

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

January 8, 2014

Lance Semenko
Chief Operating Officer
Q & D Construction, Inc.
1050 S. 21st Street
Sparks, Nevada 89431

Re: Notice of Alleged Air Quality Violation and Order Nos. 2461 and 2462
Class II Air Quality Operating Permit AP1442-2094.03, COLA No. 2369 (FIN A0643)

Dear Mr. Semenko:

The Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) alleges that Q & D Construction, Inc. (Q & D) has violated conditions of Class II Air Quality Operating Permit AP1442-2094.03, Change of Location Approval (COLA) No. 2369.

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.

The attached Notice of Alleged Air Quality Violation and Order (NOAV) Nos. 2461 and 2462 allege that Q & D has failed to meet emissions limits for System 04 Asphalt Plant Production, S2.001 Drum Dryer and failed to comply with permitted fuel usage requirements for operating the system using Natural Gas as required by Class II Air Quality Operating Permit AP1442-2094.03, COLA No. 2369. As defined by Section 2 of **NAC 445B.281 Violations: Classification; administrative fines**, NOAV Nos. 2461 and 2462 constitute major air quality violations.

As was discussed during the conference held on January 7, 2014, the NDEP-BAPC makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for major air quality violations. The NDEP-BAPC will be recommending a penalty of \$3,250 to the SEC for NOAV No. 2462. The penalty recommendation is based on the use of the Administrative Penalty Table for emission violations related to source test and adjusted by the Penalty Matrix. NOAV No. 2461 will be issued as a warning violation.



Q & D Construction, Inc.

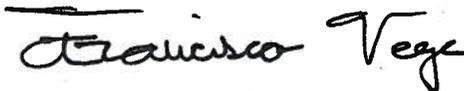
January 8, 2014

Page 2

An appeal of NOAV Nos. 2461 and 2462 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. 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 violations please call Ryan Fahey at (775) 687-9546, if he is unavailable please contact me at (775) 687-9343.

Sincerely,



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

FV/rf

enc.: 1. Notice of Alleged Air Quality Violation and Orders (2)
2. SEC Appeal Form #3

cc (w/enc. 1): Valerie King, SEC
Eureka County Board of Commissioners
Francisco Vega, NDEP
FIN A0643 (Certified Copy)

E-Copy: Rob Bamford, NDEP
Jeff Denison, NDEP

Certified Mail No.: 9171 9690 0935 0012 7080 90

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. 2461

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Lance Semenko
Company Name: Q & D Construction, Inc.
Address: 1050 South 21 Street
Permit Number: AP1442-2094.03 COLA No. 2369 **FIN:** A0643
Site of Alleged Violation: Hot Mix Asphalt Plant located 3 miles east of Beowawe, Nevada, Eureka County
Date of Observation: 11/4/2013 **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:

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:

Failure to operate System 04, Asphalt Plant Production Drum Dryer in accordance with permit AP1442-2094.03 COLA No. 2369.

Evidence:

Q & D Construction, Inc. (Q & D) operates a hot mix asphalt plant 3 miles east of Beowawe, Nevada in Eureka County under Class II General Air Quality Permit AP1442-2094.03 and Change of Location Approval (COLA) No. 2369. COLA No. 2369 was issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on March 27, 2013.

On November 4, 2013 the NDEP-BAPC received correspondence from the operator of the Hot Mix Asphalt Plant operated under the conditions of Class II General Air Quality Permit AP1442-2094.03, COLA No. 2369. In this correspondence the operator notified the NDEP-BAPC that System 04, Asphalt Plant Production (S2.001 Drum Dryer, #2 Natural Gas-Fired) contained in the permit operates on propane gas. The system is permitted to operate using natural gas. The original permit application received by the NDEP-BAPC on March 1, 2013 from Q & D requested the use of natural gas during operation. It is the determination of the NDEP-BAPC that Q & D failed to comply with COLA No. 2369 by combusting propane fuel.

On January 7, 2014, the NDEP-BAPC and Q & D met to discuss whether the issuance of this violation was or was not warranted. Q & D applied for COLA No. 2369 with the understanding that propane and natural gas were similar for emissions purposes and therefore would not affect the operational requirements contained in the permit. The NDEP-BAPC is issuing this violation as a warning based on the information provided by Q & D.

In accordance with NAC 445B.281 Violations: Classification; administrative fines, failure to comply with a permitted operating parameter constitutes a major violation. This Notice of Alleged Air Quality Violation and Order (NOAV) in conjunction with NOAV No. 2462 represent Q & D's first air quality violations within the last 60 months.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2461

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: Apply for the proper fuel type that is intended to be used during operations in future applications.

_____ To appear for a hearing before the Environmental Commission at:
Date: _____ Time: _____

_____ To appear for an enforcement conference at:
Date: _____ Time: _____

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: January 8, 2014

FV/rf
Certified Mail No.: 9171 9690 0935 0012 7080 90

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
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. 2462

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Lance Semenko, COO
Company Name: Q & D Construction, Inc.
Address: 1050 South 21 Street
Permit Number: AP1442-2094.03 COLA No. 2369 **FIN:** A0643
Site of Alleged Violation: Hot Mix Asphalt Plant located 3 miles east of Beowawe, Nevada, Eureka County
Date of Observation: 11/1/2013 **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:

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:

Failed compliance source test on System 04, Asphalt Plant Production (Drum Dryer S2.001)

Evidence:

Q & D Construction, Inc. (Q & D) operates a hot mix asphalt plant 3 miles east of Beowawe, Nevada in Eureka County under Class II General Air Quality Permit AP1442-2094.03 and Change of Location Approval (COLA) No. 2369. COLA No. 2369 was issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on March 27, 2013.

On June 25 and 26, 2013, compliance source testing, as required by the permit, was conducted at the Q & D facility on System 04, Asphalt Plant Production (Drum Dryer, S2.001). The compliance source test was conducted in accordance with NDEP-BAPC requirements and determined to be valid. System 04, nitrogen oxide (NOx) emissions were measured at an average of 13.42 pounds per hour (lbs/hr) and 201.35 pounds per day (lbs/day) based on a 15 hour day. COLA No. 2369 limits NOx emissions to 10.40 lbs/hr and 156 lbs/day. It is the determination of the NDEP-BAPC that System 04 failed to meet the permit required emission limits during this testing.

On January 7, 2014, the NDEP-BAPC and Q & D met to discuss whether the issuance of this violation was or was not warranted. Q & D agreed that the results of the test were a valid representation of the emission from System 04 during the testing. Q & D expressed some concern in regards to the validity of the emission limits. It was explained that the limit for the combustion of natural gas is representative of the combustion of propane. Results from the compliance source showed that NOx emissions were above permitted emissions where CO emissions were approximately half of the permitted limit. Based on these results, the emission unit should have been tuned to reduce Nox emissions while still demonstrating compliance with the CO emission limit. Based on this information the NDEP-BAPC is issuing this violation.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2462

Evidence (cont.):

In accordance with NAC 445B.281 Violations: Classification: administrative fines, exceeding a permitted emission limit constitutes a major violation. This Notice of Alleged Air Quality Violation and Order (NOAV) in conjunction with NOAV No. 2461 represent Q & D's first air quality violations within the last 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: Q & D will be conducting a compliance source test as required by the stationary permit still to be issued by the NDEP-BAPC.

_____ To appear for a hearing before the Environmental Commission at:
Date: _____ Time: _____

_____ To appear for an enforcement conference at:
Date: _____ Time: _____

_____ 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: January 8, 2014

FV/rf
Certified Mail No.: 9171 9690 0935 0012 7080 90

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