

STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

September 18, 2014

Bart Hiatt
General Manager
A&K Earth Movers, Inc.
5544 Rivers Edge Drive
Fallon, NV 89406

**Re: Notice of Alleged Air Quality Violation and Order No. 2512
Class II Air Quality Operating Permit AP1442-3321 (FIN A0637)**

Dear Mr. Hiatt:

The Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) alleges A&K Earth Movers, Inc. (A&K) has violated conditions of Class II Air Quality Operating Permit AP1442-3321 (FIN A0637).

On September 9, 2014 NDEP-BAPC held an enforcement conference with A&K to discuss Notice of Alleged Violation (NOAV) No. 2512. Based on the information provided during the conference, NDEP-BAPC has determined issuance of NOAV No. 2512 is warranted. Failure to install required air pollution control equipment and failure to maintain process or air pollution control equipment are violations of **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV No. 2512 alleges that A&K is in violation of **NAC 445B.275 Violations: Acts constituting; notice** states in part, that: "1. Failure to comply with any requirement of NAC 445B.001 to 445B.3791, 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:

- (c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit.

NOAV No. 2512 constitutes a major violation as defined by **NAC 445B.281 Violations: Classification; administrative fines**. NOAV No. 2512 represents A&K's fifth violation issued in the past 60 months.

As discussed during the enforcement conference, the NDEP-BAPC makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for a major air quality violation. All penalty recommendations are based on the approved



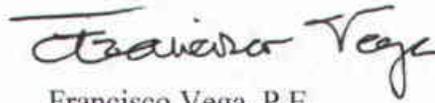
A&K Earth Movers, Inc.
September 18, 2014
Page 2

penalty matrix. Based on the penalty matrix, the NDEP-BAPC will be recommending a penalty of \$24,840 for NOAV No. 2512.

An appeal of NOAV No. 2512 may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. Appeals must be received within 10 days of receipt of this notice, pursuant to **NRS 445B.340**. Appeals are processed through Valerie King, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. 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 violation please call Scott Cunningham at (775) 687-9353 or, myself at (775) 687-9343.

Sincerely,



Francisco Vega, P.E.
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

FV/sc

enc.: Notice of Alleged Air Quality Violation and Order No. 2512
SEC Appeal Form #3

cc (w/enc): Valerie King, SEC
Churchill County Board of Commissioners
Francisco Vega, NDEP
FIN A0637 (Certified Copy)

E-Copy: Gary Fowkes, A&K Earth Movers, Inc.

Certified Mail No.: 9171 9690 0935 0012 2716 55

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. 2512

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Bart Hiatt, General Manager

Company Name: A & K Earth Movers

Address: 5544 Rivers Edge Drive, Fallon, NV 89406

Permit Number: AP1442-3321

FIN: A0637

Site of Alleged Violation: Hazen Hot Mix Asphalt Plant

Date of Observation: 08/07/2014

Arrival: 10:00am

Departure: 4:00pm

Ambient Temperature: 100

°F

Clear: x

Cloudy:

Rain:

Snow:

Wind Speed: 0

mph

Wind Direction:

N/A

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

NAC 445B.275 Violations: Acts constituting; notice. 1. Failure to comply with any requirement of NAC 445B.001 to 445B.3791, 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:

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

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

Failing to maintain process or air pollution control equipment and failure to install required air pollution control equipment.

Evidence:

A & K Earth Movers, Inc. (A&K) operates a hot mix asphalt plant in Hazen, Churchill County, Nevada under Class II Air Quality Operating Permit AP1442-3321, issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on April 17, 2013.

On August 8, 2014, A&K was conducting compliance source testing on System 30, Asphalt Drum Mixer. NDEP-BAPC was on site to observe the testing and observed System 29, Controlled Material Transfers, was not operating with the required Fogging Water Sprays listed in Class II Air Quality Operating Permit AP1442-3321 located at PF1.053, Conveyor C1 and discharge to Grizzly, PF1.054, Grizzly and discharge to Conveyor C2; Belt Scale, and PF1.055, Conveyor C2 and discharge to Conveyor C3. A water spray was installed on PF1.053 and PF1.055 but was not turned on. The water spray at PF1.055 was not connected a long length of hose and the end required to connect to a water source were hidden under a pile of dirt. When the hose was found and connected to a water source no water came out of the water spray. PF1.054 had no water spray installed but one was installed by an employee of A&K while NDEP-BAPC was on site. An official Method 9 could not be conducted to determine the opacity however, noticeable dust accumulated on an NDEP-BAPC vehicle within an hour on site and multiple individuals on site could feel the dust on their face when standing a reasonable distance from the units. NDEP asked if any A&K employees were Method 9 certified and was informed some A&K employees on site are Method 9 certified. System 29 was not shut down in order to conduct the required three valid runs required for compliance testing.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2512

Evidence (cont.):

On September 9, 2014, the NDEP-BAPC held an enforcement conference with A&K to discuss the information regarding Notice of Alleged Violation (NOAV) No. 2512. The enforcement conference represented A&K's opportunity to provide any evidence that would lead NDEP-BAPC into determining NOAV No. 2512 was not warranted. During the enforcement conference A&K was unable to provide evidence the violations associated with NOAV No. 2512 did not occur and should not be issued. A&K stated a new company policy would be implemented requiring daily checks of emission controls and a new company standard operating procedure would be put in place to prevent future incidents. A&K did not have any questions and understood that NOAV No. 2512 would be formally issued.

In accordance with NAC 445B.281 Violations: Classification; administrative fines, failing to install required air pollution control equipment and failure to maintain process or air pollution control equipment required in Class II Air Quality Operating Permit AP1442-3321 constitute major violations. NOAV No. 2512 represents A&K's fifth air quality violation in the past 60 months.

ORDER

Under the authority of 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 a hearing before the Environmental Commission at:
Date: _____ Time: _____

_____ 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 NDEP-BAPC

_____ This notice is a warning.

Signature Francisco Vega
Issued by: Francisco Vega, P.E.
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: September 18, 2014

Certified Mail No.: 9171 9690 0935 0012 2716 55

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.

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

Date of Request: _____.

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