

BEFORE THE NEVADA STATE ENVIRONMENTAL COMMISSION

In re: Premier Magnesia, LLC)
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**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND DECISION**

This matter came on for hearing before a quorum of the State Environmental Commission (the “Commission”) on February 9, 2020, pursuant to NRS 445B.640 and NAC 445B.281(1), for levy of administrative fines, based upon Final Notice of Alleged Violation (“NOAV”) No. 2886, issued by the Division of Environmental Protection (the “Division”) against Premier Magnesia, LLC (“Premier Magnesia”).

FINDINGS OF FACT

On December 20, 2021, the Division issued NOAV No. 2886 to Premier Magnesia. A copy of NOAV No. 2886 is hereby incorporated by reference and attached as **Exhibit 1**. Along with NOAV No. 2886, the Division sent a letter informing Premier Magnesia of its appeal rights under NRS 445B.340. *Id.* Premier Magnesia did not appeal NOAV No. 2886.

NOAV 2886 constitutes a major violation and is therefore subject to a fine of up to \$10,000 per day. *See* NRS 445B.470(2) and NAC 445B.281(1). For NOAV 2886, the Division recommended fines utilizing the previously approved penalty matrix in the amount of \$5,000.

Therefore, based upon the arguments of the parties, the evidence, and documents on file in this matter, the Commission makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. The Division properly issued final NOAV 2886 against Premier Magnesia.
2. NOAV 2886 was not appealed by Premier Magnesia within ten (10) days of their issuance or receipt, becoming final thereafter.

CONCLUSIONS OF LAW

1. Premier Magnesia violated NAC 445B.275(1)(c) during the periods and in the manners described in NOAV 2886.

- 1 2. Pursuant to NRS 445B.640, “any person who violates any provision of NRS 445B.100 to
2 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant
3 thereto . . . is guilty of a civil offense and shall pay an administrative fine levied by the
4 Commission of not more than \$10,000 per day per offense.” Premier Magnesia’s violation, as
5 described in NOAV 2886, therefore warrants imposition of an administrative fine.
- 6 3. Pursuant to NAC 445B.281(1), “Except as otherwise provided[,]any violation of the provisions
7 of [NAC 445B.001 to 445B.390, inclusive,] is classified as a major violation, and a fine of up to
8 \$10,000 per day per violation may be levied.”
- 9 4. The administrative fine proposed by NDEP for NOAV 2886 in the amount of \$5,000 is
10 consistent with the Commission’s penalty matrix, within the scope of potential fines authorized
11 by NRS 445B.640, and warranted under the facts presented in NOAV 2886. Therefore, the
12 administrative fine is approved by the Commission.

13 THEREFORE, based on the foregoing and a preponderance of the evidence:

- 14 1. Premier Magnesia violated NAC 445B.275(1)(c) as described in NOAV 2886 and is fined in the
15 amount of \$5,000, payable to the State of Nevada.

16 Pursuant to NAC 445B.283, payment “must be submitted within 10 days of service of the notice
17 upon the violator. Cashier’s checks, certified checks, money orders, or personal checks must be made
18 payable to the State of Nevada and must be sent to the State Environmental Commission, 901 South
19 Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.”

20 Pursuant to NRS 445B.640, “Any person who fails to pay a fine levied . . . within 30 days after
21 the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to
22 persons found by the court to be indigent.”

23 DATED this _____ day of _____, 2022.

24
25 STATE ENVIRONMENTAL COMMISSION

26
27 _____
TOM PORTA, CHAIR

CERTIFICATE OF MAILING

I hereby certify that on the ____ day of _____ 2022, I deposited for mailing at Carson City, Nevada, a true copy of the attached document, sent via Certified U.S. Mail to:

Sheryl Fontaine
Executive Secretary
State Environmental Commission

cc: Jessica Higday, State Environmental Commission Recording Secretary
Asheesh Bhalla, State Environmental Commission Counsel, Deputy Attorney General
State Environmental Commission File