

NDEP-BAPC SETTLEMENT AGREEMENTS – November 12, 2008

TAB NO.	COMPANY NAME	VIOLATION	NOAV NUMBER(S)	PROPOSED SETTLEMENT AMOUNT
1	Sierra Nevada Construction, Pershing County	<p>NAC445B.275 “Violations: Acts Constituting; notice.” For failing to install emission controls (wet dust suppression) on four emission units and for operating without those controls, resulting in excess emissions (excess opacity) from those units.</p> <p>The \$4,000 penalty for failing to install emission controls is based on the Administrative Penalty Table. The \$12,800 penalty for excess emissions is based on application of the Penalty Matrix: an opacity reading equal to or exceeding 50% corresponds to an “extremely high” volume of emissions, and carries a penalty of \$3,200 per unit per day. The penalties total \$16,800.</p>	2133 & 2134	\$16,800
2	Vanderbilt Minerals Corporation, Nye County	<p>Continued from the September 24, 2008 SEC hearing.</p> <p>NAC445B.275 “Violations: Acts Constituting; notice.” For operating a clay mining and processing facility for 13 months without the required air quality operating permit. The facility’s operating permit expired in April 2007 but Vanderbilt continued to operate without it until discovery by the NDEP-BAPC in May 2008.</p> <p>The base penalty of \$6,000 is based on the Administrative Penalty Table, which calls for \$3,000 per major processing system for Class 2 sources. The Penalty Matrix was used to account for non-compliance history. Application of the Matrix resulted in a total adjustment of 40%, including 25% for the recurring violation (operating without a permit), to yield a total penalty of \$8,400.</p> <p>Previous violations: In 2002, the SEC ordered Vanderbilt to pay a penalty of \$5,100 to settle a violation issued for operating without a permit. In 2006, the SEC ordered Vanderbilt to pay a penalty of \$880 to settle a violation issued for excess emissions (fugitive emissions) caused by failure to maintain the ductwork for one of the baghouses.</p>	2137	\$8,400