

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 18, 2012

K. Bart Hiatt
General Manager
A & K Earth Movers, Inc.
P.O. Box 1059
Fallon, NV 89407

Re: Notice of Alleged Air Quality Violation Nos. 2369, 2370 and 2371
Class II General Air Quality Operating Permit AP1442-0035.02; COLA 2256 (FIN A0034)

Dear Mr. Hiatt:

On September 30, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and A & K Earth Movers, Inc. (A&K) held an enforcement conference to discuss A&K's failure to comply with their Class II Air Quality Operating Permit AP1442-0035.02, COLA 2256. Based on the information presented during the enforcement conference the NDEP determined that issuance of Notice of Alleged Air Quality Violation and Order (NOAV) Nos. 2369, 2370 and 2371 is warranted. Failure to comply with Class II Air Quality Operating Permit AP1442-0035.02, COLA 2256 represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV Nos. 2369, 2370, and 2371 allege that A&K is in violation of **Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice. NAC 445B.275** 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 Nevada Revised Statutes 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 Nos. 2369 and 2370 constitute major violations under **NAC 445B.281 Violations: Classification; administrative fines**. NOAV Nos. 2369 and 2370 represent the sixth violation issued to A&K within the last 60 months.

NOAV No. 2371 constitutes a minor violation under **NAC 445B.281 Violations: Classification; administrative fines**.



In accordance with the schedule of fines for minor violations listed in Section 3 of NAC 445B.281, a fine of \$1,000 is levied, for NOAV 2371, for the second failure to control fugitive dust. The amount of the specified fine must be submitted to the State Environmental Commission (SEC) within ten (10) days notice of the violation. Complete instructions for paying fines are as follows:

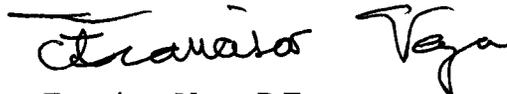
NAC 445B.283 Violations: Manner of paying fines. (NRS 445B.210, 445B.640)

1. The amount of the specified fine, in accordance with the schedule of fines for minor violations, must be submitted within 10 days after service of the notice upon the violator.
2. Cashier's checks, certified checks, money orders or personal checks must be made payable to the State of Nevada and must be sent to the State Environmental Commission, 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

An appeal of NOAV Nos. 2369, 2370 and 2371 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 John Walker, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Mr. Walker can be reached at 775-687-9308, 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 or the enforcement conference, please call Robert Whited at (775) 687-9335 or myself at (775) 687-9343.

Sincerely,



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

FV/rew

Enc.: 1. Notice of Alleged Air Quality Violation and Order Nos. 2369, 2370 and 2371
2. SEC Appeal Form #3

cc (w/enc.): John Walker, SEC
Mineral County Board of Commissioners
Francisco Vega, NDEP
FIN A0034 (Certified Copy)

E-Copy: Brent Ford, A&K
Mike Tuck, A&K
Jeff Denison, NDEP
Larry Kennedy, NDEP

Certified Mail No.: 7010 3090 0002 0571 9028

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. 2369

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Bart Hiatt

Company Name: A&K Earth Movers Inc.

Address: P.O. Box 1059, Fallon, NV 89406

Permit Number: AP1442-0035.02 COLA #2256 **FIN:** A0034

Site of Alleged Violation: Mina Material Site, Mina, Nevada

Date of Observation: 8/19/2011 **Arrival:** 8:30am **Departure:** 10:00am

Ambient Temperature: 80 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5MPH mph **Wind Direction:** West

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 install and operate required air pollution controls (wet dust suppression)

Evidence:

A&K Earth Movers (A&K) operates a crushing and screening plant 5 miles North of Mina in Mineral County, Nevada. The plant is permitted under Class II General Air Quality Operating Permit AP1442-0035.02, COLA #2256. The permit was issued on July 27, 2011.

On August 19, 2011 conducted a compliance inspection of the Mina Material Site. While inspecting the site, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) observed that A&K had not installed required Wet Dust Suppression (WDS) controls on PF1.011, Loader transfer to Feeder F-2, PF1.057, Loader transfer to Cold Feed Bins, PF1.064, Conveyor C-1 transfer to Conveyor C-2, PF1.065, Conveyor C-2 transfer to Grizzly and PF1.066, Grizzly transfer to Conveyor C-3. A&K also had controls installed but not operating on PF1.002 through PF1.014 and PF1.016 through PF1.021. The NDEP attempted to contact Roger Carey (Superintendent) of A&K but was unsuccessful. The NDEP then spoke with the Hot Plant operator, Mark, and explained to him that the WDS controls needed to be installed on System 03. System 03 was not operating at the time of the inspection. The NDEP then went to speak with the Crushing and Screening Plant Operator, Damon, and explain to him that System 01 (PF1.011) needed to have WDS controls installed and the rest of the WDS controls that were installed needed to be turned on. NDEP-BAPC then waited for the controls to be turned on and operational. The inspector left the site once the controls were installed and operational.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2369

Evidence (cont.):

On August 24, 2011, the NDEP conducted another inspection to make sure the WDS controls were installed and operating on System 01, Crushing and Screening Plant, along with System 03, Asphalt Plant Support and Loading. Upon arrival, the NDEP noticed large amount of dust emanating from the site. Upon further investigation, NDEP observed that PF1.011, Loader transfer to Feeder F-2, had no WDS controls installed nor were any of the WDS controls operating throughout System 1. The NDEP then advised the Crushing and Screening Plant Operator, Damon, that continuing to operate the plant systems without the required WDS controls installed and operating was a violation of the terms of the permit. The plant operator was given the option to shut down voluntarily until the controls were installed and operating or a stop order would be issued by the NDEP. Damon did shut the plant down at that time. The NDEP then contacted Roger Carey (Superintendent) at the site and asked him why these events were happening. Roger Carey had no explanation for why these events were happening and asked what needed to be done to get the plant up and running again. The NDEP explained to Roger Carey that the WDS controls needed to be installed on System 01 (PF1.011) and the rest of the WDS controls turned on for the entire system. The NDEP also explained to Roger Carey that the WDS controls had been installed on System 03 but that they needed to be turned on when operating. System 03 was not operating at the time of the inspection. The NDEP then explained that in order to comply with the terms of the permit A&K needed to install and operate all WDS controls and take photographs to show the WDS controls were installed and operating and submit those photos to the NDEP. The NDEP then left the site. A&K did send photographs to the NDEP on August 24, 2011 showing the WDS controls on PF1.011 were installed and operating along with the remainder of the WDS controls on System 01.

On September 7, 2011, the NDEP conducted an inspection of the site because while driving down US 95, there was a large amount of dust emanating from the site again. Upon arrival the NDEP observed that System 03, Asphalt Plant Support and Loading, was operating and the WDS controls were not turned on. The NDEP then went into the plant operations building and spoke with the plant operator, Mark. The NDEP asked Mark why the controls were not turned on and he told the NDEP that he would have someone turn them on. A Visual Emission Evaluation (VEE) was conducted by the NDEP on System 03 (PF1.065) and the results of that observation averaged 70.2% opacity. The NDEP did observe System 01, Crushing and Screening Plant operating with all the WDS controls turned on. A&K had personal turn on the WDS controls for System 03 and the NDEP observed them operating then the NDEP left the site.

On September 30, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) held an enforcement conference with Brent Ford and Mike Tuck, representatives from A&K Earth Movers Inc. (A&K). The enforcement conference was held to discuss Notice of Alleged Violation # 2369. During the enforcement conference NDEP gave A&K the opportunity explain why the wet dust suppression controls were not in place and not operational. A&K said it was a lack of communication on their part by not making clear what controls needed to be installed and operational to the crew at the work site.

Failure to install and operate required air pollution controls constitutes a major violation under **NAC 445B.281. Violation: Classification; administrative fines.** NOAV No. 2369 represents A&K's sixth air quality violations within the last 60 months.

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.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2369

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: Install and operate all Wet Dust Suppression emission controls as required by the valid air quality operating permit.

_____ 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
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: January 18, 2012

FV/rew
Certified Mail No.: 7010 3090 0002 0571 9028

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. 2370

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Bart Hiatt

Company Name: A&K Earth Movers Inc.

Address: P.O. Box 1059, Fallon, NV 89406

Permit Number: AP1442-0035.02 COLA #2256 **FIN:** A0034

Site of Alleged Violation: Mina Material Site, Mina, Nevada

Date of Observation: 9/7/2011 **Arrival:** 1:00 PM **Departure:** 2:00 PM

Ambient Temperature: 94 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 4 MPH **Wind Direction:** SW

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 (emissions exceedance)

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

Failure to comply with the opacity limit for emissions from emission point (PF1.065), System 03.

Evidence:

A&K Earth Movers (A&K) operates a crushing and screening plant 5 miles North of Mina in Mineral County, Nevada. The plant is permitted under Class II General Air Quality Operating Permit AP1442-0035.02, COLA #2256. The permit was issued on July 27, 2011.

On September 7, 2011 Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) conducted an inspection of the site due to the large amount of dust emanating from the facility. Upon arrival the NDEP observed that System 03, Asphalt Plant Support, Loading, was operating and the Wet Dust Suppression (WDS) controls were not turned on. The NDEP then went into the plant operations building and spoke with the plant operator Mark. The NDEP asked Mark why the controls were not turned on and he told the NDEP he didn't know why but that they would be turned on. A Visual Emission Evaluation (VEE) reading was taken on System 03 (PF1.065), Conveyor C-2 transfer to Grizzly, with a reading of 70.2% opacity. A&K had personnel turn on the WDS controls for System 03. The NDEP then observed the controls operating and left the site.

On September 30, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) held an enforcement conference with Brent Ford and Mike Tuck, representatives from A&K Earth Movers Inc. (A&K). The enforcement conference was held to discuss Notice of Alleged Violation # 2370. During the enforcement conference NDEP gave A&K the opportunity explain why System 03 was out of compliance with their opacity limit. A&K said they were not sure why System 03 was out of compliance with their opacity limit.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2370

Evidence (cont.):

Failing to operate within permitted emission limits constitutes a major emission violation under **NAC 445B.281. Violation: Classification; administrative fines.** Notice of Alleged Air Quality Violation and Order (NOAV) No. 2370 represents A&K's sixth air quality violation 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: Comply with all permitted emission limits.

_____ 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
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: January 18, 2012

FV/rew
Certified Mail No.: 7010 3090 0002 0571 9028

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. 2371

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Bart Hiatt

Company Name: A&K Earth Movers, Inc.

Address: P.O. Box 1059, Fallon, NV 89407

Permit Number: AP1442-0035 COLA#2256 **FIN:** A0034

Site of Alleged Violation: Mina Material Site, Mina, Nevada

Date of Observation: 9/7/2011 **Arrival:** 2:15pm **Departure:** 2:30pm

Ambient Temperature: 94 °F **Clear:** x **Cloudy:** **Rain:** **Snow:**

Wind Speed: 3 **Mph** **Wind Direction:** SW

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;

NAC 445B.22037 Emissions of particulate matter: Fugitive dust. 1. No person may cause or permit the handling, storing, or transporting of any material in a manner which allows or may allow controllable particulate matter to become airborne.

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

Failure to control fugitive dust from sweeper operations.

Evidence:

A&K Earth Movers (A&K) operates an aggregate processing facility and hot-mix asphalt plant near Mina, Nevada in Mineral County under Class II General Air Quality Operating Permit AP1442-0035, COLA #2256.

On September 7, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) was traveling South on US 95 from Mina, Nevada to Tonopah, Nevada when the NDEP staff noticed large amounts of dust coming from an A&K grader on the Southbound side of US 95. The NDEP staff pulled off the side of the road and started taking photographs of the event. The grader operator kept coming toward the NDEP vehicle and then stopped about 20 feet away. The grader operator and the NDEP staff met and discussed the situation. The NDEP made it very clear to the operator to stop what he was doing before he caused an accident and that he was in violation of the Air Quality Operating Permit with creating fugitive dust. The NDEP also explained to the grader operator that he should wait for a water truck before he continued grading the side of the road. The grader operator agreed to wait for a water truck and the NDEP staff continued on to Tonopah, Nevada.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2371

Evidence continued:

On September 30, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) held an enforcement conference with Brent Ford and Mike Tuck, representatives from A&K Earth Movers Inc. (A&K). The enforcement conference was held to discuss Notice of Alleged Violation # 2371. During the enforcement conference NDEP gave A&K the opportunity explain why they had failed to control fugitive dust. A&K did not have an explanation or reason why this situation took place.

This is A&K's second violation for failing to control fugitive dust within the last 60 months. As defined by Nevada Administrative Code 445B.281 Violations: Classification; administrative fines, NOAV 2371 constitutes a minor violation.

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.281.3: \$1,000

To take corrective action: Control Fugitive Dust at all times.

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
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: January 18, 2012

FV/rew
Certified Mail No.: 7010 3090 0002 0571 9028

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.

FORM # 3
FORM FOR REQUESTING AN APPEAL HEARING
BEFORE THE NEVADA STATE ENVIRONMENTAL COMMISSION

1. Name, address, telephone number, and signature of applicant:
Name: _____
Address: _____
Telephone: _____
Signature: _____
Representative Capacity (if applicable): _____
2. Specify type of applicant: Individual, Partnership, Corporation, or Other: _____
3. Other person or persons authorized to receive service of notice: _____
4. Complete description of the business or activity and the location of the activity involved in the request: _____

5. Nature of the appeal and grounds thereof: _____

6. Section or sections of the State Air Quality Regulations, Water Pollution Control Regulations, Hazardous Waste Regulations, Solid Waste Management Regulations, or NRS section involved in the appeal: _____

7. Approximate time in hours and minutes necessary for delivery of oral testimony and reading of prepared statements as admissible evidence to be entered in the record: _____

Date of Request _____

Send Form To: John Walker, State Environmental Commission, 901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249 (Fax 775-687-5856)