

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

August 17, 2011

Douglas S. Maughan
Controller
Wulfenstein Construction
1111 S. Highway 160, PO Box 38
Pahrump, NV 89041

Re: Notice of Alleged Air Quality Violation: No.'s **2347 and 2348**
Class II Air Quality Operating Permit **AP1611-0519.02 (FIN A0475)**

Dear Mr. Maughan:

On August 4, 2011, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and Wulfenstein Construction (Wulfenstein) held an enforcement conference to discuss Wulfenstein's alleged failure to comply with permitted emission limits and operate required air pollution controls 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) No.'s 2347 and 2348 was warranted. The failure to comply with permitted emission limits 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.'s 2347 and 2348 allege that Wulfenstein 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.'s 2347 and 2348 constitute major violations under **NAC 445B.281 Violations: Classification; administrative fines**. This NOAV is the third issued to Wulfenstein within the last 60 months.



Wulfenstein Construction

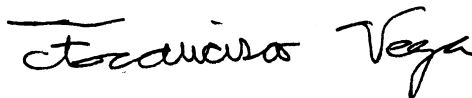
August 17, 2011

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An appeal of NOAV No.'s 2347 and 2348 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 Caren Campbell at (702) 486-2850 or call Francisco Vega 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 No.'s 2347 and 2348
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC
Nye County Board of Commissioners
Francisco Vega, NDEP
FIN A0475 (Certified Copy)

E-Copy to (w/enc. 1 and 2): Larry Kennedy, NDEP
Jeff Denison, NDEP

Certified Mail No.: 7008 1140 0004 4030 2127

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. 2347

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Douglas S. Maughan, Controller

Company Name: Wulfenstein Construction

Address: 1111 S. Highway 160, PO Box 38
Pahrump, NV 89041

Permit Number: AP1611-0519.02 **FIN:** A0475

Site of Alleged Violation: Gravel Pit Road—Pahrump, NV

Date of Observation: June 1, 2011 **Arrival:** 9:30am **Departure:** 10:40am

Ambient Temperature: 84 °F **Clear:** **Cloudy:** X **Rain:** **Snow:**

Wind Speed: 3-4 mph **Wind Direction:** SSW

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:

Excess emissions: failure to control emissions from screen

Evidence:

Wulfenstein Construction (Wulfenstein) operates an aggregate processing facility and asphalt batch plant under Class II Air Quality Operating Permit (AQOP) AP1611-0519.02 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on July 9, 2006. The plant is located south of Pahrump in Nye County, NV.

On June 1, 2011, an NDEP inspector observed large, dense plumes of dust emanating from the pit while driving north on Highway 160. The inspector observed that the emission controls (wet dust suppression-water sprays) required by AQOP AP1611-0519 were not operating on PF 1.043, 3-deck the screen, of the Actech crusher plant (System 16). The operator of the plant admitted that the water sprays were not on. The screen system was shut down and did not operate the remainder of the day.

NDEP-BAPC performed a Method 9 Visible Emission Observation was done on the screen which indicated a six minute average opacity of 53 percent. Wulfenstein was advised to not operate the screen unless they could control emissions.

On July 25, 2011, the NDEP sent Wulfenstein a draft NOAV with a letter requesting their attendance at an enforcement conference on August 4, 2011.

On August 3, 2011, Wulfenstein conducted a Method 9 Visible Emission Observation on the Actec screen. No readings above the permitted limit of 10% were observed. The water sprays controlled emissions.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2347

On August 4, 2011, representatives for Wulfenstein Construction attended an enforcement conference with the NDEP. The purpose behind the enforcement conference was to allow Wulfenstein the opportunity to provide any evidence that would lead the NDEP to the conclusion that a violation did not occur. Based on the information presented and discussed during the conference, the NDEP concluded that an opacity exceedance had occurred and that Notice of Alleged Quality Violation and Order (NOAV) should be issued to Wulfenstein. The NDEP explained that it is important to continue to run all of the air pollution controls until all material has been processed through the system. At the conclusion of the enforcement conference, the NDEP-BAPC described the forthcoming NOAV and discussed the penalties that would be recommended to the Nevada State Environmental Commission (SEC) for ratification.

Emissions exhibiting 10 percent opacity or greater from this emission point constitute a major violation. Wulfenstein has two violations in the last 60 months, one for excess emissions and one for failure to install controls. This NOAV is issued concurrently with NOAV 2348.

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 the emissions limitations set in the AQOP.

_____ 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: August 17, 2011

FV/clc
Certified Mail No.: 7008 1140 0004 4030 2127

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. 2348

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Douglas S. Maughan, Controller

Company Name: Wulfenstein Construction

Address: 1111 S. Highway 160, PO Box 38
Pahrump, NV 89041

Permit Number: AP1611-0519.02

FIN: A0475

Site of Alleged Violation: Gravel Pit Road—Pahrump, NV

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Wind Speed: 3-4 mph **Wind Direction:** SSW

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 use pollution control device

Evidence:

Wulfenstein Construction (Wulfenstein) operates an aggregate processing facility and asphalt batch plant under Class II Air Quality Operating Permit (AQOP) AP1611-0519.02 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on July 9, 2006. The plant is located south of Pahrump in Nye County, NV.

On June 1, 2011, an NDEP inspector observed large, dense plumes of dust emanating from the pit while driving north on Highway 160. The inspector observed that the emission controls (wet dust suppression-water sprays) required by AQOP AP1611-0519 were not operating on, PF 1.043, 3-deck the screen, of the Actech crusher plant (System 16). The operator of the plant admitted that the water sprays were not on. The screen system was shut down and did not operate the remainder of the day.

On July 25, 2011, the NDEP sent Wulfenstein a draft NOAV with a letter requesting their attendance at an enforcement conference on August 4, 2011.

On August 3, 2011, Wulfenstein conducted a Method 9 Visible Emission Observation on the Actec screen. No readings above the permitted limit of 10% were observed. The water sprays controlled emissions.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2348

On August 4, 2011, representatives for Wulfenstein Construction attended an enforcement conference with the NDEP. The purpose behind the enforcement conference was to allow Wulfenstein the opportunity to provide any evidence that would lead the NDEP to the conclusion that a violation did not occur. Based on the information presented and discussed during the conference, the NDEP concluded that a permit violation for failure to use controls had occurred and that Notice of Alleged Quality Violation and Order (NOAV) should be issued to Wulfenstein. The NDEP explained that it is important to continue to run all of the air pollution controls until all material has been processed through the system. During the conference, the NDEP-BAPC described the forthcoming NOAV and discussed the penalties that would be recommended to the Nevada State Environmental Commission (SEC) for ratification.

Failure use pollution control devices (water sprays) as required by Permit AP1611-0519.02 constitutes a major violation. Wulfenstein has two violations in the last 60 months, one for excess emissions and one for failure to install controls. This NOAV is issued concurrently with NOAV 2347.

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 all required air pollution controls at all times material is being processed.

_____ 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: August 17, 2011

FV/clc
Certified Mail No.: 7008 1140 0004 4030 2127

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)