

Staff Report
Board Meeting Date: September 26, 2024

DATE: September 19, 2024
TO: District Board of Health
FROM: Francisco Vega, Division Director
(775) 784-7211, fvega@nmph.org
SUBJECT: Recommendation for the Board to uphold an uncontested citation issued to Aspen Earthworks, Case No. 1512, Notice of Violation No. AQMV24-0019 with a \$500.00 penalty for failing to obtain a Dust Control Permit prior to the commencement of a dust generating activity.

SUMMARY

Northern Nevada Public Health, Air Quality Management Division (AQMD) staff recommends Notice of Violation (NOV) No. AQMV24-0019 be **upheld** and a fine in the amount of **\$500.00** be levied against Aspen Earthworks for failure to obtain a Dust Control Permit prior to the commencement of a dust generating activity. This action is a **minor violation** of the District Board of Health Regulations Governing Air Quality Management (DBOH Regulations), specifically Section 040.030 (Dust Control) Section C (Standards) Subsection 3 (Dust Control Permit Requirements).

District Health Strategic Priority supported by this item:

- 2. Healthy Environment:** Create a healthier environment that allows people to safely enjoy everything Washoe County has to offer.

PREVIOUS ACTION

No previous action.

BACKGROUND

Please refer to the attached NOV No. AQMV24-0019 for background information. The NOV contains the facts associated with the incidents of noncompliance and supporting documentation relevant to the NOV.

NOV No. AQMV24-0019 and associated documentation supporting the NOV was sent certified mail to the offices of Aspen Earthworks and was received on July 26, 2024. The certified mail contained instructions for filing an appeal of the NOV to the Air Pollution Control Hearing Board and the “Appeal Petition to the Air Pollution Control Hearing Board” form.

An appeal of NOV No. AQMV24-0019 was not exercised by Aspen Earthworks within the 10-day appeal timeframe pursuant to paragraph 020.000.C.3 Appeal Procedure. As such, NOV No. AQMV24-0019 was determined to be final by the AQMD with a penalty amount of \$500.00.

FISCAL IMPACT

There are no fiscal impacts resulting from the Board upholding the issuance of the Notice of Violation and associated fine. All fine money collected is forwarded to the Washoe County School District to be used for environmentally focused projects for the benefit of the students.

RECOMMENDATION

Staff recommends the Board uphold an uncontested citation issued to Aspen Earthworks, Case No. 1512, Notice of Violation No. AQMV24-0019, with a \$500.00 fine.

ALTERNATIVE

Should the Board wish to consider an alternative to upholding the Staff recommendation, as presented, the item should be pulled from the Consent Agenda for discussion. Possible alternatives are:

1. The Board may determine no violation of the regulations has occurred and dismiss Notice of Violation No. AQMV24-0019; or
2. The Board may determine to uphold Notice of Violation No. AQMV24-0019 and levy any fine in the range of \$0.00 to \$500.00 per day per violation for the minor violation.

POSSIBLE MOTION

Should the Board agree with Staff's recommendation, the motion would be:

1. "Move to uphold an uncontested penalty issued to Aspen Earthworks, Case No. 1512, Notice of Violation No. AQMV24-0019 with a total fine of \$500.00."

Or, should the Board wish to consider an alternative motion the item should be pulled from the Consent Agenda for discussion and, the possible motion may be:

1. "Move to dismiss Case No. 1512, Notice of Violation No. AQMV24-0019, issued to Aspen Earthworks" or
2. "Move to uphold Case No. 1512, Notice of Violation No. AQMV24-0019, and levy a fine in the amount of (range of \$0.00 to \$500.00) per day per violation, with the matter being continued to the next meeting to allow for the Aspen Earthworks to be properly noticed."