

JIM. GIBBONS
Governor



STATE OF NEVADA
STATE ENVIRONMENTAL COMMISSION

901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249
Telephone (775) 687-9308
Fax (775) 687-5856
www.sec.nv.gov

Leo Drozdoff, P.E.
Acting Director



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Las Vegas, NV

May 12, 2011

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Mark Miller
Area Environmental and Land Services Manager
Frehner Construction Company
3101 E Craig Road
N Las Vegas, NV 89030

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Pete Anderson
State Forester
Division of Forestry

RE: Penalty Assessments for Air Quality Violation Nos. 2292 and 2294
Class II Air Quality Operating Permit AP1422-0037 COLA 2218 (FIN
A0006)

Frances Barron
State Board of Health
Las Vegas, NV

Dear Mr. Miller:

Jason King
State Engineer
Division of Water Resources

On January 26, 2011, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and Frehner Construction Company (Frehner) held an enforcement conference to discuss Frehners's failure to comply with Class II Air Quality Operating Permit AP1422-0037 COLA 2218.

Kathryn Landreth
Reno, NV

As way of background, on October 1, 2010, and in accord to the above referenced permit officials from NDEP conducted an on-site inspection of the Frehner operated aggregate processing facility and hot-mix asphalt plant located 7 miles North of McGill in White Pine County, Nevada.

Jim Barbee
Director, Department of
Agriculture

During the inspection emissions from the wet scrubber on the HMA plant was conducted. Opacity was determined to be 47.5%. It was also discovered that required records for the HMA plant were incomplete. A thorough review of records indicated that crushing and screening records were also incomplete and there were several days of hourly operation limit exceedances on the HMA plant. There was also a failure to report the excess emission to the NDEP.

Kenneth Mayer - Director
Department of Wildlife

Tom Porta
Reno, NV

Mark Turner
Carson City, NV

Stephanne Zimmerman
Las Vegas, NV

COUNSEL
Rose Marie Reynolds

Failure to comply with a permit requirement represents an air quality violation under NRS 445B.275. Accordingly, on February 3, 2011 NDEP issued the above referenced NOAVs to the Frehner Construction company.

STAFF
John B. Walker
Executive Secretary

When NDEP sent the NOAV by certified mail on February 3, 2011, it notified Frehner of its appeal rights pursuant to NRS 445B.340 and NRS 445B.360. Since Frehner did not appeal the NOAV, the State Environmental Commission (SEC) will determine the appropriate penalty for the violations contained in NOAV Nos. 2292 and 2294 at its meeting on June 16, 2011.

This meeting will be held on Thursday, June 16, 2011 at 9:30 a.m. at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada.

Pursuant to NRS 445B.640(1), the SEC may levy an administrative fine of not more than \$10,000 per day per violation. Staff from NDEP will provide the SEC with a brief overview of the NOAV and its recommendation for an administrative fine of \$18,720.00, which has been calculated from a penalty matrix previously approved by the Commission. The fine amounts for the respective NOAV's are as follows: #2292 \$10,080 and #2294 \$8,640.

The Commission will formally levy a fine by accepting NDEP's recommendation or increasing or decreasing the fine amount based on the information presented at the meeting.

Your presence is not required at the June 16, 2011 meeting, although you or a company representative may wish to attend and speak on behalf of Frehner. The SEC may, without further notice, take administrative action against Frehner, if the SEC determines that such administrative action is warranted after it considers NOAV No. 2292 and 2294.

If you have any questions regarding this notice, please contact me at (775) 687-9308.

Sincerely,

John B. Walker
Executive Secretary

JW:jw

Certified Mail # 7007 0220 0003 5226 0859

cc: Colleen Cripps, NDEP
Michael Elges, NDEP
Francisco Vega, NDEP
Rose Marie Reynolds, SEC/DAG