

# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

February 19, 2014

Mark Drahos  
Project Manager  
Alston Construction  
730 Sandhill Road Suite 110  
Reno, NV 89521

**RE: Notice of Alleged Air Quality Violation and Order No. 2476  
Class II Air Quality Operating Permit Surface Area Disturbance AP1629-3442 (FIN A1741)**

Dear Mr. Drahos:

The Nevada Division Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) alleges that Alston Construction (Alston) has violated conditions of Nevada Administrative Code (NAC) 445B.275.

On February 11, 2014, the NDEP-BAPC held an enforcement conference with Alston to discuss the supporting information regarding the draft Notice of Alleged Violation and Order (NOAV) dated February 11, 2014. Based on the information presented during the conference, the NDEP-BAPC has determined that issuance of NOAV No. 2475 is warranted. Failure to apply for and obtain an operating prior to commencing construction activities at their site in Storey County, Nevada constitutes violations of **Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice** (see below).

**NAC 445B.275 Violations: Acts constituting; notice** states, in part, that: "1. Failure to comply with any requirement of NAC 445B.001 to 445B.3791, 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.

The attached NOAV No. 2476 constitutes a major violation as defined by Section 2 of **NAC445B.281 Violations: Classification; administrative fines**. NOAV No. 2476 is the first NOAV issued to Alston in the past 60 months.

As was discussed during the conference held on February 11, 2014, the NDEP-BAPC makes recommendations to the Nevada State Environmental Commission (SEC) as to what an appropriate penalty may be for major air quality violations. The NDEP will be recommending a penalty of \$2,900 for NOAV No. 2476.

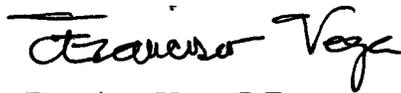


Alston Construction  
February 19, 2014  
Page 2

An appeal of NOAV No. 2476 may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. Appeals must be received within 10 days of receipt of this notice, pursuant to **NRS 445B.340**. Appeals are processed through Valerie King, the Executive Secretary for the SEC, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. 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 violations or the enforcement conference, please call Mark Talavera at (775) 687-9470 or myself at (775) 687-9343.

Sincerely,



Francisco Vega, P.E.  
Supervisor, Compliance and Enforcement Branch  
Bureau of Air Pollution Control

FV/mt

enc.: 1. Notice of Alleged Air Quality Violation and Order No. 2476  
2. SEC Appeal Form #3

cc (w/enc. 1): Valerie King, SEC  
Storey County Board of Commissioners  
Francisco Vega, NDEP  
FIN A1741 (Certified Copy)

E-Copy: Mark Drahos, Alston (via email)  
Wayne Phelps, Alston (via email)

Certified Mail No.: 9171 9690 0935 0037 8374 23

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. 2476

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

**NOTICE OF ALLEGED AIR QUALITY VIOLATION**

**Person(s) to Whom Served:** Mark Drahos (Project Manager)

**Company Name:** Alston Construction

**Address:** 730 Sandhill Road Suite 110 Reno, NV 89521

**Permit Number:** SAD AP1629-3442 **FIN:** A1741

**Site of Alleged Violation:** 3200 USA Parkway, McCarran, NV 89434

**Date of Observation:** 2/10/14 **Arrival:** 11:50 AM **Departure:** 12:10 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:**

**NAC 445B.275 Violations: Acts constituting; notice.** 1. Failure to comply with any requirement of NAC 445B.001 to 445B.3791, 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 operating permit prior to commencing construction.

**Evidence:**

On February 10, 2014 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted a site visit of the Alston Construction (Alston) project located in Storey County, Nevada.

During the February 10, 2014 visit, the NDEP-BAPC spoke with Wayne Phelps, Alston's superintendent, to determine whether the site had obtained a Class II Air Quality Operating Permit for Surface Area Disturbance. Mr. Phelps informed the NDEP-BAPC that an application had already been sent to the NDEP office. The NDEP-BAPC made Mr. Phelps aware that although a permit application had been submitted that construction could not be initiated until a permit had been formally issued. The NDEP-BAPC informed Mr. Phelps that they will return to the office to verify whether the permit application had been submitted and its current status.

Upon further investigation that same day, the NDEP-BAPC confirmed that no such application had ever been submitted. The NDEP-BAPC then contacted Mark Drahos, Alston's project manager, to confirm whether an application was ever submitted. Mr. Alston informed the NDEP-BAPC that the application had not yet been submitted. Around 4:00 pm, Alston personally delivered the permit application to the NDEP-BAPC office. The NDEP-BAPC issued Alston Stop Order No. 2014-05 to halt their operations until a permit was officially issued.

On February 11, 2014, the NDEP-BAPC held an enforcement conference with Alston to discuss the information regarding Notice of Alleged Violation (NOAV) No. 2476. The enforcement conference represented Alston's opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV No. 2476 should not be issued.

# NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2476

## Evidence (cont.)

During the enforcement conference Alston was unable to provide any evidence that violations associated with NOAV No. 2476 did not occur and should not be issued. Alston did not have any questions and understood that NOAV No. 2476 would be formally issued. On the same day, the NDEP-BAPC issued Alston their new Class II Air Quality Operating Permit Surface Area Disturbance AP1629-3442 (A1741) lifting Stop Order No. 2014-05.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, failure to apply and obtain an operating permit prior to commencing construction activities constitutes a major violation. This NOAV No. 2446 represents Alston's first air quality violation in the past 60 months.

## ORDER

Under the authority of NRS 445B.100 to 445B.640, inclusive, the person named in this notice is ordered:

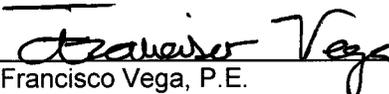
\_\_\_\_\_ To pay the following administrative fine in accordance with 445B.281.1: \_\_\_\_\_

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

\_\_\_\_\_ To appear for a hearing before the Environmental Commission at:  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

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

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

Signature   
Issued by: Francisco Vega, P.E.  
Supervisor, Compliance and Enforcement Branch  
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: February 19, 2014

FV/mt  
Certified Mail No.: 9171 9690 0935 0037 8374 23

*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.

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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