



togetherforbetter

Clark County Air Pollution Control Hearing Board

Clark County Building Department

Presentation Room

4701 West Russell Road

Las Vegas, NV 89118

August 6, 2025 – 1:30 PM

Agenda

Note:

- Items on the agenda may be taken out of order.
- The Air Pollution Control Hearing Board may combine two (2) or more agenda items for consideration.
- The Air Pollution Control Hearing Board may remove an item from the agenda or delay discussion relating to an item at any time.
- No action may be taken on any matter not listed on the posted agenda.
- Please turn off or mute all cell phones and other electronic devices.
- Please take all private conversations outside the room.
- With a forty-eight (48) hour advance request, a sign language interpreter or other reasonable efforts to assist and accommodate persons with physical disabilities, may be made available by calling (702) 455-0354, TDD at (702) 385-7486, or Relay Nevada toll-free at (800) 326-6868, TD/TDD
- Supporting material provided to the Board members for this meeting may be requested from Sherrie Rogge, Administrative Secretary, agenforcement@clarkcountynv.gov or (702) 455-0354.
- Supporting material is also available at the Clark County Department of Environment & Sustainability, 4701 West Russell Road, 2nd Floor, Las Vegas NV 89118.
- Supporting material is/will be available on the Department's website at: https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/enforcement-notice

Hearing Board Members

Daniel Sanders, Chair
Ryan L. Dennett, Esq., Vice-Chair
Daniel Bartlett
Donald Bordelove
Troy Hildreth
Amy Lahav

Hearing Board Counsel

Nichole Kazimirovicz

Air Quality Staff

Marci Henson, Director
Shibi Paul, Deputy Director
Anna Sutowska, Air Quality Supervisor

Department Counsel

Timothy J. Allen

Administrative Secretary

Sherrie Rogge, Phone: 702-455-0354; Email agenforcement@clarkcountynv.gov
Business Address: Clark County Department of Environment & Sustainability,
4701 W. Russell Road, 2nd Floor, Las Vegas NV 89118

1. **CALL TO ORDER**

2. **PUBLIC COMMENT**

This is a period devoted to comments by the general public about items on this agenda. No discussion, action, or votes may be taken on this agenda item. You will be afforded the opportunity to speak on individual Public Hearing Items at the time they are presented. If you wish to speak to the Board about items within its jurisdiction but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Comments will be limited to three (3) minutes. Please step up to the speaker's podium, if applicable, clearly state your name and address and please **spell** your last name for the record. If any member of the Board wishes to extend the length of a presentation, this will be done by the Chairperson or the Board by majority vote.

3. **APPROVAL OF MINUTES**

Approval of April 8, 2025 meeting minutes.
(For possible action)

4. **ACCEPT HEARING BOARD ORDERS**

Review competing hearing board orders from hearings conducted on April 8, 2025, in the matter of Notices of Violation: #9994 issued to ETON Transportation Corp.; and #10078 issued to ETON Transportation Corp., Environmental Transportation of Nevada, LLC dba ETON, and Moe Truman, and decide which proposed orders, or parts thereof, to accept.
(For possible action)

5. **REPORT BY DIVISION OF ENVIRONMENT & SUSTAINABILITY STAFF**

General update.

6. **IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT A FUTURE MEETING**

7. **PUBLIC COMMENT**

A period devoted to comments by the general public about matters relevant to the Board's jurisdiction will be held. No vote may be taken on a matter not listed on the posted agenda. Comments will be limited to three (3) minutes. Please step up to the speaker's podium, if applicable, clearly state your name and address and please **spell** your last name for the record. If any member of the Board wishes to extend the length of a presentation, this will be done by the Chairperson or the Board by majority vote.

8. **ADJOURNMENT**

The Presentation Room is accessible to individuals with disabilities. Within forty-eight (48) hour advanced request, a sign language interpreter may be made available by contacting (702) 455-0354 or TDD (702) 385-7486 or Nevada Relay toll-free (800) 326-6868, TT/TDD. Assistive listening devices are available upon request.

This meeting has been properly noticed and posted online at: https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/hearings-notice and Nevada Public Notice at <https://notice.nv.gov/> and in the following location:

Clark County Operations Center, West, 4701 W. Russell Road, Las Vegas, Nevada (Principal Office)



Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

April 8, 2025

**Clark County Building Services
Presentation Room
4701 West Russell Road
Las Vegas, NV**

1. CALL TO ORDER

Chair Sanders called the meeting of the Air Pollution Control Hearing Board to order at the hour of 10:02 a.m. A quorum was present, and Affidavits of Posting of the agenda were provided as required by the Nevada Open Meeting Law. The Affidavits will be incorporated into the official record.

PRESENT: Daniel Sanders, Chair
Ryan L. Dennett, Vice-Chair*
Daniel Bartlett
Donald Bordelove
Amy Lahav

ABSENT: Troy Hildreth
*Ryan L. Dennett, Vice Chair – left the meeting at 10:07 a.m.

**HEARING BOARD
COUNSEL:** Nichole Kazimirovicz, Deputy District Attorney

DAQ STAFF: Marci Henson, Director
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

**DEPARTMENT
COUNSEL:** Timothy J. Allen, Deputy District Attorney

2. PUBLIC COMMENT

Chair Sanders asked if there were any persons present in the audience wishing to be heard. There being no one, Chair Sanders closed the public comments.

3. APPROVAL OF MINUTES OF THE JANUARY 28, 2025, MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the January 28, 2025 minutes. Being none, he called for a motion.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, that the subject minutes be approved.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Daniel Bartlett, Donald Bordelove, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Troy Hildreth

4. ACCEPT HEARING BOARD ORDERS

Review competing hearing board orders from the hearings conducted on January 28, 2025, in the matter of Notices of Violation: #9907 issued to Assured Development, Inc. and Joseph Yakubik; #9946, #9979, and #10008 issued to Atlas Holdings International LLC and Joseph Yakubik, and decide which proposed orders, or parts thereof, to accept.

Mr. Joseph Yakubik, representative for appellants, was not in attendance when this item was called, and had not submitted competing hearing board orders for the Board to review.

Vice-Chair Dennett stated that per Board's Counsel, Yakubik is in disagreement with the proposed orders submitted by Catherine Jorgenson, former Deputy District Attorney, and that Yakubik had indicated he would be submitting competing orders or appear at today's hearing.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav to approve the Hearing Board Orders from the January 28, 2025, meeting in the matter of Notices of Violation: #9907 issued to Assured Development, Inc., and Joseph Yakubik; #9946, #9979, and #10008 issued to Atlas Holdings International LLC and Joseph Yakubik.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Daniel Bartlett, Donald Bordelove, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Troy Hildreth

5. APPEAL OF HEARING OFFICER DECISION

Vice-Chair Dennett recused himself from NOV #9994 and NOV #10078 due to a potential conflict of interest.

Mr. Dennett left the meeting at 10:07 a.m.

A. **ETON TRANSPORTATION CORP. (DCOP #57148)**

NOV #9994 – On November 5, 2024, the Hearing Officer found ETON Transportation Corp. in violation of Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Air Quality Specialist Canduella Rowsell, Senior Air Quality Specialists Katrinka Byers and Andrew Kirk, and Air Quality Supervisor David Dean during a routine inspection on January 8, 2024, and follow-up inspections on January 9 and 17, 2024 at the Stratford-1 construction project, located at 2596 Stratford Avenue, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$3,500.00. Respondent appealed.

Conduct Hearing and Render Decision
(For possible action)

B. **ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC D/B/A ETON, AND MOE TRUMAN, INDIVIDUALLY (DCOP #57148)**

NOV #10078 – On November 5, 2024, the Hearing Officer found ETON Transportation Corp., Environmental Transportation of Nevada, LLC d/b/a ETON, and Moe Truman, individually, in violation of Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, and Section 4.1(d)(1) for refusing entry or access to the Control Officer who requests entry for purposes of inspection, as identified by Air Quality Specialists Canduella Rowsell and Noel Crandall, and Senior Air Quality Specialist Andrew Kirk during a routine inspection on July 17, 2024, and follow-up inspections on July 25 and 31, 2024, and August 7 and 14, 2024, at the Stratford-1 construction project, located at 2596 Stratford Avenue, in Clark County Nevada. The Hearing Officer assessed a penalty amount of \$17,250.00. Respondents appealed.

Conduct Hearing and Render Decision
(For possible action)

Russell G. Gubler, State Bar No. 10889, 8831 West Sahara Avenue, Las Vegas NV 89117, Attorney for the Respondent, Mitchell “Moe” Truman, ETON Transportation Corp., Environmental Transportation of Nevada, LLC d/b/a ETON.

Timothy Allen, Deputy District Attorney, State Bar No. 14818, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Department of Environment and Sustainability, Division of Air Quality (Air Quality).

Mr. Allen stated that he and Mr. Gubler had discussed briefly before the hearing as to whether or not it would be amendable to the Board to submit the transcripts from the prior Hearing Officer meetings and not have to present all of the prior evidence de novo, and then have some new testimony presented that’s different from those transcriptions.

Based upon the Board's agreement to accept the transcriptions, Mr. Allen requested the transcripts of the October 29, 2024, and November 5, 2024, Hearing Officer Meetings – Exhibits 30 and 31 of Respondents' Pre-Hearing Brief dated March 28, 2025 (bates number 242 through 418) be admitted into the record.

Mr. Gubler requested that the Clark County employees in the room that previously testified be sequestered during the hearing.

Mr. Allen requested that Air Quality Supervisor Anna Sutowska be allowed to stay in the room for these hearings as she represents the Division of Air Quality at these meetings and provides testimony in regard to the final penalties of a Notice of Violation. There was no objection to this request.

Chair Sanders asked that David Dean, Katrinka Byers, Andrew Kirk, Canduella Rowsell, and Noel Crandall leave the room until called for testimony.

Mr. Gubler presented his client's case.

Mr. Gubler called Mr. Truman to testify.

Chair Sanders swore the following person in for questioning by Mr. Gubler and Mr. Allen:

Mitchell Wade Truman, ETON Transportation Corp., 2596 Stratford Ave., Las Vegas

Mr. Gubler and Mr. Allen questioned Mr. Truman.

Mr. Gubler requested the following documents be entered as exhibits: Exhibit 32-photos of the Formula 1 Tropicana Yard taken on 4/7/2025; Exhibit 33-Bills of Lading for Expedite Las Vegas Corp and Omaha Track from 3/18/2024, 2/27/2025, 3/14/2025, and 3/18/2025; and Exhibit 34-photos of the ETON property taken on 3/27/2025.

Mr. Allen presented Air Quality's case for NOV #9994 and called Ms. Sutowska to testify.

Chair Sanders swore the following person in for questioning:

Anna Sutowska, Air Quality Supervisor, Enforcement Section

Mr. Allen questioned Ms. Sutowska. Mr. Gubler didn't have any questions for the witness.

General discussion ensued amongst the Board.

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Lahav, to deny the appeal and affirm the Hearing Officer Order in the matter of NOV #9994 as it relates to the findings of violation.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Daniel Bartlett, Donald Bordelove, Amy Lahav

Voting Nay: None
Abstaining: None
Absent: Ryan Dennett, Troy Hildreth

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Lahav to affirm the Hearing Officer Order in the matter of NOV #9994 for the assessment of an administrative penalty in the amount of \$3,500.00.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Daniel Bartlett, Donald Bordelove, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Ryan Dennett, Troy Hildreth

Chair Sanders asked whether Mr. Gubler and Mr. Allen had additional arguments for NOV #10078.

Mr. Gubler made a statement that there is a Fourth Amendment issue on violation two and referred back to the arguments made in his brief.

Mr. Allen made an argument as to the presentment of credentials.

Neither party had questions for the witnesses.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Bartlett, to deny the appeal and affirm the Hearing Officer Order in the matter of NOV #10078 as it relates to the findings of violation.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Daniel Bartlett, Donald Bordelove, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Ryan Dennett, Troy Hildreth

Discussion ensued amongst the Board in regard to the assessment of a penalty.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Bartlett, to modify the Hearing Officer Order as to the penalty assessed from \$17,250.00 to \$31,562.50 in the matter of NOV #10078.

Motion carried by the following vote:

Voting Aye: Daniel Bartlett, Donald Bordelove, Amy Lahav
Voting Nay: Danny Sanders
Abstaining: None
Absent: Ryan Dennett, Troy Hildreth

6. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETINGS

There were no emerging issues identified by the Board.

7. PUBLIC COMMENT

Chair Sanders asked if there were any persons present in the audience wishing to be heard.

Mr. Truman asked the Board what can be done about his civil rights in regard to having inspectors on his property.

Mr. Allen stated he would meet with Mr. Truman and his Counsel about access to his site going forward so any issues can be resolved.

Director of Environment and Sustainability, Marci Henson, made a public comment that after reaching out to the Building Official about the badges their inspectors use, it was confirmed that Air Quality's badges are the same as the building inspectors. Ms. Henson also stated that she would be meeting with staff to review Air Quality's policies on accessing properties during inspections, and she would report back to the Board at a future meeting.

8. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 12:09 p.m.

Approved:

Daniel Sanders, Chair

Date

ETON Transportation Corp., Environmental Transportation of Nevada LLC dba ETON, and Moe Truman, Individually (DCOP #57148)

Appeal of NOVs #9994 and #10078

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Hearing Board Order Denying Appeal NOV #9994 as Originally Prepared
by Clark County Department of Environmental and Sustainability,
Division of Air Quality, with Tracked Changes as Submitted by
Attorney Russell Gubler on Behalf of
ETON Transportation Corp.

1 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**

2 **CLARK COUNTY, NEVADA**

3 In the Matter of Notice of Violation #9994
4 Issued to
ETON TRANSPORTATION CORP.

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#9994**

5 *Appellant.*

6
7 The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON
8 Transportation Corp. (**ETON**), was heard de novo by the Air Pollution Control Hearing Board
9 (**BOARD**) on April 8, 2025. Clark County Department of Environment and Sustainability, Division
10 of Air Quality (**AIR QUALITY**) represented by Timothy Allen, Deputy District Attorney, and ETON,
11 represented by Russell G. Gubler, appeared before the BOARD. Based on the November 5, 2024 Air
12 Pollution Control Hearing Officer meeting transcript, record, and the parties' written and oral
13 argument and upon motion duly made, seconded and carried by unanimous vote of the members
14 present, this BOARD finds and orders as follows:

15 A. Notice of Violation (**NOV**) #9994 was issued by AIR QUALITY to Appellant ETON
16 on May 15, 2024, for alleged violation(s) of the Clark County Air Quality Regulations (**AQRs**) at the
17 STRATFORD-1 construction site, located at 2596 Stratford Avenue, in Clark County, Nevada. In the
18 NOV, AIR QUALITY alleged violation of AQR Sections 94.13(a) and (b) for failing to employ Best
19 Available Control Measures and comply with soil stabilization standards at the site 24 hours a day,
20 seven days a week.

21 B. ETON contested the NOV and requested a hearing before a Hearing Officer. At the
22 hearing on November 5, 2024, the Hearing Officer found ETON in violation of AQR Sections 94.13(a)
23 and (b) on January 8, 9, and 17, 2024, as alleged in NOV #9994. The Hearing Officer assessed a Three
24 Thousand Five Hundred and no/100 Dollars (\$3,500.00) penalty.

25 C. In accordance with AQR Section 7.5, ETON submitted a timely appeal of the Hearing
26 Officer Order and requested a de novo hearing before the BOARD.

27 Although the issues were raised, the BOARD declined to consider the following arguments by ETON
28 in rendering a decision: that AIR QUALITY has failed to meet the conditions precedent under AQR

1 4.1 and NRS 445B.580; AIR QUALITY failed to follow property owner's request to check in; AIR
2 QUALITY does not have sufficient credentials; AIR QUALITY failed to properly present credentials;
3 AIR QUALITY trespassed; AIR QUALITY failed to properly perform the drop test; any material
4 gathered is fruit of the poisonous tree and not admissible; the AQR is preempted by Federal Law;
5 ETON's federal obligations under HM-232 are in conflict with the AQR; the AQR is not a state-wide
6 implemented program under the Clean Air Act, as required; that the Courts, and not the BOARD, have
7 authority to interpret statutes and statutory ambiguities; the EPA was not authorized to bypass the
8 State of Nevada when it approved the AQR; the AQR unreasonably burdens railroad activity and/or
9 interferes with other interstate commerce; the BOARD was not the proper jurisdiction to hear ETON's
10 arguments; water and pavement are not the best available control measures under this application; the
11 difference between state and county regulations are in conflict, i.e., best practical methods vs. best
12 available control methods; roto milling is within the AQR guidelines; ETON is entitled to an
13 exception/exemption from asphalt; AIR QUALITY discriminated against ETON; AIR QUALITY
14 performed illegal searches and seizures on the subject property; and AIR QUALITY violated ETON's
15 due process rights. The BOARD finds that on January 8, 9, and 17, 2024, at the subject construction
16 site, ETON failed to use Best Available Control Measures as demonstrated through documentation or
17 inspections by AIR QUALITY staff on those dates in violation of AQR Sections 94.13(a) and (b).//
18 ++

19 D. ~~The BOARD finds that on January 8, 9, and 17, 2024, at the subject construction site,~~
20 ~~ETON failed to use Best Available Control Measures as demonstrated through documentation or~~
21 ~~inspections by AIR QUALITY staff on those dates in violation of AQR Sections 94.13(a) and (b).~~

22 E. The BOARD finds that the administrative penalty of Three Thousand Five Hundred
23 and no/100 Dollars (\$3,500.00) assessed against ETON for its violation of the AQRs is reasonable
24 and appropriate.

25 F. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in
26 the matter of NOV #9994 including the assessment of an administrative penalty against ETON of
27 Three Thousand Five Hundred and no/100 Dollars (\$3,500.00).

28 **THEREFORE, IT IS HEREBY ORDERED** that:

- 1 A. ETON's appeal is denied.
- 2 B. The Hearing Officer Order dated November 7, 2024, is affirmed.
- 3 C. An administrative penalty of Three Thousand Five Hundred and no/100 Dollars
- 4 (\$3,500.00) is assessed against ETON for violation of AQR Sections 94.13(a) and (b).

5 **IT IS SO ORDERED.**

6 DATED this ____ day of May, 2025.

7 AIR POLLUTION CONTROL HEARING BOARD

8

9

DANIEL SANDERS, CHAIR

10

11 Reviewed as to form and contentSubmitted
by:

12 **STEVEN B. WOLFSON,**
13 **DISTRICT ATTORNEY**

14 Declined to Sign
/s/ Timothy Allen

15 By: TIMOTHY ALLEN
Deputy District Attorney
Nevada Bar No. 14818
16 500 South Grand Central Pkwy., Suite 5075
Las Vegas, Nevada 89155-2215
17 Attorneys for Clark County

Submitted By:

~~Reviewed as to form and content by:~~

JOHNSON & GUBLER, P.C.

/s/ Russell G. Gubler

Russell G. Gubler (Nevada Bar No. 10889)
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Las Vegas, NV 89117
Phone: (702) 471-0065
rgubler@mjohnsonlaw.com

Attorneys for Appellant ETON Transportation
Corp.

Hearing Board Order Denying Appeal NOV #10078 as Originally Prepared
by Clark County Department of Environmental and Sustainability, Division
of Air Quality, with Tracked Changes as Submitted by
Attorney Russell Gubler on Behalf of
ETON Transportation Corp., Environmental Transportation of Nevada LLC
dba ETON, and Moe Truman

1 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**

2 **CLARK COUNTY, NEVADA**

3 In the Matter of Notice of Violation #10078
4 Issued to
5 ETON TRANSPORTATION CORP.,
6 ENVIRONMENTAL TRANSPORTATION
7 OF NEVADA, LLC D/B/A ETON, and MOE
8 TRUMAN

Appellants.

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#10078**

8 The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON
9 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
10 d/b/a ETON, and Moe Truman (**TRUMAN**), individually, (Collectively, "Appellants") was heard de
11 novo by the Air Pollution Control Hearing Board (**BOARD**) on April 8, 2025. Clark County
12 Department of Environment and Sustainability, Division of Air Quality (**AIR QUALITY**) represented
13 by Timothy Allen, Deputy District Attorney, and ETON TRANSPORTATION CORP.,
14 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN,
15 represented by Russell G. Gubler (**GUBLER**), appeared before the BOARD. Based on the November
16 5, 2024, Air Pollution Control Hearing Officer meeting transcript, record, and the parties' written and
17 oral argument and upon motion duly made, seconded and carried by unanimous vote of the members
18 present, this BOARD finds and orders as follows:

19 A. Notice of Violation (**NOV**) #10078 was issued by AIR QUALITY to Appellants ETON
20 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
21 d/b/a ETON, and TRUMAN on August 29, 2024, for alleged violation(s) of the Clark County Air
22 Quality Regulations (**AQRs**) at the STRATFORD-1 construction site, located at 2596 Stratford
23 Avenue, in Clark County, Nevada. In the NOV, AIR QUALITY alleged violation of AQR Sections
24 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil
25 stabilization standards at the site 24 hours a day, seven days a week, and AQR Section 4.1(d)(1) for
26 refusing entry or access to the Control Officer for purposes of inspection.

27 B. ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION
28 OF NEVADA, LLC d/b/a ETON, and TRUMAN contested the NOV and requested a hearing before

1 a Hearing Officer. At the hearing on November 5, 2024, the Hearing Officer found ETON
2 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
3 d/b/a ETON, and TRUMAN in violation of AQR Sections 94.13(a) and (b) on July 17, 2024, and
4 4.1(d)(1) on August 7, 2024, and August 14, 2024, as alleged in NOV #10078. The Hearing Officer
5 assessed a Seventeen Thousand Two Hundred Fifty and no/100 Dollars (\$17,250.00) penalty.

6 C. In accordance with AQR Section 7.5, ETON TRANSPORTATION CORP.,
7 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN
8 submitted a timely appeal of the Hearing Officer Order and requested a de novo hearing before the
9 BOARD.

10 D. Although the issues were raised, the BOARD declined to consider the following
11 arguments by Appellants in rendering a decision: that AIR QUALITY has failed to meet the
12 conditions precedent under AQR 4.1 and NRS 445B.580; AIR QUALITY failed to follow property
13 owner's request to check in; AIR QUALITY does not have sufficient credentials; AIR QUALITY
14 failed to properly present credentials; AIR QUALITY trespassed; AIR QUALITY failed to properly
15 perform the drop test; any material gathered is fruit of the poisonous tree and not admissible; the AQR
16 is preempted by Federal Law; Appellants' federal obligations under HM-232 are in conflict with the
17 AQR; the AQR is not a state-wide implemented program under the Clean Air Act, as required; that
18 the Courts, and not the BOARD, have authority to interpret statutes and statutory ambiguities; the
19 EPA was not authorized to bypass the State of Nevada when it approved the AQR; the AQR
20 unreasonably burdens railroad activity and/or interferes with other interstate commerce; the BOARD
21 was the proper jurisdiction to hear Appellant(s)' arguments; water and pavement are not the best
22 available control measures under this application; the difference between state and county regulations
23 are in conflict, i.e., best practical methods vs. best available control methods; roto milling is within
24 the AQR guidelines; Appellants are entitled to an exception/exemption from asphalt; AIR QUALITY
25 discriminated against Appellants; AIR QUALITY performed illegal searches and seizures on the
26 subject property; and AIR QUALITY violated Appellants' due process rights. The BOARD finds that

27 on July 17, 2024, at the subject construction site, ETON TRANSPORTATION CORP.,
28 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN failed

1 to employ Best Available Control Measures as demonstrated through documentation and inspections
2 by AIR QUALITY staff in violation of AQR Sections 94.13(a) and (b).

3 D.E. In addition, the BOARD finds that on July 31, 2024, August 7, 2024, and August 14,
4 2024, ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF
5 NEVADA, LLC d/b/a ETON, and TRUMAN refused entry or access to the Control Officer for
6 purposes of inspection in violation of AQR Section 4.1(d)(1).

7 E.F. The BOARD finds that an administrative penalty of Thirty-One Thousand Five
8 Hundred Sixty-Two and 50/100 Dollars (\$31,562.50) against ETON TRANSPORTATION CORP.,
9 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN for its
10 violation of the AQRs is reasonable and appropriate.

11 F.G. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in
12 the matter of NOV #10078 as it relates to the finding of violation and modifies the assessment of an
13 administrative penalty against —ETON TRANSPORTATION CORP., ENVIRONMENTAL
14 TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN from Seventeen Thousand
15 Two Hundred Fifty and no/100 Dollars (\$17,250.00) to Thirty-One Thousand Five Hundred Sixty-
16 Two and 50/100 Dollars (\$31,562.50).

17 ///

18 **THEREFORE, IT IS HEREBY ORDERED** that:

19 A. ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION
20 OF NEVADA, LLC d/b/a ETON, and TRUMAN's appeal is denied.

21 B. The Hearing Officer Order dated November 7, 2024, is affirmed as to the finding of
22 violation and modified as to the penalty assessed.

23 ///

24 ///

1
2
3 C. An administrative penalty of Thirty-One Thousand Five Hundred Sixty-Two and
4 50/100 Dollars (\$31,562.50) is assessed against ETON TRANSPORTATION CORP.,
5 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN for
6 violation of AQR Sections 94.13(a) and (b), and 4.1(d)(1).

7 **IT IS SO ORDERED.**

8 DATED this ____ day of May, 2025.

9 AIR POLLUTION CONTROL HEARING BOARD

10
11

DANIEL SANDERS, CHAIR

12
13 ~~Submitted by:~~ Reviewed as to form and
14 content by:

15 **STEVEN B. WOLFSON,**
DISTRICT ATTORNEY

16 ~~Declined to Sign~~
~~/s/ Timothy Allen~~

17 By: TIMOTHY ALLEN
18 Deputy District Attorney
19 Nevada Bar No. 14818
500 South Grand Central Pkwy., Suite 5075
Las Vegas, Nevada 89155-2215
Attorneys for Clark County

~~Reviewed as to form and content by:~~ Submitted
By:

JOHNSON & GUBLER, P.C.

16 /s/ Russell G. Gubler

17 Russell G. Gubler (Nevada Bar No. 10889)
Lakes Business Park
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Phone: (702) 471-0065
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20 *Attorneys for Appellant ETON Transportation*
21 *Corp., Environmental Transportation of*
22 *Nevada, LLC d/b/a ETON, and Moe Truman*

Request from Attorney Russell Gubler Representing ETON Transportation Corp., Environmental Transportation of Nevada LLC dba ETON, and Moe Truman, to Submit Competing Hearing Board Orders for the August 6, 2025, Hearing Board Meeting

From: [Russell Gubler](#)
To: [AQ Enforcement](#)
Cc: moe@eton.me; [Timothy Allen](#)
Subject: Competing Order for April 8, 2025 Meeting, #9994 & #10078
Date: Wednesday, May 21, 2025 12:37:04 PM
Attachments: [9994 order.appellant version.docx](#)
[10078 order.appellant version.docx](#)

This correspondence is submitted through Air Quality, to be submitted to the Board:

Dear Board:

The purpose of this letter is to submit competing Orders related to NOV#9994 and NOV#10078. The primary purpose for the competing orders is found in Paragraph D of both orders. The versions submitted by the AG's office would state that the Board considered all of the arguments raised by Appellants but did not find the arguments persuasive. However, during the hearing, although the Board allowed my clients to present their arguments for the appeal record, the Chair stated that he did not believe that the Board was equipped to consider all the arguments that appellants raised and stated that the Board would only determine whether or not there was a violation. Thus, to include in the orders that the Board considered the arguments presented by my clients but did not find them persuasive is not true. We believe that the transcript that will be before the appellate court will also show this. Accordingly, Appellants request that the Board adopt the attached competing Orders, submitted by the Appellants, which better captures the hearing. Thank you for your time and consideration in this matter.

Russell G. Gubler
Johnson & Gubler, P.C.
Lakes Business Park
8831 W. Sahara Avenue
Las Vegas, Nevada 89117
(702) 471-0065
(702) 471-0075 facsimile
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(435) 574-4909

* Licensed in Nevada, Utah, & Arizona

This communication may contain information that is privileged under the attorney-client privilege, or the work product doctrine, and should be read only by the person to whom it is addressed. If you have received this communication in error, please delete it immediately.
Johnson & Gubler, P.C.

Competing Hearing Board Order prepared by Attorney Russell Gubler on
Behalf of ETON Transportation Corp., Environmental Transportation of
Nevada LLC dba ETON, and Moe Truman:

NOV #9994, Issued to ETON Transportation Corp.

BEFORE THE AIR POLLUTION CONTROL HEARING BOARD
CLARK COUNTY, NEVADA

In the Matter of Notice of Violation #9994
Issued to
ETON TRANSPORTATION CORP.

Appellant.

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#9994**

The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON Transportation Corp. (**ETON**), was heard de novo by the Air Pollution Control Hearing Board (**BOARD**) on April 8, 2025. Clark County Department of Environment and Sustainability, Division of Air Quality (**AIR QUALITY**) represented by Timothy Allen, Deputy District Attorney, and ETON, represented by Russell G. Gubler, appeared before the BOARD. Based on the November 5, 2024 Air Pollution Control Hearing Officer meeting transcript, record, and the parties' written and oral argument and upon motion duly made, seconded and carried by unanimous vote of the members present, this BOARD finds and orders as follows:

A. Notice of Violation (**NOV**) #9994 was issued by AIR QUALITY to Appellant ETON on May 15, 2024, for alleged violation(s) of the Clark County Air Quality Regulations (**AQRs**) at the STRATFORD-1 construction site, located at 2596 Stratford Avenue, in Clark County, Nevada. In the NOV, AIR QUALITY alleged violation of AQR Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards at the site 24 hours a day, seven days a week.

B. ETON contested the NOV and requested a hearing before a Hearing Officer. At the hearing on November 5, 2024, the Hearing Officer found ETON in violation of AQR Sections 94.13(a) and (b) on January 8, 9, and 17, 2024, as alleged in NOV #9994. The Hearing Officer assessed a Three Thousand Five Hundred and no/100 Dollars (\$3,500.00) penalty.

C. In accordance with AQR Section 7.5, ETON submitted a timely appeal of the Hearing Officer Order and requested a de novo hearing before the BOARD.

D. Although the issues were raised, the BOARD declined to consider the following arguments by ETON in rendering a decision: that AIR QUALITY has failed to meet the conditions

precedent under AQR 4.1 and NRS 445B.580; AIR QUALITY failed to follow property owner's request to check in; AIR QUALITY does not have sufficient credentials; AIR QUALITY failed to properly present credentials; AIR QUALITY trespassed; AIR QUALITY failed to properly perform the drop test; any material gathered is fruit of the poisonous tree and not admissible; the AQR is preempted by Federal Law; ETON's federal obligations under HM-232 are in conflict with the AQR; the AQR is not a state-wide implemented program under the Clean Air Act, as required; that the Courts, and not the BOARD, have authority to interpret statutes and statutory ambiguities; the EPA was not authorized to bypass the State of Nevada when it approved the AQR; the AQR unreasonably burdens railroad activity and/or interferes with other interstate commerce; the BOARD was not the proper jurisdiction to hear ETON's arguments; water and pavement are not the best available control measures under this application; the difference between state and county regulations are in conflict, i.e., best practical methods vs. best available control methods; roto milling is within the AQR guidelines; ETON is entitled to an exception/exemption from asphalt; AIR QUALITY discriminated against ETON; AIR QUALITY performed illegal searches and seizures on the subject property; and AIR QUALITY violated ETON's due process rights. The BOARD finds that on January 8, 9, and 17, 2024, at the subject construction site, ETON failed to use Best Available Control Measures as demonstrated through documentation or inspections by AIR QUALITY staff on those dates in violation of AQR Sections 94.13(a) and (b).

E. The BOARD finds that the administrative penalty of Three Thousand Five Hundred and no/100 Dollars (\$3,500.00) assessed against ETON for its violation of the AQRs is reasonable and appropriate.

F. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in the matter of NOV #9994 including the assessment of an administrative penalty against ETON of Three Thousand Five Hundred and no/100 Dollars (\$3,500.00).

THEREFORE, IT IS HEREBY ORDERED that:

A. ETON's appeal is denied.

B. The Hearing Officer Order dated November 7, 2024, is affirmed.

C. An administrative penalty of Three Thousand Five Hundred and no/100 Dollars

1 (\$3,500.00) is assessed against ETON for violation of AQR Sections 94.13(a) and (b).

2 **IT IS SO ORDERED.**

3 DATED this ____ day of May, 2025.

4 AIR POLLUTION CONTROL HEARING BOARD

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DANIEL SANDERS, CHAIR

7

8 Reviewed as to form and content by:

Submitted By:

9 **STEVEN B. WOLFSON,**
10 **DISTRICT ATTORNEY**

JOHNSON & GUBLER, P.C.

Declined to Sign

/s/ Russell G. Gubler

11

By: TIMOTHY ALLEN
Deputy District Attorney
Nevada Bar No. 14818
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Attorneys for Appellant ETON Transportation Corp.

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Competing Hearing Board Order prepared by Attorney Russell Gubler on
Behalf of ETON Transportation Corp., Environmental Transportation of
Nevada LLC dba ETON, and Moe Truman:

NOV #10078, Issued to ETON Transportation Corp., Environmental
Transportation of Nevada LLC dba ETON, and Moe Truman, Individually

BEFORE THE AIR POLLUTION CONTROL HEARING BOARD
CLARK COUNTY, NEVADA

In the Matter of Notice of Violation #10078
Issued to
ETON TRANSPORTATION CORP.,
ENVIRONMENTAL TRANSPORTATION
OF NEVADA, LLC D/B/A ETON, and MOE
TRUMAN

Appellants.

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#10078**

The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and Moe Truman (**TRUMAN**), individually, (Collectively, "Appellants") was heard de novo by the Air Pollution Control Hearing Board (**BOARD**) on April 8, 2025. Clark County Department of Environment and Sustainability, Division of Air Quality (**AIR QUALITY**) represented by Timothy Allen, Deputy District Attorney, and ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN, represented by Russell G. Gubler (**GUBLER**), appeared before the BOARD. Based on the November 5, 2024, Air Pollution Control Hearing Officer meeting transcript, record, and the parties' written and oral argument and upon motion duly made, seconded and carried by unanimous vote of the members present, this BOARD finds and orders as follows:

A. Notice of Violation (**NOV**) #10078 was issued by AIR QUALITY to Appellants ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN on August 29, 2024, for alleged violation(s) of the Clark County Air Quality Regulations (**AQRs**) at the STRATFORD-1 construction site, located at 2596 Stratford Avenue, in Clark County, Nevada. In the NOV, AIR QUALITY alleged violation of AQR Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards at the site 24 hours a day, seven days a week, and AQR Section 4.1(d)(1) for refusing entry or access to the Control Officer for purposes of inspection.

B. ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN contested the NOV and requested a hearing before

1 a Hearing Officer. At the hearing on November 5, 2024, the Hearing Officer found ETON
2 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
3 d/b/a ETON, and TRUMAN in violation of AQR Sections 94.13(a) and (b) on July 17, 2024, and
4 4.1(d)(1) on August 7, 2024, and August 14, 2024, as alleged in NOV #10078. The Hearing Officer
5 assessed a Seventeen Thousand Two Hundred Fifty and no/100 Dollars (\$17,250.00) penalty.

6 C. In accordance with AQR Section 7.5, ETON TRANSPORTATION CORP.,
7 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN
8 submitted a timely appeal of the Hearing Officer Order and requested a de novo hearing before the
9 BOARD.

10 D. Although the issues were raised, the BOARD declined to consider the following
11 arguments by Appellants in rendering a decision: that AIR QUALITY has failed to meet the
12 conditions precedent under AQR 4.1 and NRS 445B.580; AIR QUALITY failed to follow property
13 owner's request to check in; AIR QUALITY does not have sufficient credentials; AIR QUALITY
14 failed to properly present credentials; AIR QUALITY trespassed; AIR QUALITY failed to properly
15 perform the drop test; any material gathered is fruit of the poisonous tree and not admissible; the AQR
16 is preempted by Federal Law; Appellants' federal obligations under HM-232 are in conflict with the
17 AQR; the AQR is not a state-wide implemented program under the Clean Air Act, as required; that
18 the Courts, and not the BOARD, have authority to interpret statutes and statutory ambiguities; the
19 EPA was not authorized to bypass the State of Nevada when it approved the AQR; the AQR
20 unreasonably burdens railroad activity and/or interferes with other interstate commerce; the BOARD
21 was the proper jurisdiction to hear Appellant(s)' arguments; water and pavement are not the best
22 available control measures under this application; the difference between state and county regulations
23 are in conflict, i.e., best practical methods vs. best available control methods; roto milling is within
24 the AQR guidelines; Appellants are entitled to an exception/exemption from asphalt; AIR QUALITY
25 discriminated against Appellants; AIR QUALITY performed illegal searches and seizures on the
26 subject property; and AIR QUALITY violated Appellants' due process rights. The BOARD finds that
27 on July 17, 2024, at the subject construction site, ETON TRANSPORTATION CORP.,
28 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN failed

1 to employ Best Available Control Measures as demonstrated through documentation and inspections
2 by AIR QUALITY staff in violation of AQR Sections 94.13(a) and (b).

3 E. In addition, the BOARD finds that on July 31, 2024, August 7, 2024, and August 14,
4 2024, ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF
5 NEVADA, LLC d/b/a ETON, and TRUMAN refused entry or access to the Control Officer for
6 purposes of inspection in violation of AQR Section 4.1(d)(1).

7 F. The BOARD finds that an administrative penalty of Thirty-One Thousand Five
8 Hundred Sixty-Two and 50/100 Dollars (\$31,562.50) against ETON TRANSPORTATION CORP.,
9 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN for its
10 violation of the AQRs is reasonable and appropriate.

11 G. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in
12 the matter of NOV #10078 as it relates to the finding of violation and modifies the assessment of an
13 administrative penalty against ETON TRANSPORTATION CORP., ENVIRONMENTAL
14 TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN from Seventeen Thousand
15 Two Hundred Fifty and no/100 Dollars (\$17,250.00) to Thirty-One Thousand Five Hundred Sixty-
16 Two and 50/100 Dollars (\$31,562.50).

17 **THEREFORE, IT IS HEREBY ORDERED** that:

18 A. ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION
19 OF NEVADA, LLC d/b/a ETON, and TRUMAN's appeal is denied.

20 B. The Hearing Officer Order dated November 7, 2024, is affirmed as to the finding of
21 violation and modified as to the penalty assessed.

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2 C. An administrative penalty of Thirty-One Thousand Five Hundred Sixty-Two and
3 50/100 Dollars (\$31,562.50) is assessed against ETON TRANSPORTATION CORP.,
4 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN for
5 violation of AQR Sections 94.13(a) and (b), and 4.1(d)(1).

6 **IT IS SO ORDERED.**

7 DATED this ____ day of May, 2025.

8 AIR POLLUTION CONTROL HEARING BOARD

9
10 _____
11 DANIEL SANDERS, CHAIR

12 Reviewed as to form and content by:

Submitted By:

13 **STEVEN B. WOLFSON,**
14 **DISTRICT ATTORNEY**

JOHNSON & GUBLER, P.C.

15 *Declined to Sign*

/s/ Russell G. Gubler

16 By: TIMOTHY ALLEN
17 Deputy District Attorney
18 Nevada Bar No. 14818
500 South Grand Central Pkwy., Suite 5075
Las Vegas, Nevada 89155-2215
Attorneys for Clark County

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*Attorneys for Appellant ETON Transportation
Corp., Environmental Transportation of
Nevada, LLC d/b/a ETON, and Moe Truman*

Hearing Board Order prepared by Clark County Department of
Environmental and Sustainability, Division of Air Quality,

NOV #9994, Issued to ETON Transportation Corp.

1 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**

2 **CLARK COUNTY, NEVADA**

3 In the Matter of Notice of Violation #9994
4 Issued to
4 ETON TRANSPORTATION CORP.

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#9994**

5 *Appellant.*

6
7 The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON
8 Transportation Corp. (**ETON**), was heard de novo by the Air Pollution Control Hearing Board
9 (**BOARD**) on April 8, 2025. Clark County Department of Environment and Sustainability, Division
10 of Air Quality (**AIR QUALITY**) represented by Timothy Allen, Deputy District Attorney, and ETON,
11 represented by Russell G. Gubler, appeared before the BOARD. Based on the November 5, 2024 Air
12 Pollution Control Hearing Officer meeting transcript, record, and the parties' written and oral
13 argument and upon motion duly made, seconded and carried by unanimous vote of the members
14 present, this BOARD finds and orders as follows:

15 A. Notice of Violation (**NOV**) #9994 was issued by AIR QUALITY to Appellant ETON
16 on May 15, 2024, for alleged violation(s) of the Clark County Air Quality Regulations (**AQRs**) at the
17 STRATFORD-1 construction site, located at 2596 Stratford Avenue, in Clark County, Nevada. In the
18 NOV, AIR QUALITY alleged violation of AQR Sections 94.13(a) and (b) for failing to employ Best
19 Available Control Measures and comply with soil stabilization standards at the site 24 hours a day,
20 seven days a week.

21 B. ETON contested the NOV and requested a hearing before a Hearing Officer. At the
22 hearing on November 5, 2024, the Hearing Officer found ETON in violation of AQR Sections 94.13(a)
23 and (b) on January 8, 9, and 17, 2024, as alleged in NOV #9994. The Hearing Officer assessed a Three
24 Thousand Five Hundred and no/100 Dollars (\$3,500.00) penalty.

25 C. In accordance with AQR Section 7.5, ETON submitted a timely appeal of the Hearing
26 Officer Order and requested a de novo hearing before the BOARD.

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1 D. The BOARD finds that on January 8, 9, and 17, 2024, at the subject construction site,
2 ETON failed to use Best Available Control Measures as demonstrated through documentation or
3 inspections by AIR QUALITY staff on those dates in violation of AQR Sections 94.13(a) and (b).

4 E. The BOARD finds that the administrative penalty of Three Thousand Five Hundred
5 and no/100 Dollars (\$3,500.00) assessed against ETON for its violation of the AQRs is reasonable
6 and appropriate.

7 F. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in
8 the matter of NOV #9994 including the assessment of an administrative penalty against ETON of
9 Three Thousand Five Hundred and no/100 Dollars (\$3,500.00).

10 **THEREFORE, IT IS HEREBY ORDERED** that:

11 A. ETON's appeal is denied.

12 B. The Hearing Officer Order dated November 7, 2024, is affirmed.

13 C. An administrative penalty of Three Thousand Five Hundred and no/100 Dollars
14 (\$3,500.00) is assessed against ETON for violation of AQR Sections 94.13(a) and (b).

15 **IT IS SO ORDERED.**

16 DATED this ____ day of May, 2025.

17 AIR POLLUTION CONTROL HEARING BOARD

18
19 _____
DANIEL SANDERS, CHAIR

20
21 Submitted by:

22 **STEVEN B. WOLFSON,**
23 **DISTRICT ATTORNEY**

24 */s/ Timothy Allen*

25 By: TIMOTHY ALLEN
26 Deputy District Attorney
Nevada Bar No. 14818
500 South Grand Central Pkwy, Suite 5075
Las Vegas, Nevada 89155-2215
Attorneys for Clark County

Reviewed as to form and content by:

27 **JOHNSON & GUBLER, P.C.**

28 */s/*

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Attorneys for Appellant ETON Transportation Corp.

Hearing Board Order prepared by Clark County Department of
Environmental and Sustainability, Division of Air Quality,

NOV #10078, Issued to ETON Transportation Corp., Environmental
Transportation of Nevada LLC dba ETON, and Moe Truman

BEFORE THE AIR POLLUTION CONTROL HEARING BOARD
CLARK COUNTY, NEVADA

In the Matter of Notice of Violation #10078
Issued to
ETON TRANSPORTATION CORP.,
ENVIRONMENTAL TRANSPORTATION
OF NEVADA, LLC D/B/A ETON, and MOE
TRUMAN

**ORDER DENYING APPEAL OF HEARING
OFFICER'S NOVEMBER 7, 2024, ORDER
CONCERNING NOTICE OF VIOLATION
#10078**

Appellants.

The appeal of the Hearing Officer Order dated November 7, 2024, submitted by ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and Moe Truman (**TRUMAN**), individually, was heard de novo by the Air Pollution Control Hearing Board (**BOARD**) on April 8, 2025. Clark County Department of Environment and Sustainability, Division of Air Quality (**AIR QUALITY**) represented by Timothy Allen, Deputy District Attorney, and ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN, represented by Russell G. Gubler (**GUBLER**), appeared before the BOARD. Based on the November 5, 2024, Air Pollution Control Hearing Officer meeting transcript, record, and the parties' written and oral argument and upon motion duly made, seconded and carried by unanimous vote of the members present, this BOARD finds and orders as follows:

A. Notice of Violation (**NOV**) #10078 was issued by AIR QUALITY to Appellants ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN on August 29, 2024, for alleged violation(s) of the Clark County Air Quality Regulations (**AQRs**) at the STRATFORD-1 construction site, located at 2596 Stratford Avenue, in Clark County, Nevada. In the NOV, AIR QUALITY alleged violation of AQR Sections 94.13(a) and (b) for failing to employ Best Available Control Measures and comply with soil stabilization standards at the site 24 hours a day, seven days a week, and AQR Section 4.1(d)(1) for refusing entry or access to the Control Officer for purposes of inspection.

B. ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN contested the NOV and requested a hearing before

1 a Hearing Officer. At the hearing on November 5, 2024, the Hearing Officer found ETON
2 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
3 d/b/a ETON, and TRUMAN in violation of AQR Sections 94.13(a) and (b) on July 17, 2024, and
4 4.1(d)(1) on August 7, 2024, and August 14, 2024, as alleged in NOV #10078. The Hearing Officer
5 assessed a Seventeen Thousand Two Hundred Fifty and no/100 Dollars (\$17,250.00) penalty.

6 C. In accordance with AQR Section 7.5, ETON TRANSPORTATION CORP.,
7 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN
8 submitted a timely appeal of the Hearing Officer Order and requested a de novo hearing before the
9 BOARD.

10 D. The BOARD finds that on July 17, 2024, at the subject construction site, ETON
11 TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC
12 d/b/a ETON, and TRUMAN failed to employ Best Available Control Measures as demonstrated
13 through documentation and inspections by AIR QUALITY staff in violation of AQR Sections 94.13(a)
14 and (b). In addition, the BOARD finds that on July 31, 2024, August 7, 2024, and August 14, 2024,
15 ETON TRANSPORTATION CORP., ENVIRONMENTAL TRANSPORTATION OF NEVADA,
16 LLC d/b/a ETON, and TRUMAN refused entry or access to the Control Officer for purposes of
17 inspection in violation of AQR Section 4.1(d)(1).

18 E. The BOARD finds that an administrative penalty of Thirty-One Thousand Five
19 Hundred Sixty-Two and 50/100 Dollars (\$31,562.50) against ETON TRANSPORTATION CORP.,
20 ENVIRONMENTAL TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN for its
21 violation of the AQRs is reasonable and appropriate.

22 F. In accordance with the foregoing, the BOARD affirms the Hearing Officer Order in
23 the matter of NOV #10078 as it relates to the finding of violation and modifies the assessment of an
24 administrative penalty against ETON TRANSPORTATION CORP., ENVIRONMENTAL
25 TRANSPORTATION OF NEVADA, LLC d/b/a ETON, and TRUMAN from Seventeen Thousand
26 Two Hundred Fifty and no/100 Dollars (\$17,250.00) to Thirty-One Thousand Five Hundred Sixty-
27 Two and 50/100 Dollars (\$31,562.50).

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