

August 31, 2011

Randy Thomas
VP of Operations
EP Minerals, LLC
P.O. Box 12130
Reno, NV 89510

Re: Notice of Alleged Air Quality Violation No. **2356**
Class II Air Quality Operating Permit **AP1499-0281.02 (FIN A0458)**

Dear Mr. Thomas:

On August 31, 2011 the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and EP Minerals, LLC (EP Minerals) held an enforcement conference to discuss EP Minerals alleged failure to comply with permitted emission limits set forth in Class II Air Quality Operating Permit AP1499-0281.02. Based on the information presented during the conference the NDEP determined that issuance of Notice of Alleged Air Quality Violation and Order (NOAV) No. **2356** was warranted. The failure to comply with a permitted opacity limit represents an air quality violation under **NAC 445B.275 Violations: Acts constituting; notice** (see below).

The attached NOAV No. **2356** alleges that EP Minerals 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. **2356** constitutes a major violation under **NAC 445B.281 Violations: Classification; administrative fines**. This is the first NOAV issued to EP Minerals in over 60 months.

An appeal of NOAV No. **2356** 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, 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 Ryan Fahey at (775) 687-9546 or myself at (775) 687-9343.

Sincerely,

Francisco Vega, P.E.
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

FV/rf

enc.: 1. Notice of Alleged Air Quality Violation and Order No. 2356
2. Copy of Visible Emission Observation form conducted May 31, 2011
3. SEC Appeal Form #3

cc (w/enc. 1 and 2): John Walker, SEC
Storey County Board of Commissioners
Francisco Vega, NDEP
FIN A0458 (Certified Copy)

E-Copy: Larry Kennedy, NDEP
Jeff Denison, NDEP

Certified Mail # 7010 0290 0001 6793 5440

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. 2356

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Randy Thomas

Company Name: EP Minerals, LLC

Address: P.O. Box 12130, Reno, Nevada 89510

Permit Number: AP1499-0281.02 **FIN:** A0458

Site of Alleged Violation: 640 Clark Station Road, Sparks, Nevada 89434

Date of Observation: May 31, 2011 **Arrival:** 12:30 PM **Departure:** 1:00 PM

Ambient Temperature: 64 °F **Clear:** **Cloudy:** X **Rain:** **Snow:**

Wind Speed: 15 - 20 **Mph** **Wind Direction:** West

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. (emissions exceedance)

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

Failure to comply with the opacity limit for emissions from the stack for baghouse A-15.

Evidence:

EP Minerals, LLC (EP Minerals) operates a diatomaceous earth processing facility 18 miles East of Reno just off of I-80 at 640 Clark Station Road, Sparks, Nevada in Storey County under Class II Air Quality Operating Permit AP1499-0281.02 issued to EP Minerals on January 16, 2008.

On May 31, 2011 a Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) official driving on USA Parkway adjacent to Clark Station Road noticed large plumes of what the NDEP-BAPC inspector suspected to be dust coming from stacks at the EP Minerals plant. The official arrived on site at approximately 12:30 pm and observed dense clouds of dust emanating from several points at the facility. The inspector observed that fugitive dust was emanating from ground operations as well as one stack. The stack was for baghouse A-15 which is the control device for System 02 – Classification & Drying (Kiln and Turbine, S2.015 – S2.023D). The official conducted a Method 9 VEO of the emissions from the baghouse stack and found opacity to be 31.25%. While on-site the official spoke to Dave Madden and was advised that the facility was aware of the excess emissions and that maintenance had been scheduled to resolve the problem for the next day. The NDEP-BAPC inspector asked the Mr. Madden why the unit was still in operation if the facility was aware there was a problem and no reasonable response was given.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2356

Evidence (cont.)

On August 31, 2011 a compliance and enforcement conference was held between the NDEP and EP Minerals. EP Minerals provided an explanation for the excess emissions which was due to structural corrosion of baghouse A-15. The baghouse was taken out of service on June 1, 2011 to conduct maintenance and repair the problem that was creating the emission exceedance. The NDEP has determined that because the facility continued to operate the baghouse after the emission exceedance was identified the issuance of this NOAV is warranted. EP Minerals explained that in the future, the baghouses will be inspected no later than every 6-8 weeks and VEO will be conducted on a weekly basis to gauge the baghouse's performance.

In accordance with NAC 445B.281 Violations: Classification; administrative fines, failure to comply with a permitted emission limit constitutes a major violation. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2356 represents EP Minerals first 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: Resolve emissions exceedances in a timely manner and in accordance with the terms of Air Quality Operating Permit AP1499-0281.02

_____ 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 _____
Issued by: Francisco Vega, P.E.
Supervisor, Compliance and Enforcement Branch
Bureau of Air Pollution Control

Phone: 775-687-9343 Date: August 31, 2011

FV/rf
Certified Mail No.: 7010 0290 0001 6793 5440

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.