

**IN THE MATTER OF  
PIER-SOL, INC.  
8800 KELSO DRIVE, SUITE M-O  
BALTIMORE, MARYLAND 21221  
NOPA 2014-003**

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* **CBA-14-045**

\* \* \* \* \*

**OPINION**

This matter comes before the Board of Appeals as an appeal of a Violation of an Industrial Waste Ordinance which found that the Appellants exceeded the monthly average concentration for Nickel of 2.38 mg/l. The Violation alleges that the Appellant exceeded the monthly average Nickel concentration for January and February 2014. A hearing was held before this Board on September 18, 2014. Owner of Pier-Sol, Inc., Thomas Pierpont, appeared *pro se* on behalf of the Appellant, with Assistant County Attorney, R. Brady Locher, III, appearing on behalf of Baltimore County.

**FACTS**

On September 18, 2014, the Board heard the testimony of Joseph Treadwell, R. S. Pollution Control Analyst for Baltimore County Department of Public Works. Mr. Treadwell described in detail the inner workings of the Pier-Sol operation at 8800 Kelso Drive and how its discharged water is monitored by the County for pollution control. Mr. Treadwell offered into evidence County Exhibits 1 through 3 which summarized the requirements of Pier-Sol's water discharge permit with Baltimore, the sampling data collected from the Pier-Sol facility between January and February 2014, the Lab analysis of those samplings, and the applicable Baltimore County Code regarding Waste Water Regulations. Mr. Treadwell testified that a review of these lab results

revealed that Pier-Sol had exceeded its monthly average concentration for Nickel of 2.38 mg/l and had also exceeded the monthly review average Criteria of 2.86mg/l. Mr. Treadwell testified that the actual nickel concentration for January was 4.09 mg/l and was 4.26 mg/l for February. As a result of these findings Pier-Sol was found to be in violation of BCCC, Title 5, Waste Water Regulation Section 20-5-116. A citation was issued instituting civil penalties of 50 dollars a day for a total of \$2,050.00 in keeping with Section 20-127 which states:

- (a) Willful or repeated violations. Any person who willfully or repeatedly violates any provision of this title or any rule, regulation, order, or permit condition promulgated pursuant to this title may be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation, with each day's continuance considered a separate violation.

Appellant, Thomas Pierpont testified that he concurred with Mr. Treadwell's basic description of his facilities operations and did not challenge the validity of the samples taken from his facility in February and January and the eventual lab results which led to the violations at issue. Mr. Pierpont testified that the cause of the erratic Nickel levels was found to be a "malfunctioning signet Ph sensor". Mr. Pierpont explained that instead of displaying the standard "error" message when a sensor was malfunctioning, the sensor continued to produce erroneous readings, thus causing Pier Sol to be unaware of the systems malfunctioning and the high nickel readings until it was brought to its attention by the County. Mr. Pierpont further testified that his company takes great efforts to stay within their permit requirements and finds it to be very important that the facilities environmental impact is as minimal as possible. The County verified that Pier-Sol is usually vigilant in monitoring its waste water contaminants and has since remedied the sensor malfunction which brought about the present violation.

DECISION

As the testimony of Mr. Treadwell as to the samples taken from the Pier-Sol facility and the subsequent lab findings was uncontradicted, it is clear from the evidence presented to the Board that Pier-Sol was in violation of BCC , Title 5 Waste Water Regulation Section 20-116. Pursuant to BCC, Title 5 Section 20-127, the County was permitted to fine Pier-Sol up to \$1000.00 a day, but chose to impose a penalty of \$50.00 a day. As testified to by the County this fine was based on the fact that Pier-Sol is not a frequent offender and has remedied the situation which caused the violation. Mr. Pierpont testified that he had appealed the citation in that he was troubled by the language in Section 20-127, referring to a "willful" violation. The County clarified that they did not deem Pier-Sol's violation to be "willful" and had adjusted the fine accordingly. Based on the clear and uncontradicted evidence presented to this Board, we find that Pier-Sol was in fact in violation of BCC, Title 5, Section 20-166 and that the fine in the amount of \$2,050.00 is appropriate.

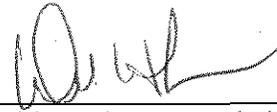
**ORDER**

THEREFORE, IT IS THIS 26<sup>th</sup> day of January, 2015, by the Board of Appeals for Baltimore County:

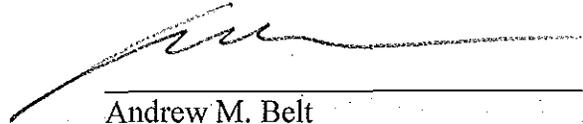
ORDERED that Appellant, Pier-Sol, Inc. is in violation of the Baltimore County Code, Title 5, Section 20-166; and is hereby assessed a penalty at the rate of \$50.00 per day for the period of 22 working days in January 2014 and 19 working days in February, 2014, a total penalty of \$2,050.00

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

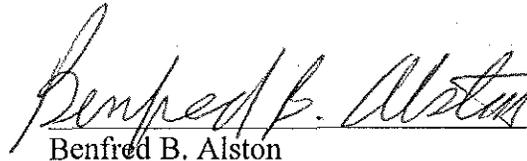
**BOARD OF APPEALS  
FOR BALTIMORE COUNTY**



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David L. Thurston, Chairman



\_\_\_\_\_  
Andrew M. Belt



\_\_\_\_\_  
Benfred B. Alston



## Board of Appeals of Baltimore County

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January 26, 2015

Thomas Pierpont  
Pier-Sol, Inc.  
8800 Kelso Drive, Suite M-O  
Baltimore, Maryland 21221-3125

R. Brady Locher, III, Asst. County Attorney  
Dept. of Permits, Approvals and Inspections  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: *In the Matter of: Pier-Sol, Inc.*  
Case No: CBA-14-045

Dear Mr. Pierpont and Mr. Locher:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington  
Administrator

KLC/tam  
Enclosure  
Duplicate Original Cover Letter

c: Edward C. Adams, Jr., Director, Department of Public Works  
Thomas Kiefer, P.E., Chief, Bureau of Utilities  
Mark Tabisz, Department of Public Works  
Joseph Treadwell, Department of Public Works  
Glenda Manning, Department of Public Works  
Nancy C. West, Assistant County Attorney  
Michael E. Field, County Attorney