

STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

January 12, 2011

Terry McIntyre
Plant Manager
Graymont Western US Inc.
3950 South 700 East, Suite 301
Salt Lake City, Utah 84107

**Re: NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2287 and 2288
CLASS I AIR QUALITY OPERATING PERMIT AP3274-1329.01 (FIN A0367)**

Dear Mr. McIntyre:

On December 15, 2010, the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP) and Graymont Western US Inc. (Graymont) held an enforcement conference to discuss Graymont's failure to comply with Class 1 Air Quality Operating Permit AP3274-1329.01.

On September 29, 2010 Graymont conducted a compliance source test on Kiln #3 (System 17) as required by their permit. Results from the compliance source test showed Graymont failed to comply with a permitted emission limit for particulate matter (PM). Failure to comply with a permitted emission limit represents an air quality violation under **NRS 445B.275 Violations: Acts Constituting; Notice.**

On October 20, 2009 Graymont conducted a compliance source test on the Hydrate Plant Hydrator (System 30). Results from the compliance source test showed Graymont failed to comply with a permitted emission limit for PM. On December 2, 2009 a retest was conducted on System 30. Results from the test demonstrated compliance with the PM emission limit but the test was conducted at very low throughput rate. On September 21, 2010 and September 22, 2010 a third retest was conducted on System 30. Results from this test showed that PM emissions exceeded the permitted limit. Failure to comply with a permitted emission limit represents an air quality violation under **NRS 445B.275 Violations: Acts Constituting; Notice.**

The attached Notice of Alleged Air Quality Violation and Order (NOAV) No.'s 2287 and 2288 allege that Graymont is in violation of **NRS 445B.470 Prohibited Acts; penalty; establishment of violation; request for prosecution.** 1. A person shall not knowingly: (a) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information; required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive, or 445B.470 to 445B.640, inclusive, or any regulation adopted pursuant to those provisions. 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) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information.

Graymont Western US Inc.

January 12, 2011

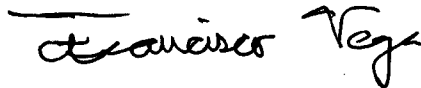
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NOAV No.'s 2287 and 2288 constitute major violations under **NAC 445B.281 Violations: Classification; administrative fines**. These are the first NOAV's issued to Graymont in over 60 months. As was discussed during the December 15, 2010 enforcement conference, the NDEP has decided that NOAV No. 2287 shall be issued as a warning violation.

An appeal of NOAV No.'s 2287 and 2288 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 about the alleged violation, the penalty assessment process, or the appeal process please call me at 775-687-9343.

Sincerely,



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

FV/rf

Enclosures: 1. Notice of Alleged Air Quality Violation and Order No.'s 2287 and 2288
2. SEC Appeal Form #3

cc (w/enc. 1 and 2): John Walker, SEC
Files (A0425) ✓

Route to (w/enc. 1 and 2): Michael Elges, NDEP
Jeff Denison, NDEP

Certified Mail #: 7010 0290 0001 6793 5570

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. 2287

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Terry McIntyre

Company Name: Graymont Western US Inc.

Address: 3950 South 700 East, Suite 301
Salt Lake City, UT 84107

Permit Number: AP 3274-1329.01

FIN: A0367

Site of Alleged Violation: Graymont Western US Inc. Pilot Peak Plant, located 15 miles West of West Wendover, Nevada

Date of Observation: N/A **Arrival:** N/A **Departure:** N/A

Ambient Temperature: N/A °F **Clear:** **Cloudy:** **Rain:** **Snow:**

Wind Speed: N/A mph **Wind Direction:**
N/A

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.

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

Failed compliance source test.

Evidence:

Graymont Western US Inc. (Graymont) operates a lime manufacturing facility under Class I Air Quality Operating Permit AP3274-1329.01 issued by the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP-BAPC) on January 22, 2009.

On September 29, 2010 Graymont conducted a compliance source test on Kiln #3 (System 17). Testing was conducted at a lime production rate of 38.6 tons/hr, which is 77.2% of the permitted capacity of 50 tons/hr. The coal combustion rate was 6.5 tons/hr, which is 54% of the permitted rate of 12 tons/hr. Even at these reduced throughput rates, the PM emissions averaged 28.69 lb/hr, exceeding the permitted limit of 17.14 lb/hr. Prior to the test, Graymont had ordered replacement parts for the control. Due to unforeseen issues Graymont was unable to replace necessary equipment. Kiln #3 has since been re-tested and demonstrated compliance with the permitted emission limits.

In accordance with NAC 445B.281 Violations: Classification; administrative fines, this excess emission constitutes a major violation. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2287 along with NOAV 2288 represents Graymont's first air quality violation.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2287

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: Maintain a regular scheduled maintenance program for all pollution control equipment and comply with permitted emission limits.

_____ 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 Francisco Vega
Issued by: Francisco Vega, P.E.
Supervisor
Compliance and Enforcement Branch

Phone: 775-687-9343 Date: January 12, 2011

FV/rc
Certified Mail #: 7010 0290 0001 6793 5570

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.

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. 2288

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER

NOTICE OF ALLEGED AIR QUALITY VIOLATION

Person(s) to Whom Served: Mr. Terry McIntyre

Company Name: Graymont Western US Inc.

Address: 3950 South 700 East, Suite 301
Salt Lake City, UT 84107

Permit Number: AP 3274-1329.01

FIN: A0367

Site of Alleged Violation: Graymont Western US Inc. Pilot Peak Plant, located 15 miles West of West Wendover, Nevada

Date of Observation: N/A **Arrival:** N/A **Departure:** N/A

Ambient Temperature: N/A °F **Clear:** **Cloudy:** **Rain:** **Snow:**

Wind Speed: N/A mph **Wind Direction:**
N/A

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.

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

Failed compliance source tests.

Evidence:

Graymont Western US Inc. (Graymont) operates a lime manufacturing facility under Class I Air Quality Operating Permit AP3274-1329.01 issued by the Nevada Division of Environmental Protection-Bureau of Air Pollution Control (NDEP-BAPC).

On October 20, 2009 Graymont conducted a permit renewal test (source test) on the Hydrate Plant Hydrator (System 30). Testing was conducted at a throughput rate of 9.01 tons/hr, which is 45% of the permitted capacity of 19.8 tons/hr. Even at this throughput rate, the PM₁₀ emissions averaged 2.31 lb/hr, exceeding the permitted limit of 1.98 lb/hr.

On December 2, 2009 a retest was conducted on System 30. Results from the test showed a PM₁₀ emission rate of 1.46 lb/hr, which is below the 1.98 lb/hr permit limit. However, the test was conducted at a throughput rate of 8.02 tons/hr, which is 41% of the permitted capacity of 19.8 tons/hr.

On September 21, 2010 and September 22, 2010 a third retest was conducted on System 30. This source test was conducted at a throughput of 13.02 tons/hr, which is 65.7% of the permitted capacity of 19.8 tons/hr. However, this throughput rate is representative of this systems operation as it is actually mechanically limited to ~13 tons/hr throughput. Results from this test showed that PM₁₀ emissions averaged 2.61 lb/hr, exceeding the permitted limit of 1.98 lb/hr.

In accordance with NAC 445B.281 Violations: Classification; administrative fines, these excess emissions constitute 2 major violations. Notice of Alleged Air Quality Violation and Order (NOAV) No. 2288 along with NOAV 2287 represents Graymont's first air quality violation.

NOTICE OF ALLEGED AIR QUALITY VIOLATION AND ORDER NO. 2288

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: Comply with all permitted emission limits in future compliance source test.

_____ 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 Francisco Vega
Issued by: Francisco Vega, P.E.
Supervisor
Compliance and Enforcement Branch

Phone: 775-687-9495 Date: January 12, 2011

FV/rc
Certified Mail #: 7010 0290 0001 6793 5570

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.