



# 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

April 26, 2011

Jerry Tyler  
Managing Director  
Heart of Nature, LLC  
34710 7<sup>th</sup> Standard Road  
Bakersfield, California 93314

**Re:** Notice of Alleged Air Quality Violation: No. **2315**  
Class II Air Quality Operating Permit **AP1442-2681 (FIN A1116)**

Dear Mr. Tyler:

On April 20, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and Heart of Nature held an enforcement conference to discuss the alleged failure to comply with Class II Air Quality Operating Permit AP1442-2681. Based on the information presented during the conference the NDEP determined that issuance of Notice of Alleged Air Quality Violation (NOAV) No. **2315** was warranted. The failure to install and operate required air pollution controls represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV No. **2315** alleges that Heart of Nature 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. **2315** constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. This NOAV is the second issued to Heart of Nature in the past 60 months.

An appeal of NOAV No. **2268** 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 call Francisco Vega 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. 2315  
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC  
Francisco Vega, NDEP  
FIN A1116 (Certified Copy)

Route to (w/enc. 1): Michael Elges, NDEP  
Jeff Denison, NDEP

Certified Mail No.: 7009 3410 0000 1454 7175

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. 2315

**NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER**

**NOTICE OF ALLEGED AIR QUALITY VIOLATION**

**Person(s) to Whom Served:** Jerry Tyler, Managing Director  
**Company Name:** Heart of Nature, LLC  
**Address:** 34710 7<sup>th</sup> Standard Road, Bakersfield, California 93314  
**Permit Number:** AP1442-2681 **FIN:** A1116  
**Site of Alleged Violation:** In Esmeralda County off State Highway 265  
**Date of Observation:** March 29, 2011 **Arrival:** 10:15 AM **Departure:** 10:35 AM  
**Ambient Temperature:** 50°F **Clear:** X **Cloudy:** **Rain:** **Snow:**  
**Wind Speed:** 5 mph **Wind Direction:** Southwest

**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.

**Evidence:**

Heart of Nature operates a material crushing and screening facility east of State Route (SR) 265 approximately 9 miles South of US 95 in Esmeralda County, Nevada. Heart of Nature operates the facility under Class II Air Quality Operating Permit # AP1442-2681 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on June 23, 2010.

On March 29, 2011, a NDEP inspector observed large amounts of air born fugitive dust coming from a material site south of Highway US 95 near the Silver Peak turn off on SR 265 in Esmeralda County, Nevada. Upon further investigation it was discovered that a crushing and screening facility was operating in the area where the dust was coming from. The Inspector learned that the facility was permitted by the NDEP under the name Heart of Nature. After reviewing the valid air quality operating permit it was determined that several emission units were operating without required air pollution controls, notably System 5 (PF1.005), Stacker 3 Transfer to Product Pile. The NDEP inspector took photographs to verify the inspection results. The NDEP inspector contacted the onsite manager and explained to him the facility was out of compliance because there were systems without required air pollution controls.

The NDEP inspector also recommended the use of an onsite water truck to try and control fugitive dust that was also accruing during the inspection.

# NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2315

## Evidence (continued):

On April 20, 2011 the NDEP-BAPC and the R.O. for Heart of Nature (Jerry Tyler) held an enforcement conference to discuss the alleged violation. The enforcement conference was held to discuss the NDEP's findings and provide Heart of Nature the opportunity supply any evidence that would show that a violation did not occur. Mr Tyler was unable to provide any evidence to the NDEP-BAPC that the violation did not occur. The NDEP-BAPC explained to Mr. Tyler that Notice of Alleged Air Quality Violation (NOAV) No. 2315 was for failing to install & operate required air pollution controls. Mr. Tyler said he understood that his facility was in violation of their Air Quality Operating Permit and that the facility would install and operate the controls by May 2, 2011. Mr. Tyler also explained that he would provide photographs of the installation of the controls as soon as the facility was finished installing all the required controls.

Failure to install and operate required air pollution controls constitutes a major air quality violation. In conjunction with related NOAV No. 2316, **NOAV No. 2315** represents Heart of Natures 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: Install and operate required air pollution controls

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

Phone: 775-687-9343 Date: April 26, 2011

FV/rew

Certified Mail No.: 7009 3410 0000 1454 7175

*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)