

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

October 30, 2012

Art Wilson
Owner/Operator
Western States Gypsum
P.O. Box 20160
Carson City, Nevada 89721

Re: Notice of Alleged Air Quality Violation and Order Nos. 2416, 2417, 2418 and 2419
Class II Air Quality Operating Permit AP1499-0504.02 (FIN A0739)

Dear Mr. Wilson:

On July 30, 2012, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) held an enforcement conference with Western States Gypsum (WSG) to discuss the information regarding Notice of Alleged Violation and Order (NOAV) Nos. 2416, 2417, 2418 and 2419. Based on the information presented during the enforcement conference the NDEP-BAPC has made the determination to formally issue NOAV Nos. 2416, 2417, 2418 and 2419 should not be issued. NOAV Nos. 2416, 2417, 2418 and 2419 represent air quality violations under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV Nos. 2416, 2417, 2418 and 2419 allege that WSG 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:

- (a) Failure to apply for and obtain an operating permit.
- (c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit.
- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.

NOAV Nos. 2416, 2417, and 2419 constitute major violations under **NAC 445B.281 Violations: Classification; administrative fines**. NOAV No. 2418 constitutes a minor violation under **NAC 445B.281 Violations: Classification; administrative fines**. NOAV Nos. 2416, 2417, 2418 and 2419 are the second NOAV's issued to WSG in the past 60 months. As discussed in the enforcement conference, NOAV Nos. 2417, 2418 and 2419 will be issued as warnings.



Western States Gypsum

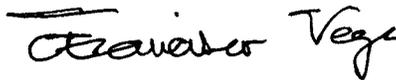
October 30, 2012

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An appeal of NOAV Nos. 2416, 2417, 2418 and 2419 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. 2416, 2417, 2418 & 2419
2. SEC Appeal Form #3

cc (w/enc. 1): Francisco Vega, NDEP
FIN A0739 (Certified Copy)

E-Copy: Larry Kennedy, NDEP
Jeff Denison, NDEP

Certified Mail No.: 9171 9690 0935 0011 8863 31

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. 2416

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Art Wilson, Owner/Operator

Company Name: Western States Gypsum

Address: P.O. Box 20160, Carson City, Nevada 89721

Permit Number: AP1499-0504.02 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Mound House, Nevada 89706

Date of Observation: 06/01/2012 **Arrival:** 10:30 AM **Departure:** 11:45 AM

Ambient Temperature: 85 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5 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:

(a) Failure to apply for and obtain an operating permit

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

Constructing and operating regulated emission units without applying for and obtaining an operating permit.

Evidence:

On June 1, 2012, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted an inspection of the Western States Gypsum (WSG) operation located in Lyon County, Nevada. WSG operates under Class II Air Quality Operating Permit AP1499-0504.02, issued on August 13, 2007.

Prior to the June 1, 2012 inspection, on March 28, 2012 the NDEP-BAPC went to WSG to meet with Mr. Art Wilson, owner/operator of WSG, to discuss how to add equipment to WSG's current air quality operating permit. NDEP-BAPC explained to Art Wilson that the current air quality operating permit needed to be modified before any new equipment could be constructed. NDEP-BAPC then explained the process of a modifying the permit Mr. Wilson. Mr. Wilson said he understood and then questioned the cost of modifying the permit. The NDEP-BAPC had explained to Mr. Wilson that the cost to modify the permit would be \$2,000.

During the June 1, 2012 inspection, the NDEP-BAPC discovered that WSG had constructed regulated emission units without acquiring a required air quality operating permit. There were two pieces of equipment that were constructed that were not on the current Class II Air Quality Operating Permit. The equipment includes a hopper and a conveyor belt. The unpermitted equipment was documented with pictures.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2416

Evidence (continued):

On July 30, 2012 the NDEP-BAPC held an enforcement conference with WSG to discuss the information regarding Notice of Alleged Violation and Order (NOAV) No. 2416. The enforcement conference represented WSG the opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2416 should not be issued. During the enforcement conference WSG was unable to provide any evidence that violations associated with NOAV No. 2416 did not occur and should not be issued. WSG did not have any questions and understood that NOAV No. 2416 would be formally issued.

Constructing and/or operating regulated emission units without a valid air quality operating permit constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2416, in conjunction with NOAV's 2417, 2418 and 2419; represent WSG's second 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: Apply for and receive an Air Quality Operating Permit for any additional equipment that will add to the facilities total emissions.

_____ 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: October 30, 2012

FV/rew
Certified Mail No.: 9171 9690 0935 0011 8863 31

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. 2417

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Art Wilson, Owner/Operator

Company Name: Western States Gypsum

Address: P.O. Box 20160, Carson City, Nevada 89721

Permit Number: AP1499-0504.02 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Mound House, Nevada 89706

Date of Observation: 06/01/2012 **Arrival:** 10:30 AM **Departure:** 11:45 AM

Ambient Temperature: 85 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5 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 complete required performance testing within required time period.

Evidence:

On June 1, 2012, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted an inspection of the Western States Gypsum (WSG) operation located in Lyon County, Nevada. WSG operates under Class II Air Quality Operating Permit AP1499-0504.02, issued on August 13, 2007.

Class II Air Quality Operating Permit AP1499-0504.02 requires that WSG conduct compliance source testing on Systems 17, 19, 24 and 26 no later than 90 days prior to the permit expiration. Class II Air Quality Operating Permit AP1499-0504.02 expires on August 13, 2012. To date WSG has not conducted the required compliance source testing.

On July 30, 2012 the NDEP-BAPC held an enforcement conference with WSG to discuss the information regarding Notice of Alleged Violation and Order (NOAV) No. 2417. The enforcement conference represented WSG the opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2417 should not be issued. During the enforcement conference WSG was unable to provide any evidence that violations associated with NOAV No. 2417 did not occur and should not be issued. WSG did not have any questions and understood that NOAV No. 2417 would be formally issued.

Failure to conduct required compliance source testing within the specified time period constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines.** Notice of Alleged Air Quality Violation and Order (NOAV) No. 2417, in conjunction with NOAV's 2416, 2418 and 2419; represent WSG's second air quality violation within the last 60 months.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2417

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: Conduct source testing 90 days prior to the permit expiration.

_____ 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: October 30, 2012

FV/rew
Certified Mail No.: 9171 9690 0935 0011 8863 31

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
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901 SOUTH STEWART ST., SUITE 4001
CARSON CITY, NEVADA 89701-5249

NO. 2418

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Art Wilson, Owner/Operator

Company Name: Western States Gypsum

Address: P.O. Box 20160, Carson City, Nevada 89721

Permit Number: AP1499-0504.02 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Mound House, Nevada 89706

Date of Observation: 06/01/2012 **Arrival:** 10:30 AM **Departure:** 11:45 AM

Ambient Temperature: 85 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5 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:

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

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

Failure to report initial startup dates.

Evidence:

On June 1, 2012, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted an inspection of the Western States Gypsum (WSG) operation located in Lyon County, Nevada. WSG operates under Class II Air Quality Operating Permit AP1499-0504.02, issued on August 13, 2007.

After the inspection, it was discovered that WSG had failed to report the actual date of initial startup for Systems 40 through 44 as required by Class II Air Quality Operating Permit AP1499-0504.02.

On July 30, 2012 the NDEP-BAPC held an enforcement conference with WSG to discuss the information regarding Notice of Alleged Violation and Order (NOAV) No. 2418. The enforcement conference represented WSG the opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2418 should not be issued. During the enforcement conference WSG was unable to provide any evidence that violations associated with NOAV No. 2418 did not occur and should not be issued. WSG did not have any questions and understood that NOAV No. 2418 would be formally issued.

Failing to report the actual date of startup constitutes a minor violation under **NAC 445B.281 Violations: Classification; administrative fines.** Notice of Alleged Air Quality Violation and Order (NOAV) No. 2418, in conjunction with NOAV's 2416, 2417 and 2419; represent WSG's second air quality violation within the last 60 months.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2418

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: Report actual startup dates as required by Class II Air Quality Operating Permit AP1499-0504.02

_____ 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: October 30, 2012

FV/rew
Certified Mail No.: 9171 9690 0935 0011 8863 31

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
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CARSON CITY, NEVADA 89701-5249

NO. 2419

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Art Wilson, Owner/Operator

Company Name: Western States Gypsum

Address: P.O. Box 20160, Carson City, Nevada 89721

Permit Number: AP1499-0504.02 **FIN:** A0739

Site of Alleged Violation: 145 Linehan Road, Mound House, Nevada 89706

Date of Observation: 06/01/2012 **Arrival:** 10:30 AM **Departure:** 11:45 AM

Ambient Temperature: 85 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5 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 conduct required IOCD testing.

Evidence:

On June 1, 2012, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted an inspection of the Western States Gypsum (WSG) operation located in Lyon County, Nevada. WSG operates under Class II Air Quality Operating Permit AP1499-0504.02, issued on August 13, 2007.

After the inspection, it was discovered that WSG had failed to conduct Initial Opacity Compliance Demonstrations (IOCD) for Systems 40 through 44 as required by Class II Air Quality Operating Permit AP1499-0504.02.

On July 30, 2012 the NDEP-BAPC held an enforcement conference with WSG to discuss the information regarding Notice of Alleged Violation and Order (NOAV) No. 2419. The enforcement conference represented WSG the opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2419 should not be issued. During the enforcement conference WSG was unable to provide any evidence that violations associated with NOAV No. 2419 did not occur and should not be issued. WSG did not have any questions and understood that NOAV No. 2419 would be formally issued.

Failure to conduct required IOCD's within the specified time period constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines.** Notice of Alleged Air Quality Violation and Order (NOAV) No. 2419, in conjunction with NOAV's 2416, 2417 and 2418; represent WSG's second air quality violation within the last 60 months.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2419

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: Conduct Initial Opacity Compliance Demonstrations as required by Class II Air Quality Operating Permit AP1499-0504.02

_____ 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: October 30, 2012

FV/rew
Certified Mail No.:9171 9690 0935 0011 8863 31

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
(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