



February 22, 2017

Gib Mackedon  
Owner  
L. Mackedon and Sons, Inc.  
P.O. Box 1207  
Fallon, Nevada 89407

**RE: Notice of Alleged Air Quality Violation and Order No. 2587  
Class III Air Quality Operating Permit AP1611-1543 (FIN A0126)**

Dear Mr. Mackedon:

The Nevada Division of Environmental Protection - Bureau of Air Pollution Control (BAPC) alleges that L. Mackedon and Sons, Inc. (LMS) failed to apply for and obtain a renewal of Class III Air Quality Operating Permit AP1611-1543, which expired on May 12, 2010. On October 28, 2015 the BAPC received a phone call from the legal counsel of LMS, Allison MacKenzie, stating that LMS had not held a permit since 2010 as a result of an oversight. LMS coordinated with the BAPC to submit a new permit application that was deemed complete on November 26, 2015, and now operates under Class III Air Quality Operating Permit AP3273-3707, issued by the BAPC on August 22, 2016.

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice states in part:**

*"1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:*

*(a) Failure to apply for and obtain an operating permit;"*

On December 12, 2016, the BAPC held an enforcement conference with LMS to discuss *Draft* Notice of Alleged Violation and Order (NOAV) No. 2587 issued on November 10, 2016. Based on the information available, the BAPC has determined that formal issuance of NOAV No. 2587 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to apply for and obtain an operating permit constitutes a major violation. NOAV No. 2587 represents LMS' first air quality violation within the last 60 months.

As was discussed during the enforcement conference, the BAPC makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for an

air quality violation. The BAPC will be recommending a penalty of **\$4,000.00** for NOAV 2587 based on use of the Administrative Penalty Matrix for non-emissions air quality violations.

An appeal of NOAV No. 2587 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matter; action by Commission; regulations** and SEC administrative rules. A copy of SEC Appeal form #3 is enclosed. Appeals must be received within ten (10) days of receipt of this notice, pursuant to **NRS 445B.340 Appeals to Commission: Notice of appeal**. Appeals are processed through Valerie King, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. Mrs. King can be reached at (775) 687-9374, or by fax at (775) 687-5856. Please provide me with a copy of any correspondence your company may have with the SEC.

If you have any questions regarding the alleged violation, please contact Gregg Rosenberg at (775) 687-9573. If he is unavailable, please contact me at (775) 687-9530.

Sincerely,



Travis Osterhout, P.E.  
Supervisor, Compliance and Enforcement Branch  
Bureau of Air Pollution Control

TO/gr

enc.: 1. Notice of Alleged Air Quality Violation and Order No. 2587  
2. SEC Appeal Form #3

cc (w/enc.): Valerie King, SEC  
Churchill County Board of Commissioners  
FIN A0126 (Certified Copy)

E-Copy: Lisa Kremer, Chief, BAPC  
Ryan Clark, Supervisor, BAPC  
Gregg Rosenberg, BAPC

Certified Mail No.: 9171 9690 0935 0041 0515 63

STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR POLLUTION CONTROL  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249

NO. 2587

**NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER**

**NOTICE OF ALLEGED AIR QUALITY VIOLATION**

**Person(s) to Whom Served:** Mr. Gib Mackedon

**Company Name:** L. Mackedon and Sons, Inc.

**Address:** P.O. Box 1207, Fallon, Nevada 89407

**Permit Number:** AP1611-1543 **FIN:** A0126

**Site of Alleged Violation:** L. Mackedon and Sons Concrete Batch Plant, Fallon, Nevada 89406

**Date of Observation:** 10/28/2015 **Arrival:** N/A **Departure:** N/A

**Ambient Temperature:** N/A °F **Clear:** **Cloudy:** **Rain:** **Snow:**

**Wind Speed:** N/A mph **Wind Direction:** N/A

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

(a) Failure to apply for and obtain an operating permit;

**It is alleged that the following act or practice constitutes the violation:**

Failure to apply for and obtain a renewal of an air quality operating permit.

**Evidence:**

L. Mackedon & Sons, Inc. (LMS) operates a concrete batch plant facility in Fallon, Churchill County, Nevada. Previously, LMS operated under Class III Air Quality Operating Permit AP1611-1543, issued by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) on May 12, 2005. The Class III Air Quality Operating Permit AP1611-1543 expired on May 12, 2010, with no renewal application being submitted to the BAPC.

On October 28, 2015 the BAPC received a phone call from the legal counsel of LMS, Allison MacKenzie, stating that LMS had not held a permit since 2010 as a result of an oversight. LMS coordinated with the BAPC to submit a new permit application that was deemed complete on November 26, 2015, and now operates under Class III Air Quality Operating Permit AP3273-3707, issued by the BAPC on August 22, 2016. BAPC staff conducted a site visit on March 10, 2016, at which time records were requested for each system from March 1, 2010 through December 31, 2015.

On December 12, 2016, the BAPC held an enforcement conference with LMS to determine whether formal issuance of Notice of Alleged Air Quality Violation and Order (NOAV) No. 2587 was or was not warranted. During the enforcement conference, LMS was unable to present any information to indicate that the violation had not occurred as alleged. Based on the available information, the BAPC has determined that formal issuance of NOAV No. 2587 is warranted.

## NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

**Evidence (cont.):**

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to apply for and obtain an air quality operating permit constitutes a major violation. This NOAV represents LMS' first air quality violation within the last 60 months.

### ORDER

Under the authority of **Nevada Revised Statute (NRS) 445B.100 to 445B.640**, inclusive, the person named in this notice is ordered:

\_\_\_\_\_ **To pay the following administrative fine in accordance with 445B.281.1:** \$ \_\_\_\_\_

\_\_\_\_\_ **To take corrective action:** \_\_\_\_\_

\_\_\_\_\_ **To appear for an enforcement conference at:** 901 S. Stewart St. Suite 4001, Carson City, Nevada, 89701  
**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

\_\_\_\_\_ **To conduct a Supplemental Environmental Project specified by the BAPC**

\_\_\_\_\_ **This notice is a warning.**

**Signature** \_\_\_\_\_  
**Issued by:** Travis Osterhout P.E.  
 Supervisor, Compliance and Enforcement Branch  
 Bureau of Air Pollution Control

**Phone:** \_\_\_\_\_ **775-687-9530** **Date:** \_\_\_\_\_ **February 22, 2017**

TO/gr

Certified Mail No.: 9171 9690 0935 0041 0515 63

*This order becomes final unless appealed within ten (10) days after receipt of this notice or ten (10) days after a required enforcement conference. The person named in this order may appeal this notice by submitting a written request for a hearing to the Chairman of the Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. An administrative fine may be levied by the Environmental Commission of not more than \$10,000 per day of violation.*



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

**FORM 3: FORM FOR REQUESTING AN APPEAL HEARING**  
(Provide attachments as needed)

1. Name, address, telephone number, and signature of appellant:

Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

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

Representative capacity (if applicable): \_\_\_\_\_

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

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**5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.**

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**Date of Request:** \_\_\_\_\_.

Send Form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701