



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. 2623
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. 2623 alleges that TWA exceeded the opacity limit for System 02 – Asphalt Plant: Drum Dryer System (S2.001) on April 28, 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. 2623 issued on June 19, 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. 2623 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. 2623 represents TWA's ninth 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 **\$6,600.00**, for NOAV No. 2623 based on use of the Administrative Penalty Matrix for air quality violations.

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An appeal of NOAV No. 2623 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. 2623
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 0389 60

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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. 2623

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: 4/28/2017 **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 28, 2017, BAPC staff was continuing an ongoing investigation into complaints of odors coming from the area of the TWA facility and observed System 02 – Asphalt Plant: Drum Dryer Mixer/Burner (S2.001) exceeding the 20% opacity limit set forth in the Operating Permit. BAPC staff proceeded to conduct an EPA Method 9 visible emissions test and determined that the average opacity exiting the stack was 28.5%, representing a 43% 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. 2623 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. 2623 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 ninth 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:** 901 S. Stewart St. Suite 4001, Carson City, Nevada, 89701
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 0389 60

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.

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: _____.

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