



July 19, 2017

Robert Matthews  
Owner  
Tahoe Western Asphalt, LLC  
PO Box 21645  
Carson City, Nevada 89721

**RE: Notice of Alleged Air Quality Violation and Order No. 2621  
Class II Air Quality Operating Permit AP1611-3748 (FIN A1969)**

Dear Mr. Matthews:

The Nevada Division of Environmental Protection - Bureau of Air Pollution Control (BAPC) alleges that Tahoe Western Asphalt, LLC (TWA) has violated conditions of Class II Air Quality Operating Permit AP1611-3748 (Operating Permit). Specifically, the attached Notice of Alleged Violation and Order (NOAV) No. 2621 alleges that TWA exceeded the opacity limit for System 02 – Asphalt Plant: Drum Dryer System (S2.001) on April 25, 2017.

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

*“1. Failure to comply with any requirement of NAC 445B.001 to 445B.390, 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;*

On July 11, 2017, the BAPC held an enforcement conference with TWA to discuss supporting information regarding the *Draft* NOAV No. 2621 issued on June 14, 2017. Mr. Matthews did not dispute the findings of the BAPC. Based on the information presented during the enforcement conference, the BAPC has determined that formal issuance of NOAV No. 2621 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to comply with a permitted emission limit constitutes a major violation. NOAV No. 2621 represents TWA's seventh air quality violation within the last 60 months.

As was discussed during the enforcement conference, the BAPC makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for an air quality violation. The BAPC will be recommending a penalty of **\$6,450.00**, for NOAV No. 2621 based on use of the Administrative Penalty Matrix for air quality violations.

Tahoe Western Asphalt, LLC

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An appeal of NOAV No. 2621 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**. Appeals are processed through Valerie King, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Mrs. King can be reached at (775) 687-9374, or by fax at (775) 687-5856. Please provide me with a copy of any correspondence your company may have with the SEC.

If you have any questions regarding the alleged violation, please contact Robert E. Wimer Sr. at (775) 687-9541. If he is unavailable, please contact me at (775) 687-9530.

Sincerely,



Travis Osterhout, P.E.  
Supervisor, Compliance and Enforcement Branch  
Bureau of Air Pollution Control

TO/rws

enc.: 1. Notice of Alleged Air Quality Violation and Order No. 2621  
2. SEC Appeal Form #3

cc (w/enc.): Valerie King, SEC  
Carson City Board of County Commissioners  
FIN A1969 (Certified Copy)

E-Copy: Lisa Kremer, P.E., Chief, BAPC  
Ashley Taylor, P.E., GISP, Permitting Supervisor, BAPC  
Robert Wimer, Sr., Staff Engineer, BAPC  
Chad Myers, Staff Engineer, BAPC  
Charles Morrow, TWA

Certified Mail No.: 9171 9690 0935 0041 0430 25

STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR POLLUTION CONTROL  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249

NO. 2621

**NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER**

**NOTICE OF ALLEGED AIR QUALITY VIOLATION**

**Person(s) to Whom Served:** Mr. Robert Matthews, Owner

**Company Name:** Tahoe Western Asphalt, LLC

**Address:** PO Box 21645, Carson City, Nevada 89721

**Permit Number:** AP1611-3748 **FIN:** A1969

**Site of Alleged Violation:** 8013 US 50 East, Carson City, Nevada 89706

**Date of Observation:** 4/25/2017 **Arrival:** 1:30 PM **Departure:** 1:45 PM

**Ambient Temperature:** 65 °F **Clear:** **Cloudy:** Partly **Rain:** **Snow:**

**Wind Speed:** 5.5 mph **Wind Direction:** Southwest

**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.390, 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 comply with a permitted emission limit.

**Evidence:**

Tahoe Western Asphalt, LLC (TWA) operates a propane-fired drum dryer mixer/ burner for the purpose of producing asphalt in Carson City, Nevada under Class II Air Quality Operating Permit AP1611-3748 (Operating Permit), issued by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) on May 23, 2016.

On April 25, 2017, BAPC staff was on site of the TWA facility on Highway 50 for observation of a compliance source test being conducted on System 02 – Asphalt Plant: Drum Dryer Mixer/Burner (S2.001). BAPC staff observed that System 02 was exceeding the 20% opacity limit set forth in the Operating Permit, at which time they conducted an EPA Method 9 visible emission observation test and determined that the average opacity exiting the stack was 22.5%, representing a 12.5% exceedance of the permitted opacity limit.

On July 11, 2017, the BAPC held an enforcement conference with TWA to determine whether issuance of Notice of Alleged Air Quality Violation and Order (NOAV) No. 2621 was or was not warranted. Mr. Matthews did not dispute the findings of the BAPC. Based on the information provided by TWA, the BAPC has determined that formal issuance of NOAV No. 2621 is warranted.

**NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER**

**Evidence (cont.):**

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failing to comply with a permitted emission limit constitutes a major violation. This NOAV represents TWA's seventh air quality violation within the last 60 months.

**ORDER**

Under the authority of **Nevada Revised Statute (NRS) 445B.100 to 445B.640**, inclusive, the person named in this notice is ordered:

\_\_\_\_\_ **To pay the following administrative fine in accordance with 445B.281.1:** \_\_\_\_\_

\_\_\_\_\_ **To take corrective action:** \_\_\_\_\_

\_\_\_\_\_ **To appear for an enforcement conference at:**  
**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

\_\_\_\_\_ **To conduct a Supplemental Environmental Project specified by the BAPC**

\_\_\_\_\_ **This notice is a warning.**

**Signature** \_\_\_\_\_  
**Issued by:** Travis Osterhout P.E.  
Supervisor, Compliance and Enforcement Branch  
Bureau of Air Pollution Control

**Phone:** \_\_\_\_\_ **775-687-9530** **Date:** \_\_\_\_\_ **July 19, 2017**

TO/rws

Certified Mail No.: 9171 9690 0935 0041 0430 25

*This order becomes final unless appealed within ten (10) days after receipt of this notice or ten (10) days after a required enforcement conference. The person named in this order may appeal this notice by submitting a written request for a hearing to the Chairman of the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. An administrative fine may be levied by the State Environmental Commission of not more than \$10,000 per day of violation.*



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

**FORM 3: FORM FOR REQUESTING AN APPEAL HEARING**  
(Provide attachments as needed)

**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.**

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**5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.**

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**Date of Request:** \_\_\_\_\_.

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