



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources
Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
David Emme, Administrator

August 12, 2016

Bud Rinasz
Owner
B.R. Constructors
1668 Pinenut Road
Gardnerville, Nevada 89410

**RE: Notice of Alleged Air Quality Violation and Order No. 2567
Surface Area Disturbance at Canyon Vista Development
Located in Carson City, Nevada
Air Case #8748 (FIN A1964)**

Dear Mr. Rinasz:

The Nevada Division of Environmental Protection - Bureau of Air Pollution Control (BAPC) alleges that B.R. Constructors has violated conditions of **Nevada Administrative Code (NAC) Chapter 445B – Air Controls**.

On March 14, 2016, BAPC staff conducted a site visit to the Canyon Vista Development, located at the southeast corner of E. Clearview Drive and Hillview Drive in Carson City, Nevada, after receiving numerous complaints of blowing dust from neighboring property owners. BAPC staff observed that the site, approximately 18 acres in size, had been cleared and grubbed of vegetation, two (2) cul-de-sacs had been constructed and paved, and three (3) residential homes were actively being built. Conducting construction activities without a proper air quality operating permit in place is a violation of **NAC 445B.281 Violations: Classification; administrative fines**.

NAC 445B.275 Violations: Acts constituting; notice states in part:

“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;

On July 26, 2016, the BAPC held an enforcement conference with Mr. Bud Rinasz and the property owner, Mr. Scott Smith to discuss supporting information regarding the *Draft* Notice of Alleged Air Quality Violation and Order (NOAV) No. 2567, issued on July 5, 2016. Mr. Rinasz and Mr. Smith stated that they were not made aware of the requirements for any permits from the BAPC and did not intend to clear the entire project site at once; however, it became necessary due to unforeseen circumstances during construction. Based on the information presented during the enforcement conference the BAPC has determined that issuance of NOAV No. 2567 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to apply for and obtain an operating permit constitutes a major violation. NOAV No. 2567 represents B.R. Constructors' first 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 \$500.00 plus \$50.00 per acre of disturbance, totaling **\$1,400.00**, for NOAV No. 2567 based on use of the Administrative Penalty Matrix for non-emissions air quality violations.

An appeal of NOAV No. 2567 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.: Notice of Alleged Air Quality Violation and Order No. 2567

cc (w/enc.): Valerie King, SEC
Carson City Board of County Commissioners
FIN A1964 (Certified Copy)

E-Copy: Jeffrey Kinder, Chief, BAPC (via email)
Jennifer Collier, Supervisor, BAPC (via email)
Ashley Taylor, Supervisor, BAPC (via email)
Robert Wimer, Sr., BAPC (via email)
Bud Rinasz, B.R. Constructors (via email)
Scott Smith, Divinni NV, LLC (via email)

Certified Mail No.: 9171 9690 0935 0041 1124 55

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. 2567

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Bud Rinasz, Owner

Company Name: B.R. Constructors

Address: 1668 Pinenut Road, Gardnerville, Nevada 89410

Permit Number: N/A **FIN:** A1964

Site of Alleged Violation: Canyon Vista Development, located at the southeast corner of E. Clearview Drive and Hillview Drive, Carson City, Nevada

Date of Observation: 3/14/2016 **Arrival:** 2:20 PM **Departure:** 2:40 PM

Ambient Temperature: 45 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: Varied mph **Wind Direction:** Varied

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:

Failure to apply for and obtain an air quality operating permit prior to commencing construction.

Evidence:

On March 14, 2016, Nevada Division of Environmental Protection – Bureau of Air Pollution Control (BAPC) staff conducted a site visit to the Canyon Vista Development, located at the southeast corner of E. Clearview Drive and Hillview Drive in Carson City, Nevada, after receiving numerous complaints of blowing dust from neighboring property owners. BAPC staff observed that the site, approximately 18 acres in size, had been cleared and grubbed of vegetation, two (2) cul-de-sacs had been constructed and paved, and three (3) residential homes were actively being built.

Upon returning to the office and conducting further investigation, BAPC staff discovered that no air quality operating permits had been obtained for the site. On the same day, BAPC staff contacted the owner of the property, Mr. Scott Smith with Divinni NV, LLC, and notified him that, pursuant to **NAC 445B.281 Violations: Classification; administrative fines**, construction could not be initiated until a Class II Air Quality Operating Permit for Surface Area Disturbance had been issued.

On March 15, 2016, BAPC staff met on site with Mr. Scott Smith and Mr. Bud Rinasz, owner of B.R. Constructors, to discuss the status of construction activities at the site and what would be required to obtain an air quality operating permit. On the same day an application for a Class II Air Quality Operating Permit for Surface Area Disturbance was personally delivered to the BAPC office by Mr. Scott Smith.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER**Evidence (cont.):**

On July 26, 2016, the BAPC held an enforcement conference with Mr. Rinasz and Mr. Smith to determine whether the issuance of Notice of Alleged Air Quality Violation (NOAV) No. 2567 was or was not warranted. Mr. Rinasz and Mr. Smith stated that they had not obtained air quality operating permits on projects in the past and had not been notified of BAPC requirements for permits by either Carson City or other bureaus within the Nevada Division of Environmental Protection during their permitting processes. They also stated that the intention at the beginning of the project was to develop smaller portions of the project site in phases; however, unforeseen circumstances required clearing of the entire project site all at once. Records were presented to establish a timeline showing approximately one (1) week of elapsed time between initial disturbance of the soil and implementation of soil stabilization through the application of palliatives to limit disturbed areas to less than five (5) acres. Based on the information provided the BAPC has determined that formal issuance of NOAV No. 2567 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to apply for and obtain an air quality operating permit prior to commencing construction activities constitutes a major violation. This NOAV represents B.R. Constructors' first 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:** _____

X **To take corrective action:** Apply for and obtain all required air quality operating permits prior to commencing future construction activities.

_____ **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: August 12, 2016

TO/rws

Certified Mail No.: 9171 9690 0935 0041 1124 55

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 Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. An administrative fine may be levied by the 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