

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 24, 2013

Charles Clear
Plant Manager
P.O. Box 860
Fernley, Nevada 89408

Re: Notice of Alleged Air Quality Violation Nos. 2409 and 2410
Class II Air Quality Operating Permit AP1499-2225 (FIN A0460)

Dear Mr. Clear:

On June 13, 2012 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and the Moltan Company (Moltan) held an enforcement conference to discuss Moltan's alleged failure to comply with permitted emission limit and submit the required compliance source test report in a timely manner as required by their Class II Air Quality Operating Permit. Based on the information presented during the conference the NDEP determined that issuance of Notice of Alleged Air Quality Violation and Order (NOAV) Nos. 2409 and 2410 was warranted. The failure to comply with the permitted emission limit represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV Nos. 2409 and 2410 allege that Moltan 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. 2409 constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. These NOAV's are the first issued to Moltan in over 60 months. As was discussed, the NDEP has determined that NOAV No. 2410 shall be issued as a warning violation.

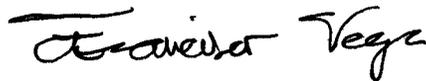


Moltan Company
January 24, 2013
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An appeal of NOAV Nos. 2409 and 2410 may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. Appeals must be received within 10 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 me at (775) 687-9343.

Sincerely,



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

Enc.: 1. Notice of Alleged Air Quality Violation and Order Nos. 2409 and 2410
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC
Churchill County Board of Commissioners
Francisco Vega, NDEP
Files (A0460)

Route to (w/enc. 1 and 2): Rob Bamford, NDEP
Jeff Denison, NDEP

Certified Mail No.: 9171 9690 0935 0011 8837 74

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. 2409

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Charles Clear, Plant Manager
Company Name: Moltan Company
Address: P.O. Box 860, Fernley, Nevada 89408
Permit Number: AP1499-2225 **FIN:** A0460

Site of Alleged Violation: I-80 East of Fernley, Exit 65, 4 miles east on South Frontage Road
Date of Observation: **Arrival:** **Departure:**
Ambient Temperature: °F **Clear:** **Cloudy:** **Rain:** **Snow:**
Wind Speed: mph **Wind Direction:**

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 comply with a permitted emission limit

Evidence:

The Moltan Company (Moltan) operates a diatomaceous earth processing facility under the requirements of Class II Air Quality Operating Permit AP1499-2225 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on May 7, 2007. The facility is located in Fernley, Nevada, 4 miles east on South Frontage Road off of Exit 65 off Interstate 80. Permit AP1499-2225 expired on May 7, 2012 and is in the process of being renewed by the NDEP's permitting staff.

In January of 2012, Moltan conducted compliance source testing on System 6, Kiln, as required by permit AP1499-2225. During the test there were indications that CO emissions were above the permitted limit. This information was communicated to Moltan personnel by the testing company and the kiln was shut down. After the test, plant personnel discovered that a fuel valve had started sticking in the incorrect position, ordered a new one and replaced it prior to starting the kiln back up.

Source test results were not received by the NDEP until April 9, 2012, well beyond the required 60 days from test completion. Results showed that CO emissions, for System 6, were 128.33 lbs/hr averaged over the three test runs. This is well above the permitted limit of 2.956 lbs/hr.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2409

Evidence (cont.):

On June 13, 2012, the NDEP-BAPC held an enforcement conference with Hunewill to discuss the information regarding Notice of Alleged Violation (NOAV) 2409. The enforcement conference represented Moltan's opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2409 should not be issued. During the enforcement conference Moltan was unable to provide any evidence that violations associated with NOAV No. 2409 did not occur and should not be issued. Moltan did not have any questions and understood that NOAV No. 2409 would be formally issued.

Failing to comply with a permitted emission limit represents a violation of **NAC 445B.275**. Notice of Alleged Air Quality Violation and Order (NOAV) 2409, in conjunction with NOAV 2410, is the first NOAV issued by the NDEP-BAPC to Moltan in the past 60 months. In accordance with the classification in **NAC 445B.281 Violations: Classification; administrative fines**, NOAV 2409 constitutes a major 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.281.1: \$ _____

To take corrective action: Comply with all permitted emission limits set forth in Class II Air Quality Operating Permit AP1499-2225.

_____ 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 24, 2013

FV
Certified Mail No.: 9171 9690 0935 0011 8837 74

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. 2410

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Charles Clear, Plant Manager
Company Name: Moltan Company
Address: P.O. Box 860, Fernley, Nevada 89408
Permit Number: AP1499-2225 **FIN:** A0460

Site of Alleged Violation: I-80 East of Fernley, Exit 65, 4 miles east on South Frontage Road
Date of Observation: **Arrival:** **Departure:**
Ambient Temperature: °F **Clear:** **Cloudy:** **Rain:** **Snow:**
Wind Speed: mph **Wind Direction:**

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:

- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit; or

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

Failure to submit the required compliance source test report in a timely manner

Evidence:

The Moltan Company (Moltan) operates a diatomaceous earth processing facility under the requirements of Class II Air Quality Operating Permit AP1499-2225 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on May 7, 2007. The facility is located in Fernley, Nevada, 4 miles east on South Frontage Road off of Exit 65 off Interstate 80. Permit AP1499-2225 expired on May 7, 2012 and is in the process of being renewed by the NDEP's permitting staff.

In January of 2012, Moltan conducted compliance source testing on System 6, Kiln, as required by permit AP1499-2225. During the test there were indications that CO emissions were above the permitted limit. This information was communicated to Moltan personnel by the testing company and the kiln was shut down. After the test, plant personnel discovered that a fuel valve had started sticking in the incorrect position, ordered a new one and replaced it prior to starting the kiln back up.

Source test results were not received by the NDEP until April 9, 2012, well beyond the required 60 days from test completion. Results showed that CO emissions, for System 6, were 128.33 lbs/hr averaged over the three test runs. This is well above the permitted limit of 2.956 lbs/hr.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2410

Evidence (cont.):

On June 13, 2012, the NDEP-BAPC held an enforcement conference with Hunewill to discuss the information regarding Notice of Alleged Violation (NOAV) 2410. The enforcement conference represented Moltan's opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2410 should not be issued. During the enforcement conference Moltan was unable to provide any evidence that violations associated with NOAV No. 2410 did not occur and should not be issued. Moltan did not have any questions and understood that NOAV No. 2410 would be formally issued.

Failing to submit the required compliance source test report in a timely manner represents a violation of **NAC 445B.275**. Notice of Alleged Air Quality Violation and Order (NOAV) 2410, in conjunction with NOAV 2409, is the first NOAV issued by the NDEP-BAPC to Moltan in the past 60 months. In accordance with the classification in **NAC 445B.281 Violations: Classification; administrative fines**, NOAV 2410 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.281.1: \$ _____

To take corrective action: Submit all future reports in a timely manner.

_____ 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 24, 2013

FV
Certified Mail No.: 9171 9690 0935 0011 8837 74

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