



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**

STATE OF NEVADA  
Department of Conservation & Natural Resources

Joe Lombardo, *Governor*  
James A. Settelmeyer, *Director*  
Jennifer L. Carr, *Administrator*

February 5, 2024

Bryan Wulfenstein  
President  
Wulfenstein Construction Company, INC.  
2281 E Postal Drive #1  
Pahrump, NV 89048

**RE: Notice of Alleged Air Quality Violation (NOAV) No. 3071  
Class II Air Quality Operating Permit AP1442-1408.03 (FIN A0442)**

Dear Mr. Wulfenstein:

The Nevada Division of Environmental Protection (Division) alleges that Wulfenstein Construction Company, INC. (Wulfenstein) Gamebird Pit has violated one or more conditions of their Class II Air Quality Operating Permit (AQOP) AP1442-1408.03.

On July 17, 2023, the Division held an enforcement conference with Wulfenstein to discuss potential enforcement action No. 3071 alleged in the Letter of Alleged Findings (LOAF) previously sent to Wulfenstein. The conference was held to clarify the circumstances of the potential enforcement actions and provide an opportunity for Wulfenstein to provide evidence demonstrating that violations 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. 3071 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 3071 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 **\$8,000** for NOAV No. No. 3071.

The date for the next Commission hearing for penalties has been tentatively 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. 3071 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 \(Feb 2, 2024 10:38 PST\)](#)

Michelle Grover,  
Supervisor, Enforcement Branch  
Bureau of Air Quality Planning

MG/nr

enc.: Notice of Alleged Air Quality Violation No. 3071  
Appeal Form #3

E-Copy: Danilo Dragoni, Ph.D, 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  
Loren Borst, Administrative Assistant, NDEP

Certified Mail No.: 9489 0090 0027 6499 2207 65

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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. 3071**

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**Person(s) to Whom Served:** Bryan Wulfenstein  
**Company Name:** Wulfenstein Construction Company, INC  
**Address:** 2281 E Postal Drive #1, Pahrump, NV 89048  
**Permit Number:** AP1442-1408.03 **FIN:** A0442  
**Site of Alleged Violation:** HA 162 – Pahrump Valley / Nye County  
**Date of Observation:** 4/19/2023 **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:**

Failure to Install Required Air Pollution Control Equipment

**Evidence:**

Wulfenstein Construction Company, INC. (Wulfenstein) currently holds a Class II Air Quality Operating Permit (AQOP) to operate the Gamebird Pit, an aggregate and asphalt plant, under the requirements of AQOP No. AP1442-1408.03, last issued by the Nevada Division of Environmental Protection (Division) on May 18, 2019.

On April 19, 2023, compliance staff conducted a full, on-site inspection of the facility. During that inspection, compliance staff noted eight emission units where the requisite controls were not installed (Table 1). The plant had recently been moved, and controls were not reinstalled before the plant was operated.

Table 1 - Missing Controls

Item	System Name	System/Emission Unit	Description
1	Storage	S3.PF1.004-PF1.005	Water sprayers not installed
2	Screening	S4.PF1.006	Water sprayer not installed
3	Crushing	S5.PF1.007	Water sprayer not installed
4	Conveyance	S6.PF1.008	Water sprayer not installed
5	Stockpiling	S7.PF1.009-PF1.011	Water sprayers not installed

On July 17, 2023, the Division held an enforcement conference with Wulfenstein to determine whether issuance of Notice of Alleged Air Quality Violation (NOAV) No. 3071 was or was not warranted. During the enforcement conference, Wulfenstein did not supply any evidence that the alleged violation did not occur. The Division has subsequently determined that formal issuance of NOAV No. 3071 is warranted.

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 \$8,000 for NOAV No. 3071.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation and Wulfenstein has no prior air quality violations within the last 60 months.



Signature \_\_\_\_\_

Issued by: Andrew Tucker  
Chief  
Bureau of Air Quality Planning

Phone: 775-687-9340 Date: Feb 2, 2024

AT/MG/nr

Certified Mail No.: 9489 0090 0027 6499 2207 65







# 230419\_A0442\_Final NOAV Package

Final Audit Report

2024-02-02

Created:	2024-02-02
By:	Michelle Grover (m.grover@ndep.nv.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAVqWFWvKdj_zsYAfHhfgPxU6AYZLebpR

## "230419\_A0442\_Final NOAV Package" History

-  Document created by Michelle Grover (m.grover@ndep.nv.gov)  
2024-02-02 - 6:37:01 PM GMT
-  Document e-signed by Michelle Grover (m.grover@ndep.nv.gov)  
Signature Date: 2024-02-02 - 6:38:16 PM GMT - Time Source: server
-  Document emailed to Andrew Tucker (atucker@ndep.nv.gov) for signature  
2024-02-02 - 6:38:17 PM GMT
-  Email viewed by Andrew Tucker (atucker@ndep.nv.gov)  
2024-02-02 - 11:10:39 PM GMT
-  Document e-signed by Andrew Tucker (atucker@ndep.nv.gov)  
Signature Date: 2024-02-02 - 11:10:46 PM GMT - Time Source: server
-  Agreement completed.  
2024-02-02 - 11:10:46 PM GMT



## Michelle Grover

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**From:** Nathan Rash  
**Sent:** Monday, February 5, 2024 3:27 PM  
**To:** bryan@wulfcon.com  
**Cc:** Michelle Grover; Thomas Stephens; Andrew Tucker; Jennifer Schumacher; Chad Myers; Pete Preciado; Ashley Taylor; Tanya Soleta; Loren Borst  
**Subject:** Curtesy Copy of Final NOAV Package for A0442 Wulfenstein Construction Company  
**Attachments:** sec\_form3\_writable.pdf; 230419\_A0442\_Final NOAV Package - signed.pdf

Good afternoon,

Please find a curtesy copy of the final Notice of Alleged Violations (NOAV) package for A0442 Wulfenstein Construction Company, INC. A hard copy will be sent by certified mail today, February 5, 2024. Feel free to reach out with any questions.

Thank you,

**Nathan Rash**  
Environmental Scientist III  
Enforcement Branch, Bureau of Air Quality Planning  
Nevada Division of Environmental Protection  
Department of Conservation and Natural Resources  
901 S. Stewart Street, Suite 4001  
Carson City, NV 89701  
[nrash@ndep.nv.gov](mailto:nrash@ndep.nv.gov)  
(O) 775-687-9486 | (F) 775-687-5856







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