

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

May 17, 2013

Royce Johnson
Plant Manager
Agru America, Inc.
2000 East Newlands Drive
Fernley, NV 89408

Re: Notice of Alleged Air Quality Violation No. 2439
Class III Air Quality Operating Permit AP3081-2568 (FIN A1028)

Dear Mr. Johnson:

The Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) alleges that Agru America, Inc., (Agru) has violated a condition of their Class III Air Quality Operating Permit AP3081-2568.

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 Notice of Alleged Air Quality Violation and Order (NOAV) No. 2439 alleges that Agru has violated conditions of Class III Air Quality Operating Permit AP3081-2568. As defined by Section 2 of **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 2439 constitutes a major air quality violation.

As was discussed during the conference held on April 26, 2013, the NDEP 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 \$16,800 to the SEC. The penalty recommendation is based on the use of the Administrative Penalty Table for emission violations related to source test and adjusted by the Penalty Matrix.

An appeal of NOAV No. 2439 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 John Walker, the Executive Secretary for the SEC, at 901 South Stewart



Agru America Inc.

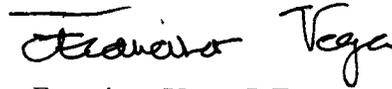
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Street, Suite 4001, Carson City, Nevada, 89701-5249. Mr. Walker can be reached at 775-687-9308, or by fax at 775-687-5856. Please provide me with a copy of any correspondence your company may have with the SEC.

If you have any questions regarding the alleged violations or the enforcement conference, please call Robert Whited at (775) 687-9335 or myself at (775) 687-9343.

Sincerely,



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

FV/rew

Enc.: 1. Notice of Alleged Air Quality Violation and Order No. 2439
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC
Lyon County Board of Commissioners
Francisco Vega, NDEP
FIN A1028 (Certified Copy)

Certified Mail No.: 9171 9690 0935 0011 8704 84

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. 2439

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Royce Johnson

Company Name: Agru America, Inc.

Address: 2000 East Newlands Drive, Fernley, Nevada 89408

Permit Number: AP3081-2568 **FIN:** A1028

Site of Alleged Violation: 2000 East Newlands Drive, Fernley, Nevada 89408

Date of Observation: 03/06/2013 **Arrival:** 11:30 AM **Departure:** 2:00 PM

Ambient Temperature: 40 °F **Clear:** X **Cloudy:** **Rain:** **Snow:**

Wind Speed: 5 mph **Wind Direction:** West

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.

Evidence:

On March 6, 2013, The Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) conducted an inspection of the Agru America, Inc. (Agru) facility located in Lyon County, Nevada. Agru operates under Class III Air Quality Operating Permit AP3081-2568, issued on June 26, 2009.

During the March 6, 2013 inspection, the NDEP-BAPC discovered that Agru had constructed additional emission units without applying for and obtaining the appropriate air quality operating permit. The equipment that was built without being included in the air quality permit is a third Line Extruder Unit of which there are already two at the facility that were included in the permit. The unit was constructed without applying for a permit revision/modification to the current Class III Air Quality Operating Permit. The NDEP-BAPC instructed Agru not to operate the third Line Extruder until Agru obtained an appropriate air quality permit that included the third Line Extruder. The unpermitted Line Extruder was installed on June 1, 2011.

On April 26, 2013, the NDEP-BAPC and Agru held an enforcement conference to determine whether the issuance of this Notice of Alleged Air Quality Violation and Order (NOAV) was or was not warranted. The enforcement conference represented Agru's opportunity to provide any evidence that would help the NDEP-BAPC to determine whether NOAV 2439 should or should not be issued. During the enforcement conference Agru was unable to provide any evidence that violations associated with NOAV No. 2439 did not occur and should not be issued. The NDEP-BAPC was also informed that Agru was still operating the third Line Extruder without an appropriate air quality permit. Once again the NDEP-BAPC instructed Agru not to operate the third Line Extruder until Agru obtained an appropriate air quality permit.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2439

Evidence continued:

On May 1, 2013 Agru submitted an application to the NDEP-BAPC to modify their air permit to include the third Line Extruder Unit. The revised permit has still not been issued. Agru has operated the unit continuously since its installation June 1, 2011. Agru had operated the unpermitted equipment for 695 days to include the period of time from the date of the inspection March 6, 2013 when Agru was notified of the requirement to permit the unit to the enforcement conference held on April 26, 2013. To date, Agru has not received a valid air quality operating permit to construct and operate the third Line Extruder.

Constructing and/or operating regulated emission units without a valid air quality operating permit constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2439 represent Agru's first air quality violation within the last 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: Apply for and receive an Air Quality Operating Permit for any additional equipment that will add to the facilities total emissions.

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

Phone: 775-687-9343 Date: May 17, 2013

FV/rew
Certified Mail No.: 9171 9690 0935 0011 8704 84

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