

March 21, 2022

Donald Matthews  
TSD Manager, Chief Engineer  
Wulfenstein Construction Company, Inc.  
10240 San Sevaire Way  
Jurupa Valley, CA 91752

**RE: Notice of Alleged Air Quality Violation and Order Nos. 2888  
Class II Air Quality Operating Permit AP1611-0519 (FIN A0475)**

Dear Mr. Matthews:

The Nevada Division of Environmental Protection (NDEP) alleges that Wulfenstein Construction Company, Inc. (WCC) has violated one or more conditions of Class II Air Quality Operating Permit (AQOP) AP1611-0519.

On November 30, 2021, NDEP held an enforcement conference with WCC to discuss potential enforcement actions 2888, 2889, and 2890 alleged in the Letter of Alleged Findings (LOAF) previously sent to WCC. The conference was held to clarify the circumstances of the potential enforcement actions and to provide an opportunity for WCC to provide evidence demonstrating that violations did not occur or that efforts were made to mitigate the violations.

Based on the information provided during the enforcement conference, NDEP has determined that **issuance of NOAV No. 2888 is warranted**. NDEP has dismissed potential enforcement action No. 2889 based on the testing requirements of the permit that was held at the time of the records review. NDEP has also dismissed potential enforcement action No. 2890 based on evidence provided by WCC demonstrating that the equipment was not in operation and had been disassembled during the requested recordkeeping period.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines, NOAV No. 2888 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 recommended penalty of **\$9,000** for NOAV No. 2888.

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. 2888 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](mailto: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 the NOAV, please contact Andrew Tucker at (775) 687-9499 or by email at [atucker@ndep.nv.gov](mailto:atucker@ndep.nv.gov).

Sincerely,



Andrew Tucker  
Supervisor, Enforcement Branch  
Bureau of Air Quality Planning

AT/ki

enc.: 1. Notice of Alleged Air Quality Violation No. 2888  
2. SEC Form #3

cc (w/enc.): Sheryl Fontaine, SEC  
FIN A0475 (Certified Copy)

E-Copy: Danilo Dragoni, Ph.D., Chief, BAQP  
Jennifer Schumacher, Chief, BAPC  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Gregg Rosenberg, P.E., Compliance Supervisor, 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 0253 7289 01



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. 2888**

**Person(s) to Whom Served:** Donald Matthews, TSD Manager, Chief Engineer  
**Company Name:** Wulfenstein Construction Company, Inc.  
**Address:** 10240 San Sevaine Way, Jurupa Valley, CA 91752  
**Permit Number:** AP1611-0519 **FIN:** A0475  
**Site of Alleged Violation:** Section: 29, Township: 20 S, Range: 54 E  
**Date of Observation:** 09/27/2021 **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:**

Exceeded the permitted hours of operation or exceeded the permitted throughput for multiple systems.

**Evidence:**

Wulfenstein Construction Company, Inc. (WCC) currently holds a Class II Air Quality Operating Permit (AQOP) to operate the BLM Pit under the requirements of AQOP No. AP1611-0519, issued by the Nevada Division of Environmental Protection (NDEP) on October 11, 2021.

NDEP Staff conducted an off-site records review on September 27, 2021. During the records review, NDEP staff determined that multiple systems had exceeded either the operating hours limits or material throughput limits. A summary of these findings is included in Table 1.

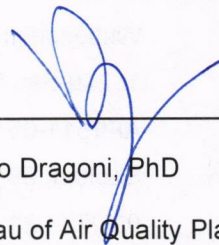
**Table 1: Permit limit exceedances for multiple systems**

System Nos.	Parameter	Date(s)
01 - 07	Hours of Operation	4/25/2020
14	Throughput	5/7/2020
23	Throughput	11/21/2020, 12/11/2020, 12/12/2020, 12/13/2020, 12/16/2020, 12/17/2020
24	Throughput	6/23/2020

On November 30, 2021, NDEP held an enforcement conference with WCC to determine whether issuance of Notice of Alleged Air Quality Violation (NOAV) No. 2888 was or was not warranted. During the enforcement conference, WCC was unable to show cause why NOAV No. 2888 should not be issued. NDEP has subsequently determined that formal issuance of NOAV No. 2888 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation and it is WCC'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: March 21, 2022

DD/ki

Certified Mail No.: 9171 9690 0935 0253 7289 01

## Revised 6-2012

NEVADA  
STATE ENVIRONMENTAL  
COMMISSION

**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