

STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

August 19, 2008

Mr. Ghassan Merhi, Managing Member
Galtar, LLC
5243 West Charleston Blvd.
Las Vegas, NV 89146

Re: REISSUANCE OF NOTICES OF ALLEGED AIR QUALITY VIOLATION AND ORDER
NOS. 2140 AND 2142
CLASS II AIR QUALITY OPERATING PERMIT 1629-2435 (FIN A0449)

Dear Mr. Merhi:

On May 6, 2008 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) held an enforcement conference with Galtar, LLC (Galtar) to discuss alleged air quality violations that occurred at the site of the former American Borate mine located in Amargosa Valley in Nye County. At the conclusion of that conference, the NDEP-BAPC issued three Notices of Alleged Air Quality Violation and Order (NOAVs) to Galtar. NOAV Nos. 2140 and 2142 were issued for failing to control fugitive dust on April 14 and April 18, 2008, respectively.

On April 17, 2008, the Nevada State Environmental Commission (SEC) approved an amendment to Section 3 of NAC 445B.281 **Violations: Classification; administrative fines**, which revised the classification and penalties for fugitive dust violations. Because of that amendment, the NDEP-BAPC has determined that the applicable penalty for NOAV 2142 must be reassessed and that both NOAV 2140 and 2142 should be reissued. NOAV 2141, issued to Galtar for operating without the required Air Quality Operating Permit, constitutes a major violation and is not affected by the amendment. The penalty for NOAV 2141 will be addressed in a separate communication.

NOAV Nos. 2140 and 2142 allege that Galtar, LLC is in violation of NAC 445B.22037 **Emissions of particulate matter: Fugitive dust**, which states in part that:

1. No person may cause or permit the handling, transporting or storing of any material in a manner which allows or may allow controllable particulate matter to become airborne.
2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition, or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation."

The revised Section 3 of NAC 445B.281 states that the first three violations of NAC 445B.22037 **Emissions of particulate matter: Fugitive dust**, constitute minor violations. In accordance with the revised schedule of fines for minor violations, the penalty for the first fugitive dust violation (NOAV 2140) is \$250, and the penalty for the second violation (NOAV 2142) is \$1,000. As



specified by NAC 445B.283, the amount of the specified fine must be submitted to the SEC within ten (10) days notice of the violation. NAC 445B.283 provides complete instructions for the payment of penalties.

NAC 445B.283 Violations: Manner of paying fines. (NRS 445B.210, 445B.640)

1. The amount of the specified fine, in accordance with the schedule of fines for minor violations, must be submitted within 10 days after service of the notice upon the violator.
2. Cashier's checks, certified checks, money orders or personal checks must be made payable to the State of Nevada and must be sent to the State Environmental Commission, 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

An appeal of NOAV 2140 and/or NOAV 2142 may be requested pursuant to **Nevada Revised Statutes (NRS) 445B.360** and to the SEC's 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 about the alleged violations or penalty assessment, please call Caren Campbell at 702-486-2250, extension 241, or call me at 775-687-9495.

Sincerely,



Lawrence Kennedy, P.E.
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

LK/clc

Enclosures: 1. Notice of Alleged Air Quality Violation and Order Nos. 2140 and 2142
2. SEC Appeal Form #3

cc (w/enc. 1): John Walker, SEC
Caren Campbell, NDEP
Connie Davis, NDEP
David Fanning, BLM-Las Vegas
Nye County Board of Commissioners
Files (A0449)

Route to (w/enc. 1 and 2): Leo Drozdoff, NDEP
Colleen Cripps, NDEP
Michael Elges, NDEP
Greg Remer, NDEP
Francisco Vega, NDEP

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. 2140

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Ghassan Merhi

Company Name: Galtar, LLC

Address: 5243 West Charleston Blvd, Suite 8
Las Vegas, NV 89146

Permit Number: AP1629-2435 (issued May 5, 2008) **FIN:** A0919

Site of Alleged Violation: former American Borate Co. mine and processing facility in Amargosa Valley, Nye County

Date of Observation: April 14, 2008 **Arrival:** 1:00 p.m. **Departure:** 4:30 p.m.

Ambient Temperature: 95 °F **Clear:** **Cloudy:** **Rain:** **Snow:**

Wind Speed: 10-20+ mph **Wind Direction:** Southwest

It is alleged that the following regulation was violated by the person named in this notice:

NAC 445B.22037 Emissions of particulate matter: Fugitive dust.

1. No person may cause or permit the handling, storing, or transporting of any material in a manner which allows or may allow controllable particulate matter to become airborne.
2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition, or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.

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

Failure to control fugitive dust – operating numerous pieces of equipment during high winds, inadequate dust suppression.

Evidence:

In December 2006, Galtar, LLC bought the land and borate processing equipment formerly permitted by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (NDEP-BAPC) as American Borate Company in Amargosa Valley, Nevada. On April 14, 2008, an inspector from the Nevada Division of Environmental Protection – Bureau of Mine Regulation and Reclamation (NDEP-BMRR) discovered that earth-moving equipment was operating on the property without the required air quality operating permit. The NDEP-BMRR inspector recorded that RAMM Corp., contracted by Galtar to perform the earthwork, was operating ten belly-loaders, three D10 bulldozers, and one grader.

The NDEP-BMRR inspector found that the operators were attempting to control fugitive dust through using a single water truck. Photographic evidence collected by the NDEP-BMRR inspector confirms that this was ineffective, that large quantities of dust were blowing off the site.

This is Galtar, LLC's first violation for failure to control fugitive dust; hence, it is a minor violation under **NAC 445B.281 Violations: Classification; administrative fines**. Evidence for a second fugitive dust violation (NOAV 2142) was discovered on April 18, 2008.

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. 2142

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Ghassan Merhi

Company Name: Galtar, LLC

Address: 5243 West Charleston Blvd, Suite 8
Las Vegas, NV 89146

Permit Number: AP1629-2435 (issued May 5, 2008) **FIN:** A0919

Site of Alleged Violation: former American Borate Co. mine and processing facility in Amargosa Valley, Nye County

Date of Observation: April 18, 2008 **Arrival:** 11:15 a.m. **Departure:** 3:55 p.m.

Ambient Temperature: 82 °F **Clear:** **Cloudy:** X **Rain:** **Snow:**

Wind Speed: 5-20+ mph **Wind Direction:** SW

It is alleged that the following regulation was violated by the person named in this notice:

NAC 445B.22037 Emissions of particulate matter: Fugitive dust.

1. No person may cause or permit the handling, storing, or transporting of any material in a manner which allows or may allow controllable particulate matter to become airborne.
2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition, or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.

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

Failure to use best practical methods to control fugitive dust.

Evidence:

In December 2006, Galtar, LLC bought the land and borate processing equipment formerly permitted by the Nevada Division of Environmental Protection – Bureau of Air Pollution Control (NDEP-BAPC) as American Borate Company in Amargosa Valley, Nevada. On April 14, 2008, an inspector from the Nevada Division of Environmental Protection – Bureau of Mine Regulation and Reclamation (NDEP-BMRR) discovered that earth-moving equipment was operating on the property without the required air quality operating permit, generating large quantities of fugitive dust.

On April 18, 2008, an inspector from NDEP-BAPC confirmed that grading and excavation had been conducted on the property. The NDEP-BAPC inspector observed that fugitive dust continued to be generated from areas disturbed by the recent earthwork.

This is Galtar, LLC's second violation for failure to control fugitive dust. In accordance with Section 3 of **NAC 445B.281**

Violations: Classification; administrative fines, as amended on April 17, 2008, this constitutes a minor violation.

Evidence for the first violation (NOAV 2140) was discovered on April 14, 2008.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2142

ORDER

Under the authority of NRS 445B.100 to 445B.640, inclusive, the person named in this notice is ordered:

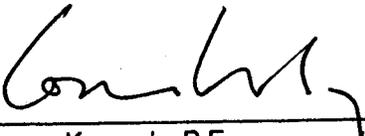
To pay the following administrative fine in accordance with 445B.281.3: \$ 1,000.00

To take corrective action: Use best practical methods, including use of sufficient wet dust suppression, to control fugitive dust.

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: Lawrence Kennedy, P.E.
Supervisor
Compliance and Enforcement Branch

Phone: 775-687-9495 Date: August 18, 2008

Certified Mail # 7006 3450 0000 5064 3443

LK/clc

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.