

Exhibit E

Exhibit E



February 15, 2024

Terry Reck  
Responsible Official  
Reck Brothers, LLC  
P.O. Box 151372  
Ely, NV 89315

**RE: Notice of Alleged Air Quality Violation (NOAV) No. 3139  
Class II Air Quality Operating Permit AP1611-0835.03 (FIN A0480)**

Dear Mr. Reck:

The Nevada Division of Environmental Protection (Division) alleges that Reck Brothers, LLC (Reck Brothers) has violated one or more conditions of their Class II Air Quality Operating Permit (AQOP) AP1611-0835.03.

On February 6, 2024, the Division held an enforcement conference with Reck Brothers to discuss potential enforcement action No. 3139 alleged in the Letter of Alleged Findings (LOAF) previously sent to Reck Brothers. The conference was held to clarify the circumstances of the potential enforcement actions and provide an opportunity for Reck Brothers to provide evidence demonstrating that the violation did not occur or that efforts were made to mitigate the violation.

Based on the information provided during the enforcement conference, the Division has determined that issuance of NOAV No. 3139 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 3139 constitutes a major violation. For major violations, the Division makes penalty recommendations to the Nevada State Environmental Commission (Commission), and the Commission assesses the penalties. Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the Commission, the Division has calculated a recommended penalty of **\$21,024** for NOAV No. 3139.

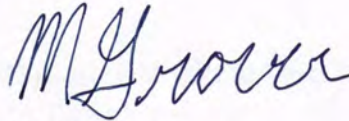
The date for the next Commission hearing for penalties has been set for March 21, 2024, in Carson City, NV. Before the hearing for the penalties, the Commission will notify you of the final date and time of the hearing and provide information about how you can participate if you want.

Appeal of NOAV No. 3139 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations** and Commission administrative rules. Appeals must be received within ten (10) days of receipt of this notice, pursuant to **NRS 445B.340 Appeals to Commission: Notice of appeal**. A copy of the Commission's Appeal Form #3 is enclosed and can also be found on the Commission's website at: <https://sec.nv.gov/participate/forms-and-documents/>. Appeals are processed through Sheryl Fontaine, the Executive Secretary for the Commission at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. Fontaine can be reached at (775) 687-9374, or by email

at [sfontaine@ndep.nv.gov](mailto:sfontaine@ndep.nv.gov). Please provide me with a copy of any correspondence your company may have with the Commission.

If you have any questions regarding the NOAV, please contact me at (775) 687-9392 or by email at [m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov).

Sincerely,



Michelle Grover  
Supervisor, Enforcement Branch  
Bureau of Air Quality Planning

MG/ts

enc.: Notice of Alleged Air Quality Violation No. 3139  
Appeal Form #3

E-Copy: Danilo Dragoni, Ph.D., Deputy Administrator, NDEP  
Jeff Kinder, Deputy Administrator, NDEP  
Andrew Tucker, Chief, BAQP  
Jennifer Schumacher, Chief, BAPC  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Pete Preciado, Compliance Staff, BAPC  
Ashley Taylor, P.E., GISP, Permitting Supervisor, BAPC  
Tanya Soleta, P.E., Permitting Supervisor, BAPC  
Michelle Grover, Enforcement Supervisor, BAQP  
Nathan Rash, Enforcement Staff, BAQP  
Thomas Stephens, Enforcement Staff, BAQP  
Loren Borst, Administrative Assistant, NDEP

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3139**

**Person(s) to Whom Served:** Terry Reck  
**Company Name:** Reck Brothers, LLC  
**Address:** P.O. Box 151372  
**Permit Number:** AP1611-0835.03 **FIN:** A0480  
**Site of Alleged Violation:** White Pine County, NV  
**Date of Observation:** 11/4/2023 **Time:** N/A

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, 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:**

Failed Source Test

**Evidence:**

Reck Brothers, LLC (Reck Brothers) currently holds a Class II Air Quality Operating Permit (AQOP) to operate the Ely Asphalt Plant, under the requirements of AQOP No. AP1611-0835.03, last issued by the Nevada Division of Environmental Protection (Division) on November 14, 2023.

On November 4, 2023, the Facility contracted a third party to conduct source testing on System 03 – Drum Mixer (S2.001) to satisfy the initial testing as required by AQOP AP1611-0835.03. According to the Source Test Report, exceedances of Particulate Matter with a diameter of 10 microns or less (PM<sub>10</sub>) were recorded (Table 1).

**Table 1: Failed Source Test**

System Name	System/ Emission Unit	Date(s)	Pollutant(s)	Tested Value [lb./hour]	Permit Limit [lb./hour]	Percent Limit
Drum Mixer	S3.S2.001	11/4/2023	PM <sub>10</sub>	9.015 <sup>1</sup>	2.06	438%

On February 6, 2024, the Division held an enforcement conference with Reck Brothers to determine whether issuance of Notice of Alleged Air Quality Violation (NOAV) No. 3139 was or was not warranted. During the enforcement conference, Reck Brothers did not supply any evidence that the alleged violation did not occur. The Division has subsequently determined that formal issuance of NOAV No. 3139 is warranted.

<sup>1</sup> This value represents the arithmetic mean of test runs 1 and 3 in an effort to avoid invalidation of the entirety of the test. Run 2 was discarded due to a failed testing parameter which may have reasonably impacted testing results.

This Notice of Alleged Violation becomes final and the violations stand unless appealed within ten (10) days of this notice. The person named in this Notice 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.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation and Reck Brothers has had four air quality violations within the last 60 months.

The previously issued violations are summarized in Table 2 below and included in Attachment A.

**Table 2: Previously issued violations**

NOAV No.	Date of NOAV Issuance
NOAV 2892 – Failure to Test	April 1, 2022
NOAV 2893 – Failure to Conduct required monitoring, recordkeeping, or reporting	April 1, 2022
NOAV 2926 – Failure to Conduct required monitoring, recordkeeping, or reporting	April 1, 2022
NOAV 2927 – Failure to Conduct required monitoring, recordkeeping, or reporting	April 1, 2022

Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the State Environmental Commission, the Division has calculated a recommended penalty of \$21,024 for NOAV No. 3139.

Signature \_\_\_\_\_

Issued by: Danilo Dragoni, Ph.D.  
Deputy Administrator  
Nevada Division of Environmental Protection

Phone: 775-687-9373

Date: 2/13/24

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