The logo for Clark County Building Services is a circular emblem. It features a light blue outer ring with the text 'CLARK COUNTY' at the top and 'NEVADA' at the bottom in yellow, bold, sans-serif capital letters. Inside the ring is a stylized orange sun with a spiral center. Below the sun are several grey stick figures of various sizes, some holding hands, representing a community or family.

*Clark County
Air Pollution Control
Hearing Board*

*Clark County Building Services
Presentation Room*

October 2, 2024 at 10:00 a.m.



Clark County Air Pollution Control Hearing Board
Clark County Building Department
Presentation Room
4701 West Russell Road
Las Vegas, NV 89118

October 2, 2024 – 10:00 A.M.

Agenda

Note:

- Items on the agenda may be taken out of order.
- The Air Pollution Control Hearing Board may combine two (2) or more agenda items for consideration.
- The Air Pollution Control Hearing Board may remove an item from the agenda or delay discussion relating to an item at any time.
- No action may be taken on any matter not listed on the posted agenda.
- Please turn off or mute all cell phones and other electronic devices.
- Please take all private conversations outside the room.
- With a forty-eight (48) hour advance request, a sign language interpreter or other reasonable efforts to assist and accommodate persons with physical disabilities, may be made available by calling (702) 455-0354, TDD at (702) 385-7486, or Relay Nevada toll-free at (800) 326-6868, TD/TDD
- Supporting material provided to the Board members for this meeting may be requested from Sherrie Rogge, Administrative Secretary, at sherrie.rogge@clarkcountynv.gov or (702) 455-0354.
- Supporting material is also available at the Clark County Department of Environment & Sustainability, 4701 West Russell Road, 2nd Floor, Las Vegas NV 89118.
- Supporting material is/will be available on the Department's website at:
https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/enforcement_notices.php

Hearing Board Members

Daniel Sanders, Chair
Ryan L. Dennett, Esq., Vice-Chair
Daniel Bartlett
Donald Bordelove
Troy Hildreth
Amy Lahav

Hearing Board Counsel

Nichole Kazimirovicz
Tyler T. Smith

Air Quality Staff

Marci Henson, Director
Shibi Paul, Compliance & Enforcement Manager
Anna Sutowska, Air Quality Supervisor

Department Counsel

Catherine Jorgenson

Administrative Secretary

Sherrie Rogge, Phone: 702-455-0354; Email sherrie.rogge@clarkcountynv.gov
Business Address: Clark County Department of Environment & Sustainability,
4701 W. Russell Road, 2nd Floor, Las Vegas NV 89118

1. **CALL TO ORDER**

2. **PUBLIC COMMENT**

This is a period devoted to comments by the general public about items on this agenda. No discussion, action, or vote may be taken on this agenda item. You will be afforded the opportunity to speak on individual Public Hearing Items at the time they are presented. If you wish to speak to the Board about items within its jurisdiction but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Comments will be limited to three (3) minutes. Please step up to the speaker's podium, if applicable, clearly state your name and address and please **spell** your last name for the record. If any member of the Board wishes to extend the length of a presentation, this will be done by the Chairperson or the Board by majority vote.

3. **OATHS OF OFFICE**

A. Daniel Sanders (Building Contractor Member)

Term of Office: 9/17/2024 through 9/16/2027

4. **ELECTION OF CHAIR**

New term – 10/2/2024 through end of term

(For possible action)

Clark County Air Quality Regulations (AQRs) Subsection 7.1(b)(1)(H) states, “The Hearing Board shall select a Chair, Vice-chair, and any other officers it deems necessary.”

5. **APPROVAL OF MINUTES**

Approval of August 7, 2024 meeting minutes.

(For possible action)

6. **RESPONDENTS’ MOTION FOR A CONTINUANCE AND TO ISSUE SUBPOENAS**

Respondents’ motion in the matter of Notices of Violation #9907, 9946, 9979, and 10008 submitted to Administrative Secretary on September 24, 2024.

(For possible action)

7. **APPEAL OF HEARING OFFICER DECISION**

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. Continued from the August 7, 2024 Hearing Board meeting.

Conduct Hearing and Render Decision

(For possible action)

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. Continued from the August 7, 2024 Hearing Board meeting.

Conduct Hearing and Render Decision
(For possible action)

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. Continued from the August 7, 2024 Hearing Board meeting.

Conduct Hearing and Render Decision
(For possible action)

D. JOSEPH YAKUBIK AND DARCIE 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. Continued from the August 7, 2024 Hearing Board meeting.

Conduct Hearing and Render Decision
(For possible action)

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. Continued from the August 7, 2024 Hearing Board meeting.

Conduct Hearing and Render Decision
(For possible action)

8. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT A FUTURE MEETING

9. PUBLIC COMMENT

A period devoted to comments by the general public about matters relevant to the Board's jurisdiction will be held. No vote may be taken on a matter not listed on the posted agenda. Comments will be limited to three (3) minutes. Please step up to the speaker's podium, if applicable, clearly state your name and address and please **spell** your last name for the record. If any member of the Board wishes to extend the length of a presentation, this will be done by the Chairperson or the Board by majority vote.

10. ADJOURNMENT

The Presentation Room is accessible to individuals with disabilities. Within forty-eight (48) hour advanced request, a sign language interpreter may be made available by contacting (702) 455-0354 or TDD (702) 385-7486 or Nevada Relay toll-free (800) 326-6868, TT/TDD. Assistive listening devices are available upon request.

This meeting has been properly noticed and posted online at: https://clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/enforcement/notices.php and Nevada Public Notice at <https://notice.nv.gov/> and in the following location:

Clark County Operations Center, West, 4701 W. Russell Road, Las Vegas, Nevada (Principal Office)



Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

August 7, 2024

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 1:33 p.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
Elspeth Cordua
*Daniel Sanders, Chair, left the meeting at 1:37 p.m.

DEPARTMENT
COUNSEL: Catherine Jorgenson, Deputy District Attorney

HEARING BOARD
COUNSEL: Nichole Kazimirovicz, Deputy District Attorney

DAQ STAFF: Jodi Bechtel, Deputy Director
Shibi Paul, Compliance and Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

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. OATHS OF OFFICE

- A. Ryan Dennett (Attorney Member)
Term of Office: 10/17/2023 through 10/16/2026

FINAL ACTION: Air Quality Supervisor Sutowska administered the Oath of Office to Ryan Dennett.

4. ELECTION OF VICE-CHAIR

New term – 8/7/2024 through end of term (For possible action)

FINAL ACTION: It was moved by Board Member Sanders, seconded by Board Member Hildreth, to elect Board Member Dennett to serve as Vice-Chair for the period of August 7, 2024 through October 16, 2026.

Motion carried by the following vote:

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

5. APPROVAL OF MINUTES OF THE DECEMBER 6, 2023 MEETING (For possible action)

Chair Sanders called for comments, changes, or corrections to the December 6, 2023 minutes. Being none, he called for a motion.

FINAL ACTION: It was moved by Board Member Lahav, seconded by Board Member Hildreth, that the subject minutes be approved.

Motion carried by the following vote:

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

Chair Sanders excused himself from the meeting at 1:37 p.m., and Vice-Chair Dennett presided over the meeting with a quorum still present.

6. **APPEAL OF HEARING OFFICER DECISION** (For possible action)

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 (BMP) 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.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

Vice-Chair Dennett confirmed that attorneys for both sides were present and ready to present their case.

Rock Rocheleau, Esq., Nevada Bar No. 15315, 600 South Tonopah Drive, Suite 300, Las Vegas NV 89106, Attorney for Respondents Assured Development Inc., Atlas Holdings International LLC, Joseph Yakubik, and Darcie Yakubik stated he was present and ready to present his case.

Catherine Jorgenson, Deputy District Attorney, State Bar No. 006700, 500 South Grand Central Parkway, Las Vegas NV 89155, Attorney for Clark County Division of Air Quality (Air Quality), stated she was present and ready to present her case.

Vice-Chair Dennett recommended that Items 6A, B, C, D and E should be heard together. He inquired if there was any objection to holding the public hearings at this time and allowing testimony on all notices.

Deputy District Attorney Jorgenson suggested the Board should first hear the respondent's amended motion on NOVs 9907, 9946, 9979, and 10008; and then hear Air Quality's motion on NOVs 9907, 9946, 9979, 9981, and 10008. Following those motions, Ms. Jorgenson recommended that the Board consider and approve a briefing schedule for all five cases before conducting the hearing and rendering a decision.

Rock Rocheleau, Attorney for the Respondents, agreed.

Vice-Chair Dennett announced that the Board would hear the Respondent's arguments for the amended motion for appeal, opening of discovery, request for continuance, and hearing master reassignment in regard to NOVs 9907, 9946, 9979 and 10008.

DISCUSSION: Mr. Rocheleau presented arguments for his client's amended motion for appeal, opening discovery, and request for continuance for NOVs 9907, 9946, 9979 and 10008. Mr. Rocheleau stated the reason for a continuance is that time is needed for discovery to take place; however, the reassignment of a Hearing Master won't be necessary since all four cases would now be heard by this Board when originally, he thought the case would go back to the Hearing Officer. Mr. Yakubik responded to a question from the Board.

Ms. Jorgenson responded to the motion to open discovery presenting the argument that Nevada Rules of Civil Procedure do not apply to the APC Hearing Board and it is not authorized to open formal discovery. The Board is authorized to issue subpoenas for specific documents. For that reason, Mr. Rocheleau's motion for discovery should be denied.

Mr. Rocheleau inquired if an oral motion from the respondent with specific requests of the documents he wants would work.

Ms. Jorgenson stated that since the allegation appears to be selective enforcement on the use of BMP11 for the closeout of dust permits relating to NOV 9907, Air Quality could put together a report that would show all of the dust permits that were closed out in 2023 and 2024 to date so that it is concurrent to what is going on with Mr. Yakubik's permits. From there, Air Quality would narrow it down to those permits closed in 2023 and 2024 that included long term stabilization of right of ways and road shoulders, approximately 400, and what was approved by Air Quality to close the permit or if the closure was put back on the permittee to resolve any outstanding BMP11 issues.

Vice-Chair Dennett inquired of Mr. Rocheleau whether this kind of a summary would be sufficient.

Mr. Rocheleau stated that it would be an excellent start; but there is no guarantee that he will not come back to the Board and request more documents.

Vice-Chair Dennett stated that he thought the Board was willing to entertain an oral motion to give Mr. Rocheleau discovery and asked Mr. Rocheleau whether this proposal would provide Mr. Rocheleau with what he needed.

Mr. Rocheleau stated that he couldn't guarantee that he wouldn't ask for more. He finished by stating he believed some sort of continuance allowing evidence was proper.

Ms. Jorgenson stated that Air Quality is suggesting that it put together a document indicating how the permits involved with BMP11 were closed out.

Vice-Chair Dennett inquired whether Mr. Rocheleau could obtain the actual close out documents from that list through a public records request. Ms. Jorgenson agreed.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Hildreth to continue these hearings to allow for the oral motion of the respondent and to grant a subpoena on behalf of the respondent to the Division of Air Quality, that they provide a summary of all dust permits closed out in calendar year 2023 and 2024 to date, and provide in that summary specific information about the BMP11 compliance of those properties to the respondents.

Motion carried by the following vote:

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

Vice-Chair Dennett moved to the next motion which is Air Quality's request for issuance of a subpoena for NOV's 9907, 9946, 9979, 9981, and 10008.

DISCUSSION: Ms. Jorgenson stated that in this motion there are four sets of documents and evidence that Air Quality is seeking.

1. Records related to the formation, management, and dissolution, if applicable, of Assured Development, Inc.; Atlas Holdings International LLC; Milan Customs LLC; and Global Equity Holdings, Inc. The reason why Air Quality is seeking this information is to have some definitive information as to who actually controls these companies or who controlled them if they no longer exist. There has been some confusion as to who is actually in charge of the businesses and who actually has controlling authority.
2. Video and/or audio recordings from all cameras mounted on the Yakubik's residence that is related to NOV 9981, showing the property outside the house from January 16, 2024 through April 30, 2024, during daylight hours. There have been allegations that a drop ball test was never done. In addition, Mr. Yakubik testified that he didn't know what the bobcat was being used for and that the property located next door was not being used for access or staging.
3. Any video and/or audio records and photographs made or taken by Mr. Yakubik on his phone or by other means and video and/or audio recordings and photographs made or taken at the direction of any of the Respondents that shows Air Quality enforcement specialists on Mr. Yakubik's property or one of the six custom lots from July 1, 2023 through May 31, 2024.
4. Complete copies of all bodycam footage and other documents that Joseph Yakubik and/or Darcie Yakubik received from the City of Henderson for an incident that occurred on January 19, 2024 at the Yakubiks' residence that is the subject of NOV 9981. There have been allegations in the motion and in testimony about the idea of trespassing and that two Air Quality enforcement officers had to be removed from the site by police officers on that date.

Ms. Jorgenson stated that these are the four various things that Air Quality is seeking in a subpoena to be issued by the Board in accordance with NRS 445B.

Vice-Chair Dennett inquired if the bodycam video was from the City of Henderson police department.

Ms. Jorgenson stated it was; however, Mr. Yakubik has already received that video and Air Quality would like to have copies of whatever he received.

Vice-Chair Dennett inquired of Mr. Rocheleau if he had any issues with the motion for a subpoena.

Mr. Rocheleau stated that he didn't. There may be some privileges with the Limited Liability Corporations because Mr. Yakubik has investors and stockholders; however, if there are any, he would inform Ms. Jorgenson. As for the footage around Mr. Yakubik's property, they have no problem as long as it's on the outside and it will be for however long his ring camera records. In regard to the photos on Mr. Yakubik's personal phone, that will need to be discussed as to whose expense that will be and how far they have to go into his phone to get those photos.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Lahav, to approve Air Quality's motion for issuance of a subpoena, and the subpoena that was presented in their motion as being complete.

Motion carried by the following vote:

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

Vice-Chair Dennett stated the next item on the agenda for these five NOV's would be to consider and approve a briefing schedule.

DISCUSSION: Vice-Chair Dennett inquired as to how long it takes for the Division of Air Quality to respond to a public records request.

Ms. Jorgensen stated that under the Public Records Law, we have five days to respond, either by providing the documents or telling Mr. Rocheleau when they would become available. However, for the documents related to the summary report, the response should be fairly quick because we will be gathering them already.

Discussion was held between both parties, the Board and staff as to what the briefings would entail and when they would be due.

FINAL ACTION: It was moved by Board Member Dennett, seconded by Board Member Bartlett, to have both subpoenas issued by Monday, August 12, 2024 and the response to the subpoenas by both parties to be due no later than Thursday, August 29, 2024; briefings and exhibits that will be presented at the October 2, 2024 hearing to be submitted no later than Thursday, September 19, 2024; all in advance of the next hearing to be held on October 2, 2024 where the Board will hear the cases and render a decision.

Motion carried by the following vote:

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

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.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

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.

1. Respondents' Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality's Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule

- (For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

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.

1. Air Quality’s Motion for Issuance of Subpoena
(For possible action)
2. Consider and Approve a Briefing Schedule
(For possible action)
3. Conduct Hearing and Render Decision
(For possible action)

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.

1. Respondents’ Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality’s Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

7. REPORT BY DEPARTMENT OF ENVIRONMENT AND SUSTAINABILITY STAFF

A. General Update

DISCUSSION: Jodi Bechtel, Deputy Director, gave an update relating to moderate nonattainment classification for Ozone, implementation of a new SIP to reduce our emissions to reach those attainment standards, and upcoming PM_{2.5} attainment challenges during the winter months due to the lowering of the National Ambient Air Quality Standards.

Shibi Paul, Compliance Manager, gave an update on the Compliance section's activities over the last couple of months. A more detailed report will be provided at the September 16, 2024 Hearing Board meeting.

B. Ethics Training Update.

DISCUSSION: Administrative Secretary Sherrie Rogge provided an update on the Ethics Training Program that was recently adopted by the County Commissioners at the March 5, 2024 meeting. An email will be sent to the Hearing Board with a link to the Ethics Committee's website with instructions to complete the first nine (9) YouTube videos, complete the attestation form and return it to Ms. Rogge no later than September 30, 2024.

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

Deputy District Attorney Jorgenson stated that an appeal of a Hearing Officer's decision had been filed, separate from the above five cases. Instead of trying to hear that appeal at the same time as the other cases, she inquired if the Board would like to meet in September to hear the appeal separately, have an earlier start time to the October 2nd meeting, or both.

The Board Members indicated they would be available on September 16, 2024 for another Board meeting.

9. PUBLIC COMMENT

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

10. ADJOURNMENT

Being no further business, Vice-Chair Dennett adjourned the meeting at 3:31 p.m.

Approved:

Ryan Dennett, Vice-Chair

Date

1 ROCHELEAU LAW GROUP
2 dba RIGHT LAWYERS
3 Rock Rocheleau, Esq.
4 Nevada Bar No. 15315
5 rock@rightlawyers.com
6 600 South Tonopah Drive, Suite 300
7 Las Vegas, Nevada 89106
8 702-914-0400
9 Attorneys for Respondents

7
8 **CLARK COUNTY, NEVADA**
9 **AIR POLLUTION CONTROL HEARING BOARD**

10 In the Matter of the Notice of Violation
11 #9907, #9946, #9979, #10008

12
13 Issued To:
14 Assured Development, Inc., Atlas
15 Holdings International, LLC, Joseph
16 Yakubik, Individually, and
17 Darcie Yakubik, Individually,
18 Respondents,

18 **MOTION FOR A CONTINUANCE AND TO ISSUE SUBPEONAS**

19 Assured Development, Inc.; Atlas Holdings International LLC; and Joseph and
20 Darcie Yakubik, individually (Yakubik), through counsel, Rock Rocheleau, Esq.
21 (Rocheleau), who requests the Clark County Air Control Hearing Board (Board) to
22 continue the scheduled hearing on the above referenced appeals and grant a
23 continuance to afford Respondents more time to gather evidence. This motion is
24 needed because Catherine Jorgenson, Esq. (Jorgenson) and the Clark County
25
26
27
28

1 Department of Air Quality (Air Quality) failed to comply with the subpoena issued by
2 the Board.

3 INTRODUCTION

4 Air Quality and Jorgenson continue to block Yakubik from obtaining relevant
5 evidence to present in support of his defenses to the violations. The latest incident
6 being when Jorgenson unilaterally changed the language of the Board's subpoena.
7 Jorgenson made the change purposely to limit Yakubik access to records and evidence
8 which would support his defenses of retaliation, selective enforcement, and bias.
9
10

11 Yakubik has repeatedly claimed Air Quality issued Notice of Violation #9907
12 (#9907) in direct contrast to the acceptable standards approved by Air Quality.
13 Yakubik and other permit holders have repeatedly used these approved standards to
14 close out their properties. Specifically, Air Quality allows most (if not all) permit
15 holders in the area to close out their permits without the installation of gravel along
16 the road. Yakubik claims #9907 was issued in retaliation for Yakubik questioning
17 Air Quality on their allowance of close outs without gravel, for Yakubik hiring an
18 attorney, and for Yakubik threatening to file a complaint against Air Quality staff.
19
20

21 The Board issued a subpoena that would provide Yakubik with a summary of
22 "all" dust permits with a note of which had been forced to close out with gravel.
23 Jorgenson unilaterally changed the language of the subpoena and only disclosed the
24 dust permits that closed out using gravel. Jorgeson made this change to block Yakubik
25 from the other dust permit records, which would show Air Quality allowed properties
26
27
28

1 in the area of #9907 and similarly situated properties to close the permit without
2 gravel, including the home of Air Quality Investigator David Dean.

3 Yakubik has also repeatedly claimed the violations that followed #9907 were
4 retaliatory for Yakubik question Air Quality, for Yakubik hiring a lawyer, and for
5 Yakubik threatening to file a complaint against Air Quality staff. Yakubik believes there
6 are documents, memos, emails, or internal correspondence to prove these claims. The
7 Board recommended Air Quality to comply with any public records requests sent by
8 Yakubik. Yakubik sent requests asking for these documents and emails. Jorgenson
9 denied Yakubik's requests citing privilege and other trivial objections.
10
11

12 Because of Air Quality and Jorgenson's continued efforts to block Yakubik
13 from accessing evidence, a continuation of the scheduled hearing should be ordered,
14 and the Board should issue new subpoenas.
15

16 STATEMENT OF FACTS

17 At the Board hearing on August 7, 2024 this Board authorized the issuance of
18 a subpoena to Air Quality. The language approved for the subpoena was for Air
19 Quality to "provide a summary of **all dust permits** that were closed during calendar
20 year 2023 and 2024 to date and provide in that summary specific information about
21 the best management practices (BMP 11) compliance of those properties". See
22 Exhibit 1 – AQ Board Minutes 08.07.24.
23
24

25 Jorgenson offered to draft the subpoena. Jorgenson emailed Rocheleau a
26 courtesy copy of the subpoena. The subpoena language **did not include "all dust**
27 **permits"**. Instead, Jorgenson used the wording "A summary of which, if any BMP
28

1 11 measures were implemented”. Rocheleau asked Jorgeson why she was changing
2 the subpoena language from “all” to “if any”. See Exhibit 2 – Rocheleau Email to
3 Jorgenson about “If Any”. Jorgenson never responded and issued the incorrect
4 subpoena.
5

6 30 days later Air Quality returned the summary which did not contain “all” dust
7 permits. Air Quality testified at the hearing there would be an estimated 1800 dust
8 permits closed during this time frame. The summary only contained 108 permits
9 entries. And all 108 entries had notes requiring gravel. This summary makes it look
10 as though Air Quality made all permits close out with gravel. This summary purposely
11 excluded the other 1700 permits which did not require close out with gravel. The
12 Board ordered a summary of the 1700 permits, not just the 108 permits. Yakubik
13 accepted this language as the 1700 permits likely contained the documents and
14 evidence to support Yakubik’s claims that Air Quality was selectively asking Yakubik
15 to close out with gravel.
16
17
18

19 After receiving the summary with only 108 permits, Rocheleau asked
20 Jorgenson to supplement Air Quality summary report by including “all” permits.
21 Jorgeson responded, Rocheleau, “You are mistaken. The subpoena correctly reflects
22 what the Board authorized”. See Exhibit 3 – Jorgenson Email to Rocheleau – “You
23 Are Mistaken.”
24

25 At the August hearing the Board also agreed Yakubik could send a public record
26 request and Air Quality would comply. Yakubik did send a records request on related
27 claims. Jorgenson denied most of the records Yakubik requested. Citing various legal
28

1 positions on why the documents were not eligible for disclosure. See Exhibit 4 –
2 Jorgenson Response to Records Request.

3 Jorgenson knows what the Air Quality summary and the specific documents
4 would prove, if she did not change the language from “all” to “if any”. Jorgenson
5 purposely changed the subpoena language to limit the evidence Yakubik could review.
6 Therefore, she is purposely blocking Yakubik’s right to evidence.
7

8 Jorgenson’s changing of the subpoena language, stating Rocheleau was
9 “mistaken”, and denying Yakubik’s public records request is a purposeful attempt to
10 limit Yakubik’s gathering of relevant evidence. This is not the first, or even second
11 time Jorgenson has blocked Yakubik from attempting to gather evidence from Air
12 Quality to support his defenses.
13
14

15 In April 2024, Yakubik, through counsel, corresponded with Jorgenson about
16 producing evidence. Yakubik requested documents regarding DCOPs that had
17 recently closed in the area using the previously authorized methods in which Air
18 Quality has accepted as best practices in the rural preservation areas. Yakubik
19 believed these documents proved gravel was not always required and that Yakubik
20 was being treated differently than similarly situated permits due to the retention of
21 counsel and his pushback against the request.
22
23

24 Initially, Jorgenson agreed to provide these records. Jorgenson changed course
25 when she realized the requested evidence would support Yakubik’s claims. Air
26 Quality physically inspected the properties on the list and learned the DCOP Closure
27 Forms located in the files would prove Air Quality staff accepted closure without
28

1 gravel in these areas. Since this realization, Jorgenson has attempted to avoid the
2 production of this evidence. Since this realization, Jorgenson has interfered with
3 Yakubik's due process rights.

4
5 Recently, Yakubik received records from the Nevada Division of Environment
6 Protection (NDEP), who were complying with a public records request. Yakubik was
7 shocked to find in NDEP's record an email from Katrinka Byers (Byers), the Air
8 Quality Specialist issuing all of Yakubik's Air Quality violations. Byers asked the
9 NDEP to "Pursue a Violation" against Mr. Yakubik. Byers made this request of
10 NDEP because NDEP penalties "are much heavier" than Air Quality. Byers made
11 this request of NDEP to "grab" Mr. Yakubik's attention. See Ex 5 – Byers Email to
12 NDEP.
13
14

15 Importantly, Byers sent her email to NDEP on August 23, 2023. Which was
16 months before she issued NOV #9946, 9979, 9981, and #10008 to Yakubik. Yakubik
17 does not believe this is a coincidence. Yakubik believes Byers, and others at Air
18 Quality, have shown extreme bias against him in the issuance of these violations.
19 Yakubik has claimed through these entire proceedings Air Quality has selectively
20 enforced their regulations against him.
21
22

23 Selective enforcement is a recognized defense to civil and criminal
24 prosecutions. See *United States v. Berrios*, 501 F.2d 1207, 1211 (2d Cir. 1974).
25 Which states the elements are; 1) others similarly situated have not generally been
26 proceeded against because of conduct of the type forming the basis of the charge
27 against him, 2) he has been singled out for prosecution, and 3) that the government's
28

1 discriminatory selection of him for prosecution has been invidious or in bad faith.
2 Nevada also recognizes selective enforcement, looking for “arbitrary and
3 discriminatory enforcement”. See *Bent Barrel, Inc. v. Sands*, 373 P.3d 895, Footnote
4 8 (Nev. 2011).

5
6 Byers’ email to NDEP is the first step in Yakubik proving selective enforcement
7 and bias are behind the violations Byers issued against him. Byers’ August 23 email
8 paired with another email disclosed, shows the motive behind her bias and selective
9 enforcement is Yakubik threatening to file a complaint with her supervisor. This email
10 is from Byers’ supervisor, David Dean (Dean). Yakubik, two weeks prior to Byers’
11 email to NDEP, asked Dean how to file a complaint against Byers because of
12 threatening and harassing emails he was receiving from Byers. See Ex. 6 – Dean
13 Email to Yakubik. Yakubik believes Byer’s bias towards him stems from him hiring
14 an attorney and threatening to file a complaint against her.
15
16

17
18 Yakubik has repeatedly claimed Notice of Violation #9907 was issued in direct
19 contrast to the standards he was authorized to use to close prior permits and previous
20 permit holders permitted for closure. Including Yakubik’s closeout of his personal
21 residence, in 2022. Yakubik has requested close out records from other permits in
22 the area and has been denied this evidence. Jorgenson changed the language of the
23 subpoena to block this evidence from being disclosed. Jorgenson has unreasonably
24 denied Yakubik’s public record requests related to these close our records.
25
26

27 Yakubik has repeatedly claimed NOV #9946, 9979, 9981, and #10008, all
28 which were issued by Byers, was retaliation for Yakubik hiring an attorney to

1 challenge Air Quality issuing NOV #9907, and for Yakubik threatening to file a
2 complaint for harassment. The attached Byers and Dean email supports this claim.
3 Yakubik believes there are more Air Quality emails, notes, and reports to confirm this
4 retaliation. Jorgenson has unreasonably denied Yakubik's public records request for
5 these emails and notes.
6

7 Based on these facts this Board must continue the hearing scheduled for
8 October 2, and order Air Quality and Jorgenson to disclose all evidence which may
9 be relevant to Yakubik's defenses.
10

11 LEGAL ARGUMENT

12 **A. The Board should continue the hearing scheduled for these violations**
13 **and allow Yakubik time and opportunity to gather evidence.**

14 EDCR 7.30 states, any party may, for good cause, move the court for an order
15 continuing the day set for trial of any cause. See *Bongiovi v. Sullivan*, 122 Nev. 556,
16 570, 138 P.3d 433, 444 (2006). Here, good cause exists for a continuance because
17 Yakubik is being purposely blocked from obtaining relevant evidence essential to his
18 defenses. Jorgenson has unreasonably refused to disclose a summary of "all" dust
19 permits closed out like ordered by the Board. Jorgenson has taken an unreasonable
20 position in her refusal to Yakubik's public records request. This purposeful blocking
21 of evidence is a violation of Yakubik's due process rights. Therefore, Yakubik
22 requests the Board to continue this hearing and to order Jorgenson and Air Quality to
23 disclose all evidence which may be relevant to Yakubik's defenses.
24
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...

1 **B. The Board should issue new subpoenas to Air Quality.**

2 NRS 233B.121(4) states all parties must be afforded the opportunity to respond
3 and present evidence on all issues involved. NRS 445B.350(4) the production of
4 documents may be subpoenaed by any party. Therefore, Yakubik is entitled to
5 request evidence from Air Quality that is relevant to his defenses.
6

7 Air Quality will say they are not subject to Yakubik’s discovery requests
8 because these are administrative hearings. Jorgensen cites *Dutchess Bus. Services,*
9 *Inc. v. Nevada State Bd. of Pharm.*, 191 P.3d 1159 (Nev. 2008) to support the position
10 that administrative issues are not obligated to the standard rules of discovery. This
11 is wrong for several reasons.
12

13 First, the United States and Nevada Constitutions forbid and prohibit
14 deprivation “of life, liberty, or property, without due process of law.” See U.S. Const.
15 amend. XIV, § 1; Nev. Const. art. 1, § 8(2). “Proceedings before administrative
16 agencies may be subject to more relaxed procedural and evidentiary rules, due
17 process guarantees of fundamental fairness still apply.” See *Dutchess Bus. Services*
18 191 P.3d 1159. And obtaining and disclosing evidence relevant to a parties’ defenses
19 and claims is part and parcel of fundamental fairness.
20
21
22

23 Second, parties are afforded a judicial review of any administrative body
24 ruling. See NRS 233B.130. However, the judicial review is confined to the
25 administrative record. See 233B.135(1)(B). If a judicial review is confined to the
26 record of the administrative hearing, then the administrative hearing rules must allow
27 for relevant evidence to be discovered and disclosed.
28

1 Air Quality will say Yakubik has had enough time and opportunity to obtain
2 evidence and allowing him more time should not be allowed. First, the procedural
3 rights of parties before an administrative body cannot be made to suffer for reasons
4 of convenience or expediency. See *Checker, Inc. v. Public Service Commission*, 84
5 Nev. 623, 446 P.2d 981 (Nev. 1968). Second, Yakubik has not been allowed the
6 opportunity to gain evidence because each time he requests evidence he is turned
7 away by Jorgenson. And finally, there is no prejudice to Air Quality or to the
8 community for allowing Yakubik time to gather evidence. The properties related to
9 these violations are no longer active construction sites. The properties related to these
10 violations are no longer a threat of releasing dust into the air. Based on these legal
11 arguments and supporting law, this Board should issue the attached subpoena to Air
12 Quality. See Exhibit 7 – AQ Sub 09.24
13
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15

16
17 September 20, 2024

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Rock Rocheleau, Esq.
Nevada Bar No. 15315
Attorney for Respondents

Exhibit 1 - AQ Board Minutes 08.07.24

6. APPEAL OF HEARING OFFICER DECISION

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.

1. Respondents’ Amended Motion for Appeal, Discovery Opened, A Continuance, and Hearing Master Reassignment
(For possible action)
2. Air Quality’s Motion for Issuance of Subpoena
(For possible action)
3. Consider and Approve a Briefing Schedule
(For possible action)
4. Conduct Hearing and Render Decision
(For possible action)

ACTION: GRANTED RESPONDENTS’ REQUEST FOR CONTINUANCE OF NOVs 9907, 9946, 9979, 9981, and 10008, AND GRANTED RESPONDENTS’ ORAL MOTION FOR A SUBPOENA TO THE DIVISION OF AIR QUALITY (DAQ) THAT DAQ PROVIDE A SUMMARY OF ALL DUST PERMITS THAT WERE CLOSED DURING CALENDAR YEAR 2023 AND 2024 TO DATE AND PROVIDE IN THAT SUMMARY SPECIFIC INFORMATION ABOUT THE BEST MANAGEMENT PRACTICES (BMP) 11 COMPLIANCE OF THOSE PROPERTIES.

BY: Vice-Chair Dennett

SECOND: Board Member Hildreth

VOTE: 4-0

VOTING AYE: Daniel Bartlett, Troy Hildreth, Amy Lahav, Ryan Dennett

VOTING NAY: None

ABSTAINING: None

ABSENT: Daniel Sanders, Donald Bordelove, Elspeth Cordua

**Exhibit 2 - Rocheleau Email to Jorgenson about “If
Any”**

From: [Rock Rocheleau](#)
To: [Catherine Jorgenson](#)
Subject: RE: APCHB subpoena
Date: Friday, August 9, 2024 10:47:00 AM

I didn't see your response to my last email; Why are you saying, "if any"? Wouldn't every close out require one of those three measures?

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



"BEST" Divorce Lawyers

2017 . 2018 . 2019 . 2020

2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

From: Catherine Jorgenson <Catherine.Jorgenson@clarkcountydav.gov>
Sent: Thursday, August 8, 2024 4:56 PM
To: Rock Rocheleau <rock@rightlawyers.com>
Subject: APCHB subpoena

Rock,

Please see the attached draft subpoena directed to Air Quality for your review. Please let me know by COB tomorrow if you concur that the language describing the items to be produced adequately captures what the Hearing Board approved yesterday and whether you have any edits. I plan to submit both subpoenas to Sherrie Rogge on Monday so they can be signed and issued on 8/12/24 as the Hearing Board directed.

Thank you,
Catherine Jorgenson

Exhibit 3 - Jorgenson Email – “You Are Mistaken”

From: [Catherine Jorgenson](#)
To: [Rock Rocheleau](#)
Subject: RE: Public Records Request
Date: Thursday, September 5, 2024 2:28:12 PM

Rock – you are mistaken. The subpoena correctly reflects what the Board authorized and what AQ provided. As for the public records request, I will review it and get back to you. Based on my initial review, your use of “all” does not pinpoint an identifiable record. In the meantime, does your client intend to provide the records required by the subpoena for his records? They should have been provided to me on August 29th, and I haven’t received anything. Please advise. Thank you, Catherine

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, September 5, 2024 1:58 PM
To: Catherine Jorgenson <Catherine.Jorgenson@clarkcountydav.gov>
Subject: RE: Public Records Request

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Catherine,
I received and reviewed Air Qualities summary report. The report only included 108 DCOPs and should have included closer to 1800. It appears the list was sorted for BMP 11 comments only and the rest deleted. Before there is an argument about this, please review the board hearing record. According to the Board, Mr. Yakubik is to receive a summary of “All” closures from 2023 to 2024, which may include comments on which permits discussed a BMP 11. The time stamp for this discussion and Board approved motion starts at @55:00.

Based on the summary received, please see the attached public records request.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

2017 . 2018 . 2019 . 2020

2021 . 2022

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Exhibit 4 - Jorgenson Response to Records Request.



CLARK COUNTY
OFFICE OF THE DISTRICT ATTORNEY

Civil Division

STEVEN B. WOLFSON

District Attorney

500 S. Grand Central Pkwy, Suite 5075 • Las Vegas, NV 89101 • 702-671-2500 • Fax: 702-455-2294 • TTY and/or other relay services: 711

CHRISTOPHER LALLI
Assistant District Attorney

ROBERT DASKAS
Assistant District Attorney

BRIGID J. DUFFY
Assistant District Attorney

KAREN S. CLIFFE
Assistant District Attorney

LISA LOGSDON
County Counsel

September 10, 2024

Via Email Only

Rocheleau Law Group
Rock Rocheleau, Esq.
600 S. Tonopah Drive, Ste. 300
Las Vegas, Nevada 89106
rock@rightlawyers.com

Re: Public Records Request - NOV Nos. 9907, 9946, 9979, 9981, 10008

Mr. Rocheleau,

I am in receipt of your public records request related to appeals of NOV Nos. 9907, 9946, 9979, 9981, 10008 which you emailed to me on September 5, 2024. In response, please consider the following:

A. Request No. 1:

Below is a list of parcel numbers who closed out a DCOP between the years 2023 and 2024. Please produce all notice of violations, closure forms, notes, and any other documents detailing efforts and methods used on these parcels to conform with BMP 11.

- | | | | |
|-----|----------------|-----|----------------|
| 1. | 123-30-299-001 | 16. | 176-21-611-037 |
| 2. | 125-05-506-001 | 17. | 177-17-299-015 |
| 3. | 125-08-502-002 | 18. | 179-04-303-001 |
| 4. | 125-09-603-014 | 19. | 179-04-303-001 |
| 5. | 125-14-599-001 | 20. | 179-04-303-001 |
| 6. | 128-31-199-002 | 21. | 179-04-307-002 |
| 7. | 160-33-801-013 | 22. | 179-04-309-001 |
| 8. | 160-33-801-021 | 23. | 179-04-404-003 |
| 9. | 161-10-299-001 | 24. | 179-04-404-006 |
| 10. | 175-15-799-007 | 25. | 179-04-405-011 |
| 11. | 176-03-499-006 | 26. | 179-04-502-008 |
| 12. | 176-16-213-008 | 27. | 179-04-503-002 |
| 13. | 176-16-214-003 | 28. | 179-04-504-001 |
| 14. | 176-16-801-037 | 29. | 179-04-510-001 |
| 15. | 176-19-599-012 | 30. | 179-04-510-002 |

- | | | | |
|-----|----------------|-----|----------------|
| 31. | 179-04-602-001 | 39. | 179-04-701-032 |
| 32. | 179-04-602-002 | 40. | 179-04-701-056 |
| 33. | 179-04-602-004 | 41. | 179-04-701-057 |
| 34. | 179-04-602-005 | 42. | 179-04-701-058 |
| 35. | 179-04-603-013 | 43. | 179-04-702-004 |
| 36. | 179-04-607-004 | 44. | 179-04-808-002 |
| 37. | 179-04-701-028 | 45. | 179-05-405-012 |
| 38. | 179-04-701-031 | 46. | 179-08-401-015 |

Response to Request No. 1: “Any other documents detailing efforts and methods used on these parcels to conform with BMP 11” is not an identifiable public record within the meaning of NRS 239.010. *See Republican Att’ys Gen. Assn v. Las Vegas Metro. Police Dep’t*, 136 Nev. 28, 36 (2020) (“a governmental entity has no duty ‘to create new documents or customized reports by searching for and compiling information from individuals’ files or other records.”) citing *Pub. Emps. Ret. Sys. of Nev. v. Reno Newspapers, Inc.*, 129 Nev. 833, 840, 313 P.3d 221, 225 (2013); *Las Vegas Metro. Police Dep’t v. Blackjack Bonding, Inc.*, 131 Nev. 80, 87 (2015); *see also Pub. Emps. Ret. Sys. Of Nev. v. Nevada Policy Research Institute, Inc.*, 134 Nev. 669, 676 (2020) (“Several courts have distinguished between public records requests that simply require an agency to search its electronic database in order to obtain the information requested from those that require the agency to compile a document or report *about* the information contained in the database.” (emphasis in original)).

This request does identify the following public records: (1) notices of violation; (2) closure forms; and, to a certain extent, (3) notes. DAQ has different types of records that are identified as notes including faceplate notes, inspector notes, and internal notes. The closure form includes inspector notes, and faceplate notes are derived from the first page of the dust control operating permit (DCOP). Internal notes are maintained separately. In addition to these documents, you may want to consider notices of noncompliance and communications identified as ROC or COM in DAQ’s database related to the permit closure form or PCF. If you are agreeable, DAQ could provide these additional documents along with the ones you have identified for the sites listed above that had a DCOP closure in 2023 and 2024 and involved unpaved rights-of-way or road shoulders.

The list you provided has several sites that do not meet the criteria: Nos. 7-8, 21-39, and 43-44. Nos. 40-42, permitted under one DCOP, and No. 45 do meet the criteria. They were not included in the original response to the subpoena and have been added to the summary. Please see attached. By the end of this week, DAQ will provide the documents identified in this request and, if requested no later than tomorrow, the additional documents DAQ has identified in the above paragraph for the following sites: Nos. 1-6, 9-20, 40-42, and 45.

B. Request No. 2:

Please produce a copy of Air Quality's written policy, if any, for when to use the Drop Ball Test as defined in AQR 94.15.5.

Response: There are no records responsive to your request.

C. Request No. 3:

Please produce documents, if any, detailing any training Katrinka Byers and Andrew Kirk received on performing the Drop Ball Test as defined in AQR 94.15.5.

Response: There is only one type of document that Clark County has that may contain training information related to the drop ball test for these employees. However, even if the documents related to these employees do contain such information, they are part of their personnel records and are confidential by law. Clark County Merit Personnel Policy and Clark County Code 2.40.150(c)(1) provide that certain information such as performance records or information in the employee's personnel record are considered confidential. Pursuant to *CCSD v. Las Vegas Review Journal*, 134 Nev. 700 (2018) employees have a privacy interest with respect to certain information in their personnel record. Therefore, based on the employees' privacy interests and the balancing tests required by Nevada caselaw, these documents would not be released pursuant to a public records request even if I were able to confirm that they contained information responsive to your request.

Please contact me if you would like to discuss this matter further.

Sincerely,

STEVEN B. WOLFSON
DISTRICT ATTORNEY

BY: Catherine Jorgenson
CATHERINE JORGENSEN
Deputy District Attorney
Catherine.Jorgenson@ClarkCountyDANV.gov

Exhibit 5 - Byers Email to NDEP

From: [Katrinka Byers](#)
To: [Robert Zinkevich](#)
Cc: [Nahulu Kahananui](#)
Subject: FW: DCOP #50962 -Yakubik lots Milan St. & E. Athens Avenue
Date: Wednesday, August 23, 2023 7:08:29 AM
Attachments: [image010.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
Importance: High

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Robert,

After multiple failed attempts to work with the permittee (Mr. Joe Yakubik), we are currently in the process of writing up a Notice of Violation for this property. Reviewing your information below regarding Mr. Yakubik's SWPP, and meeting with NDEP at our task force, I wanted to request NDEP pursue a violation as well for this site as the property owner is choosing to ignore all county and state permit requirements and regulations.

I know your fines hold a much heavier penalty than Air Quality which might grab the attention of Mr. Yakubik to comply. I also understand what you mentioned at the task force regarding how your fines are pursued and I understand the process.

I wanted to make sure you also knew; Mr. Yakubik has hired a lawyer for representation and is currently in the process of subpoenaing every email I've sent and received regarding his lot. I'm very happy to hear about this as my emails will attest to the fact that I only enforce what the regulations require, and make sure everyone is being treated equally across the board. Mr. Yakubik is not above the regulations and needs to comply with his permit just like all the other contractors in Las Vegas.

Thanks so much!

Kat

From: Robert Zinkevich <rzinkevich@ndep.nv.gov>
Sent: Wednesday, July 12, 2023 10:39 AM
To: Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>
Subject: RE: DCOP #50962 -

Hi Kat,

We have a Permit for that site (Permit ID CSW-46548), but they have not paid their annual fees since 2020. It also looks like they sold the property last month.

Ideally, per the Permit's requirements, they should have notified whoever they sold the property to, that they needed to apply for Permit coverage, but I am not finding a new Permit for the site.

This individual (Joe Yakubik) also has a Permit for another site under the company name South West Enterprise Holdings. This site is at the northeast corner Athens and Kiel (Tax Parcel 160-33-801-003). It looks like Mr. Yakubik sold himself and his brother a couple of the lots in this development (South West Enterprise Holdings sold to parcels to Joe Yakubik and Paul Yakubik in August of 2021 (Parcels 16033801020 and 16033801021)). So he appears to still be in the area. He has not paid the annual Permit fees for this site as well.

Also, the email listed for Mr. Yakubik is for a company called Assured (<https://www.assurednv.com/>). Both Milan Customs, LLC and South West Enterprise Holdings are shown as active in the Nevada Secretary of State's database, but Assured Development, Inc has their status as Default.

I've got a road trip up to Carson City that I need to plan for, but will pursue these two site when I get back.

Thanks.

Robert Zinkevich
Environmental Scientist III
Bureau of Water Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
375 E. Warm Springs Rd., Suite 200
Las Vegas, NV 89119
rzinkevich@ndep.nv.gov
C: 725-251-8832
O 702-668-3923

From: Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>
Sent: Wednesday, July 12, 2023 9:55 AM
To: Robert Zinkevich <rzinkevich@ndep.nv.gov>
Subject: FW: DCOP #50962 -

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Robert,

Last one for today I promise

We need to know if they have a SWPP permit? This is located at the NEC of Milan Street and Berlin Ave., Henderson

Below is an email from my inspector for the area (Nahulu Kahananui) and he attached photos. 7 acre parcel divided up into 5 lots with a lot of area remaining to be built out, landscaped or paved. The permittee has stopped working in Nevada and claims they cannot do anymore :/.. sigh.

Please let me know what you got on your end.

Thanks so much!

Kat

Exhibit 6 - Dean Email to Yakubik

RE: Possible Notice of Violation for DCOP#50962

From Joe Yakubik <joe@assurednv.com>
Date Mon 8/7/2023 12:45 PM
To David Dean <Dean@ClarkCountyNV.gov>
Cc 'Steven Yarmy' <sly@stevenyarmylaw.com>

Mr. Dean,

Atlas Holdings International and Assured Development are both now represented by Mr. Yarmy. I am confident that he will be successful working with your department in getting resolution to the issues at hand.

Sincerely,
Joe Yakubik
Manager
Atlas Holdings International, LLC

From: David Dean <Dean@ClarkCountyNV.gov>
Sent: Thursday, August 3, 2023 9:17 AM
To: Joe Yakubik <joe@assurednv.com>
Cc: 'Steven Yarmy' <sly@stevenyarmylaw.com>; chris@yarmylaw.com; Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>; Andrew Kirk <Andrew.Kirk@ClarkCountyNV.gov>; Shibi Paul <SPaul@ClarkCountyNV.gov>; Anna Sutowska <Anna.Sutowska@ClarkCountyNV.gov>; Nahulu Kahananui <Nahulu.Kahananui@ClarkCountyNV.gov>
Subject: RE: Possible Notice of Violation for DCOP#50962

Good morning Mr. Yakubik,

You can submit your complaint about Ms. Byers to me and you can submit a complaint about me to my Manager Shibi Paul. Mr. Paul can also assist you with filling a complaint against the department.

The email Ms. Byers sent you was approved by me. It is in response to you not renewing your Dust Permit or closing it out properly. You are the Responsible Official for the entire site which includes all six lots. You are the developer and the owner of lots 4, 5 and 6. No matter how you move the properties around from owner to owner, you are still responsible for the Dust Permit. You have several options, renew the permit for the lots that don't have houses built on them or prepare the sites for long term stabilization in accordance with Air Quality requirements. Anything less will not be accepted. You can only renew the Dust Permit if construction activity is taking place. If lots 4,5 and 6 are not under active construction, the only option you have is closing the Dust Permit out. If you decide to renew the permit, then you will need to ensure that someone with a valid Dust Card is on the permit application as Dave Reynolds no longer works for you. If you don't comply with one of these options, you will leave Air Quality no choice but to move forward with a Notice of Violation. It's your choice Mr. Yakubik. If the department issues a Notice of Violation, you will need to contact your attorney not Air Quality.

In reference to why your house was mentioned in Ms. Byers email is because you did the same thing when you were developing those properties. You stated that you were no longer part of the company building and developing but again, you are the company. I'm not sure what you're doing by denying that you are the landowner and developer of these properties, but Air Quality does not have the time or resources to spend on these types of games. When you apply for a Dust Permit you agree to comply with the requirements to get a Dust Permit and that includes closing out the development per Air Quality Regulations and requirements. If you don't comply with renewing or closing out your Dust Permit in the time frame I stated in my previous email, Air Quality will start the Notice of Violation process.

If you would like to meet onsite to discuss long term stabilization requirements, please let me know.

Thank You
David Dean
Air Quality Supervisor
4701 W. Russell Road, Suite 200
Las Vegas, NV 89118
Cell 702-232-1183
Desk 702-455-1645

From: Joe Yakubik <joe@assurednv.com>
Sent: Wednesday, August 2, 2023 10:07 AM
To: David Dean <Dean@ClarkCountyNV.gov>
Cc: 'Steven Yarmy' <sly@stevenyarmylaw.com>; chris@yarmylaw.com
Subject: RE: Possible Notice of Violation for DCOP#50962

Mr. Dean,

I am in receipt of the below email from your employee Ms. Byers. Can you please direct me to the process of logging a formal complaint against your staff?

Additionally, what is the procedure for remittance of a complaint against your agency?

In a brief response to Mr. Byers email:

Your team in a prior email, Assured Development is represented by counsel, please forward your correspondence concerning Assured Development to their attorney.

I am the asset manager of the entities that own the three remaining properties. Your last correspondence was directed to Assured Development, in which you were advised to contact their legal counsel. If you have a notice or concern for the LEGAL entities that own 732 Naples, 724, Naples, or 729 Milan, you can direct those to the address of record in which your team pulled below:

Atlas Holdings International
PO Box 530778

Henderson, NV 89053

I am unsure as to why your employee is highlighting my personal residence with my wife, nor know what relevance this has to the dust control permit in question. This is very concerning to me.

732 Naples: construction and grading are complete – I have been informed that the only disturbed area is around the utility box, which is less than .25. If your team feels a dust permit is required, on this property, please let us know.

724 Naples: No construction activity is present, house is pending a building permit and a dust control permit will be obtained at time of construction.

729 Milan: Construction on utility boxes, under .25 acre. No other construction. House is in for permits and permit will be obtained by contractor prior to construction.

It is very disappointing, rather than address construction activity with the two owners (744 and 740 Naples) and obtaining compliance, your agency resorts to threat of fines. All of the work that your team has put into trying to fine Assured Development, if a fraction of the effort would have been applied to the parties that are actually in violation of the county code, this issue probably would have been resolved a month ago.

From: Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>

Sent: Tuesday, August 1, 2023 4:46 PM

To: Joe Yakubik <joe@assurednv.com>

Cc: David Dean <Dean@ClarkCountyNV.gov>; Nahulu Kahananui <Nahulu.Kahananui@ClarkCountyNV.gov>; Andrew Kirk <Andrew.Kirk@ClarkCountyNV.gov>

Subject: Possible Notice of Violation for DCOP#50962

Mr. Yakubik,

Thank you for your email reply. We are sorry to hear about Assured Development going out of business and we understand that you submitted a project closure form prior to leaving the office; however, you failed to communicate with your inspector (Nahulu Kahananui) and did not close out your permit according to BMP 11 (page 10) of your dust control permit. You applied control measures that met your standards not Air Quality's Regulations and your project closure was disapproved. In addition, you mentioned you sold the lots and are no longer responsible; however, according to the deed and records, Milan Custom LLC (you) sold the lots highlighted on the map below for parcels #004, 005, & 006 to Atlas Holdings International LLC (also YOU).

As indicated in my supervisor's email sent to you on July 27, 2023, your option is to comply and close out the permit or receive a Notice of Violation with a penalty of \$500 per day that starts from the day the dust permit expired (July 8, 2023). As of tomorrow, the penalty amount is calculated at \$12,000 and will continue accruing until the site is brought back into compliance. Again, the choice is yours.

Please respond back that you understand what is required to comply with Air Quality.

Sincerely,

Katrinka Byers

Senior Air Quality Specialist

Exhibit 7 - AQ Sub 09.24

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**CLARK COUNTY, NEVADA
AIR POLLUTION CONTROL HEARING BOARD**

In the matter of Notices of Violation Nos.)
9907, 9946, 9979, and 10008,)
Issued to:)
Assured Development, Inc.)
Atlas Holdings International LLC,)
Joseph Yakubik, Individually,)
Respondents.)

On Appeal

SUBPOENA DUCES TECUM

THE STATE OF NEVADA SENDS GREETINGS TO:

**CLARK COUNTY DEPARTMENT OF ENVIRONMENT AND
SUSTAINABILITY, DIVISION OF AIR QUALITY
c/o Catherine Jorgenson, Deputy District Attorney
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE – CIVIL
DIVISION
500 S. Grand Central Pkwy, 5th Floor
Las Vegas, NV 89155**

YOU ARE HEREBY COMMANDED, that all business and excuses set aside,
in accordance with NRS 445B.350(4), to produce and deliver to the law offices of Right
Lawyers, 600 South Tonopah Drive, Suite 300, Las Vegas, Nevada on or before 5:00
p.m. on October 10th, 2024, the following designated books, documents or tangible
things in your possession, custody or control, specifically:

ITEMS TO BE PRODUCED

1. Provide all emails sent from domain @clarkcountyNV.gov or sent to domain @clarkcountynv.gov between the dates January 1st, 2022 through September 20, 2024 containing the word "Yakubik".
2. Provide all emails sent from domain @clarkcountyNV.gov or sent to domain @clarkcountynv.gov between the dates January 1st, 2022 through September 20, 2024 containing the

1 word “Milan Customs”.

- 2 3. Provide all emails sent from domain @clarkcountyNV.gov or
3 sent to domain @clarkcountynv.gov between the dates
4 January 1st, 2022 through September 20, 2024 containing the
5 word “lvbeatdown”.
- 6 4. Provide all emails sent from domain @clarkcountyNV.gov or
7 sent to domain @clarkcountynv.gov between the dates
8 January 1st, 2022 through September 20, 2024 containing the
9 word “Southwest Enterprise”.
- 10 5. Provide all emails sent from domain @clarkcountyNV.gov or
11 sent to domain @clarkcountynv.gov between the dates
12 January 1st, 2022 through September 20, 2024 containing the
13 word “Abittan”.
- 14 6. Provide a summary of all dust permits that were closed during
15 calendar year 2023 and 2024 to date and provide in that
16 summary specific information about the BMP 11 compliance
17 of those properties.
- 18 7. Provide all documents in the possession of AQ on the
19 following properties:

20 519 Fife APN 179-04-309-001
21 744 Naples APN 179-04-510-002
22 740 Naples APN 179-04-510-001
23 740 Milan APN 179-04-502-008
24 505 Emden APN 170-04-307-002
25 721 Milan APN 179-04-503-002
26 735 Orleans APN 179-04-405-012
27 628 Kiel APN 179-04-602-004 & 005
28 539 Milan APN 179-04-701-031
524 Milan APN 179-04-701-028
424 Racetrack APN 179-04-405-011
503 Racetrack APN 179-04-702-004
436 Hull APN 179-04-404-006
504 Emden APN 179-04-307-002
540 Glasgow APN 179-04-309-001
624 Kiel APN 179-04-602-005
628 Kiel APN 179-04-602-004
632 Kiel APN 179-04-602-003

636 Kiel APN 179-04-602-002
640 Kiel APN 179-04-602-001
Dust Control Permit 53319

8. Provide all text messages sent from and to the cellular phone issued by Clark County to Katrinka Byers from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
9. Provide all text messages sent by and to the cellular phone issued by Clark County to David Dean from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
10. Provide all text messages sent by and to the cellular phone issued by Clark County to Andrew Kirk from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
11. Provide all text messages sent by and to the cellular phone issued by Clark County to Damon Lindsay from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
12. Provide all text messages sent by and to the cellular phone issued by Clark County to Shibi Paul from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
13. Provide all text messages sent by and to the cellular phone issued by Clark County to Anna Sutowska from January 1st, 2022 through September 20, 2024 related to Yakubik's or his violations.
14. Provide all documents detailing Air Quality's standard policy and procedure for a drop ball test. Include procedures for how to do them, when to do them, and policies on documenting the results of the drop ball test.
15. Provide documents confirming any training Katrinka Byers received regarding Air Qualities drop ball test.
16. Provide a list of violations Katrinka Byers issued in 2023 and

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2024 which confirmed a drop ball test was performed by Byers.

17. Provide documents confirming any training Andrew Kirk received regarding Air Qualities drop ball test.

18. Provide a list of violations Andrew Kirk issued in 2023 and 2024 which confirmed a drop ball test was performed by Byers.

19. Provide notice of violations in 2023 and 2024 which contain pictures of the results of a drop ball test.

Failure to produce and deliver the aforementioned items shall subject you to enforcement as provided for in NRS 445B.280 up to and including contempt of court.

DATED this ____ day of August, 2024.

AIR POLLUTION CONTROL
HEARING BOARD

By: _____
RYAN L. DENNETT, Vice-Chair

**Assured Development, Inc., and
Joseph Yakubik, Individually
(DCOP #50962)**

Appeal of NOV #9907

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REQUEST FOR HEARING BEFORE THE
CLARK COUNTY AIR POLLUTION CONTROL
HEARING BOARD

RECEIVED CC DAO
2024 JUN 25 PM3:52

ps

Appeal of Hearing Officer's Order

1. Date of Appeal: June 24, 2024
(Must be within 10 days of receipt of Hearing Officer Order)

Notice of Violation # 9907 Hearing Date: June 17, 2024

Hearing Officer: Holly Fic

2. Name, address, telephone number of Appellant:

Name: Assured Development Inc and Joseph Yakubik
(Please print)

Address: C/O Right Lawyers 600 S. Tonopah Dr. Suite 300 Las Vegas NV 89106

Telephone: 702-445-4425 Fax: NA

Email: rock@rightlawyers.com

3. Other person or persons authorized to receive service of notice:

Name:
(Please print)

Address:

Telephone: Fax:

Email:

4. Type of business or activity and location of activity involved in the request:

Development / Construction

5. Reason for appeal: [] Facts alleged [] Penalty assessed [X] Both


Provide a detailed explanation of the reason for your appeal:

Motion supporting appeal is attached.

6. An application filing fee of \$140.00 must accompany this application. This fee is non-refundable. Please make check payable to Division of Air Quality or DAQ and mail to 4701 W. Russell Road, Suite 200, Las Vegas, NV 89118.

The appellant or a representative of the appellant must be present at the hearing board meeting to answer any questions by the Air Pollution Control Hearing Board Members. Please include any supporting documentation with this form for distribution to the respective board members.

I affirm that all statements made on this application are true and complete to the best of my knowledge.

Signature:  Date: 6/24/2024

Printed Name: Rock Rocheleau

Title: Attorney for Atlas Holdings International LLC & Joseph Yakubik

FOR OFFICE USE ONLY

Application Received on June 25, 2024
Application Fee \$140.00 - Check ✓ # 7019 Received Date: 6/25/2024



Clark County Nevada Department of Environment and Sustainability
 4701 W Russell Road, Suite 200, Las Vegas, NV 89118
 Phone (702) 455-5942 Fax (702) 383-9994
 AirQuality@clarkcountynv.gov

RECEIPT

ASSURED DEVELOPMENT, INC. AND JOSEPH
 YAKUBIK, INDIVIDUALLY
 C/O ROCK ROCHELEAU, ESQ., 600 S. TONOPAH DR.,
 #300
 LAS VEGAS, NV 89106

Invoice #	Invoice Date	Invoice By	Invoice Type	Due Date
068775	6/25/2024	GREEN	DUST CONTROL ENFORCEMENT	6/25/2024

Quantity	Description	Fee Code	Fee	Total
1.00	HEARING BOARD REQUEST	AGHB01	\$140.00	\$140.00
	06/25/2024 CHECK (7019)	PAYMENT		(\$140.00)

Notes: NOV #9907, Hearing Officer Appeal, Submitted 6/25/2024

Subtotal:	\$140.00
Paid:	(\$140.00)
Adjustments:	\$0.00
Balance Due:	\$0.00

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1
2 ROCHELEAU LAW GROUP
3 dba RIGHT LAWYERS
4 Rock Rocheleau, Esq.
5 Nevada Bar No. 15315
6 rock@rightlawyers.com
7 600 South Tonopah Drive, Suite 300
8 Las Vegas, Nevada 89106
9 702-914-0400
10 Attorneys for Respondents

RECEIVED CC DAQ
2024 JUN 25 PM3:52

RS

11
12 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
13 **CLARK COUNTY, NEVADA**

14
15 In the Matter of the Notice of Violation
16 #9907, #9946, #9979, #10008

17 Issued To:
18 Assured Development, Inc., Atlas
19 Holdings International, LLC, Joseph
20 Yakubik, Individually, and
21 Darcie Yakubik, Individually,

22 Respondents,

23
24 **AMENDED MOTION FOR APPEAL, DISCOVERY OPENED, A**
25 **CONTINUANCE, AND HEARING MASTER RE-ASSIGNMENT,**

26 Respondents, through Rock Rocheleau, Esq., files this amended motion
27 requesting; 1) An appeal of NOVs #9907, #9946, #9979, and #10008, 2)
28 Respondent be allowed to request discovery, and 3) A hearing master re-
assignment if the NOVs are being remanded to a hearing master. This request is
made on the points and authorities listed below.

INTRODUCTION

1
2 Respondents should be afforded the right to place facts, testimony, evidence,
3
4 and law before an “impartial” hearing master. Unfortunately, Hearing Master
5 Holly Fic (Fic) is not impartial to the Respondents. Fic does not believe Air Quality
6 enforcement officers (AQ) selectively enforcing regulations against Respondent is
7
8 a relevant defense for Respondent. The Supreme Court of the United States, and
9 the Nevada Supreme Court disagree with Fic. Selective enforcement is a
10 constitutional violation and if proven is a relevant defense to the violations
11 Respondents were charged with. First, if selective enforcement is proven, it needs
12 to stop because it is a constitutional violation. Second, if selective enforcement is
13 proven, it shows bias. And the testimony of a biased AQ enforcement officer should
14 be disregarded. Also, Fic does not see AQ enforcement officers trespassing on
15 Respondents’ private property as a relevant defense. Again, the Supreme Court,
16 and the Nevada Supreme Court disagree with Fic. Violating the Respondents’
17 fourth amendment rights by illegally searching is completely relevant to
18 Respondents’ defense. First, if there was an illegal search, all the evidence obtained
19 during the search would be inadmissible. Second, a purposeful illegal search could
20 support bias by AQ. A showing of bias should also lead to any subjective testimony
21 by AQ being disregarded. If Respondent shows AQ selective enforced Responded
22 or are bias to Respondent, then only objective evidence of a violation should be
23 considered.
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1 Because of Fic's bias she denied Respondents request for any discovery
2 related to his selective enforcement. This decision should be reversed.
3 Respondents are allowed to present relevant evidence. Fic's discovery ruling
4 should be reversed because it violates the principles to due process.
5

6 All judges are required to be impartial. When a judge is found not to be
7 impartial, they are to be removed from the proceeding. Therefore, Fic's decision
8 on NOV #10008 should be reconsidered by a new hearing master, her ruling
9 preventing discovery should be reversed, the June 17th hearing for the other
10 violations should be continued until the discovery is received, and any future
11 hearings on Respondents' violations should be heard by a new hearing master.
12
13

14 STATEMENT OF FACTS

15
16 In 2022, Assured Development Inc. (Assured) applied for and received a
17 Dust Control Permit (DCOP) #50962. The DCOP was for a project consisting of
18 six one-acre custom homes. In July 2023, Assured applied for a closure of DCOP
19 #50962. Assured's contract for grading of the six custom home lots was complete
20 and all lots had been sold to new owners. Air Quality (AQ) did an inspection and
21 believed the site did not BMP 11 Long-Term stabilization. AQ sent the inspection
22 report to Joseph Yakubik (Yakubik), who was the responsible party for all the
23 NOV's related to this matter. AQ asked Yakubik to stabilize part of the right ways
24 with gravel.
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1 Yakubik then received emails from AQ staff pointing out where he
2 personally resided, making false accusations about property ownership and
3 statements that appeared to be skewed. Due to the nature of this communication
4 and the posture of AQ, Assured and Yakubik immediately retained counsel. This
5 infuriated AQ staff, and rather than correspond with Yakubik's counsel, AQ staff
6 began to inundate Yakubik with emails and countless "routine inspections." AQ
7 staff later stated, if Yakubik would have simply met AQ staff on site, he would have
8 been treated differently. Over the course of 30 days, AQ fined Assured, and
9 Yakubik (as an individual), \$5,000, under Notice of Violation (NOV) #9907, for
10 failing to "long term" stabilize the soil on a close out.
11

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14 In November 2023, AQ received a DCOP permit for Atlas Holdings
15 International LLC (Atlas) for two one-acre custom homes. From November 2023
16 until December 2023 AQ fined Atlas and Yakubik (as an individual) \$5,937.50
17 under NOV #9946 for failing to control best available control measures for loose
18 dirt and soil. Yakubik disagreed with these fines and believed his contractors were
19 following the guidelines. These violations should have been issued to the active
20 DCOP #50962 on the property, and not to Atlas.
21

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24 During January 2024, AQ fined Atlas and Yakubik (as an individual) an
25 additional \$4,000 under NOV #9979 for failing to control best available control
26 measures for loose dirt and soil. Again, Yakubik disagreed with these fines.
27
28

1 NOV hearings were scheduled and then continued at the request of Yakubik's
2 attorney. Yakubik's attorney had become ill and was physically unable to perform
3 his duties. Within a few hours of the hearing being rescheduled, Katrinka Byers
4 (Byers) was witnessed trespassing on Yakubik's personal residence. She was
5 taking pictures of Yakubik's back yard. Yakubik's private home is across the street
6 from the properties Assured and Atlas were developing. Yakubik's private home
7 was completed in 2021 and was not under any active DCOP.
8

9
10 The following day on January 17, 2024, AQ specialist David Dean (Dean)
11 and Katrinka Byers (Byers) were caught trespassing on Yakubik's private property.
12 Dean and Byers showed up on Yakubik's property for what they stated was a
13 "routine inspection". There was nothing routine about their inspection. Dean and
14 Byer admit on police body camera's the trespass was not a routine inspection, but
15 instead in response to Yakubik's attorney requesting another continuance of the
16 Assured and Atlas NOV's. NOV's that had nothing to do with Yakubik's private
17 residence.
18

19
20 Dean and Byers were asked to leave. They refused. Henderson Police were
21 called, and Dean and Byers were commanded to leave the property and to not return
22 to any property Yakubik owned. Over the next 30 days, AQ fined Yakubik (as an
23 individual) \$4,000 under NOV #9981 for loose dirt and soil at his home. Yakubik
24 disagreed because he was not disturbing more than .25 acres of soil.
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1 On April 24, 2024, Yakubik attended an NOV hearing for Assured NOV
2 #9907, Atlas NOVs #9946, #9979, and Yakubik NOV #9981. Yakubik requested
3 documents from AQ to prepare for the hearing. District Attorney Catherine
4 Jorgensen (Jorgensen), representing AQ, forwarded Yakubik a spread sheet with
5 some of the documents requested. Some of the documents supported Yakubik
6 position that AQ has permitted the stabilization of roadway shoulders with water
7 and did not require gravel.
8

10 Yakubik asked questions about AQ's decision process when allowing
11 DCOPs to close out with water or gravel. The line of questioning was attempting
12 to show Assured was not in violation, AQ has a widely applied standard of
13 stabilization of roadway shoulders with water and was selectively enforcing
14 regulations against Yakubik. If proven, this would be selective enforcement and a
15 violation of Yakubik's constitution rights. If proven, this would show AQ
16 inspectors had a bias against Yakubik. And if there was bias, AQ inspector
17 testimony would be non-credible.
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21 Fic presided over the NOV hearing. Fic showed frustration with this
22 Yakubik's line of selective enforcement questioning. Fic stated, "Would need more
23 than pictures to see selective enforcement." She said, "can't make that leap without
24 evidence other than pictures." See hearing recording @.26. Fic stated Yakubik
25 can continue however she is "Not persuaded by pictures" and will "Need more
26 information (evidence)". Yakubik then mentioned he was willing to bring in those
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28

1 witnesses or documents and requested a continuance. Fic was annoyed at the
2 request, often sighing, and rolling her eyes, and stated more evidence would not be
3 helpful because she already had an opinion on the matter. See @7:07. These
4 comments were all made **prior** to Assured or Yakubik even starting their testimony
5 or defense. These comments were all made **after** Yakubik asked AQ's first witness
6 four or five questions. Yakubik cited law supporting the legal defense of selective
7 enforcement. Yakubik re-stated the concern of bias with AQ testimony. Yakubik
8 continued to show Fic pictures and evidence showing AQ allowed all the other
9 DCOPs in that area, including his own residence across the street, to close out
10 without gravel. Yakubik even showed Fic a picture of Dean's personal residence
11 which recently closed out a DCOP. And closed out without the use of gravel.
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16 Fic was stunned Yakubik would show a picture of the front yard of Dean. Fic
17 found this line of questioning "inappropriate" and "Not going to take this into
18 consideration", "Not even considering it." See @57:08. Fic stated, "I don't
19 understand how retaliation is going to have any relevance." See @1:14:58. Fic
20 states, "I'm not persuaded by it (retaliation)", it's a waste of time. I don't hear any
21 evidence the fact the violation didn't occur.". She stated, "Regardless of retaliation
22 the violation did occur." See @1:14:58. "I'm heading into the direct the violation
23 did occur." See @1:16:43. **These comments were all made prior to the**
24 **respondents even providing testimony. These statements show Fic's**
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1 conclusionary position and foreclosing her decision process to hearing the
2 evidence.

3
4 Yakubik pointed out if there is retaliation, there could be a finding of
5 selective enforcement and bias. If there is bias, then the testimony of the AQ
6 specialists must be disregarded and only objective evidence of a violation occurring
7 should be considered. Fic quickly responded, "I'm finding no evidence of bias".
8 See @1:17:12. Fic stated, "Let's move on from the retaliation." See @1:17:27.
9
10 Yakubik stated he would not move on from asking questions that could prove
11 selective enforcement was occurring. Fic then looked at Jorgenson, rolled her eyes
12 upward and groaned in a manner to show this was wasting her time.
13

14
15 Yakubik, Fic, and Jorgensen reached an impasse at the April NOV hearing.
16 More time was needed to finish. Additionally, Jorgenson failed to provide Yakubik
17 with all the documents requested. It was agreed a new hearing date would be
18 chosen. And it was implied Jorgensen would provide Yakubik the documents he
19 had previously requested in time for the new hearing date.
20

21
22 In March 2024, Byer fined Atlas and Yakubik (as an individual) \$1,250 under
23 NOV #10008 for loose and dry soil. The violation hearing was scheduled for May
24 23, 2024. This hearing was only related to NOV #10008. The hearing for the other
25 NOVs had not been scheduled yet. Yakubik still had not received the requested
26 documents from Jorgenson, which could help show selective enforcement.
27
28 Yakubik filed a timely request to continue the NOV #10008 hearing, until after

1 discovery could be completed. On the day before the hearing, Jorgenson filed her
2 response to Yakubik's request for discovery and continuance.

3
4 At the May NOV hearing, Yakubik's request to continue the hearing was
5 denied. Additionally, Fic agreed with Jorgenson that discovery of documents
6 related to selective enforcement were not relevant. Fic stated, "I was not persuaded
7 by the selective enforcement argument. If that is what the discovery is intended,
8 then I will deny that." See @1:21. "I'm not willing to allow discovery on selective
9 enforcement." See @1:29. Fic stated, "I don't see selective enforcement and I
10 don't find it's relevant." See @1:30:36. Yakubik cited selective enforcement case
11 law confirming it can be a valid defense. Fic disagreed. Yakubik objected to this
12 decision. Fic proceeded with the hearing.

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15
16 Two questions into Yakubik's questioning of AQ specialist Byers, Fic
17 (without Jorgenson stating an objection) objected to Yakubik's question about
18 Byers trespassing on Yakubik's private property. Fic stated, "I don't understand
19 this line of questioning. I don't determine trespass issues." See @1:58:52. Fic
20 stated, "I don't find the line of questioning is appropriate." Fic stated, "How do
21 they (AQ) even do their job? What's the point of AQ if they cannot go on a
22 property." See @1:59:39. Yakubik cited the Nevada law on trespass. Yakubik
23 stated the AQ regulations even require AQ to obtain search warrants if access to a
24 property is denied. Jorgensen confirmed the property in question did not have a
25 DCOP. Yakubik explained the AQ rules providing property procedures for entering
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1 property when access is denied. Yakubik explained how trespass, if proven, could
2 be an illegal search and any evidence obtained through the search would not be
3 admissible. Fic stated, "I'm not considering issue of trespass." See @2:04.
4

5 Yakubik's remaining line of questioning was moot. It was obvious at this
6 point Fic had made her decision. Fic ultimately found Yakubik was in violation of
7 NOV #10008. Yakubik filed a timely appeal to the decision of NOV #10008.
8

9 Fic scheduled June 17 as to hear the remaining NOVs filed against Yakubik;
10 NOVs #9907, #9946, #9979, and #9981. Yakubik filed a motion to the board
11 requesting a continuance of the June 17 hearing, requesting discovery to be open,
12 and requesting a new hearing master to be appointed. The board hearing was
13 scheduled for August 7, 2024.
14

15
16 At the June 17 hearing, Yakubik shared the claims of relief requested in the
17 motion filed with the board. Yakubik asked Fic to stay the June 17 hearing until
18 the board heard his motion. Fic denied Yakubik's request and heard testimony
19 regarding the other violations. Yakubik placed his objection on the record, citing
20 his inability to put forth a full defense because AQ refused to disclose requested
21 discovery, and Fic not being impartial. Fic continued with the hearing.
22

23
24 At the end of the hearing, Fic found the violations in #9907, #9946, and
25 #9979 occurred. Fic order Yakubik to pay the fines imposed. Fic found the
26 violation in NOV #9981 did not occur.
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28 Yakubik files this amended motion to be heard by the board.

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LEGAL ARGUMENT

I. The AQ regulatory board has the authority to address each of respondents' requests.

Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008 was filed on May 29, 2024. Respondents' appeal of NOV #10008 was filed timely. Fic's order regarding NOVs #9907, #9946, and #9979 was filed June 20, 2024. Respondents' appeal of NOVs #9907, #9946, and #9979 was filed timely.

AQR 7.5(e) states the hearing board shall hear all appeals and may order the affirmation, modification, or reversal of any action taken by a hearing officer.

II. Respondents should be reassigned a new hearing master because hearing master Fic is not impartial.

"A judge is presumed to be impartial. See *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011). A judge must "act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary." See NCJC Rule 1.2. A judge shall perform duties without bias or prejudice, not use words or conduct manifesting bias. See NCJC Rule 2.3(A)-(C). A judge who "entertains actual bias or prejudice for or against one of the parties" must NOT preside over a proceeding. See NRS 1.230(1). If a "judge's impartiality might reasonably be questioned," then that judge should be disqualified. See NCJC Rule 2.11(A), and *Roe v. Roe*, 535 P.3d 274 (Nev. App. 2023).

1 These same rules must apply to a hearing master because hearing masters
2 are quasi-judges. Hearings masters are given the authority to adjudicate cases the
3 same as a judge would. Hearing masters are given the authority to weigh evidence,
4 to judge credibility, and to make final determinations that hold the same authority
5 as an elected or appointed Judge. A District Court judicial holds the hearing
6 master's decisions to the same standards as an elected or appointed Judge.
7

8
9 Here, Fic's impartiality can be reasonably questioned. Fic stated on the
10 record, multiple times, that selective enforcement is not relevant. Fic stated
11 Yakubik can continue however she is "Not persuaded by pictures" and will need
12 more information (evidence). Yakubik then mentioned he was willing to bring in
13 those witnesses or documents and requested a continuance. See @7:07. Fic
14 stated, "I don't understand how retaliation is going to have any relevance." See
15 @1:14:58. Fic states, "I'm not persuaded by it (retaliation). It's a waste of time. I
16 don't hear any evidence the violation didn't occur. Regardless of retaliation the
17 violation did occur." See @1:14:58. "I'm heading into the direct the violation did
18 occur." See @1:16:43.
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22 Respondents explained selective enforcement defense is a recognized
23 defense to civil and criminal prosecutions. See *United States v. Berrios*, 501 F.2d
24 1207, 1211 (2d Cir. 1974). Which states the elements as; 1) others similarly
25 situated have not generally been proceeded against because of conduct of the type
26 forming the basis of the charge against him, 2) he has been singled out for
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28

1 prosecution, and 3) that the government's discriminatory selection of him for
2 prosecution has been invidious or in bad faith. Nevada also recognizes selective
3 enforcement under the language of "arbitrary and discriminatory enforcement".
4 See *Bent Barrel, Inc. v. Sands*, 373 P.3d 895, Footnote 8 (Nev. 2011). Fic refused
5 to accept any of these positions as valid defenses to the violations not occurring.
6

7
8 Respondents even explained how selective enforcement can be seen as bias
9 and how bias is relevant to any witness testimony. Bias is relevant in the credibility
10 of all witnesses. Bias, impeachment, and character are standards used to diminish
11 the credibility of a witness's testimony. Bias is even more relevant to enforcement
12 officers. See NRS 289.823 which requires all law enforcement officials to
13 recognize officers who show bias because if an enforcement officer is shown to be
14 biased, their testimony is not creditable. Fic didn't believe bias had any relevance,
15 "I'm finding no evidence of bias." See @1:17:12.
16

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18 Fic also did not find Respondents' line of questioning on trespassing not
19 relevant. Fic stated, "I don't understand this line of questioning. I don't determine
20 trespass issues." See @1:58:52. Evidence derived from an illegal search is
21 inadmissible because the evidence was tainted by the illegality. See *Richardson v.*
22 *Nevada*, 86510 (Nev. May 15, 2024). An illegal trespass would be an illegal
23 search. Therefore, AQ's evidence would be inadmissible. Fic did not find the
24 trespass relevant and seemed amazed Air Quality staff did not have the authority
25 to enter any property they wanted. Fic stated, "How do they (AQ) even do their
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1 job? What's the point of AQ if they cannot go on property." See @1:59:39.
2 Yakubik cited AQ Regulation 4.1(d)(2) which advises AQ to apply for a search
3 warrant when access to property is denied. Fic ended the conversation by stating,
4 "I'm not considering the issue of trespass." See @2:04.
5

6 Its clear Fic is not able to be impartial and will not allow the Respondents
7 the opportunity to put forth valid defenses. Ms. Fic has foreclosed her mind to any
8 facts, testimony, or evidence, related to selective enforcement, bias, or illegal
9 search. Like in *Roe v. Roe*, Fic's ability to be impartial is reasonably questioned.
10 Therefore, a new hearing master should be appointed to hear all evidence which
11 supports Respondents' defenses.
12
13

14 **III. Respondents should be allowed discovery because due process**
15 **rules of fairness require it.**

16 Prior to the April hearing Jorgenson had provided some documents in
17 response to Respondents' discovery requests. For the May hearing, Jorgenson
18 objected to anymore discovery. Citing *Dutchess Bus. Servs.* The Dutchess Court
19 states the Nevada's rules of procedure may not apply to administrative hearings,
20 and Nevada's Administrative Procedure Act may not make a provision for
21 discovery. However, the due process guarantees of fundamental fairness still apply.
22 See *Dutchess Bus. Servs. v. Bd. of Pharmacy*, 191 P.3d 1159, 124 Nev. 701 (Nev.
23 2008). The Dutchess court states that even though standard discovery may not be
24 standardly available, a mechanism for obtaining evidence is necessary for
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1 fundamental fairness of due process. The Dutchess court stated because a
2 mechanism for discovery was available there was due process. That is not the case
3 in this matter. Fic sided with Jorgenson and denied Respondents' request for any
4 discovery or evidence related to selective enforcement; "I'm not willing to allow
5 discovery on selective enforcement." See @1:29. This is a violation of
6 Respondents' rights to fairness and due process.
7

8
9 Fic's discovery ruling makes it impossible for Respondents to provide a
10 selective enforcement defense. Respondents are attempting to show selective
11 enforcement by showing AQ allowed all others DCOPs to close out without gravel.
12 Fic states she would need more discovery to be persuaded by this argument. The
13 Respondents' only chance to prove this claim is to have access to AQ files and to
14 disclose what other DCOPs were allowed to close out with. One such document
15 was disclosed at the April hearing. Respondents believe there are more.
16
17

18 With Fic denying the request for more documents, while stating she would
19 need to see more documents (evidence) to be persuaded by this argument, there is
20 no question Fic's impartiality is affecting Respondents right to due process.
21

22 Fic's denial of discovery causes great prejudice to Respondents. AQ 7.5(f)
23 states a hearing masters' order is heard "de novo" by the board. This means no new
24 evidence or testimony is heard. Then, if Respondents decided to appeal the Board's
25 decision, it also would be de novo. NRS 233B.135(1)(B) states the judicial review
26 is confined to the record. With Fic denying Respondents request for documents,
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28

1 which could show selective enforcement, she is denying Respondent's the ability
2 to ever show selective enforcement.

3 Fic's denial of discovery should be overturned. Respondents request for
4 documents should be granted.
5

6 **IV. Respondents request an appeal of NOVs #9907, #9946, 9978, and**
7 **#10008 because of no discovery, and Fic's impartiality.**

8 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
9 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
10 was filed on May 29, 2024. Fic's order regarding NOVs #9907, #9946, and #9979
11 was filed June 20, 2024, Respondents request is timely. Fic did not find selective
12 enforce, bias, or an illegal trespass relevant to Respondents' defenses. Fic denied
13 Respondents the opportunity to present evidence when she denied their request for
14 discovery. Therefore, Respondent is requesting the appeal on NOVs #9907, #9946,
15 #9979, and #10008.
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19 May 31, 2024

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22 Rock Rocheleau, Esq.
23 Nevada Bar No. 15315
24 Attorney for Respondents
25
26
27
28

1 STEVEN B. WOLFSON
District Attorney
2 **CIVIL DIVISION**
State Bar No. 001565
3 By: **CATHERINE JORGENSEN**
Chief Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDANV.gov
7 Attorneys for Clark County Air Quality

8 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notices of Violation)
11 Nos. 9907, 9946, 9979, 9981, and 10008,) Date of Hearing:
12 Issued To:) August 7, 2024
13 Assured Development, Inc., Atlas)
Holdings International LLC, Joseph)
14 Yakubik, Individually, and Darcie)
Yakubik, Individually,)
15 _____ Respondents.)

16 **MOTION FOR ISSUANCE OF SUBPOENA**

17 Clark County Department of Environment and Sustainability, Division of Air Quality
18 (“Air Quality”) submits this Motion for Issuance of Subpoena to obtain documentary
19 evidence related to the appeals of Notices of Violation (“NOV”) Nos. 9907, 9946, 9979,
20 9981 and 10008 that are in the custody and control of Respondents Assured Development,
21 Inc. (“Assured”), Atlas Holdings International LLC (“Atlas”), Joseph Yakubik or Darcie
22 Yakubik. This Motion is based on the points and authorities submitted herewith and oral
23 argument of counsel at the hearing on these matters.

24 **POINTS AND AUTHORITIES**

25 After several continuances, NOVs 9907, 9946, 9979, and 9981 came before the
26 Hearing Officer on April 24, 2024 and again on June 17, 2024. The Hearing Officer
27 determined that violations of Clark County Air Quality Regulations (“AQR”) occurred in
28 NOVs 9907, 9946, and 9979 and assessed penalties for those violations. For NOV 9981, the

1 Hearing Officer determined that no violation occurred. NOV 10008 was heard on May 23,
2 2024. The Hearing Officer determined that AQR violations occurred and assessed a penalty.
3 After the Hearing Officer issued orders for each of these NOVs, they were all timely
4 appealed in accordance with AQR Subsections 7.3(e) and 7.5. Assured, Atlas, and the
5 Yakubiks appealed NOVs 9907, 9946, 9979, and 10008, as applicable, and Air Quality
6 appealed NOV 9981.

7 AQR 7.5(f) states that an appeal of a hearing officer order “shall be heard ‘de novo’
8 (i.e. from the beginning), with testimony and exhibits presented and the appeal conducted in
9 the same manner as before the Hearing Officer.” Because these matters will be heard “de
10 novo” by this Board, Air Quality seeks relevant documentary evidence that may be in the
11 custody and control of Respondents. This Board has the authority to issue subpoenas for
12 documents pursuant to NRS 445B.350(4) and NRS 445B.500. Accordingly, Air Quality
13 requests a subpoena be issued to Respondents for the following:

- 14 1. Records related to the formation, management, and dissolution, if applicable,
15 of Assured; Atlas; Milan Customs LLC; and Global Equity Holdings, Inc.
16 These businesses have been or are the owners of the subject real property,
17 holders of dust control operating permits for the subject construction sites,
18 and/or their agents. Among other things, Air Quality is seeking to clarify
19 which individuals effectively control or controlled these businesses.
- 20 2. Video and/or audio recordings from all cameras mounted on the Yakubiks’
21 residence that is the subject of NOV 9981 showing the property outside the
22 house from January 16, 2024 through April 30, 2024 during daylight hours.
23 Among other things, Air Quality is seeking this information to ascertain the
24 validity of statements and arguments put forward by Respondents.
- 25 3. Video and/or audio recordings made by Mr. Yakubik on his phone or by other
26 means and video and/or audio recordings made at the direction of any of the
27 Respondents that show Air Quality staff on the subject properties from July 1,
28 2023 through May 31, 2024. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.
4. Complete copies of all bodycam footage and other documents that, upon
information and belief, the Yakubiks received from the City of Henderson for
an incident that occurred on January 19, 2024 at the Yakubiks’ residence that is
the subject of NOV 9981. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.

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CONCLUSION

Based on the foregoing, Air Quality respectfully requests that the Board grant its motion and issue a subpoena for the documentary evidence requested above.

DATED this 16th day of July, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: /s/ Catherine Jorgenson
CATHERINE JØRGENSON
Deputy District Attorney
State Bar No. 005891
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Clark County Air Quality

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1 BEFORE THE AIR POLLUTION CONTROL HEARING OFFICER

2 CLARK COUNTY, NEVADA

3
4 In the Matter of the Notice of Violation #9907) ORDER
5 Issued to))
6 ASSURED DEVELOPMENT, INC. and))
7 JOSEPH YAKUBIK, Respondents.))
8 _____)

9 The above-entitled matter was heard on June 17, 2024, before Hearing Officer Holly
10 Fic on the Contested Docket. Representatives of both the Clark County Department of
11 Environment and Sustainability, Division of Air Quality (**Air Quality**) and ASSURED
12 DEVELOPMENT, INC. and JOSPEH YAKUBIK (**ASSURED DEVELOPMENT** and
13 **YAKUBIK**) appeared, testified and submitted evidence for consideration by the Hearing
14 Officer. Having considered the evidence presented at the hearing, the Hearing Officer hereby
15 finds and orders as follows:

16 1. Notice of Violation (**NOV**) #9907 was issued by Air Quality to Respondents
17 ASSURED DEVELOPMENT and YAKUBIK on October 3, 2023 for alleged violation(s) of
18 Dust Control Operating Permit #50962 (**Permit**) and the Clark County Air Quality
19 Regulations (**AQRs**) at the Milan Customs construction site located at the northeast corner of
20 Milan Street and Berlin Avenue, in Clark County, Nevada. The violation(s) alleged in the
21 NOV include:

22 (a) Violation of AQR Sections 94.5(n)(1) and (2), and 94.13(b) for failing to
23 implement control measures for long-term stabilization, as described in BMP 11 at
24 permit closure.

25 2. The penalty recommended by Air Quality in NOV #9907 was \$5,000.00.

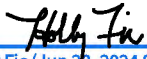
26 3. The Hearing Officer finds that the violation(s) alleged in NOV #9907 occurred
27 in that ASSURED DEVELOPMENT and YAKUBIK violated AQR Sections 94.5(n)(1) and
28 (2), and 94.13(b) on July 13, 2023, and August 2, 9, 11 and 17, 2023.

1 4. **IT IS HEREBY ORDERED** that ASSURED DEVELOPMENT and
2 YAKUBIK pay a penalty of Five Thousand and no/100 Dollars (\$5,000.00) within 30 days of
3 the date of this ORDER.

4 5. ASSURED DEVELOPMENT and YAKUBIK have the right to appeal this
5 ORDER to the Clark County Air Pollution Control Hearing Board. Any appeal of this ORDER
6 shall be: (1) in writing specifying the reasons for the appeal, (2) accompanied by a filing fee
7 of One Hundred Forty and no/100 Dollars (\$140.00), and (3) received by Air Quality within
8 ten (10) days of ASSURED DEVELOPMENT and YAKUBIK 's receipt of this ORDER.

9 DATED this 20th day of June, 2024.

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Holly Fic (Jun 21, 2024 08:25 PDT)

Holly Fic
Hearing Officer



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 21, 2024

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
E-mail: rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, NV 89106

**Re: Granted Continuance for Notices of Violation (NOVs) #9907, #9946, #9979 & #9981
DCOP #50962, and Construction Project #57391 & #57592**

Dear Mr. Rocheleau:

The Hearing Officer granted the request for continuance and the above matters have been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on April 24, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.)

If you have any questions regarding these cases, please contact Catherine Jorgenson, Deputy District Attorney for the Office of the District Attorney/Civil Division of Clark County, Nevada via e-mail at catherine.jorgenson@clarkcountynv.com, or call 702.455.4761.

Sincerely,

Pamela R. Thompson, Sr. Secretary
Enforcement Division

PRT:pt

Cc: Joseph Yakubik, President, Assured Development, Inc. - Las Vegas, NV E-mail: joe@assurednv.com

From: [Catherine Jorgenson](#)
To: [Shibi Paul](#); [Anna Sutowska](#)
Subject: FW: Atlas Holdings LLC & Joseph Yakubik
Date: Thursday, March 21, 2024 8:32:47 AM

FYI

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 8:30 AM
To: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

I understand. Thank you for the quick response.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

2017 . 2018 . 2019 . 2020
2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

From: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Sent: Thursday, March 21, 2024 8:27 AM
To: Rock Rocheleau <rock@rightlawyers.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

Mr. Rocheleau,

Yesterday, on behalf of the Division of Air Quality, Mr. Yakubik and I, before he had obtained counsel, discussed his request to continue the four Notices of Violation (NOVs) scheduled for hearing today. After conferring with my client, I let Mr. Yakubik know that AQ would not oppose his request to continue all four NOVs. We also agreed that if the Hearing Officer granted his request, that the hearings would be continued to April 24th. I also made it clear that the decision to grant a continuance is the Hearing Officer's to make. Please be advised that Hearing Office Holly Fic was not involved in these discussions yesterday and, to my knowledge, has not agreed to grant the continuances. Once the Hearing Officer has had the opportunity to consider your client's request today and has made a decision, I will contact you and let you know the outcome.

If you have any questions, please contact me directly at (702) 455-3167.

Thank you,

Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 7:23 AM
To: hollyf@mcfarlinglaw.com; Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Subject: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Jorgenson & Ms. Fic,
I have been hired by Joseph Yakubik to represent him at the Air Quality hearing for violation notice #9907, #9946, #9979, and #9981. I've been informed a continuance from today's hearing was agreed to. Please let me know the new date and time. Thank you.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

2017 . 2018 . 2019 . 2020

2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

Joe Yakubik
P.O. Box 530778
Henderson, Nevada 89053

March 18th, 2024

Holly Fic
6230 W Desert Inn Road
Las Vegas, Nevada 89146

cc: Catherine Jorgenson
Office of the District Attorney
500 S Grand Central Parkway
5th Floor
Las Vegas, Nevada 89155

Re: Request for Continuance
NOV #9907
NOV #9946
NOV #9981

Mrs. Fic and Mrs. Jorgenson:

This letter shall serve as a request for continuance on the above referenced matters. We have recently been apprised that Mr. Yarmy is facing discipline hearings with the Nevada State Bar¹ this week and he advised us that it is likely that he may become disbarred at this hearing. Pairing this with Mr. Yarmy's health issues² and that we were recently apprised by Mrs. Jorgenson and her staff that our prior counsel was very unresponsive³ we find it necessary that we retain competent counsel to represent the parties accordingly.

Additionally, we received notice this morning that NOV 9981 was also placed on the agenda for hearing this week. As we deny all the acquisitions in this complaint, a proper defense at such a hearing will require a reasonable time to prepare and today's notice does not provide for such time.

Furthermore, on March 12th, 2024, we had the opportunity to review bodycam footage of Henderson Police Department of events surrounding the above NOV's. Officers' bodycam footage contains David Dean and Katrinika Byers admissions and additional documentation that we feel is crucial to our defense and will be required at hearing. Per Henderson Police Department backlog, footage is not immediately available. We have processed our public requests order and await the production of the physical copies.

¹ February 23, 2024 at an in person meeting Yarmy advised Yakubik that a hearing will be held the week of March 18th, 2024 in which the State Bar of Nevada will be reviewing circumstances surrounding State Bar order No. 77095. Yarmy advised Yakubik that it is likely that he will be dis-barred for six to eighteen months.

² Yarmy requested prior continuation due to neuropathy and health concerns

³ February 28, 2024 Yakubik met with Air Quality staff and was advised that on multiple occasions that Yarmy had failed to respond to their agency.

As of this time, no parties identified in the above referenced NOV's are represented by counsel and I request all future correspondence be sent to the address above.

I am available via telephone at 702-241-4040 or at the address above. Thank you in advance for your consideration of the request and we look forward to a timely resolution to the above referenced items.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Yakubik', with a stylized flourish at the end.

Joe Yakubik
Personal Capacity
As Owner 1028 Athens Ave
As Manager of Atlas Holdings International, LLC

VIA: Fed Ex and Hand Deliver

cc: File



DES
**DEPARTMENT OF ENVIRONMENT
AND SUSTAINABILITY**



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

January 18, 2024

Assured Development, Inc.
c/o Yarmy Law Firm
Steven Yarmy, Esq.
E-mail: sly@stevenyarmylaw.com
Chris Craig, Esq.
E-mail: chris@yarmylaw.com
7464 West Sahara Avenue
Las Vegas NV 89117

**Re: Granted Continuance for Notice of Violation (NOV) #9907
DCOP #50962 – Milan Customs**

Dear Messrs. Yarmy and Craig:

The Hearing Officer granted the request for continuance and the above matter has been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on March 21, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.) Also, if you intend to present any additional documentation at the meeting, please bring six copies for distribution to the Hearing Officer and staff.

If you have any questions regarding this case, please contact me via e-mail at Sherrie.Rogge@clarkcountynv.gov, or call 702-455-0354.

Sincerely,

Sherrie D. Rogge, Administrative Secretary
Division of Air Quality – Enforcement Section

SDR:sdr

cc: Joseph Yakubik, President and Responsible Official
E-mail: joe@assurednv.com
Assured Development, Inc.
PO Box 530778
Henderson NV 89053

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**STEVEN L. YARMY
ATTORNEY AT LAW**

7464 West Sahara Avenue

Las Vegas, Nevada 89117

(702) 586-3513

(702) 586-3690 FAX

sly@stevenyarmylaw.com

Anna Sutowska

Air Quality Supervisor

Clark County Department of Environment and Sustainability,

Division of Air Quality

4701 W. Russell Rd., Suite 200

Las Vegas, NV 89118

VIA EMAIL qenforcement@clarkcountynv.gov

Sherrie D. Rogge, Administrative Secretary

Clark County Department of Environment and Sustainability

Division of Air Quality – Compliance & Enforcement Section

4701 W. Russell Road #200

Las Vegas NV 89118

VIA EMAIL qenforcement@clarkcountynv.gov

January 17, 2024.

RE: **REQUEST FOR CONTINUANCE**
DCOP #50962

Dear Air Quality Enforcement,

I represent Assured Development, Inc., and Joseph Yakubik (Individually).

As you know there is a hearing set for tomorrow January 18, 2024, at 9:00 a.m.

Unfortunately, I have recently been suffering from nerve damage I believe is neuropathy. Due to the pain from my legs through the bottom of my feet, it is very difficult to walk and stand, let alone concentrate.

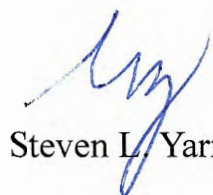
There has been one continuance in this matter, which was originally on November 16, 2023.

I hereby respectfully request a 30-day continuance, to allow me to address my symptoms and properly participate.

I appreciate your consideration.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Yarmy", is written over the printed name.

Steven L. Yarmy, Esq.

From: [Steven Yarmy](#)
To: [AQ Enforcement](#); "[Joe Yakubik](#)"; chris@yarmylaw.com; [AQ Enforcement](#)
Cc: "[Luz Jimenez](#)"
Subject: RE: REMINDER 1/18/2024 Hearing Officer Meeting: NOV #9946, Atlas Holdings International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)
Date: Wednesday, January 17, 2024 11:12:47 AM
Attachments: [req continuance.pdf](#)

Please see attached request for continuance for tomorrow January 18, 2024 hearing.

I will await you decision. There should be no issues on continuing this matter.

Thank you for your consideration.

From: AQ Enforcement <AQEnforcement@ClarkCountyNV.gov>
Sent: Tuesday, January 16, 2024 11:50 AM
To: Joe Yakubik <joe@assurednv.com>; Steven Yarmy <sly@stevenyarmylaw.com>; chris@yarmylaw.com
Subject: REMINDER 1/18/2024 Hearing Officer Meeting: NOV #9946, Atlas Holdings International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)
Importance: High

This is a friendly reminder of the above hearing. I also spoke to Christopher Yarmy at 11:37 a.m.

PLEASE CONFIRM RECEIPT OF THIS EMAIL.

If you need further assistance, please let me know.

Thank you,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Environment and Sustainability,
Division of Air Quality
4701 W. Russell Rd., Suite 200
Las Vegas, NV 89118
Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

Website for the Compliance & Enforcement Section:
https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/index.php

From: AQ Enforcement
Sent: Wednesday, January 10, 2024 10:12 AM
To: 'Joe Yakubik' <joe@assurednv.com>; Steven Yarmy <sly@stevenyarmylaw.com>; chris@yarmylaw.com
Subject: RESPONSE REQUIRED: 1/18/2024 Hearing Officer Docket - NOV #9946, Atlas Holdings

International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)

Importance: High

Please see attachment, which was also mailed today via certified mail.

Please confirm receipt of this email.

Thank you,

Sherrie D. Rogge

Sherrie D. Rogge, Administrative Secretary
Clark County Department of Environment and Sustainability
Division of Air Quality – Compliance & Enforcement Section
4701 W. Russell Road #200

Las Vegas NV 89118

Office: 702-455-0354

Fax: 702-383-9994

Email: agenforcement@clarkcountynv.gov

My Office Hours: M-F, 7:30 AM – 4:00 PM

Clark County Offices are closed on Fridays.

Website for the Compliance & Enforcement Section:

https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/index.php



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

November 16, 2023

Assured Development, Inc.
c/o Yarmy Law Firm
Steven Yarmy, Esq.
E-mail: sly@stevenyarmylaw.com
Chris Craig, Esq.
E-mail: chris@yarmylaw.com
7464 West Sahara Avenue
Las Vegas, NV 89117

**Re: Granted Continuance for Notice of Violation (NOV) #9907
DCOP #50962 – Milan Customs**

Dear Messrs. Yarmy and Craig:

The Hearing Officer granted the request for continuance and the above matter has been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on January 18, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.) Also, if you intend to present any additional documentation at the meeting, please bring six copies for distribution to Hearing Officer and staff.

If you have any questions regarding this case, please contact me via e-mail at Pamela.Thompson@clarkcountynv.gov , or call 702-455-3126.

Sincerely,

Pamela R. Thompson, Sr. Secretary
Enforcement Division

PRT:pt

Cc: Joseph Yakubik, President - Assured Development, Inc.

E-mail: joe@assurednv.com

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From: [Catherine Jorgenson](#)
To: [Steven Yarmy](#)
Cc: [Chris Craig](#); [Pamela Thompson](#)
Subject: RE: Response Required: 11/16/2023 Hearing Officer Docket – NOV #9907, Assured Development, Inc. and Joseph Yakubik, Individually - Milan Customs (DCOP #50962)
Date: Thursday, November 9, 2023 4:57:59 PM

Steven,

As we discussed on the phone yesterday, the Division of Air Quality has no objection to your request for a continuance. At the hearing officer meeting on November 16th, I will present your request and AQ's non-opposition to the hearing officer and request a continuance to the next hearing officer meeting scheduled on January 18, 2024. You do not need to appear at the 11/16 hearing.

Please let me know if you have any questions or would like to discuss further.

Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

From: Chris Craig <chris@yarmylaw.com>
Sent: Wednesday, November 8, 2023 11:49 AM
To: AQ Enforcement <AQEnforcement@ClarkCountyNV.gov>
Cc: Steven Yarmy <sly@stevenyarmylaw.com>; Joe Yakubik <joe@assurednv.com>
Subject: Re: Response Required: 11/16/2023 Hearing Officer Docket – NOV #9907, Assured Development, Inc. and Joseph Yakubik, Individually - Milan Customs (DCOP #50962)

Pamela,

The stated time and date for the hearing - we have scheduling conflicts. Mr. Yakubik nor Mr. Yarmy is available on that date.

We propose a date after thanksgiving.

Christopher Craig
EA, MBA, LLM, CIRA
Ph: (702) 498-2144
chris@yarmylaw.com
Semper Fi

On Nov 8, 2023, at 10:23 AM, AQ Enforcement <AQEnforcement@clarkcountynv.gov>

wrote:

Please see attachment, which was also mailed today via certified mail.

Please confirm receipt of this email.

Thank you,

Pamela R. Thompson

Pamela Thompson, Senior Secretary
Department of Environment and Sustainability,
Division of Air Quality
4701 West Russell Road, Suite 200
Las Vegas, NV 89118

Office #: 702.455.3126

Fax #: 702.383.9994

E-mail: Pamela.Thompson@clarkcountynv.gov

Website for the Compliance & Enforcement Section:

https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/index.php

<11-16-23_APC_HO_Docket.pdf>



Notice of Violation Response Form

Issued to: Assured Development, Inc., Joseph Yakubik responsible official

NOV #: 9907 Return form by: 11/2/2023

Items below are to be completed by the Respondent

Responsible Official: Joseph Yakubik

Title: Asset Manager

Phone Number: 7022414040

Email Address: joe@assurednv.com

Mailing Address:

Please check applicable boxes below

We do not contest the Notice of Violation (Attendance is not required)
We accept responsibility for this violation. Instructions for payment of the recommended penalty will be provided after the Hearing Officer meeting.

We are contesting the Notice of Violation and request to appear before the Hearing Officer (Attendance by the Responsible Official or a representative of the company is strongly recommended to contest the violation)

Please attach a written explanation, including supporting documentation, of why you are contesting the NOV. This information will be provided to the Hearing Officer prior to the Hearing.

We will be contesting the:

- Facts
- Penalty
- Both

/s/ Steven L. Yarmy, Esq.
Attorney for Joe Yakubik

Signature of Authorized Person

Date: 11/1/2023

Completed forms can be submitted to Pam Thompson via mail at Clark County Department of Environment and Sustainability, Division of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or via email at aqenforcement@clarkcountynv.gov.

Our firm represents Mr. Joe Yakubik.

We are unable to find in the NRS where Mr. Yakubik would be personally liable for the actions of another related to Dust Control.

Mr. Yakubik was listed as a responsible official not a responsible individual. The narrative filled in part of the NOV listing him as a responsible individual must be an oversight or greatly misplaced. A Responsible Official is a contact person not a person that assumes liability for an action of another person or another person's property. Any paperwork that Yakubik completed was as an employee and representative of Assured.

This shall serve as notice to contest any personal liability that Mr. Yakubik shall have under this action and offer the following response:

July 9, 2022: Assured Development permit issued, DAVE REYNOLDS **Designated on Site Representative.** Mr. Yakubik acted in an administrative capacity and processed application paperwork only. Mr. Reynolds was the site supervisor overseeing all construction activity under the permit that was issued.

On or about February 8th, 2023, Mr. Reynolds notified Assured that he completed disassociation paperwork with Assured Development. All construction under the associated dust permit was complete prior to expiration of such permit.

July 2023: Mr. Yakubik received notification of an expired permit and immediately submitted paperwork to close the permit. As Assured Development was in its winding down stage and holds no active licenses or permits in Nevada, Mr. Yakubik, as a courtesy filed the closure paperwork.

Mr. Yakubik is the manager of Atlas Holdings International, the entity that owns 732 Naples, 729 Milan and 724 Naples. At all times and to the best of our knowledge, these properties have maintained compliance with all dust control as our outlined by the Department's own photos:

Photo 1: 724 Naples no activity at the time of photo and the ground is stabilized – the crusted dirt and the berm built up are easily distinguished.

Photo 2: 740 Naples, owned by George Abittan and should have applied for their own dust control permit. A complaint was filed on this activity and instead of requiring the owner obtain their own permit, the Department closed the complaint and indicated that the area of construction was under .25 of an acre. This was clearly not the case as exemplified in the below photo.



Photo 3 is the property of 744 N Naples and the property of David Reynolds who was the original card holder and site point of contact. The Departments photos clearly show that Mr. Reynolds continues with construction activity without the proper permit. Reynolds continues to work on his site without a dust permit. This was also included in the complaint filed by Yakubik. Rather than require Mr. Reynolds to obtain a dust permit for activity on his lots and neighboring lots, the Department closed the complaint. As exemplified below, the photos support all activity is greater than .25 of an acre.



Photo 4 – 732 Naples: pallets from the landscape install. No other activity other and all activity does not require a dust permit as the area is less than .25 acre. The dirt appearance is crusted which demonstrates stabilization and no erosion.

Photo 5 - 724 Naples: No active construction activity. Utility work is under the .25 acre requirement and the appearance is stabilized and crusted with weeds growing. Additionally, berms were placed around the construction areas as required by the code.

Photo 6 – Rear of 736 N Naples and is owned by Clifford Lemmerhirt and the picture clearly shows the crusted and stable soils. Owner is not in violation, nor has active construction activities. In the distance of this photo it does show the construction activities of both 744 and 740 Naples.

Photo 7 - 744 N Naples property owner David Reynolds – unstable soils and active construction.

Photo 8 – 729 Milan (foreground) 724 Naples (background) No activity over .25 of an acre or requiring a dust control permit. Soil is stable and crusted. Weeds growing.

Photo 9 See photo 6 details – same

Photo 10 See photo 7, same comment.

Photo 11 – 724 Naples – ground is crusted and stable. No activity over .25 of an acre or requiring a dust control permit.

Photo 12 – 724 Naples – ground is crusted and stable. No activity in this area – weeds growing.

Photo 13 same as photo 5 – see notes.

Photo 14 same as photo 12, see notes.

Photo 15 – 732 Naples construction of block wall materials and staging. Block wall construction does not require dust control permit because its less than .25 acres.

Photo 16 lot across the street from 740 N Milan by Dave Reynolds. Activity in area greater than .25 as indicated in the above photo.

Photo 17-18 is David Reynolds property.

Photo 19-20 is 740 N Naples, George Abittan property – construction material being hauled across the street to 740 Milan. This activity was addressed in the complaint filed by Yakubik and closed by the Department due to activity not greater than .25 of an acre. Aerial photos show that the area is in excess of the .25 of an acre and activity requires a dust permit.



Photo 21 is 744 N Naples, David Reynolds property – loose soils and unstable.

Photo 22 – 724 Naples demonstrates crusted soils and no erosion or dust, or loose dirt.

Photo 23 same as photo 12.

Photo 24 732 Naples - demonstrates only block wall building materials. Block wall construction does not require dust control permit because it's less than .25 acres.

In Exhibit F – shows blue X's on addresses: 740 N Naples with active digging and grading and dirt movement. On addresses 724-732 N Naples there is no dirt movement and the soils have been stabilized. Block wall construction does not require dust control permit because its less than .25 acres. Additionally, the activity, if any, on lots 724-732 N Naples does not require dust control permit because its less than .25 acres. Also, the red x's related to ROW have certainly been applied and there have been numerous storms that have caused damage or wash out of the gravel as happens throughout the rural preservation area.

744 Naples, 740 Naples and 740 Milan all have construction activity that exceed the .25 tolerance and should require their own dust permits.

As an active dust card holder, David Reynolds is aware of the regulations required under the permits, as he is the active site supervisor on numerous permits throughout the area. Mr. Reynolds was the site supervisor and dust card holder, and at the very minimum should have been included in this complaint. Mr. Reynolds continues to do work in the area at 744 Naples and 740 Naples and 740 Milan, both personally and with his company Granite Construction. Yakubik has video and photos of the activity that can be provided if requested.

In summary, the Dust Permit #50962 was left abandoned by the site supervisor. Mr. Yakubik, as an employee of the company attempted to close the permit. As exemplified in your own documents, the properties that Mr. Yakubik manages are in compliance. Any construction activities do not require a dust permit on these lots.

For the reasons above, Mr. Yakubik is not liable in his individually capacity for the actions of any lot owners or actions of other parties. If the lots managed by Mr. Yakubik are not in compliance, he stands ready to remedy any issues presented by the Department. The Board should be taking action against the property owners that are not in compliance and continue to move dirt without permits of all types.

The violations are based upon the failure to close a permit and crusting and berming. However, under the doctrine of impracticability and impossibility, Assured is no longer licensed as a general contractor, does not perform any contracting work, has no employees, therefore is legally impossible for Assured to even do a thing. Assured is not contracted for any of the "active work." Furthermore, the respondent seeks guidance on what it can do. Berms will not be put up where there is active work being performed in addition, the active work being performed is less than .25 acres tolerance and is in compliance and does not require any additional permitting.

/s/ Steven L. Yarmy

Attorney for Joe Yakubik

Steven L. Yarmy, Esq.
7464 W Sahara Ave, STE 8
Las Vegas, NV 89117
702-586-3513
sly@stevenyarmylaw.com
Luz@yarmylaw.com



REYNOLDS DAVID G
744 N NAPLES ST

James Gibson
740 N Milan

ABITTAN GEORGE & SH...
740 N NAPLES ST

LEMMERHIRT CLIFFORD L
736 N NAPLES ST

ATLAS HOLDINGS INTERNATIONAL L L C
732 N NAPLES ST

ATLAS HOLDINGS INTERNATIONAL L L C
729 N MILAN ST

ATLAS HOLDINGS INTERNATIONAL L L C
724 N NAPLES ST



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

October 3, 2023

CERTIFIED MAIL #9489 0090 0027 6458 6076 82
Joseph Yakubik, President and Responsible Official
E-mail: joe@assurednv.com
Assured Development, Inc.
P.O. Box 530778
Henderson, NV 89053

CERTIFIED MAIL #9489 0090 0027 6458 6076 99
Assured Development, Inc.
c/o Yarmy Law Firm
E-mail: chris@yarmylaw.com
7464 West Sahara Avenue
Las Vegas, NV 89117

NOTICE OF VIOLATION #9907

Clark County Department of Environment and Sustainability, Division of Air Quality (**Air Quality**) provides this notice to Assured Development, Inc. (**Assured Development**) and Joseph Yakubik (**Yakubik**), individually, for the violation of the Clark County Air Quality Regulations (**AQRs**) as alleged below and recommends a civil penalty of Five Thousand and no/100 Dollars (\$5,000.00) be assessed as shown in the penalty calculation table attached hereto as **Exhibit A** and incorporated herein.

I. FACTS

- A. On July 9, 2022, Air Quality issued renewed Dust Control Operating Permit (**DCOP**) #50962 to Assured Development, for the 7.0-acre construction project named Milan Customs. A Dust Mitigation Plan was submitted with the DCOP application and was incorporated into DCOP #50962 whereby Assured Development agreed to comply with the control requirements for the selected Best Management Practices (**BMPs**). The Dust Mitigation Plan remained in effect with this renewal.
- B. Air Quality Specialist Nahulu Kahananui (**Kahananui**) and Senior Air Quality Specialist Katrinka Byers (**Byers**) discovered the alleged violations while performing 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.

- C. On July 27, 2022, at approximately 9:25 a.m., Air Quality Specialist Richard Wyse (**Wyse**) arrived at the Milan Customs construction site to conduct an expired permit inspection. The inspection report is attached hereto as **Exhibit B** and incorporated herein. During his inspection, Wyse observed an active construction site operating under a DCOP that had expired on July 8, 2022. Wyse left a telephone message for Yakubik, Responsible Official for Assured Development, concerning his observations of noncompliance and the issuance of a Notice of Non-Compliance (**NON**). The NON was emailed to Yakubik and Dave Reynolds (**Reynolds**), Designated Onsite Representative for Assured Development, and is attached hereto as **Exhibit C** and incorporated herein. Wyse concluded his inspection at approximately 9:40 a.m.
- D. On July 31, 2022, at approximately 9:37 a.m., Assured Development submitted an application to Air Quality to renew DCOP #50962.
- E. On July 8, 2023, DCOP #50962 expired. On July 10, 2023, Assured Development submitted a request to close the permit.
- F. On July 13, 2023, at approximately 10:00 a.m., Kahananui arrived at the Milan Customs construction site to conduct a permit closure inspection. The inspection report is attached hereto as **Exhibit D** and incorporated herein. During his inspection, Kahananui observed that the site did not meet BMP 11 Long-Term Stabilization requirements, as shown in Photographs 1 through 4, and Map 1 attached hereto as **Exhibits E and F**, respectively, and incorporated herein. While onsite, Kahananui left a telephone message for Yakubik concerning his observations of noncompliance and the issuance of a NON. The NON was emailed to Yakubik and is attached hereto as **Exhibit G** and incorporated herein. The NON detailed **Yakubik's options which were to renew DCOP #50962 or meet the long-term stabilization requirements**. Kahananui concluded his inspection at approximately 10:15 a.m.
- G. On August 1, 2023, at approximately 11:05 a.m., Yakubik sent an e-mail correspondence to Air Quality attached hereto as **Exhibit H** and incorporated herein. Within this correspondence, Yakubik stated that Assured Development was no longer in business and all construction activities occurring on DCOP #50962 were being performed by the property owners, not Assured Development. Byers responded to this e-mail correspondence on August 1, 2023, at approximately 4:45 p.m., informing Yakubik that Assured Development had submitted a request to close out the DCOP **without complying with Air Quality's BMP 11 Long-Term Stabilization requirements**, so it had been disapproved. Byers informed Yakubik that he must implement BMP 11 Long-Term Stabilization requirements before the DCOP can be closed.
- H. On August 2, 2023, at approximately 10:15 a.m., Air Quality received a complaint (#75215) alleging work was occurring without a dust control sign or dust control, and that soil debris was being tracked out onto the street. The complaint report is attached hereto as **Exhibit I** and incorporated herein. At approximately 11:50 a.m. on the same day, Kahananui arrived at the Milan Customs construction site to conduct a complaint investigation. The inspection report is

attached hereto as **Exhibit J** and incorporated herein. During his investigation, Kahananui observed dry, loose, powdery soil conditions on an expired DCOP that did not meet BMP 11 Long-Term Stabilization requirements (**Exh. E, Photographs 5 through 8**). While onsite, Kahananui sent an e-mail to Yakubik concerning his observations of continued noncompliance and the issuance of a NON. The NON was emailed to Yakubik and is attached hereto as **Exhibit K** and incorporated herein. Kahananui concluded his inspection at approximately 12:25 p.m.

- I. On August 9, 2023, at approximately 11:55 a.m., Kahananui arrived at the Milan Customs construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit L** and incorporated herein. During his inspection, Kahananui observed that the site still did not meet BMP 11 Long-Term Stabilization requirements (**Exh. E, Photographs 9 through 12**). Kahananui concluded his inspection at approximately 12:10 p.m.
- J. On August 11, 2023, at approximately 9:30 a.m., Byers and Air Quality Supervisor David Dean (**Dean**) arrived at the Milan Customs construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit M** and incorporated herein. During the inspection, Byers and Dean observed dry, loose, and powdery site soils on an expired DCOP that did not meet BMP 11 Long-Term Stabilization requirements and more than 0.25 acres remaining to be built out (**Exh. E, Photographs 13 through 20**). Byers and Dean also observed no trackout control device at the exit onto Milan Street and no dust permit signage. Byers and Dean concluded the inspection at approximately 10:15 a.m.
- K. On August 17, 2023, at approximately 12:20 p.m., Kahananui arrived at the Milan Customs construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit N** and incorporated herein. During his inspection, Kahananui observed an active construction site that has not met BMP 11 Long-Term Stabilization requirements (**Exh. E, Photographs 21 through 24**). Kahananui concluded his inspection at approximately 1:00 p.m.

II. VIOLATIONS

Violation 1:

By failing to implement control measures for long-term stabilization, as described in BMP 11 at permit closure, Assured Development violated AQR Sections 94.5(n)(1) and (2), and 94.13(b).

AQR Section 94.5(n) states:

“(n) The Responsible Official shall:

- (1) Notify the Control Officer in writing within 10 days following the cessation of active operations on all or part of a Construction site when cessation will extend 30 days or longer. Stabilization shall also be implemented within 10 days, in accordance with BMP-11.

(2) Complete and submit a Dust Control Operating Permit Closure Form for approval to the Department within 10 days following the completion of a Construction project and/or expiration of the Dust Control Operating Permit. Prior to the submittal of the closure form, the Responsible Official shall:

(A) Implement a control method for long-term stabilization, as described in BMP 11, on all disturbed areas that are not built out, landscaped or Paved.”

AQR Section 94.13(b) states:

“(b) Control Measures that are listed in the approved Permit, and other measures as needed for the purpose of maintaining Dust control, shall be implemented 24 hours a day, seven days a week, until the Permit is closed in accordance with Section 94.5(n)(2).”

AQR Appendix 1, BMP 11 states:

“BMP 11 LONG-TERM STABILIZATION (Applies to disturbed land that is not built out, landscaped, or Paved at Permit closure)

11 Requirements

(a) Stabilize all disturbed land within 10 days of the completion of a project, or when active operations on all or part of the Construction site will cease for 30 days or more. Restrict access to these areas to prevent soil disturbance and maintain long-term stabilization. The Control Officer must approve the control method selected by the Permittee before its implementation. The Permittee shall select one or more of the following control methods:

(1) Pave.

(2) Apply Clean Gravel.

(3) Install permanent metal or wood fencing and/or a post and cable at least 3 feet high, or other similar barrier approved by the Control Officer, and stabilize soil with one of the following to create adequate crust:

(A) Water, or

(B) Dust Palliative.

(4) Install a dirt berm at least 4 feet high, or a similar barrier approved by the Control Officer, and stabilize soil with one of the following to create adequate crust:

(A) Water, or

(B) Dust Palliative.

- (b) Installation of signs, as described below, is required if a dirt berm or similar barrier is used or if Clean Gravel is applied.
- (1) Install orange “No Parking/Trespassing” signs with black lettering, at least 24 inches wide by 18 inches high, every 50 feet or as approved by the Control Officer (Table 2).
 - (2) Construct the sign(s) from materials capable of withstanding Clark County’s harsh environment (e.g., wood, metal, plastic).
 - (3) Attach the sign(s) to a sturdy post, such as metal or wood, placed securely in the ground, or attach the sign(s) to a fence, barricade, or other stable object that is clearly visible.
 - (4) Post on or near the property boundary, the property corners, and at all access points; post no further than 50 feet apart.
- (c) New Construction or modification of Paved roads must be stabilized consistent with Section 93 before the Dust Control Operating Permit (DCOP) is closed.
- (1) Roads with vehicular traffic equal to 3,000 vehicles or fewer per day shall have a 4 foot Paved road shoulder or be stabilized with Clean Gravel, recycled asphalt, or traffic-rated Dust Palliative.
 - (2) Roads with vehicular traffic greater than 3,000 vehicles per day shall have an 8 foot Paved road shoulder or be stabilized with Clean Gravel, recycled asphalt, or traffic-rated Dust Palliative.
 - (3) All disturbed areas outside the road shoulder boundaries must be treated for long-term stabilization.

III. RECOMMENDED CIVIL PENALTY

Pursuant to AQR Section 9.1, any person who violates any provision of the AQRs, including any permit condition; is guilty of a civil offense and shall pay a civil penalty not to exceed \$10,000 per violation. Each day of violation constitutes a separate offense.

Air Quality recommends a civil penalty in the amount of \$5,000.00 (**Exh. A**).

IV. HEARING

Air Quality has scheduled a hearing for **Thursday, November 16, 2023, at 9:00 a.m.** before the Air Pollution Control Hearing Officer to adjudicate the alleged violation(s) and, if appropriate, to levy the recommended penalty. Please complete the enclosed **“Notice of Violation Response Form”** and return it to Air Quality by November 2, 2023. At the hearing, the Hearing Officer will hear evidence on the alleged violation(s) and render a decision. The hearing will be held at the Clark County Building Services Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada.

If you intend to present any documentary evidence at the hearing, please provide copies of your evidence to Air Quality with the completed Notice of Violation Response Form. If you fail to provide copies of your evidence prior to the hearing, please be advised that Air Quality may request a continuance to have time to review any evidence you bring to the hearing, which will result in the hearing being postponed and rescheduled to a later date.

If the Hearing Officer finds you in violation and levies a penalty, Air Quality staff will mail the Hearing Officer’s order to you along with instructions on remittance of the penalty.


Shibi Paul (Oct 3, 2023 15:38 PDT)

for

Marci Henson
Director and Control Officer

Exhibits:

- A. Penalty Calculation Table, NOV #9907
- B. Air Quality Construction Site Inspection Form #106158, dated July 27, 2022
- C. Air Quality Notice of Noncompliance for July 27, 2022
- D. Air Quality Construction Site Inspection Form #116860, dated July 13, 2023
- E. Digital Photographs 1 through 24
- F. Map 1: Showing locations that did not meet BMP 11 Long-Term Stabilization requirements on July 13, 2023
- G. Air Quality Notice of Noncompliance for July 13, 2023
- H. E-mail Correspondence dated August 1, 2023
- I. Air Quality Complaint Report (#75215), dated August 2, 2023
- J. Air Quality Construction Site Inspection Form #117356, dated August 2, 2023
- K. Air Quality Notice of Noncompliance for August 2, 2023
- L. Air Quality Construction Site Inspection Form #117553, dated August 9, 2023
- M. Air Quality Construction Site Inspection Form #117633, dated August 11, 2023
- N. Air Quality Construction Site Inspection Form #117754, dated August 17, 2023

V. CORRECTIVE ACTION ORDER

Pursuant to AQR Section 4.3, Air Quality hereby orders Assured Development and Yakubik to take corrective actions to resolve the noncompliance with the AQRs as per the conditions stated below.

1. Within 10 days of receipt of this Notice of Violation (**NOV**), Assured Development and Yakubik shall implement control measures for long-term stabilization, as described in BMP 11, on all disturbed areas that are not built out, landscaped or paved.
2. Yakubik, in his individual capacity or on behalf of another Person, shall not apply for or obtain a DCOP for any construction site until such time as the NOV and Corrective Action Order (**CAO**) are completely resolved.
3. Yakubik shall not act as a responsible official for a DCOP for any construction site until such time as this NOV and CAO are completely resolved

Pursuant to AQR Section 4.3(c), Assured Development and Yakubik has the right to appeal this Corrective Action Order (**Order**) to the Air Pollution Control Hearing Officer. Any appeal of this Order shall be by written request to the Control Officer and received by Air Quality within ten days of Assured Development and Yakubik's receipt of this NOV, or this Order becomes final. An appealed order is temporarily stayed pending its disposition. An appealed order becomes final immediately upon its affirmation by the Hearing Officer. Failure to comply with the terms of a final order is a violation of AQRs.


Shibi Paul (Oct 3, 2023 15:38 PDT)

for

Marci Henson
Director and Control Officer

amk

Exhibit A

NOV # 9907

Penalty Calculation Table

Assured Development, Inc. and Joseph Yakubik



4701 W. Russell Road 2nd Floor
 Las Vegas, NV 89118-2231
 Phone: (702) 455-5942 • Fax: (702) 383-9994
 Marci Henson, Director

Viol.	Date(s)	Violation Description	AQR Section	Exhibit / Evidence	Base Penalty	Days	Aggravating Description	Agg. Factor	Agg. Amount	Penalty
1	7/13/2023, 8/2/2023, 8/9/2023, 8/11/2023, 8/17/2023	Failed to implement control measures for long-term stabilization, as described in BMP 11.	94.5(n)(1) and (2), and 94.13(b)	Exh. E, Photos 1 thru 24 Exh. F, Map 1	\$ 1,000	5	N/A	0%	\$ -	\$ 5,000.00

Total Penalty: \$ 5,000.00

Regulatory maximum: \$10,000 per day, per violation

[AQR Section 9.1 & NRS 445B.640]



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit B

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 106158

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Richard Wyse	Jul 27, 2022	9:25 AM	9:40 AM	Expired Permit		50962
Permittee:	Project Name:		Project Location:			
Assured Development, Inc.	Milan Customs		NEC of Milan Street and Berlin Ave., Henderson			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	90 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes	Joe Yakubik	Responsible Official	Phone Message		
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Not Applicable		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						Yes
Project Soils:	Stable		Size of Instability:			
Trackout Device:	No - Not Practical		Has Trackout:	No		
Mitigation Equipment:	Adequate		Soil Crust Determination:	Not Necessary/Not Performed		
Admin Compliance:						No
Acreage Permitted:	7 acres	Observed Acreage:	7 acres	Project Size:	Less than or equal to permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	Yes	DCOP Onsite:	Not Verified	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:	Katrinka Byers		
<p>I conducted an expired permit inspection and observed over .25 acres of active construction remaining onsite. I left a message for Joe Yakubik, Responsible Official, and informed him that he must submit a Dust Control Operating Permit renewal by close of business July 29, 2022. I issued a Notice of Noncompliance (NON) with possibility of NOV.</p>						



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit C

NOTICE OF NONCOMPLIANCE

Issued To: Assured Development, Inc.

Project Name: Milan Customs

Location: NEC of Milan Street and Berlin Ave., Henderson

Dust Control Permit No: 50962

Date: Jul 27, 2022

Time: 9:40 AM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

No Valid Dust Control Permit – Submit a complete application for a Dust Control Permit to the Division of Air Quality. Comply by close of business on Jul 29, 2022. Permit late fees will apply.

Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- **Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.**
- **Please contact DAQ representative below regarding questions related to this notice.**

Person Notified:

Joe Yakubik

Responsible Official

Assured Development, Inc.

(Printed Name)

(Title)

(Company)

info@assurednv.com

(Email Address)

Person Notified:

Dave Reynolds

Designated Onsite Representative

Assured Development, Inc.

(Printed Name)

(Title)

(Company)

info@assurednv.com

(Email Address)

DAQ Representative:

Richard Wyse

702-277-1187

(Printed Name)

(Phone Number)



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit D

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 116860

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Nahulu Kahananui	Jul 13, 2023	10:00 AM	10:15 AM	Permit Closure		50962
Permittee:		Project Name:		Project Location:		
Assured Development, Inc.		Milan Customs		NEC of Milan Street and Berlin Ave., Henderson		
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	100 degrees	00-04 mph	0 mph	SW	Project Complete
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
Yes	No	Joe Yakubik	Responsible Official	Phone Message		
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Failed BMP11 Requirements		Size of Instability:			
Trackout Device:	No - Not Practical		Has Trackout:		No	
Mitigation Equipment:	Adequate		Soil Crust Determination:		Not Necessary/Not Performed	
Admin Compliance:						No
Acreage Permitted:	7 acres	Observed Acreage:	7 acres	Project Size:	Less than or equal to permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	Not Verified	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:		Katrinka Byers	
<p>I conducted a PCF inspection and observed the site does not meet BMP 11 - Long-Term Stabilization Requirements. I left a message with Joe Yakubik, Responsible Official, and directed to renew his DCOP. I also gave Mr. Yakubik options to have the site compliance or close out the permit. The options I gave Mr. Yakubik are as follows:</p> <ol style="list-style-type: none"> 1. Renew DCOP by close of business on 7/18/23. 2. Renew DCOP and transfer the permit to another party. If you choose this option, please submit a renewal application by close of business on 7/18/23. 3. Have another party that is involved with the construction to apply for a new DCOP to take over the permit by close of business on 7/18/23. Any area that is not taken over must meet BMP 11 – Requirements by close of business on 7/27/23 (please see option #4 for the BMP 11 requirements). 4. Meet BMP 11 – Requirements by close of business on 7/27/23. To meet BMP – 11 site soil must be stabilized, apply clean gravel on the right-of-ways, remove all construction material, remove any construction equipment, remove all stockpiles, and block access to the undeveloped parcel(s). 						



DES
DEPARTMENT OF ENVIRONMENT
AND SUSTAINABILITY



air quality



desert conservation
PROGRAM



sustainability

Division of Air Quality
4701 W. Russell Rd. Suite 200 2nd Floor
Las Vegas, NV 89118
Main Number: (702)455-5942
Fax Number: (702)383-9994

A Notice of Noncompliance with a possible Notice of Violation was issued to Assured Development, Inc. Mr. Yakubik has yet to respond, an email will be sent to Mr. Yakubik.

Exhibit E

Digital Photographs

Dust Control Permit #: 50962 Permittee: Assured Development, Inc.

Project Name: Milan Customs

Photos taken by: See photo description



Photograph # 1

Alleged Violation # 1

View looking north at the southwest corner of Assured Development, Inc. Milan Customs project that does not meet BMP 11 - Long-Term Stabilization Requirements. Photo taken by N. Kahananui.



Photograph # 2

Alleged Violation # 1

View looking at stockpiles in the backyard of 740 N Naples St. of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 3

Alleged Violation # 1

View looking east at the north side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 4

Alleged Violation # 1

View looking south at construction material at the southeast corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 5

Alleged Violation # 1

View looking south at the southwest corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 6

Alleged Violation # 1

View looking north at the west side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 7

Alleged Violation # 1

View looking east at the north side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 8

Alleged Violation # 1

View looking south at construction material at the southeast corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 9

Alleged Violation # 1

View looking north at the west side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 10

Alleged Violation # 1

View looking northeast at the northwest corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 11

Alleged Violation # 1

View looking south at the construction material on the northeast corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 12

Alleged Violation # 1

View looking east at the south side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 13

Alleged Violation #1

View looking southeast at the south side of the project that does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 14

Alleged Violation #1

View looking north at the south side of the project that does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 15

Alleged Violation #1

View looking west at active construction activity within the middle portion of the project without a valid dust control permit. Photo taken by Katrinka Byers.



Photograph # 16

Alleged Violation #1

View looking north at the north end of the project that does not meet BMP 11 requirements. Photo taken by Katrinka Byers.



Photograph # 17

Alleged Violation #1

View looking southwest at the north side of the project that does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 18

Alleged Violation #1

View looking east at the north side of the project that does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 19

Alleged Violation #1

View looking northeast at dry, loose, and powdery soils in an area of the project that also does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 20

Alleged Violation #1

View looking north at dry, loose, and powdery soils in an area of the project that also does not meet BMP 11 Requirements. Photo taken by Katrinka Byers.



Photograph # 21

Alleged Violation #1

View looking west at the north side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 22

Alleged Violation #1

View looking southwest at the south side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 23

Alleged Violation # 1

View looking west at the north side of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.



Photograph # 24

Alleged Violation # 1

View looking north at the construction material on the southeast corner of the project that does not meet BMP 11 Requirements. Photo taken by N. Kahananui.

Dust

1 of 1

Permit: 50962

Permittee: Assured Development, Inc.

Mod No: 3

Contact: Joe Yakubik

Location: NEC of Milan Street and Berlin Ave., Henderson

Acres: 7

Address: P O Box 530778

City: Henderson

Phone: 702-868-0900

Cell Phone: 702-241-4040

Fax: 866-248-2564

Email: joe@assurednv.com

Issue: 9/12/2022

Expiration: 7/8/2023

Parcel: 16033899002

Project Name: Milan Customs

RO_Contact: Joe Yakubik

RO_Email: joe@assurednv.com

RO_CellPhone: 702-241-4040

DO_Contact: Dave Reynolds

DO_Email: info@assurednv.com

DO_CellPhone: 702-499-3283

Vacant Land

Hydro Basin

1 of 1

Hydro Area: 212

Hydro Area Name: Las Vegas Valley

? Links

073

Current Tool: Select Property



MAP 1 - Showing location that does not meet BMP 11 - Long-Term Stabilization Requirements.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit G

NOTICE OF NONCOMPLIANCE

Issued To: Assured Development, Inc.

Project Name: Milan Customs

Location: NEC of Milan Street and Berlin Ave., Henderson

Dust Control Permit No: 50962

Date: Jul 13, 2023

Time: 10:15 AM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

THIS SITE DOES NOT MEET BMP-11 LONG-TERM STABILIZATION REQUIREMENTS- PROJECT CLOSURE DISAPPROVED

Additional Instructions / Other Noncompliance Items

*** To be in compliance with Air Quality Regulations or to close out the permit please chose one of the following options:

1. Renew DCOP by close of business on 7/18/23.
2. Renew DCOP and transfer the permit to another party. If you choose this option, please submit a renewal application by close of business on 7/18/23.
3. Have another party that is involved with the construction to apply for a new DCOP to take over the permit by close of business on 7/18/23. Any area that is not taken over must meet BMP 11 – Requirements by close of business on 7/27/23 (please see option #4 for the BMP 11 requirements).
4. Meet BMP 11 – Requirements by close of business on 7/27/23. To meet BMP – 11 site soil must be stabilized, apply clean gravel on the right-of-way (Milan St, Berlin Ave, Athen Ave), remove all construction material, remove any construction equipment, remove all stockpiles, and block access to the undeveloped parcel(s).

Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- **Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.**
- **Please contact DAQ representative below regarding questions related to this notice.**

Person Notified:

Joe Yakubik

Responsible Official

Assured Development, Inc.

(Printed Name)

(Title)

(Company)

joe@assurednv.com

(Email Address)

(Printed Name)

(Title)

(Company)

info@assurednv.com

(Email Address)

DAQ Representative:

Nahulu Kahananui

725-272-3550

KLB

(Printed Name)

(Phone Number)

Nahulu Kahananui

From: Nahulu Kahananui
Sent: Thursday, July 13, 2023 3:54 PM
To: Joe Yakubik
Cc: info@assurednv.com
Subject: DCOP #50962 Notice of Noncompliance
Attachments: 50962_20230713_NON-Rvd.pdf

Importance: High

Good afternoon,

Please review the attached Notice of Noncompliance (NON) with Air Quality Regulations (AQRs) for the Milan Customs project, DCOP# 50962, and comply with the requirements by the specified dates.

Per voice message, the site does not meet BMP 11 – Long-Term Stabilization Requirements. I did speak with my seniors about your situation. We do understand that your statement that Assured Development Inc. is no longer doing construction work in Nevada, however, it is still your responsibility, as the permittee, to meet BMP 11 Requirements to close out the permit. Below are the options you can take to put the site in compliance with Air Quality or to close out the permit. I have listed in the order on what we highly recommend.

1. We do highly recommend you renew DCOP #50962 because there are multiple things that must be done to meet BMP 11 – requirements. We give 10-business day to meet BMP 11 and we believe you most likely need more time for that. Additionally, we cannot extend that deadline because your permit is expired. If you choose this option, please submit a renewal application by close of business on 7/18/23.
2. You could also have another party that is involved with the construction to apply for a new DCOP to take over the permit. This option may be difficult because that other party may not take over the entire permit and any area that is not taken over must meet BMP 11 requirement. If you choose this option, please submit a renewal application by close of business on 7/18/23. Any area that is not taken over must meet BMP 11 – Requirements by close of business on 7/27/23 (please see option #4 for the BMP 11 requirements).
3. For this option you could renew DCOP #50962 and transfer the permit to another party. If you choose this option, please submit a renewal application by close of business on 7/18/23.
4. For the last option, you must meet BMP 11 – Requirements by close of business on 7/27/23. To meet BMP – 11 you must, stabilize all site soil, apply clean gravel on the right-of-way, remove all construction material, remove any construction equipment, remove all stockpiles, and block access to the undeveloped parcel(s).

Please contact me and let me know which option you will be pursuing. If I do not hear from you by close of business (COB) on 7/18/23, or do not receive any DCOP application by COB on 7/18/23, a possible Notice of Violation will be issued with civil penalties up to \$10,000 per day.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. This NON may result in a Notice of Violation (NOV) that may result in civil penalties. We appreciate your continued cooperation in maintaining compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

Thank you,

Nahulu Kahananui

Air Quality Specialist II
Clark County Department of Environment & Sustainability
4701 W Russell Road | Suite 200
Las Vegas, NV 89118
Desk: (702)455-1683
Cell: (725)272-3550
nahulu.kahananui@clarkcountynv.gov

Monday – Thursday, 7:00 AM – 5:30 PM

Nahulu Kahananui

From: Microsoft Outlook
To: Joe Yakubik; info@assurednv.com
Sent: Thursday, July 13, 2023 3:54 PM
Subject: Relayed: DCOP #50962 Notice of Noncompliance

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Joe Yakubik \(joe@assurednv.com\)](mailto:joe@assurednv.com)

[info@assurednv.com \(info@assurednv.com\)](mailto:info@assurednv.com)

Subject: DCOP #50962 Notice of Noncompliance

Exhibit H

From: [Katrinika Byers](#)
To: [Joe Yakubik](#)
Cc: [David Davis](#); [Nahulu Kahananu](#); [Andrew Kirk](#)
Subject: Possible Notice of Violation for DCCP#50962
Date: Tuesday, August 1, 2023 4:45:00 PM
Attachments: [jmap001.png](#)
[jmap004.png](#)
[jmap005.png](#)
[jmap006.png](#)
[jmap007.png](#)
[DCCP_03_1002912_PCP_R23.pdf](#)
[jmap005.png](#)
[jmap007.png](#)

Mr. Yakubik,

Thank you for your email reply. We are sorry to hear about Assured Development going out of business and we understand that you submitted a project closure form prior to leaving the office; however, you failed to communicate with your inspector (Nahulu Kahananu) and did not close out your permit according to BMP 11 (page 10) of your dust control permit. You applied control measures that met your standards not Air Quality's Regulations and your project closure was disapproved. In addition, you mentioned you sold the lots and are no longer responsible; however, according to the deed and records, Milan Custom LLC (you) sold the lots highlighted on the map below for parcels #004, 005, & 006 to Atlas Holdings International LLC (also YOU).

As indicated in my supervisor's email sent to you on July 27, 2023, your option is to comply and close out the permit or receive a Notice of Violation with a penalty of \$500 per day that starts from the day the dust permit expired (July 8, 2023). As of tomorrow, the penalty amount is calculated at \$12,000 and will continue accruing until the site is brought back into compliance. Again, the choice is yours.

Please respond back that you understand what is required to comply with Air Quality.

Sincerely,
Katrinika Byers
Senior Air Quality Specialist

The screenshot shows a GIS application interface. On the left is a sidebar with a search bar and various filters. The main area is a satellite map of a property. A yellow box highlights a lot in the upper left. A blue box with an arrow points to it, containing the text "You own this lot under Joseph & Darci Yakubik". A red box highlights three lots (004, 005, 006) in the lower right. A red box with an arrow points to them, containing the text "These 3 lots were sold by Milan Custom Homes LLC (You) to Atlas Holdings International LLC (also You) see Recorded Document attached". The map shows "Athens Ave" and "N. Milan St.". A north arrow is in the top right. The sidebar contains the following information:

Search OpenDoor
Advanced Search --
Property Information
Parcel: 17904510004
Owner Name(s): ATLAS HOLDINGS INTERNATIONAL LLC
Site Address: 732 N NAPLES ST
Jurisdiction: Henderson - 89015
Sale Date: 10/2021
Sale Price: \$75,000
Estimated Lot Size: 0.7759
Construction Year: 2023
Recorded Doc Number: 20211001.00003285
Aerial Flight Date: 2023-06-03
Zoning and Planned Land Use
Legal Description
Ownership
filter owners...
Parcel Owners Recorded Document
179-04-510-004 ATLAS HOLDINGS INTERNATIONAL LLC 20211001.003285
179-04-510-004 MILAN CUSTOMS LLC 20190703.02338
Appraisal
Flood Zone
Elected Officials
SunGard Query

Re: DCOP #50962 Notice of Noncompliance



Joe Yakubik <joe@assurednv.com>

To: David Dean <Nahulu.Kahananui>

Cc: Katrinka Byers

Attachment: Packet (15.5 months)

1:11 PM 7/27/2023



As I assume that your team received the auto response from my email, I was out of the office for the last three weeks and remitted the closure prior to my departure. As I indicated in the closure, Assured Development is no longer in business and all lots were stabilized. As that neighborhood is riddled with illegal grading, site work and construction, Assured has no control over what happens on site after they demobilized. The work you are seeing currently is from the property owners of 744 Naples (Dave Reynolds – who actual is the dust permit holder on the original application), and 740 Naples (they are digging a basement and have now dumped all their spoils on the lot across the street). I was out there this morning and the amount of activity without permitting that is going on within 200 yards of this project is very excessive. 732 Naples has no additional site construction other than landscaping, and 729 Milan and 724 Naples will obtain their own dust permits prior to commencement of construction (lots stabilized). The final grading was done on this site over a year ago.

As indicated, Assured Development is no longer operational. You can contact the law firm that is handling their wrap up at:

Assured Development, Inc.
c/o Yarmy Law Firm
7464 W Sahara Ave
Las Vegas, NV 89117
chris@yarmylaw.com

Please forward all future correspondence directly to them.

Thank you
Joe Yakubik

From: David Dean <Dean@ClarkCountyNV.gov>
Date: Thursday, July 27, 2023 at 7:24 PM
To: Nahulu Kahananui <Nahulu.Kahananui@ClarkCountyNV.gov>
Cc: Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>, Joe Yakubik <joe@assurednv.com>, Contact Email <info@assurednv.com>
Subject: RE: DCOP #50962 Notice of Noncompliance

Nahulu,

Please try and contact the permittee one more time. If they fail to respond prepare a Notice of Violation packet. Please ensure you inform them that this will be the last attempt to have them close the permit out or renew it. Please ensure you also inform them that the penalty is 500.00 per day and that starts from the day the Dust Permit expired. As of tomorrow the penalty will be \$10,000.00.

Katrinka Byers



Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)

Exhibit I

Complaint No. 75215

OBSERVED ON

Aug 2, 2023 10:15 AM

REPORTED ON

Aug 2, 2023 10:23 AM

COMPLAINT DESCRIPTION

Work on - no dust control sign posted, no dust control, tracking dirt on to street.

PROBLEM LOCATION

179-04-504-401, 744 Naples, 740 Naples, 179-04-502-006, 179-04-507-002, 179-04-603-012

INTAKE METHOD

Online

TYPE

Other

IS THE LEAK OCCURRING NOW?

—

DO YOU KNOW WHAT IS CREATING THE PROBLEM?

construction activity

CATEGORY

Dust Control Program

ASSIGNED TO

Nahulu Kahananui

Response

RESPONDED ON

Aug 2, 2023 11:50 AM

CLOSED ON

Aug 2, 2023 12:25 PM

Location

CONSTRUCTION PROJECT

Milan Customs (50962)

NEC of Milan Street and Berlin Ave., Henderson

Lake Mead Pkwy/Athens Ave, SE

PROJECT ATTRIBUTES

Residential Construction

REGION

ESE(N) - East/Southeast (North)

HYDROGRAPHIC AREA

212 Las Vegas Valley

PARCEL NUMBER

179-04-510-001

STREET

—

CITY

—

ZIP CODE

—

PARCEL NUMBER

—

MAJOR CROSS STREETS

—

Complainant

Complainant asked to remain anonymous

NAME

██████████

EMAIL

████████████████████

HOME PHONE

—

WORK PHONE

—

MOBILE PHONE

—

MAILING ADDRESS

██

COMPLAINANT WANTS INVESTIGATION FINDINGS?

Yes



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit J

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 117356

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Nahulu Kahananui	Aug 2, 2023	11:50 AM	12:25 PM	Complaint	75215	50962
Permittee:	Project Name:		Project Location:			
Assured Development, Inc.	Milan Customs		NEC of Milan Street and Berlin Ave., Henderson			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Cloudy		87 degrees	10-14 mph	0 mph	NE	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes	Joe Yakubik	Responsible Official	Email		
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued Notice of Noncompliance		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable		Size of Instability:	0.1 acres		
Trackout Device:	No - Not Practical		Has Trackout:	No		
Mitigation Equipment:	Inadequate		Soil Crust Determination:	Fail		
Admin Compliance:						No
Acreage Permitted:	7 acres	Observed Acreage:	7 acres	Project Size:	Less than or equal to permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	Not Verified	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:	Katrinka Byers		
<p>I conducted a complaint investigation/Follow up inspection and observed the following; the site still does not meet BMP 11, DCOP is expired since 7/8/23, and approximately 0.1 acre of dry, powdery, loose site soil. I will be emailing Joe Yakubik, Complainant & Responsible Official, and I will direct him to meet BMP 11 by close of business on 8/7/23, and stabilize site soil immediately. A Notice of Noncompliance with a possible Notice of Violation will be issued to Assured Development, Inc. In my email to Mr. Yakubik, I will explain that the new NON will be issued for an expired DCOP because he failed to meet the stipulation for the BMP 11 NON that was issued on 7/13/23. Additionally, the four other parcel that was listed in the complaint appear to be disturbed but site soils are stable. These four parcels are in compliance with AQRs section 94, however, the 4 parcel will be monitored under section 90. In the email I will instruct Mr. Yakubik to Meet BMP 11 - Long-Term Stabilization by close of business on 8/7/23 by doing the following:</p> <ul style="list-style-type: none"> - Apply clean gravel on all right-of-way on Milan St, Berlin Ave, & Athens Ave. -Remove stockpiles and construction material from undeveloped areas. -Block access by using any of the approve BMP 11 requirement that can be found in your permit (I have also attached a copy of the requirement in the email). 						



DES
DEPARTMENT OF ENVIRONMENT
AND SUSTAINABILITY



Division of Air Quality
4701 W. Russell Rd. Suite 200 2nd Floor
Las Vegas, NV 89118
Main Number: (702)455-5942
Fax Number: (702)383-9994

-Submit PCF once BMP 11 requirements have been met.
At this time Mr. Yakubik has not responded to my email.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit K

NOTICE OF NONCOMPLIANCE

Issued To: Assured Development, Inc.

Project Name: Milan Customs

Location: NEC of Milan Street and Berlin Ave., Henderson

Dust Control Permit No: 50962

Date: Aug 2, 2023

Time: 12:25 PM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

Unstable Soil Conditions – Provide and maintain adequate measures to prevent fugitive dust by maintaining all project soils in a visibly damp, crusted, or otherwise stabilized condition per AQR Section 94.12. This applies 24 hours a day 7 days a week.

No Valid Dust Control Permit – Meet BMP 11 – Long-Term Stabilization requirement and submit a Permit Closure Form by close of business on 8/7/23.

Additional Instructions / Other Noncompliance Items

Meet BMP 11 - Long-Term Stabilization by close of business on 8/7/23 by doing the following:

- Apply clean gravel on all right-of-ways on Milan St, Berlin Ave, & Athens Ave.
- Remove all stockpiles and construction material/equipment on undeveloped areas.
- Block access by using any of the approved BMP 11 requirements that can be found in your permit (I have also attached a copy of the requirements in the email).
- Submit Permit Closure Form once these BMP 11 requirements have been met.

Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.
- Please contact DAQ representative below regarding questions related to this notice.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Person Notified:

Joe Yakubik	Responsible Official	Assured Development, Inc.
(Printed Name)	(Title)	(Company)
joe@assurednv.com		
(Email Address)		

Person Notified:

(Printed Name)	(Title)	(Company)
info@assurednv.com		
(Email Address)		

DAQ Representative:

Nahulu Kahananui	725-272-3550
(Printed Name)	(Phone Number)

AMK

Nahulu Kahananui

From: Nahulu Kahananui
Sent: Thursday, August 3, 2023 8:14 AM
To: Joe Yakubik; info@assurednv.com
Cc: David Dean; Katrinka Byers; Andrew Kirk
Subject: Complaint #75215/ DCOP #50962 -NON
Attachments: BMP 11 & BMP 12.pdf; 50962_20230802_NON-Rvd.pdf

Tracking:	Recipient	Delivery
	Joe Yakubik info@assurednv.com	
	David Dean	Delivered: 8/3/2023 8:14 AM
	Katrinka Byers	Delivered: 8/3/2023 8:14 AM
	Andrew Kirk	Delivered: 8/3/2023 8:14 AM

Good morning Mr. Yakubik,

Yesterday, I conducted a follow up inspection for the BMP 11 Notice of Noncompliance (NON) that was issued on 7/13/23. Additionally, I conducted a complaint investigation that was reported by you under complaint #75215. In this email I will discuss the finding for Complaint #75215 that you requested & and I will also discuss a NON I will be issuing for unstable soils and expired DCOP.

First, I would like to discuss my finding for Complaint #75215. Here you reported that four vacant parcels and two parcels with homes were working without DCOP, no signs posted, no dust control, and trackout on the road. When I did my investigation, I did not observe any trackout near the six parcel you reported. It may have been clean up prior to my arrival. For the four vacant parcels, they do not have DCOP and are in compliance with AQ section 94. However, I did observe that these four sites appears to have been disturbed one way or another, but the site soils were stable. I will be monitoring these sites to ensure their compliance under AQ Section 90. For the two parcels (744 & 740 Naples), I did observed approximately 0.1 acres of dry, loose, powdery site soil. I do have to inform you, that as the responsible official for DCOP #50962, you are still responsible for Dust control for those two parcels as it is still under your DCOP and site soil need to be stabilized immediately. I will be talking to the home owners as well, to discuss Section 94 regulation with them. I did see some worker on site, and I did speak to them to make sure they stabilize the soil.

I will be issuing a NON for unstable soils. The site soils need to be stabilized immediately and the site soils need to be kept in a damp or crusted condition 24/7. Additionally, since you did not meet the requirement for the BMP 11 NON that was issued on 7/13/23 by the deadline, I will be also issuing a NON for an expired DCOP. The DCOP has been expired since 7/8/23. I am directing you to meet BMP 11 – Long- term stabilization by close of business on 8/7/23. To meet BMP 11 you must do the following by close of business on 8/7/23:

1. Remove all stockpiles, and construction material off any undeveloped area.
2. Apply clean gravel on the right-of-way near E Athens Ave, Milan St, & Berlin Ave
3. Block access to the site as required by BMP 11 which can be found in your permit (ex: Berm with No Trespass signs (signs), dust palliative with signs, Clean gravel with sign, permanent fence, etc.) I also attached a copy of BMP 11 requirement in this email
4. Submit Permit closure request once the BMP 11 requirements have met.

Please review the attached Notice of Noncompliance (NON) with Air Quality Regulations (AQRs) for the Milan Customs project, DCOP# 50962, and comply with the requirements by the specified dates.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. This NON may result in a Notice of Violation (NOV) that may result in civil penalties. We appreciate your continued cooperation in maintaining compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

Thank you,

Nahulu Kahananui

Air Quality Specialist II
Clark County Department of Environment & Sustainability
4701 W Russell Road | Suite 200
Las Vegas, NV 89118
Desk: (702)455-1683
Cell: (725)272-3550
nahulu.kahananui@clarkcountynv.gov

Monday – Thursday, 7:00 AM – 5:30 PM

Nahulu Kahananui

From: Microsoft Outlook
To: Joe Yakubik; info@assurednv.com
Sent: Thursday, August 3, 2023 8:14 AM
Subject: Relayed: Complaint #75215/ DCOP #50962 -NON

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Joe Yakubik \(joe@assurednv.com\)](mailto:joe@assurednv.com)

[info@assurednv.com \(info@assurednv.com\)](mailto:info@assurednv.com)

Subject: Complaint #75215/ DCOP #50962 -NON



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit L

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 117553

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Nahulu Kahananui	Aug 9, 2023	11:55 AM	12:10 PM	Follow-up		50962
Permittee:		Project Name:		Project Location:		
Assured Development, Inc.		Milan Customs		NEC of Milan Street and Berlin Ave., Henderson		
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	101 degrees	05-09 mph	0 mph	S	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes					
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:		Possible NOV	Violation in 1000 feet of:		Residential	
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:		Failed BMP11 Requirements		Size of Instability:		
Trackout Device:		No - Not Practical		Has Trackout:		No
Mitigation Equipment:		Adequate		Soil Crust Determination:		Not Necessary/Not Performed
Admin Compliance:						No
Acreage Permitted:	7 acres	Observed Acreage:	7 acres	Project Size:	Less than or equal to permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	Not Verified	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:		Katrinka Byers	
<p>I conducted a follow up inspection and observed the site still doesn't meet BMP 11 Long-Term Stabilization Requirements. This is another day of violation which could lead to a Notice Violation. This violation is related to NON issued on 7/13/23 and 8/2/23. Per Supervisor David Dean, Joe Yakubik, Responsible Official, has made contact via email stating his attorney Mr. Yarmy will work with the department in getting a resolution. I did not contact Mr. Yakubik.</p>						



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit M

CONSTRUCTION SITE INSPECTION REPORT
Inspection No. 117633

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Aug 11, 2023	9:30 AM	10:15 AM	Follow-up		50962
Permittee:	Project Name:		Project Location:			
Assured Development, Inc.	Milan Customs		NEC of Milan Street and Berlin Ave., Henderson			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	92 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes					
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	0.77 acres			
Trackout Device:	No - Needed	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	Observed Acreage:	Project Size:	Greater than permitted			
Staging/Parking Area:	DCOP Sign:	No	DCOP Onsite:	Not Verified		
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:				Approved By:	Katrinka Byers	
<p>My supervisor, David Dean & I conducted a follow-up/expired permit inspection and observed workers onsite operating in dry, loose powdery site soils with no available BACM. I also observed over .25 acres remaining to be built out, landscaped and paved with multiple stockpiles of soil and staging materials throughout the lots, no trackout control device at the exit point on Milan Street and no dust permit sign posted. I took photos of the site and documented my findings. This is another possible day of violation with civil penalties. The site is currently being represented by Steven Yarmy Law. All communication is required to be sent through Clark County Air Quality's Deputy DA, Catherine Jorgenson. I sent an email to my supervisor, David Dean, requesting our inspections findings be sent to Ms. Jorgenson and this was another possible day of violation. NOTE: During our inspection, a black SUV was following our county vehicle using a cell phone to video our inspection. When we stopped the county vehicle to get out and take photos of the site, the black SUV drove away. The intent of the black SUV is not clear; however, per AQR 94.5(f)(1), Control Officers have permission to enter a jobsite for inspection to confirm compliance with permit conditions until the permit is closed. I requested this regulation be passed on to Mr. Yakubik for his records.</p>						



Exhibit N

Division of Air Quality
4701 W. Russell Rd. Suite 200 2nd Floor
Las Vegas, NV 89118
Main Number: (702)455-5942
Fax Number: (702)383-9994

CONSTRUCTION SITE INSPECTION REPORT
Inspection No. 117754

Form containing inspection details: Officer (Nahulu Kahananui), Date (Aug 17, 2023), Start Time (12:20 PM), End Time (1:00 PM), Type (Follow-up), Complaint No. (50962), Permit No. (50962), Project Name (Milan Customs), Project Location (NEC of Milan Street and Berlin Ave., Henderson), Weather (Partly Cloudy), Rain (No), Temperature (104 degrees), Wind Speed (00-04 mph), Wind Gust (0 mph), Wind Direction (NE), Site Status (Active), PCF Submitted (No), Workers Present (Yes), Spoke With, Title, Comm. Method.

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November 1, 2023

Dear pamela NOV 9907:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6458 6076 82.

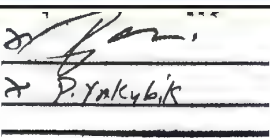

Item Details

Status: Delivered, Left with Individual
Status Date / Time: October 16, 2023, 1:42 pm
Location: HENDERSON, NV 89012
Postal Product: First-Class Mail®
Extra Services: Certified Mail™
Return Receipt Electronic

Shipment Details

Weight: 1.0oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

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November 1, 2023

Dear pamela NOV 9907:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6458 6076 99.

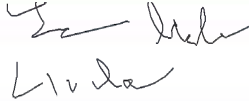
Item Details

Status: Delivered, Left with Individual
Status Date / Time: October 10, 2023, 12:00 pm
Location: LAS VEGAS, NV 89117
Postal Product: First-Class Mail®
Extra Services: Certified Mail™
Return Receipt Electronic

Shipment Details

Weight: 1.0oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	746-1 SAHANA

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

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**Atlas Holdings International LLC, and
Joseph Yakubik, Individually
(Construction Project #57391)**

Appeal of NOV #9946

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REQUEST FOR HEARING BEFORE THE
CLARK COUNTY AIR POLLUTION CONTROL
HEARING BOARD

RECEIVED CC DAO
2024 JUN 25 PM3:52

Handwritten mark

Appeal of Hearing Officer's Order

1. Date of Appeal: June 24, 2024
(Must be within 10 days of receipt of Hearing Officer Order)

Notice of Violation # 9946 Hearing Date: June 17, 2024

Hearing Officer: Holly Fic

2. Name, address, telephone number of Appellant:

Name: Atlas Holdings International LLC and Joseph Yakubik
(Please print)

Address: C/O Right Lawyers 600 S. Tonopah Dr. Suite 300 Las Vegas NV 89106

Telephone: 702-445-4425 Fax: NA

Email: rock@rightlawyers.com

3. Other person or persons authorized to receive service of notice:

Name:
(Please print)

Address:

Telephone: Fax:

Email:

4. Type of business or activity and location of activity involved in the request:

Development / Construction


5. Reason for appeal: [] Facts alleged [] Penalty assessed [X] Both

Provide a detailed explanation of the reason for your appeal:
Motion supporting appeal is attached.

6. An application filing fee of \$140.00 must accompany this application. This fee is non-refundable. Please make check payable to Division of Air Quality or DAQ and mail to 4701 W. Russell Road, Suite 200, Las Vegas, NV 89118.

The appellant or a representative of the appellant must be present at the hearing board meeting to answer any questions by the Air Pollution Control Hearing Board Members. Please include any supporting documentation with this form for distribution to the respective board members.

I affirm that all statements made on this application are true and complete to the best of my knowledge.

Signature:  Date: 6/24/2024

Printed Name: Rock Rocheleau

Title: Attorney for Atlas Holdings International LLC & Joseph Yakubik

FOR OFFICE USE ONLY

Application Received on June 25, 2024

Application Fee \$140.00 - Check ✓ #7019 Received Date: 6/25/2024



Clark County Nevada Department of Environment and Sustainability
 4701 W Russell Road, Suite 200, Las Vegas, NV 89118
 Phone (702) 455-5942 Fax (702) 383-9994
 AirQuality@clarkcountynv.gov

RECEIPT

ATLAS HOLDING INTERNATIONAL LLC & JOSEPH
 YAKUBIK, INDIVIDUALLY
 C/O ROCK ROCHELEAU, ESQ., 600 E. TONOPAH DR.,
 #300
 LAS VEGAS, NV 89106

Invoice #	Invoice Date	Invoice By	Invoice Type	Due Date
068776	6/25/2024	GREEN	DUST CONTROL ENFORCEMENT	6/25/2024

Quantity	Description	Fee Code	Fee	Total
1.00	HEARING BOARD REQUEST	AGHB01	\$140.00	\$140.00
	06/25/2024 CHECK (7019)	PAYMENT		(\$140.00)

Notes: NOV #9946, Hearing Officer Appeal, Submitted 6/25/2024

Subtotal:	\$140.00
Paid:	(\$140.00)
Adjustments:	\$0.00
Balance Due:	\$0.00

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1
2 ROCHELEAU LAW GROUP
3 dba RIGHT LAWYERS
4 Rock Rocheleau, Esq.
5 Nevada Bar No. 15315
6 rock@rightlawyers.com
7 600 South Tonopah Drive, Suite 300
8 Las Vegas, Nevada 89106
9 702-914-0400
10 Attorneys for Respondents

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11
12 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
13 **CLARK COUNTY, NEVADA**

14
15 In the Matter of the Notice of Violation
16 #9907, #9946, #9979, #10008

17 Issued To:
18 Assured Development, Inc., Atlas
19 Holdings International, LLC, Joseph
20 Yakubik, Individually, and
21 Darcie Yakubik, Individually,

22 Respondents,

23
24 **AMENDED MOTION FOR APPEAL, DISCOVERY OPENED, A**
25 **CONTINUANCE, AND HEARING MASTER RE-ASSIGNMENT,**

26 Respondents, through Rock Rocheleau, Esq., files this amended motion
27 requesting; 1) An appeal of NOVs #9907, #9946, #9979, and #10008, 2)
28 Respondent be allowed to request discovery, and 3) A hearing master re-
assignment if the NOVs are being remanded to a hearing master. This request is
made on the points and authorities listed below.

INTRODUCTION

1
2 Respondents should be afforded the right to place facts, testimony, evidence,
3
4 and law before an “impartial” hearing master. Unfortunately, Hearing Master
5 Holly Fic (Fic) is not impartial to the Respondents. Fic does not believe Air Quality
6 enforcement officers (AQ) selectively enforcing regulations against Respondent is
7
8 a relevant defense for Respondent. The Supreme Court of the United States, and
9 the Nevada Supreme Court disagree with Fic. Selective enforcement is a
10 constitutional violation and if proven is a relevant defense to the violations
11 Respondents were charged with. First, if selective enforcement is proven, it needs
12 to stop because it is a constitutional violation. Second, if selective enforcement is
13 proven, it shows bias. And the testimony of a biased AQ enforcement officer should
14 be disregarded. Also, Fic does not see AQ enforcement officers trespassing on
15 Respondents’ private property as a relevant defense. Again, the Supreme Court,
16 and the Nevada Supreme Court disagree with Fic. Violating the Respondents’
17 fourth amendment rights by illegally searching is completely relevant to
18 Respondents’ defense. First, if there was an illegal search, all the evidence obtained
19 during the search would be inadmissible. Second, a purposeful illegal search could
20 support bias by AQ. A showing of bias should also lead to any subjective testimony
21 by AQ being disregarded. If Respondent shows AQ selective enforced Responded
22 or are bias to Respondent, then only objective evidence of a violation should be
23 considered.
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1 Yakubik then received emails from AQ staff pointing out where he
2 personally resided, making false accusations about property ownership and
3 statements that appeared to be skewed. Due to the nature of this communication
4 and the posture of AQ, Assured and Yakubik immediately retained counsel. This
5 infuriated AQ staff, and rather than correspond with Yakubik's counsel, AQ staff
6 began to inundate Yakubik with emails and countless "routine inspections." AQ
7 staff later stated, if Yakubik would have simply met AQ staff on site, he would have
8 been treated differently. Over the course of 30 days, AQ fined Assured, and
9 Yakubik (as an individual), \$5,000, under Notice of Violation (NOV) #9907, for
10 failing to "long term" stabilize the soil on a close out.
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14 In November 2023, AQ received a DCOP permit for Atlas Holdings
15 International LLC (Atlas) for two one-acre custom homes. From November 2023
16 until December 2023 AQ fined Atlas and Yakubik (as an individual) \$5,937.50
17 under NOV #9946 for failing to control best available control measures for loose
18 dirt and soil. Yakubik disagreed with these fines and believed his contractors were
19 following the guidelines. These violations should have been issued to the active
20 DCOP #50962 on the property, and not to Atlas.
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23
24 During January 2024, AQ fined Atlas and Yakubik (as an individual) an
25 additional \$4,000 under NOV #9979 for failing to control best available control
26 measures for loose dirt and soil. Again, Yakubik disagreed with these fines.
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1 NOV hearings were scheduled and then continued at the request of Yakubik's
2 attorney. Yakubik's attorney had become ill and was physically unable to perform
3 his duties. Within a few hours of the hearing being rescheduled, Katrinka Byers
4 (Byers) was witnessed trespassing on Yakubik's personal residence. She was
5 taking pictures of Yakubik's back yard. Yakubik's private home is across the street
6 from the properties Assured and Atlas were developing. Yakubik's private home
7 was completed in 2021 and was not under any active DCOP.
8

9
10 The following day on January 17, 2024, AQ specialist David Dean (Dean)
11 and Katrinka Byers (Byers) were caught trespassing on Yakubik's private property.
12 Dean and Byers showed up on Yakubik's property for what they stated was a
13 "routine inspection". There was nothing routine about their inspection. Dean and
14 Byer admit on police body camera's the trespass was not a routine inspection, but
15 instead in response to Yakubik's attorney requesting another continuance of the
16 Assured and Atlas NOV's. NOV's that had nothing to do with Yakubik's private
17 residence.
18

19
20 Dean and Byers were asked to leave. They refused. Henderson Police were
21 called, and Dean and Byers were commanded to leave the property and to not return
22 to any property Yakubik owned. Over the next 30 days, AQ fined Yakubik (as an
23 individual) \$4,000 under NOV #9981 for loose dirt and soil at his home. Yakubik
24 disagreed because he was not disturbing more than .25 acres of soil.
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1 On April 24, 2024, Yakubik attended an NOV hearing for Assured NOV
2 #9907, Atlas NOVs #9946, #9979, and Yakubik NOV #9981. Yakubik requested
3 documents from AQ to prepare for the hearing. District Attorney Catherine
4 Jorgensen (Jorgensen), representing AQ, forwarded Yakubik a spread sheet with
5 some of the documents requested. Some of the documents supported Yakubik
6 position that AQ has permitted the stabilization of roadway shoulders with water
7 and did not require gravel.
8

10 Yakubik asked questions about AQ's decision process when allowing
11 DCOPs to close out with water or gravel. The line of questioning was attempting
12 to show Assured was not in violation, AQ has a widely applied standard of
13 stabilization of roadway shoulders with water and was selectively enforcing
14 regulations against Yakubik. If proven, this would be selective enforcement and a
15 violation of Yakubik's constitution rights. If proven, this would show AQ
16 inspectors had a bias against Yakubik. And if there was bias, AQ inspector
17 testimony would be non-credible.
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21 Fic presided over the NOV hearing. Fic showed frustration with this
22 Yakubik's line of selective enforcement questioning. Fic stated, "Would need more
23 than pictures to see selective enforcement." She said, "can't make that leap without
24 evidence other than pictures." See hearing recording @.26. Fic stated Yakubik
25 can continue however she is "Not persuaded by pictures" and will "Need more
26 information (evidence)". Yakubik then mentioned he was willing to bring in those
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1 witnesses or documents and requested a continuance. Fic was annoyed at the
2 request, often sighing, and rolling her eyes, and stated more evidence would not be
3 helpful because she already had an opinion on the matter. See @7:07. These
4 comments were all made **prior** to Assured or Yakubik even starting their testimony
5 or defense. These comments were all made **after** Yakubik asked AQ's first witness
6 four or five questions. Yakubik cited law supporting the legal defense of selective
7 enforcement. Yakubik re-stated the concern of bias with AQ testimony. Yakubik
8 continued to show Fic pictures and evidence showing AQ allowed all the other
9 DCOPs in that area, including his own residence across the street, to close out
10 without gravel. Yakubik even showed Fic a picture of Dean's personal residence
11 which recently closed out a DCOP. And closed out without the use of gravel.
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16 Fic was stunned Yakubik would show a picture of the front yard of Dean. Fic
17 found this line of questioning "inappropriate" and "Not going to take this into
18 consideration", "Not even considering it." See @57:08. Fic stated, "I don't
19 understand how retaliation is going to have any relevance." See @1:14:58. Fic
20 states, "I'm not persuaded by it (retaliation)", it's a waste of time. I don't hear any
21 evidence the fact the violation didn't occur.". She stated, "Regardless of retaliation
22 the violation did occur." See @1:14:58. "I'm heading into the direct the violation
23 did occur." See @1:16:43. **These comments were all made prior to the**
24 **respondents even providing testimony. These statements show Fic's**
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1 conclusionary position and foreclosing her decision process to hearing the
2 evidence.

3
4 Yakubik pointed out if there is retaliation, there could be a finding of
5 selective enforcement and bias. If there is bias, then the testimony of the AQ
6 specialists must be disregarded and only objective evidence of a violation occurring
7 should be considered. Fic quickly responded, "I'm finding no evidence of bias".
8 See @1:17:12. Fic stated, "Let's move on from the retaliation." See @1:17:27.
9
10 Yakubik stated he would not move on from asking questions that could prove
11 selective enforcement was occurring. Fic then looked at Jorgenson, rolled her eyes
12 upward and groaned in a manner to show this was wasting her time.
13

14
15 Yakubik, Fic, and Jorgensen reached an impasse at the April NOV hearing.
16 More time was needed to finish. Additionally, Jorgenson failed to provide Yakubik
17 with all the documents requested. It was agreed a new hearing date would be
18 chosen. And it was implied Jorgensen would provide Yakubik the documents he
19 had previously requested in time for the new hearing date.
20

21
22 In March 2024, Byer fined Atlas and Yakubik (as an individual) \$1,250 under
23 NOV #10008 for loose and dry soil. The violation hearing was scheduled for May
24 23, 2024. This hearing was only related to NOV #10008. The hearing for the other
25 NOVs had not been scheduled yet. Yakubik still had not received the requested
26 documents from Jorgenson, which could help show selective enforcement.
27
28 Yakubik filed a timely request to continue the NOV #10008 hearing, until after

1 discovery could be completed. On the day before the hearing, Jorgenson filed her
2 response to Yakubik's request for discovery and continuance.

3
4 At the May NOV hearing, Yakubik's request to continue the hearing was
5 denied. Additionally, Fic agreed with Jorgenson that discovery of documents
6 related to selective enforcement were not relevant. Fic stated, "I was not persuaded
7 by the selective enforcement argument. If that is what the discovery is intended,
8 then I will deny that." See @1:21. "I'm not willing to allow discovery on selective
9 enforcement." See @1:29. Fic stated, "I don't see selective enforcement and I
10 don't find it's relevant." See @1:30:36. Yakubik cited selective enforcement case
11 law confirming it can be a valid defense. Fic disagreed. Yakubik objected to this
12 decision. Fic proceeded with the hearing.

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16 Two questions into Yakubik's questioning of AQ specialist Byers, Fic
17 (without Jorgenson stating an objection) objected to Yakubik's question about
18 Byers trespassing on Yakubik's private property. Fic stated, "I don't understand
19 this line of questioning. I don't determine trespass issues." See @1:58:52. Fic
20 stated, "I don't find the line of questioning is appropriate." Fic stated, "How do
21 they (AQ) even do their job? What's the point of AQ if they cannot go on a
22 property." See @1:59:39. Yakubik cited the Nevada law on trespass. Yakubik
23 stated the AQ regulations even require AQ to obtain search warrants if access to a
24 property is denied. Jorgensen confirmed the property in question did not have a
25 DCOP. Yakubik explained the AQ rules providing property procedures for entering
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1 property when access is denied. Yakubik explained how trespass, if proven, could
2 be an illegal search and any evidence obtained through the search would not be
3 admissible. Fic stated, "I'm not considering issue of trespass." See @2:04.
4

5 Yakubik's remaining line of questioning was moot. It was obvious at this
6 point Fic had made her decision. Fic ultimately found Yakubik was in violation of
7 NOV #10008. Yakubik filed a timely appeal to the decision of NOV #10008.
8

9 Fic scheduled June 17 as to hear the remaining NOVs filed against Yakubik;
10 NOVs #9907, #9946, #9979, and #9981. Yakubik filed a motion to the board
11 requesting a continuance of the June 17 hearing, requesting discovery to be open,
12 and requesting a new hearing master to be appointed. The board hearing was
13 scheduled for August 7, 2024.
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16 At the June 17 hearing, Yakubik shared the claims of relief requested in the
17 motion filed with the board. Yakubik asked Fic to stay the June 17 hearing until
18 the board heard his motion. Fic denied Yakubik's request and heard testimony
19 regarding the other violations. Yakubik placed his objection on the record, citing
20 his inability to put forth a full defense because AQ refused to disclose requested
21 discovery, and Fic not being impartial. Fic continued with the hearing.
22
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24 At the end of the hearing, Fic found the violations in #9907, #9946, and
25 #9979 occurred. Fic order Yakubik to pay the fines imposed. Fic found the
26 violation in NOV #9981 did not occur.
27

28 Yakubik files this amended motion to be heard by the board.

1 LEGAL ARGUMENT

2 **I. The AQ regulatory board has the authority to address each of**
3 **respondents' requests.**

4 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
5 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
6 was filed on May 29, 2024. Respondents' appeal of NOV #10008 was filed timely.
7 Fic's order regarding NOVs #9907, #9946, and #9979 was filed June 20, 2024.
8 Respondents' appeal of NOVs #9907, #9946, and #9979 was filed timely.
9
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11 AQR 7.5(e) states the hearing board shall hear all appeals and may order the
12 affirmation, modification, or reversal of any action taken by a hearing officer.
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14 **II. Respodents should be reassigned a new hearing master because**
15 **hearing master Fic is not impartial.**

16 "A judge is presumed to be impartial. See *Ybarra v. State*, 127 Nev. 47, 51,
17 247 P.3d 269, 272 (2011). A judge must "act at all times in a manner that promotes
18 public confidence in the ... impartiality of the judiciary." See NCJC Rule 1.2. A
19 judge shall perform duties without bias or prejudice, not use words or conduct
20 manifesting bias. See NCJC Rule 2.3(A)-(C). A judge who "entertains actual bias
21 or prejudice for or against one of the parties" must NOT preside over a proceeding.
22 See NRS 1.230(1). If a "judge's impartiality might reasonably be questioned," then
23 that judge should be disqualified. See NCJC Rule 2.11(A), and *Roe v. Roe*, 535
24 P.3d 274 (Nev. App. 2023).
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1 These same rules must apply to a hearing master because hearing masters
2 are quasi-judges. Hearings masters are given the authority to adjudicate cases the
3 same as a judge would. Hearing masters are given the authority to weigh evidence,
4 to judge credibility, and to make final determinations that hold the same authority
5 as an elected or appointed Judge. A District Court judicial holds the hearing
6 master's decisions to the same standards as an elected or appointed Judge.
7

8
9 Here, Fic's impartiality can be reasonably questioned. Fic stated on the
10 record, multiple times, that selective enforcement is not relevant. Fic stated
11 Yakubik can continue however she is "Not persuaded by pictures" and will need
12 more information (evidence). Yakubik then mentioned he was willing to bring in
13 those witnesses or documents and requested a continuance. See @7:07. Fic
14 stated, "I don't understand how retaliation is going to have any relevance." See
15 @1:14:58. Fic states, "I'm not persuaded by it (retaliation). It's a waste of time. I
16 don't hear any evidence the violation didn't occur. Regardless of retaliation the
17 violation did occur." See @1:14:58. "I'm heading into the direct the violation did
18 occur." See @1:16:43.
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22 Respondents explained selective enforcement defense is a recognized
23 defense to civil and criminal prosecutions. See *United States v. Berrios*, 501 F.2d
24 1207, 1211 (2d Cir. 1974). Which states the elements as; 1) others similarly
25 situated have not generally been proceeded against because of conduct of the type
26 forming the basis of the charge against him, 2) he has been singled out for
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1 prosecution, and 3) that the government's discriminatory selection of him for
2 prosecution has been invidious or in bad faith. Nevada also recognizes selective
3 enforcement under the language of "arbitrary and discriminatory enforcement".
4 See *Bent Barrel, Inc. v. Sands*, 373 P.3d 895, Footnote 8 (Nev. 2011). Fic refused
5 to accept any of these positions as valid defenses to the violations not occurring.
6

7
8 Respondents even explained how selective enforcement can be seen as bias
9 and how bias is relevant to any witness testimony. Bias is relevant in the credibility
10 of all witnesses. Bias, impeachment, and character are standards used to diminish
11 the credibility of a witness's testimony. Bias is even more relevant to enforcement
12 officers. See NRS 289.823 which requires all law enforcement officials to
13 recognize officers who show bias because if an enforcement officer is shown to be
14 biased, their testimony is not creditable. Fic didn't believe bias had any relevance,
15 "I'm finding no evidence of bias." See @1:17:12.
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18 Fic also did not find Respondents' line of questioning on trespassing not
19 relevant. Fic stated, "I don't understand this line of questioning. I don't determine
20 trespass issues." See @1:58:52. Evidence derived from an illegal search is
21 inadmissible because the evidence was tainted by the illegality. See *Richardson v.*
22 *Nevada*, 86510 (Nev. May 15, 2024). An illegal trespass would be an illegal
23 search. Therefore, AQ's evidence would be inadmissible. Fic did not find the
24 trespass relevant and seemed amazed Air Quality staff did not have the authority
25 to enter any property they wanted. Fic stated, "How do they (AQ) even do their
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1 job? What's the point of AQ if they cannot go on property." See @1:59:39.
2 Yakubik cited AQ Regulation 4.1(d)(2) which advises AQ to apply for a search
3 warrant when access to property is denied. Fic ended the conversation by stating,
4 "I'm not considering the issue of trespass." See @2:04.
5

6 Its clear Fic is not able to be impartial and will not allow the Respondents
7 the opportunity to put forth valid defenses. Ms. Fic has foreclosed her mind to any
8 facts, testimony, or evidence, related to selective enforcement, bias, or illegal
9 search. Like in *Roe v. Roe*, Fic's ability to be impartial is reasonably questioned.
10 Therefore, a new hearing master should be appointed to hear all evidence which
11 supports Respondents' defenses.
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14 **III. Respondents should be allowed discovery because due process**
15 **rules of fairness require it.**

16 Prior to the April hearing Jorgenson had provided some documents in
17 response to Respondents' discovery requests. For the May hearing, Jorgenson
18 objected to anymore discovery. Citing *Dutchess Bus. Servs.* The Dutchess Court
19 states the Nevada's rules of procedure may not apply to administrative hearings,
20 and Nevada's Administrative Procedure Act may not make a provision for
21 discovery. However, the due process guarantees of fundamental fairness still apply.
22 See *Dutchess Bus. Servs. v. Bd. of Pharmacy*, 191 P.3d 1159, 124 Nev. 701 (Nev.
23 2008). The Dutchess court states that even though standard discovery may not be
24 standardly available, a mechanism for obtaining evidence is necessary for
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1 fundamental fairness of due process. The Dutchess court stated because a
2 mechanism for discovery was available there was due process. That is not the case
3 in this matter. Fic sided with Jorgenson and denied Respondents' request for any
4 discovery or evidence related to selective enforcement; "I'm not willing to allow
5 discovery on selective enforcement." See @1:29. This is a violation of
6 Respondents' rights to fairness and due process.
7

8
9 Fic's discovery ruling makes it impossible for Respondents to provide a
10 selective enforcement defense. Respondents are attempting to show selective
11 enforcement by showing AQ allowed all others DCOPs to close out without gravel.
12 Fic states she would need more discovery to be persuaded by this argument. The
13 Respondents' only chance to prove this claim is to have access to AQ files and to
14 disclose what other DCOPs were allowed to close out with. One such document
15 was disclosed at the April hearing. Respondents believe there are more.
16
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18 With Fic denying the request for more documents, while stating she would
19 need to see more documents (evidence) to be persuaded by this argument, there is
20 no question Fic's impartiality is affecting Respondents right to due process.
21

22 Fic's denial of discovery causes great prejudice to Respondents. AQ 7.5(f)
23 states a hearing masters' order is heard "de novo" by the board. This means no new
24 evidence or testimony is heard. Then, if Respondents decided to appeal the Board's
25 decision, it also would be de novo. NRS 233B.135(1)(B) states the judicial review
26 is confined to the record. With Fic denying Respondents request for documents,
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1 which could show selective enforcement, she is denying Respondent's the ability
2 to ever show selective enforcement.

3 Fic's denial of discovery should be overturned. Respondents request for
4 documents should be granted.
5

6 **IV. Respondents request an appeal of NOVs #9907, #9946, 9978, and**
7 **#10008 because of no discovery, and Fic's impartiality.**

8 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
9 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
10 was filed on May 29, 2024. Fic's order regarding NOVs #9907, #9946, and #9979
11 was filed June 20, 2024, Respondents request is timely. Fic did not find selective
12 enforce, bias, or an illegal trespass relevant to Respondents' defenses. Fic denied
13 Respondents the opportunity to present evidence when she denied their request for
14 discovery. Therefore, Respondent is requesting the appeal on NOVs #9907, #9946,
15 #9979, and #10008.
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19 May 31, 2024

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22 Rock Rocheleau, Esq.
23 Nevada Bar No. 15315
24 Attorney for Respondents
25
26
27
28

1 STEVEN B. WOLFSON
District Attorney
2 **CIVIL DIVISION**
State Bar No. 001565
3 By: **CATHERINE JORGENSEN**
Chief Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDANV.gov
7 Attorneys for Clark County Air Quality

8 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notices of Violation)
11 Nos. 9907, 9946, 9979, 9981, and 10008,) Date of Hearing:
12 Issued To:) August 7, 2024
13 Assured Development, Inc., Atlas)
Holdings International LLC, Joseph)
14 Yakubik, Individually, and Darcie)
Yakubik, Individually,)
15 _____ Respondents.)

16 **MOTION FOR ISSUANCE OF SUBPOENA**

17 Clark County Department of Environment and Sustainability, Division of Air Quality
18 (“Air Quality”) submits this Motion for Issuance of Subpoena to obtain documentary
19 evidence related to the appeals of Notices of Violation (“NOV”) Nos. 9907, 9946, 9979,
20 9981 and 10008 that are in the custody and control of Respondents Assured Development,
21 Inc. (“Assured”), Atlas Holdings International LLC (“Atlas”), Joseph Yakubik or Darcie
22 Yakubik. This Motion is based on the points and authorities submitted herewith and oral
23 argument of counsel at the hearing on these matters.

24 **POINTS AND AUTHORITIES**

25 After several continuances, NOVs 9907, 9946, 9979, and 9981 came before the
26 Hearing Officer on April 24, 2024 and again on June 17, 2024. The Hearing Officer
27 determined that violations of Clark County Air Quality Regulations (“AQR”) occurred in
28 NOVs 9907, 9946, and 9979 and assessed penalties for those violations. For NOV 9981, the

1 Hearing Officer determined that no violation occurred. NOV 10008 was heard on May 23,
2 2024. The Hearing Officer determined that AQR violations occurred and assessed a penalty.
3 After the Hearing Officer issued orders for each of these NOVs, they were all timely
4 appealed in accordance with AQR Subsections 7.3(e) and 7.5. Assured, Atlas, and the
5 Yakubiks appealed NOVs 9907, 9946, 9979, and 10008, as applicable, and Air Quality
6 appealed NOV 9981.

7 AQR 7.5(f) states that an appeal of a hearing officer order “shall be heard ‘de novo’
8 (i.e. from the beginning), with testimony and exhibits presented and the appeal conducted in
9 the same manner as before the Hearing Officer.” Because these matters will be heard “de
10 novo” by this Board, Air Quality seeks relevant documentary evidence that may be in the
11 custody and control of Respondents. This Board has the authority to issue subpoenas for
12 documents pursuant to NRS 445B.350(4) and NRS 445B.500. Accordingly, Air Quality
13 requests a subpoena be issued to Respondents for the following:

- 14 1. Records related to the formation, management, and dissolution, if applicable,
15 of Assured; Atlas; Milan Customs LLC; and Global Equity Holdings, Inc.
16 These businesses have been or are the owners of the subject real property,
17 holders of dust control operating permits for the subject construction sites,
18 and/or their agents. Among other things, Air Quality is seeking to clarify
19 which individuals effectively control or controlled these businesses.
- 20 2. Video and/or audio recordings from all cameras mounted on the Yakubiks’
21 residence that is the subject of NOV 9981 showing the property outside the
22 house from January 16, 2024 through April 30, 2024 during daylight hours.
23 Among other things, Air Quality is seeking this information to ascertain the
24 validity of statements and arguments put forward by Respondents.
- 25 3. Video and/or audio recordings made by Mr. Yakubik on his phone or by other
26 means and video and/or audio recordings made at the direction of any of the
27 Respondents that show Air Quality staff on the subject properties from July 1,
28 2023 through May 31, 2024. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.
4. Complete copies of all bodycam footage and other documents that, upon
information and belief, the Yakubiks received from the City of Henderson for
an incident that occurred on January 19, 2024 at the Yakubiks’ residence that is
the subject of NOV 9981. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.

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CONCLUSION

Based on the foregoing, Air Quality respectfully requests that the Board grant its motion and issue a subpoena for the documentary evidence requested above.

DATED this 16th day of July, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: /s/ Catherine Jorgenson
CATHERINE JØRGENSON
Deputy District Attorney
State Bar No. 005891
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Clark County Air Quality

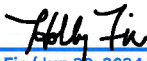
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1 4. **IT IS HEREBY ORDERED** that ATLAS HOLDINGS and YAKUBIK pay a
2 penalty of Five Thousand Nine Hundred Thirty-Seven and 50/100 Dollars (\$5,937.50) within
3 30 days of the date of this ORDER.

4 5. ATLAS HOLDINGS and YAKUBIK have the right to appeal this ORDER to
5 the Clark County Air Pollution Control Hearing Board. Any appeal of this ORDER shall be:
6 (1) in writing specifying the reasons for the appeal, (2) accompanied by a filing fee of One
7 Hundred Forty and no/100 Dollars (\$140.00), and (3) received by Air Quality within ten (10)
8 days of ATLAS HOLDINGS and YAKUBIK's receipt of this ORDER.

9 DATED this 20th day of June, 2024.

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Holly Fic (Jun 20, 2024 08:25 PDT)

Holly Fic
Hearing Officer



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 21, 2024

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
E-mail: rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, NV 89106

**Re: Granted Continuance for Notices of Violation (NOVs) #9907, #9946, #9979 & #9981
DCOP #50962, and Construction Project #57391 & #57592**

Dear Mr. Rocheleau:

The Hearing Officer granted the request for continuance and the above matters have been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on April 24, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.)

If you have any questions regarding these cases, please contact Catherine Jorgenson, Deputy District Attorney for the Office of the District Attorney/Civil Division of Clark County, Nevada via e-mail at catherine.jorgenson@clarkcountynv.com, or call 702.455.4761.

Sincerely,

Pamela R. Thompson, Sr. Secretary
Enforcement Division

PRT:pt

Cc: Joseph Yakubik, President, Assured Development, Inc. - Las Vegas, NV E-mail: joe@assurednv.com

From: [Catherine Jorgenson](#)
To: [Shibi Paul](#); [Anna Sutowska](#)
Subject: FW: Atlas Holdings LLC & Joseph Yakubik
Date: Thursday, March 21, 2024 8:32:47 AM

FYI

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 8:30 AM
To: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

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I understand. Thank you for the quick response.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

2017 . 2018 . 2019 . 2020
2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

From: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Sent: Thursday, March 21, 2024 8:27 AM
To: Rock Rocheleau <rock@rightlawyers.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

Mr. Rocheleau,

Yesterday, on behalf of the Division of Air Quality, Mr. Yakubik and I, before he had obtained counsel, discussed his request to continue the four Notices of Violation (NOVs) scheduled for hearing today. After conferring with my client, I let Mr. Yakubik know that AQ would not oppose his request to continue all four NOVs. We also agreed that if the Hearing Officer granted his request, that the hearings would be continued to April 24th. I also made it clear that the decision to grant a continuance is the Hearing Officer's to make. Please be advised that Hearing Office Holly Fic was not involved in these discussions yesterday and, to my knowledge, has not agreed to grant the continuances. Once the Hearing Officer has had the opportunity to consider your client's request today and has made a decision, I will contact you and let you know the outcome.

If you have any questions, please contact me directly at (702) 455-3167.

Thank you,

Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 7:23 AM
To: hollyf@mcfarlinglaw.com; Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Subject: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Jorgenson & Ms. Fic,
I have been hired by Joseph Yakubik to represent him at the Air Quality hearing for violation notice #9907, #9946, #9979, and #9981. I've been informed a continuance from today's hearing was agreed to. Please let me know the new date and time. Thank you.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

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2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

Joe Yakubik
P.O. Box 530778
Henderson, Nevada 89053

March 18th, 2024

Holly Fic
6230 W Desert Inn Road
Las Vegas, Nevada 89146

cc: Catherine Jorgenson
Office of the District Attorney
500 S Grand Central Parkway
5th Floor
Las Vegas, Nevada 89155

Re: Request for Continuance
NOV #9907
NOV #9946
NOV #9981

Mrs. Fic and Mrs. Jorgenson:

This letter shall serve as a request for continuance on the above referenced matters. We have recently been apprised that Mr. Yarmy is facing discipline hearings with the Nevada State Bar¹ this week and he advised us that it is likely that he may become disbarred at this hearing. Pairing this with Mr. Yarmy's health issues² and that we were recently apprised by Mrs. Jorgenson and her staff that our prior counsel was very unresponsive³ we find it necessary that we retain competent counsel to represent the parties accordingly.

Additionally, we received notice this morning that NOV 9981 was also placed on the agenda for hearing this week. As we deny all the acquisitions in this complaint, a proper defense at such a hearing will require a reasonable time to prepare and today's notice does not provide for such time.

Furthermore, on March 12th, 2024, we had the opportunity to review bodycam footage of Henderson Police Department of events surrounding the above NOV's. Officers' bodycam footage contains David Dean and Katrinika Byers admissions and additional documentation that we feel is crucial to our defense and will be required at hearing. Per Henderson Police Department backlog, footage is not immediately available. We have processed our public requests order and await the production of the physical copies.

¹ February 23, 2024 at an in person meeting Yarmy advised Yakubik that a hearing will be held the week of March 18th, 2024 in which the State Bar of Nevada will be reviewing circumstances surrounding State Bar order No. 77095. Yarmy advised Yakubik that it is likely that he will be dis-barred for six to eighteen months.

² Yarmy requested prior continuation due to neuropathy and health concerns

³ February 28, 2024 Yakubik met with Air Quality staff and was advised that on multiple occasions that Yarmy had failed to respond to their agency.

As of this time, no parties identified in the above referenced NOV's are represented by counsel and I request all future correspondence be sent to the address above.

I am available via telephone at 702-241-4040 or at the address above. Thank you in advance for your consideration of the request and we look forward to a timely resolution to the above referenced items.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Yakubik', with a stylized flourish at the end.

Joe Yakubik
Personal Capacity
As Owner 1028 Athens Ave
As Manager of Atlas Holdings International, LLC

VIA: Fed Ex and Hand Deliver

cc: File



January 18, 2024

Atlas Holdings International LLC
c/o Yarmy Law Firm
Steven Yarmy, Esq.
E-mail: sly@stevenyarmylaw.com
Chris Craig, Esq.
E-mail: chris@yarmylaw.com
7464 West Sahara Avenue
Las Vegas NV 89117

Re: Granted Continuance for Notice of Violation (NOV) #9946
DCOP #57391 – 724 & 732 N. Naples | 729 N. Milan

Dear Messrs. Yarmy and Craig:

The Hearing Officer granted the request for continuance and the above matter has been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on March 21, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.) Also, if you intend to present any additional documentation at the meeting, please bring six copies for distribution to the Hearing Officer and staff.

If you have any questions regarding this case, please contact me via e-mail at Sherrie.Rogge@clarkcountynv.gov , or call 702-455-0354.

Sincerely,

Sherrie D. Rogge, Administrative Secretary
Division of Air Quality – Enforcement Section

SDR:sdr

cc: Joseph Yakubik, Manager and Responsible Official
 E-mail: joe@assurednv.com
 Atlas Holdings International, LLC
 PO Box 530778
 Henderson NV 89053

From: [Catherine Jorgenson](#)
To: [Steven](#); [Chris Craig](#)
Cc: luz@yarmylaw.com; [Sherrie Rogge](#)
Subject: RE: request for continuance
Date: Wednesday, January 17, 2024 2:24:35 PM

Thank you – I'll present your request to the hearing officer tomorrow.

From: Steven <sly@stevenyarmylaw.com>
Sent: Wednesday, January 17, 2024 2:22 PM
To: Chris Craig <chris@yarmylaw.com>
Cc: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; luz@yarmylaw.com; Sherrie Rogge <Sherrie.Rogge@clarkcountynv.gov>
Subject: Re: request for continuance

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Yes

Both

I sent previous email confirming request to continue both hearings

Sent from my iPhone

On Jan 17, 2024, at 1:47 PM, Chris Craig <chris@yarmylaw.com> wrote:

Both 9907 and 9946 continuance.

Christopher Craig
EA, MBA, LLM, CIRA
Ph: (702) 498-2144
chris@yarmylaw.com
Semper Fi

On Jan 17, 2024, at 1:04 PM, Steven <sly@stevenyarmylaw.com> wrote:

Yes

Requesting continuance for
NOV #9907

Thank you

Sent from my iPhone

On Jan 17, 2024, at 12:12 PM, Catherine Jorgenson
<Catherine.Jorgenson@clarkcountyda.com> wrote:

Dear Mr. Yarmy,

I have been forwarded a copy of your request to continue the hearing scheduled tomorrow January 18, 2024. I'm sorry to hear that you are not feeling well.

My client, Air Quality, can agree to a second continuance of NOV #9907 issued to Mr. Yakubik and Assured Development, Inc. which was originally scheduled for hearing on November 16, 2023. However, your letter does not address NOV #9946 issued on December 20, 2023 to Mr. Yakubik and Atlas Holdings International LLC which is also scheduled for hearing tomorrow. Please clarify that you are also requesting a continuance for NOV #9946 as well. Depending on your response, I will present your request for continuance for Mr. Yakubik, Assured Development, Inc. and Atlas Holdings International LLC to the hearing officer and represent that Air Quality has no objection to your request based on the information you provided in your letter. Assuming that you are seeking continuances for both NOVs and the hearing officer grants the request, they will be rescheduled to the next hearing officer meeting on March 21, 2024.

Please respond to this email to clarify your request.

Thank you,
Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

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**STEVEN L. YARMY
ATTORNEY AT LAW**

7464 West Sahara Avenue

Las Vegas, Nevada 89117

(702) 586-3513

(702) 586-3690 FAX

sly@stevenyarmylaw.com

Anna Sutowska

Air Quality Supervisor

Clark County Department of Environment and Sustainability,

Division of Air Quality

4701 W. Russell Rd., Suite 200

Las Vegas, NV 89118

VIA EMAIL qenforcement@clarkcountynv.gov

Sherrie D. Rogge, Administrative Secretary

Clark County Department of Environment and Sustainability

Division of Air Quality – Compliance & Enforcement Section

4701 W. Russell Road #200

Las Vegas NV 89118

VIA EMAIL qenforcement@clarkcountynv.gov

January 17, 2024.

RE: **REQUEST FOR CONTINUANCE**
DCOP #50962

Dear Air Quality Enforcement,

I represent Assured Development, Inc., and Joseph Yakubik (Individually).

As you know there is a hearing set for tomorrow January 18, 2024, at 9:00 a.m.

Unfortunately, I have recently been suffering from nerve damage I believe is neuropathy. Due to the pain from my legs through the bottom of my feet, it is very difficult to walk and stand, let alone concentrate.

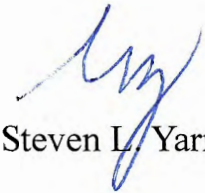
There has been one continuance in this matter, which was originally on November 16, 2023.

I hereby respectfully request a 30-day continuance, to allow me to address my symptoms and properly participate.

I appreciate your consideration.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Yarmy", is written over the printed name.

Steven L. Yarmy, Esq.

From: [Steven Yarmy](#)
To: [AQ Enforcement](#); "Joe Yakubik"; chris@yarmylaw.com; [AQ Enforcement](#)
Cc: "[Luz Jimenez](#)"
Subject: RE: REMINDER 1/18/2024 Hearing Officer Meeting: NOV #9946, Atlas Holdings International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)
Date: Wednesday, January 17, 2024 11:12:47 AM
Attachments: [req continuance.pdf](#)

Please see attached request for continuance for tomorrow January 18, 2024 hearing.

I will await you decision. There should be no issues on continuing this matter.

Thank you for your consideration.

From: AQ Enforcement <AQEnforcement@ClarkCountyNV.gov>
Sent: Tuesday, January 16, 2024 11:50 AM
To: Joe Yakubik <joe@assurednv.com>; Steven Yarmy <sly@stevenyarmylaw.com>; chris@yarmylaw.com
Subject: REMINDER 1/18/2024 Hearing Officer Meeting: NOV #9946, Atlas Holdings International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)
Importance: High

This is a friendly reminder of the above hearing. I also spoke to Christopher Yarmy at 11:37 a.m.

PLEASE CONFIRM RECEIPT OF THIS EMAIL.

If you need further assistance, please let me know.

Thank you,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Environment and Sustainability,
Division of Air Quality
4701 W. Russell Rd., Suite 200
Las Vegas, NV 89118
Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

Website for the Compliance & Enforcement Section:
https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/index.php

From: AQ Enforcement
Sent: Wednesday, January 10, 2024 10:12 AM
To: 'Joe Yakubik' <joe@assurednv.com>; Steven Yarmy <sly@stevenyarmylaw.com>; chris@yarmylaw.com
Subject: RESPONSE REQUIRED: 1/18/2024 Hearing Officer Docket - NOV #9946, Atlas Holdings

International LLC and Joseph Yakubik, Individually - 732 & 724 Naples | 729 Milan (DCOP #57391)

Importance: High

Please see attachment, which was also mailed today via certified mail.

Please confirm receipt of this email.

Thank you,

Sherrie D. Rogge

Sherrie D. Rogge, Administrative Secretary
Clark County Department of Environment and Sustainability
Division of Air Quality – Compliance & Enforcement Section
4701 W. Russell Road #200

Las Vegas NV 89118

Office: 702-455-0354

Fax: 702-383-9994

Email: agenforcement@clarkcountynv.gov

My Office Hours: M-F, 7:30 AM – 4:00 PM

Clark County Offices are closed on Fridays.

Website for the Compliance & Enforcement Section:

https://www.clarkcountynv.gov/government/departments/environment_and_sustainability/compliance/index.php



Received via email on 1/8/2024 @ 4:26 PM

From: Chris Craig
S. Rogge, Admin Secretary

4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

Notice of Violation Response Form

Issued to: Atlas Holdings International

NOV #: 9946 Return form by: Steven Yarmy

Items below are to be completed by the Respondent

Respondent : Steven Yarmy Law Firm

Title: Attorney

Phone Number: 702 586 3513

Email Address: sly@stevenyarmylaw.com chris@yarmylaw.com

Mailing Address: 7464 West Sahara Ave, Las Vegas, NV 89117

Please check applicable boxes below

We do not contest the Notice of Violation (Attendance is not required)

We accept responsibility for this violation. Instructions for payment of the recommended penalty will be provided after the Hearing Officer meeting.

We are contesting the Notice of Violation and request to appear before the Hearing Officer (Attendance by the Responsible Official or a representative of the company is strongly recommended to contest the violation)

Please attach a written explanation, including supporting documentation, of why you are contesting the NOV. This information will be provided to the Hearing Officer prior to the Hearing.

We will be contesting the:

Facts

Penalty

Both

/s/ Steven L. Yarmy, Esq.

Signature of Authorized Person

Date: 1/8/2024

Completed forms can be submitted to Pam Thompson via mail at Clark County Department of Environment and Sustainability, Division of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or via email at aqenforcement@clarkcountynv.gov.

**STEVEN L. YARMY
ATTORNEY AT LAW**

7464 West Sahara Avenue
Las Vegas, Nevada 89117
(702) 586-3513
(702) 586-3690 FAX
sly@stevenarmylaw.com

January 8, 2024

Department of Environment and Sustainability
4701 W Russell Road 2nd Floor
Las Vegas, NV 89118

Re: Notice of Violation #9946

To Whom It May Concern:

The following is in response to the allegations as stated in the above referenced Notice of Violation:

Violation 1: Denies all allegations.

Please provide us with the proposed hearing date. We request limited discovery in regards to Air Quality staff communications with all surrounding property owners, neighboring property owners and other interested parties. Additionally, the entire investigative files regarding Atlas Holdings International LLC and Joseph Yakubik.

We also request any all investigative files relating to David Reynolds and his property which neighbors the respondent. As well as any all investigative files relating to property across the street owned by James Gibbons, Clark County commissioner's son, where there are present violations and continuing violations with no dust permit and dirt being moved and dumped onto that property.

Sincerely,

Steven L Yarmy, Esq.



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

December 20, 2023

CERTIFIED MAIL #9489 0090 0027 6412 4178 38
Joseph Yakubik, Manager and Responsible Official
E-mail: joe@assurednv.com
P.O. Box 530778
Henderson, NV 89053

CERTIFIED MAIL #9489 0090 0027 6412 4178 45
Global Equity Holdings, Inc., Manager and Registered Agent for
Atlas Holdings International LLC
P.O. Box 530778
Henderson, NV 89053

FEDERAL EXPRESS TRK # 7745 6508 2241
Joseph Yakubik
Atlas Holdings International LLC
c/o Yarmy Law Firm
E-mail: sly@stevenyarmylaw.com
E-mail: chris@yarmylaw.com
7464 West Sahara Avenue
Las Vegas, NV 89117

NOTICE OF VIOLATION #9946

Clark County Department of Environment and Sustainability, Division of Air Quality (**Air Quality**) provides this notice to Atlas Holdings International LLC (**Atlas Holdings**) and Joseph Yakubik (**Yakubik**), individually, for the violation of the Clark County Air Quality Regulations (**AQRs**) as alleged below and recommends a civil penalty of Five Thousand Nine Hundred Thirty-Seven and 50/100 Dollars (\$5,937.50) be assessed as shown in the penalty calculation table attached hereto as **Exhibit A** and incorporated herein.

I. FACTS

A. Senior Air Quality Specialists Katrinka Byers (**Byers**) and Andrew Kirk (**Kirk**) discovered the alleged violations 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.

- B. On November 8, 2023, at approximately 7:05 a.m. and 7:12 a.m., Air Quality received two Dust Control Operating Permit (**DCOP**) applications for 729 North Milan Street and 724 North Naples Avenue.
- C. On November 8, 2023, at approximately 1:30 p.m., Byers and Kirk (**Staff**) were on routine patrol when they observed construction activities occurring on approximately 2.1 acres of unpermitted area within parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006 as shown in the Acreage Map attached hereto as **Exhibit B** and incorporated herein. They stopped to perform an inspection. The inspection report is attached hereto as **Exhibit C** and incorporated herein. Staff assigned project number 57391 to their inspection for tracking purposes. During **Staff's** inspection, they observed approximately 1.75 acres of dry, loose, and powdery soil conditions and no trackout control device, as shown in Photographs 1 through 4 and Map 1, attached hereto as **Exhibits D** and **E**, respectively, and incorporated herein. Staff also observed the noncompliance issues occurred within 1,000 feet of a residential area (**Exh. E**). Staff concluded their inspection at approximately 2:30 p.m.
- D. On November 9, 2023, Byers e-mailed Joseph Yakubik (**Yakubik**), Manager and Responsible Official for Atlas Holdings, concerning her observations of noncompliance and the issuance of a Notice of Noncompliance (**NON**). The NON was included in the e-mail to Yakubik and is attached hereto as **Exhibit F** and incorporated herein. In the NON, Byers also explained that the two applications that were submitted would be withdrawn. Air Quality requires parcels that are under common control and that are contiguous and adjacent to be under a single permit.
- E. On November 15, 2023, at approximately 2:45 p.m., Kirk arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit G** and incorporated herein. During his inspection, Kirk observed approximately 1.75 acres of dry, loose, and powdery site soils and no trackout control device as shown in Photographs 5 through 8 (**Exh. D**) and Map 2, attached hereto as **Exhibit H** and incorporated herein. Kirk also observed the noncompliance issues occurred within 1,000 feet of a residential area (**Exh. H**). Kirk concluded his inspection at approximately 3:15 p.m.
- F. On November 16, 2023, at approximately 8:54 a.m., Kirk sent an e-mail correspondence to Steven Yarmy (**Yarmy**), Lawyer for Yakubik and Atlas Holdings, attached hereto as **Exhibit I** and incorporated herein. Within this correspondence, Kirk stated that a NON was issued to Yakubik and Atlas Holdings on November 8, 2023, requiring a DCOP application be submitted to Air Quality by November 10, 2023, all site soils be stabilized immediately and maintained in a moist or crusted condition 24 hours a day, 7 days a week, and trackout control devices be installed by November 13, 2023. The e-mail further informed Yarmy of **Kirk's November 15, 2023**, follow-up inspection findings, stated the requirements were still not met, and the project was still in non-compliance.

- G. On November 20, 2023, at approximately 2:10 p.m., Kirk arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit J** and incorporated herein. During his inspection, Kirk observed approximately 1.75 acres of dry, loose, and powdery site soils and no trackout control device as shown in Photographs 9 through 12 (**Exh. D**) and Map 3, attached hereto as **Exhibit K** and incorporated herein. Kirk also observed the noncompliance issues occurred within 1,000 feet of a residential area (**Exh. K**). Kirk concluded his inspection at approximately 2:35 p.m.
- H. On November 21, 2023, at approximately 12:30 p.m., Kirk sent an e-mail correspondence to Yarmy, attached hereto as **Exhibit L** and incorporated herein. Within this correspondence, Kirk stated the requirements outlined in the NON (**Exh. F**) and November 16, 2023 e-mail (**Exh. I**) were still not met, provided his November 20, 2023 follow-up inspection findings, and re-iterated the project was still in non-compliance.
- I. On November 29, 2023, at approximately 11:27 a.m., Atlas Holdings and Yakubik submitted a DCOP application for parcel numbers 179-04-510-003, 179-04-510-004, 179-04-510-005, and 179-04-510-006. On December 4, 2023, at approximately 8:29 a.m., Air Quality Supervisor Anna Sutowska (**Sutowska**) sent an e-mail correspondence to Yarmy inquiring why parcel number 179-04-510-003, located at 736 Naples Street, was being included in the application. The email correspondence is attached hereto as **Exhibit M** and incorporated herein.
- J. On December 11, 2023, at approximately 9:50 a.m., Kirk arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit N** and incorporated herein. During his inspection, Kirk observed approximately 0.75 acres of dry, loose, and powdery site soils as shown in Photographs 13 through 15 (**Exh. D**). Two trackout control devices had been installed since the last inspection on November 20, 2023. Kirk also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 4, attached hereto as **Exhibit O** and incorporated herein. Kirk concluded his inspection at approximately 10:20 a.m.

II. VIOLATIONS

Violation 1:

By failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, Atlas Holdings and Yakubik violated AQR Sections 94.13(a) and (b).

AQR Sections 94.13(a) and (b) state:

“(a) Any Person who engages in a Construction Activity or Temporary Commercial Activity, with or without a Permit, shall employ BACM and comply with soil stabilization standards (Section 94.12) and Emissions standards (Section 94.14).

- (b) Control Measures that are listed in the approved Permit, and other measures as needed for the purpose of maintaining Dust control, shall be implemented 24 hours a day, seven days a week, until the Permit is closed in accordance with Section 94.5(n)(2).”

III. RECOMMENDED CIVIL PENALTY

Pursuant to AQR Section 9.1, any person who violates any provision of the AQRs, including any permit condition; is guilty of a civil offense and shall pay a civil penalty not to exceed \$10,000 per violation. Each day of violation constitutes a separate offense.

Air Quality considered the following in calculating the recommended penalty:

- Violations on November 8, 15, and 20, 2023 for unstable soil on site > 1 acre and ≤ 5 acres; and
- Violations occurred within 1,000 feet of the outer boundary of a residential area as described in Paragraphs I.C, I.E, I.G, and I.J above (**Exh. E, H, K, and O**).

Air Quality recommends a civil penalty in the amount of \$5,937.50 (**Exh. A**).

IV. HEARING

Air Quality has scheduled a hearing for **Thursday, January 18, 2024, at 9:00 a.m.** before the Air Pollution Control Hearing Officer to adjudicate the alleged violation(s) and, if appropriate, to levy the recommended penalty. Please complete the enclosed **“Notice of Violation Response Form”** and return it to Air Quality by January 4, 2024. At the hearing, the Hearing Officer will hear evidence on the alleged violation(s) and render a decision. The hearing will be held at the Clark County Building Services Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada.

If you intend to present any documentary evidence at the hearing, please provide copies of your evidence to Air Quality with the completed Notice of Violation Response Form. If you fail to provide copies of your evidence prior to the hearing, please be advised that Air Quality may request a continuance to have time to review any evidence you bring to the hearing, which will result in the hearing being postponed and rescheduled to a later date.

If the Hearing Officer finds you in violation and levies a penalty, Air Quality staff will mail the Hearing Officer’s order to you along with instructions on remittance of the penalty.

Shibi Paul
Shibi Paul (Dec 20, 2023 15:31 PST)

Shibi Paul
Compliance and Enforcement Manager

Exhibits:

- A. Penalty Calculation Table, NOV #9946
- B. Acreage Map: Showing size of unpermitted soil disturbance from construction activities observed on November 8, 2023
- C. Air Quality Construction Site Inspection Form #135551, dated November 8, 2023
- D. Digital Photographs 1 through 15
- E. Map 1: Showing approximate size and location of dry, powdery soil conditions within 1,000 feet of a residential area on November 8, 2023
- F. Air Quality Notice of Noncompliance for November 8, 2023
- G. Air Quality Construction Site Inspection Form #136000, dated November 15, 2023
- H. Map 2: Showing approximate size and location of dry, powdery soil conditions within 1,000 feet of a residential area on November 15, 2023
- I. E-mail Correspondence dated November 16, 2023
- J. Air Quality Construction Site Inspection Form #136097, dated November 20, 2023
- K. Map 3: Showing approximate size and location of dry, powdery soil conditions within 1,000 feet of a residential area on November 20, 2023
- L. E-mail Correspondence dated November 21, 2023
- M. E-mail Correspondence dated December 4, 2023
- N. Air Quality Construction Site Inspection Form #136513, dated December 11, 2023
- O. Map 4: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on December 11, 2023

sjg

Exhibit A

NOV # 9946

Penalty Calculation Table

Atlas Holdings International LLC and Joseph Yakubik, Individually



4701 W. Russell Road 2nd Floor
 Las Vegas, NV 89118-2231
 Phone: (702) 455-5942 • Fax: (702) 383-9994
 Marci Henson, Director

Viol.	Date(s)	Violation Description	AQR Section	Exhibit / Evidence	Base Penalty	Days	Aggravating Description	Agg. Factor	Agg. Amount	Penalty
1	11/8/2023	Failed to employ Best Available Control Measures and comply with soil stabilization standards at their site 24/7.	94.13(a) and (b)	Exh. D, Photos 1 through 4 Exh. E, Map 1	\$ 1,250 ¹	4	Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 312.50	\$ 1,562.50
	11/15/2023			Exh. D, Photos 5 through 8 Exh. H, Map 2	\$ 1,250 ¹		Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 312.50	\$ 1,562.50
	11/20/2023			Exh. D, Photos 9 through 12 Exh. K, Map 3	\$ 1,250 ¹		Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 312.50	\$ 1,562.50
	12/11/2023			Exh. D, Photos 13 through 15 Exh. O, Map 4	\$ 1,000		Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 250.00	\$ 1,250.00

Total Penalty: \$ 5,937.50

¹ Unstable soil on site > 1 acre and ≤ 5 acres

Regulatory maximum: \$10,000 per day, per violation
 [AQR Section 9.1 & NRS 445B.640]

ACREAGE MAP November 8, 2023

EXHIBIT B

Parcel: 17904510006
Owner Name(s): ATLAS HOLDINGS INTERNATIONAL LLC
Site Address: 724 N NAPLES ST
Jurisdiction: Henderson - 89015
Sale Date: 01/2023
Sale Price: \$160,000
Estimated Lot Size: 0.7759
Recorded Doc Number: 2023010400001201
Aerial Flight Date: 2023-10-20

Zoning and Planned Land Use

Legal Description

Ownership

Appraisal

Flood Zone

Elected Officials

SunGard Query

Assessors Query

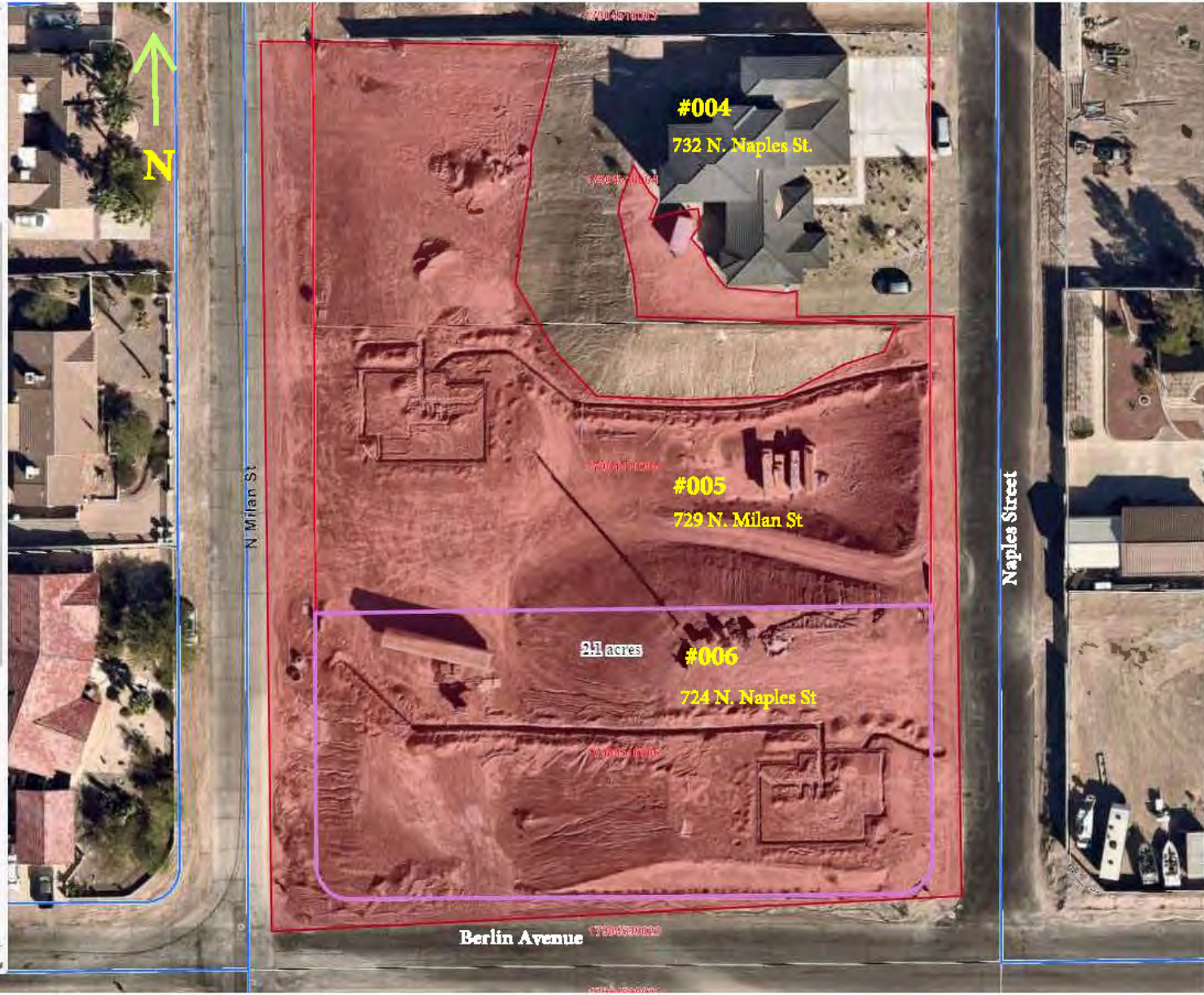
Residential Information

Map Tips

Dust
Permit: 50962
Permittee: Assured Development, Inc.
Mod No: 3
Contact: Joe Yakubik
Location: NEC of Milan Street and Berlin Ave., Henderson
Acres: 7
Address: P O Box 530778
City: Henderson
Phone: 702-868-0900
Cell Phone: 702-241-4040
Fax: 866-246-2564
Email: joe@assurednw.com
Issue: 9/12/2022
Expiration: 7/8/2023
Parcel: 16033899002
Project Name: Milan Custom

Print

1 of 1



Showing size of unpermitted soil disturbance from construction activities.



EXHIBIT C

Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 135551

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Nov 8, 2023	1:30 PM	2:30 PM	Initial		57391
Permittee:	Project Name:		Project Location:			
	732 & 724 Naples 729 Milan		724, 732 Naples / 729 Milan - Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	72 degrees	05-09 mph	10 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes					
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable		Size of Instability:	1.75 acres		
Trackout Device:	No - Needed		Has Trackout:	No		
Mitigation Equipment:	Inadequate		Soil Crust Determination:	Fail		
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.1 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:	Andrew Kirk		
<p>Senior Air Quality Specialist Andrew Kirk & I conducted an initial inspection and observed workers onsite conducting construction activities without a valid dust control operating permit (DCOP) in dry, loose and powdery site soils with no BACM (Best Available Control Measures), no trackout control device and no dust sign on the following three parcels: Parcel #179-04-510-004 (732 N. Naples St.), -005 (729 N MILAN ST), & -006 (724 N NAPLES ST). These parcels are under common control by Atlas Holdings International LLC (Joe Yakubik) and adjacent to each other. Together, the three lots total approximately 2.1 acres of disturbed soil requiring a dust control operating permit. A Notice of Non-Compliance with a possible NOV to be issued to Mr. Joe Yakubik to stabilize all site soils immediately, apply for a valid dust control permit for all lots disturbed by the close of business Friday, 11/10/2023, install a trackout control device at all exit points by the close of business Monday, 11/13/2023 and post a dust permit sign by the close of business Friday, 11/17/2023. A copy of the NON to be sent to Mr. Yakubik via email on 11/8/2023.</p>						

EXHIBIT D

Digital Photographs

Construction Project #: 57391 Responsible Parties: Atlas Holdings International LLC and Joseph Yakubik

Project Name: 732 & 724 Naples/729 Milan Photos taken by: See photo description



Photograph # 1

Alleged Violation # 1

View looking west at dry, loose, powdery soils, and active construction activities observed without a valid dust control operating permit at 732 & 724 N. Naples St. & 729 N. Milan St for Atlas Holdings International LLC and Joseph Yakubik's project. Photo taken by Katrinka Byers.



Photograph # 2

Alleged Violation # 1

View looking southwest at construction workers operating without a valid dust control permit at 724 N. Naples Street in dry, loose, powdery soils with no available BACM and no trackout control device. Photo taken by Katrinka Byers.



Photograph # 3

Alleged Violation # 1

View looking north at dry, loose, powdery soils at 729 N. Milan Street without a valid dust control permit, no trackout control device and no available BACM.



Photograph # 4

Alleged Violation # 1

View looking west at stockpiles and dry, loose and powdery site soils at 723 N. Naples Street used for construction activities without a valid dust control permit and no available BACM. Photo taken by Katrinka Byers



Photograph # 5

Alleged Violation # 1

View of dry, loose, powdery soils, no trackout control devices, and active construction activities observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 6

Alleged Violation # 1

View of dry, loose, powdery soils and active construction activities at 729 Milan Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 7

Alleged Violation # 1

View of dry, loose, powdery soils and active construction activities at 732 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 8

Alleged Violation # 1

View of dry, loose, powdery soils, no trackout control device, and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 9

Alleged Violation # 1

View of dry, loose, powdery soils and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 10

Alleged Violation # 1

View of dry, loose, powdery soils, no trackout control devices, and active construction activities observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 11

Alleged Violation # 1

View of dry, loose, powdery soils and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 12

Alleged Violation # 1

View of dry, loose, powdery soils, no trackout control device, and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 13

Alleged Violation # 1

View of dry, loose, powdery soils, and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 14

Alleged Violation # 1

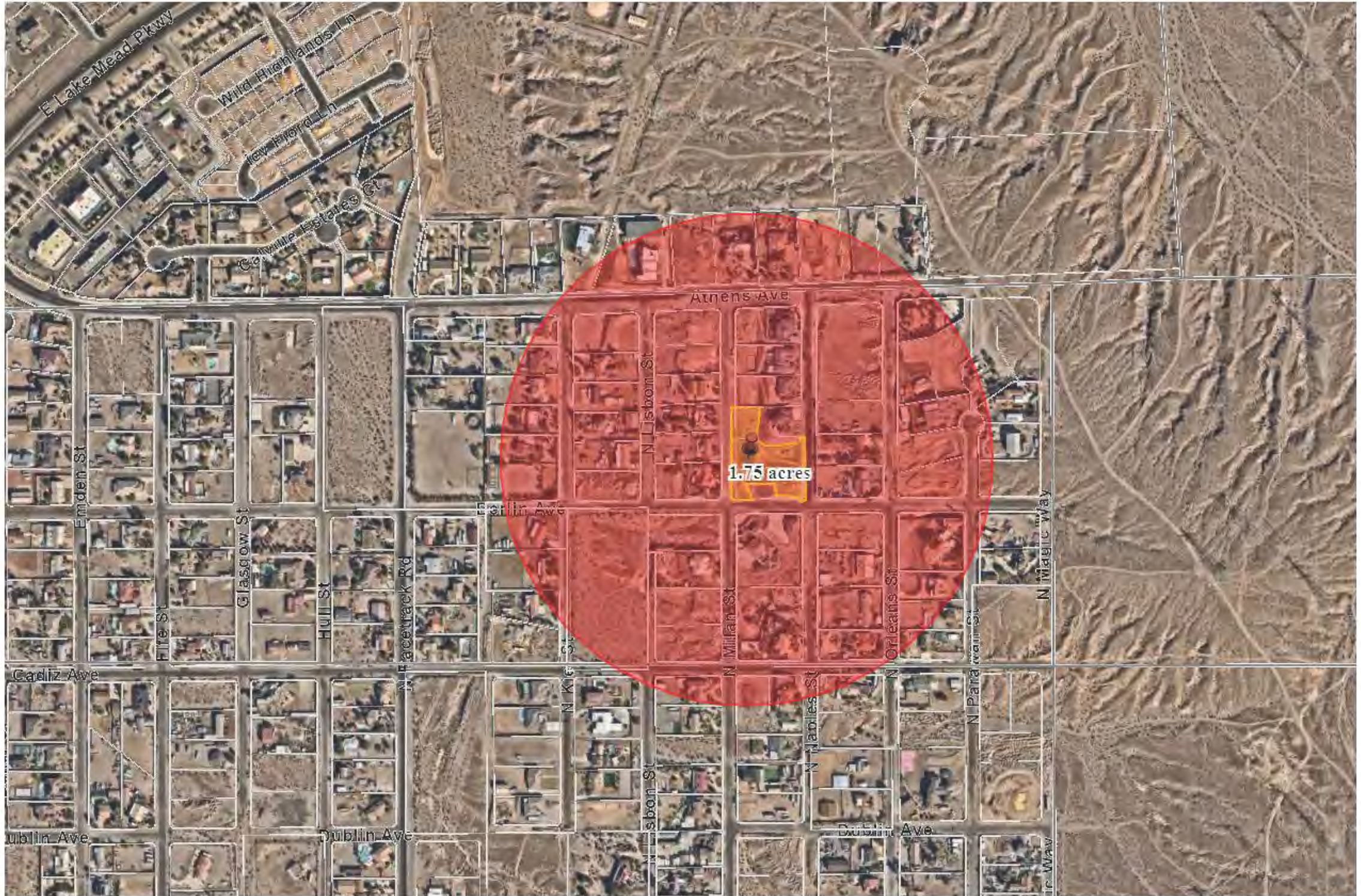
View of dry, loose, powdery soils, and active construction activities at 724 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



Photograph # 15

Alleged Violation # 1

View of heavy equipment operating in dry, loose, powdery soils, at 732 Naples Street observed during a follow-up inspection. Photo taken by Andrew Kirk.



650

Map 1 - Showing size and location of unstable soil conditions within 1,000 feet of a residential area



EXHIBIT F

Division of Air Quality
4701 W. Russell Rd. Suite 200 2nd Floor
Las Vegas, NV 89118
Main Number: (702)455-5942
Fax Number: (702)383-9994

NOTICE OF NONCOMPLIANCE

Issued To: Joe Yakubik (Atlas Holdings International LLC)

Project Name: NO DCOP/Joe Yakubik

Location: 732 Naples Street, 729 N. Milan Street, 724 N. Maples Street

Dust Control Permit No: 57391

Date: Nov 8, 2023

Time: 2:30 PM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

Unstable Soil Conditions – Provide and maintain adequate measures to prevent fugitive dust by maintaining all project soils in a visibly damp, crusted, or otherwise stabilized condition per AQR Section 94.12. This applies 24 hours a day 7 days a week.

Trackout

Install / Repair trackout control device by the close of business **Monday, 11/13/2023**.

No Valid Dust Control Permit – Submit a complete application for a Dust Control Permit to the Division of Air Quality. Comply by close of business on **Nov 10, 2023**. **Permit late fees will apply.**

No / Improper Signage – Install and maintain a Dust Control Permit Sign in compliance with AQR Section 94.11. Comply by close of business on **Nov 17, 2023**. See Appendix 3 of AQR Section 94 for specifications.

Additional Instructions / Other Noncompliance Items

NOTE: Permit application(s) submitted on 11/8/2023 do not match the actively disturbed soil observed on Parcel#179-045-10-004 (732 N. Naples St.) #005(729 N. Milan St.) & #006(724 N. Naples St.). These applications are being withdrawn.

The three parcels are under common control by Atlas Holdings International LLC (Joe Yakubik) and adjacent to each other. Together, the three lots require one dust control operating permit.

*Submit a new dust permit application (using the attached map in the email) to include all areas of actively disturbed soil by the close of business Friday, 11/10/2023.

*Stabilize all site soils IMMEDIATELY and maintain in a moist and crusted condition 24/7.

*Install a trackout control device at ALL Exit points to the project by the close of business Monday, 11/13/2023.

*Install a dust permit sign by the close of business, Friday, 11/17/2023.

Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- **Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.**
- **Please contact DAQ representative below regarding questions related to this notice.**

Person Notified:

Joe Yakubik

Owner

Atlas Holdings International LLC

(Printed Name)

(Title)

(Company)

assuredmm@gmail.com

joe@assurednv.com

(Email Address)

Person Notified:

(Printed Name)

(Title)

(Company)

(Email Address)

DAQ Representative:

Katrinka Byers

702-249-6093

KLB

(Printed Name)

(Phone Number)

From: Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>
Sent: Thursday, November 9, 2023 9:16 AM
To: assuredmm@gmail.com; Joe Yakubik <joe@assurednv.com>
Cc: Anna Sutowska <Anna.Sutowska@ClarkCountyNV.gov>; Shibi Paul <SPaul@ClarkCountyNV.gov>; David Dean <Dean@ClarkCountyNV.gov>; Andrew Kirk <Andrew.Kirk@ClarkCountyNV.gov>
Subject: Notice of Non-Compliance for No DCOP/Residential Construction DCOP#57391
Importance: High

Good morning Mr. Yakubik ,

Please review the attached Notice of Noncompliance (NON) with Air Quality Regulations (AQRs) for the NO DCOP/Residential Construction project and comply with the requirements by the specified dates.

NOTE: Current permit application(s) submitted on 11/8/2023 do not match the actively disturbed soil observed on Parcels:

#179-045-10-004 (732 N. Naples St.)

#005(729 N. Milan St.)

#006(724 N. Naples St.)

These permit applications are being withdrawn.

The three parcels noted above are under common control by Atlas Holdings International LLC (Joe Yakubik) and adjacent to each other requiring only one dust control permit.

Please see the attached map showing the total acreage of actively disturbed soil and submit a new dust permit using the attached map by the close of business Friday, 11/10/2023.

Upon submission of the new permit, DCOP# 57391 will be assigned to your project.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. This NON may result in a Notice of Violation (NOV) that may result in civil penalties. We appreciate your continued cooperation in maintaining compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

Sincerely,

Kat

Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

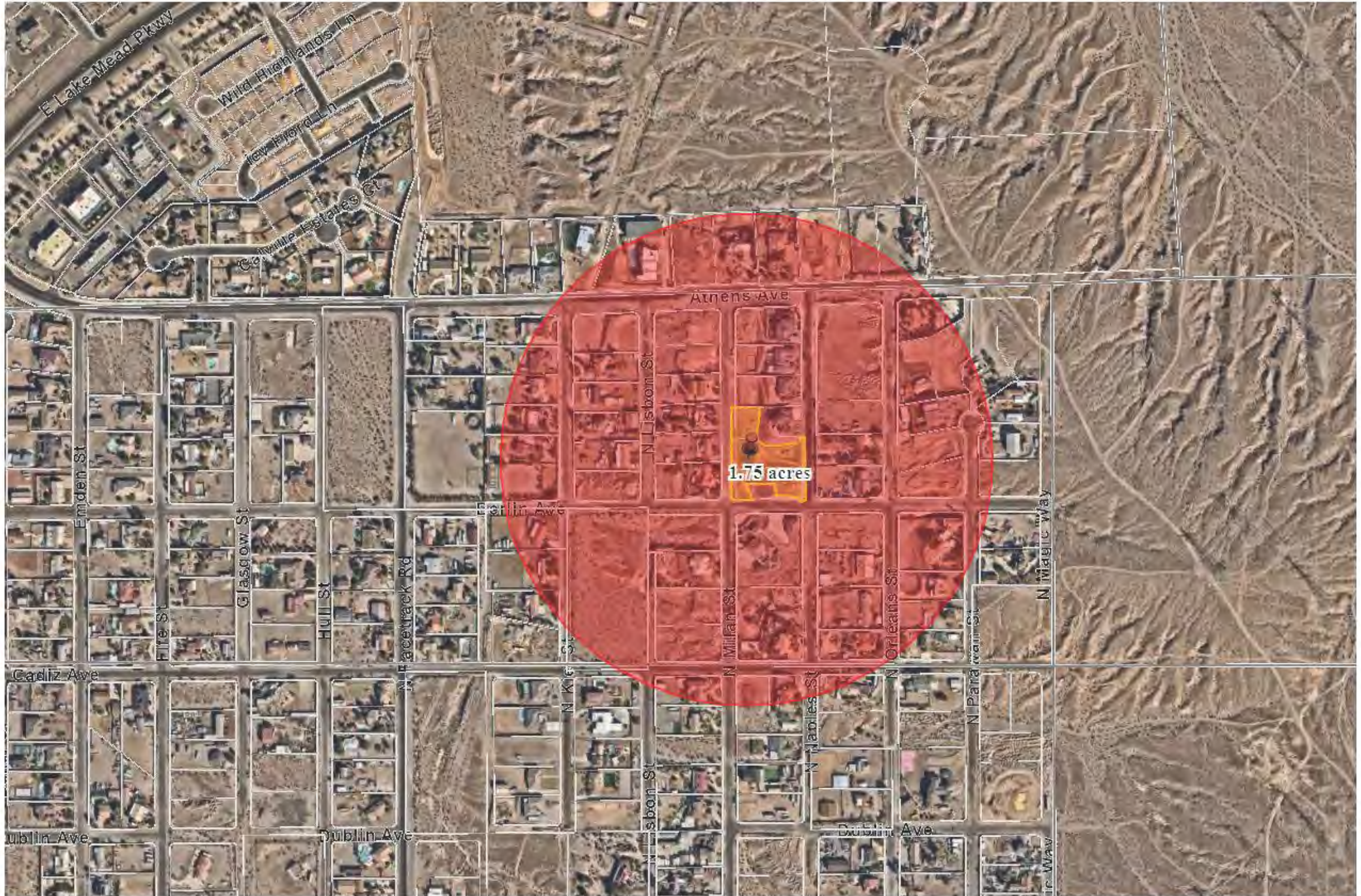


EXHIBIT G

Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 136000

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Andrew Kirk	Nov 15, 2023	2:45 PM	3:15 PM	Follow-up		57391
Permittee:		Project Name:		Project Location:		
		NO DCOP/Joe Yakubik		732 & 724 Naples St & 729 N. Milan St		
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Cloudy	No	65 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	No	Steven Yarmy			Email	
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:		Possible NOV	Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable		Size of Instability:	1.75 acres		
Trackout Device:	No - Needed		Has Trackout:	No		
Mitigation Equipment:	Inadequate		Soil Crust Determination:	Fail		
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.1 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	N/A	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.:	Equipment Onsite:			
Inspector Notes:						Approved By: Andrew Kirk
<p>I conducted a follow-up inspection to a Notice of Non-Compliance (NON) that was issued to this project on 11/8/2023. This NON required a Dust Control Operating Permit (DCOP) be applied for by 11/10/2023, soils stabilized immediately and maintained in a moist or crusted condition 24/7, and trackout control devices be installed at all exit points by 11/13/2023. During this inspection, I observed unstable soils with no evidence of any water having been utilized, no trackout control devices had been installed, and a DCOP application had not yet been submitted. On 11/16/2023, an e-mail was sent to the owner's lawyer, Mr. Yarmy, informing him of the results of my inspection and that the project was still in non-compliance with Air Quality Regulations. In this email, I informed Mr. Yarmy that a DCOP application must be submitted, soils must be stabilized, and trackout control devices must be installed at all exit points immediately.</p>						



090

Map 2 - Showing size and location of unstable soil conditions within 1,000 feet of a residential area

EXHIBIT I

From: Andrew Kirk

Sent: Thursday, November 16, 2023 8:54 AM

To: chris@yarmylaw.com; sly@stevenyarmylaw.com

Cc: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>

Subject: Air Quality's follow-up inspection at 724 and 732 Naples Street and 729 Milan Street (Joe Yakubik)

Good afternoon,

On November 15, 2023, I completed a follow-up inspection for the construction activities that are occurring at 724 and 732 Naples Street and 729 Milan Street without a valid Dust Control Operating Permit (DCOP). A Notice of Non-Compliance (NON) was issued to Joe Yakubik (Atlas Holdings International, LLC) on November 8, 2023, requiring that an application be submitted to the Division of Air Quality to include the addresses listed above by November 10, 2023. This NON also required that all site soils be stabilized immediately and maintained in a moist or crusted condition 24/7 and trackout control devices be installed at all exit points where soil meets pavement by November 13, 2023. During my follow-up inspection on November 15, 2023, I observed:

- Approximately 1.75 acres of unstable soils that need to be stabilized immediately and maintained in a moist or crusted condition 24/7.
- No trackout control devices have been installed at any of the exit points of the project.
- A new application has not been submitted that covers all disturbed soils as indicated in red on the map provided.

As it was explained in the e-mail that contained the NON, the two previous applications that were submitted have been withdrawn as they did not fully represent all the disturbed soils related to the construction activities observed. A new application is required to be submitted to Air Quality that shall include 724 and 732 Naples Street and 729 Milan Street all under one application. I have included the map and the NON that was previously sent that indicates exactly what needs to be covered under the new application and what needs to be done to comply with Air Quality Regulations.

Upon submission of the new application, DCOP #57391 will be assigned to this project.

Please let us know you received this email and understand what is required to comply with Air Quality Regulations. This follow-up inspection resulted in continued non-compliance and may result in a Notice of Violation (NOV) to be issued, including civil penalties. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact Catherine Jorgenson. Thank you,

Andrew M. Kirk
Senior Air Quality Specialist
Clark County Division of Air Quality
4701 W. Russell Road, Suite 200
Las Vegas, NV 89118
(702) 455-3529 Office
(702) 306-0257 Cell
Andrew.Kirk@ClarkCountyNV.Gov

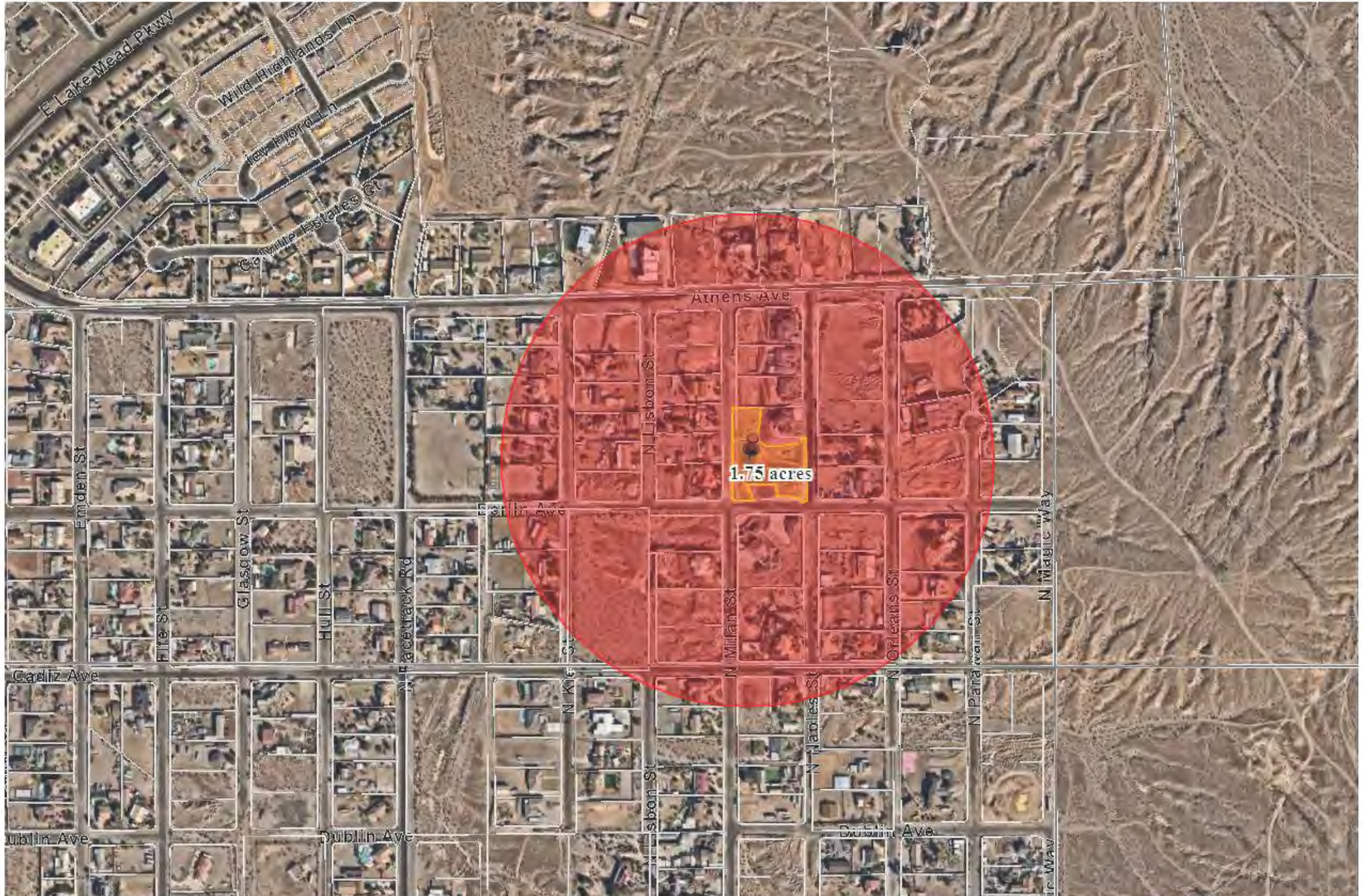


EXHIBIT J

Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 136097

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Andrew Kirk	Nov 20, 2023	2:10 PM	2:35 PM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
	NO DCOP/Joe Yakubik		732 & 724 Naples St & 729 N. Milan St			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	62 degrees	05-09 mph	15 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	No	Steve Yarmy		Email		
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	1.75 acres			
Trackout Device:	No - Needed	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.1 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	N/A	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:			Approved By:	Andrew Kirk		
<p>I conducted a follow-up inspection at this unpermitted project and observed approximately 1.75 acres of unstable soil conditions, construction activities occurring without a valid dust control operating permit (DCOP), no trackout control devices or dust control sign installed. A Notice of Non-Compliance (NON) with possible Notice of Violation (NOV) was issued to Atlas Holdings International on November 8, 2023, requiring that they apply for a Dust Control Operating Permit (DCOP) by November 10, 2023, stabilize all soils immediately and maintain in a moist or crusted condition 24/7, install trackout control devices by November 13, 2023, and install a dust control sign by November 17, 2023. During this follow-up inspection it was evident that none of these issues had been resolved. On 11/21/2023, I sent an e-mail to the owner's lawyer, Mr. Steven Yarmy, explaining what I had observed during this inspection and what was still required to be completed to get this project in compliance with Air Quality Regulations. I let him know that all of these issues had to be taken care of immediately.</p>						



990

Map 3 - Showing size and location of unstable soil conditions within 1,000 feet of a residential area

EXHIBIT L

From: Andrew Kirk

Sent: Tuesday, November 21, 2023, 12:30 PM

To: 'Steven Yarmy' <sly@stevenyarmylaw.com>

Cc: chris@yarmylaw.com; Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>

Subject: Air Quality's second follow-up inspection at 724 and 732 Naples Street and 729 Milan Street (Joe Yakubik)

Good afternoon,

On November 20, 2023, I completed a follow-up inspection for the construction activities that are occurring at 724 and 732 Naples Street and 729 Milan Street without a valid Dust Control Operating Permit (DCOP). A Notice of Non-Compliance (NON) was issued to Joe Yakubik (Atlas Holdings International, LLC) on November 8, 2023, requiring that an application be submitted to the Division of Air Quality to include the addresses listed above by November 10, 2023. This NON also required that all site soils be stabilized immediately and maintained in a moist or crusted condition 24/7, trackout control devices be installed at all exit points where soil meets pavement by November 13, 2023, and a dust control sign be installed by November 17, 2023. During my follow-up inspection on November 20, 2023, I observed:

- Approximately 1.75 acres of unstable soils that need to be stabilized immediately and maintained in a moist or crusted condition 24/7.
- No trackout control devices have been installed at any of the exit points of the project.
- A new application has not been submitted that covers all disturbed soils as indicated in red on the map provided to you in the e-mail dated November 16, 2023.
- A dust control sign has not been installed.

As it was explained in the e-mail that contained the NON and the follow-up e-mail sent to you on November 16, 2023, the two previous applications that were submitted have been withdrawn as they did not fully represent all the disturbed soils related to the construction activities observed. A new application is required to be submitted to Air Quality that shall include 724 and 732 Naples Street and 729 Milan Street all under one application. Please review the compliance issues bulleted above and comply with each item immediately.

Upon submission of the new application, DCOP #57391 will be assigned to this project.

Please let us know you received this email and understand what is required to comply with Air Quality Regulations. This follow-up inspection resulted in continued non-compliance and may result in a Notice of Violation (NOV) to be issued, including civil penalties. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact Catherine Jorgenson. Thank you,

Andrew M. Kirk
Senior Air Quality Specialist
Clark County Division of Air Quality
4701 W. Russell Road, Suite 200
Las Vegas, NV 89118
(702) 455-3529 Office
(702) 306-0257 Cell
Andrew.Kirk@ClarkCountyNV.Gov

EXHIBIT M

From: [Anna Sutowska](#)
To: [Chris Craig](#); [Steven Yarmy](#)
Cc: [Catherine Jorgenson](#); [Anna Sutowska](#)
Subject: DCOP App No. 20914 for Atlas Holdings International - 732 & 724 Naples | 729 Milan
Date: Monday, December 4, 2023 8:29:29 AM
Attachments: [XXXXX_00_20231129_DCP_App_Map - Copy.pdf](#)

Greetings,

I have reviewed your Dust Control Permit application and have questions and/or need additional information. Applications cannot be updated with verbal authorization so **please reply to this email.**

The assessor's parcel numbers listed on the application are 179-04-510-004, 005, 006, located at 724 and 732 Naples St, and 729 Milan St, but the map attached with the application and project acreage (3.57 acres) listed also includes parcel number 179-04-510-003 located at 736 Naples St. Please explain why this parcel is included. If it was in error, please email me a new map and corrected project acreage.



Regards,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Environment and Sustainability,
Division of Air Quality
4701 W. Russell Rd., Suite 200
Las Vegas, NV 89118
Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

For any dust permit information or forms, please go to the link posted below.
[Dust Control Permitting Portal, Forms & Requirements](#)

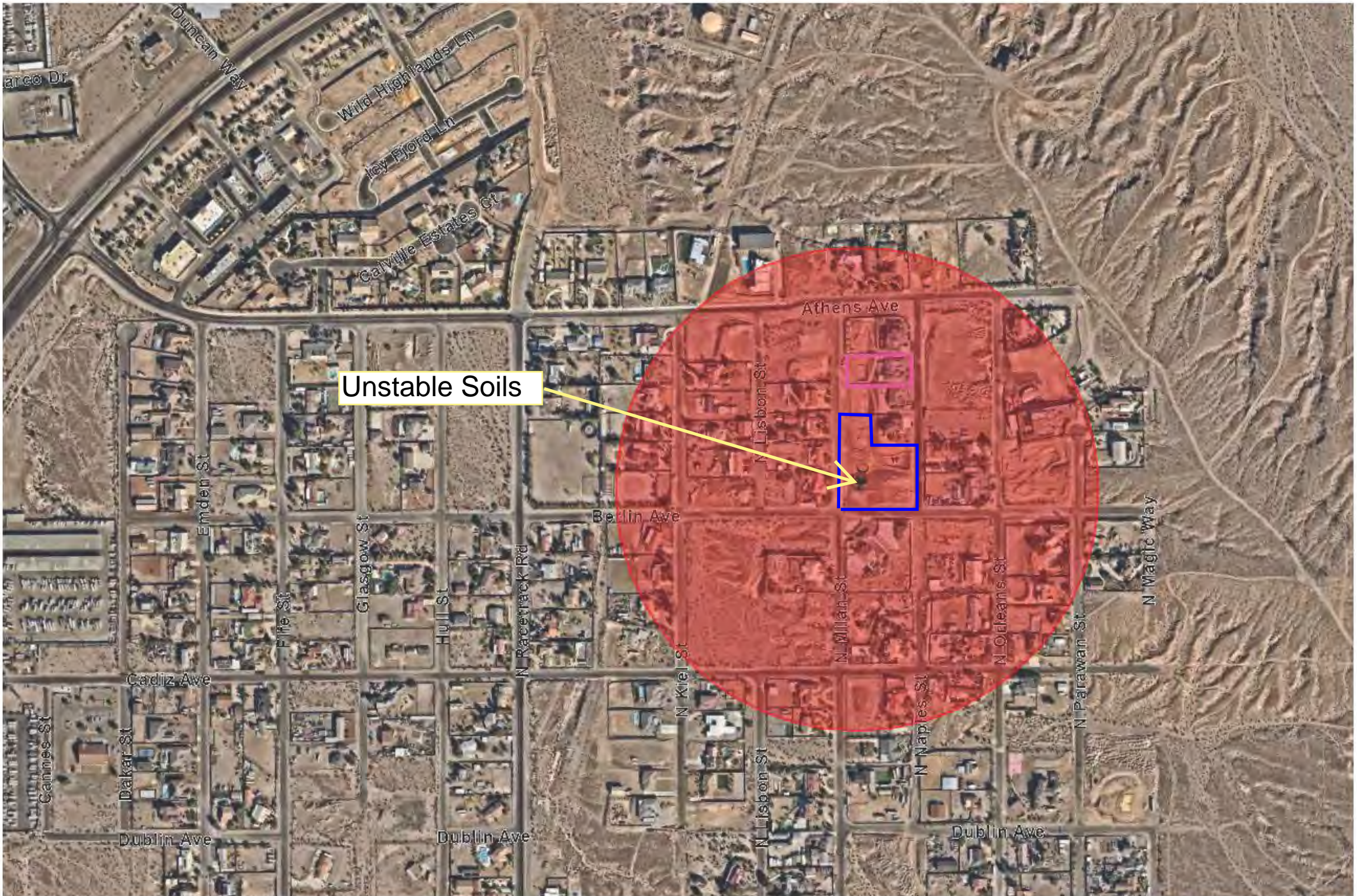


EXHIBIT N

Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 136513

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Andrew Kirk	Dec 11, 2023	9:50 AM	10:20 AM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
	732 & 724 Naples 729 Milan		724, 732 Naples / 729 Milan - Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	48 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes					
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	0.75 acres			
Trackout Device:	Yes - Effective	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.1 acres	Project Size:	Less than or equal to permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	Not Verified	
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:						Approved By: Andrew Kirk
<p>I conducted a follow-up inspection and observed approximately 0.75 acres of dry, loose, powdery soils and no dust sign posted. Two trackout control devices have been installed since my last follow-up. This project continues to be out of compliance for unstable soils and no dust sign and this is another day of non-compliance.</p>						



Map 4 - Showing approximate location of unstable soils within 1,000 feet of a residential area

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March 21, 2024

Dear pamela 9946:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6412 4178 38.

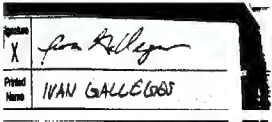
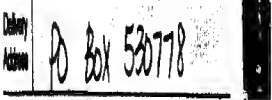
Item Details

Status:	Delivered, PO Box
Status Date / Time:	December 23, 2023, 11:00 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
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Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

July 3, 2024

Dear Sherrie NOV 9946 Global Equity:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6412 4178 45.

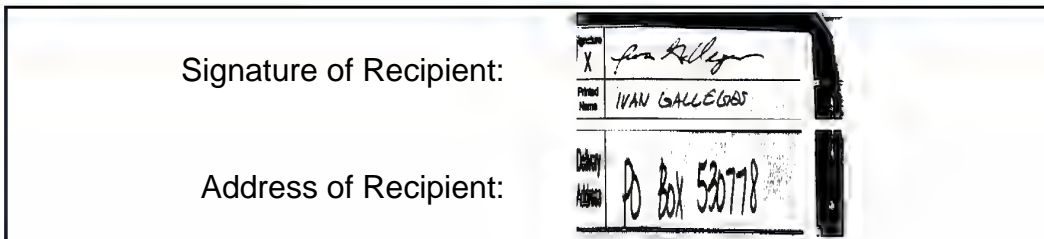
Item Details

Status:	Delivered, PO Box
Status Date / Time:	December 23, 2023, 11:00 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
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Recipient Signature



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Dear Customer,

The following is the proof-of-delivery for tracking number: 774565082241

Delivery Information:

Status:	Delivered	Delivered To:	
Signed for by:	R.RICHARD SMALL	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday		LAS VEGAS, NV,
		Delivery date:	Dec 22, 2023 10:48

Shipping Information:

Tracking number:	774565082241	Ship Date:	Dec 21, 2023
		Weight:	
Recipient:		Shipper:	
LAS VEGAS, NV, US,		LAS VEGAS, NV, US,	

Reference	NOV 9946
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FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

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**Atlas Holdings International LLC, and
Joseph Yakubik, Individually
(Construction Project #57391)**

Appeal of NOV #9979

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REQUEST FOR HEARING BEFORE THE
CLARK COUNTY AIR POLLUTION CONTROL
HEARING BOARD

RECEIVED CC DAO
2024 JUN 25 PM3:52

Handwritten initials

Appeal of Hearing Officer's Order

1. Date of Appeal: June 24, 2024
(Must be within 10 days of receipt of Hearing Officer Order)

Notice of Violation # 9979 Hearing Date: June 17, 2024

Hearing Officer: Holly Fic

2. Name, address, telephone number of Appellant:

Name: Atlas Holdings International LLC and Joseph Yakubik
(Please print)

Address: C/O Right Lawyers 600 S. Tonopah Dr. Suite 300 Las Vegas NV 89106

Telephone: 702-445-4425 Fax: NA

Email: rock@rightlawyers.com

3. Other person or persons authorized to receive service of notice:

Name:
(Please print)

Address:

Telephone: Fax:

Email:

4. Type of business or activity and location of activity involved in the request:

Development / Construction

5. Reason for appeal: [] Facts alleged [] Penalty assessed [X] Both


Provide a detailed explanation of the reason for your appeal:

Motion supporting appeal is attached.

6. An application filing fee of \$140.00 must accompany this application. This fee is non-refundable. Please make check payable to Division of Air Quality or DAQ and mail to 4701 W. Russell Road, Suite 200, Las Vegas, NV 89118.

The appellant or a representative of the appellant must be present at the hearing board meeting to answer any questions by the Air Pollution Control Hearing Board Members. Please include any supporting documentation with this form for distribution to the respective board members.

I affirm that all statements made on this application are true and complete to the best of my knowledge.

Signature:  Date: 6/24/2024

Printed Name: Rock Rocheleau

Title: Attorney for Atlas Holdings International LLC & Joseph Yakubik

FOR OFFICE USE ONLY

Application Received on June 25, 2024
Application Fee \$140.00 - Check ✓ #7019 Received Date: 6/25/2024



Clark County Nevada Department of Environment and Sustainability
 4701 W Russell Road, Suite 200, Las Vegas, NV 89118
 Phone (702) 455-5942 Fax (702) 383-9994
 AirQuality@clarkcountynv.gov

RECEIPT

ATLAS HOLDINGS INTERNATIONAL LLC & JOSEPH
 YAKUBIK, INDIVIDUALLY
 C/O ROCK ROCHELEAU ESQ., 600 E. TONOPAH DR,
 #300
 LAS VEGAS, NV 89106

Invoice #	Invoice Date	Invoice By	Invoice Type	Due Date
068777	6/25/2024	GREEN	DUST CONTROL ENFORCEMENT	6/25/2024

Quantity	Description	Fee Code	Fee	Total
1.00	HEARING BOARD REQUEST	AGHB01	\$140.00	\$140.00
	06/25/2024 CHECK (7019)	PAYMENT		(\$140.00)

Notes: NOV #9979, Hearing Officer Appeal, Submitted 6/25/2024

Subtotal:	\$140.00
Paid:	(\$140.00)
Adjustments:	\$0.00
Balance Due:	\$0.00

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Received 6/25/2024 @ 3:52 PM
From: Atty: Rock Rocheleau
S. Rogge, Admin Secretary

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ROCHELEAU LAW GROUP
dba RIGHT LAWYERS
Rock Rocheleau, Esq.
Nevada Bar No. 15315
rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, Nevada 89106
702-914-0400
Attorneys for Respondents

RECEIVED CC DAQ
2024 JUN 25 PM3:52
RS

**BEFORE THE AIR POLLUTION CONTROL HEARING BOARD
CLARK COUNTY, NEVADA**

In the Matter of the Notice of Violation
#9907, #9946, #9979, #10008

Issued To:
Assured Development, Inc., Atlas
Holdings International, LLC, Joseph
Yakubik, Individually, and
Darcie Yakubik, Individually,

Respondents,

**AMENDED MOTION FOR APPEAL, DISCOVERY OPENED, A
CONTINUANCE, AND HEARING MASTER RE-ASSIGNMENT,**

Respondents, through Rock Rocheleau, Esq., files this amended motion
requesting; 1) An appeal of NOVs #9907, #9946, #9979, and #10008, 2)
Respondent be allowed to request discovery, and 3) A hearing master re-
assignment if the NOVs are being remanded to a hearing master. This request is
made on the points and authorities listed below.

INTRODUCTION

1
2 Respondents should be afforded the right to place facts, testimony, evidence,
3
4 and law before an “impartial” hearing master. Unfortunately, Hearing Master
5 Holly Fic (Fic) is not impartial to the Respondents. Fic does not believe Air Quality
6 enforcement officers (AQ) selectively enforcing regulations against Respondent is
7
8 a relevant defense for Respondent. The Supreme Court of the United States, and
9 the Nevada Supreme Court disagree with Fic. Selective enforcement is a
10 constitutional violation and if proven is a relevant defense to the violations
11 Respondents were charged with. First, if selective enforcement is proven, it needs
12 to stop because it is a constitutional violation. Second, if selective enforcement is
13 proven, it shows bias. And the testimony of a biased AQ enforcement officer should
14 be disregarded. Also, Fic does not see AQ enforcement officers trespassing on
15 Respondents’ private property as a relevant defense. Again, the Supreme Court,
16 and the Nevada Supreme Court disagree with Fic. Violating the Respondents’
17 fourth amendment rights by illegally searching is completely relevant to
18 Respondents’ defense. First, if there was an illegal search, all the evidence obtained
19 during the search would be inadmissible. Second, a purposeful illegal search could
20 support bias by AQ. A showing of bias should also lead to any subjective testimony
21 by AQ being disregarded. If Respondent shows AQ selective enforced Responded
22 or are bias to Respondent, then only objective evidence of a violation should be
23 considered.
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1 Yakubik then received emails from AQ staff pointing out where he
2 personally resided, making false accusations about property ownership and
3 statements that appeared to be skewed. Due to the nature of this communication
4 and the posture of AQ, Assured and Yakubik immediately retained counsel. This
5 infuriated AQ staff, and rather than correspond with Yakubik’s counsel, AQ staff
6 began to inundate Yakubik with emails and countless “routine inspections.” AQ
7 staff later stated, if Yakubik would have simply met AQ staff on site, he would have
8 been treated differently. Over the course of 30 days, AQ fined Assured, and
9 Yakubik (as an individual), \$5,000, under Notice of Violation (NOV) #9907, for
10 failing to “long term” stabilize the soil on a close out.
11

12 In November 2023, AQ received a DCOP permit for Atlas Holdings
13 International LLC (Atlas) for two one-acre custom homes. From November 2023
14 until December 2023 AQ fined Atlas and Yakubik (as an individual) \$5,937.50
15 under NOV #9946 for failing to control best available control measures for loose
16 dirt and soil. Yakubik disagreed with these fines and believed his contractors were
17 following the guidelines. These violations should have been issued to the active
18 DCOP #50962 on the property, and not to Atlas.
19

20 During January 2024, AQ fined Atlas and Yakubik (as an individual) an
21 additional \$4,000 under NOV #9979 for failing to control best available control
22 measures for loose dirt and soil. Again, Yakubik disagreed with these fines.
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1 NOV hearings were scheduled and then continued at the request of Yakubik's
2 attorney. Yakubik's attorney had become ill and was physically unable to perform
3 his duties. Within a few hours of the hearing being rescheduled, Katrinka Byers
4 (Byers) was witnessed trespassing on Yakubik's personal residence. She was
5 taking pictures of Yakubik's back yard. Yakubik's private home is across the street
6 from the properties Assured and Atlas were developing. Yakubik's private home
7 was completed in 2021 and was not under any active DCOP.
8

9
10 The following day on January 17, 2024, AQ specialist David Dean (Dean)
11 and Katrinka Byers (Byers) were caught trespassing on Yakubik's private property.
12 Dean and Byers showed up on Yakubik's property for what they stated was a
13 "routine inspection". There was nothing routine about their inspection. Dean and
14 Byer admit on police body camera's the trespass was not a routine inspection, but
15 instead in response to Yakubik's attorney requesting another continuance of the
16 Assured and Atlas NOVs. NOVs that had nothing to do with Yakubik's private
17 residence.
18
19

20
21 Dean and Byers were asked to leave. They refused. Henderson Police were
22 called, and Dean and Byers were commanded to leave the property and to not return
23 to any property Yakubik owned. Over the next 30 days, AQ fined Yakubik (as an
24 individual) \$4,000 under NOV #9981 for loose dirt and soil at his home. Yakubik
25 disagreed because he was not disturbing more than .25 acres of soil.
26
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1 On April 24, 2024, Yakubik attended an NOV hearing for Assured NOV
2 #9907, Atlas NOVs #9946, #9979, and Yakubik NOV #9981. Yakubik requested
3 documents from AQ to prepare for the hearing. District Attorney Catherine
4 Jorgensen (Jorgensen), representing AQ, forwarded Yakubik a spread sheet with
5 some of the documents requested. Some of the documents supported Yakubik
6 position that AQ has permitted the stabilization of roadway shoulders with water
7 and did not require gravel.
8

9
10 Yakubik asked questions about AQ's decision process when allowing
11 DCOPs to close out with water or gravel. The line of questioning was attempting
12 to show Assured was not in violation, AQ has a widely applied standard of
13 stabilization of roadway shoulders with water and was selectively enforcing
14 regulations against Yakubik. If proven, this would be selective enforcement and a
15 violation of Yakubik's constitution rights. If proven, this would show AQ
16 inspectors had a bias against Yakubik. And if there was bias, AQ inspector
17 testimony would be non-creditable.
18
19
20

21 Fic presided over the NOV hearing. Fic showed frustration with this
22 Yakubik's line of selective enforcement questioning. Fic stated, "Would need more
23 than pictures to see selective enforcement." She said, "can't make that leap without
24 evidence other than pictures." See hearing recording @.26. Fic stated Yakubik
25 can continue however she is "Not persuaded by pictures" and will "Need more
26 information (evidence)". Yakubik then mentioned he was willing to bring in those
27
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1 witnesses or documents and requested a continuance. Fic was annoyed at the
2 request, often sighing, and rolling her eyes, and stated more evidence would not be
3 helpful because she already had an opinion on the matter. See @7:07. These
4 comments were all made **prior** to Assured or Yakubik even starting their testimony
5 or defense. These comments were all made **after** Yakubik asked AQ's first witness
6 four or five questions. Yakubik cited law supporting the legal defense of selective
7 enforcement. Yakubik re-stated the concern of bias with AQ testimony. Yakubik
8 continued to show Fic pictures and evidence showing AQ allowed all the other
9 DCOPs in that area, including his own residence across the street, to close out
10 without gravel. Yakubik even showed Fic a picture of Dean's personal residence
11 which recently closed out a DCOP. And closed out without the use of gravel.

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15
16 Fic was stunned Yakubik would show a picture of the front yard of Dean. Fic
17 found this line of questioning "inappropriate" and "Not going to take this into
18 consideration", "Not even considering it." See @57:08. Fic stated, "I don't
19 understand how retaliation is going to have any relevance." See @1:14:58. Fic
20 states, "I'm not persuaded by it (retaliation)", it's a waste of time. I don't hear any
21 evidence the fact the violation didn't occur.". She stated, "Regardless of retaliation
22 the violation did occur." See @1:14:58. "I'm heading into the direct the violation
23 did occur." See @1:16:43. **These comments were all made prior to the**
24 **respondents even providing testimony. These statements show Fic's**
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1 conclusionary position and foreclosing her decision process to hearing the
2 evidence.

3
4 Yakubik pointed out if there is retaliation, there could be a finding of
5 selective enforcement and bias. If there is bias, then the testimony of the AQ
6 specialists must be disregarded and only objective evidence of a violation occurring
7 should be considered. Fic quickly responded, "I'm finding no evidence of bias".
8 See @1:17:12. Fic stated, "Let's move on from the retaliation." See @1:17:27.
9
10 Yakubik stated he would not move on from asking questions that could prove
11 selective enforcement was occurring. Fic then looked at Jorgenson, rolled her eyes
12 upward and groaned in a manner to show this was wasting her time.

13
14 Yakubik, Fic, and Jorgensen reached an impasse at the April NOV hearing.
15 More time was needed to finish. Additionally, Jorgenson failed to provide Yakubik
16 with all the documents requested. It was agreed a new hearing date would be
17 chosen. And it was implied Jorgensen would provide Yakubik the documents he
18 had previously requested in time for the new hearing date.
19

20
21 In March 2024, Byer fined Atlas and Yakubik (as an individual) \$1,250 under
22 NOV #10008 for loose and dry soil. The violation hearing was scheduled for May
23 23, 2024. This hearing was only related to NOV #10008. The hearing for the other
24 NOVs had not been scheduled yet. Yakubik still had not received the requested
25 documents from Jorgenson, which could help show selective enforcement.
26
27 Yakubik filed a timely request to continue the NOV #10008 hearing, until after
28

1 discovery could be completed. On the day before the hearing, Jorgenson filed her
2 response to Yakubik's request for discovery and continuance.

3
4 At the May NOV hearing, Yakubik's request to continue the hearing was
5 denied. Additionally, Fic agreed with Jorgenson that discovery of documents
6 related to selective enforcement were not relevant. Fic stated, "I was not persuaded
7 by the selective enforcement argument. If that is what the discovery is intended,
8 then I will deny that." See @1:21. "I'm not willing to allow discovery on selective
9 enforcement." See @1:29. Fic stated, "I don't see selective enforcement and I
10 don't find it's relevant." See @1:30:36. Yakubik cited selective enforcement case
11 law confirming it can be a valid defense. Fic disagreed. Yakubik objected to this
12 decision. Fic proceeded with the hearing.

13
14
15 Two questions into Yakubik's questioning of AQ specialist Byers, Fic
16 (without Jorgenson stating an objection) objected to Yakubik's question about
17 Byers trespassing on Yakubik's private property. Fic stated, "I don't understand
18 this line of questioning. I don't determine trespass issues." See @1:58:52. Fic
19 stated, "I don't find the line of questioning is appropriate." Fic stated, "How do
20 they (AQ) even do their job? What's the point of AQ if they cannot go on a
21 property." See @1:59:39. Yakubik cited the Nevada law on trespass. Yakubik
22 stated the AQ regulations even require AQ to obtain search warrants if access to a
23 property is denied. Jorgensen confirmed the property in question did not have a
24 DCOP. Yakubik explained the AQ rules providing property procedures for entering
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1 property when access is denied. Yakubik explained how trespass, if proven, could
2 be an illegal search and any evidence obtained through the search would not be
3 admissible. Fic stated, "I'm not considering issue of trespass." See @2:04.
4

5 Yakubik's remaining line of questioning was moot. It was obvious at this
6 point Fic had made her decision. Fic ultimately found Yakubik was in violation of
7 NOV #10008. Yakubik filed a timely appeal to the decision of NOV #10008.
8

9 Fic scheduled June 17 as to hear the remaining NOVs filed against Yakubik;
10 NOVs #9907, #9946, #9979, and #9981. Yakubik filed a motion to the board
11 requesting a continuance of the June 17 hearing, requesting discovery to be open,
12 and requesting a new hearing master to be appointed. The board hearing was
13 scheduled for August 7, 2024.
14

15 At the June 17 hearing, Yakubik shared the claims of relief requested in the
16 motion filed with the board. Yakubik asked Fic to stay the June 17 hearing until
17 the board heard his motion. Fic denied Yakubik's request and heard testimony
18 regarding the other violations. Yakubik placed his objection on the record, citing
19 his inability to put forth a full defense because AQ refused to disclose requested
20 discovery, and Fic not being impartial. Fic continued with the hearing.
21
22

23 At the end of the hearing, Fic found the violations in #9907, #9946, and
24 #9979 occurred. Fic order Yakubik to pay the fines imposed. Fic found the
25 violation in NOV #9981 did not occur.
26

27 Yakubik files this amended motion to be heard by the board.
28

1 LEGAL ARGUMENT

2 **I. The AQ regulatory board has the authority to address each of**
3 **respondents' requests.**

4 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
5 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
6 was filed on May 29, 2024. Respondents' appeal of NOV #10008 was filed timely.
7 Fic's order regarding NOVs #9907, #9946, and #9979 was filed June 20, 2024.
8 Respondents' appeal of NOVs #9907, #9946, and #9979 was filed timely.
9

10
11 AQR 7.5(e) states the hearing board shall hear all appeals and may order the
12 affirmation, modification, or reversal of any action taken by a hearing officer.

13
14 **II. Respondents should be reassigned a new hearing master because**
15 **hearing master Fic is not impartial.**

16 "A judge is presumed to be impartial. See *Ybarra v. State*, 127 Nev. 47, 51,
17 247 P.3d 269, 272 (2011). A judge must "act at all times in a manner that promotes
18 public confidence in the ... impartiality of the judiciary." See NCJC Rule 1.2. A
19 judge shall perform duties without bias or prejudice, not use words or conduct
20 manifesting bias. See NCJC Rule 2.3(A)-(C). A judge who "entertains actual bias
21 or prejudice for or against one of the parties" must NOT preside over a proceeding.
22 See NRS 1.230(1). If a "judge's impartiality might reasonably be questioned," then
23 that judge should be disqualified. See NCJC Rule 2.11(A), and *Roe v. Roe*, 535
24 P.3d 274 (Nev. App. 2023).
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1 These same rules must apply to a hearing master because hearing masters
2 are quasi-judges. Hearings masters are given the authority to adjudicate cases the
3 same as a judge would. Hearing masters are given the authority to weigh evidence,
4 to judge credibility, and to make final determinations that hold the same authority
5 as an elected or appointed Judge. A District Court judicial holds the hearing
6 master's decisions to the same standards as an elected or appointed Judge.
7

8
9 Here, Fic's impartiality can be reasonably questioned. Fic stated on the
10 record, multiple times, that selective enforcement is not relevant. Fic stated
11 Yakubik can continue however she is "Not persuaded by pictures" and will need
12 more information (evidence). Yakubik then mentioned he was willing to bring in
13 those witnesses or documents and requested a continuance. See @7:07. Fic
14 stated, "I don't understand how retaliation is going to have any relevance." See
15 @1:14:58. Fic states, "I'm not persuaded by it (retaliation). It's a waste of time. I
16 don't hear any evidence the violation didn't occur. Regardless of retaliation the
17 violation did occur." See @1:14:58. "I'm heading into the direct the violation did
18 occur." See @1:16:43.
19

20
21
22 Respondents explained selective enforcement defense is a recognized
23 defense to civil and criminal prosecutions. See *United States v. Berrios*, 501 F.2d
24 1207, 1211 (2d Cir. 1974). Which states the elements as; 1) others similarly
25 situated have not generally been proceeded against because of conduct of the type
26 forming the basis of the charge against him, 2) he has been singled out for
27
28

1 prosecution, and 3) that the government's discriminatory selection of him for
2 prosecution has been invidious or in bad faith. Nevada also recognizes selective
3 enforcement under the language of "arbitrary and discriminatory enforcement".
4 See *Bent Barrel, Inc. v. Sands*, 373 P.3d 895, Footnote 8 (Nev. 2011). Fic refused
5 to accept any of these positions as valid defenses to the violations not occurring.
6

7
8 Respondents even explained how selective enforcement can be seen as bias
9 and how bias is relevant to any witness testimony. Bias is relevant in the credibility
10 of all witnesses. Bias, impeachment, and character are standards used to diminish
11 the credibility of a witness's testimony. Bias is even more relevant to enforcement
12 officers. See NRS 289.823 which requires all law enforcement officials to
13 recognize officers who show bias because if an enforcement officer is shown to be
14 biased, their testimony is not creditable. Fic didn't believe bias had any relevance,
15 "I'm finding no evidence of bias." See @1:17:12.
16
17

18 Fic also did not find Respondents' line of questioning on trespassing not
19 relevant. Fic stated, "I don't understand this line of questioning. I don't determine
20 trespass issues." See @1:58:52. Evidence derived from an illegal search is
21 inadmissible because the evidence was tainted by the illegality. See *Richardson v.*
22 *Nevada*, 86510 (Nev. May 15, 2024). An illegal trespass would be an illegal
23 search. Therefore, AQ's evidence would be inadmissible. Fic did not find the
24 trespass relevant and seemed amazed Air Quality staff did not have the authority
25 to enter any property they wanted. Fic stated, "How do they (AQ) even do their
26
27
28

1 job? What's the point of AQ if they cannot go on property." See @1:59:39.
2 Yakubik cited AQ Regulation 4.1(d)(2) which advises AQ to apply for a search
3 warrant when access to property is denied. Fic ended the conversation by stating,
4 "I'm not considering the issue of trespass." See @2:04.
5

6 Its clear Fic is not able to be impartial and will not allow the Respondents
7 the opportunity to put forth valid defenses. Ms. Fic has foreclosed her mind to any
8 facts, testimony, or evidence, related to selective enforcement, bias, or illegal
9 search. Like in *Roe v. Roe*, Fic's ability to be impartial is reasonably questioned.
10 Therefore, a new hearing master should be appointed to hear all evidence which
11 supports Respondents' defenses.
12
13

14 **III. Respondents should be allowed discovery because due process**
15 **rules of fairness require it.**

16 Prior to the April hearing Jorgenson had provided some documents in
17 response to Respondents' discovery requests. For the May hearing, Jorgenson
18 objected to anymore discovery. Citing *Dutchess Bus. Servs.* The Dutchess Court
19 states the Nevada's rules of procedure may not apply to administrative hearings,
20 and Nevada's Administrative Procedure Act may not make a provision for
21 discovery. However, the due process guarantees of fundamental fairness still apply.
22 See *Dutchess Bus. Servs. v. Bd. of Pharmacy*, 191 P.3d 1159, 124 Nev. 701 (Nev.
23 2008). The Dutchess court states that even though standard discovery may not be
24 standardly available, a mechanism for obtaining evidence is necessary for
25
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1 fundamental fairness of due process. The Dutchess court stated because a
2 mechanism for discovery was available there was due process. That is not the case
3 in this matter. Fic sided with Jorgenson and denied Respondents' request for any
4 discovery or evidence related to selective enforcement; "I'm not willing to allow
5 discovery on selective enforcement." See @1:29. This is a violation of
6 Respondents' rights to fairness and due process.
7

8
9 Fic's discovery ruling makes it impossible for Respondents to provide a
10 selective enforcement defense. Respondents are attempting to show selective
11 enforcement by showing AQ allowed all others DCOPs to close out without gravel.
12 Fic states she would need more discovery to be persuaded by this argument. The
13 Respondents' only chance to prove this claim is to have access to AQ files and to
14 disclose what other DCOPs were allowed to close out with. One such document
15 was disclosed at the April hearing. Respondents believe there are more.
16
17

18 With Fic denying the request for more documents, while stating she would
19 need to see more documents (evidence) to be persuaded by this argument, there is
20 no question Fic's impartiality is affecting Respondents right to due process.
21

22 Fic's denial of discovery causes great prejudice to Respondents. AQ 7.5(f)
23 states a hearing masters' order is heard "de novo" by the board. This means no new
24 evidence or testimony is heard. Then, if Respondents decided to appeal the Board's
25 decision, it also would be de novo. NRS 233B.135(1)(B) states the judicial review
26 is confined to the record. With Fic denying Respondents request for documents,
27
28

1 which could show selective enforcement, she is denying Respondent's the ability
2 to ever show selective enforcement.

3
4 Fic's denial of discovery should be overturned. Respondents request for
5 documents should be granted.

6 **IV. Respondents request an appeal of NOVs #9907, #9946, 9978, and**
7 **#10008 because of no discovery, and Fic's impartiality.**

8 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
9 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
10 was filed on May 29, 2024. Fic's order regarding NOVs #9907, #9946, and #9979
11 was filed June 20, 2024, Respondents request is timely. Fic did not find selective
12 enforce, bias, or an illegal trespass relevant to Respondents' defenses. Fic denied
13 Respondents the opportunity to present evidence when she denied their request for
14 discovery. Therefore, Respondent is requesting the appeal on NOVs #9907, #9946,
15 #9979, and #10008.

16
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18
19 May 31, 2024

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21 

22

Rock Rocheleau, Esq.
23 Nevada Bar No. 15315
24 Attorney for Respondents

1 STEVEN B. WOLFSON
District Attorney
2 **CIVIL DIVISION**
State Bar No. 001565
3 By: **CATHERINE JORGENSEN**
Chief Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDANV.gov
7 Attorneys for Clark County Air Quality

8 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notices of Violation)
11 Nos. 9907, 9946, 9979, 9981, and 10008,) Date of Hearing:
12 Issued To:) August 7, 2024
13 Assured Development, Inc., Atlas)
Holdings International LLC, Joseph)
14 Yakubik, Individually, and Darcie)
Yakubik, Individually,)
15 _____ Respondents.)

16 **MOTION FOR ISSUANCE OF SUBPOENA**

17 Clark County Department of Environment and Sustainability, Division of Air Quality
18 (“Air Quality”) submits this Motion for Issuance of Subpoena to obtain documentary
19 evidence related to the appeals of Notices of Violation (“NOV”) Nos. 9907, 9946, 9979,
20 9981 and 10008 that are in the custody and control of Respondents Assured Development,
21 Inc. (“Assured”), Atlas Holdings International LLC (“Atlas”), Joseph Yakubik or Darcie
22 Yakubik. This Motion is based on the points and authorities submitted herewith and oral
23 argument of counsel at the hearing on these matters.

24 **POINTS AND AUTHORITIES**

25 After several continuances, NOVs 9907, 9946, 9979, and 9981 came before the
26 Hearing Officer on April 24, 2024 and again on June 17, 2024. The Hearing Officer
27 determined that violations of Clark County Air Quality Regulations (“AQR”) occurred in
28 NOVs 9907, 9946, and 9979 and assessed penalties for those violations. For NOV 9981, the

1 Hearing Officer determined that no violation occurred. NOV 10008 was heard on May 23,
2 2024. The Hearing Officer determined that AQR violations occurred and assessed a penalty.
3 After the Hearing Officer issued orders for each of these NOVs, they were all timely
4 appealed in accordance with AQR Subsections 7.3(e) and 7.5. Assured, Atlas, and the
5 Yakubiks appealed NOVs 9907, 9946, 9979, and 10008, as applicable, and Air Quality
6 appealed NOV 9981.

7 AQR 7.5(f) states that an appeal of a hearing officer order “shall be heard ‘de novo’
8 (i.e. from the beginning), with testimony and exhibits presented and the appeal conducted in
9 the same manner as before the Hearing Officer.” Because these matters will be heard “de
10 novo” by this Board, Air Quality seeks relevant documentary evidence that may be in the
11 custody and control of Respondents. This Board has the authority to issue subpoenas for
12 documents pursuant to NRS 445B.350(4) and NRS 445B.500. Accordingly, Air Quality
13 requests a subpoena be issued to Respondents for the following:

- 14 1. Records related to the formation, management, and dissolution, if applicable,
15 of Assured; Atlas; Milan Customs LLC; and Global Equity Holdings, Inc.
16 These businesses have been or are the owners of the subject real property,
17 holders of dust control operating permits for the subject construction sites,
18 and/or their agents. Among other things, Air Quality is seeking to clarify
19 which individuals effectively control or controlled these businesses.
- 20 2. Video and/or audio recordings from all cameras mounted on the Yakubiks’
21 residence that is the subject of NOV 9981 showing the property outside the
22 house from January 16, 2024 through April 30, 2024 during daylight hours.
23 Among other things, Air Quality is seeking this information to ascertain the
24 validity of statements and arguments put forward by Respondents.
- 25 3. Video and/or audio recordings made by Mr. Yakubik on his phone or by other
26 means and video and/or audio recordings made at the direction of any of the
27 Respondents that show Air Quality staff on the subject properties from July 1,
28 2023 through May 31, 2024. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.
4. Complete copies of all bodycam footage and other documents that, upon
information and belief, the Yakubiks received from the City of Henderson for
an incident that occurred on January 19, 2024 at the Yakubiks’ residence that is
the subject of NOV 9981. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.

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CONCLUSION

Based on the foregoing, Air Quality respectfully requests that the Board grant its motion and issue a subpoena for the documentary evidence requested above.

DATED this 16th day of July, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: /s/ Catherine Jorgenson
CATHERINE JORGENSEN
Deputy District Attorney
State Bar No. 005891
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Clark County Air Quality

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DES
DEPARTMENT OF ENVIRONMENT
AND SUSTAINABILITY



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 21, 2024

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
E-mail: rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, NV 89106

**Re: Granted Continuance for Notices of Violation (NOVs) #9907, #9946, #9979 & #9981
DCOP #50962, and Construction Project #57391 & #57592**

Dear Mr. Rocheleau:

The Hearing Officer granted the request for continuance and the above matters have been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on April 24, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.)

If you have any questions regarding these cases, please contact Catherine Jorgenson, Deputy District Attorney for the Office of the District Attorney/Civil Division of Clark County, Nevada via e-mail at catherine.jorgenson@clarkcountynv.com, or call 702.455.4761.

Sincerely,

Pamela R. Thompson, Sr. Secretary
Enforcement Division

PRT:pt

Cc: Joseph Yakubik, President, Assured Development, Inc. - Las Vegas, NV E-mail: joe@assurednv.com

From: [Catherine Jorgenson](#)
To: [Shibi Paul](#); [Anna Sutowska](#)
Subject: FW: Atlas Holdings LLC & Joseph Yakubik
Date: Thursday, March 21, 2024 8:32:47 AM

FYI

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 8:30 AM
To: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

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I understand. Thank you for the quick response.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



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Right Lawyers LLC / Rocheleau Law Group PC

From: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Sent: Thursday, March 21, 2024 8:27 AM
To: Rock Rocheleau <rock@rightlawyers.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

Mr. Rocheleau,

Yesterday, on behalf of the Division of Air Quality, Mr. Yakubik and I, before he had obtained counsel, discussed his request to continue the four Notices of Violation (NOVs) scheduled for hearing today. After conferring with my client, I let Mr. Yakubik know that AQ would not oppose his request to continue all four NOVs. We also agreed that if the Hearing Officer granted his request, that the hearings would be continued to April 24th. I also made it clear that the decision to grant a continuance is the Hearing Officer's to make. Please be advised that Hearing Office Holly Fic was not involved in these discussions yesterday and, to my knowledge, has not agreed to grant the continuances. Once the Hearing Officer has had the opportunity to consider your client's request today and has made a decision, I will contact you and let you know the outcome.

If you have any questions, please contact me directly at (702) 455-3167.

Thank you,

Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 7:23 AM
To: hollyf@mcfarlinglaw.com; Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Subject: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Jorgenson & Ms. Fic,
I have been hired by Joseph Yakubik to represent him at the Air Quality hearing for violation notice #9907, #9946, #9979, and #9981. I've been informed a continuance from today's hearing was agreed to. Please let me know the new date and time. Thank you.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



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Right Lawyers LLC / Rocheleau Law Group PC

Joe Yakubik
P.O. Box 530778
Henderson, Nevada 89053

March 18th, 2024

Holly Fic
6230 W Desert Inn Road
Las Vegas, Nevada 89146

cc: Catherine Jorgenson
Office of the District Attorney
500 S Grand Central Parkway
5th Floor
Las Vegas, Nevada 89155

**Re: Request for Continuance
NOV #9907
NOV #9946
NOV #9981**

Mrs. Fic and Mrs. Jorgenson:

This letter shall serve as a request for continuance on the above referenced matters. We have recently been apprised that Mr. Yarmy is facing discipline hearings with the Nevada State Bar¹ this week and he advised us that it is likely that he may become disbarred at this hearing. Pairing this with Mr. Yarmy's health issues² and that we were recently apprised by Mrs. Jorgenson and her staff that our prior counsel was very unresponsive³ we find it necessary that we retain competent counsel to represent the parties accordingly.

Additionally, we received notice this morning that NOV 9981 was also placed on the agenda for hearing this week. As we deny all the acquisitions in this complaint, a proper defense at such a hearing will require a reasonable time to prepare and today's notice does not provide for such time.

Furthermore, on March 12th, 2024, we had the opportunity to review bodycam footage of Henderson Police Department of events surrounding the above NOV's. Officers' bodycam footage contains David Dean and Katrinka Byers admissions and additional documentation that we feel is crucial to our defense and will be required at hearing. Per Henderson Police Department backlog, footage is not immediately available. We have processed our public requests order and await the production of the physical copies.

¹ February 23, 2024 at an in person meeting Yarmy advised Yakubik that a hearing will be held the week of March 18th, 2024 in which the State Bar of Nevada will be reviewing circumstances surrounding State Bar order No. 77095. Yarmy advised Yakubik that it is likely that he will be dis-barred for six to eighteen months.

² Yarmy requested prior continuation due to neuropathy and health concerns

³ February 28, 2024 Yakubik met with Air Quality staff and was advised that on multiple occasions that Yarmy had failed to respond to their agency.

As of this time, no parties identified in the above referenced NOV's are represented by counsel and I request all future correspondence be sent to the address above.

I am available via telephone at 702-241-4040 or at the address above. Thank you in advance for your consideration of the request and we look forward to a timely resolution to the above referenced items.

Sincerely,

A handwritten signature in black ink, appearing to be 'Joe Yakubik', written in a cursive style.

Joe Yakubik
Personal Capacity
As Owner 1028 Athens Ave
As Manager of Atlas Holdings International, LLC

VIA: Fed Ex and Hand Deliver

cc: File



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 7, 2024

CERTIFIED MAIL #9489 0090 0027 6522 1271 08
Joseph Yakubik, Manager and Responsible Official
E-mail: joe@assurednv.com
P.O. Box 530778
Henderson, NV 89053

CERTIFIED MAIL #9489 0090 0027 6522 1271 15
Global Equity Holdings, Inc., Manager and Registered Agent for
Atlas Holdings International LLC
P.O. Box 530778
Henderson, NV 89053

FEDERAL EXPRESS TRK #775457458699
Joseph Yakubik
Atlas Holdings International LLC
c/o Jarrod L. Rickard, Semenza Rickard Law
E-mail: jlr@semenzarickard.com
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145

NOTICE OF VIOLATION #9979

Clark County Department of Environment and Sustainability, Division of Air Quality (**Air Quality**) provides this notice to Atlas Holdings International LLC (**Atlas Holdings**) and Joseph Yakubik (**Yakubik**), individually, for the violation of the Clark County Air Quality Regulations (**AQRs**) as alleged below and recommends a civil penalty of Four Thousand and no/100 Dollars (\$4,000.00) be assessed as shown in the penalty calculation table attached hereto as **Exhibit A** and incorporated herein.

I. FACTS

A. Senior Air Quality Specialists Katrinka Byers (**Byers**) and Andrew Kirk (**Kirk**) discovered the alleged violations 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.

- B. On November 29, 2023, at approximately 11:27 a.m., Atlas Holdings and Yakubik submitted DCOP application #20914 for parcel numbers 179-04-510-003, 179-04-510-004, 179-04-510-005, and 179-04-510-006. On December 4, 2023, at approximately 8:29 a.m., and December 21, 2023, at approximately 2:55 p.m. Air Quality Supervisor Anna Sutowska (**Sutowska**) sent e-mail correspondence to Steven Yarmy (**Yarmy**), Lawyer for Yakubik and Atlas Holdings, inquiring why parcel number 179-04-510-003, located at 736 Naples Street, was being included in the application. Sutowska e-mailed Yarmy on January 9, 2024, at approximately 5:35 p.m., informing him that the application would be canceled if the requested information was not provided by Monday, January 15, 2024. The e-mail correspondence is attached hereto as **Exhibit B** and incorporated herein.
- C. On January 10, 2024, at approximately 11:30 a.m., Byers and Kirk (**Staff**) arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection within parcel numbers 179-04-510-004, 179-04-510-005, and 179-04-510-006. The inspection report is attached hereto as **Exhibit C** and incorporated herein. During Staff's inspection, they observed approximately 0.62 acres of dry, loose, and powdery soil conditions and approximately 2.2 acres of construction activities occurring without a Dust Control Operating Permit (**DCOP**) within parcel numbers 179-04-510-005, 179-04-510-006, and 179-04-599-023 (Public Right-of-Way) as shown in Photographs 1 through 5 and the Acreage Map, attached hereto as **Exhibits D** and **E**, respectively, and incorporated herein. Staff also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 1 attached hereto as **Exhibit F** and incorporated herein. Staff concluded their inspection at approximately 12:30 p.m.
- D. On January 16, 2024, Air Quality canceled the DCOP application due to failure to provide the requested information by January 15, 2024.
- E. On January 17, 2024, at approximately 9:40 a.m., Byers e-mailed Yarmy concerning Staff's observations of noncompliance during the January 10, 2024 inspection and the issuance of a Notice of Noncompliance (**NON**). The NON was included in the e-mail to Yarmy and is attached hereto as **Exhibit G** and incorporated herein.
- F. On January 17, 2024, at approximately 2:00 p.m., Byers arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit H** and incorporated herein. During her inspection, Byers observed approximately 0.62 acres of dry, loose, and powdery site soils and approximately 2.2 acres of construction activities occurring without a DCOP within parcel numbers 179-04-510-005, 179-04-510-006, and 179-04-599-023 (Public Right-of-Way) as shown in Photographs 6 through 10 (**Exh. D**) and the Acreage Map (**Exh. E**). Byers also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 2, attached hereto as **Exhibit I** and incorporated herein. Byers concluded her inspection at approximately 2:15 p.m.

- G. On January 19, 2024, at approximately 7:46 a.m., Byers sent an e-mail correspondence to Yarmy. The e-mail correspondence is attached hereto as **Exhibit J** and incorporated herein. Within the e-mail correspondence, Byers re-iterated the requirements outlined in the NON (**Exh. G**) issued to Yakubik and Atlas Holdings for noncompliance observed on January 10, 2024. The e-mail correspondence further informed Yarmy of Byers' January 17, 2024 follow-up inspection findings, included a map of the areas to be permitted, and stated the project was still in non-compliance.
- H. On January 22, 2024, at approximately 11:45 a.m., Kirk arrived at the 732 & 724 Naples | 729 Milan construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit K** and incorporated herein. During his inspection, Kirk observed approximately 2.2 acres of construction activities occurring without a DCOP within parcel numbers 179-04-510-005, 179-04-510-006, and 179-04-599-023 (Public Right-of-Way) as shown in Photographs 11 through 13 (**Exh. D**) and the Acreage Map (**Exh. E**). Kirk concluded his inspection at approximately 12:10 p.m.
- I. On January 22, 2024, at approximately 5:06 p.m., Kirk sent an e-mail correspondence to Yarmy. The e-mail correspondence is attached hereto as **Exhibit L** and incorporated herein. Within the e-mail correspondence, Kirk re-iterated the requirements outlined in the NON (**Exh. G**) issued to Yakubik and Atlas Holdings for noncompliance observed on January 10, 2024. The e-mail correspondence further informed Yarmy of Kirk's January 22, 2024 follow-up inspection findings, included a map of the areas to be permitted, and stated the project was still in non-compliance.
- J. On February 2, 2024, at approximately 2:32 p.m., Byers sent an e-mail correspondence to Yarmy. The e-mail correspondence is attached hereto as **Exhibit M** and incorporated herein. Within the e-mail correspondence, Byers re-iterated that a DCOP application had not been submitted for the unpermitted 2.2-acre area where construction activities were observed on January 10, 17, and 22, 2024.

II. VIOLATIONS

Violation 1:

By failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, Atlas Holdings and Yakubik violated AQR Sections 94.13(a) and (b).

AQR Sections 94.13(a) and (b) state:

- “(a) Any Person who engages in a Construction Activity or Temporary Commercial Activity, with or without a Permit, shall employ BACM and comply with soil stabilization standards (Section 94.12) and Emissions standards (Section 94.14).

- (b) Control Measures that are listed in the approved Permit, and other measures as needed for the purpose of maintaining Dust control, shall be implemented 24 hours a day, seven days a week, until the Permit is closed in accordance with Section 94.5(n)(2).”

Violation 2:

By failing to obtain a DCOP prior to commencing construction activities, Atlas Holdings and Yakubik violated AQR Section 94.4.1(a).

AQR Section 94.4.1(a) states:

- “(a) Except as provided in Section 94.3, no Person shall commence any Construction Activities or Temporary Commercial Activities except in compliance with a Permit that authorizes such activities.”

III. RECOMMENDED CIVIL PENALTY

Pursuant to AQR Section 9.1, any person who violates any provision of the AQRs, including any permit condition; is guilty of a civil offense and shall pay a civil penalty not to exceed \$10,000 per violation. Each day of violation constitutes a separate offense.

Air Quality considered the following in calculating the recommended penalty:

- Violation 1 occurred within 1,000 feet of the outer boundary of a residential area as described in Paragraphs I.C and I.F above (**Exh. F and I**).


Air Quality recommends a civil penalty in the amount of \$4,000.00 (**Exh. A**).

IV. HEARING

Air Quality has scheduled a hearing for **Thursday, March 21, 2024, at 9:00 a.m.** before the Air Pollution Control Hearing Officer to adjudicate the alleged violation(s) and, if appropriate, to levy the recommended penalty. Please complete the enclosed **“Notice of Violation Response Form”** and return it to Air Quality by March 11, 2024. At the hearing, the Hearing Officer will hear evidence on the alleged violation(s) and render a decision. The hearing will be held at the Clark County Building Services Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada.

If you intend to present any documentary evidence at the hearing, please provide copies of your evidence to Air Quality with the completed Notice of Violation Response Form. If you fail to provide copies of your evidence prior to the hearing, please be advised that Air Quality may request a continuance to have time to review any evidence you bring to the hearing, which will result in the hearing being postponed and rescheduled to a later date.

If the Hearing Officer finds you in violation and levies a penalty, Air Quality staff will mail the Hearing Officer's order to you along with instructions on remittance of the penalty.


Shibi Paul (Mar 7, 2024 10:56 PST)

Shibi Paul
Compliance and Enforcement Manager

Exhibits:

- A. Penalty Calculation Table, NOV #9979
- B. E-mail Correspondence dated January 9, 2024
- C. Air Quality Construction Site Inspection Form #137213, dated January 10, 2024
- D. Digital Photographs 1 through 13
- E. Acreage Map: Showing size of unpermitted soil disturbance from construction activities observed on January 10, 17, and 22, 2024
- F. Map 1: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on January 10, 2024
- G. Air Quality Notice of Noncompliance for January 10, 2024
- H. Air Quality Construction Site Inspection Form #137294, dated January 17, 2024
- I. Map 2: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on January 17, 2024
- J. E-mail Correspondence, dated January 19, 2024
- K. Air Quality Construction Site Inspection Form #137340, dated January 22, 2024
- L. E-mail Correspondence, dated January 22, 2024
- M. E-mail Correspondence, dated February 2, 2024

sjg

Exhibit A

NOV # 9979

Penalty Calculation Table

Atlas Holdings International LLC and Joseph Yakubik, Individually



4701 W. Russell Road 2nd Floor
 Las Vegas, NV 89118-2231
 Phone: (702) 455-5942 • Fax: (702) 383-9994
 Marci Henson, Director

Viol.	Date(s)	Violation Description	AQR Section	Exhibit / Evidence	Base Penalty	Days	Aggravating Description	Agg. Factor	Agg. Amount	Penalty
1	1/10/2024	Failed to employ Best Available Control Measures and comply with soil stabilization standards 24/7.	94.13(a) and (b)	Exh. D, Photos 1 through 5 Exh. F, Map 1	\$ 1,000	2	Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 250.00	\$ 1,250.00
	Exh. D, Photos 6 through 10 Exh. I, Map 2			Occurred within 1,000 feet of a residential area (+25% per day)			25%	\$ 250.00	\$ 1,250.00	
2	1/10/2024	Failed to obtain a DCOP prior to engaging in construction activities.	94.4.1(a)	Exh. D, Photos 1 thru 5 Exh. E, Acreage Map	\$ 500	3	N/A	0%	\$ -	\$ 500.00
	1/17/2024			Exh. D, Photos 6 through 10 Exh. E, Acreage Map			N/A	0%	\$ -	\$ 500.00
	1/22/2024			Exh. D, Photos 11 through 13 Exh. E, Acreage Map			N/A	0%	\$ -	\$ 500.00
Total Penalty:									\$ 4,000.00	

Regulatory maximum: \$10,000 per day, per violation

[AQR Section 9.1 & NRS 445B.640]

Exhibit B

From: [Anna Sutowska](#)
To: [Chris Craig](#); [Steven Yarmy](#)
Cc: [Catherine Jorgenson](#)
Subject: RE: DCOP Application No. 20914 for Atlas Holdings International - 732 & 724 Naples | 729 Milan
Date: Tuesday, January 9, 2024 5:45:00 PM
Attachments: [XXXXX_00_20231129_DCP_App_Map - Copy.pdf](#)
[image002.png](#)

Good evening,

I have not received the information requested as of today. If the requested information is not received by Monday, January 15, 2024, the Dust Control Operating Permit (DCOP) application will be canceled.

Failing to obtain a DCOP for construction activities may result in enforcement action which includes the imposition of civil penalties.

Regards,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Environment and Sustainability,
Division of Air Quality
4701 W. Russell Rd., Suite 200
Las Vegas, NV 89118
Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

For any dust permit information or forms, please go to the link posted below.

[Dust Control Permitting Portal, Forms & Requirements](#)

From: Anna Sutowska
Sent: Thursday, December 21, 2023 2:55 PM
To: Chris Craig <chris@yarmylaw.com>; Steven Yarmy <sly@stevenyarmylaw.com>
Cc: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Subject: RE: DCOP Application No. 20914 for Atlas Holdings International - 732 & 724 Naples | 729 Milan

Greetings,

I have not received the information requested as of today. Please reply so all the information can be obtained and the application can be submitted for processing.

The application lists parcel numbers 179-04-510-004, 005, and 006 located at 724 and 732 Naples St, and 729 Milan St.

You included a 4th parcel, 179-04-510-003 located at 736 Naples St. owned by Clifford Lemmerhirt.



If this was in error, please resubmit a new map removing the parcel and with a new project acreage.

Regards,

Anna Sutowska
Air Quality Supervisor
Clark County Department of Environment and Sustainability,
Division of Air Quality
4701 W. Russell Rd., Suite 200
Las Vegas, NV 89118
Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

For any dust permit information or forms, please go to the link posted below.

[Dust Control Permitting Portal, Forms & Requirements](#)

From: Anna Sutowska <Anna.Sutowska@ClarkCountyNV.gov>

Sent: Monday, December 4, 2023 8:29 AM

To: Chris Craig <chris@yarmylaw.com>; Steven Yarmy <sly@stevenyarmylaw.com>

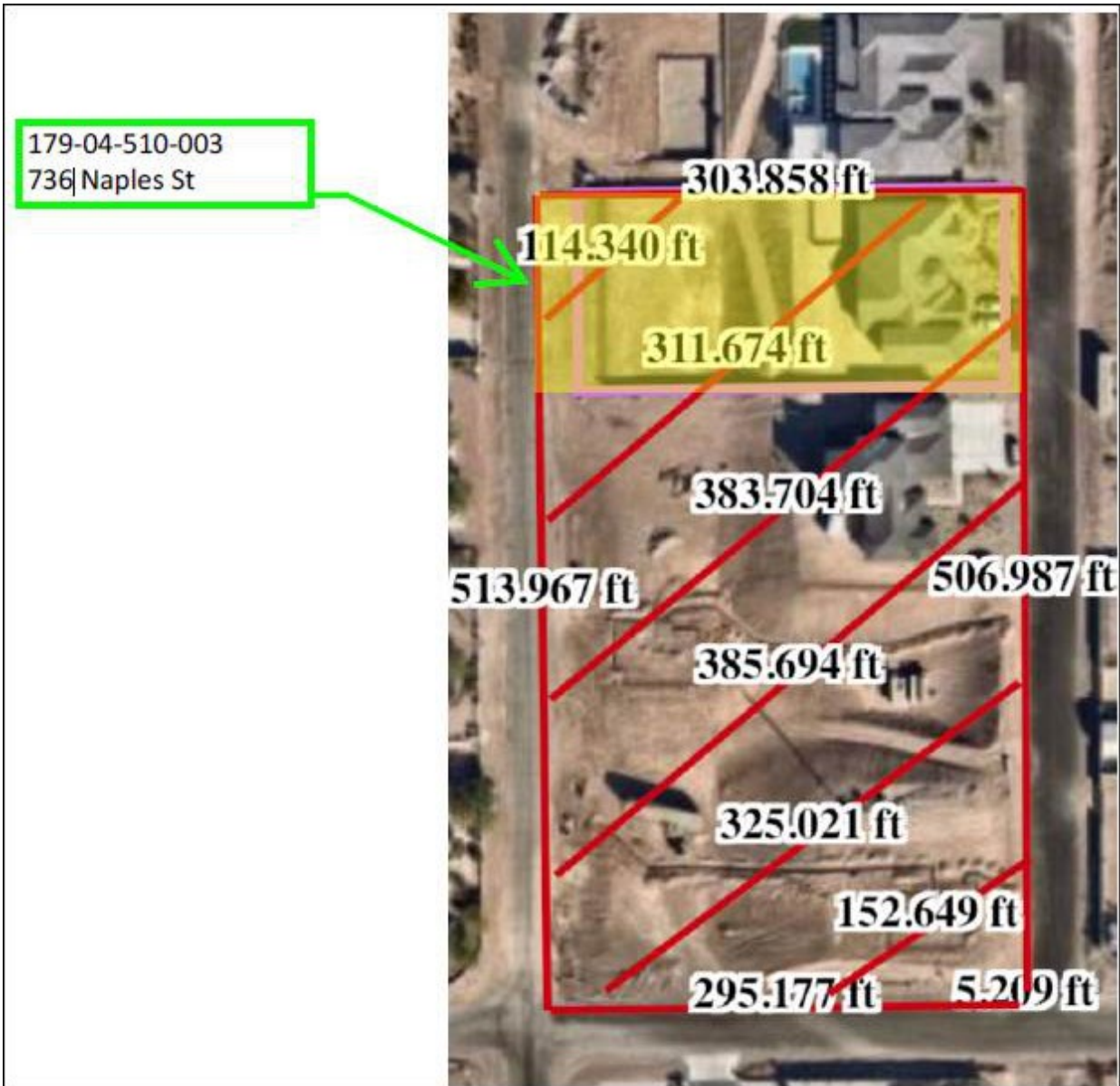
Cc: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; Anna Sutowska <Anna.Sutowska@ClarkCountyNV.gov>

Subject: DCOP App No. 20914 for Atlas Holdings International - 732 & 724 Naples | 729 Milan

Greetings,

I have reviewed your Dust Control Permit application and have questions and/or need additional information. Applications cannot be updated with verbal authorization so **please reply to this email.**

The assessor's parcel numbers listed on the application are 179-04-510-004, 005, 006, located at 724 and 732 Naples St, and 729 Milan St, but the map attached with the application and project acreage (3.57 acres) listed also includes parcel number 179-04-510-003 located at 736 Naples St. Please explain why this parcel is included. If it was in error, please email me a new map and corrected project acreage.



Regards,

Anna Sutowska
Air Quality Supervisor
 Clark County Department of Environment and Sustainability,
 Division of Air Quality
 4701 W. Russell Rd., Suite 200
 Las Vegas, NV 89118
 Office: 702-455-0666/Cell: 702-378-9780/Fax: 702-383-9994

For any dust permit information or forms, please go to the link posted below.
[Dust Control Permitting Portal, Forms & Requirements](#)



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit C

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137213

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Jan 10, 2024	11:30 AM	12:30 PM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
	732 & 724 Naples 729 Milan		724, 732 Naples / 729 Milan - Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	52 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes					
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable		Size of Instability:	0.62 acres		
Trackout Device:	Yes - Effective		Has Trackout:	No		
Mitigation Equipment:	Inadequate		Soil Crust Determination:	Fail		
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:	Katrinka Byers		
<p>Senior Air Quality Specialists, Andrew Kirk & I conducted a follow-up inspection and observed workers onsite conducting construction activities without a valid dust control operating permit (DCOP) at the following parcels: Parcel #179-04-510-004 (732 N. Naples St.), -005 (729 N MILAN ST), & -006 (724 N NAPLES ST). We also observed approximately .62 acres of dry, loose, and powdery site soils with no available BACM (Best Available Control Measures) onsite. A Notice of Non-Compliance with a possible NOV to be issued to Mr. Joe Yakubik to stabilize all site soils immediately, submit a dust permit application by the close of business Thursday, 1/18/2024 and post a dust permit sign by the close of business Friday, 01/26/2024 . A copy of the NON to be sent to Mr. Yarmy (Mr. Yakubik's lawyer) via email on 1/17/2023.</p>						

Exhibit D

Digital Photographs

Construction Project #: 57391 Responsible Parties: Atlas Holdings International LLC and Joseph Yakubik
Project Name: 724 & 732 Naples / 729 Milan Photos taken by: See photo description



Photograph # 1

Alleged Violation # 1, 2

View looking southeast at dry, loose and powdery site soils with no available BACM at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 2

Alleged Violation # 1, 2

View looking south at dry, loose and powdery site soils with no available BACM at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 3

Alleged Violation # 1, 2

View looking northwest at dry, loose and powdery site soils with no available BACM at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 4

Alleged Violation # 1, 2

View looking west at dry, loose and powdery site soils with no available BACM on a project site without a valid dust control operating permit on lot #005, 729 N Milan Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 5

Alleged Violation # 1, 2

View looking west at dry, loose and powdery site soils with no available BACM on a project site without a valid dust control operating permit on lot #005, 729 N Milan Street and Public Right-of-Way parcel #179-04-599-023. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 6

Alleged Violation # 1, 2

View looking west at dry, loose and powdery site soils with no available BACM on a project site without a valid dust control operating permit on parcel #179-04-599-023, Public Right-of-Way. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 7

Alleged Violation # 1, 2

View looking south at dry, loose and powdery site soils with no available BACM during a follow-up visit. Photo taken by Senior AQS, Katrinka Byers



Photograph # 8

Alleged Violation # 1, 2

View looking north at dry, loose and powdery site soils with no available BACM at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 9

Alleged Violation # 1, 2

View looking west at dry, loose and powdery site soils with no available BACM on a project site without a valid dust control operating permit on lot #005, 729 N Milan Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 10

Alleged Violation # 1, 2

View looking south at dry, loose and powdery site soils with no available BACM at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Katrinka Byers.



Photograph # 11

Alleged Violation # 2

View looking at a project site without a valid dust control operating permit on lot #006, 724 N Naples Street. Photo taken by Senior AQS, Andrew Kirk.



Photograph # 12

Alleged Violation # 2

View looking at a project site without a valid dust control operating permit on lot #005, 729 N Milan Street. Photo taken by Senior AQS, Andrew Kirk.



Photograph # 13

Alleged Violation # 2

View looking at a project site without a valid dust control operating permit on lot #005, 729 N Milan Street, and parcel #179-04-599-023, Public Right-of-Way. Photo taken by Senior AQS, Andrew Kirk.

Exhibit E
ACREAGE MAP 1/10/2024

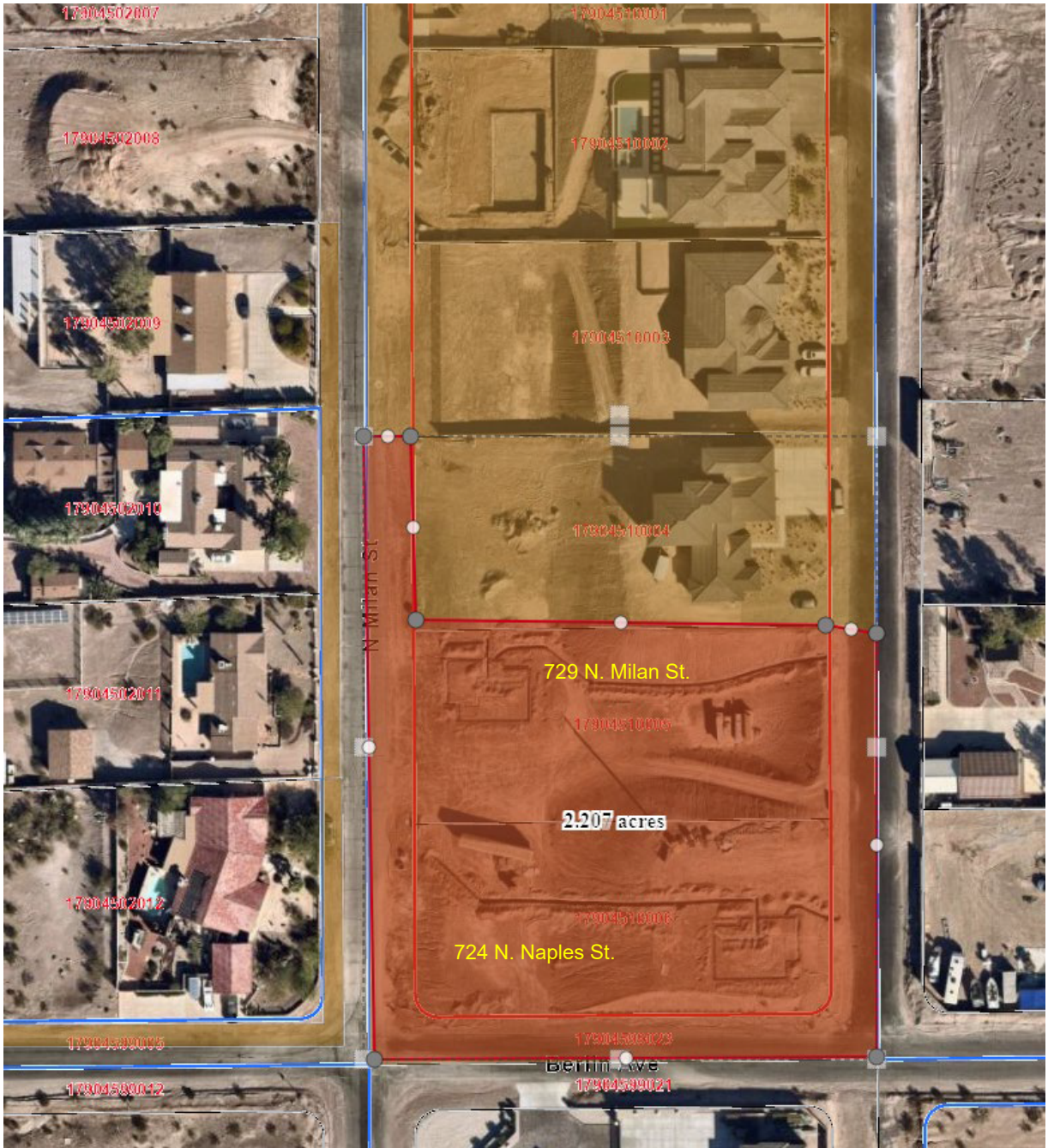
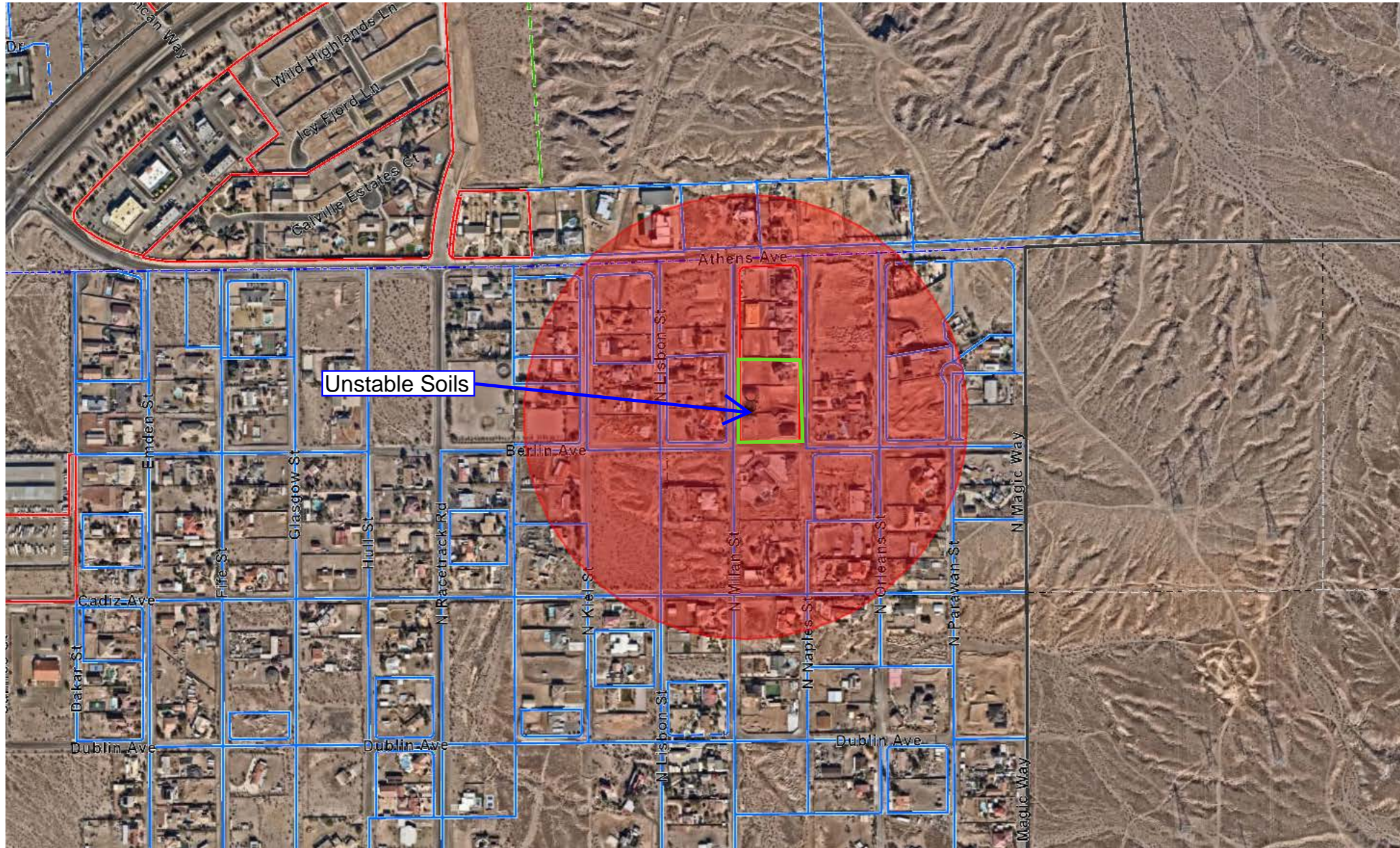


Exhibit F

DCOP 57391

January 10, 2024

Atlas Holdings International LLC



Map 1 - Showing approximate location of unstable soils within 1,000 feet of a residential area.



Exhibit G

NOTICE OF NONCOMPLIANCE

Issued To: Joe Yakubik (Atlas Holdings International LLC)

Project Name: 732 & 724 Naples | 729 Milan

Location: 724, 732 Naples / 729 Milan - Henderson, NV 89015

Dust Control Permit No: 57391

Date: Jan 10, 2024

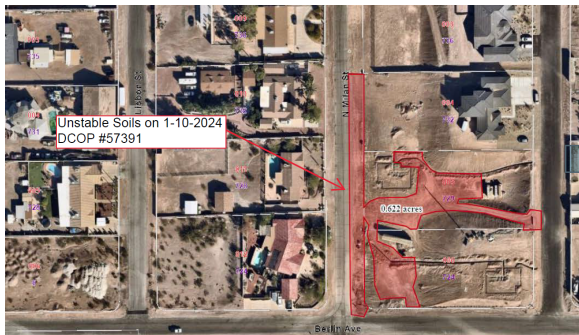
Time: 12:30 PM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

- Unstable Soil Conditions** – Provide and maintain adequate measures to prevent fugitive dust by maintaining all project soils in a visibly damp, crusted, or otherwise stabilized condition per AQR Section 94.12. This applies 24 hours a day 7 days a week.
- No Valid Dust Control Permit** – Submit a complete application for a Dust Control Permit to the Division of Air Quality.
- No / Improper Signage** – Install and maintain a Dust Control Permit Sign in compliance with AQR Section 94.11.

Additional Instructions / Other Noncompliance Items

- *Stabilize all site soils immediately
- *Submit a dust permit application by COB, Thursday, 01/18/2024
- *Post a dust sign by COB, Friday, 01/26/2024



Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.
- Please contact DAQ representative below regarding questions related to this notice.

Person Notified:

Joe Yakubik

Owner

Atlas Holdings International LLC

(Printed Name)

(Title)

(Company)

assuredmm@gmail.com

joe@assurednv.com

(Email Address)

Person Notified:

(Printed Name)

(Title)

(Company)

(Email Address)

DAQ Representative:

Katrinka Byers

702-249-6093

KLB

(Printed Name)

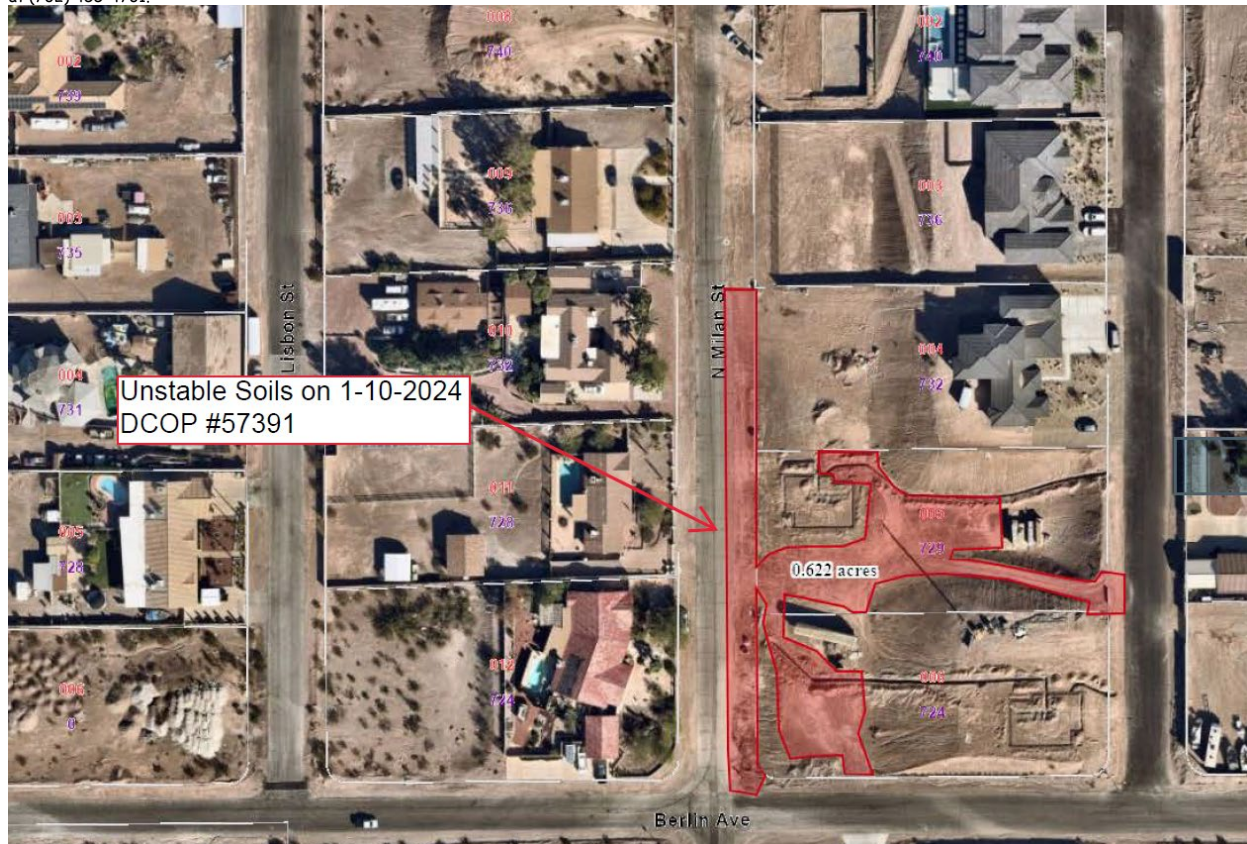
(Phone Number)

From: [Katrinka Byers](mailto:katrinka@stevemyarmy.com)
To: slv@stevemyarmy.com; lur@yarmy.com
Cc: [Catherine Jorgenson](mailto:Catherine.Jorgenson@clarkcounty.com); [Andrew Kirk](mailto:Andrew.Kirk@clarkcounty.com); [Anna Sutowski](mailto:Anna.Sutowski@clarkcounty.com); [David Dean](mailto:David.Dean@clarkcounty.com); [Shibi Paul](mailto:Shibi.Paul@clarkcounty.com)
Subject: Notice of Non-Compliance for 732 & 724 Naples| 729 Milan
Date: Wednesday, January 17, 2024 9:42:00 AM
Attachments: 57391_20240110_NON-Rvd.pdf
[msna#011.mxd](#)
Importance: High

Good morning Mr. Yarmy,

On behalf of your clients Mr. Yakubik and his company Atlas Holdings International, Inc., I have attached a Notice of Noncompliance (NON) for the 732 & 724 Naples| 729 Milan Construction project, DCOP# 57391 for you and your clients' review. To avoid the possibility of additional recommended penalties if a Notice of Violation (NOV) is issued, your clients will need to comply with the requirements by the specified dates.

Please acknowledge receipt of this email. If your clients have any questions about what is required to comply with applicable Air Quality Regulations where they are conducting and/or authorizing construction activities, please contact Catherine Jorgenson, the Division of Air Quality's (DAQ) counsel. DAQ may issue a NOV based on the attached NON which may result in civil penalties. We appreciate your clients' cooperation to achieve and maintain compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, please respond to this email or contact Ms. Jorgenson at (702) 455-4761.



Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)

From: [Steven Yarmy](#)
To: [Katrinka Byers](#)
Subject: Read: Notice of Non-Compliance for 732 & 724 Naples| 729 Milan
Date: Wednesday, January 17, 2024 11:54:59 AM
Importance: High

Your message

To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: Catherine Jorgenson; Andrew Kirk; Anna Sutowska; David Dean; Shibi Paul
Subject: Notice of Non-Compliance for 732 & 724 Naples| 729 Milan
Sent: 1/17/2024 9:42 AM
was read on 1/17/2024 11:54 AM.



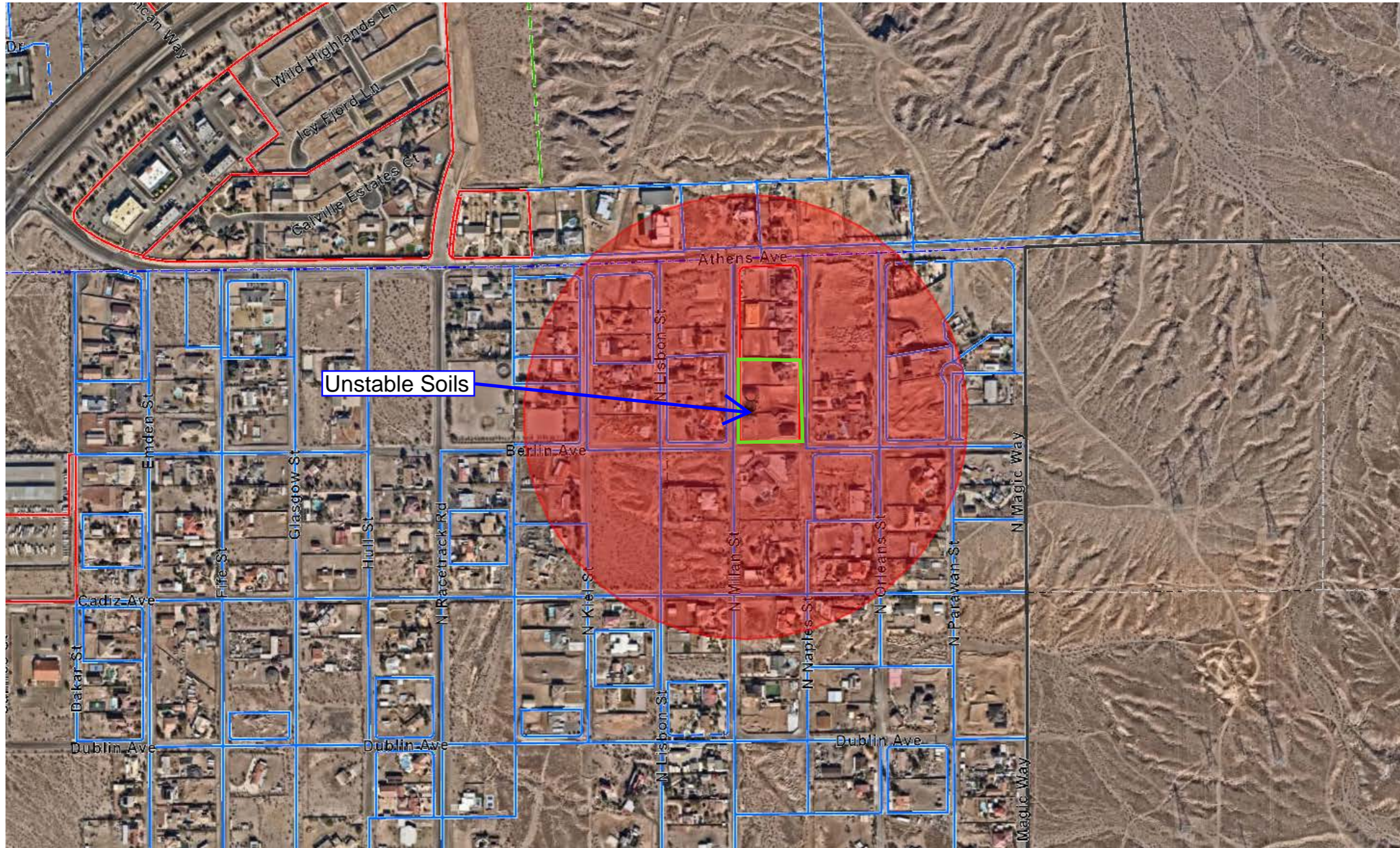
Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit H

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137294

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Jan 17, 2024	2:00 PM	2:15 PM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
	732 & 724 Naples 729 Milan		724, 732 Naples / 729 Milan - Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	52 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes	Steven Yarmy	Office Personnel		Email	
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	0.62 acres			
Trackout Device:	Yes - Effective	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	DCOP Sign:	No	DCOP Onsite:	No		
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:			Approved By:		Katrinka Byers	
<p>I conducted a follow-up inspection and observed approximately 0.62 acres of dry, loose, powdery soils with no BACM available onsite and no valid dust control permit on 2 acres at the following parcels: Parcel #179-04-510-005 (729 N MILAN ST), -006 (724 N NAPLES ST), and 179-04-599-023 (Public Right-of-Way). This project continues to be out of compliance for unstable soils and no valid dust control operating permit this is another day of non-compliance. An email to be sent to Mr. Yarmy (Mr. Yakubik's lawyer).</p>						

Exhibit I



Map 2 - Showing approximate location of unstable soils within 1,000 feet of a residential area.

Exhibit J

From: [Katrinka Byers](#)
To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: [Catherine Jorgenson](#); [Andrew Kirk](#); [David Dean](#); [Mike Englehart](#); [Nahulu Kahananui](#)
Subject: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Date: Friday, January 19, 2024 7:46:00 AM
Attachments: [image002.png](#)
Importance: High

Good morning Mr. Yarmy,

On behalf of your clients Mr. Yakubik and his company Atlas Holdings International, Inc., I conducted a follow-up inspection for the 732 & 724 Naples| 729 Milan Construction project, DCOP# 57391 and observed 0.62 acres of dry, loose, powdery soils with no BACM available and no valid dust control permit on 2.20 acres.

*All site soils are to be stabilized immediately and maintained in a moist and crusted condition 24/7
*A valid dust control operating permit must be submitted for the construction activities shown on the map below by the close of business today, 01/19/2024.

This is another day of non-compliance for failure to comply with Air Quality Regulations. Please acknowledge receipt of this email. If your clients have any questions about what is required to comply with applicable Air Quality Regulations where they are conducting and/or authorizing construction activities, please contact Catherine Jorgenson, the Division of Air Quality's (DAQ) counsel. DAQ may issue a NOV which may result in civil penalties. We appreciate your clients' cooperation to achieve and maintain compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, please respond to this email or contact Ms. Jorgenson at (702) 455-4761.

The area highlighted in red on the map below requires a valid dust control operating permit: (2.20 acres)

NOTE: The Construction project #57391 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)

From: [Steven Yarmy](#)
To: [Katrinka Byers](#)
Subject: Read: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Date: Friday, February 2, 2024 2:47:47 PM
Importance: High

Your message

To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: Catherine Jorgenson; David Dean; Mike Englehart; Nahulu Kahananui; Andrew Kirk
Subject: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Sent: 2/2/2024 2:32 PM
was read on 2/2/2024 2:46 PM.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit K

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137340

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Andrew Kirk	Jan 22, 2024	11:45 AM	12:10 PM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
	732 & 724 Naples 729 Milan		724, 732 Naples / 729 Milan - Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Cloudy	Yes	55 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes					
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						Yes
Project Soils:	Stable	Size of Instability:				
Trackout Device:	Yes - Effective	Has Trackout:	No			
Mitigation Equipment:	Adequate	Soil Crust Determination:	Not Necessary/Not Performed			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.2 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:						Approved By: Andrew Kirk
<p>I conducted a follow-up inspection at this project and observed a site that has had it's soils stabilized by recent rains (it was raining during this inspection). However, a dust control sign has still not been posted and a Dust Control Operating Permit (DCOP) application has still not been submitted. An e-mail will be sent to Mr. Yarmy, the owners lawyer, to let him know about the results of my inspection. I will tell him to let his client know that all soils have to be kept stable 24/7, a dust sign installed by 1/24/2024, and a DCOP applied for immediately. This site is now compliant for soil stabilization due to rain but is still out of compliance for no dust sign and no DCOP.</p>						

Exhibit L

From: Andrew Kirk <Andrew.Kirk@ClarkCountyNV.gov>
Sent: Monday, January 22, 2024 5:06 PM
To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; David Dean <Dean@ClarkCountyNV.gov>; Mike Englehart <Englehart@ClarkCountyNV.gov>; Nahulu Kahananui <Nahulu.Kahananui@ClarkCountyNV.gov>; Katrinka Byers <Katrinka.Byers@ClarkCountyNV.gov>
Subject: Another day of Non-Compliance for 732 & 724 Naples | 729 Milan Construction Project #57391

Good morning Mr. Yarmy,

On behalf of your clients Mr. Yakubik and his company Atlas Holdings International, Inc., I conducted a follow-up inspection for the 732 & 724 Naples | 729 Milan Construction project #57391 on 1/22/2024 and observed that all soils have been stabilized due to recent rain but still no dust sign posted, and no valid dust control permit application submitted for the 2.20 acres. To avoid additional non-compliance notices, please adhere to the following:

- *All site soils are now stable (due to rain) but must be maintained in a moist and crusted condition 24/7 going forward.
- *A dust control sign must be posted by 1/24/2024.
- *A Dust Control Operating Permit application was required to be submitted to us by close of business 1/19/2024 as explained in Katrinka Byer's e-mail she sent to you that same day. An application was never submitted so please inform your client that one must be submitted for the construction activities shown on the map below immediately.

This is another day of non-compliance for failure to comply with all Air Quality Regulations.

Please acknowledge receipt of this email. If your clients have any questions about what is required to comply with applicable Air Quality Regulations where they are conducting and/or authorizing construction activities, please contact Catherine Jorgenson, the Division of Air Quality's (DAQ) counsel. DAQ may issue a Notice of Violation (NOV) which could result in civil penalties. We appreciate your clients' cooperation to achieve and maintain compliance on this project. If you have any questions regarding this message, please respond to this email or contact Ms. Jorgenson at (702) 455-4761.

The area highlighted in red on the map below requires a valid dust control operating permit: (2.20 acres)

NOTE: The Construction project #57391 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Andrew M. Kirk
Senior Air Quality Specialist
Clark County Division of Air Quality

4701 W. Russell Road, Suite 200
Las Vegas, NV 89118
(702) 455-3529 Office
(702) 306-0257 Cell
Andrew.Kirk@ClarkCountyNV.Gov

Exhibit M

From: [Katrinka Byers](#)
To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: [Catherine Jorgenson](#); [David Dean](#); [Mike Englehart](#); [Nahulu Kahananui](#); [Andrew Kirk](#)
Subject: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Date: Friday, February 2, 2024 2:32:00 PM
Attachments: [image001.png](#)
Importance: High

Good afternoon Mr. Yarmy,

On behalf of your clients Mr. Yakubik and his company Atlas Holdings International, Inc., as of 2/02/2024, Air Quality has not received a valid dust control operating permit application for 732 & 724 Naples| 729 Milan Construction project #57391 for the 2.20 acres. This is another day of non-compliance for failure to comply with Air Quality Regulations.

*A Dust Control Operating Permit application was required to be submitted to us by close of business 1/19/2024 as explained in my email I sent to you that same day. An application was never submitted so please inform your client that one must be submitted for the construction activities shown on the map below immediately.

Please acknowledge receipt of this email. If your clients have any questions about what is required to comply with applicable Air Quality Regulations where they are conducting and/or authorizing construction activities, please contact Catherine Jorgenson, the Division of Air Quality's (DAQ) counsel. DAQ may issue a Notice of Violation (NOV) which could result in civil penalties. We appreciate your clients' cooperation to achieve and maintain compliance on this project. If you have any questions regarding this message, please respond to this email or contact Ms. Jorgenson at (702) 455-4761.

The area highlighted in red on the map below requires a valid dust control operating permit: (2.20 acres)
NOTE: The Construction project #57391 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

From: [Steven Yarmy](#)
To: [Katrinka Byers](#)
Subject: Read: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Date: Friday, February 2, 2024 2:47:47 PM
Importance: High

Your message

To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: Catherine Jorgenson; David Dean; Mike Englehart; Nahulu Kahananui; Andrew Kirk
Subject: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Sent: 2/2/2024 2:32 PM
was read on 2/2/2024 2:46 PM.

From: [Steven Yarmy](#)
To: [Katrinka Byers](#)
Subject: Read: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Date: Friday, February 2, 2024 2:47:47 PM
Importance: High

Your message

To: sly@stevenyarmylaw.com; luz@yarmylaw.com
Cc: Catherine Jorgenson; David Dean; Mike Englehart; Nahulu Kahananui; Andrew Kirk
Subject: Another day of Non-Compliance for 732 & 724 Naples| 729 Milan Construction Project #57391
Sent: 2/2/2024 2:32 PM
was read on 2/2/2024 2:46 PM.

March 21, 2024

Dear pamela 9979a:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6522 1271 08.

Item Details

Status:	Delivered, PO Box
Status Date / Time:	March 14, 2024, 8:31 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
----------------	-------

Recipient Signature

Note: There is no delivery signature on file for this item.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



March 21, 2024

Dear pamela 9979b:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6522 1271 15.

Item Details

Status:	Delivered, PO Box
Status Date / Time:	March 14, 2024, 8:31 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
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Recipient Signature

Note: There is no delivery signature on file for this item.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Dear Customer,

The following is the proof-of-delivery for tracking number: 775457458699

Delivery Information:

Status:	Delivered	Delivered To:	Receptionist/Front Desk
Signed for by:	B.POWE	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday		LAS VEGAS, NV,
		Delivery date:	Mar 11, 2024 09:41

Shipping Information:

Tracking number:	775457458699	Ship Date:	Mar 8, 2024
		Weight:	0.5 LB/0.23 KG
Recipient:		Shipper:	
LAS VEGAS, NV, US,		LAS VEGAS, NV, US,	

Reference	NOV 9979
Purchase Order	4500368555-030

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

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Joseph Yakubik and Darcie Yakubik, Individually (Construction Project #57592)

Appeal of NOV #9981

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United States Postal Service Certified Mail Delivery Receipt for NOV #9981 to Joseph and Darcie Yakubik, dated March 14, 2024.....	47
Federal Express Delivery Receipt for NOV #9981 to Joseph and Darci Yakubik c/o Jarrod L. Rickard, Semenza Rickard Law, dated March 11, 2024.....	48
Federal Express Delivery Receipt for NOV #9981 to Joseph and Darcie Yakubik, dated March 11, 2024.....	49



REQUEST FOR HEARING BEFORE THE
CLARK COUNTY AIR POLLUTION CONTROL
HEARING BOARD

RECEIVED CC DAO
2024 JUN 27 AM 7:05

Appeal of Hearing Officer's Order

1. Date of Appeal: June 27, 2024
(Must be within 10 days of receipt of Hearing Officer Order)

Notice of Violation # 9981 Hearing Date: June 17, 2024

Hearing Officer: Holly Fic

2. Name, address, telephone number of Appellant:

Name: Marci Henson, Control Officer for Division of Air Quality
(Please print)

Address: 4701 West Russell Road, Suite 200, Las Vegas, NV 89118

Telephone: 702-455-5942 Fax: 702-383-9994

Email: catherine.jorgenson@clarkcountydans.gov

3. Other person or persons authorized to receive service of notice:

Name: Catherine Jorgenson, Deputy District Attorney, Civil Division
(Please print)

Address: 500 South Grand Central Parkway, 5th Floor, Las Vegas, NV 89106

Telephone: 702-455-4761 Fax:

Email: catherine.jorgenson@clarkcountydans.gov

4. Type of business or activity and location of activity involved in the request:

1028 Athens Avenue, residential construction site

5. Reason for appeal: [] Facts alleged [] Penalty assessed [X] Both

Provide a detailed explanation of the reason for your appeal:

Air Quality disagrees with the Hearing Officer's determination

that the alleged violations did not occur.

6. An application filing fee of \$140.00 must accompany this application. This fee is non-refundable. Please make check payable to Division of Air Quality or DAQ and mail to 4701 W. Russell Road, Suite 200, Las Vegas, NV 89118.

The appellant or a representative of the appellant must be present at the hearing board meeting to answer any questions by the Air Pollution Control Hearing Board Members. **Please include any supporting documentation with this form for distribution to the respective board members.**

I affirm that all statements made on this application are true and complete to the best of my knowledge.

Signature: Marci Henson Date: 6/27/2024

Printed Name: Marci Henson

Title: Control Officer

FOR OFFICE USE ONLY

Application Received on June 27, 2024

Application Fee \$140.00 - Check ✓ JV Received Date: 6/27/2024



Clark County Nevada Department of Environment and Sustainability
 4701 W Russell Road, Suite 200, Las Vegas, NV 89118
 Phone (702) 455-5942 Fax (702) 383-9994
 AirQuality@clarkcountynv.gov

RECEIPT

CLARK COUNTY DEPT. OF ENVIRONMENT &
 SUSTAINABILITY/DIV AIR QUALITY
 4701 W. RUSSELL ROAD SUITE 200
 LAS VEGAS, NV 89118

Invoice #	Invoice Date	Invoice By	Invoice Type	Due Date
068811	6/27/2024	SHERRIER	DUST CONTROL ENFORCEMENT	6/27/2024

Quantity	Description	Fee Code	Fee	Total
1.00	HEARING BOARD REQUEST	AGHB01	\$140.00	\$140.00
	06/27/2024 JOURNAL VOUCHER (DAQ-NOV-9981)	PAYMENT		(\$140.00)

Notes: NOV #9981, Hearing Officer Appeal, Submitted 6/27/2024

Subtotal:	\$140.00
Paid:	(\$140.00)
Adjustments:	\$0.00
Balance Due:	\$0.00

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1 STEVEN B. WOLFSON
District Attorney
2 **CIVIL DIVISION**
State Bar No. 001565
3 By: **CATHERINE JORGENSEN**
Chief Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDANV.gov
7 Attorneys for Clark County Air Quality

8 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notices of Violation)
11 Nos. 9907, 9946, 9979, 9981, and 10008,) Date of Hearing:
12 Issued To:) August 7, 2024
13 Assured Development, Inc., Atlas
Holdings International LLC, Joseph
14 Yakubik, Individually, and Darcie
Yakubik, Individually,
15 _____)
Respondents.

16 **MOTION FOR ISSUANCE OF SUBPOENA**

17 Clark County Department of Environment and Sustainability, Division of Air Quality
18 (“Air Quality”) submits this Motion for Issuance of Subpoena to obtain documentary
19 evidence related to the appeals of Notices of Violation (“NOV”) Nos. 9907, 9946, 9979,
20 9981 and 10008 that are in the custody and control of Respondents Assured Development,
21 Inc. (“Assured”), Atlas Holdings International LLC (“Atlas”), Joseph Yakubik or Darcie
22 Yakubik. This Motion is based on the points and authorities submitted herewith and oral
23 argument of counsel at the hearing on these matters.

24 **POINTS AND AUTHORITIES**

25 After several continuances, NOVs 9907, 9946, 9979, and 9981 came before the
26 Hearing Officer on April 24, 2024 and again on June 17, 2024. The Hearing Officer
27 determined that violations of Clark County Air Quality Regulations (“AQR”) occurred in
28 NOVs 9907, 9946, and 9979 and assessed penalties for those violations. For NOV 9981, the

1 Hearing Officer determined that no violation occurred. NOV 10008 was heard on May 23,
2 2024. The Hearing Officer determined that AQR violations occurred and assessed a penalty.
3 After the Hearing Officer issued orders for each of these NOVs, they were all timely
4 appealed in accordance with AQR Subsections 7.3(e) and 7.5. Assured, Atlas, and the
5 Yakubiks appealed NOVs 9907, 9946, 9979, and 10008, as applicable, and Air Quality
6 appealed NOV 9981.

7 AQR 7.5(f) states that an appeal of a hearing officer order “shall be heard ‘de novo’
8 (i.e. from the beginning), with testimony and exhibits presented and the appeal conducted in
9 the same manner as before the Hearing Officer.” Because these matters will be heard “de
10 novo” by this Board, Air Quality seeks relevant documentary evidence that may be in the
11 custody and control of Respondents. This Board has the authority to issue subpoenas for
12 documents pursuant to NRS 445B.350(4) and NRS 445B.500. Accordingly, Air Quality
13 requests a subpoena be issued to Respondents for the following:

- 14 1. Records related to the formation, management, and dissolution, if applicable,
15 of Assured; Atlas; Milan Customs LLC; and Global Equity Holdings, Inc.
16 These businesses have been or are the owners of the subject real property,
17 holders of dust control operating permits for the subject construction sites,
18 and/or their agents. Among other things, Air Quality is seeking to clarify
19 which individuals effectively control or controlled these businesses.
- 20 2. Video and/or audio recordings from all cameras mounted on the Yakubiks’
21 residence that is the subject of NOV 9981 showing the property outside the
22 house from January 16, 2024 through April 30, 2024 during daylight hours.
23 Among other things, Air Quality is seeking this information to ascertain the
24 validity of statements and arguments put forward by Respondents.
- 25 3. Video and/or audio recordings made by Mr. Yakubik on his phone or by other
26 means and video and/or audio recordings made at the direction of any of the
27 Respondents that show Air Quality staff on the subject properties from July 1,
28 2023 through May 31, 2024. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.
4. Complete copies of all bodycam footage and other documents that, upon
information and belief, the Yakubiks received from the City of Henderson for
an incident that occurred on January 19, 2024 at the Yakubiks’ residence that is
the subject of NOV 9981. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.

28 / / /

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CONCLUSION

Based on the foregoing, Air Quality respectfully requests that the Board grant its motion and issue a subpoena for the documentary evidence requested above.

DATED this 16th day of July, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: /s/ Catherine Jorgenson
CATHERINE JØRGENSON
Deputy District Attorney
State Bar No. 005891
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Clark County Air Quality

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4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 21, 2024

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
E-mail: rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, NV 89106

**Re: Granted Continuance for Notices of Violation (NOVs) #9907, #9946, #9979 & #9981
DCOP #50962, and Construction Project #57391 & #57592**

Dear Mr. Rocheleau:

The Hearing Officer granted the request for continuance and the above matters have been rescheduled to be heard before the Air Pollution Control Hearing Officer at approximately 9:00 a.m. on April 24, 2024, **in the Presentation Room at the Clark County Building Department, 4701 West Russell Road, Main Entrance, Las Vegas.** (Use the double doors at the entrance closest to Ullom Drive on the northwest side of the parking lot.)

If you have any questions regarding these cases, please contact Catherine Jorgenson, Deputy District Attorney for the Office of the District Attorney/Civil Division of Clark County, Nevada via e-mail at catherine.jorgenson@clarkcountynv.com, or call 702.455.4761.

Sincerely,

Pamela R. Thompson, Sr. Secretary
Enforcement Division

PRT:pt

Cc: Joseph Yakubik, President, Assured Development, Inc. - Las Vegas, NV E-mail: joe@assurednv.com

From: [Catherine Jorgenson](#)
To: [Shibi Paul](#); [Anna Sutowska](#)
Subject: FW: Atlas Holdings LLC & Joseph Yakubik
Date: Thursday, March 21, 2024 8:32:47 AM

FYI

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 8:30 AM
To: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

I understand. Thank you for the quick response.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



“BEST” Divorce Lawyers

2017 . 2018 . 2019 . 2020
2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

From: Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Sent: Thursday, March 21, 2024 8:27 AM
To: Rock Rocheleau <rock@rightlawyers.com>; hollyf@mcfarlinglaw.com
Subject: RE: Atlas Holdings LLC & Joseph Yakubik

Mr. Rocheleau,

Yesterday, on behalf of the Division of Air Quality, Mr. Yakubik and I, before he had obtained counsel, discussed his request to continue the four Notices of Violation (NOVs) scheduled for hearing today. After conferring with my client, I let Mr. Yakubik know that AQ would not oppose his request to continue all four NOVs. We also agreed that if the Hearing Officer granted his request, that the hearings would be continued to April 24th. I also made it clear that the decision to grant a continuance is the Hearing Officer's to make. Please be advised that Hearing Office Holly Fic was not involved in these discussions yesterday and, to my knowledge, has not agreed to grant the continuances. Once the Hearing Officer has had the opportunity to consider your client's request today and has made a decision, I will contact you and let you know the outcome.

If you have any questions, please contact me directly at (702) 455-3167.

Thank you,

Catherine Jorgenson
Deputy District Attorney
Office of the District Attorney/Civil Division
Clark County, Nevada
702.455.4761
Catherine.Jorgenson@ClarkCountyDA.com

From: Rock Rocheleau <rock@rightlawyers.com>
Sent: Thursday, March 21, 2024 7:23 AM
To: hollyf@mcfarlinglaw.com; Catherine Jorgenson <Catherine.Jorgenson@clarkcountyda.com>
Subject: Atlas Holdings LLC & Joseph Yakubik

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Jorgenson & Ms. Fic,
I have been hired by Joseph Yakubik to represent him at the Air Quality hearing for violation notice #9907, #9946, #9979, and #9981. I've been informed a continuance from today's hearing was agreed to. Please let me know the new date and time. Thank you.

Rock Rocheleau, Esq.
Right Lawyers
Divorce & Custody Attorneys
(702) 906-1672 Office



"BEST" Divorce Lawyers

2017 . 2018 . 2019 . 2020

2021 . 2022 . 2023

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Right Lawyers LLC / Rocheleau Law Group PC

Joe Yakubik
P.O. Box 530778
Henderson, Nevada 89053

March 18th, 2024

Holly Fic
6230 W Desert Inn Road
Las Vegas, Nevada 89146

cc: Catherine Jorgenson
Office of the District Attorney
500 S Grand Central Parkway
5th Floor
Las Vegas, Nevada 89155

Re: Request for Continuance
NOV #9907
NOV #9946
NOV #9981

Mrs. Fic and Mrs. Jorgenson:

This letter shall serve as a request for continuance on the above referenced matters. We have recently been apprised that Mr. Yarmy is facing discipline hearings with the Nevada State Bar¹ this week and he advised us that it is likely that he may become disbarred at this hearing. Pairing this with Mr. Yarmy's health issues² and that we were recently apprised by Mrs. Jorgenson and her staff that our prior counsel was very unresponsive³ we find it necessary that we retain competent counsel to represent the parties accordingly.

Additionally, we received notice this morning that NOV 9981 was also placed on the agenda for hearing this week. As we deny all the acquisitions in this complaint, a proper defense at such a hearing will require a reasonable time to prepare and today's notice does not provide for such time.

Furthermore, on March 12th, 2024, we had the opportunity to review bodycam footage of Henderson Police Department of events surrounding the above NOV's. Officers' bodycam footage contains David Dean and Katrinika Byers admissions and additional documentation that we feel is crucial to our defense and will be required at hearing. Per Henderson Police Department backlog, footage is not immediately available. We have processed our public requests order and await the production of the physical copies.

¹ February 23, 2024 at an in person meeting Yarmy advised Yakubik that a hearing will be held the week of March 18th, 2024 in which the State Bar of Nevada will be reviewing circumstances surrounding State Bar order No. 77095. Yarmy advised Yakubik that it is likely that he will be dis-barred for six to eighteen months.

² Yarmy requested prior continuation due to neuropathy and health concerns

³ February 28, 2024 Yakubik met with Air Quality staff and was advised that on multiple occasions that Yarmy had failed to respond to their agency.

As of this time, no parties identified in the above referenced NOV's are represented by counsel and I request all future correspondence be sent to the address above.

I am available via telephone at 702-241-4040 or at the address above. Thank you in advance for your consideration of the request and we look forward to a timely resolution to the above referenced items.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Yakubik', with a stylized flourish at the end.

Joe Yakubik
Personal Capacity
As Owner 1028 Athens Ave
As Manager of Atlas Holdings International, LLC

VIA: Fed Ex and Hand Deliver

cc: File



4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

March 7, 2024

CERTIFIED MAIL #9489 0090 0027 6522 1271 22

Joseph and Darcie Yakubik, Property Owners

E-mail: joe@assurednv.com

P.O. Box 530778

Henderson, NV 89053

FEDERAL EXPRESS TRK #775462849514

Joseph and Darcie Yakubik, Property Owners

1028 Athens Avenue

Henderson, NV 89015

FEDERAL EXPRESS TRK #775462754234

Joseph and Darcie Yakubik

c/o Jarrod L. Rickard, Semenza Rickard Law

E-mail: jlr@semenzarickard.com

10161 Park Run Drive, Suite 150

Las Vegas, NV 89145

NOTICE OF VIOLATION #9981

Clark County Department of Environment and Sustainability, Division of Air Quality (**Air Quality**) provides this notice to Joseph Yakubik (**Yakubik**) and Darcie Yakubik (**D. Yakubik**), individually, for the violation of the Clark County Air Quality Regulations (**AQRs**) as alleged below and recommends a civil penalty of Four Thousand and no/100 Dollars (\$4,000.00) be assessed as shown in the penalty calculation table attached hereto as **Exhibit A** and incorporated herein.

I. FACTS

- A. Senior Air Quality Specialists Katrinka Byers (**Byers**) and Andrew Kirk (**Kirk**), and Air Quality Supervisor David Dean (**Dean**), discovered the alleged violations while performing 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.

- B. On January 17, 2024, at approximately 1:00 p.m., Byers arrived at the 1028 Athens Avenue construction site to conduct an initial inspection within parcel numbers 160-33-801-020 and 160-33-801-021. The inspection report is attached hereto as **Exhibit B** and incorporated herein. During Byers' inspection, she observed approximately 0.47 acres of dry, loose, and powdery soil conditions, no trackout control device, and approximately 1.02 acres of construction activities occurring without a Dust Control Operating Permit (**DCOP**) as shown in Photographs 1 through 8 and the Acreage Map attached hereto as **Exhibits C** and **D**, respectively, and incorporated herein. Byers also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 1 attached hereto as **Exhibit E** and incorporated herein. Byers concluded her inspection at approximately 2:30 p.m.
- C. On January 18, 2024, at approximately 1:00 p.m., Byers e-mailed Yakubik concerning her observations of noncompliance and the issuance of a Notice of Noncompliance (**NON**). The **NON** was included in an e-mail to Yakubik and is attached hereto as **Exhibit F** and incorporated herein.
- D. On January 19, 2024, at approximately 11:00 a.m., Byers and Dean arrived at the 1028 Athens Avenue construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit G** and incorporated herein. During the inspection, Byers and Dean observed approximately 0.47 acres of dry, loose, and powdery site soils, no trackout control device, and approximately 1.02 acres of construction activities occurring without a **DCOP** as shown in Photographs 9 through 19 (**Exh. C**) and the Acreage Map (**Exh. D**). While onsite, Byers spoke to a worker by the name of Jeff, informed him of the noncompliance issues, and requested that he notify Yakubik. Byers also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 2 attached hereto as **Exhibit H** and incorporated herein. During the inspection, Byers also spoke with Paul Yakubik (**P. Yakubik**), owner of parcel 160-33-801-020, and provided her credentials as he requested. Byers and Dean concluded their inspection at approximately 12:45 p.m.
- E. On February 2, 2024, at approximately 2:45 p.m., Byers sent an e-mail correspondence to Yakubik. The e-mail correspondence is attached hereto as **Exhibit I** and incorporated herein. Within the e-mail correspondence, Byers re-iterated the requirements outlined in the **NON** issued to Yakubik for noncompliance observed on January 17, 2024 (**Exh. F**). The e-mail **further informed Yakubik of Byers' follow-up** inspection findings, included a map of the areas to be permitted, and stated the project was still in non-compliance.
- F. On February 14, 2024, at approximately 1:30 p.m., Byers and Kirk arrived at the 1028 Athens Avenue construction site to conduct a follow-up inspection. The inspection report is attached hereto as **Exhibit J** and incorporated herein. During their inspection, Byers and Kirk observed approximately 1.02 acres of construction activities occurring without a **DCOP** and no trackout control device, as shown in Photographs 20 through 25 (**Exh. C**) and the Acreage Map (**Exh. D**). Byers and Kirk concluded their inspection at approximately 2:00 p.m.
- G. On February 15, 2024, at approximately 7:43 a.m., Byers sent an e-mail correspondence to Yakubik. The e-mail correspondence is attached hereto as **Exhibit K** and incorporated herein. Within the e-mail correspondence, Byers re-iterated the requirements outlined in the **NON**

issued to Yakubik for noncompliance observed on January 17, 2024 (**Exh. F**). The e-mail correspondence further informed Yakubik of Byers and Kirk’s February 14, 2024 follow-up inspection findings, included a map of the areas to be permitted, and stated the project was still in non-compliance.

II. VIOLATIONS

Violation 1:

By failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, Yakubik and D. Yakubik violated AQR Sections 94.13(a) and (b).

AQR Sections 94.13(a) and (b) state:

- “(a) Any Person who engages in a Construction Activity or Temporary Commercial Activity, with or without a Permit, shall employ BACM and comply with soil stabilization standards (Section 94.12) and Emissions standards (Section 94.14).
- (b) Control Measures that are listed in the approved Permit, and other measures as needed for the purpose of maintaining Dust control, shall be implemented 24 hours a day, seven days a week, until the Permit is closed in accordance with Section 94.5(n)(2).”

Violation 2:

By failing to obtain a DCOP prior to commencing construction activities, Yakubik and D. Yakubik violated AQR Section 94.4.1(a).

AQR Section 94.4.1(a) states:

- “(a) Except as provided in Section 94.3, no Person shall commence any Construction Activities or Temporary Commercial Activities except in compliance with a Permit that authorizes such activities.”

III. RECOMMENDED CIVIL PENALTY

Pursuant to AQR Section 9.1, any person who violates any provision of the AQRs, including any permit condition; is guilty of a civil offense and shall pay a civil penalty not to exceed \$10,000 per violation. Each day of violation constitutes a separate offense.

Air Quality considered the following in calculating the recommended penalty:

- Violation 1 occurred within 1,000 feet of the outer boundary of a residential area as described in Paragraphs I.B and I.D above (**Exh. E and H**).

Air Quality recommends a civil penalty in the amount of \$4,000.00 (**Exh. A**).

IV. HEARING

Air Quality has scheduled a hearing for **Thursday, March 21, 2024, at 9:00 a.m.** before the Air Pollution Control Hearing Officer to adjudicate the alleged violation(s) and, if appropriate, to levy the recommended penalty. Please complete the enclosed **“Notice of Violation Response Form”** and return it to Air Quality by March 11, 2024. At the hearing, the Hearing Officer will hear evidence on the alleged violation(s) and render a decision. The hearing will be held at the Clark County Building Services Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada.

If you intend to present any documentary evidence at the hearing, please provide copies of your evidence to Air Quality with the completed Notice of Violation Response Form. If you fail to provide copies of your evidence prior to the hearing, please be advised that Air Quality may request a continuance to have time to review any evidence you bring to the hearing, which will result in the hearing being postponed and rescheduled to a later date.

If the Hearing Officer finds you in violation and levies a penalty, Air Quality staff will mail the Hearing Officer’s order to you along with instructions on remittance of the penalty.


Shibi Paul (Mar 7, 2024 15:17 PST)

Shibi Paul
Compliance and Enforcement Manager

Exhibits:

- A. Penalty Calculation Table, NOV #9981
- B. Air Quality Construction Site Inspection Form #137241, dated January 17, 2024
- C. Digital Photographs 1 through 25
- D. Acreage Map: Showing the approximate areas of construction activity on January 17, 2024
- E. Map 1: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on January 17, 2024
- F. Air Quality Notice of Noncompliance for January 17, 2024
- G. Air Quality Construction Site Inspection Form #137312, dated January 19, 2024
- H. Map 2: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on January 19, 2024
- I. E-mail Correspondence dated February 2, 2024
- J. Air Quality Construction Site Inspection Form #137981, dated February 14, 2024
- K. E-mail Correspondence dated February 15, 2024

sjg

Exhibit A

NOV # 9981
Penalty Calculation Table
Joseph Yakubik and Darcie Yakubik, Individually



4701 W. Russell Road 2nd Floor
 Las Vegas, NV 89118-2231
 Phone: (702) 455-5942 • Fax: (702) 383-9994
 Marci Henson, Director

Viol.	Date(s)	Violation Description	AQR Section	Exhibit / Evidence	Base Penalty	Days	Aggravating Description	Agg. Factor	Agg. Amount	Penalty
1	1/17/2024	Failed to employ Best Available Control Measures and comply with soil stabilization standards 24/7.	94.13(a) and (b)	Exh. C, Photos 1 and 2 Exh. E, Map 1	\$ 1,000	2	Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 250.00	\$ 1,250.00
	Exh. C, Photos 10 thru 13 and 15 thru 19 Exh. H, Map 2			Occurred within 1,000 feet of a residential area (+25% per day)			25%	\$ 250.00	\$ 1,250.00	
2	1/17/2024	Failed to obtain a DCOP prior to engaging in construction activities.	94.4.1(a)	Exh. C, Photos 1 through 8 Exh. D, Acreage Map	\$ 500	3	N/A	0%	\$ -	\$ 500.00
	1/19/2024			Exh. C, Photos 9 thru 19 Exh. D, Acreage Map			N/A	0%	\$ -	\$ 500.00
	2/14/2024			Exh. C, Photos 20 thru 25 Exh. D, Acreage Map			N/A	0%	\$ -	\$ 500.00

Total Penalty: \$ 4,000.00

Regulatory maximum: \$10,000 per day, per violation
 [AQR Section 9.1 & NRS 445B.640]



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit B

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137241

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Jan 17, 2024	1:00 PM	2:30 PM	Initial		57592
Permittee:	Project Name:		Project Location:			
	NO DCOP/ Yakubik		1028 Athens Avenue, Henderson Nevada 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	55 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes	Joe Yakubik	Owner	Email		
		Spoke With:	Title:	Comm. Method:		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable		Size of Instability:	0.47 acres		
Trackout Device:	No - Needed		Has Trackout:	No		
Mitigation Equipment:	Inadequate		Soil Crust Determination:	Not Necessary/Not Performed		
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	1.02 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	Off-Site (Not included in acreage)	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.		Equipment Onsite:		
Inspector Notes:			Approved By:	Katrinka Byers		
<p>I conducted a routine patrol inspection and observed workers operating in dry, loose and powdery site soils on approximately 1.02 acres with no available BACM, no valid operating dust control permit, no trackout control device and no dust sign. I issued a Notice of Non-Compliance with a possible NOV to Mr. & Mrs. Joe Yakubik (Property Owners) to stabilize all site soils immediately, apply for a valid dust control permit by the close of business Friday, 01/19/2024, install a trackout control device at the exit point of Athens Avenue by close of business Monday, 01/22/2024 and post a dust permit sign by the close of business Friday, 02/02/2024. The NON to be emailed to Mr. & Mrs. Joe Yakubik on 1/18/2024.</p>						

Exhibit C

Digital Photographs

Construction Project #: **57592** Responsible Party: **Joseph and Darcie Yakubik**

Project Name: **NO DCOP/Yakubik**

Photos taken by: **See photo description**



Photograph # 1

Alleged Violation # 1, 2

View looking southeast at workers conducting construction activities without a valid dust control operating permit in dry, loose and powdery site soils at 1028 Athens Avenue for the Yakubik Residence. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 2

Alleged Violation # 1, 2

Up close view of workers operating in dry, loose and powdery site soils creating fugitive dust with no Best Available Control Measures (BACM) and no valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 3

Alleged Violation # 2

View looking southeast at materials staged onsite with no valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 4

Alleged Violation # 2

View looking northeast at workers conducting construction activities without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 5

Alleged Violation # 2

View looking northeast at a new addition without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 6

Alleged Violation # 2

View looking north at the construction of a new pump house without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 7

Alleged Violation # 2

View looking southwest at a worker operating a mini-excavator for the construction work conducted on the Yakubik property without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 8

Alleged Violation # 2

View looking southeast at workers parking and accessing Mr. Yakubik's site through the parcel to the west, owned by Mr. Paul Yakubik. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 9

Alleged Violation # 2

View looking northeast at workers conducting construction activities on the pool house during a follow-up visit without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 10

Alleged Violation # 1, 2

View looking west at dry, loose and powdery site soils and the access to Mr. Yakubik's project site through the parcel to the west owned by Mr. Paul Yakubik. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 11

Alleged Violation # 1, 2

View looking northeast at dry, loose and powdery site soils within the staging area located behind the garage/indoor basketball court. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 12

Alleged Violation # 1, 2

View looking south at dry, loose and powdery site soils with no available BACM. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 13

Alleged Violation # 1, 2

View looking southwest at the staging/parking area and access to Joe Yakubik's project through the parcel to the west (owned by Mr. Paul Yakubik). Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 14

Alleged Violation # 2

View looking northeast at construction work without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 15

Alleged Violation # 1, 2

View looking east at construction activities in dry, loose and powdery site soils with no valid dust control operating permit and no available BACM. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 16

Alleged Violation # 1, 2

View looking east at staging material in dry, loose and powdery site soils. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 17

Alleged Violation # 1, 2

View looking east at dry, loose and powdery site soils with no available BACM. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 18

Alleged Violation # 1, 2

View looking south at dry, loose and powdery site soils with no available BACM. Photo taken by Senior Air Quality Specialist, Katrinka Byers.



Photograph # 19

View looking south at dry, loose and powdery site soils. Photo taken by Senior Air Quality Specialist, Katrinka Byers.

Alleged Violation # 1, 2



Photograph # 20

Photo looking southeast at staging material for the construction activities occurring without a valid dust control operating permit during a follow-up inspection. Photo taken by Senior Air Quality Specialist, Andrew Kirk.

Alleged Violation # 2



Photograph # 21

Alleged Violation # 2

View looking south at staging material & equipment on both Joe Yakubik's Lot#020 & Paul Yakubik's Lot#021 for the construction activities occurring at 1028 Athens Avenue without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Andrew Kirk.



Photograph # 22

Alleged Violation # 2

View looking south at staging material with no valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Andrew Kirk.



Photograph # 23

Alleged Violation # 2

View looking southeast at a new addition and staging of material without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Andrew Kirk.



Photograph # 24

Alleged Violation # 2

View looking northeast at the construction activity taking place during a follow-up inspection without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Andrew Kirk.



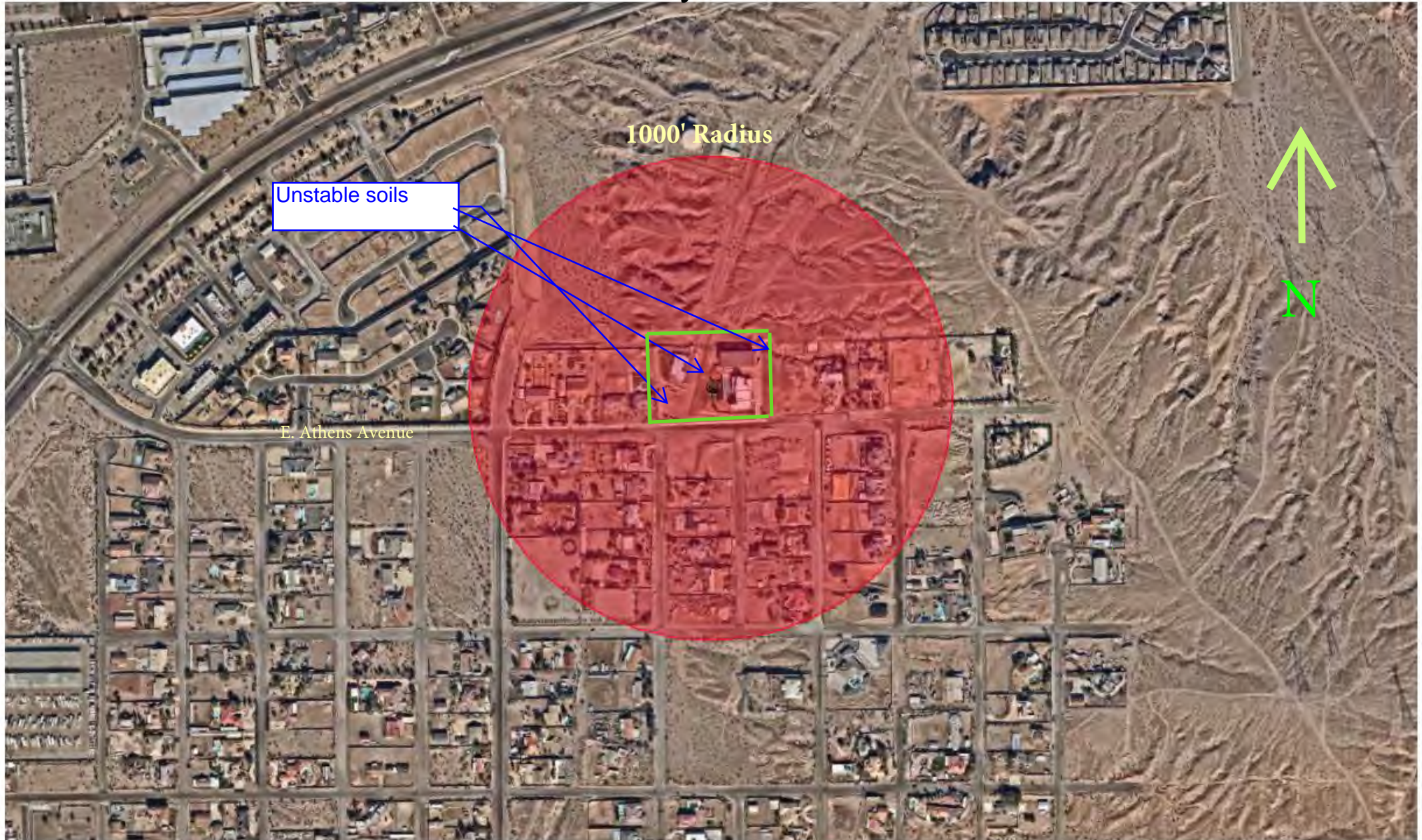
Photograph # 25

Alleged Violation # 2

View looking northwest at entrance to the staging/parking area observed on the parcel to the west of Mr. Joe Yakubik without a valid dust control operating permit. Photo taken by Senior Air Quality Specialist, Andrew Kirk.



Acreage Map - Showing location of construction activities without a valid DCOP



MAP 1: Showing approximate location of unstable soils within 1,000 feet of a residential area



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit F

NOTICE OF NONCOMPLIANCE

Issued To: Joe & Darci Yakubik

Project Name: NO DCOP/Yakubik

Location: 1028 Athens Avenue, Henderson Nevada 89015 Parcel#16033801020 & Parcel#16033801021

Construction Project No: 57592

Date: Jan 17, 2024

Time: 2:30 PM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

Unstable Soil Conditions – Provide and maintain adequate measures to prevent fugitive dust by maintaining all project soils in a visibly damp, crusted, or otherwise stabilized condition per AQR Section 94.12. This applies 24 hours a day 7 days a week.

Trackout

Install a trackout control device at the exit point onto Athens Avenue by COB Monday, 01/22/2024.

No Valid Dust Control Permit – Submit a complete application for a Dust Control Permit to the Division of Air Quality. Comply by close of business on Jan 19, 2024. Permit late fees will apply.

No / Improper Signage – Install and maintain a Dust Control Permit Sign in compliance with AQR Section 94.11. Comply by close of business on Feb 2, 2024. See Appendix 3 of AQR Section 94 for specifications.

Additional Instructions / Other Noncompliance Items

*Stabilize all site soils immediately and maintain in a moist and crusted condition 24/7

*Apply for a valid dust control operating permit by COB Friday, 01/19/2024. LATE FEES WILL BE APPLIED

*Install a trackout control device at the exit point onto Athens Avenue by COB Monday, 01/22/2024

*Post a dust permit sign by the close of business Friday, 02/02/2024

NOTE: The Construction Project No:57592 will be your official dust control operating permit number once you submit the permit application.

Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- **Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.**
- **Please contact DAQ representative below regarding questions related to this notice.**

Person Notified:

Joe & Darci Yakubik

Owner

Parcel#16033801020-021

(Printed Name)

(Title)

(Company)

assuredmm@gmail.com

joe@assurednv.com

(Email Address)

Person Notified:

(Printed Name)

(Title)

(Company)

(Email Address)

DAQ Representative:

Katrinka Byers

702-249-6093

KLB

(Printed Name)

(Phone Number)

From: [Katrinka Byers](mailto:Katrinka.Byers@clarkcountynv.gov)
To: [Joe Yakubik](mailto:Joe.Yakubik@assurednmi@gmail.com); assurednmi@gmail.com
Cc: [Catherine Jorgenson](mailto:Catherine.Jorgenson@clarkcountynv.gov); [Steven Yarmy](mailto:Steven.Yarmy@clarkcountynv.gov); [Mike Englehardt](mailto:Mike.Englehardt@clarkcountynv.gov); [Andrew Kirk](mailto:Andrew.Kirk@clarkcountynv.gov); [David Dean](mailto:David.Dean@clarkcountynv.gov); luz@yarmylaw.com; [David Dean](mailto:David.Dean@clarkcountynv.gov)
Subject: Notice of Non-Compliance for Construction Project#57592
Date: Thursday, January 18, 2024 1:02:00 PM
Attachments: [image001.png](#)
[image003.png](#)
[57592_20240117_NON.pdf](#)
Importance: High

Good afternoon Mr. & Mrs. Yakubik,

Please review the attached Notice of Noncompliance (NON) with Air Quality Regulations (AQRs) for the NO DCOP/Yakubik project, Construction Project# 57592 located at **1028 Athens Avenue, Henderson Nevada 89015**, Parcel#16033801020 & 021, and comply with the requirements by the specified dates.

NOTE: The Construction Project#57592 will be your official dust control operating permit number once you submit the permit application and pay the permit fees.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. This NON may result in a Notice of Violation (NOV) that may result in civil penalties. We appreciate your continued cooperation in maintaining compliance on this project. We will continue to conduct inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

Sincerely,
Katrinka Byers

The map below highlighted in red show the areas requiring a dust control operating permit for construction activities disturbing a total of 1.019 acres.



Katrinka Byers



Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)

From: [Steven Yarmy](#)
To: [Katrinka Byers](#)
Subject: Read: Notice of Non-Compliance for Construction Project#57592
Date: Friday, January 19, 2024 11:58:52 AM
Importance: High

Your message

To: Joe Yakubik; assuredmm@gmail.com
Cc: Catherine Jorgenson; 'Steven Yarmy'; Mike Englehart; Andrew Kirk; David Dean; luz@yarmylaw.com; David Dean
Subject: Notice of Non-Compliance for Construction Project#57592
Sent: 1/18/2024 1:02 PM
was read on 1/19/2024 11:58 AM.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit G

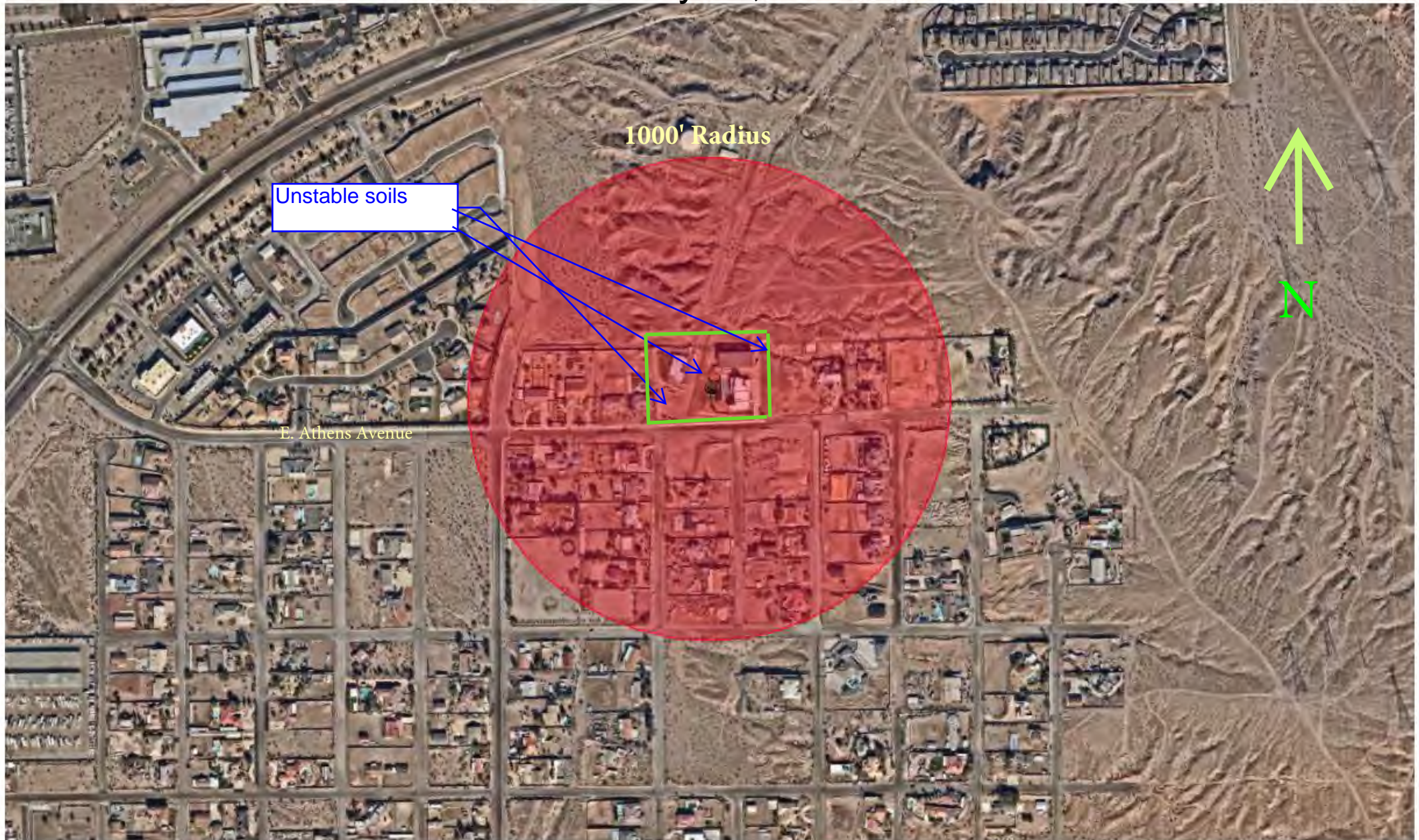
CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137312

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Jan 19, 2024	11:00 AM	12:45 PM	Follow-up		57592
Permittee:	Project Name:		Project Location:			
	NO DCOP/ Yakubik		1028 Athens Avenue, Henderson Nevada 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Partly Cloudy	No	55 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes	Jeff	Foreman	In Person		
		Spoke With:	Title:	Comm. Method:		
		Paul Yakubik	Owner	In Person		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	0.47 acres			
Trackout Device:	No - Needed	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	1.02 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.:	Equipment Onsite:			
Inspector Notes:			Approved By:	Katrinka Byers		
<p>My supervisor, David Dean & I conducted a follow-up inspection at 1028 Athens Avenue, Henderson (Parcel# 16033801021) and observed workers onsite constructing a pool equipment storage building and operating on approximately .47 acres of dry, loose, powdery soils with no BACM available, no valid dust control permit and no trackout control device. I spoke with Jeff (construction worker) and confirmed he was hired by Mr. Joe Yakubik operating without a valid operating dust control operating permit. During my inspection I also observed staging material used for the construction project stored on both Mr. Joe Yakubik's lot (021) and the neighboring lot below, owned by his parents (Paul & Charlotte Yakubik)-Parcel# 16033801020. I observed a new addition being constructed to the existing basketball court and a newly poured outside pool patio. I also confirmed with the workers onsite, the only access to Mr. Joe Yakubik's property with heavy equipment and vehicles is through the neighboring property owned by Mr. & Mrs. Paul Yakubik lot (020). I told Jeff this inspection was another possible day of violation, to stabilize all site soils immediately, add a trackout control device at the exit and submit a valid dust control operating permit application by the close of business Monday, 01/22/2024 and to pass the information on to Mr. Joe Yakubik. During our inspection, Mrs. Charlotte Yakubik on lot #020 began to yell at my supervisor, Mr. Dean saying, "If we don't get off of her son's property lot#021 immediately she was going to lock us in". She also said we were not allowed to use her driveway to access her son's lot. My supervisor relocated the county vehicle and re-</p>						



Division of Air Quality
4701 W. Russell Rd. Suite 200 2nd Floor
Las Vegas, NV 89118
Main Number: (702)455-5942
Fax Number: (702)383-9994

parked on Athens Avenue located south of the project. Mrs. Yakubik then locked the entry gate in which I originally entered the project and would not allow me to leave through her property. As I was leaving the area, Mr. Paul Yakubik (Father of Joe Yakubik) approached me and asked to see my credentials. Mr. Yakubik was very pleasant and apologized for his wife locking the access gate. During my discussion with Mr. Paul Yakubik, he indicated he saw the email that I sent out to his son Joe Yakubik on 1/18/2024 requiring a dust control permit for the construction activity taking place on both properties and asked if his property could be left off the permit. I explained the area on his property could be left off if he blocked access to the construction workers entering his property so that only Joe's lot was utilized. Once we were finished with our inspection, we drove across the street to conduct additional inspections on several dust permits located within the area, during that time, Mr. Joe Yakubik followed us to the jobsite, parked his black SUV approximately 30 yards away from where we were standing and started video recording us with his phone. Within minutes of driving across the street, several police vehicles with the City of Henderson Police arrived and approached us saying that Mr. Joe Yakubik reported that we opened gates to his property and trespassed and were in his personal home taking photos of his daughter. I showed the police officers (L. Giordano) the photos that we took onsite and explained why Air Quality was on Mr. Yakubik's property. I also showed Mr. Giordano the email I sent to Mr. Yakubik yesterday, 1/18/2024, notifying Mr. Yakubik he needed to apply for a dust control permit and that we will continue to conduct inspections to verify compliance on this project. The matter was escalated to the police sergeant as Mr. Yakubik was very unhappy the police were not finding any laws violated from our inspection. The sergeant arrived onsite, took our statements, and also confirmed we were not in violation of any laws, and stated as government officials, we entered open driveways and open gates with no evidence of any trespass signs posted to prevent us from entering the premises. In the future, the officers recommend that we dial 311 to request police backup when conducting inspections on Mr. Yakubik's property. We determined this project continues to be out of compliance Air Quality Regulations and this is another day of non-compliance.



043

MAP 2: Showing approximate location of unstable soils within 1,000 feet of a residential area

Exhibit I

From: [Katrinka Byers](mailto:Katrinka.Byers@clarkcountynv.gov)
To: [Joe Yakubik](mailto:Joe.Yakubik@assurednmi@gmail.com); assurednmi@gmail.com
Cc: [Catherine Jorgenson](mailto:Catherine.Jorgenson@clarkcountynv.gov); [David Dean](mailto:David.Dean@clarkcountynv.gov); [Mike Englehart](mailto:Mike.Englehart@clarkcountynv.gov); [Nahulu Kahanani](mailto:Nahulu.Kahanani@clarkcountynv.gov); [Andrew Kirk](mailto:Andrew.Kirk@clarkcountynv.gov); sly@stevenyarmlyaw.com; luz@yarmlyaw.com
Subject: Another day of Non-Compliance for 1028 Athens Avenue, Henderson Nevada 89015 Construction Project#57592
Date: Friday, February 2, 2024 2:45:00 PM
Attachments: [image002.png](#)
Importance: High

Good afternoon Mr. Yakubik,

As of 2/02/2024, Air Quality has not received a valid dust control operating permit application for **1028 Athens Avenue, Henderson Nevada 89015**, Parcel#16033801020 & 021 Construction project #57592 for the 1.019 acres. This is another day of non-compliance for failure to comply with Air Quality Regulations.

*A Dust Control Operating Permit application was required to be submitted to us by close of business 1/19/2024 as explained in my email I sent to you on 1/18/2024. A valid dust control operating permit application must be submitted for the construction activities shown on the map below immediately.

NOTE: The Construction Project#57592 will be your official dust control operating permit number once you submit the permit application and pay the permit fees.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. This is another day of non-compliance which may result in a Notice of Violation (NOV) with civil penalties. We will continue to conduct on-site inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

The area highlighted in red on the map below requires a valid dust control operating permit: (1.019 acres)

NOTE: The Construction project #57592 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)



Exhibit J

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 137981

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Feb 14, 2024	1:30 PM	2:00 PM	Follow-up		57592
Permittee:	Project Name:		Project Location:			
	NO DCOP/ Yakubik		1028 Athens Avenue, Henderson Nevada 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	56 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:		Comm. Method:	
No	Yes	Joe Yakubik	Owner		Email	
		Spoke With:	Title:		Comm. Method:	
Is the project in compliance with all air quality requirements?						No
Action Taken:	Possible NOV	Violation in 1000 feet of:	Residential			
Emission Compliance:						Yes
Fugitive Dust Source:	Plume Length:					
Opacity:	Opacity Test Method:					
BMP Compliance:						No
Project Soils:	Stable	Size of Instability:				
Trackout Device:	No - Needed	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Not Necessary/Not Performed			
Admin Compliance:						No
Acreage Permitted:	Observed Acreage:	1.02 acres	Project Size:	Greater than permitted		
Staging/Parking Area:	DCOP Sign:	No	DCOP Onsite:	No		
SS Permit(s):	No Equipment	SS Permit No.	Equipment Onsite:			
Inspector Notes:			Approved By:	Katrinka Byers		
<p>Senior Air Quality Specialist, Andrew Kirk & I conducted a follow-up inspection at this project and observed no valid Dust Control Operating Permit (DCOP) application submitted and no trackout control device installed at the exit onto Athens Avenue. An e-mail to be sent to Mr. Joe Yakubik, owner, on 2/15/2024 to let him know about the results of our inspection. This is another day of non-compliance with a possible NOV for not complying with Air Quality Regulations.</p>						

Exhibit K

From: [Katrinka Byers](mailto:Katrinka.Byers@ccsds.com)
To: [Joe Yakubik](mailto:Joe.Yakubik@ccsds.com); assurednmi@gmail.com
Cc: [Catherine Jorgenson](mailto:Catherine.Jorgenson@ccsds.com); [David Dean](mailto:David.Dean@ccsds.com); [Mike Englehart](mailto:Mike.Englehart@ccsds.com); [Nahulu Kahananui](mailto:Nahulu.Kahananui@ccsds.com); [Andrew Kirk](mailto:Andrew.Kirk@ccsds.com); sly@stevenyarmlyaw.com; luz@yarmlyaw.com
Subject: RE: Another day of Non-Compliance for 1028 Athens Avenue, Henderson Nevada 89015 Construction Project#57592
Date: Thursday, February 15, 2024 7:43:00 AM
Attachments: [image001.png](#)

Good morning Mr. Yakubik,

Senior Air Quality Specialist, Andrew Kirk & I conducted a field inspection yesterday afternoon, 02/14/2024 and observed construction activities at 1028 Athens Avenue, Henderson Nevada 89015, parcel#16033801020 & 021 Construction- project #57592 for the 1.019 acres without a valid dust control operating permit application. This is another day of non-compliance for failure to comply with Air Quality Regulations.

*A Dust Control Operating Permit application was required to be submitted to us by close of business 1/19/2024 as explained in my email I sent to you on 1/18/2024. A valid dust control operating permit application must be submitted for the construction activities shown on the map below immediately. A Notice of Violation with civil penalties will continue to accrue for this project site until the project is in compliance with Air Quality Regulations.

NOTE: The Construction Project#57592 will be your official dust control operating permit number once you submit the permit application and pay the permit fees.

Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. **Failure to reply to this email does not prevent that this is another day of non-compliance which may result in a Notice of Violation (NOV) with civil penalties.** We will continue to conduct on-site inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

The area highlighted in red on the map below requires a valid dust control operating permit: (1.019 acres)

NOTE: The Construction project #57592 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Katrinka Byers

Clark County Senior Air Quality Specialist

REHS

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)



March 21, 2024

Dear pamela 9981 POB:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6522 1271 22.

Item Details

Status:	Delivered, PO Box
Status Date / Time:	March 14, 2024, 8:31 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
----------------	-------

Recipient Signature

Note: There is no delivery signature on file for this item.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



March 11, 2024

Dear Customer,

The following is the proof-of-delivery for tracking number: 775462754234

Delivery Information:

Status:	Delivered	Delivered To:	Receptionist/Front Desk
Signed for by:	B.POWE	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday		LAS VEGAS, NV,
		Delivery date:	Mar 11, 2024 09:41

Shipping Information:

Tracking number:	775462754234	Ship Date:	Mar 8, 2024
		Weight:	0.5 LB/0.23 KG
Recipient:		Shipper:	
LAS VEGAS, NV, US,		LAS VEGAS, NV, US,	

Reference	NOV 9981
Purchase Order	4500368555-030

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.



March 11, 2024

Dear Customer,

The following is the proof-of-delivery for tracking number: 775462849514

Delivery Information:

Status:	Delivered	Delivered To:	Residence
Signed for by:	Signature not required	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday; Residential Delivery		HENDERSON, NV,
		Delivery date:	Mar 11, 2024 15:04

Shipping Information:

Tracking number:	775462849514	Ship Date:	Mar 8, 2024
		Weight:	0.5 LB/0.23 KG
Recipient:		Shipper:	
HENDERSON, NV, US,		LAS VEGAS, NV, US,	

Reference	NOV 9981
Purchase Order	4500368555-030

Proof-of-delivery details appear below; however, no signature is available for this FedEx Express shipment because a signature was not required.

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**Atlas Holdings International LLC and
Joseph Yakubik, Individually
(Construction Project #57391)**

Appeal of NOV #10008

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REQUEST FOR HEARING BEFORE THE CLARK COUNTY AIR POLLUTION CONTROL HEARING BOARD

Appeal of Hearing Officer's Order

1. **Date of Appeal:** June 5, 2024
(Must be within 10 days of receipt of Hearing Officer Order)

Notice of Violation # 10008 Hearing Date: _____

Hearing Officer: Holly Fic

2. **Name, address, telephone number of Appellant:**

Name: Atlas Holdings International LLC and Joseph Yakubik
(Please print)

Address: C/O Right Lawyers 600 S. Tonopah Dr. Suite 300 Las Vegas NV 89106

Telephone: 702-445-4425 Fax: NA

Email: rock@rightlawyers.com

3. **Other person or persons authorized to receive service of notice:**

Name: _____
(Please print)

Address: _____

Telephone: _____ Fax: _____

Email: _____

4. **Type of business or activity and location of activity involved in the request:**

Development / Construction

5. **Reason for appeal:** Facts alleged Penalty assessed Both

Provide a detailed explanation of the reason for your appeal:

Motion supporting appeal is attached.

6. An application filing fee of \$140.00 must accompany this application. This fee is non-refundable. Please make check payable to Division of Air Quality or DAQ and mail to 4701 W. Russell Road, Suite 200, Las Vegas, NV 89118.

The appellant or a representative of the appellant must be present at the hearing board meeting to answer any questions by the Air Pollution Control Hearing Board Members. **Please include any supporting documentation with this form for distribution to the respective board members.**

I affirm that all statements made on this application are true and complete to the best of my knowledge.

Signature: *R. Rocheleau* Date: 6/5/24

Printed Name: Rock Rocheleau

Title: Attorney for Atlas Holdings International LLC & Joseph Yakubik

FOR OFFICE USE ONLY

Application Received on June 5, 2024
Application Fee \$140.00 - Check ✓ 7016 Received Date: 6/5/2024



Clark County Nevada Department of Environment and Sustainability
 4701 W Russell Road, Suite 200, Las Vegas, NV 89118
 Phone (702) 455-5942 Fax (702) 383-9994
 AirQuality@clarkcountynv.gov

RECEIPT

ROCHELEAU LAW GROUP PC DBA RIGHT LAWYERS
 800 S TONOPAH DR., SUITE 300
 LAS VEGAS, NV 89106

Invoice #	Invoice Date	Invoice By	Invoice Type	Due Date
068452	6/5/2024	SHERRIER	AIR QUALITY OTHER ENFORCEMENT	6/5/2024

Quantity	Description	Fee Code	Fee	Total
1.00	HEARING BOARD REQUEST	AGHB01	\$140.00	\$140.00
	06/05/2024 CHECK (7016)	PAYMENT		(\$140.00)

Notes: NOV #10008, Hearing Officer Appeal, Submitted 6/5/2024

Subtotal:	\$140.00
Paid:	(\$140.00)
Adjustments:	\$0.00
Balance Due:	\$0.00

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1
2 ROCHELEAU LAW GROUP
3 dba RIGHT LAWYERS
4 Rock Rocheleau, Esq.
5 Nevada Bar No. 15315
6 rock@rightlawyers.com
7 600 South Tonopah Drive, Suite 300
8 Las Vegas, Nevada 89106
9 702-914-0400
10 Attorneys for Respondents

RECEIVED CC DAQ
2024 JUN 25 PM3:52

RS

11
12 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
13 **CLARK COUNTY, NEVADA**

14
15 In the Matter of the Notice of Violation
16 #9907, #9946, #9979, #10008

17 Issued To:
18 Assured Development, Inc., Atlas
19 Holdings International, LLC, Joseph
20 Yakubik, Individually, and
21 Darcie Yakubik, Individually,

22 Respondents,

23
24 **AMENDED MOTION FOR APPEAL, DISCOVERY OPENED, A**
25 **CONTINUANCE, AND HEARING MASTER RE-ASSIGNMENT,**

26 Respondents, through Rock Rocheleau, Esq., files this amended motion
27 requesting; 1) An appeal of NOVs #9907, #9946, #9979, and #10008, 2)
28 Respondent be allowed to request discovery, and 3) A hearing master re-
assignment if the NOVs are being remanded to a hearing master. This request is
made on the points and authorities listed below.

INTRODUCTION

1
2 Respondents should be afforded the right to place facts, testimony, evidence,
3 and law before an “impartial” hearing master. Unfortunately, Hearing Master
4 Holly Fic (Fic) is not impartial to the Respondents. Fic does not believe Air Quality
5 enforcement officers (AQ) selectively enforcing regulations against Respondent is
6 a relevant defense for Respondent. The Supreme Court of the United States, and
7 the Nevada Supreme Court disagree with Fic. Selective enforcement is a
8 constitutional violation and if proven is a relevant defense to the violations
9 Respondents were charged with. First, if selective enforcement is proven, it needs
10 to stop because it is a constitutional violation. Second, if selective enforcement is
11 proven, it shows bias. And the testimony of a biased AQ enforcement officer should
12 be disregarded. Also, Fic does not see AQ enforcement officers trespassing on
13 Respondents’ private property as a relevant defense. Again, the Supreme Court,
14 and the Nevada Supreme Court disagree with Fic. Violating the Respondents’
15 fourth amendment rights by illegally searching is completely relevant to
16 Respondents’ defense. First, if there was an illegal search, all the evidence obtained
17 during the search would be inadmissible. Second, a purposeful illegal search could
18 support bias by AQ. A showing of bias should also lead to any subjective testimony
19 by AQ being disregarded. If Respondent shows AQ selective enforced Responded
20 or are bias to Respondent, then only objective evidence of a violation should be
21 considered.
22
23
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1 Yakubik then received emails from AQ staff pointing out where he
2 personally resided, making false accusations about property ownership and
3 statements that appeared to be skewed. Due to the nature of this communication
4 and the posture of AQ, Assured and Yakubik immediately retained counsel. This
5 infuriated AQ staff, and rather than correspond with Yakubik's counsel, AQ staff
6 began to inundate Yakubik with emails and countless "routine inspections." AQ
7 staff later stated, if Yakubik would have simply met AQ staff on site, he would have
8 been treated differently. Over the course of 30 days, AQ fined Assured, and
9 Yakubik (as an individual), \$5,000, under Notice of Violation (NOV) #9907, for
10 failing to "long term" stabilize the soil on a close out.
11

12
13
14 In November 2023, AQ received a DCOP permit for Atlas Holdings
15 International LLC (Atlas) for two one-acre custom homes. From November 2023
16 until December 2023 AQ fined Atlas and Yakubik (as an individual) \$5,937.50
17 under NOV #9946 for failing to control best available control measures for loose
18 dirt and soil. Yakubik disagreed with these fines and believed his contractors were
19 following the guidelines. These violations should have been issued to the active
20 DCOP #50962 on the property, and not to Atlas.
21

22
23
24 During January 2024, AQ fined Atlas and Yakubik (as an individual) an
25 additional \$4,000 under NOV #9979 for failing to control best available control
26 measures for loose dirt and soil. Again, Yakubik disagreed with these fines.
27
28

1 NOV hearings were scheduled and then continued at the request of Yakubik's
2 attorney. Yakubik's attorney had become ill and was physically unable to perform
3 his duties. Within a few hours of the hearing being rescheduled, Katrinka Byers
4 (Byers) was witnessed trespassing on Yakubik's personal residence. She was
5 taking pictures of Yakubik's back yard. Yakubik's private home is across the street
6 from the properties Assured and Atlas were developing. Yakubik's private home
7 was completed in 2021 and was not under any active DCOP.
8

9
10 The following day on January 17, 2024, AQ specialist David Dean (Dean)
11 and Katrinka Byers (Byers) were caught trespassing on Yakubik's private property.
12 Dean and Byers showed up on Yakubik's property for what they stated was a
13 "routine inspection". There was nothing routine about their inspection. Dean and
14 Byer admit on police body camera's the trespass was not a routine inspection, but
15 instead in response to Yakubik's attorney requesting another continuance of the
16 Assured and Atlas NOV's. NOV's that had nothing to do with Yakubik's private
17 residence.
18

19
20 Dean and Byers were asked to leave. They refused. Henderson Police were
21 called, and Dean and Byers were commanded to leave the property and to not return
22 to any property Yakubik owned. Over the next 30 days, AQ fined Yakubik (as an
23 individual) \$4,000 under NOV #9981 for loose dirt and soil at his home. Yakubik
24 disagreed because he was not disturbing more than .25 acres of soil.
25
26
27
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1 On April 24, 2024, Yakubik attended an NOV hearing for Assured NOV
2 #9907, Atlas NOVs #9946, #9979, and Yakubik NOV #9981. Yakubik requested
3 documents from AQ to prepare for the hearing. District Attorney Catherine
4 Jorgensen (Jorgensen), representing AQ, forwarded Yakubik a spread sheet with
5 some of the documents requested. Some of the documents supported Yakubik
6 position that AQ has permitted the stabilization of roadway shoulders with water
7 and did not require gravel.
8

10 Yakubik asked questions about AQ's decision process when allowing
11 DCOPs to close out with water or gravel. The line of questioning was attempting
12 to show Assured was not in violation, AQ has a widely applied standard of
13 stabilization of roadway shoulders with water and was selectively enforcing
14 regulations against Yakubik. If proven, this would be selective enforcement and a
15 violation of Yakubik's constitution rights. If proven, this would show AQ
16 inspectors had a bias against Yakubik. And if there was bias, AQ inspector
17 testimony would be non-credible.
18
19
20

21 Fic presided over the NOV hearing. Fic showed frustration with this
22 Yakubik's line of selective enforcement questioning. Fic stated, "Would need more
23 than pictures to see selective enforcement." She said, "can't make that leap without
24 evidence other than pictures." See hearing recording @.26. Fic stated Yakubik
25 can continue however she is "Not persuaded by pictures" and will "Need more
26 information (evidence)". Yakubik then mentioned he was willing to bring in those
27
28

1 witnesses or documents and requested a continuance. Fic was annoyed at the
2 request, often sighing, and rolling her eyes, and stated more evidence would not be
3 helpful because she already had an opinion on the matter. See @7:07. These
4 comments were all made **prior** to Assured or Yakubik even starting their testimony
5 or defense. These comments were all made **after** Yakubik asked AQ's first witness
6 four or five questions. Yakubik cited law supporting the legal defense of selective
7 enforcement. Yakubik re-stated the concern of bias with AQ testimony. Yakubik
8 continued to show Fic pictures and evidence showing AQ allowed all the other
9 DCOPs in that area, including his own residence across the street, to close out
10 without gravel. Yakubik even showed Fic a picture of Dean's personal residence
11 which recently closed out a DCOP. And closed out without the use of gravel.
12
13
14

15
16 Fic was stunned Yakubik would show a picture of the front yard of Dean. Fic
17 found this line of questioning "inappropriate" and "Not going to take this into
18 consideration", "Not even considering it." See @57:08. Fic stated, "I don't
19 understand how retaliation is going to have any relevance." See @1:14:58. Fic
20 states, "I'm not persuaded by it (retaliation)", it's a waste of time. I don't hear any
21 evidence the fact the violation didn't occur.". She stated, "Regardless of retaliation
22 the violation did occur." See @1:14:58. "I'm heading into the direct the violation
23 did occur." See @1:16:43. **These comments were all made prior to the**
24 **respondents even providing testimony. These statements show Fic's**
25
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1 conclusionary position and foreclosing her decision process to hearing the
2 evidence.

3
4 Yakubik pointed out if there is retaliation, there could be a finding of
5 selective enforcement and bias. If there is bias, then the testimony of the AQ
6 specialists must be disregarded and only objective evidence of a violation occurring
7 should be considered. Fic quickly responded, "I'm finding no evidence of bias".
8 See @1:17:12. Fic stated, "Let's move on from the retaliation." See @1:17:27.
9
10 Yakubik stated he would not move on from asking questions that could prove
11 selective enforcement was occurring. Fic then looked at Jorgenson, rolled her eyes
12 upward and groaned in a manner to show this was wasting her time.
13

14 Yakubik, Fic, and Jorgensen reached an impasse at the April NOV hearing.
15 More time was needed to finish. Additionally, Jorgenson failed to provide Yakubik
16 with all the documents requested. It was agreed a new hearing date would be
17 chosen. And it was implied Jorgensen would provide Yakubik the documents he
18 had previously requested in time for the new hearing date.
19
20

21 In March 2024, Byer fined Atlas and Yakubik (as an individual) \$1,250 under
22 NOV #10008 for loose and dry soil. The violation hearing was scheduled for May
23 23, 2024. This hearing was only related to NOV #10008. The hearing for the other
24 NOVs had not been scheduled yet. Yakubik still had not received the requested
25 documents from Jorgenson, which could help show selective enforcement.
26
27 Yakubik filed a timely request to continue the NOV #10008 hearing, until after
28

1 discovery could be completed. On the day before the hearing, Jorgenson filed her
2 response to Yakubik's request for discovery and continuance.

3
4 At the May NOV hearing, Yakubik's request to continue the hearing was
5 denied. Additionally, Fic agreed with Jorgenson that discovery of documents
6 related to selective enforcement were not relevant. Fic stated, "I was not persuaded
7 by the selective enforcement argument. If that is what the discovery is intended,
8 then I will deny that." See @1:21. "I'm not willing to allow discovery on selective
9 enforcement." See @1:29. Fic stated, "I don't see selective enforcement and I
10 don't find it's relevant." See @1:30:36. Yakubik cited selective enforcement case
11 law confirming it can be a valid defense. Fic disagreed. Yakubik objected to this
12 decision. Fic proceeded with the hearing.

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14
15
16 Two questions into Yakubik's questioning of AQ specialist Byers, Fic
17 (without Jorgenson stating an objection) objected to Yakubik's question about
18 Byers trespassing on Yakubik's private property. Fic stated, "I don't understand
19 this line of questioning. I don't determine trespass issues." See @1:58:52. Fic
20 stated, "I don't find the line of questioning is appropriate." Fic stated, "How do
21 they (AQ) even do their job? What's the point of AQ if they cannot go on a
22 property." See @1:59:39. Yakubik cited the Nevada law on trespass. Yakubik
23 stated the AQ regulations even require AQ to obtain search warrants if access to a
24 property is denied. Jorgensen confirmed the property in question did not have a
25 DCOP. Yakubik explained the AQ rules providing property procedures for entering
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1 property when access is denied. Yakubik explained how trespass, if proven, could
2 be an illegal search and any evidence obtained through the search would not be
3 admissible. Fic stated, "I'm not considering issue of trespass." See @2:04.
4

5 Yakubik's remaining line of questioning was moot. It was obvious at this
6 point Fic had made her decision. Fic ultimately found Yakubik was in violation of
7 NOV #10008. Yakubik filed a timely appeal to the decision of NOV #10008.
8

9 Fic scheduled June 17 as to hear the remaining NOVs filed against Yakubik;
10 NOVs #9907, #9946, #9979, and #9981. Yakubik filed a motion to the board
11 requesting a continuance of the June 17 hearing, requesting discovery to be open,
12 and requesting a new hearing master to be appointed. The board hearing was
13 scheduled for August 7, 2024.
14

15
16 At the June 17 hearing, Yakubik shared the claims of relief requested in the
17 motion filed with the board. Yakubik asked Fic to stay the June 17 hearing until
18 the board heard his motion. Fic denied Yakubik's request and herd testimony
19 regarding the other violations. Yakubik placed his objection on the record, citing
20 his inability to put forth a full defense because AQ refused to disclose requested
21 discovery, and Fic not being impartial. Fic continued with the hearing.
22

23
24 At the end of the hearing, Fic found the violations in #9907, #9946, and
25 #9979 occurred. Fic order Yakubik to pay the fines imposed. Fic found the
26 violation in NOV #9981 did not occur.
27

28 Yakubik files this amended motion to be heard by the board.

1 These same rules must apply to a hearing master because hearing masters
2 are quasi-judges. Hearings masters are given the authority to adjudicate cases the
3 same as a judge would. Hearing masters are given the authority to weigh evidence,
4 to judge credibility, and to make final determinations that hold the same authority
5 as an elected or appointed Judge. A District Court judicial holds the hearing
6 master's decisions to the same standards as an elected or appointed Judge.
7

8
9 Here, Fic's impartiality can be reasonably questioned. Fic stated on the
10 record, multiple times, that selective enforcement is not relevant. Fic stated
11 Yakubik can continue however she is "Not persuaded by pictures" and will need
12 more information (evidence). Yakubik then mentioned he was willing to bring in
13 those witnesses or documents and requested a continuance. See @7:07. Fic
14 stated, "I don't understand how retaliation is going to have any relevance." See
15 @1:14:58. Fic states, "I'm not persuaded by it (retaliation). It's a waste of time. I
16 don't hear any evidence the violation didn't occur. Regardless of retaliation the
17 violation did occur." See @1:14:58. "I'm heading into the direct the violation did
18 occur." See @1:16:43.
19

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21
22 Respondents explained selective enforcement defense is a recognized
23 defense to civil and criminal prosecutions. See *United States v. Berrios*, 501 F.2d
24 1207, 1211 (2d Cir. 1974). Which states the elements as; 1) others similarly
25 situated have not generally been proceeded against because of conduct of the type
26 forming the basis of the charge against him, 2) he has been singled out for
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28

1 prosecution, and 3) that the government's discriminatory selection of him for
2 prosecution has been invidious or in bad faith. Nevada also recognizes selective
3 enforcement under the language of "arbitrary and discriminatory enforcement".
4 See *Bent Barrel, Inc. v. Sands*, 373 P.3d 895, Footnote 8 (Nev. 2011). Fic refused
5 to accept any of these positions as valid defenses to the violations not occurring.
6

7
8 Respondents even explained how selective enforcement can be seen as bias
9 and how bias is relevant to any witness testimony. Bias is relevant in the credibility
10 of all witnesses. Bias, impeachment, and character are standards used to diminish
11 the credibility of a witness's testimony. Bias is even more relevant to enforcement
12 officers. See NRS 289.823 which requires all law enforcement officials to
13 recognize officers who show bias because if an enforcement officer is shown to be
14 biased, their testimony is not creditable. Fic didn't believe bias had any relevance,
15 "I'm finding no evidence of bias." See @1:17:12.
16

17
18 Fic also did not find Respondents' line of questioning on trespassing not
19 relevant. Fic stated, "I don't understand this line of questioning. I don't determine
20 trespass issues." See @1:58:52. Evidence derived from an illegal search is
21 inadmissible because the evidence was tainted by the illegality. See *Richardson v.*
22 *Nevada*, 86510 (Nev. May 15, 2024). An illegal trespass would be an illegal
23 search. Therefore, AQ's evidence would be inadmissible. Fic did not find the
24 trespass relevant and seemed amazed Air Quality staff did not have the authority
25 to enter any property they wanted. Fic stated, "How do they (AQ) even do their
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1 job? What's the point of AQ if they cannot go on property." See @1:59:39.
2 Yakubik cited AQ Regulation 4.1(d)(2) which advises AQ to apply for a search
3 warrant when access to property is denied. Fic ended the conversation by stating,
4 "I'm not considering the issue of trespass." See @2:04.
5

6 Its clear Fic is not able to be impartial and will not allow the Respondents
7 the opportunity to put forth valid defenses. Ms. Fic has foreclosed her mind to any
8 facts, testimony, or evidence, related to selective enforcement, bias, or illegal
9 search. Like in *Roe v. Roe*, Fic's ability to be impartial is reasonably questioned.
10 Therefore, a new hearing master should be appointed to hear all evidence which
11 supports Respondents' defenses.
12
13

14 **III. Respondents should be allowed discovery because due process**
15 **rules of fairness require it.**

16 Prior to the April hearing Jorgenson had provided some documents in
17 response to Respondents' discovery requests. For the May hearing, Jorgenson
18 objected to anymore discovery. Citing *Dutchess Bus. Servs.* The Dutchess Court
19 states the Nevada's rules of procedure may not apply to administrative hearings,
20 and Nevada's Administrative Procedure Act may not make a provision for
21 discovery. However, the due process guarantees of fundamental fairness still apply.
22 See *Dutchess Bus. Servs. v. Bd. of Pharmacy*, 191 P.3d 1159, 124 Nev. 701 (Nev.
23 2008). The Dutchess court states that even though standard discovery may not be
24 standardly available, a mechanism for obtaining evidence is necessary for
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1 fundamental fairness of due process. The Dutchess court stated because a
2 mechanism for discovery was available there was due process. That is not the case
3 in this matter. Fic sided with Jorgenson and denied Respondents' request for any
4 discovery or evidence related to selective enforcement; "I'm not willing to allow
5 discovery on selective enforcement." See @1:29. This is a violation of
6 Respondents' rights to fairness and due process.
7

8
9 Fic's discovery ruling makes it impossible for Respondents to provide a
10 selective enforcement defense. Respondents are attempting to show selective
11 enforcement by showing AQ allowed all others DCOPs to close out without gravel.
12 Fic states she would need more discovery to be persuaded by this argument. The
13 Respondents' only chance to prove this claim is to have access to AQ files and to
14 disclose what other DCOPs were allowed to close out with. One such document
15 was disclosed at the April hearing. Respondents believe there are more.
16
17

18 With Fic denying the request for more documents, while stating she would
19 need to see more documents (evidence) to be persuaded by this argument, there is
20 no question Fic's impartiality is affecting Respondents right to due process.
21

22 Fic's denial of discovery causes great prejudice to Respondents. AQ 7.5(f)
23 states a hearing masters' order is heard "de novo" by the board. This means no new
24 evidence or testimony is heard. Then, if Respondents decided to appeal the Board's
25 decision, it also would be de novo. NRS 233B.135(1)(B) states the judicial review
26 is confined to the record. With Fic denying Respondents request for documents,
27
28

1 which could show selective enforcement, she is denying Respondent's the ability
2 to ever show selective enforcement.

3
4 Fic's denial of discovery should be overturned. Respondents request for
5 documents should be granted.

6 **IV. Respondents request an appeal of NOVs #9907, #9946, 9978, and**
7 **#10008 because of no discovery, and Fic's impartiality.**

8 Air Quality Regulation (AQR) 7.3(e)(1) allows for an appeal of a hearing
9 officer's order, as long as filed within 10 days. Fic's order regarding NOV #10008
10 was filed on May 29, 2024. Fic's order regarding NOVs #9907, #9946, and #9979
11 was filed June 20, 2024, Respondents request is timely. Fic did not find selective
12 enforce, bias, or an illegal trespass relevant to Respondents' defenses. Fic denied
13 Respondents the opportunity to present evidence when she denied their request for
14 discovery. Therefore, Respondent is requesting the appeal on NOVs #9907, #9946,
15 #9979, and #10008.

16
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19 May 31, 2024

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21 

22 Rock Rocheleau, Esq.
23 Nevada Bar No. 15315
24 Attorney for Respondents

1 STEVEN B. WOLFSON
District Attorney
2 CIVIL DIVISION
State Bar No. 001565
3 By: CATHERINE JORGENSON
Chief Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDANV.gov
7 Attorneys for Clark County Air Quality

8 **BEFORE THE AIR POLLUTION CONTROL HEARING BOARD**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notices of Violation)
11 Nos. 9907, 9946, 9979, 9981, and 10008,)
12 Issued To:) Date of Hearing:
Assured Development, Inc., Atlas) August 7, 2024
13 Holdings International LLC, Joseph)
14 Yakubik, Individually, and Darcie)
Yakubik, Individually,)
15 _____ Respondents.

16 **MOTION FOR ISSUANCE OF SUBPOENA**

17 Clark County Department of Environment and Sustainability, Division of Air Quality
18 (“Air Quality”) submits this Motion for Issuance of Subpoena to obtain documentary
19 evidence related to the appeals of Notices of Violation (“NOV”) Nos. 9907, 9946, 9979,
20 9981 and 10008 that are in the custody and control of Respondents Assured Development,
21 Inc. (“Assured”), Atlas Holdings International LLC (“Atlas”), Joseph Yakubik or Darcie
22 Yakubik. This Motion is based on the points and authorities submitted herewith and oral
23 argument of counsel at the hearing on these matters.

24 **POINTS AND AUTHORITIES**

25 After several continuances, NOVs 9907, 9946, 9979, and 9981 came before the
26 Hearing Officer on April 24, 2024 and again on June 17, 2024. The Hearing Officer
27 determined that violations of Clark County Air Quality Regulations (“AQR”) occurred in
28 NOVs 9907, 9946, and 9979 and assessed penalties for those violations. For NOV 9981, the

1 Hearing Officer determined that no violation occurred. NOV 10008 was heard on May 23,
2 2024. The Hearing Officer determined that AQR violations occurred and assessed a penalty.
3 After the Hearing Officer issued orders for each of these NOVs, they were all timely
4 appealed in accordance with AQR Subsections 7.3(e) and 7.5. Assured, Atlas, and the
5 Yakubiks appealed NOVs 9907, 9946, 9979, and 10008, as applicable, and Air Quality
6 appealed NOV 9981.

7 AQR 7.5(f) states that an appeal of a hearing officer order “shall be heard ‘de novo’
8 (i.e. from the beginning), with testimony and exhibits presented and the appeal conducted in
9 the same manner as before the Hearing Officer.” Because these matters will be heard “de
10 novo” by this Board, Air Quality seeks relevant documentary evidence that may be in the
11 custody and control of Respondents. This Board has the authority to issue subpoenas for
12 documents pursuant to NRS 445B.350(4) and NRS 445B.500. Accordingly, Air Quality
13 requests a subpoena be issued to Respondents for the following:

- 14 1. Records related to the formation, management, and dissolution, if applicable,
15 of Assured; Atlas; Milan Customs LLC; and Global Equity Holdings, Inc.
16 These businesses have been or are the owners of the subject real property,
17 holders of dust control operating permits for the subject construction sites,
18 and/or their agents. Among other things, Air Quality is seeking to clarify
19 which individuals effectively control or controlled these businesses.
- 20 2. Video and/or audio recordings from all cameras mounted on the Yakubiks’
21 residence that is the subject of NOV 9981 showing the property outside the
22 house from January 16, 2024 through April 30, 2024 during daylight hours.
23 Among other things, Air Quality is seeking this information to ascertain the
24 validity of statements and arguments put forward by Respondents.
- 25 3. Video and/or audio recordings made by Mr. Yakubik on his phone or by other
26 means and video and/or audio recordings made at the direction of any of the
27 Respondents that show Air Quality staff on the subject properties from July 1,
28 2023 through May 31, 2024. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.
4. Complete copies of all bodycam footage and other documents that, upon
information and belief, the Yakubiks received from the City of Henderson for
an incident that occurred on January 19, 2024 at the Yakubiks’ residence that is
the subject of NOV 9981. Among other things, Air Quality is seeking this
information to ascertain the validity of statements and arguments put forward
by Respondents.

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1 STEVEN B. WOLFSON
District Attorney
2 **CIVIL DIVISION**
State Bar No. 001565
3 By: **CATHERINE JORGENSEN**
Deputy District Attorney
4 State Bar No. 006700
500 South Grand Central Pkwy.
5 Las Vegas, Nevada 89155-2215
(702) 455-4761
6 Fax: (702) 382-5178
E-Mail: Catherine.Jorgenson@ClarkCountyDA.com
7 Attorneys for Clark County Department of
Environment and Sustainability, Division of Air Quality

8 **BEFORE THE AIR POLLUTION HEARING OFFICER**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Notice of Violation)
#10008,)
11 Issued To:)
12 Atlas Holdings International, LLC, Joseph)
Yakubik, Individually,)
13 _____)

14 **OPPOSITION TO RESPONDENTS' REQUEST FOR CONTINUANCE**

15 Procedural History

16 On May 2, 2024, the Clark County Department of Environment and Sustainability,
17 Division of Air Quality ("Air Quality") issued and served, by certified mail, Notice of
18 Violation ("NOV") #10008 on Joseph Yakubik, Global Equity Holdings, Inc., and Atlas
19 Holdings International LLC ("Atlas Holdings"). NOV #10008 alleges Atlas Holdings and
20 Mr. Yakubik ("Respondents") violated Clark County Air Quality Regulations ("AQR")
21 Sections 94.13(a) and (b) for failure to employ Best Available Control Measures and comply
22 with soil stabilization standards 24 hours a day, seven days a week at the 724 Naples & 729
23 Milan construction project on March 21, 2024. The hearing on this matter is scheduled
24 Thursday, May 23, 2024 at 9:00 a.m. before the Air Pollution Control Hearing Officer.

25 On May 13, 2024, Respondents' counsel emailed a Request for Continuance,
26 Respondent's First Set of Requests for Production of Documents, and Notice of Violation
27 Response Form to Pamela Thompson, Senior Secretary for Air Quality, who functions as the
28 clerk for the hearing officers. Upon information and belief, Ms. Thompson has provided

1 these documents to Hearing Officer Holly Fic, the hearing officer scheduled to hear
2 contested and non-contested NOV's on May 23, 2024.

3 In response, Air Quality submits this Opposition to Respondents' Request for
4 Continuance.

5 Points and Authorities

6 Respondents support their Request for Continuance with a citation to EDCR 7.30 and
7 *Bongiovi v. Sullivan*, 122 Nev. 556, 570 (2006). Neither applies to this administrative
8 proceeding. EDCR 7.30 is a rule of practice for the Eighth Judicial District Court of the
9 State of Nevada. EDCR 1.10 states that the rules, including EDCR 7.30, "govern the
10 procedure and administration of the Eighth Judicial District Court and all actions or
11 proceedings cognizable therein." The plain language of the rules limits their scope to an
12 action or proceeding before the Eighth Judicial District Court. This administrative hearing
13 before the Air Pollution Control Hearing Officer is not such an action or proceeding.
14 Further, *Bongiovi* does not govern this hearing because the case clearly concerns a civil
15 action in district court, not an administrative proceeding before a hearing officer.

16 Even if the "good cause" standard set forth in EDCR 7.30 did apply, Respondents'
17 Request for Continuance should be denied. Respondents assert they have good cause based
18 on their First Set of Requests for Production of Documents which they claim Air Quality
19 must respond to within 30 days of service in accordance with NRCP 34, well after the May
20 23, 2024 hearing date. In addition, they claim they will need time to review these
21 documents. They finish off their request with the following statement: "Therefore, a
22 continuance of the May 23rd hearing until after the discovery process is finished is
23 supported by good cause." Request for Continuance at 2 (emphasis added). Similar to the
24 misapplication of EDCR 7.30 and *Bongiovi* discussed above, requests for production of
25 documents pursuant to NRCP 34 do not apply to an administrative proceeding such as this
26 one. NRCP 1 limits the scope of the Nevada Rules of Civil Procedure, including NRCP 34,
27 to "the procedure in all civil actions and proceedings in the district courts." *See also*

28 ///

1 *Dutchess Bus. Servs., Inc. v. Nev. State Bd. of Pharmacy*, 124 Nev. 701, 710 (2008). This
2 administrative hearing is not such an action or proceeding.

3 With regard to the issue of discovery, the Court in *Dutchess* holds: “Generally, there
4 is no state or federal constitutional right in administrative proceedings to prehearing
5 discovery . . . Thus, to the extent to which a party engaged in an administrative hearing
6 before the [hearing officer] is entitled to discovery is determined by the statutes governing
7 [Air Quality] and its adopted regulations.” *Id.* at 713. Neither the statutes nor regulations
8 governing hearings before an Air Pollution Control Hearing Officer allow for discovery. *See*
9 NRS 445B.450, Clark County Code Chapter 2.68, and AQR Section 7.

10 Even though discovery is not authorized for this proceeding, “due process guarantees
11 of fundamental fairness still apply.” *Dutchess* at 714. In this case, Respondents have not
12 provided any coherent, cogent, relevant reasons for discovery, especially for the wide-
13 ranging, overly broad and burdensome discovery they seek. Instead, it appears that
14 Respondents are attempting to use discovery for the purpose of delay and harassment. For
15 example, prior to the April 24, 2024 hearing for related NOV’s, Air Quality counsel had
16 provided certain requested documents to Respondents’ counsel and confirmed that the Air
17 Quality witnesses Respondents wanted to appear would be available. Respondents took
18 these documents and gathered some of their own including a photograph of a home located
19 approximately 15 miles from the subject construction project. During cross-examination of
20 Air Quality Supervisor David Dean, it became clear that Mr. Yakubik had inexplicably taken
21 a photograph of a home for which Mr. Dean had held the dust control operating permit.
22 Respondents’ equal protection theory fell apart when Mr. Dean testified that the home
23 construction project for which he was responsible complied with the AQR. In addition, Mr.
24 Dean testified that he had not met Mr. Yakubik in 2021 which further eviscerated
25 Respondents’ “angry eyes” theory. Granting Respondents’ request for continuance would
26 not further fundamental fairness. Instead, it would just facilitate Respondents’ goal of
27 continued delay and grasping at evolving, tenuous theories rather than addressing the actual

28 ///

1 issue of whether the alleged violation occurred on March 21, 2024 and, if so, whether an
2 administrative penalty should be imposed.

3 Conclusion

4 Based on the foregoing, Air Quality respectfully requests that Respondents' Request
5 for Continuance be denied. If the Request is granted, Air Quality respectfully requests that
6 NOV #10008 be scheduled with the four related NOVs (##9907, 9946, 9979, and 9981) for
7 an all-day hearing on June 17 or June 26, 2024.¹

8 DATED this 22nd day of May, 2024.

9 STEVEN B. WOLFSON
10 DISTRICT ATTORNEY

11 By: /s/ Catherine Jorgenson
12 CATHERINE JORGENSON
13 Deputy District Attorney
14 State Bar No. 006700
15 500 South Grand Central Pkwy. 5th Flr.
16 Las Vegas, Nevada 89155-2215
17 Attorney for Clark County Department of
18 Environment and Sustainability, Division of
19 Air Quality
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28 ¹ In disregard of the Hearing Officer's direction at the April 24, 2024 hearing, Respondents have failed to provide any dates to Air Quality's counsel for the continued hearing of NOVs ##9907, 9946, 9979, and 9981.



Notice of Violation Response Form

Issued to: Atlas Holdings International LLC and Joseph Yakubik, Individually

NOV #: 10008

Return form by: 5/9/2024

Items below are to be completed by the Respondent

Responsible

Official: Joey Yakubik

Title: Manager

Phone Number: 7029140400

Email Address: rock@rightlawyers.com

Mailing Address: 600 S. Tonopah Dr., Suite 300 Las Vegas NV 89106

Please check applicable boxes below

We do not contest the Notice of Violation (Attendance is not required)
We accept responsibility for this violation. Instructions for payment of the recommended penalty will be provided after the Hearing Officer meeting.

We are contesting the Notice of Violation and request to appear before the Hearing Officer (Attendance by the Responsible Official or a representative of the company is strongly recommended to contest the violation)

Please attach a written explanation, including supporting documentation, of why you are contesting the NOV. This information will be provided to the Hearing Officer prior to the Hearing.

We will be contesting the:

- Facts
- Penalty
- Both

Signature of Authorized Person

Date: 5/10/2024

Completed forms can be submitted to Pam Thompson via mail at Clark County Department of Environment and Sustainability, Division of Air Quality, 4701 West Russell Road, Suite 200, Las Vegas, NV 89118-2231, fax at (702) 383-9994, or via email at aqenforcement@clarkcountynv.gov.

1
2 ROCHELEAU LAW GROUP
3 dba RIGHT LAWYERS
4 Rock Rocheleau, Esq.
5 Nevada Bar No. 15315
6 rock@rightlawyers.com
7 600 South Tonopah Drive, Suite 300
8 Las Vegas, Nevada 89106
9 702-914-0400
10 Attorneys for Respondents

11
12 **BEFORE THE AIR POLLUTION HEARING MASTER**
13 **CLARK COUNTY, NEVADA**

14
15 In the Matter of the Notice of Violation
16 #9907, #9946, #9979, #9981, #10008

17 Issued To:
18 Assured Development, Inc., Atlas
19 Holdings International, LLC, Joseph
20 Yakubik, Individually
21 Darcie Yakubik, Individually,

22 Respondents,

23 **REQUEST FOR CONTINUANCE**

24 Respondents, by and through their undersigned counsel, files this
25 memorandum requesting a continuance of the hearing scheduled for May 23, 2024.

26 **Respondents Request for a Continuance is for Good Cause.**

27 EDCR 7.30 states, any party may, for good cause, move the court for an order
28 continuing the day set for trial of any cause. See *Bongiovi v. Sullivan*, 122 Nev.

1 556, 570, 138 P.3d 433, 444 (2006). Here, good cause exists because respondent
2 requires time to review documents essential to his defense. Respondent requested
3 documents from on AQ on May 10, 2026. These documents will help respondent
4 be able to respond to Notice of Violation #10008 that was issued to respondent on
5 May 2, 2024. AQ may take up to 30 days to respond to these documents, which
6 will be later than the hearing date. Additionally, respondent needs time to review
7 the documents AQ produces. Therefore, a continuance of the May 23rd hearing until
8 after the discovery process is finished is supported by good cause.
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12 Rock Rocheleau, Esq.
13 Nevada Bar No. 15315
14 Attorney for Respondents
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4701 W. Russell Road 2nd Floor
Las Vegas, NV 89118-2231
Phone: (702) 455-5942 • Fax: (702) 383-9994
Marci Henson, Director

May 2, 2024

CERTIFIED MAIL #9489 0090 0027 6524 7155 49
Joseph Yakubik, Manager and Responsible Official
E-mail: joe@assurednv.com
Atlas Holdings International LLC
P.O. Box 530778
Henderson, NV 89053

CERTIFIED MAIL #9489 0090 0027 6524 7155 32
Global Equity Holdings, Inc., Manager and Registered Agent for
Atlas Holdings International LLC
P.O. Box 530778
Henderson, NV 89053

FEDERAL EXPRESS TRK #7762 0741 8121
Joseph Yakubik
Atlas Holdings International LLC
c/o Rock Rocheleau, Esq., Right Lawyers
E-mail: rock@rightlawyers.com
600 South Tonopah Drive, Suite 300
Las Vegas, NV 89106

NOTICE OF VIOLATION #10008

Clark County Department of Environment and Sustainability, Division of Air Quality (**Air Quality**) provides this notice to Atlas Holdings International LLC (**Atlas Holdings**) and Joseph Yakubik (**Yakubik**), individually, for the violation of the Clark County Air Quality Regulations (**AQRs**) as alleged below and recommends a civil penalty of One Thousand Two Hundred Fifty and no/100 Dollars (\$1,250.00) be assessed as shown in the penalty calculation table attached hereto as **Exhibit A** and incorporated herein.

I. FACTS

A. Senior Air Quality Specialists Katrinka Byers (**Byers**) and Andrew Kirk (**Kirk**) discovered the alleged violation while performing a follow-up inspection on March 21, 2024, at the 724 Naples & 729 Milan construction project (parcel numbers 179-04-510-005 and

179-04-510-006), located at 724 North Naples Street and 729 North Milan Street respectively, in Clark County, Nevada.

- B. On March 21, 2024, at 7:58 a.m., Air Quality received a Dust Control Operating Permit (**DCOP**) application #21984 for parcel numbers 179-04-510-005, 179-04-510-006, and a portion of 179-04-599-023 (Public Right-of-Way). The application was approved by Air Quality and an invoice was issued to Yakubik and Atlas Holdings for the fees associated with the permit.
- C. On March 21, 2024, at approximately 12:00 p.m., Byers and Kirk (**Staff**) arrived at the 724 Naples & 729 Milan construction site to conduct a follow-up inspection within parcel numbers 179-04-510-005 and 179-04-510-006. The inspection report is attached hereto as **Exhibit B** and incorporated herein. During the inspection, Staff observed approximately 0.19 acres of dry, loose, and powdery soil conditions and approximately 2.2 acres of construction activities occurring without a DCOP as shown in Photographs 1 through 4, attached hereto as **Exhibit C** and incorporated herein. While onsite, Byers spoke with workers on parcel number 179-04-510-006 **concerning Staff's observations of noncompliance and the stabilization of site soils**. Staff also observed the noncompliance issues occurred within 1,000 feet of a residential area as shown in Map 1 attached hereto as **Exhibit D** and incorporated herein. Staff concluded their inspection at approximately 12:30 p.m.
- D. On March 26, 2024, at approximately 1:40 p.m., Byers e-mailed Yakubik, Manager and Responsible Official for Atlas Holdings, **concerning Staff's observations of noncompliance** during the March 21, 2024 inspection and the issuance of a Notice of Noncompliance (**NON**). Byers informed Yakubik the DCOP would be issued once the associated fees were paid. The NON was included in the e-mail to Yakubik. The NON and email correspondence is attached hereto as **Exhibit E** and incorporated herein.
- E. Air Quality received payment for the fees associated with the DCOP on March 26, 2024, and issued the DCOP (DCOP #57391) on March 27, 2024.

II. VIOLATION(S)

Violation 1:

By failing to employ Best Available Control Measures and comply with soil stabilization standards 24 hours a day, seven days a week, Atlas Holdings and Yakubik violated AQR Sections 94.13(a) and (b).

AQR Sections 94.13(a) and (b) state:

“(a) Any Person who engages in a Construction Activity or Temporary Commercial Activity, with or without a Permit, shall employ BACM and comply with soil stabilization standards (Section 94.12) and Emissions standards (Section 94.14).

- (b) Control Measures that are listed in the approved Permit, and other measures as needed for the purpose of maintaining Dust control, shall be implemented 24 hours a day, seven days a week, until the Permit is closed in accordance with Section 94.5(n)(2).”

III. RECOMMENDED CIVIL PENALTY

Pursuant to AQR Section 9.1, any person who violates any provision of the AQRs, including any permit condition; is guilty of a civil offense and shall pay a civil penalty not to exceed \$10,000 per violation. Each day of violation constitutes a separate offense.

Air Quality considered the following in calculating the recommended penalty:

- Violation 1 occurred within 1,000 feet of the outer boundary of a residential area as described in Paragraph I.C above (**Exh. D**).

Air Quality recommends a civil penalty in the amount of \$1,250.00 (**Exh. A**).

IV. HEARING

Air Quality has scheduled a hearing for **Thursday, May 23, 2024, at 9:00 a.m.** before the Air Pollution Control Hearing Officer to adjudicate the alleged violation(s) and, if appropriate, to levy the recommended penalty. Please complete the enclosed **“Notice of Violation Response Form”** and return it to Air Quality by May 9, 2024. At the hearing, the Hearing Officer will hear evidence on the alleged violation(s) and render a decision. The hearing will be held at the Clark County Building Services Presentation Room, located at 4701 West Russell Road, Las Vegas, Nevada.

If you intend to present any documentary evidence at the hearing, please provide copies of your evidence to Air Quality with the completed Notice of Violation Response Form. If you fail to provide copies of your evidence prior to the hearing, please be advised that Air Quality may request a continuance to have time to review any evidence you bring to the hearing, which will result in the hearing being postponed and rescheduled to a later date.

If the Hearing Officer finds you in violation and levies a penalty, Air Quality staff will mail the Hearing Officer's order to you along with instructions on remittance of the penalty.


Shibi Paul (May 2, 2024 10:46 PDT)

Shibi Paul
Compliance and Enforcement Manager

Exhibits:

- A. Penalty Calculation Table, NOV #10008
- B. Air Quality Construction Site Inspection Form #138760, dated March 21, 2024
- C. Digital Photographs 1 through 4
- D. Map 1: Showing approximate location of dry, powdery soil conditions within 1,000 feet of a residential area on March 21, 2024
- E. Air Quality Notice of Noncompliance for March 21, 2024 and Email Correspondence, dated March 26, 2024

sjg

Exhibit A

NOV # 10008

Penalty Calculation Table

Atlas Holdings International LLC and Joseph Yakubik, Individually



4701 W. Russell Road 2nd Floor
 Las Vegas, NV 89118-2231
 Phone: (702) 455-5942 • Fax: (702) 383-9994
 Marci Henson, Director

Viol.	Date(s)	Violation Description	AQR Section	Exhibit / Evidence	Base Penalty	Days	Aggravating Description	Agg. Factor	Agg. Amount	Penalty
1	3/21/2024	Failed to employ Best Available Control Measures and comply with soil stabilization standards 24/7.	94.13(a) and (b)	Exh. C, Photos 1 through 4 Exh. D, Map 1	\$ 1,000	1	Occurred within 1,000 feet of a residential area (+25% per day)	25%	\$ 250.00	\$ 1,250.00

Total Penalty: \$ 1,250.00

Regulatory maximum: \$10,000 per day, per violation

[AQR Section 9.1 & NRS 445B.640]



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit B

CONSTRUCTION SITE INSPECTION REPORT Inspection No. 138760

Officer:	Date:	Start Time:	End Time:	Type:	Complaint No.:	Permit No.:
Katrinka Byers	Mar 21, 2024	12:00 PM	12:30 PM	Follow-up		57391
Permittee:	Project Name:		Project Location:			
Atlas Holdings International	724 Naples & 729 Milan		724 Naples, Henderson, NV 89015 729 Milan, Henderson, NV 89015			
Weather:	Rain:	Temperature:	Wind Speed:	Wind Gust:	Wind Direction:	Site Status:
Clear	No	75 degrees	00-04 mph	5 mph	Variable	Active
PCF Submitted:	Workers Present:	Spoke With:	Title:	Comm. Method:		
No	Yes	Worker framing home	Foreman	In Person		
		Spoke With:	Title:	Comm. Method:		
		Joe Yakubik	Responsible Official	Email		
Is the project in compliance with all air quality requirements?						No
Action Taken:	Issued NON With Possible NOV		Violation in 1000 feet of:	Residential		
Emission Compliance:						Yes
Fugitive Dust Source:			Plume Length:			
Opacity:			Opacity Test Method:			
BMP Compliance:						No
Project Soils:	Unstable	Size of Instability:	0.19 acres			
Trackout Device:	Yes - Effective	Has Trackout:	No			
Mitigation Equipment:	Inadequate	Soil Crust Determination:	Fail			
Admin Compliance:						No
Acreage Permitted:	0 acres	Observed Acreage:	2.2 acres	Project Size:	Greater than permitted	
Staging/Parking Area:	On-Site	DCOP Sign:	No	DCOP Onsite:	No	
SS Permit(s):	No Equipment	SS Permit No.:		Equipment Onsite:		
Inspector Notes:			Approved By:	Katrinka Byers		
<p>Senior Air Quality Specialists, Andrew Kirk & I conducted a follow-up inspection on 03/21/2024 and observed workers onsite conducting construction activities without a valid dust control operating permit (DCOP) issued at the following parcels: Parcel #179-04-510-005 (729 N MILAN ST), & -006 (724 N NAPLES ST). We also observed approximately .19 acres of dry, loose, and powdery site soils with no available BACM (Best Available Control Measures) onsite. I spoke with the workers onsite at Lot#006 and instructed them to stabilize the site soils immediately. A Notice of Non-Compliance with a possible NOV to be issued to Mr. Joe Yakubik to stabilize all site soils immediately, submit payment for invoice#067282 for the dust permit by close of business, Tuesday, 03/26/2024 and post a dust permit sign by the close of business Friday, 04/05/2024. A copy of the NON to be sent to Mr. Yakubik & Mr. Rock Rocheleau (Joe Yakubik's lawyer) via email on 3/26/2024.</p>						

Exhibit C

Digital Photographs

Construction Project #: **57391** Responsible Parties: **Atlas Holdings International and Joseph Yakubik**
Project Name: **724 Naples & 729 Milan** Photos taken by: **Katrinka Byers**



Photograph # 1

Alleged Violation # 1

View looking northwest at construction on Lot #005-729 N. Milan St. without a valid dust control operating permit.



Photograph # 2

Alleged Violation # 1

View looking northwest at workers operating in dry, loose and powdery site soils without any available BACM on Lot #006 -724 N. Naples St.



Photograph # 3

Alleged Violation # 1

View looking southwest at dry, loose and powdery site soils without any available BACM on Lot #006 -724 N. Naples St.



Photograph # 4

Alleged Violation # 1

View looking west at dry, loose and powdery site soils without any available BACM on Lot #006 -724 N. Naples St.



Division of Air Quality
 4701 W. Russell Rd. Suite 200 2nd Floor
 Las Vegas, NV 89118
 Main Number: (702)455-5942
 Fax Number: (702)383-9994

Exhibit E

NOTICE OF NONCOMPLIANCE

Issued To: Joe Yakubik & (Atlas Holdings International)

Project Name: 724 Naples & 729 Milan

Location: 724 Naples, Henderson, NV 89015 | 729 Milan, Henderson, NV 89015

Dust Control Permit No: 57391

Date: Mar 21, 2024

Time: 12:30 PM

This notice is to advise you that an inspection of your site has found it in noncompliance of the conditions specified in your Dust Control Permit and/or Clark County Air Quality Regulations (AQRs).

Unstable Soil Conditions – Provide and maintain adequate measures to prevent fugitive dust by maintaining all project soils in a visibly damp, crusted, or otherwise stabilized condition per AQR Section 94.12. This applies 24 hours a day 7 days a week.

No Valid Dust Control Permit – Submit payment for Invoice# 067282 for the Dust Control Permit to the Division of Air Quality. Comply by close of business on Mar 26, 2024.

No / Improper Signage – Install and maintain a Dust Control Permit Sign in compliance with AQR Section 94.11. Comply by close of business on April 5, 2024. See Appendix 3 of AQR Section 94 for specifications.

Soil Disturbing / Construction Activities Outside the Permitted Area – Stabilize all areas you have disturbed

Additional Instructions / Other Noncompliance Items

*Stabilize all site soils immediately

*Submit payment for Invoice# 067282 for the Dust Control Permit by COB, Tuesday, 03/26/2024

*Post a dust sign by COB, Friday, 04/05/2024



Pursuant to AQR Section 4.3, the noncompliance status detailed above may result in the issuance of a Notice of Violation, which includes the imposition of civil penalties.

- Failure to comply with this notice may result in additional enforcement action that includes a Notice of Violation.
- Please contact DAQ representative below regarding questions related to this notice.

Person Notified:

Joe Yakubik

Responsible Official

Atlas Holdings International

(Printed Name)

(Title)

(Company)

joe@assurednv.com

(Email Address)

Person Notified:

Joe Yakubik

Designated Onsite Representative

Atlas Holdings International

(Printed Name)

(Title)

(Company)

joe@assurednv.com

(Email Address)

DAQ Representative:

Katrinka Byers

702-249-6093

KL

(Printed Name)

(Phone Number)

From: [Katrinka Byers](#)
To: [Joe Yakubik](#); [assuredmm@gmail.com](#)
Cc: [Catherine Jorgenson](#); [rock@rightlawyers.com](#)
Subject: Notice of Non-Compliance for 724 Naples| 729 Milan Construction Project #57391
Date: Tuesday, March 26, 2024 1:40:00 PM
Attachments: [image001.png](#)
[image002.png](#)
Importance: High

Good afternoon Mr. Yakubik,

As of 3/21/2024, Air Quality received a dust control operating permit (DCOP) application for 724 Naples| 729 Milan Construction project #57391 for 2 acres. However, the DCOP has not been issued because payment has not been made on the invoice for the required fees. Until payment is made and the DCOP issued, this project is not in compliance with Air Quality Regulations. In addition, I observed dry, loose, and powdery site soils from construction activities being performed on site at Lot#006 (724 N. Naples Street) without any available Best Available Control Measures (BACM).

Please review the attached Notice of Non-Compliance and comply with the required dates. Please let me know you received this email and understand what is required to comply with the applicable Air Quality Regulations. We will continue to conduct on-site inspections to verify compliance on this project. If you have any questions regarding this message, feel free to contact me.

NOTE: The Construction project #57391 will become the dust permit operating permit number for this project once a completed permit application is submitted and all fees are paid.



Katrinka Byers



Senior Air Quality Specialist

REHS

Clark County DES

4701 W. Russell Rd, #200

Las Vegas NV 89118

Office 702-455-1642

Fax 702-383-9994

Tuesday – Friday, 6:00 a.m. – 4:30 p.m.

For Dust Control Applications and Forms, click on this link: [DUST FORMS](#)

July 3, 2024

Dear Sherrie NOV 10008 Yakubik:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6524 7155 49.

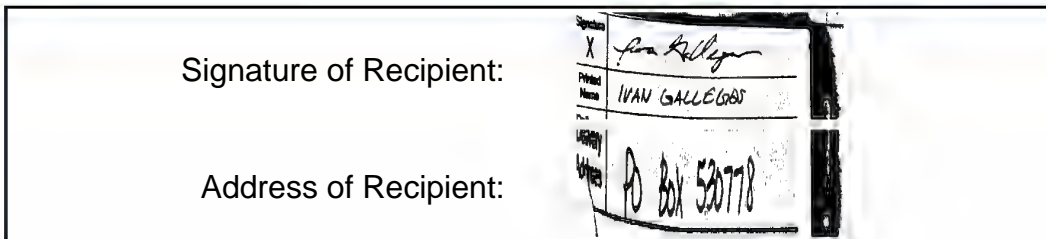
Item Details

Status:	Delivered, PO Box
Status Date / Time:	May 8, 2024, 9:20 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
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Recipient Signature



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

July 3, 2024

Dear Sherrie NOV 10008 GlobalEquity:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6524 7155 32.

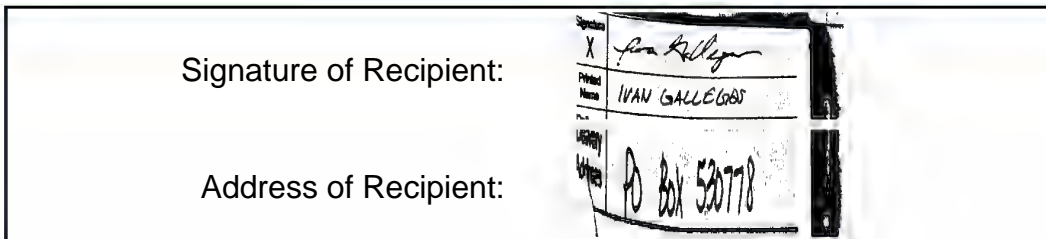
Item Details

Status:	Delivered, PO Box
Status Date / Time:	May 8, 2024, 9:20 am
Location:	HENDERSON, NV 89053
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	1.0oz
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Recipient Signature



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Dear Customer,

The following is the proof-of-delivery for tracking number: 776207418121

Delivery Information:

Status:	Delivered	Delivered To:	Receptionist/Front Desk
Signed for by:	S.SHANKLE	Delivery Location:	
Service type:	FedEx Standard Overnight		
Special Handling:	Deliver Weekday		LAS VEGAS, NV,
		Delivery date:	May 7, 2024 11:53

Shipping Information:

Tracking number:	776207418121	Ship Date:	May 3, 2024
		Weight:	0.5 LB/0.23 KG
Recipient:		Shipper:	
LAS VEGAS, NV, US,		LAS VEGAS, NV, US,	

Reference	NOV 10008
Purchase Order	4500368555-030

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

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