

Exhibit B

Exhibit B




July 7, 2023

Mr. Terry Reck
Owner
Reck Brothers, LLC
P.O. Box 151372
Ely, NV 89315

Certified Mail

9489 0090 0027 6499 2242 68

	<p>Keep In Mind</p> <p>Failure to comply with the terms of this <u>Stop Order</u> may constitute a violation subject to possible enforcement action.</p>
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**Re: Notice of Findings and Stop Order No. 2023C-06
Reck Brothers, LLC
Class II Air Quality Operating Permit AP1611-0835.03, FIN A0480**

Dear Mr. Reck:

The Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) is issuing the enclosed Notice of Findings and Stop Order No. 2023C-06 pursuant to Nevada Revised Statutes (NRS) 445B.230(1). Compliance is required by Reck Brothers, LLC (Reck) with the terms and conditions of the Stop Order by the specified timelines.

Reason for Issuance

The Notice of Findings and Stop Order were developed to address the facility operating under Class II Air Quality Operating Permit AP1611-0835.03 in White Pine County, Nevada.

Appeal Process

This Stop Order is final and not subject to review unless an appeal is requested pursuant to NRS 445B.360 and the Nevada State Environmental Commission’s (SEC) administrative rules. Appeals must be received within ten (10) days of receipt of this notice, pursuant to NRS 445B.340; SEC Appeal Form #3 is enclosed, and an electronic copy can be downloaded at <https://sec.nv.gov/participate/forms-and-documents/>. Appeals are processed through Sheryl Fontaine, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. Fontaine can be reached at (775) 687-9374 or sfontaine@ndep.nv.gov. Please provide me with a copy of any correspondence your company may have with the SEC.

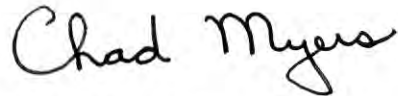
Reck Brothers, LLC

July 7, 2023

Page 2 of 2

If you have any questions or concerns regarding this matter, please contact Pete Preciado at (775) 687-9479 or ppreciado@ndep.nv.gov. If he is unavailable, please contact me at (775) 687- 9585 or cmyers@ndep.nv.gov.

Sincerely,



Chad Myers, P.E.
Minor Source Supervisor, Compliance Branch
Bureau of Air Pollution Control

CM/cm

Enclosures 1. Notice of Findings and Stop Order No. 2023C-06
2. SEC Appeal Form #3

cc (w/enc) White Pine County Board of Commissioners

E-Copy Jennifer Carr, P.E., CPM, CEM, Administrator, NDEP
Jeffrey Kinder, P.E., Deputy Administrator, NDEP
Jennifer Schumacher, Chief, BAPC
Ashley Taylor, P.E., Supervisor, Permitting Branch, BAPC
Chad Myers, P.E., Professional Engineer, Compliance Branch, BAPC
Terry Reck, Owner, Reck Brothers, LLC

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03)
(FIN A0480))
White Pine County, Nevada)
July 7, 2023)
Page 1 of 6)

NOTICE OF FINDINGS
AND STOP ORDER NO. 2023C-06

NOTICE OF FINDINGS

I. INTRODUCTION

1. This Notice of Findings is issued to Reck Brothers, LLC (Reck) and is related to continued operation of the emission units in Class II Air Quality Operating Permit AP1611-0835.03.

II. STATEMENT OF LAW

Nevada Revised Statutes (NRS)

2. The State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection – Bureau of Air Pollution Control (BAPC), under the authority of NRS 445B.230(1), has the power and duty to make such determinations and issue such orders as may be necessary to implement the purposes of NRS 445B.100 to 445B.640, inclusive.

Nevada Administrative Code (NAC)

3. NAC 44B.252(1) states “To determine compliance with NAC 445B.001 to 445B.390, inclusive, before the approval or the continuance of an operating permit or similar class of permits, the Director may either conduct or order the owner of any stationary source to conduct or have conducted such testing and sampling as the Director determines necessary.”
4. NAC 445B.277(2) states “A stop order may be issued at any time by the Director upon his or her determination that there has been a violation of any of the provisions of NAC 445B.001 to 445B.390, inclusive, any applicable requirement or any condition of the operating permit.”

Air Quality Operating Permit

5. Reck Brothers, LLC is permitted to operate an asphalt plant under conditions of Class II Air Quality Operating Permit AP1611-0835.03 (Class II AQOP), issued by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) on May 4, 2014, and last revised on February 20, 2019. The facility is located at 1502 Aultman Avenue in Ely, NV. The Class II AQOP expired on May 4, 2019, however Reck is allowed to operate under the requirements of the Class II AQOP pursuant Notice of Findings and Compliance Order No. 2019-13 issued by the BAPC on June 18, 2019.

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03)
(FIN A0480))
White Pine County, Nevada)
July 7, 2023)
Page 2 of 6)

NOTICE OF FINDINGS
AND ORDER NO. 2023C-06

NOTICE OF FINDINGS (CONTINUED)

III. **STATEMENT OF FACTS AND ANALYSIS**

6. On June 24, 2019, BAPC permitting staff requested additional information via email noting that the application and previous version of the air quality operating permit indicates that there is an alternate operating scenario. However, the equipment listed in the alternate operating scenario appears to be part of a stand-alone operation, not an alternate operating scenario for the same equipment. It was requested that Reck Brothers, LLC (Reck) confirm the intended operation and status of this equipment. Additionally, on June 25, 2019, a phone call with the Permit Writer and the Reck’s consultant discussed adding a Crushing and Screening Plant to the operating permit. The BAPC required application forms to continue processing the application. Follow-up emails were sent on October 28, 2020, May 4, 2021, November 2, 2022, January 23, 2023, February 21, 2023, March 2, 2023, March 23, 2023, March 28, 2023, April 19, 2023, April 24, 2023, May 3, 2023, May 8, 2023, and June 6, 2023. On June 29, 2023, the BAPC received updated application pages and additional information. The BAPC permitting staff is reviewing the information.
7. On July 21, 2021, BAPC compliance staff performed an inspection of Reck. During the inspection, BAPC compliance staff determined that compliance testing had not been completed on System 03 – Drum Mixer (S2.001) and System 03a – Alternative Operating Scenario: Drum Mixer (S2.001a).
 - a. Renewal compliance testing for System 03 was required at least 90 days prior to the expiration date of the Class II AQOP, but no earlier than 365 days prior to the Class II AQOP’s expiration date, as specified in Section V.C.4.b of the Class II AQOP. Thus, renewal compliance testing on System 03 should have been completed no later than **February 4, 2019**, or 90 days before the expiration date of the Class II AQOP. The Class II AQOP requires renewal compliance testing on System 03 for PM, PM₁₀, NO_x, SO₂, CO, and opacity.
 - b. Initial compliance testing for System 03a was required at least 180 days after startup, as detailed in Section IIA.A.1 of the Class II AQOP. A permit revision adding System 03a to the Class II AQOP was issued on February 20, 2019, meaning initial compliance testing on System 03a should have been completed no later than **August 20, 2019**. The Class II AQOP requires initial compliance testing on System 03a for PM, PM₁₀, PM_{2.5}, SO₂, NO_x, CO, VOCs, and opacity.

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03)
(FIN A0480))
White Pine County, Nevada)
July 7, 2023)
Page 3 of 6)

NOTICE OF FINDINGS
AND ORDER NO. 2023C-06

NOTICE OF FINDINGS (CONTINUED)

8. On April 1, 2022, three minor violations were issued to Reck for failure to comply with recordkeeping requirements (Notice of Alleged Violation (NOAV) 2893, 2926, and 2927) a total of \$1,750. These violations were paid May 5, 2022.
9. On April 1, 2022, the Enforcement Branch of the Bureau of Air Quality Planning (BAQP) issued Compliance Order No. 2022EA-04 stating, "Compliance source testing must be conducted for System Nos. 03 and 03a for PM₁₀, PM_{2.5}, NO_x, CO, SO₂, VOCs, and opacity within 90 days of the next time each emission unit is operated. The testing shall be conducted in accordance with the requirements established in the AQOP and with applicable state and federal regulations."
10. Compliance Order No. 2022EA-04 further stated, "Any non-compliance of the conditions set forth in this Order may constitute a violation subject to possible enforcement action up to and including the issuance of a stop order and/or an administrative fine of up to \$10,000 per day per violation, pursuant to NAC 445.277 and NAC 445.281 respectively."
11. On April 8, 2022, the Enforcement Branch of BAQP issued NOAV 2892 to Reck for failure to conduct source testing and for a potential penalty of \$24,000, to be assessed and levied by the Nevada State Environmental Commission (SEC). NOAV 2892 was not appealed and the penalty will be agendized for the next SEC hearing.
12. During a meeting with Reck's environmental consultant on January 23, 2023, the environmental consultant indicated to BAPC compliance staff that Reck had operated in 2022. On March 3, 2023, BAPC compliance staff submitted an email to the environmental consultant and Reck's owner specifically asking if System 03 or System 03a had operated in 2022 or 2023. In the March 3, 2023, email, BAPC compliance staff also requested that if either or both systems operated in 2022 or 2023, Reck submit operational and production records to the BAPC. The BAPC requested a response to the email by March 17, 2023. Neither Reck's owner nor its environmental consultant responded to the email by March 17, 2023.
13. BAPC staff telephoned Reck's environmental consultant on March 23, 2023. The consultant confirmed compliance testing for Systems 03 and 03a has not been scheduled.

IV. CONCLUSION

14. On the basis of the information listed above, the BAPC has determined Reck Brothers, LLC shall cease operation of System 03 – Drum Mixer (S2.001) until renewal compliance

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03)
(FIN A0480))
White Pine County, Nevada)
July 7, 2023)
Page 4 of 6)

NOTICE OF FINDINGS
AND ORDER NO. 2023C-06

NOTICE OF FINDINGS (CONTINUED)

testing is scheduled for that system. The Class II AQOP requires renewal compliance testing on System 03 for PM, PM₁₀, NO_x, SO₂, CO, and opacity.

15. On the basis of the information listed above, the BAPC has also determined Reck Brothers, LLC shall cease operation of System 03a – Alternative Operating Scenario: Drum Mixer (S2.001a) until initial compliance testing is scheduled for that system. The Class II AQOP requires initial compliance testing on System 03a for PM, PM₁₀, PM_{2.5}, SO₂, NO_x, CO, VOCs, and opacity.

7-7-23
Date

Chad Myers
Chad Myers, P.E.
Minor Source Supervisor, Compliance Branch
Bureau of Air Pollution Control

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03)
(FIN A0480))
White Pine County, Nevada)
July 7, 2023)
Page 5 of 6)

NOTICE OF FINDINGS
AND ORDER NO. 2023C-06

ORDER NO. 2023C-06

The following Stop Order is issued this date pursuant to the powers and duties vested in the Director of the Department of Conservation and Natural Resources by Nevada Revised Statutes (NRS) 445B.230(1).

On the basis of the Notice of Findings attached hereto and made a part of this Stop Order, the Administrator of the Nevada Division of Environmental Protection, pursuant to authority delegated to her by the Director of the Department of Conservation and Natural Resources, has determined that Reck Brothers, LLC (Reck) shall comply with the provisions of this Stop Order.

1. Reck shall cease operation of System 03 – Drum Mixer (S2.001) until renewal compliance testing is scheduled for that system. Renewal compliance testing of System 03 – Drum Mixer (S2.001) must be completed within 90 days of startup of the system or within 90 days of issuance of this order, whichever is later. The Class II AQOP requires renewal compliance testing on System 03 – Drum Mixer (S2.001) for PM, PM₁₀, NO_x, SO₂, CO, and opacity. If testing is not completed within 90 days of startup of the system, Reck shall cease operation of the system.
2. Reck shall cease operation of System 03a – Alternate Operating Scenario: Drum Mixer (S2.001a) until initial compliance testing is scheduled for that system. Initial compliance testing for System 03a – Alternate Operating Scenario: Drum Mixer (S2.001a) must be completed within 90 days of startup of the system or within 90 days of issuance of this order, whichever is later. The Class II AQOP requires initial compliance testing on System 03a – Alternate Operating Scenario: Drum Mixer (S2.001a) for PM, PM₁₀, PM_{2.5}, SO₂, NO_x, CO, VOCs, and opacity. If testing is not completed within 90 days of startup of the system, Reck shall cease operation of the system.
3. Reck must comply with all other requirements set forth in Class II AQOP AP1611-0835.03 issued by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) on May 4, 2014, and last revised on February 20, 2019.
4. Within seven (7) days of the issuance of this Stop Order and once every calendar week, thereafter, operational records including hours of operation, throughput rate of material, and all other recordkeeping requirements as required by AQOP AP1611-0835.03 shall be provided to the BAPC compliance staff until December 31, 2023 electronically through email.
5. Also, Reck must respond to additional Request for Information (if necessary) sent by the BAPC within 30 days. If Reck does not respond within 30 days, Reck shall cease operation of System 03 – Drum Mixer (S2.001) and System 03a - Alternate Operating Scenario: Drum Mixer (S2.001a) until a complete response is received by the BAPC permitting staff.

IN THE MATTER OF:)
Reck Brothers, LLC)
Class II AQOP AP1611-0835.03 (FIN)
A0480))
White Pine County, Nevada)
July 7, 2023)
Page 6 of 6)

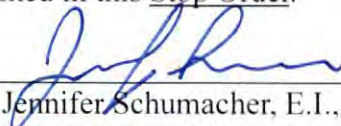
NOTICE OF FINDINGS
AND ORDER NO. 2023C-06

ORDER NO. 2023C-06 (CONTINUED)

6. The BAPC will lift the requirements established in this Stop Order in writing on the date compliance testing is satisfactorily completed for both System 03 – Drum Mixer (S2.001) and System 03a – Alternate Operating Scenario: Drum Mixer (S2.001a), a complete response to additional permitting requests for information has been received (as applicable), records are submitted as required, and the BAPC finds the facility is following all AQOP permit requirements.

Pursuant to NRS 445B.450(5), the Nevada Division of Environmental Protection reserves the right to rescind any of the provisions of this Stop Order for any cause including, but not limited to, failure of Reck to meet the requirements established in this Stop Order.

7/7/23
Date


Jennifer Schumacher, E.I., CPM
Chief, Bureau of Air Pollution Control
Nevada Division of Environmental Protection



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: _____.

Supporting Documents



After signing and submitting this form (below), attach the permit or notice of alleged violation that you are appealing directly to your email message. Include other supporting documents as needed.

Send form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701