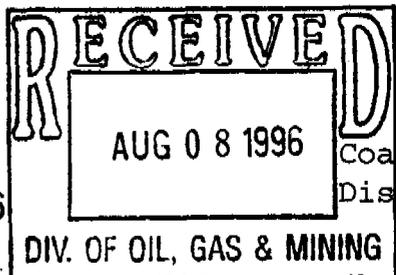


0016



Coal Mine Safety and Health  
District 9

AUG - 2 1996

Denise A. Dragoo  
Van Cott, Bagley, Cornwall & McCarthy  
P.O. Box 45340  
Salt Lake City, UT 84145-0450

*JC 8-1-96*

RECEIVED	Date
<i>Denise</i>	<i>7-31-96</i>
<i>Cornwall</i>	<i>7/31/96</i>

RE: Wellington Preparation Plant  
I.D. No. 42-00099  
Plant Refuse Pile  
ID No. 1211-UT-09-00099-01  
(Former ID No. 1211-UT-0010)  
Construction Plan

*File ACT/007/0121 #3  
Copy JC, Steve, Denise*

Dear Ms. Dragoo:

This is in response to three separate letters received from; a) Law offices of Van Cott, Bagley, Cornwall & McCarthy, letter dated November 20, 1995, b) State of Utah, Department of Natural Resources Division of Mining, letter dated November 17, 1995, and c) Mt. Nert Scientific, Inc., letter dated February 2, 1996. All letters referenced the structure's configuration at the subject site.

MSHA's Pittsburgh Safety and Health Technology Center, Mine Waste and Geotechnical Engineering Division, (Denver office) personnel have reviewed your preparation plant's refuse pile concerns and have provided comments in the enclosed Report No. W3754.

Title 30 CFR, Part 77.215(h), standard specifies that all refuse pile slopes be not steeper than 27° degrees (2h:1v) and that the pile be constructed in such a manner that the stability minimum safety of factor be equal to or greater than 1.5. Wellington Preparation Plant's refuse pile has exterior slopes steeper than 27° degrees (2h:1v) and the pile's stability factor of safety has been determined to be approximately 1.1, which indicates that the pile does not meet the required factor of safety in some areas. Therefore; the requested construction configuration for the subject pile is not granted.

In response to the four issues presented by Ms. Dragoo for the Law offices of Van Cott, Bagley, Cornwall & McCarthy's in correspondence dated November 20, 1995, are as follows:

- 1) **Question:** Does the District Manager have the authority to approve the construction of a refuse pile exceeding 2h:1v without a petition for modification?

**Reply:** The District Manager will not authorize a refuse pile to exceed the criteria of 2h:1v without recommendations from our technical support division. Pittsburgh Safety and Health Technology Center's, Mine Waste and Geotechnical Engineering Division, (Denver office) personnel have reviewed your concerns and they have provided comments not to approve the construction configuration.

- 2) **Question:** Since MSHA has been on notice that the refuse pile had exceeded 2h:1v since 1976, has the District Manger constructively approved the current pile configuration?

**Reply:** An audit of our file did not reveal that the District Manager had approved your current pile configuration. Therefore; an approval of the configuration of the pile does not exist.

- 3) **Question:** We would appreciate an estimate of the length of time required to process a variance request?

**Reply:** Our Mine Waste and Geotechnical Engineering Division personnel have reviewed your refuse pile concerns and they have recommended to the District Manager not to approve the construction configuration.

- 4) **Question:** We would appreciate an estimate of the length of time required to process a petition of modification application?

**Reply:** The time frame estimate for the complete process of the application may take an indefinite period, from one to more than two years.

Coal Mine Safety and Health, Title 30 CFR, Part 44, addresses the location and where to mail your petition. This part also explains the procedures and rules governing petitions of the mandatory safety standard filed under section 101(C) of the Act. Your

petition application may be granted if an alternative method of achieving the result of the standard exists, and if this alternative, at all times, guarantees no less than the same measure of protection for the miner.

If you have any questions, please contact Bob Cornett at this office, (303) 231-5462.

Sincerely,

*WPR*  
*Sor* John A. Kuzar  
District Manager

Enclosure

cc: Stephen J. Demczak, Reclamation Specialist  
State of Utah  
Dept. Of Natural Resources  
Division of Oil, Gas and Mining  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, UT 84180-1203 (enclosure W-3754)

Richard Hinckley  
Vice President  
Nevada Electric Investment Co.  
P.O. Box 230  
Las Vegas, NV 89151 (enclosure W-3754)

Mine Waste Division (Denver)  
Price FO- **FYI**  
REFUSE file (85-17, 85-20, 85-23)  
D9 Chron 11-20-95 #15, 11-21-95 #3, 7-25-96 #3  
MSHA:WP: (I:RC\MCS\WELLINGT.UT):MCS:ms

U.S. Department of Labor

Mine Safety and Health Administration  
Pittsburgh Safety & Health Technology Center  
P.O. Box 18233  
Pittsburgh, PA 15236

EC WRP



PITTSBURGH SAFETY AND HEALTH TECHNOLOGY CENTER  
Mine Waste and Geotechnical Engineering Division - Denver Office

July 17, 1996

Report No. W3754

MEMORANDUM FOR JOHN A. KUZAR *JAK*  
District Manager, District 9  
Coal Mine Safety and Health  
Denver, Colorado

THROUGH: ROBERT G. PELUSO *R. Dwy*  
Chief, Pittsburgh Safety and Health  
Technology Center

THROUGH: KELVIN K. WU *Kelvin K. Wu*  
Chief, Mine Waste and Geotechnical  
Engineering Division

FROM: WADE E. COOPER, P.E. *Wade E. Cooper*  
Civil Engineer, Mine Waste and Geotechnical  
Engineering Division

SUBJECT: Plan Review for Wellington Preparation Plant Refuse  
Pile, ID No. 1211-UT09-00099-01, Wellington, Carbon  
County, Utah, Nevada Electric Investment Company  
(NEICO), Wellington Preparation Plant, Mine ID No.  
42-00099



As requested in your memorandum dated December 11, 1995, our office has completed reviewing the submitted information pertaining to the subject refuse pile. The reviewed information consisted of the following:

1. Two page letter dated November 17, 1995, from Mr. Stephen J. Demczak, Reclamation Specialist III, State of Utah, Department of Natural Resources, Division of Oil, Gas and Mining, to you. This letter provides additional information concerning item 2 below.
2. Two page letter dated November 20, 1995, from Ms. Denise A. Dragoo, Law Offices of Van Cott, Bagley, Cornwall and McCarthy, to Mr. Bob Cornett of your office. Enclosed with this letter was a three page letter dated November 10, 1995, with Exhibits A-C, from Ms. Dragoo to you. The former letter requested that your office address four issues concerning the compliance of the subject refuse pile with §77.215(h). The November 10, 1995, letter was addressed to

your office and was requesting approval to retain the existing configuration of the subject refuse pile.

3. Two page letter dated February 2, 1996, from Patrick D. Collins, Ph.D., Environmental Consultant, Mt Nebo Scientific, Inc., to Mr. Steve Dmytriw of our office. This letter provides additional information concerning item 2 above.

The subject refuse pile has been in existence since about 1958. A report (Exhibit A of Nov. 10, 1995, letter) dated April 23, 1976, addressing the refuse pile construction and configuration was reportedly sent to the MESA (now MSHA) District Manager in 1976. The November 10, 1995, letter also stipulates that NEICO believes "that the District Manager has constructively approved the current pile configuration" because MSHA has reportedly been on notice since 1976 that the refuse pile exceeds 2h:1v slopes in some areas. In the event the District Manager disagrees with this belief, then NEICO is requesting approval of the current refuse pile configuration by the District Manager as allowed by §77.215(h).

#### CONCLUSIONS AND RECOMMENDATIONS

§77.215(h) requires that "After October 31, 1975 new refuse piles and additions to existing refuse piles, shall be constructed in compacted layers not exceeding 2 feet in thickness and shall not have any slope exceeding 2 horizontal to 1 vertical (approximately 27°) except that the District Manager may approve construction of a refuse pile in compacted layers exceeding 2 feet in thickness and with slopes exceeding 27° where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained."

Based on the conclusions of the June 27, 1995, "Slope Stability Study" (Exhibit B of Nov. 10, 1995, letter) performed by Douglas R. Hawkes, P.E., Applied Geotechnical Engineering Consultants, Inc., the pile has exterior slopes ranging from 1.4h:1v to 5h:1v and slope stability factors of safety ranging from 1.1 to greater than 1.5. The computations of the slope stability analyses were not included in the submitted information. Figure 1 of the same report, shows slopes near 1h:1v at locations on nearly all sides of the pile. This figure also illustrates the pile to be nearly half the reported size of 350 feet wide by 1200 feet long. This indicates the scale noted on Figure 1 may be too low by a factor of 2. The pile currently ranges from 18 feet to 30 feet high. Future expansion proposes to construct it to 50 feet high. The lower factor of safety (1.1) reportedly applies to shallow failure surfaces of a few feet while failure surfaces through the foundation reportedly have factors of safety exceeding 1.5.

§77.215(h) specifies that the minimum factor of safety for the refuse pile must be 1.5 in order for the District Manager to approve the refuse pile construction. The reported factor of safety of 1.1 indicates that the pile does not meet this required factor of safety in some areas. Even shallow failures of a few feet deep can present safety hazards to miners working on or around the pile. It is therefore recommended that the District Manager disapprove the requested construction configuration for the subject pile and that all slopes on the pile should be no steeper than 27° (2h:1v). Any future construction of the pile should be performed in accordance with §77.215(h). Future submittals requesting approval by the District Manager for construction slopes exceeding 27° should include the stability analyses which substantiate the reported factors of safety.

The four issue questions presented by Ms. Dragoo in the Nov. 20, 1995, letter need to be addressed by your office since they are not technical questions.

Should your office have any questions concerning this review, please contact the reviewer at (303)231-5434.

cc: K. Howard  
A. Davis  
M. Stanton  
P. Suder