replaced by Jennifer Carr. Bruce Holmgren took a lateral to fill the vacant Bureau Chief position in Water Pollution Control. NDEP now has three positions that will be filled right away.

He stated, as an update on the new Bureau of Industrial Site Clean-up, that JD Dotchin was promoted as Bureau Chief.

Mr. Emme stated that the Commission had previously requested an update on the expired arsenic exemptions. He stated that Silver Knolls has its Certification of construction completion for its arsenic treatment plant. They are still slightly above the arsenic standard but are making modifications. He stated the other exemption is McDermitt. McDermitt has installed a new well. There has been some delay due to electrical components but progress is being made.

Mr. Emme addressed a question from the Commission regarding regulation updates from EPA. He explained that the Division scrutinizes all new proposals from EPA and participates in the public comment period, commenting when appropriate. He stated that NDEP is in litigation with EPA regarding an Air issue. He stated that NDEP also signed on to a law suit regarding Waters of the US with eleven other states that resulted in a stay for all twelve states which subsequently resulted in a national stay.

Mr. Emme then updated the Commission on other pending EPA Clean Air regulation changes as well as general business outreach programs that NDEP is working on.

13) Public Comment: (Discussion) Chairman Gans asked for public comments. Lory Price again came forward to address the Commission. Ms. Price thanked the Commission for hearing what was going on in Silver Springs. She expressed concern about why the county changed the zoning or allowed the building of the facility in a neighborhood. She stated it has been really horrible and that she hopes changes will be made. The residents spent 10 years fighting to get scrubbers on the wood preserving plant and she hopes it won't happen again.

Chairman Gans asked when the next SEC meeting will be held. Ms. King stated the next meeting is scheduled for February 10, 2016.

14) Adjournment: (Discussion) Meeting was adjourned at 11:58 am.

ATTACHMENTS

ATTACHMENT 1: Clean Dried Processing, Inc. Penalty Information

ATTACHMENT 2: Clean Dried Processing letter to Commissioners

ATTACHMENT 3: Florida Canyon Mining, Inc. Penalty Information

ATTACHMENT 4: Proposed Amendment to R020-15

ATTACHMENT 5: NV Energy letter to Commissioners

ATTACHMENT 6: Changes to LCB File R054-15

ATTACHMENT 7: Email from NV Energy to APC

ATTACHMENT 1

Clean Dried Processing, Inc. Penalty Information

TAB A: Penalty Presentation

Clean Dried Processing, Inc., Lyon County

NOAV's #2524, 2525, 2526, and 2529 with total proposed penalty of $14,075

Clean Dried Processing, Inc. (CDPI) operates a food drying natural gas-fired burner in Silver Springs, Lyon County, Nevada under the requirements of Class III Air Quality Operating Permit AP2047-3533 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (BAPC) on September 3, 2014.

On August 22, 2014, the BAPC conducted an inspection of the CDPI facility, at which time it was discovered that CDPI had installed a natural gas-fired burner on July 7, 2014 and the unit was being operated without acquiring a valid air quality operating permit. On September 3, 2014, the BAPC issued Class III Air Quality Operating Permit AP2047-3533; followed by a compliance inspection of the CDPI facility on October 29, 2014. During the inspection the BAPC discovered that CDPI had not posted the air quality operating permit conspicuously at or near the stationary source, and had not been monitoring and recording the hours of operation or the gas usage of System 01, Natural Gas-fired Burner (S2.001), both requirements of Class III Air Quality Operating Permit AP2047-3533.

On November 7, 2014, an enforcement conference was held with CDPI to review the findings, afford CDPI an opportunity to provide evidence of extenuating facts relative to the findings, and to determine whether the issuance of Notice of Alleged Violation Orders (NOAV) were or were not warranted. During the enforcement conference CDPI was unable to provide any evidence that violations did not occur and that NOAV's should not be issued. During the enforcement conference it was discussed that the violation related to the permit not being properly posted would be issued as a warning. On December 17, 2014, three (3) NAOV's were issued as follows:

- **NOAV #2524:** Failure to apply for and obtain an operating permit.
- **NOAV #2525 – Warning:** Failure to post conspicuously at or near a stationary source in accordance with any condition of an operating permit.
- **NOAV #2526:** Failure to comply with any requirement for recordkeeping and monitoring.

The BAPC reviewed the penalty matrix and provided the recommended penalty amounts of **$6,400** for NOAV#2524, **no penalty** for NOAV #2525, and **$4,800** for NOAV #2526 considering the base penalty and number of weeks that the violations occurred. These represent CDPI's first, second, and third violations in 60 months. No appeals were filed related to NOAV's #2524, 2525, and 2526.

On January 9, 2015, the BAPC received a complaint for the CDPI facility. Upon arriving at the facility the BAPC observed System 01, Natural Gas-fired Burner (S2.001) exceeding the 20% opacity established in Class III Air Quality Operating Permit AP2047-3533. A Method 9 visible emissions test conducted by BAPC determined the opacity from the stack to be an average of 31.25%, exceeding the permitted opacity limit by 56%.

On January 29, 2015 an enforcement conference was held with CDPI to review the findings, afford CDPI an opportunity to provide evidence of extenuating facts relative to the findings, and to determine whether the issuance of a NOAV was or was not warranted. During the enforcement conference CDPI explained that the burner temperature was being monitored on the inlet of the drum dryer, which was incorrect, causing the product to overheat and burn, resulting in the release of dark smoke. CDPI further explained that the burner temperature is now being monitored at the exit of the drum dryer and the problem should be resolved. CDPI was unable to provide

any additional evidence that violations did not occur and that the NOAV should not be issued. On February 13, 2015, one (1) NOAV was issued as follows:

- **NOAV #2529:** Failing to comply with an emission limitation.

Corrective actions stipulated by BAPC within NOAV#2529 included the requirements for CDPI to submit a complete Class II Air Quality Operating Permit Application, and to conduct a compliance source test for NOx, CO, and PM/PM_{10} complying with NAC 445B.252 by May 1, 2015. Class II Air Quality Operating Permit AP2047-3612 was issued by the BAPC on September 25, 2015. CDPI requested, and was granted an extension of the required testing on three (3) occasions in order to perform stack upgrades, and then due to lack of product volume sufficient to maintain production for the required duration of source testing. At this time a source test protocol has been received and reviewed by the BAPC with testing scheduled for September 29, 2015.

The BAPC reviewed the penalty matrix and provided the recommended penalty amount of **$2,875** for NOAV #2529 considering the base penalty, gravity adjustment for opacity exceedance, and the history of non-compliance. This represents CDPI's fourth violation in 60 months. No appeal was filed related to NOAV #2529.

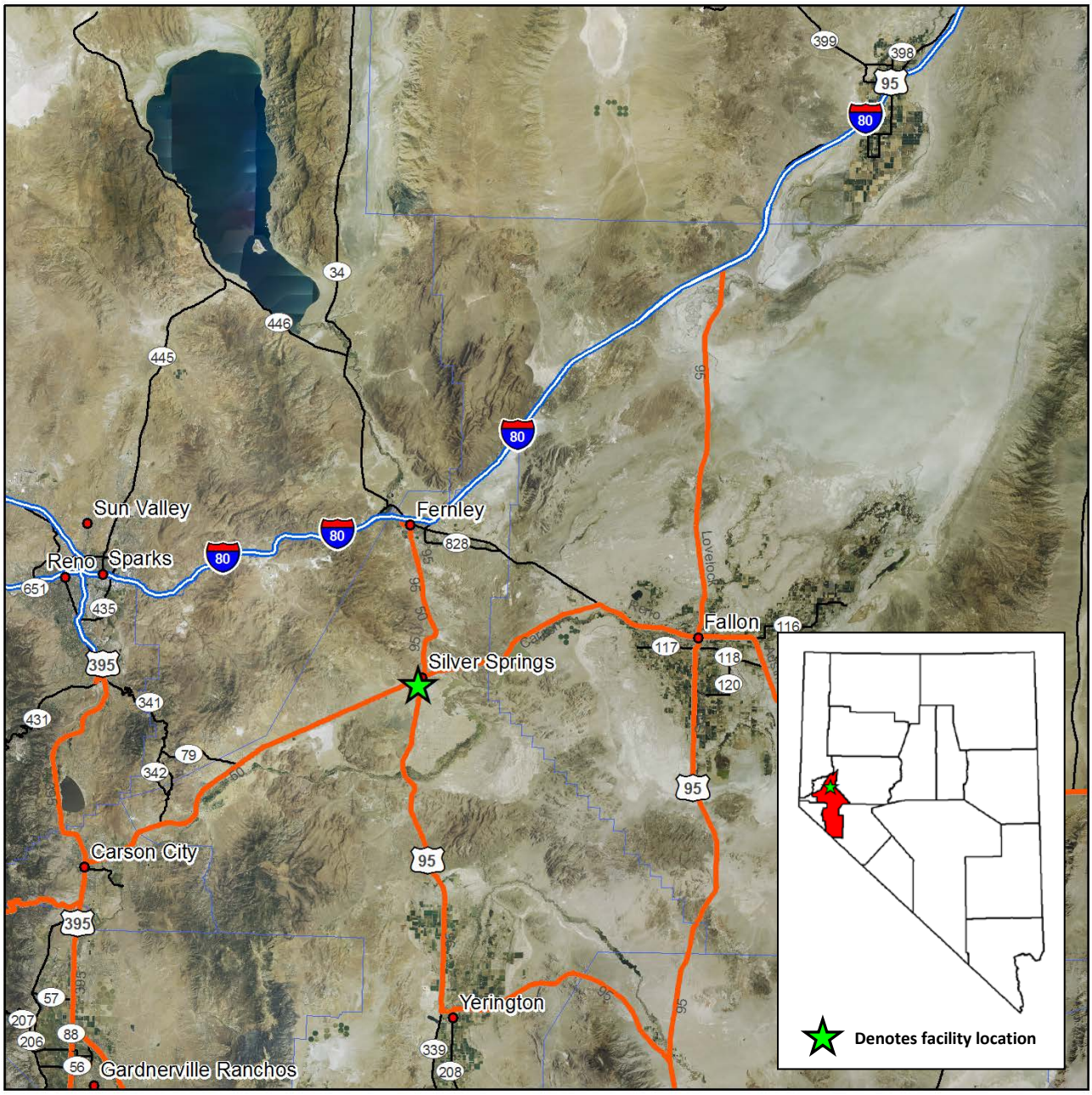
The BAPC total recommended penalty for all NOAV's is **$14,075.**

TAB A: Vicinity Map

Clean Dried Processing, Inc., Lyon County

Physical Address: 600 Lake Avenue, Silver Springs, NV 89429

Coordinates: North 4,364.10 KM, East 307.90 KM – UTM Zone 11



TAB A: Photo Documentation

Clean Dried Processing, Inc., Lyon County

Photo 1: Clean Dried Processing, Inc. facility.

Photo 2: Aerial view of Clean Dried Processing, Inc. facility.

Clean Dried Processing, Inc., Lyon County

Photo 3: System 01 Natural Gas-Fired Burner (S2.001) and Drum Dryer.

Photo 4: Photo taken during BAPC visible emission observation showing average opacity of 31.25%. Evidence of historical stack emissions shown by discoloration on roof of building.

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

For: **Clean Dried Processing, Inc., AP2047-3533 (FIN A1805)**
Violation: **Failure to apply for and obtain an operating permit**
NOAV: **2524**

I. Gravity Component

A. Base Penalty: $1,000 or as specified in the Penalty Table = $800.00

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see *Guidelines* on page 3.

Adjustment to Base Penalty =

B. For opacity, see *Guidelines* on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = _____

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Deviation Factors 1 x 2 x 3:

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) =

D. Multiple Emission Unit Violations or Recurring Events:

$800.00	X	8	=	**$6,400.00**
Dollar Amount		Number of **Weeks**		**Total Gravity Fine**

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

II. Economic Benefit

A.

	Delayed Costs	+	Avoided Costs	= **Economic Benefit**
Subtotal	$6,400.00	+	$0.00	= **$6,400.00**
	Total Gravity Fine		Economic Benefit	**Fine Subtotal**

III. Penalty Adjustment Factors

A. Mitigating Factors _____ %

B. History of Non-compliance

1. Similar Violations (NOAVs) in previous 5 years:
   Within previous year (12 months) = 3X (+300%)
   Within previous three years (36 months) = 2X (+200%)
   Occurring over three years before = 1.5X (+150%) _____ %

2. All Recent Violations (NOAVs) in previous 5 years:
   (+**5%**) X (Number of recent Violations) = X = _____ %

Total Penalty Adjustment Factors **- Sum of A & B:** _____ %

IV. Total Penalty

$6,400.00	X	0%	=	**$0.00**
Penalty Subtotal (from Part II)		Total Adjustment Factors		**Total Adjustment**
$6,400.00	+	$0.00	=	**$6,400.00**
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		**Total Penalty**

Assessed by: Robert Whited **Date**: 12/4/14

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

	1	1.5	2.5	4	6
	Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount
Opacity:	< 20% or NSPS limit (where NSPS opacity limit is < 20%)	≥ 20% or NSPS limit	≥ 30%	≥ 40%	≥ 50%

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, *r*

Source & pollutant info	Emissions/(Permit limit)	Adjustment to Base Penalty
Minor sources:	$r < 1.2$	(none)
(*all pollutants are minor*)	$\boldsymbol{r \geq 1.2}$	proportional to *r*
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
"Threshold" pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*

Hazardous Air Pollutant (HAP) – *see* Part I.B.2 Toxicity of Release (2X multiplier)

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

For: **Clean Dried Processing, Inc., AP2047-3533 (FIN A1805)**
Violation: **Failure to comply with any requirement for recordkeeping and monitoring**
NOAV: **2526**

I. Gravity Component

A. Base Penalty: $1,000 or as specified in the Penalty Table = $600.00

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see *Guidelines* on page 3.

Adjustment to Base Penalty =

B. For opacity, see *Guidelines* on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = _____

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Deviation Factors 1 x 2 x 3:

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) =

D. Multiple Emission Unit Violations or Recurring Events:

$600.00	X	8	=	**$4,800.00**
Dollar Amount		Number of **Weeks**		**Total Gravity Fine**

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

II. Economic Benefit

A.

	Delayed Costs	+	Avoided Costs	= **Economic Benefit**
Subtotal	$4,800.00	+	$0.00	= **$4,800.00**
	Total Gravity Fine		Economic Benefit	**Fine Subtotal**

III. Penalty Adjustment Factors

A. Mitigating Factors _____ %

B. History of Non-compliance

1. Similar Violations (NOAVs) in previous 5 years:
   Within previous year (12 months) = 3X (+300%)
   Within previous three years (36 months) = 2X (+200%)
   Occurring over three years before = 1.5X (+150%) _____ %

2. All Recent Violations (NOAVs) in previous 5 years:
   (+**5%**) X (Number of recent Violations) = X = _____ %

Total Penalty Adjustment Factors **- Sum of A & B:** _____ %

IV. Total Penalty

$4,800.00	X	0%	=	**$0.00**
Penalty Subtotal (from Part II)		Total Adjustment Factors		**Total Adjustment**
$4,800.00	+	$0.00	=	**$4,800.00**
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		**Total Penalty**

Assessed by: Robert Whited **Date**: 12/4/14

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

	1	1.5	2.5	4	6
	Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount
Opacity:	< 20% or NSPS limit (where NSPS opacity limit is < 20%)	≥ 20% or NSPS limit	≥ 30%	≥ 40%	≥ 50%

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, *r*

Source & pollutant info	Emissions/(Permit limit)	Adjustment to Base Penalty
Minor sources:	$r < 1.2$	(none)
(*all pollutants are minor*)	$\boldsymbol{r \geq 1.2}$	proportional to *r*
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
"Threshold" pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*

Hazardous Air Pollutant (HAP) – *see* Part I.B.2 Toxicity of Release (2X multiplier)

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

For: **Clean Dried Processing, Inc., AP2047-3533 (FIN A1805)**
Violation: **Failing to comply with an emission limitation**
NOAV: **2529**

I. Gravity Component

A. Base Penalty: $1,000 or as specified in the Penalty Table = $1,000.00

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see *Guidelines* on page 3.

Adjustment to Base Penalty =

B. For opacity, see *Guidelines* on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 2.5

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Deviation Factors 1 x 2 x 3: **2.5**

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) = $2,500.00

D. Multiple Emission Unit Violations or Recurring Events:

$2,500.00	X	1	=	**$2,500.00**
Dollar Amount		Number of **Weeks**		**Total Gravity Fine**

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

II. Economic Benefit

A.

	Delayed Costs	+	Avoided Costs	= **Economic Benefit**
Subtotal	$2,500.00	+	$0.00	= **$2,500.00**
	Total Gravity Fine		Economic Benefit	**Fine Subtotal**

III. Penalty Adjustment Factors

A. Mitigating Factors _____ %

B. History of Non-compliance

1. Similar Violations (NOAVs) in previous 5 years:
   Within previous year (12 months) = 3X (+300%)
   Within previous three years (36 months) = 2X (+200%)
   Occurring over three years before = 1.5X (+150%) _____ %

2. All Recent Violations (NOAVs) in previous 5 years:
   (+**5%**) X (Number of recent Violations) = 5% X 3 = 15 %

Total Penalty Adjustment Factors **- Sum of A & B:** **15** %

IV. Total Penalty

$2,500.00	X	15%	=	**$375.00**
Penalty Subtotal (from Part II)		Total Adjustment Factors		**Total Adjustment**
$2,500.00	+	$375.00	=	**$2,875.00**
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		**Total Penalty**

Assessed by: Robert Whited **Date**: 2/13/15

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

	1	1.5	2.5	4	6
	Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount
Opacity:	< 20% or NSPS limit (where NSPS opacity limit is < 20%)	≥ 20% or NSPS limit	≥ 30%	≥ 40%	≥ 50%

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, *r*

Source & pollutant info	Emissions/(Permit limit)	Adjustment to Base Penalty
Minor sources:	$r < 1.2$	(none)
(*all pollutants are minor*)	$\boldsymbol{r \geq 1.2}$	proportional to *r*
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
"Threshold" pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*

Hazardous Air Pollutant (HAP) – *see* Part I.B.2 Toxicity of Release (2X multiplier)

ATTACHMENT 2:

Clean Dried Processing, Inc. Letter to Commissioners

Clean Dried Processing, Inc.

September 25, 2015

State of Nevada Environmental Commission
ATTN: Executive Director Valerie King
901 South Stewart Street, Suite 4001
Carson City, NV 89701

Dear Mrs. King,

Thank you for your August 31, 2015 letter notifying me of a penalty hearing for Clean Dried Processing on October 14. Unfortunately, I will be in China the week of October 12 conducting quality audits on suppliers for our main company, LaBudde Group. These plans and arrangements have had to be detailed through the Chinese Consulate so cannot reasonably be changed. However, I would like to make a few remarks if I may.

Order Number 2524 --- Operating without a Permit

First of all, let me assure the Commission that this was not a willful violation. Lyon County had put together a roundtable meeting which I attended on Wednesday, January 15, 2014. As we were new to the area, several county officials were present to give us advice on what we needed to do to get 'up and running'. At this meeting we were told to contact the state health department to check on needed permits. After getting bounced around a bit, we did get a response at 11:53 AM Tuesday, January 21, 2014 from Timothy John Hogenson of the Nevada Division of Public Health, Rural and Community Services stating that no permits were needed as we were dehydrating vegetables. We would need the NDEP to sign off on our business license application, which you did without comment. **Why no comment if the NDEP knew more was required?** Should CDP have some blame here? Absolutely, but *what is the appropriate penalty for moving into a new state and doing what those at the county level and the state level told us to do?* We have provided records that show our burner operated for one hour on August 20, when Southwest Gas first turned on our service, six hours on Thursday, August 21 and then four hours on Friday, August 22, at which time we received your notice and immediately shut down. As I recall, the fine was $800 per day for each of the three days we operated plus an additional $800 per day until we were able to file an application on August 28. **I would like to suggest that a more appropriate fine might be $800 X the three days we operated without a permit, or $2,400**. As an aside, I would like to say that we had over 700 tons of potatoes with a value of approximately $80,000 that turned to a stinking mush while we waited out the approval process, so we have been severely punished financially already on this. We not only had disposal costs but also had irate neighbors as the stink got worse every day. One question will always remain in the back of my mind. We were installing equipment for several weeks, indeed months, prior to starting up. We are in an extremely visible location and we have been told by

600 Lake Avenue, Silver Springs, NV 89429 • Phone: (775) 830-4330 • Fax: (775) 577-3001

NDEP personnel that they drive by on Highway 50 several times per week. My concern here is that we had our first visit from an NDEP agent after we had operated for 3-4 hours. **Is the NDEP strictly an enforcement agency and not one that is there to help new businesses?** If we were being watched to the point that someone was there within hours, why could someone have not stopped in the weeks prior to this and made sure we were familiar with all of the requirements? If we had known we were not in compliance we would have immediately gone to work to get in compliance. If we had never asked it would be one thing. But we asked who we were told to ask and were told no further permits were needed. We want to be a great neighbor, an excellent business and a good employer in the State of Nevada. I would like to suggest that the NDEP strongly consider being a better facilitator of understanding for new businesses.

Order #2526 --- Inadequate Reporting

Guilty as charged. I fully admit that when we received our Class III Air Quality Operating Permit I was so happy we could start processing potatoes again instead of just throwing them away that I just glanced at it and made the erroneous conclusion that it was all just 'boiler plate' stuff. I now realize that something in the fine print in the middle of the eighth page could lead to a substantial fine. **Might there be a way that the NDEP could be more helpful to businesses, particularly new businesses that have not previously operated in your State?** I am sure it is not the NDEP's obligation, but how helpful it would be to businesses if someone from there would take just ten minutes and go through the specificity of your requirements. Maybe even show up a week after the Permit is issued to make sure everything is being done properly. It would be nice to think that the NDEP's main concern is compliance and not levying fines, but it is hard for me to see that in this case. As a side note, we operate two burners in Michigan and they have no monitoring and reporting requirements. We were not trying to break the law; we just didn't know what the Nevada requirements were and were operating off of other experiences but I should have taken the time to read each word thoroughly. No excuses but it would be helpful to other new businesses in the future if the NDEP was more communicative. Based on my concern that the NDEP should have a better procedure for helping new businesses understand their requirements, I would like to request to the Nevada Environmental Commission that the penalty for this Order be **reduced by half** to show that both CDP and the NDEP should have been more responsible in this case.

Order #2529 --- Opacity Violation

This Violation Notice was actually a God-send to us. We had been arguing with the Sparks, NV company that installed the computer controls on our drying system, telling them it must have been done wrong. They insisted they had done it properly, even though we were getting regular fires in the drum and smoky conditions. By using this Violation Notice to convince them that something had to be done, we were finally able to get them to return to look at their work. It took them about five minutes to determine they had set the controls backwards. Setting them properly not only has saved us a lot of fuel but also has eliminated the fires. Without our being able to use this Notice as our backup, they still would be insisting that what they originally did was correct. For this one, I would like to thank the NDEP!

To summarize;

1. Clean Dried Processing never willfully violated the law
2. We would like to see the fine on Order #2524 for the lack of an Operating Permit reduced to just the eleven hours over three days we actually operated before finding out we needed a permit
3. We strongly feel the NDEP should have been more helpful in our understanding of the Permit requirements. We acknowledge some responsibility as well so would like the fine for Order #2526 reduced by half
4. We would like to see the NDEP become a better 'facilitator of understanding' to businesses in the future. Their personnel have spent much of their lives studying how to be professional experts in their field. I would not expect them to know the feed laws in any particular state, as I do. I think it is asking a bit too much for someone to expect any new business to Nevada to immediately be on the same level of expertise as one who has studied and trained in that field

I appreciate this opportunity to express my concerns to the Nevada Environmental Commission. As has been said, "The only real mistake is the one from which we learn nothing". We have learned a lot and look forward to continuing as a great business, a great employer and a strong environmental neighbor in the State of Nevada.

Very truly yours,

Richard T. Erickson

Richard T. Erickson
President

ATTACHMENT 3:

Florida Canyon Mining, Inc. Penalty Information

TAB B: Penalty Presentation

Florida Canyon Mining, Inc., Pershing County

NOAV #2554 with proposed penalty of $2,585

Florida Canyon Mining, Inc. (Florida Canyon) operates a gold mining and processing facility in Imlay, Pershing County, Nevada under the requirements of Class II Air Quality Operating Permit AP1041-0106.03 issued by the Nevada Environmental Protection, Bureau of Air Pollution Control (BAPC) on November 16, 2009.

On March 3, 2015, the BAPC received an Annual Emission Report (AER) from Florida Canyon for the 2014 calendar year. Upon the BAPC's review of the AER on April 23, 2015, it was noted that information had not been provided on four (4) systems identified as System 09 – Dore Furnace, System 10 – Carbon Kiln, System 11 – Mercury Retorts, and System 12 – Steam Boiler. Air Quality Operating Permit AP1041-0106.03 requires that production and emissions information for all systems be submitted to the BAPC by March 1st for each calendar year.

On May 11, 2015, an enforcement conference was held with Florida Canyon to review the findings, afford Florida Canyon an opportunity to provide evidence of extenuating facts relative to the findings, and to determine whether the issuance of a Notice of Alleged Violation Order (NOAV) was or was not warranted. During the enforcement conference Florida Canyon explained that several recent personnel changes had led to the incomplete reporting. The BAPC is aware that this may have been a contributing factor, however all submitted documentation was signed by the facility's Responsible Official (RO), and therefore is subject to management review. Also taken into consideration was the absence of emissions for the same systems on the previous 2013 calendar year AER submittal, and the need for the BAPC to expend substantial time and resources pursuing the missing information. On June 12, 2015, one (1) NAOV was issued as follows:

- **NOAV #2554:** Failure to report annual emissions information for four (4) systems on the AER.

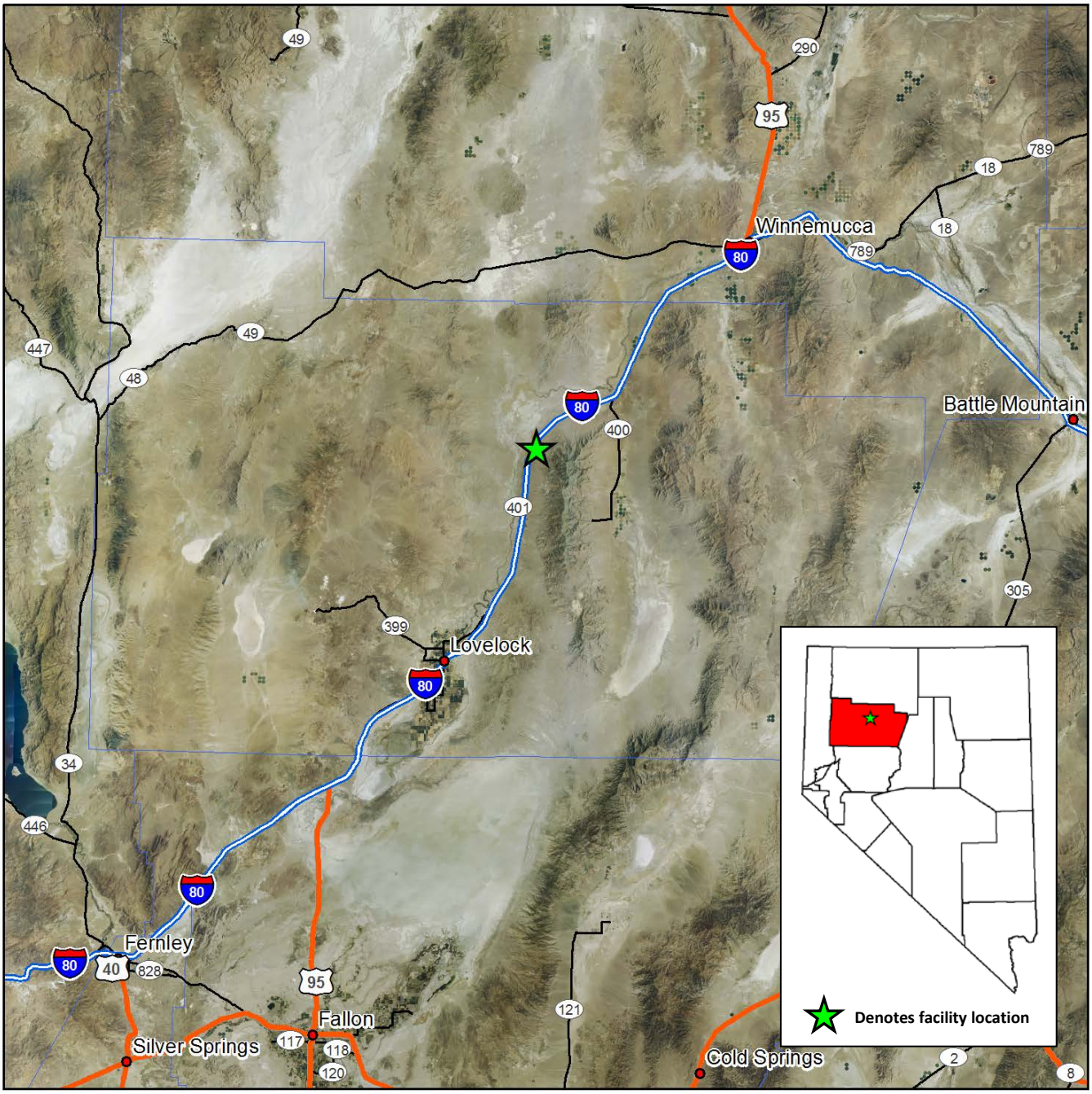
The BAPC reviewed the penalty matrix and provided the recommended penalty amount of **$2,585** for NOAV #2554 considering the base penalty, and history of non-compliance. This represents Florida Canyon's third violation in 60 months. No appeal was filed related to NOAV #2554.

TAB B: Vicinity Map

Florida Canyon Mining, Inc., Pershing County

Physical Address: 600 South Humboldt Road, Imlay, NV 89418

Coordinates: North 4,493.10 KM, East 393.74 KM – UTM Zone 11



Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

For: **Florida Canyon Mining, Inc., AP1041-0106.03 (FIN A0386)**

Violation: **Failure to report annual emissions information for four systems on the Annual Emissions Report (AER)**

NOAV: **2554**

I. Gravity Component

A. Base Penalty: $1,000 or as specified in the Penalty Table = $600.00
+ $1,750.00 (for 3 Minor Violations)

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see *Guidelines* on page 3.

Adjustment to Base Penalty =

B. For opacity, see *Guidelines* on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = _____

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Deviation Factors 1 x 2 x 3:

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) =

D. Multiple Emission Unit Violations or Recurring Events:

$2,350.00	X	1	=	**$2,350.00**
Dollar Amount		Number of **Weeks**		**Total Gravity Fine**

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

II. Economic Benefit

A.

	Delayed Costs	+	Avoided Costs	= **Economic Benefit**
Subtotal	$2,350.00	+	$0.00	= **$2,350.00**
	Total Gravity Fine		Economic Benefit	**Fine Subtotal**

III. Penalty Adjustment Factors

A. Mitigating Factors _____ %

B. History of Non-compliance

1. Similar Violations (NOAVs) in previous 5 years:
   Within previous year (12 months) = 3X (+300%)
   Within previous three years (36 months) = 2X (+200%)
   Occurring over three years before = 1.5X (+150%) _____ %

2. All Recent Violations (NOAVs) in previous 5 years:
   (+**5%**) X (Number of recent Violations) = 5% X 2 = 10 %

Total Penalty Adjustment Factors **- Sum of A & B:** **10** %

IV. Total Penalty

$2,350.00	X	10%	=	**$235.00**
Penalty Subtotal (from Part II)		Total Adjustment Factors		**Total Adjustment**
$2,350.00	+	$235.00	=	**$2,585.00**
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		**Total Penalty**

Assessed by: Ryan Fahey **Date**: 6/10/15

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

	1	1.5	2.5	4	6
	Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount
Opacity:	< 20% or NSPS limit (where NSPS opacity limit is < 20%)	≥ 20% or NSPS limit	≥ 30%	≥ 40%	≥ 50%

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, *r*

Source & pollutant info	Emissions/(Permit limit)	Adjustment to Base Penalty
Minor sources:	$r < 1.2$	(none)
(*all pollutants are minor*)	$\boldsymbol{r \geq 1.2}$	proportional to *r*
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
"Threshold" pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to *r*

Hazardous Air Pollutant (HAP) – *see* Part I.B.2 Toxicity of Release (2X multiplier)

ATTACHMENT 4:

Proposed Amendment to R020-15

Proposed Amendment to LCB File No. R020-15

September 25, 2015

EXPLANATION – Matter in **bold double underline** is a proposed Agency Amendment subsequent to LCB review; matter in double strikethrough brackets ~~[omitted material]~~ is material to be omitted.

Sec. 6. NAC 278.260 is hereby amended to read as follows:

NAC 278.260 A developer shall submit all the following items of information to the Division or local agency for its review of a tentative map:

1. A map showing the topographic features of the subdivision, including contours at intervals of 2 feet for slopes of 10 percent or less and intervals of 5 feet for slopes of over 10 percent.

2. Two copies of the map showing the tentative design of the subdivision, including the arrangement of lots, the alignment of roads and easements.

3. If a system for subsurface disposal of sewage will be used in the subdivision, a report on the soil, including the types of soil, a table showing seasonal high water levels and the rate of percolation at the depth of any proposed system for absorption by soil.

4. A statement of the type of water system to be used and the water source, for example, private wells or a public water system.

5. Unless water for the subdivision is to be supplied from an existing public water system, a report of the analyses of four ~~[1-gallon]~~ samples taken in or adjacent to the subdivision from different wells. The analyses must show that the water meets the standards prescribed in NAC 445A.450 to 445A.492, inclusive**, using the volume of water necessary and sample containers that are appropriate for such analyses**.

6. A map of the 100-year floodplain for the applicable area. The map must have been prepared by recognized methods or by an appropriate governmental agency for those areas subject to flooding.

7. A description of the subdivision in terms of 40-acre parts of a designated section, township and range, or any other description which provides a positive identification of the location of the subdivision.

8. A map of the vicinity of the subdivision, showing the location of the proposed subdivision relative to the nearest city or major highway.

9. The names and addresses of the owners and developers of the subdivision.

10. A master plan showing the future development and intended use of all land under the ownership or control of the developer in the vicinity of the proposed subdivision.

ATTACHMENT 5:

NV Energy Letter to Commissioners

NVEnergy

RECEIVED
OCT 13 2015
ENVIRONMENTAL PROTECTION

October 9, 2015

Ms. Valerie King
Executive Secretary
Nevada State Environmental Commission
901 So. Stewart Street, Suite 4001
Carson City, NV 89701

Dear Mrs. King:

Re: Comment Submittal for the October 14, 2015 Agenda: Regulatory Petition – BAQP, Voluntary Emission Reduction Credits Program

On behalf of NV Energy, I am submitting the following comments associated with the Bureau of Air Quality Planning's proposed Voluntary Emission Reduction Credits Program which is scheduled for hearing on October 14, 2015. Regrettably, I will be unable to attend the meeting in person and therefore ask that these comments be added to the record in my absence.

The first comment relates to language found in Section 14 Subsection 2 which reads:

2. Only emission reduction credits of the same pollutant may be used to offset emissions from a new major stationary source or a major modification.

There are specific exceptions maintained in some other air agency programs to address offsets aimed at ozone non-attainment as well as other emissions, i.e. inter-pollutant trading. Since ozone formation is dependent on the presence of both oxides of nitrogen (NOx) and volatile organic compounds (VOCs), other similar programs allow for an exchange between these two pollutants. Therefore, we would propose that the Nevada Program allow for emission reduction credit transfers between NOx and VOC offsets held in the registry. As well, following the example of other state and federally approved programs, we would propose that PM2.5 credits may be exchanged for PM10 and NOx or SO2 credits may also be used to offset particulate emissions at an appropriate offset ratio.

The second comment relates to language found in Section 17 Subsection 3 which reads:

3. If the Director issues an emission reduction credit, the Director shall record the issuance in the registry. The Director shall discount each emission reduction credit, including any emission reduction credit approved before the effective date of this regulation, by 10 percent before recording the emission reduction credit in the registry.

NV Energy holds some emission reduction credits previously granted, from retirements of the Mohave Generating Station, NOx reduction at Reid Gardner as well as a few other activities. At the time those emission reduction credits were granted, there were no surrender or discount

provisions in place and we have relied on the full value of our current ERC account in our future resource planning process. Having a retroactive discount applied to our existing credits now, through this new petition, was unanticipated. We would propose that the requirement to discount emission reduction credits only apply to those new credits which may be issued after this program modification is approved.

We appreciate all consideration given to these comments, and thank you for this opportunity.

Sincerely,

Starla Lacy
Vice President, Environmental, Safety and Land Resources
NV Energy

ATTACHMENT 6:

Changes to LCB File R054-15

SEC Agenda Item 9

State Environmental Commission
October 14, 2014

Air Quality Regulations

Exhibit 1
Changes to LCB File No. R054-15, September 9, 2015

EXPLANATION – Matter in *green underline* is the agency's proposed revision; matter in brackets [omitted material] is material to be omitted.

Sec. 14. ***1. An emission reduction credit shall not provide or allow:***

(a) Authority for or the recognition of a preexisting vested right to emit any regulated air pollutant;

(b) For an exemption from reasonably available control technology, best available control technology and lowest achievable emission rate requirements or any other air pollution control requirement pursuant to NAC 445B.001 to 445B.3689, inclusive, and sections 2 to 23, inclusive, of this regulation, or under any federal, state or local law, rule or regulation;

(c) For dual accounting of emission reductions that have already been included in the emission reduction credit as part of the baseline emissions in the applicable state implementation plan;

(d) For emission reductions already required by law; or

(e) Authority for or the recognition of any right that would be contrary to applicable law.

2. ~~[Only]~~Except as provided in Appendix S to Part 51 of 40 C.F.R., only emission reduction credits of the same pollutant may be used to offset emissions from a new major stationary source or a major modification.

ATTACHMENT 7:

Email From NV Energy

Adele Malone

From: Lacy, Starla <SLacy@nvenergy.com>
Sent: Monday, October 12, 2015 7:19 PM
To: Adele Malone; Jeffrey Kinder
Subject: ERC Proposal-SEC Hearing on Oct 15

Dear Adele and Jeff
Thank you very much for your consideration of my comments on the new ERC banking program. I appreciate the changes you will make to allow for inter-pollutant trading and understand the position on grandfathered ERCs and need to demonstrate continued progress toward attainment.
Can you please convey my support of your program design to the State Environmental Commission on the 15th? My apologies for being unable to attend in person.
Thank you again for your consideration.
Regards
Starla
Sent from my iPhone so please excuse any typos!

****
NOTICE: The information contained in this electronic transmission is intended only for the use of the individual or entity named above. ANY DISTRIBUTION OR COPYING OF THIS MESSAGE IS PROHIBITED, except by the intended recipient(s). Attempts to intercept this message are in violation of 18 U.S.C. 2511(1) of the Electronic Communications Privacy Act, which subjects the interceptor to fines, imprisonment and/or civil damages. If you are not the intended recipient(s), please delete it and notify me.
****