

# 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

March 15, 2012

John Portman  
Operations Manager  
Road and Highway Builders, LLC.  
500 Nevada Blvd.  
Lovelock, NV 89419

**Re:** Notice of Alleged Air Quality Violation No. 2372  
Class II General Air Quality Operating Permit AP1611-2306; COLA 2268 (FIN A0076)

Dear Mr. Portman:

On October 7, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and Road and Highway Builders, LLC (R&HB's) held an enforcement conference to discuss R&HB's failure to comply with Class II General Air Quality Operating Permit AP1611-2306.02, COLA 2268. Based on the information presented during the enforcement conference the NDEP determined that issuance of Notice of Alleged Air Quality Violation and Order (NOAV) No. 2372 is warranted. Failure to comply with Class II General Air Quality Operating Permit AP1611-2306.02, COLA 2268 represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV No. 2372 alleges that R&HB's 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 No. 2372 constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. NOAV No. 2372 represents the eighth violation issued to R&HB's within the last 60 months.



Road and Highway Builders, LLC

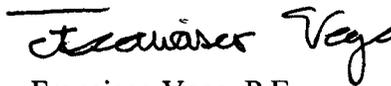
March 14, 2012

Page 2

An appeal of NOAV No. 2372 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 No. 2372  
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC  
Esmeralda County Board of Commissioners  
Francisco Vega, NDEP  
FIN A0076 (Certified Copy)

E-Copy: John Portman, R&HB's  
Larry Kennedy, NDEP  
Jeff Denison, NDEP

Certified Mail No.: 9171 9690 0935 0011 9041 10

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. 2372

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

**Person(s) to Whom Served:** Mr. John Portman

**Company Name:** Road & Highway Builders, LLC.

**Address:** 500 Nevada Blvd., Lovelock, Nevada 89419

**Permit Number:** AP1611-2306 COLA #2268 **FIN:** A0076

**Site of Alleged Violation:** 8.5 Miles South of Goldfield on US 95 at Mile Post US 95 ES 8.80

**Date of Observation:** 9/8/2011 **Arrival:** 8:30am **Departure:** 9:30am

**Ambient Temperature:** 72 °F **Clear:** **Cloudy:** X **Rain:** **Snow:**

**Wind Speed:** 3MPH mph **Wind Direction:** NW

**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:**

Road and Highway Builders, LLC (R&HB's) operates a crushing and screening plant 8.5 miles South of Goldfield, Nevada on US 95 at mile post ES 8.80 in Esmeralda County under Class II General Air Quality Operating Permit AP1611-2306, COLA 2268. The permit was issued on April 26, 2011.

On September 8, 2011 NDEP conducted a compliance inspection of COLA #2268. While traveling South on US 95, NDEP observed large amounts of dust emanating from R&HB's material site. NDEP took photos of the site from the highway and then went into the material site to observe where the large amounts of dust were coming from. NDEP observed two systems that were not running required Wet Dust Suppression (WDS). The systems without required WDS include System 02 (PF1.028, Loader Transfer to Bin Feeder) and System 03 (PF1.040, Loader Transfer to Bin 5). The NDEP took photos of these systems running without the WDS controls turned on. NDEP spoke with on-site personnel and asked why the controls were not turned on and he replied he didn't know but he would turn them on. The NDEP then went to the Hot Plant control room and spoke with the operator of the Hot Plant. It was explained to the Hot Plant operator that the WDS controls needed to be turned on when the Hot Plant is operating and he said he understood. The Hot Plant operator said he would make sure the WDS controls were turned on when the Hot Plant was operating. Before leaving the facility all required emissions control were on and in compliance of the permit.

# NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2372

## Evidence (cont.):

On October 7, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) held an enforcement conference with Road & Highway Builders, LLC (R&HB's) representatives John Portman, Todd Smith and Barry Vasquez to discuss Notice Of Alleged Violation #2372. During the enforcement conference NDEP gave R&HB's the opportunity to explain why the air pollution controls were not operating. R&HB's explained that at start-up the material needs to be running through the process before the WDS controls are turned on so the belts don't flood, if the belts are flooded the system will stall. R&HB's also explained that the WDS controls were turned off to conduct a belt adjustment but the WDS were not turned back on after the belt adjustment was made.

On January 25, 2012 NDEP held an Enforcement Conference with John Portman (R&HB's) and Chuck Olson (Rees's Enterprise) to explain that whoever the permit holder is will be held responsible for complying with the permit. For example if John Portman sub-contracts Chuck Olson to do crushing and screening, John Portman will be held responsible for complying with the permit. John Portman and Chuck Olson both said they understood. Chuck Olson had some questions on when to run the controls on crushing and screening plants and NDEP staff told him anytime the plant is running all controls must be turned on period.

Failure to install and operate required air pollution controls constitute a major violation under **NAC 445B.281 Violations: Classification; administrative fines.** NOAV No. 2372 represents R&HB's eighth 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: Operate WDS controls at all times when plant is operating.

\_\_\_\_\_ 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: March 15, 2012

FV/rew  
Certified Mail No.: 9171 9690 0935 0011 9041 10

*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)