

1 BEFORE THE NEVADA STATE ENVIRONMENTAL COMMISSION

2
3 In re: Reck Brothers, LLC)

4) **FINDINGS OF FACT, CONCLUSIONS**
5) **OF LAW AND DECISION**

6 This matter came on for hearing before a quorum of the State Environmental Commission (the
7 “Commission”) on December 5, 2023, pursuant to NRS 445B.640 and NAC 445B.281(1), for levy of
8 administrative fines, based upon Final Notice of Alleged Violation (“NOAV”) No. 2892, issued by the
9 Division of Environmental Protection (the “Division”) against Reck Brothers, LLC (“Reck Bros”).

10 **FINDINGS OF FACT**

11 On April 4, 2022, the Division issued NOAV 2892¹ to Reck Bros. A copy of NOAV 2892 is
12 hereby incorporated by reference and attached as **Exhibit 1**. Along with NOAV 2892, the Division sent
13 a letter informing Reck Bros of its appeal rights under NRS 445B.340. *Id.* Reck Bros did not appeal
14 NOAV 2892.

15 The Division applied the Commission’s penalty matrix for the violations described in NOAV
16 2892. Based on this information, the Division calculated and recommended a fine of \$24,000.00. The
17 original penalty was brought to the Commission on September 7, 2023 and the Commission deferred
18 decision on the penalty to the December 5, 2023 meeting. The Commission levied the fine with
19 \$12,000.00 payable to the State of Nevada and \$12,000.00 to be paid through a supplemental
20 environmental project.

21 Therefore, based upon the arguments of the parties, the evidence, and documents on file in this
22 matter, the Commission makes the following findings of fact. All findings made are based upon a
23 preponderance of the evidence.

- 24 1. The Division properly issued final NOAV 2892 against Reck Bros.
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27 ¹ The Division also issued NOAVs 2893, 2926, and 2927 on the same date. NOAVs 2893, 2926, and 2927 involved minor
28 violations with \$250, \$500, and \$1,000 fines respectively established by NAC 445B.281(3). Given that these fines are
prescribed by regulation, they were not subject to discussion in the Commission’s December 5, 2023, administrative fine
Hearing.

- 1 2. NOAV 2892 was not appealed by Reck Bros within 10 days of its issuance or receipt, becoming
2 final thereafter.
- 3 3. The facts described in NOAV 2892 are not in dispute and support a finding that Reck Bros
4 violated NAC 445B.275(1)(c).
- 5 4. The Division properly calculated its recommended fine for NOAV 2892 using the Commission's
6 penalty matrix.

CONCLUSIONS OF LAW

- 8 1. Reck Bros violated NAC 445B.275(1)(c) during the periods and in the manners described in
9 NOAV 2892.
- 10 2. Pursuant to NRS 445B.640, "any person who violates any provision of NRS 445B.100 to
11 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant
12 thereto . . . is guilty of a civil offense and shall pay an administrative fine levied by the
13 Commission of not more than \$10,000 per day per offense." Reck Bros' violation, as described
14 in NOAV 2892, therefore warrants imposition of an administrative fine.
- 15 3. Pursuant to NAC 445B.281(1), "Except as otherwise provided [,] any violation of the provisions
16 of [NAC 445B.001 to 445B.390, inclusive,] is classified as a major violation, and a fine of up to
17 \$10,000 per day per violation may be levied." Reck Bros' violation, as described in NOAV 2892,
18 is a major violation.
- 19 4. The administrative fine proposed by the Division for NOAV 2892 in the amount of \$24,000.00
20 is consistent with the Commission's penalty matrix, within the scope of potential fines authorized
21 by NRS 445B.640 and warranted under the facts presented in NOAV 2892. Therefore, the
22 administrative fine is approved by the Commission.

23 THEREFORE, based on the foregoing and a preponderance of the evidence, it is ORDERED and
24 ADJUDGED as follows:

- 25 1. Reck Bros violated NAC 445B.275(1)(c) as described in NOAV 2892 and is fined in the amount
26 of \$24,000.00, with \$12,000 payable to the State of Nevada and \$12,000 to be held in abeyance
27 and dismissed after Reck Bros. and the Division agree upon and Reck Bros. completes to the
28 satisfaction of the Division a supplemental environmental project with at least equivalent value.

- 1 2. Pursuant to NAC 445B.283, payment “must be submitted within 10 days of service of the notice
2 upon the violator. Cashier’s checks, certified checks, money orders, or personal checks must be
3 made payable to the State of Nevada and must be sent to the State Environmental Commission,
4 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.”
- 5 3. Pursuant to NRS 445B.640, “Any person who fails to pay a fine levied . . . within 30 days after
6 the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to
7 persons found by the court to be indigent.”

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9 DATED this 8th day of December, 2023.

10
11 STATE ENVIRONMENTAL COMMISSION

12 Tom Porta
13 Tom Porta (Dec 8, 2023 16:06 PST)

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15 TOM PORTA, CHAIR
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CERTIFICATE OF MAILING

I hereby certify that on the 9th day of December 2023, I deposited for mailing at Carson City, Nevada, a true copy of the attached document, sent via Certified U.S. Mail to:



Sheryl Fontaine
Executive Secretary
State Environmental Commission

cc: Loren Borst, State Environmental Commission Recording Secretary
Ziwei Zheng, State Environmental Commission Counsel, Deputy Attorney General
State Environmental Commission File