

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

March 20, 2013

John Koster
Northern Nevada Regional President
Harvey's Resort Hotel Casino
P.O. Box 8
Stateline, Nevada 89449

Re: Notice of Alleged Air Quality Violation and Order Nos. 2433 and 2434
Class II Air Quality Operating Permit AP7011-2697 (FIN A0578)

Dear Mr. Koster:

The Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) alleges that Harvey's Resort Hotel Casino (Harvey's) has violated a condition of Class II Air Quality Operating Permit AP7011-2697.

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:

- (c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit.
- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.

The attached Notices of Alleged Air Quality Violation and Order (NOAV) No. 2433 and 2434 allege that Harvey's has violated conditions of Class II Air Quality Operating Permit AP7011-2697. As defined by Section 2 of **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 2432 constitutes a major air quality violation.

As was discussed during the conference held on February 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 \$3,600 (\$1,800 for each NOAV) 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.



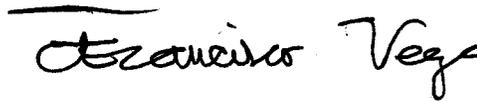
Harvey's Resort Hotel Casino
March 20, 2013
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An appeal of NOAV Nos. 2433 and 2434 may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and SEC administrative rules. A copy of SEC Appeal Form #3 is enclosed. Appeals must be received 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

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 please call Ryan Fahey at (775) 687-9546, if he is unavailable please contact me at (775) 687-9343.

Sincerely,



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

FV/rf

Enc. 1. Notice of Alleged Air Quality Violation and Order No. 2433 & 2434
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC
Douglas County Board of Commissioners
Francisco Vega, NDEP
FIN A0578 (Certified Copy)

E-Copy: Michael Elges, NDEP
Rob Bamford, NDEP
Jeff Denison, NDEP
Brad Waldron, Harvey's

Certified Mail No.: 9171 9690 0935 0011 8839 27

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. 2433

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. John Koster

Company Name: Harveys Resort Hotel Casino

Address: P.O. Box 8, Stateline, Nevada 89449

Permit Number: AP7011-2697

FIN: A0578

Site of Alleged Violation: 18 Highway 50, Stateline, Nevada 89449

Date of Observation: 1/16/2013 Arrival: 11:00 AM Departure: 11:30 AM

Ambient Temperature: N/A °F Clear: X Cloudy: Rain: Snow:

Wind Speed: N/A mph Wind Direction: N/A

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:

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit.

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

Exceeded permitted annual hours of operation.

Evidence:

Harveys Resort Hotel Casino (Harveys) operates a hotel and casino in Stateline, Douglas County, Nevada under Class II Air Quality Operating Permit AP7011-2697, issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on September 27, 2010.

On January 16, 2013 a compliance inspection was conducted at Harveys. On January 24, 2013 while completing the inspection report the NDEP inspector conducted a review of Harveys 2011 Annual Emissions Report (AER) that was submitted to the NDEP. During this review it was noted by the inspector that permit limits were exceeded for System 01 (Boiler serial #R7490) and System 04 (Boiler serial #AF147334). The 2011 AER states that System 01 operated for a total of 3,666 hours and System 04 operated for 1,231 hours both systems are limited to no more than 600 hours per calendar year by Class II Air Quality Operating Permit AP7011-2697. In addition to the findings for 2011 a query of Harveys 2010 AER found that System 01 operated for 6,034 hours well above the permitted 600 hours of operation per calendar year.

On February 26, 2013 the NDEP and Harvey's held an enforcement conference to determine whether the issuance of this Notice of Alleged Air Quality Violation and Order was or was not warranted. Harvey's found that the original permit application that they submitted contained hourly operating parameters that did not meet the actual requirements of the facilities operational needs. This will be corrected by the submittal of a permit modification to the NDEP within 90 days of issuance of this Notice of Alleged Air Quality Violation and Order (NOAV).

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2433

Evidence Continued:

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged exceedances of permitted operating parameters constitute major violations. This NOAV for exceeding permit limits, in conjunction with NOAV 2431 issued under the same cover for records, represent Harvey's first air quality violations 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: _____ \$ _____

X To take corrective action: _____
Within 90 days of the issuance of this violation submit an application to revise permit AP7011-2698 to the NDEP. The revision should include all changes necessary to ensure the facilities operations can meet compliance with the permitted requirements and limits. _____

_____ 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: March 20, 2013

FV/rf
Certified Mail No.: 9171 9690 0935 0011 8839 27

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
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. 2434

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. John Koster
Company Name: Harveys Resort Hotel Casino
Address: P.O. Box 8, Stateline, Nevada 89449
Permit Number: AP7011-2697 **FIN:** A0578
Site of Alleged Violation: 18 Highway 50, Stateline, Nevada 89449
Date of Observation: 1/16/2013 **Arrival:** 11:00 AM **Departure:** 11:30 AM
Ambient Temperature: N/A °F **Clear:** X **Cloudy:** **Rain:** **Snow:**
Wind Speed: N/A mph **Wind Direction:** N/A

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:

- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.

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

Failure to monitor and record daily operating parameters.

Evidence:

Harveys Resort Hotel Casino (Harveys) operates a hotel and casino in Stateline, Douglas County, Nevada under Class II Air Quality Operating Permit AP7011-2697, issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) on September 27, 2010.

On January 16, 2013 a compliance inspection was conducted at Harveys. During the inspection it was observed by the NDEP that no hour meters or fuel meters were present on four permitted boilers. The NDEP inquired as to how monitoring was being conducted on the boilers without the use meters. Nick Farias, the boiler technician on site, informed the NDEP that Harveys does track the hours of operation with the use of maintenance logs on a daily basis but they do not track fuel nor do they have the means to track the fuel on each boiler. Currently Harveys is monitoring fuel at a combined meter that provides fuel to all four boilers and only on an annual basis to fulfill annual reporting requirements. Class II Air Quality Operating Permit AP7011-2697 requires that the natural gas consumption rate for each boiler be monitored and recorded on a daily basis.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2434

Evidence continued:

On February 26, 2013 the NDEP and Harvey's held an enforcement conference to determine whether the issuance of this Notice of Alleged Air Quality Violation and Order was or was not warranted. Harvey's presented no new evidence to mitigate the NDEP's finding and therefore this Notice of Alleged Air Quality Violation and Order (NOAV) is being issued as a major violation.

In accordance with NAC 445B.281 **Violations: Classification; administrative fines**, the alleged failure to monitor and record gas consumption rates as required by Class II Air Quality Operating Permit AP7011-2697 constitutes a major violation. This NOAV, in conjunction with NOAV 2433 issued under the same cover for annual permit limit exceedances, represent Harvey's first air quality violations 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: Install hour and fuel meters on each of the four boilers located at Harvey's Resort Hotel Casino and contained with Class II Air Quality Operating Permit AP7011-2697.

_____ 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: March 20, 2013

FV/rf

Certified Mail No.: 9171 9690 0935 0011 8839 27

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