

Exhibit H

Exhibit H

From: [Tara Reck](#)
To: [Michelle Grover](#); reckbrothersfrontdesk@gmail.com; reckterry1@gmail.com; wnathan@hotmail.com
Cc: [Nathan Rash](#); [Andrew Tucker](#); [Danilo Dragoni](#); [Thomas Stephens](#); [Jeff Kinder](#); [Jennifer Schumacher](#); [Chad Myers](#); [Pete Preciado](#); [Gregg Rosenberg](#)
Subject: Re: A480 Reck Brothers Enforcement Conference Summary and Outcomes
Date: Friday, February 16, 2024 8:27:04 AM
Attachments: [image001.png](#)

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thank you.

From: Michelle Grover <m.grover@ndep.nv.gov>
Sent: Friday, February 16, 2024 7:39:28 AM
To: Tara Reck <tara@recklaw.com>; reckbrothersfrontdesk@gmail.com; reckterry1@gmail.com <reckterry1@gmail.com>; wnathan@hotmail.com <wnathan@hotmail.com>
Cc: Nathan Rash <nrash@ndep.nv.gov>; Andrew Tucker <atucker@ndep.nv.gov>; Danilo Dragoni <ddragoni@ndep.nv.gov>; Thomas Stephens <tstephens@ndep.nv.gov>; Jeff Kinder <jkinder@ndep.nv.gov>; Jennifer Schumacher <jschumacher@ndep.nv.gov>; Chad Myers <cmyers@ndep.nv.gov>; Pete Preciado <PPRECIADO@ndep.nv.gov>; Gregg Rosenberg <grosenberg@ndep.nv.gov>
Subject: RE: A480 Reck Brothers Enforcement Conference Summary and Outcomes

Good morning,
Attachment A for the final NOAV was not included in the original email. Please find Attachment A included here.

Thank you,
Michelle Grover
Enforcement, Supervisor
NDEP, Bureau of Air Quality Planning
P: 775-687-9392



From: Michelle Grover
Sent: Thursday, February 15, 2024 12:21 PM
To: Tara Reck <tara@recklaw.com>; reckbrothersfrontdesk@gmail.com; reckterry1@gmail.com; wnathan@hotmail.com
Cc: Nathan Rash <nrash@ndep.nv.gov>; Andrew Tucker <atucker@ndep.nv.gov>; Danilo Dragoni <ddragoni@ndep.nv.gov>; Thomas Stephens <tstephens@ndep.nv.gov>; Jeff Kinder <jkinder@ndep.nv.gov>; Jennifer Schumacher <jschumacher@ndep.nv.gov>; Chad Myers <cmyers@ndep.nv.gov>; Pete Preciado <ppreciado@ndep.nv.gov>; Gregg Rosenberg <grosenberg@ndep.nv.gov>
Subject: A480 Reck Brothers Enforcement Conference Summary and Outcomes

Good afternoon,

The meeting on February 6, 2024, at 10:00 AM between Reck Brothers (Reck) and Nevada Division of Environmental Protection (Division) was an enforcement conference to address the new alleged violation laid out in the Letter of Alleged Findings (LOAF) sent to Reck on January 26, 2024. The LOAF has been attached for reference. As stated in the LOAF, the purpose of enforcement conferences is to facilitate communication between the Division and the alleged violator regarding potential violations that the Division has discovered.

The alleged violation contained in the LOAF is a new violation. The previous violations (NOAV Nos. 2892, 2893, 2926, and 2927) are all final and closed. A supplemental environmental project (SEP) for \$12,000 related to NOAV No. 2892 still needs to be decided on and carried out, but that has no bearing on the Division's ability to pursue new potential violations incurred by Reck.

On November 4, 2023, Reck contracted a third party to conduct source testing for particulate matter (PM), nitrogen oxides (NO_x), sulfur dioxides (SO₂), carbon monoxide (CO), and volatile organic compounds (VOCs) as required by their Air Quality Operating Permit for System 03 Drum Mixer. The Source Test Report was received by the Division on December 26, 2023. Compliance staff reviewed the Source Test Report and informed Reck by letter on January 23, 2024, that the test results for PM₁₀ were valid, but exceeded permitted emission limits. Additionally, test results for NO_x, SO₂, CO, and VOCs were deemed invalid due to gas stratification testing not being done. A retest was ordered for all pollutants.

The exceedance for PM₁₀ was referred to the enforcement branch and the LOAF was sent on January 26, 2024, to Reck by email and certified mail with an order to appear on February 6.

The purpose of the meeting was to discuss the November 4, 2023 source test which indicated an exceedance of PM₁₀ with a tested value of 9.015 lb/hr which is 438% of the permitted limit of 2.06 lb/hr.

The following occurred during the meeting:

- The enforcement conference opened with introductions from the Division and Reck.
- The Division went through how enforcement worked with the Air Bureau.
 - In this case, a source test had failed and was reported to the Enforcement Branch. A LOAF was drafted with the pertinent information about the alleged violation with an order to attend the enforcement conference.
 - The enforcement conference is an opportunity for both parties to informally talk through the alleged violation and gather additional information if needed enabling the enforcement branch to come to a conclusion about the alleged violation. Violations typically are resolved by one of the following paths:
 - Dismissal-the violation did not occur.
 - Full Violation issued as a Warning-the violation did occur, but a monetary fine is not applied. This still counts as a full violation and will count against the facility for the next 60 months if further violations occur. Full Violations, such as Warnings are issued as Notice of Alleged Violations (NOAV) and can be appealed to the State Environmental Commission (Commission) within 10 days of issuance of the final Notice of Alleged Violation (NOAV).

- Full Violation issued with recommendation for monetary penalties – the Division determined that the violation did occur, and a monetary penalty will be recommended to the Commission in accordance with the penalty matrix set forth by the Division and the Commission. Full Violations with recommended monetary penalties are issued as NOAVs and can be appealed to the State Environmental Commission (Commission) within 10 days of issuance of the final NOAV.
- Clarification was provided to Reck that this violation is a totally separate event and not part of the previous violations presented and finalized by the Commission regarding lack of source testing. This meeting was to discuss a failed source test of System 3.
- The Division informed Reck that the source test indicated that PM₁₀ had exceeded permit limits, and the gas testing portion was invalidated due to gas stratification testing not being accomplished. Reck appeared unaware of the stratification testing not being accomplished but stated they would mention this matter to the source testing company.
- Reck expressed surprise that the drum mixer failed source testing for PM₁₀ as they believed the dust and water leaving the wet scrubber shows it is removing the dust.
 - An effort was made by the Division to explain how a wet scrubber may not be completely effective at removal of particulate matter as small as PM₁₀ if it is not calibrated correctly or appropriate for the size of stack or amount of material passing through. We would be happy to continue this conversation.
- Reck stated that they intend to repair the wet scrubber and are optimistic it will pass source testing with the repairs to it and changes to the stack. Reck stated the wet scrubber repairs would include installing a pea trap and baffling to extend the contact time and reduce the velocity of the air. The stack may be widened as well.
 - It should be noted that changes to the stack may need to be reported to the permitting branch to see if a revision is needed.
- Reck stated that cars traveling to a nearby shooting range generate more dust than the asphalt plant.
 - While the Division acknowledges that dust may be generated by cars it is not a permitted process and not the purview of the Division while Reck's operations are.
- Reck anticipated re-testing opportunities beginning in April coinciding with wet scrubber and stack repair being finished. There may be a big project involving paving a large parking lot this summer.
- The Division asked Reck if the Drum Mixer has ever been tested in the past and successfully met PM₁₀ requirements. Reck stated that they believed it passed testing by the original owner in Minnesota but had no documentation. Reck confirmed the wet scrubber has not passed testing in Nevada.
- The Division asked Reck when System 3a, the Alternative Drum Mixer, would be tested. Reck stated they plan to test both Systems 3 and 3a together as a cost saving measure. The generator would be tested as well.
- The Division asked the status of the baghouse for System 3a. Reck stated that he believes the baghouse will pass testing as it has all new bolts and bags.
- Reck stated that System 3a was purchased in components. They believed the system passed testing in Missouri but has never been tested in Nevada.
- The Division inquired about the generator and if it has a catalytic converter installed. Reck stated they were unsure. They added a new generator would cost approximately 1 to 1.5 million dollars and they were looking into having line power delivered to the site which may also be cost prohibitive.
 - Reck should also consider if renting an appropriate generator would be more cost effective.
- Reck additionally provided a letter to the Division that was received on February 6, 2024, stating that re-testing System 3 was not possible within the 45-day time frame

usually associated with a failed source test. The letter stated re-testing could take place after repairs were accomplished sometime in late April.

- The Division thanked Reck for attending the conference and talking about the alleged violation. The Division informed Reck they would let them know what they planned to do regarding the violation soon.

Moving forward, Reck did not present any evidence to prove that the violation did not occur and the Division has decided to issue a final NOAV No. 3139 for the PM₁₀ Source Test Failure. The penalty was calculated in accordance with the penalty matrix set forth by the Division and the Commission as shown in the Administrative Fine Calculation worksheet. Considering all factors in the penalty matrix the total recommended penalty is \$21,024.00. The Division is planning to bring this recommendation at the March 21st hearing of the State Environmental Commission. Please see attached for a curtesy copy of the final signed NOAV. The original is being sent through certified mail.

Thank you,
Michelle Grover
Enforcement, Supervisor
NDEP, Bureau of Air Quality Planning
P: 775-687-9392

