



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**

STATE OF NEVADA  
Department of Conservation & Natural Resources

Steve Sisolak, Governor  
Jim Lawrence, Acting Director  
Greg Lovato, Administrator

July 17, 2023

Lystra Pitts  
Vice President  
F and P Construction  
4607b Aircenter Circle  
Reno, NV 89502

**RE: Notice of Alleged Air Quality Violation 3044  
Class II General Air Quality Operating Permit for Temporary Construction  
Sources Change of Location Approval #3014 (Permit Number AP1442-4535.05  
Fin A2470)**

Dear Mr. Pitts:

The Nevada Division of Environmental Protection (NDEP) alleges that F and P Construction (F&P) has violated one or more conditions of Class II General Air Quality Operating Permit for Temporary Construction Sources (AQOP) AP1442-4535.05 and/or Change of Location Approval (COLA) #3014.

On March 16, 2023, NDEP held an enforcement conference with F&P to discuss potential enforcement action 3044 alleged in the Letter of Alleged Findings (LOAF) previously sent to F&P. The conference was held to clarify the circumstances of the potential enforcement actions and provide an opportunity for F&P 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, NDEP has determined that issuance of NOAV No. 3044 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 3044 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 **\$4,000** for NOAV No. 3044.

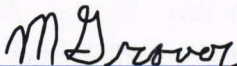
The date for the next SEC hearing for penalties has been tentatively set for September 7, 2023. Before the hearing for the penalties, the SEC will notify you of the final date and time of the hearing and provide information about how you can participate if you want.

An appeal of NOAV No. 3044 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 NOAVs or the fines, please contact Michelle Grover at (775) 687-9392 or by email at [m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov).

Sincerely,



Michelle Grover (Jul 17, 2023 11:58 PDT)

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

MG/nr

enc.: Notice of Alleged Air Quality Violation No 3044.  
SEC Appeal Form #3

E-Copy: Danilo Dragoni, Ph.D., Deputy Administrator, NDEP  
Jennifer Schumacher, Chief, BAPC  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Tanya Soleta, P.E., Permitting Supervisor, BAPC  
Nathan Carrasco, Compliance Staff, BAPC  
Michelle Grover, Enforcement Supervisor, BAQP  
Nathan Rash, Enforcement Staff, BAQP  
Loren Borst, Admin Assistant, NDEP  
Sheryl Fontaine, Chief, BAS

Certified Mail No.: 9489 0090 0027 6499 6795 49

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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. 3044**

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**Person(s) to Whom Served:** Lystra Pitts, Vice President  
**Company Name:** F and P Construction  
**Address:** 4607b Aircenter Circle  
**Permit Number:** AP1442-4535.05, COLA 3014 **FIN:** A2470  
**Site of Alleged Violation:** Pittsburg Ave., Storey County  
**Date of Observation:** 2/9/2023-2/14/2023 **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:*

*(a) Failure to apply for and obtain an operating permit;  
[...]*

**It is alleged that the following act or practice constitutes the violation:**

Operation of a temporary source without an Operating Permit or Change of Location Approval.

**Evidence:**

F and P Construction (F&P) currently holds a Class II General Air Quality Operating Permit for Temporary Construction Sources (AQOP) and a Change of Location Approval (COLA) to operate a temporary aggregate crushing site under the requirements of COLA No. 3014, issued by the Nevada Division of Environmental Protection (NDEP) on March 1, 2023.


Responding to an outside report of unpermitted equipment, BAPC Compliance Staff performed a site investigation at a site off of Pittsburgh Ave in Storey County on February 9, 10, and 14, 2023. Upon arrival at the site, BAPC Inspectors observed multiple pieces of crushing/screening equipment operating. Pictures and video were taken, which showed two (2) crusher/screens and four (4) conveyors on site. One or more pieces of equipment were running at each inspection.

Upon investigation, The BAPC determined that F&P did not have an operating permit for this location at the time of their observations.

On March 16, 2023, NDEP held an enforcement conference with F&P to determine whether issuance of Notice of Alleged Air Quality Violation (NOAV) No. 3044 was or was not warranted. During the enforcement conference, F&P did not supply any evidence that the alleged violation did not occur. NDEP has subsequently determined that formal issuance of NOAV No. 3044 is warranted.

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 **\$4,000** for NOAV No. 3044.

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

Signature  \_\_\_\_\_

Issued by: Danilo Dragoni, PhD  
Deputy Administrator,  
Nevada Division of Environmental Protection

Phone: 775-687-9373      Date: July 17, 2023

DD/MG/nr

Certified Mail No.: 9489 0090 0027 6499 6795 49

# F&P Final NOAV

Final Audit Report

2023-07-17

|                 |  |
|-----------------|--|
| Created:        | 2023-07-17                                   |
| By:             | Michelle Grover (m.grover@ndep.nv.gov)       |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAACUMP8uFSeJ-YXb-2oAzwYbQLUuwLbTrq |

## "F&P Final NOAV" History

-  Document created by Michelle Grover (m.grover@ndep.nv.gov)  
2023-07-17 - 6:57:42 PM GMT
-  Document e-signed by Michelle Grover (m.grover@ndep.nv.gov)  
Signature Date: 2023-07-17 - 6:58:31 PM GMT - Time Source: server
-  Document emailed to Danilo Dragoni (ddragoni@ndep.nv.gov) for signature  
2023-07-17 - 6:58:33 PM GMT
-  Email viewed by Danilo Dragoni (ddragoni@ndep.nv.gov)  
2023-07-17 - 7:00:06 PM GMT
-  Document e-signed by Danilo Dragoni (ddragoni@ndep.nv.gov)  
Signature Date: 2023-07-17 - 7:03:19 PM GMT - Time Source: server
-  Agreement completed.  
2023-07-17 - 7:03:19 PM GMT



**Form #3**  
**Request an Appeal Hearing**  
Revised 6-2012



NEVADA  
**STATE ENVIRONMENTAL  
COMMISSION**

**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