STATE OF HAWAII
DEPARTMENT OF HEALTH
CLEAN AIR BRANCH

NOTICE AND FINDING OF VIOLATION

TO:	NOVO No. 18-CA-EO-08
Tom's Backhoe & Excavation Co., Inc. P.O. Box 901373 Kula, Hawaii 96790 RESPONDENT	*(Please write this NOVO number on all correspondence)* Re: Temporary Covered Source Permit (CSP) No. 0700-01-CT Property/Facility: 195 TPH Mobile Jaw Crusher with 160 HP Diesel Engine

Under Hawaii Revised Statutes ("HRS"), §342B-11, Hawaii Administrative Rules ("HAR") §11-60.1-2, and Temporary CSP No. 0700-01-CT, the Department of Health, Clean Air Branch ("DOH"), issues this Notice and Finding of Violation and Order ("NOVO"). Based on an inspection, the DOH finds the following violation(s) alleged below. This case deals only with the violations alleged below, and the DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

Statutes/Rules	HRS, §342B-11, HAR, §11-60.1-2, and Temporary CSP No. 0700-01-CT.

Nature of the Violation	
	1) Attachment II, Section C, Special Condition 7.a: Failed to submit at least one (1) location change for the 195 TPH mobile jaw crushing plant during the term of the permit. 2) Attachment II, Section E, Special Condition 3.a: Failed to submit the annual emissions reports for the crushing and screening plant and the diesel engine within sixty (60) days after the end of each calendar year for the following: a) 2016 calendar year was submitted late on October 4, 2018, one (1) year and two hundred eighteen (218) days after the due date of March 1, 2017; and b) 2017 calendar year was submitted late on October 4, 2018, two hundred eighteen (218) days after the due date of March 1, 2018. 3) Attachment II, Section E, Special Condition 4: Failed to submit the semi-annual monitoring reports for the diesel engine and opacity exceedances within sixty (60) days after the end of each semi-annual calendar period for the following: a) July to December 2016 was submitted late on October 4, 2018, one (1) year and two hundred eighteen (218) days after the due date of March 1, 2017; b) January to June 2017 was submitted late on October 4, 2018, one (1) year and thirty-seven (37) days after the due date of August 29, 2017; c) July to December 2017 was submitted late on October 4, 2018, two hundred eighteen (218) days after the due date of March 1, 2018; and d) January to June 2018 was submitted late on October 4, 2018, thirty-seven (37) days after the due date of August 29, 2018. 4) Attachment II, Section E, Special Condition 6: Failed to submit the compliance certification within sixty (60) days after the end of each calendar year for the following: a) 2016; and b) 2017. 5) Attachment II, Section F, Special Condition 1: Failed to submit annual performance test on the plant's equipment for the following calendar years: a) 2016; and b) 2017.

The facts of this case and the law justify the following order.

ORDER

You are ordered to:

1. Take corrective action within twenty (20) days after the receipt of this Order, to prevent further violations, if RESPONDENT has not already done so.
2. Within twenty (20) days after the receipt of this Order, notify the DOH of the corrective actions taken.
3. Pay an administrative penalty of **TWELVE THOUSAND SEVEN HUNDRED DOLLARS AND NO CENTS ($12,700.00)** for the above violations. **Within 20 days after the receipt of the NOVO**, send a certified check to: Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. The **check should be made payable to the "State of Hawaii" and include the NOVO reference number stated above.**

This NOVO becomes final and enforceable, and the penalty becomes due and payable 20 days after your receipt of this NOVO unless before the 20 days expire, you submit a **written** request for a hearing to the Hearings Officer, Department of Health, 1250 Punchbowl Street, Third Floor, Honolulu, Hawaii 96813 **and** to the Clean Air Branch, State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801. In the request, include a copy of the NOVO. At a hearing, you may seek to avoid any penalty, and the DOH may seek the maximum penalty of Twenty-Five Thousand Dollars ($25,000) per day, per violation. Parties may present evidence and witnesses on their behalf, and may examine and cross-examine all witnesses and evidence presented by the DOH. Parties may be represented by lawyers at their own expense, or they may represent themselves. Any hearing will follow HRS, Chapters 91 and 342B, and the DOH Rules of Practice and Procedure. After a hearing, the Director of Health or her appointee will decide the actual administrative penalty, which may be more or less than the penalty in this Order, or no penalty at all. If you have questions, please call Ms. Jill Stensrud, Supervisor of the Compliance and Enforcement Section, Clean Air Branch, at (808) 586-4200.

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

KEITH E. KAWAOKA, D.Env.
Deputy Director for Environmental Health

MAY 27 2020
Date

Approved as to form by:
William F. Cooper
Deputy Attorney General