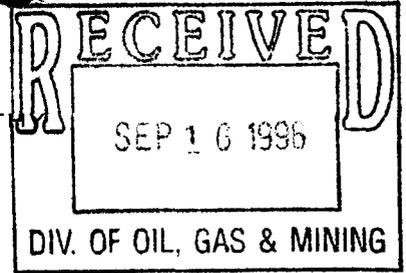


0029

LAW OFFICES OF
VAN COTT, BAGLEY, CORNWALL & McCARTY
A PROFESSIONAL CORPORATION
SUITE 1600
50 SOUTH MAIN STREET
SALT LAKE CITY, UTAH 84144
TELEPHONE (801) 532-3333
FACSIMILE (801) 534-0058
TELEX 453149



Direct Dial: (801) 237-0465

DENISE A. DRAGOO

ADDRESS ALL CORRESPONDENCE TO
POST OFFICE BOX 45340
84145-0450

VIA FACSIMILE & U.S. MAIL

September 13, 1996

(801) 359-3940

**CONFIRMATION OF
FACSIMILE**

Mary Ann Wright
Associate Director of Mining
State of Utah, Department of Natural Resources
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

RE: N95-39-2-2 -- EXTENSION REQUEST -- WELLINGTON
PREPARATION PLANT, ACT/007/012

*#5 and NOV file
Copy Mary Ann, Joe
(w/enc.)
(Stevie)
PFD
has for)*

Dear Mary Ann:

By letter dated September 10, 1996, Nevada Electric Investment Company ("NEICO") was informed by Stephen J. Demczak, Reclamation Specialist, that the Division of Oil, Gas & Mining (the "Division"), would require the resurfacing of outcrops on the coarse refuse pile by October 1, 1996. The Division has based this abatement date on a decision of the Mine Safety & Health Administration ("MSHA") "received by the Division in late July of 1996." While NEICO is not aware of an MSHA decision dated in late July, 1996, it did receive a letter dated August 2, 1996, from MSHA District Manager John A. Kuzar, denying NEICO's variance request. By letter dated August 30, 1996, enclosed, NEICO requested that MSHA reconsider its decision due to the fact that MSHA did not conduct a site inspection. NEICO also offered to take action to prevent active mining activities on the coarse refuse pile. This request for reconsideration is still pending and NEICO requests that the Division grant an extension beyond October 1, 1996, to allow MSHA to respond to this request.

In addition, the Division lacks authority to require NEICO to resurface the coarse refuse pile as requested in its letter of September 10, 1996. By Order dated January 6, 1996, Director Carter did not uphold the substance of violation N95-39-2-2. This violation was only upheld as a hindrance violation issued to NEICO for lack of documentation of MSHA's approval. NEICO continues to seek MSHA's approval through

Mary Ann Wright
September 13, 1996
Page 2

its August 30, 1996 petition for reconsideration. NOV N95-39-2-2, as modified by the January 6, 1996 Order, does not require the reconfiguration of the coarse refuse pile.

We would appreciate your review of this matter as soon as possible. In the event that we cannot resolve the matter prior to October 1, 1996, NEICO will seek temporary relief from the Board of Oil, Gas & Mining.

Very truly yours,



Denise A. Dragoo

DAD:jmc:87672

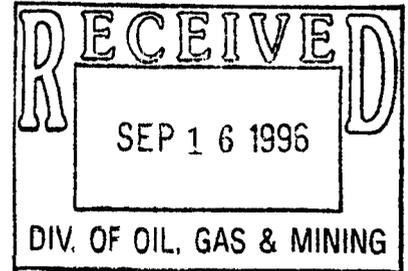
Enclosure

cc: Richard Hinckley, Esq. (via facsimile)
Dennis Schwehr (via facsimile)
Patrick Collins (via facsimile)
James Carter, Esq.
Stephen Demczak (via facsimile)

LAW OFFICES OF
VAN COTT, BAGLEY, CORNWALL & MCCARTHY
A PROFESSIONAL CORPORATION
SUITE 1600
50 SOUTH MAIN STREET
SALT LAKE CITY, UTAH 84144
TELEPHONE (801) 532-3333
FACSIMILE (801) 534-0058
TELEX 453149

DENISE A. DRAGOO

ADDRESS ALL CORRESPONDENCE TO
POST OFFICE BOX 45340
84145-0450



August 30, 1996

CERTIFIED MAIL, R.R.R.

Mr. John A. Kuzar
District Manager
U.S. Department of Labor
Mine Safety & Health Administration
P.O. Box 25367
Denver, CO 80225-0367

*RE: REQUEST FOR RECONSIDERATION - AUGUST 7, 1996 DECISION -
WELLINGTON PREPARATION PLANT
I.D. NO. 42-00099
PLANT REFUSE PILE I.D. NO. 1211-UT-09-00099-01
(FORMER ID NO. 1211-UT-0010)
CONSTRUCTION PLANT*

Dear District Manager Kuzar:

On behalf of Nevada Electric Investment Company ("NEICO") we respectfully request reconsideration of your August 2, 1996 decision to deny a variance under 30 C.F.R. 77.215(h) regarding the plant refuse pile ("Decision"). The August 2, 1996 Decision was based upon the review by the Denver and Pittsburgh offices of MSHA. The record does not reflect that MSHA conducted a site inspection of the Wellington, Utah plant site. NEICO requests reconsideration to allow MSHA to conduct a site inspection of the plant refuse pile.

NEICO further requests that MSHA reconsider this matter in light of several facts which are not reflected in the August 2, 1996 Decision. First, the refuse pile in its current condition has been determined to be stable with a safety factor greater than 1.5. The refuse pile was initially constructed in March 1958 and has remained stable since that time.

Mr. John A. Kuzar
August 30, 1996
Page 2

NEICO has agreed to recontour the pile to a 2h:1v standard at the time of final reclamation. Currently the refuse pile is not in use and NEICO would agree to refrain from allowing men or machinery on the refuse pile until final reclamation. NEICO would agree to post the refuse pile with "No Admittance" signs or take other similar measures to prevent men or machinery from accessing the pile. These measures would prevent the refuse pile from becoming a safety and health issue.

In the event that MSHA agrees to reconsider its decision, we would be happy to schedule a tour of the site at your earliest convenience.

Very truly yours,



Denise A. Dragoo

DAD:ajb

cc: Richard Hinckley, Esq.
Dennis Schwehr
Patrick Collins
Gregory J. Poole
Mary Ann Wright