

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 21, 2008

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

Re: ADMINISTRATIVE SETTLEMENT AND ORDER
NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2141
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. Based on the information discussed during the conference, at its conclusion the NDEP-BAPC issued three Notices of Alleged Air Quality Violation and Order (NOAVs) Nos. 2140 – 2142 to Galtar.

NOAV Nos. 2140 and 2142 were issued for failing to control fugitive dust on April 14 and April 18, 2008, respectively. Because these violations represent minor air quality violations, as defined by Nevada Administrative Code (NAC) 445B.281 **Violations: Classification; administrative fines**, the payment of penalties related to these violations is handled under a different administrative process (see NDEP-BAPC letter dated August 19, 2008).

NOAV No. 2141 (copy attached) was issued to Galtar for failing to apply for and obtain a Class II Air Quality Operating Permit for Surface Area Disturbance before commencing earth-moving operations. NOAV No. 2141 alleges that Galtar 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 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:

- a) Failure to apply for and obtain an operating permit."

As defined by NAC 445B.281, NOAV No. 2141 constitutes a major air quality violation. As we discussed during the enforcement conference on May 6, the NDEP-BAPC assesses penalties for major air quality violations on behalf of the Nevada State Environmental Commission (SEC). Enclosed is an Administrative Settlement and Order (ASO, two copies), which provides for final settlement of NOAV No. 2141 pending approval by the SEC. The assessed penalty of \$10,500 is based on discussions held during our May 6 conference, as described in the Findings of the ASO.

Galtar, LLC
August 21, 2008
Page 2

Please sign one of the ASOs and return it to me at this office. The signed ASO will be provided to the SEC for approval at an upcoming SEC hearing. Galtar will be notified by the SEC when the hearing has been scheduled. Although attendance is not mandatory, you or another representative of Galtar who is familiar with this matter may wish to attend the SEC hearing.

Galtar will be provided with a fully executed ASO after the SEC has ratified it. Upon notification from the SEC that it has ratified the ASO, Galtar will have 30 days to remit the penalty. Please do not remit the penalty until you have been notified by the SEC to do so.

An appeal of the penalty referred to by the ASO 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, please call Caren Campbell at 702-486-2250, extension 241, or me at 775-687-9495.

Sincerely,



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

LK/clc

Enclosures: 1. Administrative Settlement and Order (2 copies)
2. Notice of Alleged Air Quality Violations and Order No. 2141 (copy)
3. SEC Appeal Form #3

cc (w/enc. 1 & 2): ✓ 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

Certified Mail # 7007 2560 0000 5997 8346

BEFORE THE NEVADA STATE ENVIRONMENTAL COMMISSION

IN THE MATTER OF:)
)
GALTAR, LLC) NOTICE OF ALLEGED AIR QUALITY
) VIOLATION NO. 2141
NYE COUNTY, NV)

ADMINISTRATIVE SETTLEMENT AND ORDER

The State of Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Air Pollution Control (hereinafter referred to as the "DCNR/DEP/BAPC") issued Notice of Alleged Air Quality Violation and Order No. 2141 dated May 6, 2008, which alleged violation of Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice. The violation was issued to Galtar, LLC for failing to apply for and obtain a Class II Air Quality Operating Permit for Surface Area Disturbance before commencing earth-moving operations.

The Nevada State Environmental Commission has authority pursuant to Nevada Revised Statutes (NRS) 445B.640 to impose administrative penalties of not more than \$10,000 per day for violations of NRS 445B.100 to 445B.450, inclusive and NRS 445B.470 to 445B.640, inclusive or any regulation in force pursuant thereto.

The DCNR/DEP/BAPC and Galtar, LLC, hereinafter referred to as the Parties, do jointly desire to enter into this Administrative Settlement and Order to resolve the allegations contained in Notices of Alleged Air Quality Violation and Order No. 2141. The provisions of this Administrative Settlement and Order shall apply to and be binding upon all the Parties to this action, their officers, directors, agents, servants, employees, successors, and assigns.

The parties do hereby enter into this Administrative Settlement and Order.

FINDINGS

1. On January 23, 2002 the Nevada Division of Environmental Protection - Bureau of Air Pollution Control (NDEP-BAPC) issued Class II Air Quality Operating Permit AP1474-1108 to American Borate Company for operations at the Lathrop Mill and mine property in Amargosa Valley in Nye County, Nevada.
2. On August 15, 2006 the NDEP-BAPC sent American Borate Company a courtesy letter, reminding the company that Permit AP1474-1108 was due to expire in on January 23, 2007.
3. In late 2006, Galtar, LLC (Galtar) bought the Lathrop Mill and mine property from American Borate Company. The NDEP-BAPC received no communication from Galtar regarding the property.
4. On December 5, 2006 the Nevada Division of Environmental Protection - Bureau of Mining Regulation and Reclamation (NDEP-BMRR) transferred American Borate's Reclamation Permit 0171 to Galtar. Galtar began grading and excavating the property in December 2006.
5. On January 23, 2007 Class II Air Quality Operating Permit AP1474-1108 expired.
6. On April 14, 2008 a NDEP-BMRR inspector found that a contractor, Ramm Corp., working for Galtar was generating large amounts of fugitive dust while operating up to ten belly-loaders, three D-10 bulldozers, and one grader in grading and excavating the property. The single water truck was inadequate to control fugitive dust, which was blowing off the property in the high winds that prevailed that day. The NDEP-BMRR inspector also discovered that no Air Quality Operating Permit was onsite, as required by Nevada Administrative Code (NAC) 445B.318 Operating Permits, and reported that finding to the NDEP-BAPC. On April 14-15, the NDEP-BAPC confirmed that the surface disturbance activities were being conducted without a valid Air Quality Operating Permit.
7. On April 15, 2008 the NDEP-BAPC advised Galtar to stop the operation of all equipment except for the use of water trucks to control fugitive dust.

FINDINGS (continued)

8. On April 18, 2008 Galtar applied to the NDEP-BAPC for a Class II Air Quality Operating Permit for Surface Area Disturbance covering 393 acres at the property. During a site inspection that same day, a NDEP-BAPC inspector observed that the property was generating large quantities of fugitive dust and advised Galtar of the need to control fugitive dust.
9. On May 6, 2008 the NDEP-BAPC held an enforcement conference with Galtar to discuss alleged air quality violations that occurred at the Lathrop mill and mine property. Based on information obtained by the NDEP-BAPC and NDEP-BMRR, Galtar had disturbed at least 200 acres on the property. Regarding the absence of an Air Quality Operating Permit, Galtar stated that American Borate Company had failed to maintain all of its permits in good standing, as required by the terms of its sale agreement with Galtar. The NDEP-BAPC noted that, notwithstanding that a single water truck was inadequate to control fugitive dust on the project, it is the company's responsibility to cease operating if weather conditions are so severe that fugitive dust cannot be controlled. Based on the information discussed at the conference, the NDEP-BAPC determined that Galtar had been operating without the required Air Quality Operating Permit and that Galtar had failed to control fugitive dust on April 14 and 18.
10. At the conclusion of the May 6 conference, the NDEP-BAPC issued three Notices of Alleged Air Quality Violation and Order (NOAVs) to Galtar. NOAVs 2140 and 2142 were issued for violation of **NAC 445B.22037 Emissions of particulate matter: Fugitive dust**. NOAV No. 2141 was issued for operating without a permit, which is a violation of **NAC 445B.275 Violations: Acts constituting; notice**. The NDEP-BAPC and Galtar discussed the procedure for paying penalties related to minor violations, and the administrative process for settling major air quality violations. The NDEP-BAPC pointed out that based on the amount of acreage disturbed, the penalty for NOAV No. 2141 would probably exceed \$10,000.
11. At the close of the enforcement conference on May 6, the NDEP-BAPC issued Galtar a Class II Air Quality Operating Permit AP1629-2435 for Surface Area Disturbance.

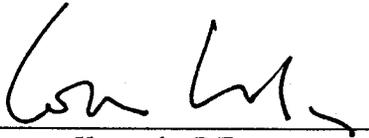
FINDINGS (continued)

12. On May 22, 2008 the NDEP-BMRR determined that Galtar was in non-compliance for creating disturbance outside of the established boundary of its Reclamation Permit onto public land.

13. In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 2141 is a major air quality violation. NOAV Nos. 2140 and 2142 constitute minor air quality violations, and are not subject to this Administrative Settlement and Order.

14. NOAV No. 2141 is Galtar's first major air quality violation. The NDEP-BAPC assessed the penalty for operating without a permit using the Administrative Penalty Table, which is used for non-emissions violations. The penalty for operating without a Class II Air Quality Operating Permit for Surface Area Disturbance is \$500 plus an additional \$50/acre. Using the 200 acres disturbed as the basis for the penalty calculation, the applicable penalty is \$10,500.

8/20/2008
Date


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

ORDER

In consideration of the foregoing, IT IS ORDERED that:

1. Galtar, LLC shall pay an administrative penalty to the State of Nevada in the amount of ten thousand five hundred (\$10,500) dollars for the above named violation.

DATED this 21 day of

August, 2008

DATED this ____ day of

_____, 2008



Leo M. Drozdoff, Administrator
Div. of Environmental Protection
901 South Stewart St., Suite 4001
Carson City, NV 89701-5249

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

Administrative Settlement and Order entered in accordance with the foregoing this ____ day of _____, 2008.

for the Nevada State Environmental Commission

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

COPY

NO. 2141

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 & 18, 2008 Arrival & Departure: 1 pm to 4:30 pm; 11:15 am to 3:55 pm

Ambient Temperature: 95 & 82 °F Clear: Cloudy: Rain: Snow:

Wind Speed: 5 to 20+ mph Wind Direction: generally from the southwest

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.3689, inclusive, and sections 2 to 42, inclusive, of the CAMR regulation, any applicable requirement or any condition of an operation constitutes a violation. As required by NRS 445B.450, the director shall issue a written notice of violation to any owner or operator for any violation, including, but not limited to:

(a) Failure to apply for and obtain an operating permit.

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

Failure to obtain a Class II Air Quality Operating Permit for Surface Area Disturbance before conducting grading and excavation.

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. American Borate's permit AP1474-1108 expired on January 23, 2007.

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. On April 18, 2008, a NDEP-BAPC inspector confirmed that grading and excavation had been conducted on the property.

Galtar, LLC subsequently applied for a Class II Air Quality Operating Permit for Surface Area Disturbance to cover a total of 393 acres. This is Galtar, LLC's second air quality violation; two violations for failure to control fugitive dust (NOAVs 2140 and 2142) are associated with this violation.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2141

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COPY

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: Galtar, LLC applied for a Surface Area Disturbance permit, which was issued on May 5, 2008.

_____ 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: May 6, 2008

Hand delivered

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.