

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 the Air Pollution Control Hearing Board's Recommendation regarding Appealed Notice of Violation No. AQMV24-0018 to issue a \$1,000.00 Administrative Penalty issued to STC Ventures LLC for failure to obtain a dust control permit prior to the commencement of a dust generating activity.

SUMMARY

The Northern Nevada Public Health Quality Management Division (AQMD) staff recommends appealed Notice of Violation (NOV) No. AQMV24-0018 be upheld and a fine in the amount of **\$1,000.00** be levied against STC Ventures, LLC as recommended by the Air Pollution Control Hearing Board (APCHB). The violation was issued for failure to obtain a dust control permit for additional acres of soil disturbance associated with a dust generating activity at the Yellow Brick Road project. 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

STC Ventures, LLC was previously issued Notice of Violation No. AQMV24-0015 on March 26, 2024, for failure to comply with the provisions of Dust Control Permit APCP23-0068, specifically Condition No. 1: Visible fugitive dust emissions for a period or periods accumulating more than 5 minutes in any hour. Please see the attached documents associated with Enforcement Case No. 1491.

BACKGROUND

On April 5, 2024, representatives of the AQMD conducted an air quality evaluation of the Yellow Brick Road project covered by Dust Control Permit No. APCP23-0068. During the evaluation, the AQMD determined the dust generating activities had and were occurring outside the permitted acreage identified in the Dust Control Permit. While onsite, representatives of the AQMD completed a GPS field measurement and determined the total area of disturbance to be 12 acres, whereas the project was permitted for 4.52 acres of soil disturbance. The representatives with the AQMD advised the Contractor of Record of the permit acreage exceedance and requested that all activity on the unpermitted areas cease until the dust control permit was modified to include

the additional acreage. After the site visit, the representatives from the AQMD called and emailed the Responsible Official and the Contractor of Record for the project to inform them of their findings and requested correction of the incident of noncompliance.

By April 8, 2024, no response to the phone call or email sent on April 5, 2024 had been received by the AQMD from the Responsible Official or the Contractor of Record. On the same date, a representative from the AQMD conducted a follow-up air quality evaluation of the Yellow Brick Road project and observed continued activity on the unpermitted areas of the project. While onsite, the contact with the Contractor of Record called the AQMD representative and stated they were working on submitting a modification to the existing Dust Control Permit to include the additional acreage disturbed. The AQMD representative stated work may resume, but only in the 4.52 acres covered under the existing Dust Control Permit No. APCP23-0068.

On April 10, 2024, a Dust Control Permit Modification application was submitted to the AQMD to increase the size of the project from 4.52 acres to 22.91 acres, a difference of 18.39 acres. The application included a new site map clearly depicting the boundaries of the project.

On April 16, 2024, the modification of Dust Control Permit APCP23-0068 for the Yellow Brick Road project was issued by the AQMD.

NOV No. AQMV24-0018 was sent electronically and certified to the offices of STC Ventures, LLC. 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.

On June 20, 2024, an appeal of NOV No. AQMV24-0018 was received by the AQMD within the 10-day appeal timeframe pursuant to DBOH Regulations paragraph 020.000.C.3.b and a meeting of the Washoe County Air Pollution Control Hearing Board (Board) was held on July 31, 2024. The APCHB voted unanimously to uphold NOV No. AQMV24-0018 and the recommended total administrative penalty of \$1,000.00.

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 the decision of the APCHB regarding the appealed NOV No. AQMV24-0018 issued to STC Ventures, LLC in Case No. 1509 with a recommended total administrative penalty of \$1,000.00.

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. AQMV24-0018; or
2. The Board may determine to uphold Notice of Violation No. AQMV24-0018 and levy any fine in the range of \$0.00 to \$1,000.00 per day per violation.

POSSIBLE MOTION

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

1. “Move to uphold the decisions of the Air Pollution Control Hearing Board regarding appealed NOV No. AQMV24-0018 issued to STC Ventures, LLC with a recommended total administrative penalty of \$1,000.00.”

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. 1509 associated with Notice of Violation No. AQMV24-0018 issued to STC Ventures, LLC”, or
2. “Move to uphold Case No.’s 1509, associated with Notice of Violation No. AQMV24-0018, and levy a fine in the amount of (range of \$0.00 to \$1,000.00) per day for each violation, with the matter being continued to the next meeting to allow for STC Ventures, LLC to be properly noticed.”