

## SUMMARY OF ARGUMENT FOR DISMISSAL OF ALL FINES

1. Reindeer Lodge was exempt from regulation because it was accepted, reviewed, and approved by AQMD via the NESHAP form submitted that the Reindeer Lodge project did not reach the threshold of volume of ACRMs to be regulated. Mr. Schmidt complied, under protest, with all demands made by AQMD. Mr. Schmidt contracted to have all the ACRMs removed under the permit issued by AQMD to ALL EAGLE CONSTRUCTION in September of 2019 in order to not delay the process of removing the damaged portions of the building for up to another two to four years while the process played out in Court. The volume of ACRMs on site might have been in dispute but the argument was settled when AQMD accepted, reviewed, and approved of the NESHAP submittal filed by Mr. Schmidt that clearly declared and delineated that the project was below the volume threshold for regulation.

2. Further, even if the volume of ACRMs had reached the volume threshold to be regulated, the allegations and assertions of AQMD as to violations are not supported by any actual evidence but are mere fabrications and unfounded false accusations. The fact remains that Mr. Schmidt complied (under protest) with all the demands of AQMD, secured the services of ALL EAGLE CONSTRUCTION, and all work of removal of ACRMs was performed under supervision and inspection of AQMD and agents from Pezonella Associates. There were no Citations or Complaints issued during the course of the Demo and ACRM removal.

3. In addition, there were clearly violations of Due Process by AQMD including but not limited to: a) waiting over a year and a half after the alleged violations and until after Mr. Schmidt had all the ACRMs removed to issue the citations and fines; b) issuing a WARNING NOTICE to the Washoe County Building Department for issuing a Renovation Permit while FINING Mr. Schmidt for receiving it (AQMD illegally denied access to these documents, they were obtained through the Building Department); c) denying multiple requests for Public Records requested by Mr. Schmidt (the County has paid 13,000 dollars to settle the first Denial of Access to Public Records Suit) while using some of the denied Public Records in the Air Quality Board Hearing; d) illegally denying the statutory appeal process available under State Law to Appeal before the County Board of Adjustment; and e) we also believe by committing multiple violations of the Open Meeting Law, for which we have filed a Civil Complaint in District Court asking the Court to order the Appeal Denial Recommendation of the Air Quality Control Appeals Board be reversed and vacated and the fines and citations be removed.

### Support for Paragraph 1

The Reindeer Lodge project was never subject to the Federal Regulations because there was and is prima facie undisputed evidence that the project did not reach the threshold of RACMs required to be regulated as certified and acknowledged by AQMD when they accepted, reviewed, and approved of the NESHAP form submitted in August of 2020. AQMD is bared from bringing any arguments to the contrary subsequent to said approval and in any event has NO actual evidence to the contrary. The signed and accepted document controls.

The debris pile referred to by AQMD actually contained less than 2 cubic feet of ACRMs or less than one / one hundreds of one percent Asbestos and therefore was not regulated under any circumstance. That debris pile was just basically 99.99 percent non asbestos containing material and therefore fell far below any regulation threshold.

The square footage of ceiling materials which has received some discussion was a gross measurement of a ceiling area (80 percent of which had been replaced over the 70 year life of the building with non-asbestos containing wall board) and also the ceiling had been completely collapsed by the snow loads so it could in no way be actually measured by using a square foot measure.

It was estimated to contain less than two cubic feet of material for which the testing results were not even conclusive.

### Support for Paragraph 2

There was no "Demolition" as defined by Federal Regulations before the Demolition/Removal Permit was issued to ALL EAGLE CONSTRUCTION on September 14, 2020. At that time All Eagle Construction began the "demolition" under the authority of that permit and under the observation and inspection of AQMD and the Washoe County Building Department. ADDITIONALLY THERE WAS AND CAN BE NO PROOF to the contrary offered by AQMD. The continued false assertion offered by Joshua Restori on which most of the fines are based that the "demolition" began on or before Jun 10, 2019 is not supported by any actual evidence they have submitted. The only purported evidence they have offered is a newspaper photo that shows a parked excavator with the building in the background in a partially collapsed state which was from the severe winter snow load of 2016/17 and the two subsequent winters.

Appellant was issued a citation and fine in part for issuing a building permit before any NESHAP form was filed when in actuality Appellant NEVER issued any Renovation/remodel permit. The Renovation/removal permit was actually issued to Appellant by the Washoe County Building Department on February 26, 2019. However, AQMD did issue a "Demotion/Removal" Permit to ALL EAGLE CONSTRUCTION almost a year before the filing of any NESHAP form and therefore according to AQMDs arguments they should be fining themselves.

### Support for Paragraph 3

Throughout the entire process AQMD acted in bad faith arbitrarily and capriciously with malice of fore thought. AQMD attempted to cite and fine Appellant after over one and a half years of assurance by Mike Wolf then the Supervising Inspector for AQMD that Appellant would not be fined. AQMD denied Appellant access to numerous Public Records in violation of State Law. AQMD used selective Records in the Air Quality Control Appeals Board Hearing which Records AQMD had illegally denied to Appellant Schmidt for over two months. AQMD was complicit in what Appellant believes to be violations of the spirit and/or substance of the Open Meeting Law and Appellant also believes Restori and other are cultivar for criminal felony prosecution of "concealing" of Public Records.