



San Francisco City and County
Department of Public Health
Environmental Health Section

Gavin Newsom, *Mayor*
Mitchell H. Katz, *Director of Health*

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Director of Environmental Health

ARTICLE 31

NOTICE OF VIOLATION
for August 17, 2007

August 20, 2007

Kofi Bonner
Lennar/BVHP, L.L.C.
49 Stevenson St., Suite 600
San Francisco, CA 94105

Dear Mr. Bonner:

Based on inspections conducted on Friday, August 17, 2007, the San Francisco Department of Public Health (SFDPH) is issuing a Notice of Violation to Lennar/BVHP, LLC.

SFDPH staff conducted the inspection between 2:45 and 4:30 pm on August 17th, 2007 at the Hunters Point Shipyard Parcel A to verify compliance with your approved Article 31 Dust Control Plan. The area of the violation was the soil storage area behind Building 808 and the haul roads going to and from that soil storage area. The inspector observed trucks and other equipment dumping and spreading soil behind Building 808 on the hilltop portion of Parcel A.

The inspector observed two conditions that constitute independent violations of the approved Dust Control Plan: (1) dust crossing the property boundary to Navy property without effective measures of control (Section 6.2.1) and (2) visible dust for over 90 minutes without effective measures of control (Section 6.2.2).

According to **Section 6.2.1.**, dust crossing the property boundary without immediately implemented effective measure of control constitutes a violation of your Dust Control Plan. The inspector observed visible dust crossing the property boundary between Parcel A and Navy Property and the emissions source (dusty roads and trucks driving on dusty roads).

Section 6.2.2., requires visible dust from soil disturbance or excavation to be effectively controlled within 90 minutes. The inspector observed the site for over 90 minutes. Although limited efforts to control dust, including watering, occurred in the area of the violation, these efforts were not successful in controlling the visible dust within the time required period required by the Plan. According to the Plan, the actions resulting in dust emissions should have been stopped within this time period until effective control practices were implemented.

Immediate Action Required

Although Lennar/BVHP LLC has been in compliance with the Article 31 dust control plan over the last seven months, the findings of the August 17th inspection result in the fourth Notice of Violation on the Dust Control Problems for Lennar/BVHP LLC since the mass grading began in April 2006.

We are therefore requiring that Lennar / BVHP LLC shall suspend all dust generating activities at the project for at least forty-eight hours in order that you can establish work practices that will prevent future recurrences.

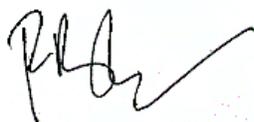
Your efforts may include a review of the incident for the causes of compliance failure and training of all relevant employees and subcontractors on the requirements of the Dust Control Plan. Lennar shall notify SFDPH when they will be restarting the work effort and describe actions they are taking to prevent future violations. We ask that Lennar send a letter no later than the end of the work suspension period (a minimum of forty-eight hours, or longer, if Lennar so chooses) of the actions that were taken during this review period including at a minimum:

1. Results from the review of incident;
2. Any new work practice procedures implemented by Lennar or its contractors.

In addition, SFDPH intends to use this forty-eight hour time period to establish an SFDPH Dust Control Plan monitor to provide enhanced and ongoing surveillance of the project. The monitor shall be supervised by SFDPH staff and the costs for this monitor shall be billed to Lennar based on the mechanism established in the Article 31. Through this monitor, SFDPH will independently verify that the dust control is meeting all Dust Control Plan requirements and assist Lennar in adhering to Plan requirements. This monitor will continue to function in this role until such time as SFDPH determines that the role is no longer needed.

In a few days, we will document and send to you further details of the inspection, including the time periods, the exact area of the violation and photos of the visible dust. DPH also has the authority to assess penalties for violations of Article 31. We are determining whether a monetary penalty is indicated for this violation.

Sincerely,



Rajiv Bhatia, MD, MPH.
Director of Occupational and Environmental Health

cc: Jeff Austin, Lennar
Dave Wilkins, Lennar
Paul Menaker, Lennar
Michael Cohen, MOEWD
Nicole Franklin, SFRA
Marcia Rosen, SFRA
Amy Brownell, SFDPH
David Rizzolo, SFDPH
Mitch Katz, SFDPH
Wayne Lee, BAAQMD
Thomas Theriault, DBI
Bernie Tse, SFDPW
Vicki Dvorak, BAAQMD
Hunters Point Task Force
Saul Bloom, ARC/Ecology

References

This inspection report documents an onsite visit and identifies violations of Article 31 of the San Francisco Health Code. The full text of Article 31 can be found at <http://www.municode.com/Resources/gateway.asp?pid=14136&sid=5>.

The implementing regulations for Article 31 of the Health Code can be found at <http://www.sfdph.org/eh/article31/index.htm>

This Notice of Violation is issued pursuant to Article 31, Section 3110 Enforcement Actions, which references Article 21, Section 1133 which can be found at <http://www.municode.com/Resources/gateway.asp?pid=14136&sid=5>.

Sections of the Dust Control Plan relevant to this violation include:

6.2.1 Visible Dust Crossing the Property Boundary

In the event visible dust from soil disturbance or excavation is observed crossing the property boundary, the following procedures will be followed to ensure adequate mitigation measures are in place to address the dust:

- The specific source of the emissions will be immediately shut down and a more aggressive application of the existing mitigation measures described in Section 4.0 will be directed.
- Once the mitigation measures have been applied, the source of emissions will resume and observations will be conducted to verify that the mitigation measures were successful.

6.2.2 On-Site Visible Dust

In the event visible dust from soil disturbance or excavation is observed on-site, but does not cross the property boundary, the following procedures will be followed to ensure adequate mitigation measures are in place to address the dust:

- A more aggressive application of the existing mitigation measures described in Section 4.0 or additional methods of dust suppression will be directed to the specific source of emissions within 60 minutes of the initial observation.
- If despite these more aggressive and/or additional measures the visible dust emissions continue for 90 minutes from the time of the initial observation, the specific source of emissions will be temporarily shut down until the implemented dust control mitigation is effective or, due to changed conditions, no longer necessary."