



APPROVED APC HEARING BOARD
DATE: April 8, 2025
BY: Mimi Rogge
Board Secretary

Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

January 28, 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 9:11 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
Troy Hildreth
Amy Lahav

ABSENT: Donald Bordelove

HEARING BOARD

COUNSEL: Nichole Kazimirovicz, Deputy District Attorney

DAQ STAFF:

Marci Henson, Director
Shibi Paul, Compliance and Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

DEPARTMENT

COUNSEL: Catherine Jorgenson, 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 DECEMBER 4, 2024, MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the December 4, 2024, 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, Troy Hildreth, Amy Lahav
Voting Nay: None
Abstaining: None
Absent: Donald Bordelove

4. APPEAL OF HEARING OFFICER DECISIONS

Mr. Joseph Yakubik, representative for appellants was not in attendance when the items were called. The Board agreed to take a 15-minute recess to allow time for Mr. Yakubik to arrive for the meeting.

RECESS: 9:15 a.m.
RECONVENE: 9:30 a.m.

Chair Sanders called the meeting back to order.

Mr. Yakubik arrived at 9:30 a.m., stating he had been informed by Administrative Secretary Sherrie Rogge that the meeting started at 10:00 a.m.

Mr. Yakubik, representing appellants, was sworn in by Chair Sanders.

Chair Sanders stated that before starting with the appeals, he would like to discuss with the Board the email that was received that morning in addition to the letter from Mr. Yakubik dated January 22, 2025, requesting NOVs #9907, #9946, #9979, #9981, and #10008 be either dismissed or continued.

Vice-Chair Dennett inquired of Mr. Yakubik if he had any briefings or pleadings on the motions contained in his letter or are these oral motions he will be making.

Vice-Chair Dennett stated for the record that a zoom meeting was held on January 23, 2025, between himself, Mr. Yakubik and Ms. Jorgenson. Mr. Dennett informed the Board of what was discussed.

Catherine Jorgenson, Deputy District Attorney, State Bar No. 006700, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Department of Environment and

Sustainability, Division of Air Quality (Air Quality), stated this is another example of delay and disruption. Ms. Jorgenson recommended the Board deny this motion by Mr. Yakubik as untimely.

Mr. Dennett stated that this meeting was properly noticed, that he had no knowledge of a pending Writ from the District Court precluding the hearing from going forward or a pending complaint from the Attorney General's office, nor that there was a violation of due process.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav to deny the appellants' oral motion to dismiss or, in the alternative, continue NOVs #9907, #9946, #9979, #9981, and #10008 to a future date.

Motion carried by the following vote:

Voting Aye: Daniel Sanders, Ryan Dennett, Daniel Bartlett, Troy Hildreth, Amy Lahav

Voting Nay: None

Abstaining: None

Absent: Donald Bordelove

A. ASSURED DEVELOPMENT, INC. AND JOSEPH YAKUBIK, INDIVIDUALLY (DCOP #50962) – NOV #9907 – On June 17, 2024, the Hearing Officer found Assured Development, Inc. and Joseph Yakubik in violation of Sections 94.5(n)(1) and (2), and 94.13(b) of the AQRs for failure to implement control measures for long-term stabilization, as described in Best Management Practice 11 at permit closure, as identified by Air Quality Specialist Nahulu Kahananui and Senior Air Quality Specialist Katrinka Byers during a permit closure inspection on July 13, 2023, a complaint investigation on August 2, 2023, and follow-up inspections on August 9, 11 and 17, 2023, at the Milan Customs construction project, located at the northeast corner of Milan Street and Berlin Avenue, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$5,000.00. This appeal is continued from the August 7, 2024, October 2, 2024, and December 4, 2024 Hearing Board meetings. (For possible action)

Mr. Yakubik stated his first item of business was NRS 50.155 which is for the exclusion and segregation of witnesses. Mr. Yakubik requested the Board remove all the testifying witnesses from the room during the hearing of each case.

Ms. Jorgenson stated that her witness list for NOV #9907 would include: Nahulu Kahananui, Katrinka Byers, David Dean, and Anna Sutowska. She requested that Air Quality Supervisor Anna Sutowska be allowed to stay in the room for all hearings. Ms. Sutowska is a County representative for purposes of the documents that have been obtained, and Ms. Jorgenson relies on Ms. Sutowska's knowledge of identifying documents. One of the exceptions is designated representative of the party.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Dennett, to deny the request to sequester Anna Sutowska for NOVs #9907, #9946, #9979, #9981, and #10008.

Motion carried by the following vote:

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

Mr. Yakubik stated his witness list for NOV #9907 would include: Mike Englehart, Elizabeth Rubio, Anita Karr, Richard Wyse, Nahulu Kahananui, and Anna Sutowska.

Ms. Jorgenson stated that Mike Englehart and Richard Wyse were not present for today's hearing and that Elizabeth Rubio and Anita Karr no longer worked for Clark County.

The Board asked Nahulu Kahananui, Katrinka Byers, and David Dean to leave the room until called for testimony.

Mr. Yakubik made objections and arguments in relation to NOV #9907.

Mr. Yakubik stated that if the Board doesn't want to rescind the Hearing Officer Order (Order), then he asked that the Order be modified to be consistent with long standing practices and procedures of Air Quality, and fines be commensurate with the violation.

Chair Sanders swore the following people in for questioning by Mr. Yakubik and Ms. Jorgenson:

Nahulu Kahananui, Air Quality Specialist, Enforcement Section
Katrinka Byers, Sr. Air Quality Specialist, Dust Section
David Dean, Air Quality Supervisor, Dust Section
Anna Sutowska, Air Quality Supervisor, Enforcement Section

Mr. Yakubik questioned Mr. Kahananui, Ms. Byers, Mr. Dean, and Ms. Sutowska.

Ms. Jorgenson presented the facts of Air Quality's case pertaining to the appeal of NOV #9907. Ms. Jorgenson called Mr. Kahananui, Ms. Byers, Mr. Dean, and Ms. Sutowska to testify.

Mr. Yakubik cross examined Ms. Byers, Mr. Dean, and Ms. Sutowska.

Ms. Jorgenson requested that the NOV with all of its exhibits and Exhibit AA (bates number DAQ_209 through DAQ_249) be admitted into the record.

RECESS: 12:02 p.m.
RECONVENE: 12:45 p.m.

Chair Sanders called the meeting back to order.

Mr. Yakubik made a closing statement. Mr. Yakubik asked the Board to rescind the Order for NOV #9907.

Ms. Jorgenson made a closing statement.

General discussion ensued amongst the Board.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to deny the appeal and affirm the Hearing Officer Order in the matter of NOV #9907.

Motion carried by the following vote:

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

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Hildreth, to affirm the Hearing Officer Order for assessment of administrative penalty in the amount of \$5,000.00.

Motion carried by the following vote:

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

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Sanders, to accept the following findings of facts and conclusions of law:

The Board finds on July 13, 2023, August 2, 2023, August 9, 2023, August 11, 2023, and August 17, 2023, Air Quality staff visited the permitted location in response to notification from Assured Development, Inc. (Assured) and Mr. Yakubik that they were prepared for a close out of the outstanding Dust Control Operating Permit (DCOP). On each of those occasions, staff for Air Quality recognized and determined that the standards for closure of the outstanding DCOP had not been met. Specifically, the Board finds that the dust mitigation effort had not been applied to the disturbed soils, and the project was not in compliance with BMP 11.

The Board concludes that Assured and Yakubik violated AQRs, specifically that soil was disturbed at the subject construction site and that Assured and Yakubik failed to stabilize soils as required by BMP 11.

The Board finds and determines, as discussed throughout the hearing, that the following applies in the matter of all four items (NOVs #9907, #9946, #9979, and #10008):

1. Assured and Yakubik argued under both the United States Constitution 14th Amendment and Nevada State Law that due process was not afforded because of the alleged failure of Air Quality to provide requested documents through subpoena or public records requests, because of a perceived failure of Air Quality to give timely notice of the December 4, 2024, Board meeting, and the inability of Assured and Yakubik to then prepare and provide documents and argument at this proceeding.

2. Air Quality argued that Assured and Yakubik had ample notice and opportunity to present evidence, a witness list, and motion prior to the January 28, 2025 meeting. Air Quality argued if Assured and Yakubik truly wanted their arguments considered by the Board, they would have submitted a motion presenting all their arguments to which Air Quality could have responded and Assured and Yakubik then could have replied. In addition, Air Quality presented evidence

that it had produced all the documents in its possession to Assured and Yakubik in accordance with the subpoena authorized by the Board at the October 2, 2024, Board meeting.

The Board, having considered those issues of potential violation of due process, finds and concludes that they are without merit and that Assured and Yakubik have failed to meet their burden of proof with regard to an alleged violation of due process. In addition, the Board concludes that the meeting was properly noticed.

The Board finds that the administrative penalty of \$5,000.00 assessed against Assured and Yakubik for its violation of the AQRs is reasonable and appropriate.

Motion carried by the following vote:

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

- B. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) – NOV #9946** – On June 17, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b) of the AQRs for failure to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk while performing routine patrol resulting in an initial inspection on November 8, 2023, and follow-up inspections on November 15 and 20, and December 11, 2023, at the 732 & 724 Naples | 729 Milan construction project (parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006), located at 732 North Naples Street, 729 North Milan Street, and 724 North Naples Street, respectively, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$5,937.50. This appeal is continued from the August 7, 2024, October 2, 2024, and December 4, 2024 Hearing Board meetings. (For possible action)

Mr. Yakubik stated for the record that per NRS 50.155 the following witnesses be excluded from the room during the hearing: Katrinka Byers, Andrew Kirk, David Dean, and Anna Sutowska.

Ms. Jorgenson requested that Anna Sutowska be excluded from the segregation of witnesses for NOV #9946.

The Board asked Katrinka Byers, Andrew Kirk and David Dean to leave the room until called for testimony. The Board allowed Ms. Sutowska to stay in the room.

Mr. Yakubik, representing appellants, made disclosures and objections.

Mr. Yakubik stated for the record that the general disclosures and objectives made can be used NOVs #9946, #9979, #9981, and #10008 instead of repeating the same facts for each case.

The Board and Counsel were in acceptance of that request.

Mr. Yakubik made arguments in relation to the appeal of NOV #9946.

Chair Sanders swore the following people in for questioning by Mr. Yakubik and Ms. Jorgenson:

David Dean, Air Quality Supervisor, Dust Section
Andrew Kirk, Senior Air Quality Specialist, Dust Section
Katrinka Byers, Senior Air Quality Specialist, Dust Section
Anna Sutowska, Air Quality Supervisor, Enforcement Section

Mr. Yakubik called Mr. Dean, Mr. Kirk, and Ms. Byers to testify.

Ms. Jorgenson called Mr. Yakubik to testify. Mr. Yakubik stated that he was not testifying today and that there was no obligation for him to testify.

Mr. Dennett stated that there's no 5th amendment privilege to preclude Mr. Yakubik from testifying in a civil proceeding. Mr. Dennett noted Mr. Yakubik's refusal to participate in good faith in the proceeding after being named as a witness and as the appellant.

Ms. Jorgenson called Ms. Byers, Mr. Kirk, and Ms. Sutowska to testify.

Ms. Jorgenson presented the subpoena issued to Air Quality on October 2nd. Ms. Sutowska testified that she gathered all the documents required by the subpoena that existed, provided them to Ms. Jorgenson, who then provided them to Mr. Rock Rocheleau, attorney for the appellants at that time.

Chair Sanders called for closing arguments. Mr. Yakubik stated for the record that his closing argument was the same as what he presented for NOV #9907, and he didn't need to restate it again.

Ms. Jorgenson presented her closing statement for the appeal of NOV #9946

General discussion ensued amongst the Board.

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Bartlett, to deny the appeal and affirm the Hearing Officer Order in the matter of NOV #9946 including the assessment of an administrative penalty in the amount of \$5,937.50.

Motion carried by the following vote:

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

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Sanders, to accept the following findings of fact and conclusions of law:

The Board finds that Atlas Holdings International LLC (Atlas Holdings) and Yakubik violated AQRS for not applying best available control measures for dust as documented by inspections

that were performed by Air Quality staff on November 8, 2023, November 15, 2023, November 30, 2023 and December 11, 2023, at 732 North Naples Street, 729 North Milan Street, and 724 North Naples Street in Henderson, Clark County, Nevada.

The Board finds that Atlas Holdings and Yakubik attempted to apply for a dust permit, but one was not in place at the time. Despite that, Atlas Holdings and Yakubik were required to apply best available control measures for dust and failed to do so.

The Board finds and determines, as discussed throughout the hearing, that the following applies in the matter of all four items (NOVs #9907, #9946, #9979, and #10008):

1. Atlas Holdings and Yakubik argued under both the United States Constitution 14th Amendment and Nevada State Law that due process was not afforded because of the alleged failure of Air Quality to provide requested documents through subpoena or public records requests, because of a perceived failure of Air Quality to give timely notice of the December 4, 2024 Board meeting, and the inability of Atlas Holdings and Yakubik to then prepare and provide documents and argument at this proceeding.

2. Air Quality argued that Atlas Holdings and Yakubik had ample notice and opportunity to present evidence, a witness list, and motion prior to the January 28, 2025 hearing. Air Quality argued if Atlas Holdings and Yakubik truly wanted their arguments considered by the Board, they would have submitted the motion to which Air Quality could have responded, and Atlas Holdings and Yakubik then could have replied. In addition, Air Quality presented evidence that it had produced all the documents in its possession to Atlas Holdings and Yakubik in accordance with the subpoena authorized by the Board at the October 2, 2024 Board meeting. The Board, having considered those issues of potential violation of due process, finds and concludes that they are without merit and that Atlas Holdings and Yakubik have failed to meet their burden of proof with regard to an alleged violation of due process. In addition, the Board concludes that the meeting was properly noticed.

The Board finds that the administrative penalty of \$5,937.50 assessed against Atlas Holdings and Yakubik for its violation of the AQRs is reasonable and appropriate.

Motion carried by the following vote:

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

- C. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) – NOV #9979** – On June 17, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b), and 94.4.1(a) of the AQRs for failure to fully implement Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week; and for failing to obtain a Dust Control Operating Permit prior to commencing construction activities, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk while performing follow-up inspections on January 10, 17, and 22, 2024, at the 732 & 724 Naples | 729 Milan construction project (parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006), located at 732 North Naples Street, 729 North Milan Street, and 724 North Naples Street, respectively, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$4,000.00. This appeal is continued from the August 7, 2024, October 2, 2024, and December 4, 2024 Hearing Board meetings. (For possible action)

Mr. Yakubik stated for the record that in an effort to save time, he stipulated that the same evidence, same questions and same position that was heard for NOV #9946 would be the same for NOVs #9979 and #10008. He asked the Board to find separate findings of fact for NOVs #9979 and #10008 when making their motions.

Ms. Jorgenson stated she was fine with Mr. Yakubik's request and that she would still be presenting Air Quality's case for NOVs #9979 and #10008 since Air Quality has the burden of proof.

Chair Sanders swore the following people in for questioning by Ms. Jorgenson:

Katrinka Byers, Senior Air Quality Specialist, Dust Section
Andrew Kirk, Senior Air Quality Specialist, Dust Section
Anna Sutowska, Air Quality Supervisor, Enforcement Section

Ms. Jorgenson presented Air Quality's case pertaining to the appeal of NOV #9979 and questioned witnesses previously sworn in by Chair Sanders.

Ms. Jorgenson requested that all the NOVs with exhibits be admitted into the record.

Chair Sanders asked for closing statements.

Mr. Yakubik made a closing statement stipulating the facts from his closing argument for NOV #9946 applied.

Ms. Jorgenson made a closing statement.

General discussion ensued amongst the Board.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to deny the appeal and affirm the Hearing Officer Order in the matter of NOV #9979 including the assessment of an administrative penalty in the amount of \$4,000.00.

Motion carried by the following vote:

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

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Sanders, to accept the following findings of fact and conclusions of law:
The Board find that Atlas Holdings International LLC (Atlas Holdings) and Yakubik were required to obtain a DCOP and failed to do so. The Board finds that on January 10 and 17, 2024, at the subject construction site, Atlas Holdings and Yakubik failed to use best available control measure as demonstrated through documentation or inspections by Air Quality staff on those dates.

The Board finds and determines, as discussed throughout the hearing, that the following applies in the matter of all four items (NOVs #9907, #9946, #9979, and #10008):

1. Atlas Holdings and Yakubik argued under both the United States Constitution 14th Amendment and Nevada State Law that due process was not afforded because of the alleged failure of Air Quality to provide requested documents through subpoena or public records requests, because of a perceived failure of Air Quality to give timely notice of the December 4, 2024, Board meeting, and the inability of Atlas Holdings and Yakubik to then prepare and provide documents and argument at this proceeding.

2. Air Quality argued that Atlas Holdings and Yakubik had ample notice and opportunity to present evidence, a witness list, and motion prior to the January 28, 2025 hearing. Air Quality argued if Atlas Holdings and Yakubik truly wanted their arguments considered by the Board, they would have submitted the motion to which Air Quality could have responded, and Atlas Holdings and Yakubik then could have replied. In addition, Air Quality presented evidence that it had produced all the documents in its possession to Atlas Holdings and Yakubik in accordance with the subpoena authorized by the Board at the October 2, 2024, Board meeting.

The Board, having considered those issues of potential violation of due process, finds and concludes that they are without merit and that Atlas Holdings and Yakubik have failed to meet their burden of proof with regard to an alleged violation of due process. In addition, the Board concludes that the meeting was properly noticed.

The Board finds that the administrative penalty of \$4,000.00 assessed against Atlas Holdings and Yakubik for its violation of the AQRs is reasonable and appropriate.

Motion carried by the following vote:

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

RECESS: 3:10 p.m.
RECONVENE: 3:20 p.m.

Chair Sanders called the meeting back to order.

D. JOSEPH YAKUBIK AND DARCIÉ YAKUBIK, INDIVIDUALLY (Construction Project #57592) – NOV #9981 – On June 17, 2024, the Hearing Officer dismissed the violations alleged in NOV #9981 finding Joseph Yakubik and Darcie Yakubik not in violation of Sections 94.13(a) and (b) and 94.4.1(a) of the AQRs for failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week; and for failing to obtain a Dust Control Operating Permit prior to commencing construction activities, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk, and Air Quality Supervisor David Dean during a routine patrol resulting in an initial inspection on January 17, 2024, and follow-up inspections on January 19 and February 14, 2024, at the 1028 Athens Avenue construction project (parcel numbers 160-33-801-021 and 160-33-801-020), located at 1024 and 1028 Athens Avenue, in Clark County, Nevada. This appeal is continued from the August 7, 2024, October 2, 2024, and December 4, 2024 Hearing Board meetings. (For possible action)

Ms. Jorgenson reported that Air Quality has withdrawn their appeal of NOV #9981.

- E. ATLAS HOLDINGS INTERNATIONAL LLC AND JOSEPH YAKUBIK, INDIVIDUALLY (Construction Project #57391) - NOV #10008** – On May 23, 2024, the Hearing Officer found Atlas Holdings International LLC and Joseph Yakubik in violation of Sections 94.13(a) and (b) of the AQRs for failure to fully implement Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, as identified by Senior Air Quality Specialists Katrinka Byers and Andrew Kirk during a follow-up inspection on March 21, 2024, at the 724 Naples & 729 Milan construction project (parcel numbers 179-04-510-005, 179-04-510-006, and 179-04-599-023), located at 724 North Naples Street and 729 North Milan Street, in Clark County, Nevada. The Hearing Officer assessed a penalty amount of \$1,250.00. This appeal is continued from the August 7, 2024, October 2, 2024, and December 4, 2024 Hearing Board meetings. (For possible action)

Mr. Yakubik stated for the record that he stipulated the same evidence, questions and position that was heard for NOVs #9946 and #9979 would be the same for NOV #10008. He asked the Board to find separate findings of fact for NOV #10008 when making their motions.

Chair Sanders swore the following people in for questioning by Ms. Jorgenson:

Katrinka Byers, Senior Air Quality Specialist, Dust Section
Andrew Kirk, Senior Air Quality Specialist, Dust Section
Anna Sutowska, Air Quality Supervisor, Enforcement Section

Ms. Jorgenson presented Air Quality's case pertaining to the appeal of NOV #10008 and questioned witnesses previously sworn in by Chair Sanders.

Chair Sanders asked for closing statements.

Mr. Yakubik stated that he did not have a closing argument. Everything that was stated in NOVs #9946 and #9979 is stipulated for this case.

Mr. Jorgenson made a closing statement.

General discussion ensued between the Board.

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 #10008 as it relates to the finding of violation and modify the assessment of an administrative penalty from \$1,250.00 to \$1,750.00.

Motion carried by the following vote:

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

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Sanders to accept the following findings of facts and conclusions of law:

The Board finds that Air Quality has demonstrated that Atlas Holdings International LLC (Atlas Holdings) and Yakubik, Individually, failed to employ best available control measures for dust at the subject construction site.

The Board finds and determines, as discussed throughout the hearing, that the following applies in the matter of all four items (NOVs #9907, #9946, #9979, and #10008):

1. Atlas Holdings and Yakubik argued under both the United States Constitution and 14th Amendment and Nevada State Law that due process was not afforded because of the alleged failure of Air Quality to provide requested documents through subpoena or public records requests, because of a perceived failure of Air Quality to give timely notice of the December 4, 2024 Board meeting, and the inability of Atlas Holdings and Yakubik to then prepare and provide documents and argument at this proceedings.

2. Air Quality argued that Atlas Holdings and Yakubik had ample notice and opportunity to present evidence, a witness list, and motion prior to the January 28, 2025 hearing. Air Quality argued if Atlas Holdings and Yakubik truly wanted their arguments considered by the Board, they would have submitted the motion to which Air Quality could have responded, and Atlas Holdings and Yakubik then could have replied. In addition, Air Quality presented evidence that it had produced all the documents in its possession to Atlas Holdings and Yakubik in accordance with the subpoena authorized by the Board at the October 2, 2024, Board meeting.

The Board, having considered those issues of potential violation of due process, finds and concludes that they are without merit and that Atlas Holdings and Yakubik have failed to meet their burden of proof with regard to an alleged violation of due process, in addition, the Board concludes that the meeting was properly noticed.

The Board finds that an administrative penalty of \$1,750.00 against Atlas Holdings and Yakubik for its violation of the AQRs is reasonable and appropriate.

Motion carried by the following vote:

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

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

There were no emerging issues identified by the Board.

6. PUBLIC COMMENT

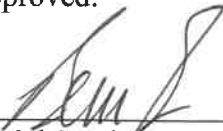
Chair Sanders asked if there were any persons present in the audience wishing to be heard. There being no one, Chair Sanders closed the public comments.

7. ADJOURNMENT

Chair Sanders thanked Ms. Jorgenson for her years of service to the department and to the Board. Vice-Chair Dennett also wished Ms. Jorgenson congratulations. Ms. Jorgenson thanked the Board.

Being no further business, Chair Sanders adjourned the meeting at 3:39 p.m.

Approved:



Daniel Sanders, Chair

4/8/25

Date