



April 8, 2022

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

**RE: Notice of Alleged Air Quality Violation No. 2892
Class II Air Quality Operating Permit AP1611-0835 (FIN A0480)**

Dear Mr. Reck:

The Nevada Division of Environmental Protection (NDEP) sent the Notice of Alleged Air Quality Violation Nos. 2892, 2893, 2926, 2927 & Order Nos. 2893, 2926, & 2927 and Notice of Findings and Order No. 2022EA-04 to Reck Brothers, LLC on April 1, 2022.

It has come to our attention that Notice of Alleged Violation (NOAV) No. 2892 was not signed by the Chief of the Bureau of Air Quality Planning. We are hereby reissuing NOAV No. 2892 with the proper signature.

The information below about the calculated potential penalty is only for NOAV No. 2892, the administrative fines for the minor violations under NOAV and Order Nos. 2893, 2926 and 2927 are still \$250.00, \$500.00 and \$1,000.00, respectively, as identified in the documents dated April 1, 2022.

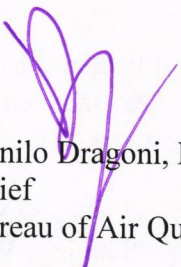
In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 2892 constitutes a major violation. For major violations, NDEP makes penalty recommendations to the Nevada State Environmental Commission (SEC), and the SEC assesses the penalties. **Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the SEC, NDEP has calculated a potential penalty of \$24,000.00 for NOAV No. 2892.** The penalty matrix and penalty calculation worksheet used to calculate penalty recommendations can be found in the SEC information packet available on the SEC's website at: <https://sec.nv.gov/participate/forms-and-documents/>

The date for the next SEC hearing for penalties has not yet been determined. It is possible that the SEC hearing will be conducted by teleconference due to the COVID-19 emergency. Before the hearing for the penalties, the SEC will notify you of the final date and time of the hearing and provide information about how you can participate if you want.

An appeal of NOAV No. 2892 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. 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 SEC Appeal Form #3 is enclosed and can also be found on the SEC website 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 by email at sfontaine@ndep.nv.gov. Please provide me with a copy of any correspondence your company may have with the SEC.

If you have any questions regarding NOAV No. 2892, please contact Andrew Tucker at (775) 687-9499 or by email at atucker@ndep.nv.gov.

Sincerely,


Danilo Dragoni, PhD.
Chief
Bureau of Air Quality Planning

DD/AT/ki

enc.: Notice of Alleged Air Quality Violation No. 2892
SEC Appeal Form #3

cc (w/enc.): Sheryl Fontaine, SEC
FIN A0480 (Certified Copy)

E-Copy: Danilo Dragoni, Ph.D., Chief, BAQP
Jennifer Schumacher, Chief, BAPC
Chad Myers, P.E., Compliance Supervisor, BAPC
Jens Christiansen, Compliance Staff, BAPC
Ashley Taylor, P.E., GISP, Permitting Supervisor, BAPC
Tanya Soleta, P.E., Permitting Supervisor, BAPC
Kalin Ingstad, Enforcement Staff, BAQP

Certified Mail No.: 9171 9690 0935 0243 8169 84

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. 2892

Person(s) to Whom Served: Terry Reck, Owner
Company Name: Reck Brothers, LLC
Address: P.O. Box 151372, Ely, NV 89315
Permit Number: AP1611-0835 **FIN:** A0480
Site of Alleged Violation: 1502 East Aultman St, Ely, NV 89301
Date of Observation: July 21, 2021 **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:

Failure to conduct source testing as required by the permit.

Evidence:

Reck Brothers, LLC (Reck Brothers) currently holds a Class II Air Quality Operating Permit (AQOP) to operate an asphalt plant under the requirements of AQOP No. AP1611-0835, issued by the Nevada Division of Environmental Protection (NDEP) on May 4, 2014.

On July 21, 2021, NDEP staff conducted an inspection of Reck Brother's asphalt plant. During the inspection, staff determined that compliance source testing had not been completed for System Nos. 03 and 03a, as required by the AQOP. The permit was issued on May 4, 2014 and expired on May 4, 2019, but the permit was shielded prior to expiration.

Compliance renewal testing for System No. 03 was required at least 90 days prior to the date of expiration of the permit, but no earlier than 365 days from the date of expiration of the permit, as specified in Section V.C.4.b of AQOP No. AP1611-0835. Compliance testing for System No. 03 needed to be conducted by February 4, 2019. System No. 03 requires compliance testing to be conducted for PM₁₀, PM_{2.5}, NO_x, CO, SO₂, VOCs, and opacity.

Initial compliance testing for System No. 03a was required no later than 180 days after initial startup, as specified in Section IIA.A.1 of AQOP No. AP1611-0835. A permit revision which added System Nos. 01a – 06a to the permit was issued on February 20, 2019, meaning the testing was required to be conducted no later than August 20, 2019. System No. 03a requires compliance testing to be conducted for PM₁₀, PM_{2.5}, NO_x, CO, SO₂, VOCs, and opacity.

On December 2, 2021, NDEP held an enforcement conference with Reck Brothers to determine whether issuance of Notice of Alleged Air Quality Violation (NOAV) No. 2892 was or was not warranted. During the enforcement conference, Reck Brothers did not supply any evidence that the alleged violation did not occur. As of the date of issuance of this NOAV, compliance testing has not been completed. NDEP has subsequently determined that formal issuance of NOAV No. 2892 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation, and it is Reck Brother's first air quality violation within the last 60 months.

Signature _____

Issued by: Danilo Dragoni, PhD
Chief
Bureau of Air Quality Planning

Phone: 775-687-9340

Date: April 8, 2022

DD/at/ki

Certified Mail No.: 9171 9690 0935 0243 8169 84



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