

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 or (702) 455-0354.