

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

September 6, 2013

Art Wilson
Owner/Operator
Western States Gypsum
P.O. Box 20160
Carson City, Nevada 89721

Re: Notice of Alleged Air Quality Violation and Order No. 2450
Class II Air Quality Operating Permit AP1499-0504.02 (FIN A0739)

Dear Mr. Wilson:

On July 23, 2013, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) held an enforcement conference with Western States Gypsum (WSG) to discuss the information regarding Notice of Alleged Violation and Order (NOAV) No. 2450. Based on the information presented during the enforcement conference the NDEP-BAPC has made the determination to formally issue NOAV No. 2450. NOAV No. 2450 represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV No. 2450 alleges that WSG is in violation of **Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice**. NAC 445B.275 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 Nevada Revised Statutes 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.

NOAV No. 2450 constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. NOAV No. 2450 is the fifth NOAV issued to WSG in the past 60 months.

As was discussed during the conference, 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 \$22,520 to the SEC for NOAV No. 2450.

An appeal of NOAV Nos. 2450 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,

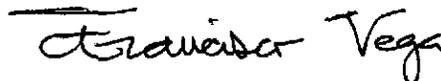


Western States Gypsum
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Carson City, Nevada, 89701-5249. Mr. Walker can be reached at 775-687-9308, or by fax at 775-687-5856. Please provide me with a copy of any correspondence your company may have with the SEC.

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. 2450
2. SEC Appeal Form #3

cc (w/enc. 1): Francisco Vega, NDEP
FIN A0739 (Certified Copy)

E-Copy: Rob Bamford, NDEP
Jeff Denison, NDEP

Certified Mail No.: 9171 9690 0935 0012 7168 66

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. 2450

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Art Wilson
Company Name: Art Wilson Co., D.B.A. Western States Gypsum
Address: P.O. Box 20160, Carson City, Nevada 89721
Permit Number: AP1499-0504.03 **FIN:** A0739
Site of Alleged Violation: Western States Gypsum, 145 Linehan Road, Mound House, Nevada 89706
Date of Observation: 12/06/2012 **Arrival:** N/A **Departure:** N/A
Ambient Temperature: N/A °F **Clear:** **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:

Failed to comply with a permitted emission limit during a compliance source test.

Evidence:

Art Wilson Co., D.B.A. Western States Gypsum (WSG) operates a gypsum processing and packaging facility in Mound House, Lyon County, Nevada under Class II Air Quality Operating Permit AP1499-0504.03 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on August 13, 2012. The alleged violations took place while WSG was operating under Class II Air Quality Operating Permit AP1499-0504.02 issued by the NDEP-BAPC on August 13, 2007. The failed compliance source test was being conducted to fulfill WSG's renewal requirements for permit AP1499-0504.02.

Compliance source testing was conducted at the WSG facility on August 8 & 22-23, 2012 for Systems 17, 19 and 24 to fulfill renewal compliance source testing requirements of Class II Air Quality Operating Permit AP1499-0504.02. Results for System 19 failed to comply with permitted emissions limits during the compliance source test. System 19 was measured at 2.31 pounds per hour of PM and 2.36 pounds per hour PM10. Class II Air Quality Operating Permit AP1499-0504.02 limits System 19 to 0.71 pound per hour of PM and PM10. System 19 was tested at 10 tph, which is 20% of the permitted throughput limit. System 24 failed to meet permitted emissions requirements for PM10 during this testing. System 24 was measured at 7.08 pounds per hour PM10. Class II Air Quality Operating Permit AP1499-0504.02 limits System 24 to 4.54 pounds per hour PM10. System 24 was tested at 15 tph which is 75.0% of the permitted throughput limit.

On July 23, 2013 the NDEP-BAPC held an enforcement conference with WSG 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 WSG the opportunity to provide any evidence that would lead the NDEP-BAPC into determining that NOAV 2450 should not be issued. During the enforcement conference WSG was unable to provide any evidence that violations associated with NOAV No. 2450 did not occur and should not be issued.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2450

Evidence (cont.):

In accordance with NAC 445B.281 Violations: Classification; administrative fines, exceeding a permitted emission limit constitutes a major violation. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2450 represents WSG's fifth 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: Comply with all permitted emission limits established in Class II Air Quality Operating Permit AP1499-0504.02.

_____ 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
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: September 6, 2013

FV/rew
Certified Mail No.: 9171 9690 0935 0012 7168 66

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