

**Staff Report**  
**Board Meeting Date: February 16, 2022**

**TO:** Air Pollution Control Hearing Board

**FROM:** Francisco Vega, Director, Air Quality Management Division  
775-784-7211, [fvega@washoecounty.gov](mailto:fvega@washoecounty.gov)

**SUBJECT:** Recommendation of Staff to Uphold Notice of Violation No. AQMV21-0050 with an associated administrative fine of \$1,000.00 issued to Q&D Construction by the Air Quality Management Division and Appealed to the Air Pollution Control Hearing Board. (FOR POSSIBLE ACTION)

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**SUMMARY**

Washoe County Health District, Air Quality Management Division (AQMD) staff recommends Notice of Violation (NOV) No. AQMV21-0050 be upheld and an administrative fine in the amount of \$1,000.00 be levied against Q&D Construction for failing to comply with the provisions of Dust Control Permit No. APCP20-0232 by not maintaining a log book of all dust control operations, containing all information as required by the Control Officer at the project site and made available to District representatives upon request. (Regulation 040.030, Section E.2.a.(2)). This action constitutes a minor violation of the Washoe County District Board of Health Regulations Governing Air Quality Management.

**BACKGROUND**

Please refer the attached NOV No. AQMV21-0050. This NOV contains the facts associated with the incident of noncompliance and supporting documentation relevant to the NOV.

**RECOMMENDATION**

Staff recommends the Air Pollution Control Hearing Board (APCHB) deny the appeal of NOV No. AQMV21-0050, associated with Case No. 1321, issued to Q&D Construction, and levy an administrative fine in the amount of \$1,000.00.

**ALTERNATIVES**

Should the APCHB wish to consider an alternative to upholding the Staff recommendation, as presented, the possible alternatives are:

1. The Air Pollution Control Hearing Board may determine that no violation of the Regulations has taken place and dismiss Notice of Violation No. AQMV21-0050.
2. The Air Pollution Control Hearing Board may determine to uphold Notice of Violation No. AQMV21-0050; and levy any fine in the range of \$0.00 to \$1,000.00 per day per violation.

**POSSIBLE MOTION(s)**

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

1. "Move to deny the appeal of NOV No. AQMV21-0050, associated with Case No. 1321 issued to Q&D Construction and levy an administrative fine in the amount of \$1,000.00."

or, should the APCHB wish to consider an alternative motion the possible motion(s) may be:

1. "Move to dismiss NOV No. AQMV21-0050, associated with Case No. 1321, issued Q&D Construction", or
2. "Move to uphold NOV No. AQMV21-0050, associated with Case No. 1321, and levy an administrative fine in the amount of \$0.00 to \$1,000.00 per day per violation to Q&D Construction."

2-1-2022  
Date

Francisco Vega  
Francisco Vega P.E., MBA  
Director  
Washoe County Health District  
Air Quality Management Division

**ATTACHMENT TO THE STAFF REPORT  
AIR POLLUTION CONTROL HEARING BOARD**

**Notice of Violation No.  
AQMV21-0050 and Supporting Documentation**

**WASHOE COUNTY HEALTH DISTRICT  
AIR QUALITY MANAGEMENT DIVISION  
1001 East Ninth Street Suite B171  
Reno, Nevada 89512**

## **NOTICE OF VIOLATION No: AQMV21-0050**

### **ISSUED TO**

**Q&D Construction, LLC  
Location: APN 212-112-02  
Permit Number: APCP20-0232  
Date of Issuance: December 10, 2021  
Case No.: 1321**

The Air Quality Management Division of the Washoe County Health District (AQMD) has determined that Q&D Construction, LLC is in violation of the Washoe County District Board of Health Regulations Governing Air Quality Management (DBOH Regulation) Section 040.030 C.3. Dust Control Permit Requirements.

#### 1. VIOLATION

- A. Failure to comply with the provisions of Dust Control Permit APCP20-0232, specifically Condition No. 11: A log book of all dust control operations, containing all information as required by the Control Officer in the standard "WASHOE COUNTY DUST CONTROL LOG" must be maintained on a daily basis (copies of blank log sheets are available at the AQMD Office). Required information includes, but is not limited to, the number of OPERATING water trucks/pulls, the size of OPERATING water trucks/pulls (gallons capacity of each truck/pull), and the condition of the surface crust on disturbed areas. The operator shall record in the logbook all dust control efforts and the compliance level of the site with dust control requirements. The logbook shall be kept at the project site and made available to District representatives upon request. (DBOH Regulation 040.030, Section E.2.a.(2))

#### 2. BASIS OF VIOLATION

- A. Regulatory Authority  
The Washoe County District Board of Health Regulations Governing Air Quality Management 040.030 Section E.2.a.(2): Daily records shall be made available to the Control Officer immediately upon request.
- B. Facts to Constitute the Violation  
On June 7, 2021 an Air Quality Specialist Trainee (AQST) observed fugitive dust emissions from the Flying J Inc project site at APN 212-112-02.



The AQST then documented by EPA Reference Method 22 over 5 minutes of visible fugitive dust emissions from the site.

Following the observation, the AQST requested to see the Dust Control Permit for the site. Site personnel were not able to produce a copy of the Dust Control Permit.

The AQST then requested to examine the logbook of dust control operations. Site personnel were not able to produce the logbook of dust control operations.

### 3. APPEAL PROCEDURE AND TIME LIMITATIONS

#### A. Appeal Procedure

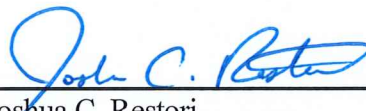
Q&D Construction LLC is advised that within (10) working days of the receipt of this Notice of Violation, Q&D Construction LLC may submit a written petition for appeal to the Washoe County Air Quality Hearing Board. The written petition for appeal shall be submitted to the AQMD at the following address:

Washoe County Health District  
Air Quality Management Division  
1001 East Ninth Street Suite B171  
Reno, Nevada 89512

Failure to submit a petition for appeal within the specified timeframe will result in the submission of this Notice of Violation to the Washoe County District Board of Health with a recommendation for the assessment of an administrative fine of \$1000.00.

12/10/2021

Date



Joshua C. Restori  
Supervisor, Permitting and Compliance  
Air Quality Management Division  
Washoe County Health District

Permit # APCP20-0232

**Dust Control Permit**

**Permit Issued To:**

Q&D Construction LLC  
c/o Shannon Kelly  
1050 South 21st Street  
Sparks, NV 89431

**Contractor Of Record:**

Q&D Construction LLC  
c/o Jeff Bean  
1050 S 21st Street  
Sparks, NV

**Project Name:**

FLYING J INC

**Location:**

APN #212-112-02 off Robb Drive

**Inspection Area:**

3

**Permit Issued:**

12/18/2020

**Project Type:**

Pollution Control

**Permit Expiration:**

06/18/2022

**Size of Project (Acres):**

30

**# of water trucks:**

1

**Projected Start Date:**

12/18/2020

**“CONDITIONS OF OPERATION”**

1) The required number of water trucks will be assigned and available for operation 24 HOURS A DAY, 7 DAYS A WEEK for the purpose of water application for control of fugitive dust. If the required number cannot control fugitive dust emissions from equipment operations and/or gusty wind conditions, the applicant shall immediately provide additional water trucks. CESSATION OF OPERATIONS IS REQUIRED IF DUST CANNOT BE CONTROLLED DUE TO EQUIPMENT OPERATIONS AND/OR GUSTY WIND CONDITIONS. IF CESSATION OF OPERATIONS IS USED AS A DUST CONTROL MEASURE, CONTINUED WATERING OF THE PROJECT IS REQUIRED.

2) Dust emissions generated on any entrance or exit haul roads due to equipment operations or gusty wind conditions must be controlled 24 hours a day, 7 days a week, by the use of water application or an environmentally safe dust palliative (District Regulation 040.030, Section C. 2. a. and b.) Any palliative used must comply with state and local regulations and not provide a noxious odor or contaminate ground water.

- 3) All projects importing or exporting dirt, rock or other fill materials must comply with the work practice standards in District Regulation 040.030, Section C. 4., including load tarping, watering or Freeboard. Any soil tracked onto adjoining paved roadways will be promptly removed by wet broom or washing. Regular vacuum or wet sweeping will be performed at least daily, and more often if necessary or if ordered by the Control Officer due to a violation. Any materials tracked out or spilled which cause visible fugitive dust for a period of five (5) minutes in any hour period shall be cleaned up immediately.
- 4) Any soil or fill storage piles operated or maintained as a part of this construction lot will be covered or wetted down sufficiently to prevent wind blown dust. Dust emissions from screening operations will be controlled by the use of a water truck or other control measure that prevents fugitive dust.
- 5) The applicant shall implement additional dust control measures, such as extra water trucks, water cannons, re-vegetation, environmentally safe dust palliatives (which comply with all applicable regulations and do not emit a noxious odor and do not contaminate ground water), wind fencing, and/or cessation of operations should these measures fail to control fugitive dust emissions from this project.
- 6) Once final grade has been completed, and if no structures are being constructed, the owner/developer shall be required to establish a long-term stable surface. This shall include re-vegetation or covering the disturbed soil with rock or crushed asphalt products within 30 days of completion of final grade. The use of an approved palliative is an option, but must be approved by the AQMD prior to application.
- 7) The applicant shall provide a Material Safety Data Sheet (MSDS) and dilution ratio to AQMD staff for any dust palliative selected for use as a dust control measure at this site.
- 8) A copy of this dust control permit shall be maintained at the construction project site and available to any sub-contractor or AQMD inspector to review upon request.
- 9) ANY CHANGES MADE TO THE PROPOSED OPERATIONS, SCOPE OF WORK OR SURFACE DISTURBANCES UNDER THIS DUST CONTROL PERMIT shall be submitted to the Washoe County Health District, AQMD in writing and must receive approval from the Control Officer prior to implementation.
- 10) The owner or the general contractor shall erect an informational sign at the main entrance to the project site. The sign shall be a minimum of 4 ft. by 8 ft. in size, and shall be in place prior to initiation of disturbance of the ground surface. The sign lettering shall be at least 4 inches high and shall be bold and easily readable by the public. The sign shall remain in place for the life of the project. The sign shall include the following information, The name of the project, Identify the General Contractor, and the following statements "All operators at this site are required to control dust emissions from their operations. The General Contractor is required to oversee and control project wide dust emissions." and "For dust related problems coming from this site, or to make a dust complaint, call this phone number 24 hours per day, seven days per week: (775) 784-7200. A 24-hour phone number for both the

Contractor/Developer and the Air Quality Management Division shall also be posted. The 24-hour phone number for complaints to the Air Quality Management Division is (775) 784-7200."

11) A log book of all dust control operations, containing all information as required by the Control Officer in the standard "WASHOE COUNTY DUST CONTROL LOG" must be maintained on a daily basis (copies of blank log sheets are available at the AQMD Office). Required information includes, but is not limited to, the number of OPERATING water trucks/pulls, the size of OPERATING water trucks/pulls (gallons capacity of each truck/pull), and the condition of the surface crust on disturbed areas. The operator shall record in the logbook all dust control efforts and the compliance level of the site with dust control requirements. The logbook shall be kept at the project site and made available to District representatives upon request.

12) Visible dust may not be emitted into the air from any operations or disturbed areas of this project for more than 5 minutes in any hour period (Regulation 040.030, Section C. 1). All disturbed areas must maintain a visible surface crust or other cover in compliance with Regulation 040.030, Section C.2.c. Compliance shall be determined using US Environmental Protection Agency Reference Method 22, with an observation period of not less than 5 minutes in any hour period. Copies of District Regulations, enforcement policies and USEPA Reference Testing Methods may be obtained by contacting the Air Quality Management Division at (775) 784-7200.

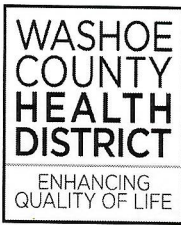
13) Failure to comply with all of the requirements of this Dust Control Permit shall be considered a citable violation of District Regulations and this dust control permit. Citations may be issued for each day of violation, in amounts up to \$10,000 per day as stated in District Regulations.



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Health District Representative





Washoe County Health District  
Air Quality Management Division  
P.O. Box 11130, Reno, NV 89520-0027  
Office (775) 784-7200 Fax (775) 784-7225

**CONSTRUCTION SITE INSPECTION FORM**

Inspector: Candace Brown Date/Time: 06-07-21 / 12:18  
Permit No.: APCP20-0232 Responsible Party: Q+D Construction, LLC  
Project Name: Flying J, Inc. Location: APN: 212-112-02

Weather:  Clear  Partly Cloudy  Cloudy  Recent Rain Temp: 73 Wind/mph: 20 Direction: WSW  
Site:  Active  Inactive  Project Complete Workers Present:  Yes  No

Activities Occurring: None

- Clearing/Grubbing  Backfilling  Abrasive Blasting  Clearing Forms  Crushing/Screening
- Cut & Fill  Importing/Exporting  Explosive Blasting  General Construction  Subgrade Prep
- Trenching  Stockpiling  Demolition (mech)  Landscaping  Paving

**EMISSIONS COMPLIANCE**  YES  NO

Fugitive Dust Emissions  Yes  No If yes, source: Crushing/screening Plume/Length: See Method 22  
Opacity: \_\_\_\_\_ %

Project Soils: Stable:  Moist  Gravel  Palliative  Crust  Other: \_\_\_\_\_

Unstable:  Dry  Loose  Powdery

Interior Roads:  None Stable:  Paved  Type II  Moist  Dust Suppressant

Unstable:  Dry  Loose  Powdery

Track-out:  Yes  No Dust from vehicles:  Yes  No If yes,  Interior  Access

Water Source:  Hydrant  Stand Tank <sup>2</sup>  Reservoir  None Observed  Other: \_\_\_\_\_

Mitigation Equipment:  Hose  Pull(s)  Truck(s) <sup>1</sup>  None Observed  Other: \_\_\_\_\_

Mitigation Equipment Ratio:  Adequate  Inadequate (water truck wasn't operating initially)

Track-out device present:  Yes, functional  Yes, not functional  No, needed  No, not needed

**ADMINISTRATIVE COMPLIANCE**  YES  NO

Acreage Permitted: 30 Project Size: Equal to Greater than

Staging/Parking area(s)  N/A  On-Site  Off-Site, included in acreage  Off-Site, not included in acreage

Stationary Source Permits:  No Equipment  Screen  Crusher  Batch Plant Permit# AAIR18-1176

DCP Sign:  Yes  No DCP On-Site:  Yes  No  Not verified Dust Logs:  Yes  No  Not Verified

Spoke with: David Title: Supervisor  in person/  phone

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Actions Taken:  None  Verbal Warning Notice of Violation#: \_\_\_\_\_

Inspection Notes: Fugitive dust observed - See Method 22. Water truck began operations after discussion w/ David regarding dust. Operations stopped due to lack of dust control even w/ water truck operation.

## Brown, Candace R.

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**From:** Brown, Candace R.  
**Sent:** Tuesday, June 8, 2021 4:50 PM  
**To:** jbean@qdconstruction.com  
**Cc:** skelly@qdconstruction.com  
**Subject:** Flying J Inc. - Washoe County Dust Control Permit APCP20-0232/Portable Source Permit AAIR18-1176  
**Attachments:** Dust Log Template.pdf; AAIR18-1176 - Portable Permit.pdf; APCP20-0232 - Dust Control Permit.pdf

Dear Jeff Bean,

This email is in response to a Washoe County Air Quality routine site visit and evaluation at the Flying J Inc. project located on APN 212-112-02 (off Robb Dr.) conducted June 7, 2021. At the time of the evaluation, the following incidents of non-compliance were observed and documented:

- Using a Method 22, fugitive dust was observed and documented for greater than 5 minutes in an hour period which exceeds the standard set forth by Washoe County DBOH Regulations Governing Air Quality Management 040.030(C)(1) which states:

*“VISIBLE EMISSIONS PROHIBITION: The owner and/or operator of a source engaging in dust generating activities shall not allow visible fugitive dust emissions for a period or periods accumulating more than 5 minutes in any hour.”*

- The Dust Control Permit nor Dust Logs were available on site at the time of evaluation which is non-compliant with Dust Control Permit Conditions 8 and 11 which states:

*Condition 8: “A copy of this dust control permit shall be maintained at the construction project site and available to any sub-contractor or AQMD inspector to review upon request.”*

*Condition 9: “A logbook of all dust control operations, containing all information as required by the Control Officer in the standard “WASHOE COUNTY DUST CONTROL LOG” must be maintained on a daily basis...The logbook shall be kept at the project site and made available to District representatives upon request.”*

An Enforcement Case may be developed for this incident. You may be contacted in the future to discuss the details of the Case and any subsequent enforcement action associated with the incidents of noncompliance.

A copy of the Dust Control Permit, Portable Source Permit and Dust Log template is attached. If you have any questions regarding this correspondence, please feel free to contact me using the information below.

Regards,

### Candace Brown

Air Quality Specialist Trainee | Air Quality Management Division | Washoe County Health District  
[cbrown@washoecounty.us](mailto:cbrown@washoecounty.us) | O: (775) 784-7231 | C: (775) 233-5141 | 1001 E. Ninth St., Bldg. B, Reno, NV 89512

[OurCleanAir.com](http://OurCleanAir.com)

**WASHOE COUNTY  
HEALTH DISTRICT**  
ENHANCING QUALITY OF LIFE





**Compliance Report**  
Q&D Construction, LLC  
APCP20-0232/AAIR18-1176  
APN: 212-112-02  
Reno, NV 89523

On June 7, 2021, at approximately 1215 hours, AQST Brown conducted a routine construction site visit and evaluation at the Flying J, Inc. project located on APN 212-112-02. Crushing and screening was occurring (Stationary Source Permit AAIR18-1176) and fugitive dust was immediately observed across various areas of the site upon arrival. Fugitive dust was observed coming from: the dry stockpiles on site when wind gusts picked up, drop points on the permitted crusher and screen, a loader running material through a Grizzly screen, and from construction equipment driving across the site.

At 1218 hours, AQST Brown took video evidence and conducted a Method 22 and found that within a 5 minute and 28 second period, dust was visible for 5 minutes and 28 seconds. This confirms that dust was visible for more than 5 minutes in an hour period which exceeds the standard set forth by Washoe County DBOH Regulations Governing Air Quality Management 040.030(C)(1) which states “VISIBLE EMISSIONS PROHIBITION: The owner and/or operator of a source engaging in dust generating activities shall not allow visible fugitive dust emissions for a period or periods accumulating more than 5 minutes in any hour.”.

Once the specialist was finished conducting the Method 22, she was approached by Q&D site supervisor David. The specialist explained that she had documented over 5 minutes of fugitive dust and that water controls needed to be put in place and operations should be halted if dust couldn't be controlled. David stated the water truck operator had just arrived on site and that he would have him water the site down. The water truck was then observed watering haul roads and stockpiles. David stated they would halt operations as they could not control the fugitive dust in the windy conditions.

When the specialist asked to view the Dust Control Permit and Dust Logs, David stated they were not on site and were at Q&D's main office. The specialist explained that per the Dust Control Permit, these needed to be kept on site.

Condition 8 of Dust Control Permit APCP20-0232 states: “A copy of this dust control permit shall be maintained at the construction project site and available to any sub-contractor or AQMD inspector to review upon request.”

Condition 11 of Dust Control Permit APCP20-0232 states: “A logbook of all dust control operations, containing all information as required by the Control Officer in the standard “WASHOE COUNTY DUST CONTROL LOG” must be maintained on a daily basis...The logbook shall be kept at the project site and made available to District representatives upon request.”

On June 8, 2021 AQST Brown sent email correspondence to Jeff Bean and Shannon Kelly of Q&D describing the documented incidents of noncompliance and possible Enforcement action associated with the incidents.

**ATTACHMENT TO THE STAFF REPORT  
AIR POLLUTION CONTROL HEARING BOARD**

**Washoe County District Board of Health Regulations  
020.040 Civil Fines and Penalties and Administrative  
Fine Assessment**

- B. The notice shall specify:
  - 1. The section or sections of these regulations alleged to be violated;
  - 2. The facts alleged to constitute the violation; and
  - 3. Appeal procedure including any time limitations
- C. The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless, within ten (10) days after service of the notice, a person named in the order requests a hearing before the Hearing Board.
- D. With or without the issuance of an order pursuant to **Subsection C**.
  - 1. The Control Officer may notify the person or persons responsible for the alleged violation to appear before the Hearing Board at a specified time and place; or
  - 2. The Hearing Board may initiate proceedings for recovery of the appropriate penalty set forth in **Section 020.040** of these regulations.
- E. Nothing in this section prevents the Hearing Board or the Control Officer from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.

**020.040**  
05/28/18)

**CIVIL FINES AND PENALTIES** (Amended 4/88, 10/20/93, 11/16/94; Revised 8/26/04, 11/16/06,

- A. Except as provided in **Subsections B** and **C**, a violation of any section of these regulations constitutes a major violation. Any violation of a permit condition shall be a major violation as specified in **Section 030.2175** of these regulations.
- B. Any person who commits a major violation of any section of these regulations, other than Sections **020.050** and **020.055**, is guilty of a civil offense and may be required to pay an administrative fine of not more than \$10,000.00. Each day of violation constitutes a separate offense. The District Board of Health may establish a compliance schedule as a part of any civil finding either in lieu of, or in addition to, monetary penalties. Any fines assessed may be held in abeyance pending fulfillment of any compliance schedule.
- C. Any violation of Sections **040.030, 040.035, 040.040(A), 040.050, 040.051, 040.055, 040.080** or **050.001** of these regulations constitutes a minor violation unless the violation occurs on more than two (2) occasions during a period of twelve (12) consecutive months. In that event, the third (3rd) and any subsequent violations constitute major violations.

D. The following fines shall be levied for minor violations of these regulations:

	<b>First Violation</b>	<b>Second Violation</b>
<b>Section 040.030</b> (Dust Control)		
A. Violation of Dust Permit Condition(s)	not more than 1000	not less than 1000 not more than 2000
B. Visual Emission Violation	not more than 1000	not less than 1000 not more than 2000
<b>Section 040.035</b> (Open Fires)	not more than 500	not less than 500 not more than 1000
<b>Subsection A of Section 040.040</b> (Fire Training)	not more than 500	not less than 500 not more than 1000
<b>Section 040.050</b> (Incinerator Emission)	not more than 1000	not less than 1000 not more than 2000
<b>Section 040.051</b> (Certified Woodstoves)	not more than 500	not less than 500 not more than 1000
<b>Section 040.055</b> (Odors)	not more than 1000	not less than 1000 not more than 2000
<b>Section 040.080</b> (Gasoline Transfer)	not more than 1000	not less than 1000 not more than 2000
<b>Section 040.200</b> (Diesel Idling)	not more than 500	not less than 500 not more than 1000
<b>Section 050.001</b> (Emergency Episode)	not more than 1000	not less than 1000 not more than 2000

E. Administrative fines shall be levied by appropriate action of the District Board of Health and recorded in its official minutes. The evidence or information on which the District Board of Health bases its action may include any one or more of the following:

1. The recommendation of the Control Officer based on any Notice of Violation served on any person in accordance with these regulations, if that person has not appeared or requested a hearing before the Hearing Board.



2. The recommendation of the Hearing Board, based on its findings in connection with any appeal or other matter referred to the Board in accordance with these regulations.
  3. Evidence presented before the District Board of Health by any person, public official, or representative of the District Board of Health or District Health Department, provided the person charged with violating any of these regulations has received reasonable notice (at least twenty (20) days in advance) of the hearing at which such evidence is to be presented and is provided an opportunity to present evidence in his defense at the hearing.
- F. Unless the Board of Health bases its decision on the recommendations and/or findings of the Control Officer or the Hearing Board as set forth in **Paragraphs 1 and 2 of Subsection E**, the Board shall base its decision as to whether a violation of these regulations has occurred on the evidence presented before the Board pursuant to **Paragraph 3** of that subsection. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Documentary evidence may be received in the form of authenticated copies or excerpts if the original is not readily available and, on request, parties shall be given an opportunity to compare the copy with the original. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though such matter was not covered in the direct examination, impeach any witness regardless of which party first was called to testify and rebut the evidence against him. The Board of Health may take notice of judicially cognizable facts and/or recognized technical or scientific facts within the Board's specialized knowledge. All decisions of the Board of Health respecting administrative fines shall be in writing or notice of the Board's decision shall be forwarded to the aggrieved party at his last known mailing address.
- G. All fines shall be levied by formal action of the District Board of Health. The Control Officer may suspend, deny or revoke any or all permits of a person who has failed to pay any fine that has been levied by the District Board of Health.
- H. In those cases where it is determined by the District Board of Health that a violation of the Regulations has occurred, the Board at its discretion may choose to waive the fine for a first violation, levy any fine providing it does not exceed the appropriate range limitation, require use of other mitigation methods or schedules of compliance and in emergency situations, require a Stop Work Order to be issued and/or any other combination of remedies to bring about compliance with the Regulations.
- I. All administrative fines collected by the District Board of Health pursuant to this section shall be deposited in the school district fund of Washoe County.
- J. All monetary fines assessed pursuant to violations of **Sections 030.105 or 030.107** for improper asbestos containing material removal, shall be for an amount greater than the estimated savings obtained by the illegal removal.

**Washoe County Air Quality Management  
Permitting & Enforcement Branch  
Recommended Penalty Calculation Worksheet**

Company Name Q&D Construction, LLC  
 Contact Name Shannon Kelly  
 Case Number 1321  
 Violation Number AQMV21-0050  
 Violation of Section 040.030 Section E.2.a.(2) - Recordkeeping  
 Permit Condition Condition No. 11

**I. Base Penalty as specified in the Penalty Table** = \$ **1,000.00**

**II. Severity of Violation**

**A. Public Health Impact**

**1. Toxicity of Release** (For Emissions Exceedances)

Unable to Quantify - 1x      Criteria Pollutant - 1x      Hazardous Air Pollutant - 2x  
 Adjustment Factor **1**

Comment: Penalty by Rule

**2. Environmental/Public Health Risk** (Proximity to sensitive environment or group)

Negligible - 1x   Moderate - 1.5x   Significant - 2x      Adjustment Factor **1.0**

Comment: Penalty by Rule

Total Adjustment Factors (1 x 2) = **1**

**B. Adjusted Base Penalty**

Base Penalty \$ 1,000.00 x Adjustment Factor 1 = \$ **1,000.00**

**C. Number of Days/Weeks/Months or Units in Violation**

Adjusted Penalty \$ 1,000.00 x Number of Days/Weeks/Mo **1** = \$ **1,000.00**

Comment: Penalty by Rule

**D. Economic Benefit**

Avoided Costs \$ **0.00** + Delayed Costs \$ **0.00** = \$ 0.00

Comment: Penalty by Rule

**Penalty Subtotal**

Adjusted Base Penalty \$ 1,000.00 + Economic Benefit \$ 0.00 = \$ **1,000.00**

**Washoe County Air Quality Management  
Permitting & Enforcement Branch  
Recommended Penalty Calculation Worksheet**

**III. Penalty Adjustment Consideration**

**A. Mitigating Factors** (0 +/- 25%)

0%

**Comment:** Penalty by Rule

**B. Compliance History**

Similar Violation < 12 months (300%)

+ 0%

Similar Violation < 3 years (200%)

+ 0%

Similar Violation > 3 years (150%)

+ 0%

Previous Unrelated Violations < 5years

5% x [ ], # of previous violations

+ 0%

**Comment:** Penalty by Rule

**Total Penalty Adjustment Factors** – Sum of A & B

0%

**IV. Recommended Penalty**

Penalty Adjustment:

\$ 1,000.00	x	0%	=	\$ 0.00
Penalty Subtotal		Total Adjustment Factors		Total Adjustment
(From Section II)		(From Section III)		Value

Additional Credit for Environmental Investment/Training - \$ [ ]

**Comment:** \_\_\_\_\_

Adjusted Penalty:

\$ 1,000.00	+/-	\$ 0.00	=	\$ 1,000.00
Penalty Subtotal		Total Adjustment Value		Recommended Penalty
(From Section II)		(From Section III + Credit)		

  
Senior AQ Specialist/Supervisor

12/10/2021  
Date

## Administrative Penalty Table

### Air Quality Management Division Washoe County Health District

#### I. Minor Violations - Section 020.040(C)

Regulation	1st Violation	2nd Violation
040.005 Visible Emissions	1000	2500
040.030 Dust Control (fugitive)	1000	2000
040.035 Open Fires	500	1000
040.040 Fire Training	500	1000
040.050 Incinerator	1000	2000
040.051 Woodstoves	500	1000
040.055 Odors	1000	2000
040.080 Gasoline Transfer (maintenance)	1000	2000
040.200 Diesel Idling	500	1000
050.001 Emergency Episode	1000	2000
040.030 Construction Without a Dust Control Permit		
Project Size – Less than 10 acres	\$ 500 + \$50 per acre	
Project Size – 10 acres or more	\$1,000 + \$50 per acre	

#### II. Major Violations - Section 020.040

Regulation	Violation	Source Category	
		Minimum	Maximum
030.000	Construction/Operating without Permit (per major process system or unit/day)	5000	10000
030.1402	Failure to Comply with Stop Work Order	10,000/day	10,000/day
030.2175	Operation Contrary to Permit Conditions (per day or event)	2500	10000
030.235	Failure to Conduct Source Test or Report (per Reporting Period for Each Unit)	2500	5000
	All other Major Violations (per day or event)	5000	10000

#### III. Major Violations - Section 030.107 Asbestos

A. Asbestos Sampling & Notification	\$ 2,000 - \$10,000
B. Asbestos Control Work Practices (per day or event)	\$ 2,000 - \$10,000
C. Asbestos Containment & Abatement (per day or event)	\$ 5,000 - \$10,000

**ATTACHMENT TO THE STAFF REPORT  
AIR POLLUTION CONTROL HEARING BOARD**

**Appeal**

DEC 28 2021

WASHOE COUNTY  
HEALTH DIST.

**APPEAL PETITION TO THE AIR POLLUTION CONTROL HEARING BOARD**

Return to: Washoe County Health District Air  
Quality Management Division  
1001 East Ninth Street B171  
Reno, Nevada 89512  
(775) 784-7200

OurCleanAir.com

PETITIONER: Q&D Constriction, LLC PHONE: 775-30-6407  
ADDRESS (MAILING): 1050 South 21st Street ZIP CODE: 89431  
ADDRESS (ACTUAL LOCATION): 1050 South 21st Street

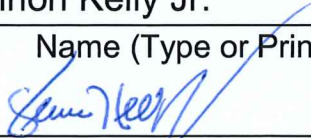
EQUIPMENT OR PROCESS REGISTERED WITH CONTROL OFFICER? YES  NO

APPEAL OF ORDER  
APPEAL OF VIOLATION

0049,0050

VIOLATION NOTICE RECEIVED: # AQMV21-0045, AQMV21-0049, AQMV21-0050 DATE: 12/10/2021  
REGULATION INVOLVED: SECTION: 040.030 Section C.1. Visible Emission,  
040.030 Section E.2.a.1. Recordkeeping, 040.030 Section E.2.a.2. Recordkeeping

BASIS FOR APPEAL/VARIANCE: Attached to the back

FILED BY: Shannon Kelly Jr. Environmental Compliance Manager  
Name (Type or Print) Title  
 12/28/2021  
Signature Date

Dear Washoe County Health District,

On June 7, 2021 the Air Quality Management Division (AQMD) of the Washoe County Health District identified (3) incidents of noncompliance associated with Dust Control Permit ACP20-0232 located at APN 212-112-02. The attached Notices of Violation (NOV) No's AQMV21-0045, AQM21-0049, and AQMV21-0050 state the specifics of Case No. 1321.

**Based on the incidents of noncompliance, Q&D Construction, LLC has violated the following Sections of the District Board of Health Regulations Governing Air Quality Management (DBOH Regulations):**

- 040.030 C.3. Dust Control Permit Requirements

**These Dust Control Permit conditional requirements are associated with the following DBOH Regulations:**

- 040.030 Section C.1. Visible Emission Prohibition
- 040.030 Section E.2.a.1. Recordkeeping
- 040.030 Section E.2.a.2. Recordkeeping

The AQMD makes recommends appropriate penalties to the Washoe County Health District Board of Health (DBOH) for violations of the DBOH Regulations. Recommended penalties are based on the Penalty Table and DBOH Regulations Section 020.040 Civil Fines and Penalties. NOV No. AQMV21-0045, AQMV21-0049, & AQMV21-0050 were cited as violations of 040.030 Section C.1, 040.030 Section E.2.a.1., and 040.030 Section E.2.a.2 constitute minor violations per Section 020.040 (C). Therefore, the AQMD is making a recommendation to the DBOH to uphold NOV No. AQMV21-0045, AQMV21-0049, and AQMV21-0050 and administer a total penalty by rule in the amount of \$3000.00 to Q&D Construction, LLC.

Please consider this letter an appeal by Q&D Construction, LLC of DBOH Regulation 040.030, sections E.2.a.1. and E.2.a.2.

**Basis of Appeal/Variance:**

Q&D Construction, LLC would like to appeal regulation DBOH Regulation 040.030, Sections E.2.a.1 and E.2.a.2. It is our position that records were compliant with these regulation. At the time of the inspection, Q&D Construction, LLC didn't have a consistent, single point-of-contact onsite. In order to provide consistency, the binder was being kept at our main office on 1050 S. 21<sup>st</sup> Street and maintained by Shannon Kelly Jr, Q&D's Environmental Compliance Manager. Mr. Kelly kept all records up to date and had the Dust Control Permit along with equipment changes updated in the WCHD Binder. Upon receipt of the email dated, June 8<sup>th</sup>, 2021, Mr. Kelly contacted Candace Brown and provided her with the current documentation for permit ACP20-0232. Q&D hopes that WCHD will reconsider the findings associated with Regulation 040.030 Sections E.2.a.1 and E.2.a.2 and determine that Q&D was in compliance.