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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Ted Stewart  
Executive Director

James W. Carter  
Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

June 25, 1996

Denise Drago  
Van Cott, Bagley, Cornwall & McCarthy  
50 South Main Street, Suite 1600  
Salt Lake City, UT 84144

Re: Fact of Violation C96-39-1-1 Nevada Electric Investment Company

007/012

Dear Denise:

Enclosed here are my Findings of Fact, Conclusions of Law and Order on the Fact of Violation Hearing we held last March on Cessation Order 96-39-1-1. Although the proposed assessment had not then been delivered, and the informal conference did not cover the assessment, I am proposing an informal conference settlement agreement pursuant to R645-401-740 as follows:

The probability of points assessed be reduced from 59 to 20, the negligence points assessed be reduced from 25 to 5, and the good faith points assessed be increased to 15, for a total finalized assessment of 22 points and a civil penalty of \$240.

I would be glad to discuss with you the basis for my proposed offer, but believe that the assessment issue could be settled without informal conference if the agreement proposed is acceptable to your client. If not, let Vicki know and we will schedule an informal assessment conference.

Please review all this with your client and get back to me at your earliest convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James W. Carter', written over the typed name.

James W. Carter  
Director

dr  
Enclosure



BEFORE THE DIVISION OF OIL GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE APPEAL OF	:	
FACT OF VIOLATION C96-39-1-1,	:	FINDINGS OF FACT,
NEVADA ELECTRIC INVESTMENT	:	CONCLUSIONS OF LAW
COMPANY, WELLINGTON	:	AND ORDER
PREPARATION PLANT, CARBON	:	
COUNTY, UTAH	:	
	:	CAUSE NO. ACT/007/012
	:	

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On March 26, 1996, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Nevada Electric Investment Company ("NEICO") for the above-referenced Cessation Order ("CO"). The following individuals attended:

Presiding: James W. Carter  
Director

Petitioner: Denise Dragoo  
Patrick Collins

Division: Joe Helfrich  
Steve Demczak  
Peter Hess

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

### FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.
3. Violation C96-39-1-1 was written for "Conducting unauthorized activities without appropriate approvals", specifically the removal and relocation on-site of asbestos containing insulation materials without prior approval of the Division of Air Quality, Utah Department of Environmental Quality. The cessation order cites R645-300-142 and section 40-10-9, et. seq. of the Utah Code.
4. The removal of material alleged was performed by persons not employed by NEICO, and was done without the prior knowledge or consent of NEICO. The Utah Air Quality Board issued a Notice of Violation and Order for Compliance to NEICO and Covol Technologies, Inc. (Covol) alleging that the same activities constitute violations of state and federal law. At the time of the events of concern, Covol had access to the Wellington site with NEICO's permission.
5. NEICO's coal permit requires the permittee to; "...dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law". The Utah program provides, at R645-301-528.331, "Noncoal mine wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and

other combustible materials generated during mining activities will be placed and stored in a controlled manner in a designated portion of the permit area."

6. Upon receipt of the violation, NEICO initiated immediate compliance and diligently followed it through to completion.

#### CONCLUSIONS OF LAW

1. The removal and relocation of asbestos-containing insulation materials was done without proper approvals, and therefore constitutes a violation of the terms of the permit and the requirements of the Utah program.

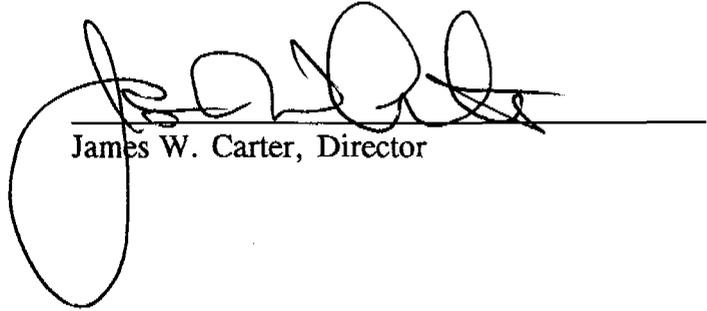
#### ORDER

NOW THEREFORE, it is ordered that:

1. NOV C96-39-1-1 be upheld.
2. The finalized assessment is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal the determination of fact of violation to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 12<sup>th</sup> day of June, 1996.

STATE OF UTAH  
DIVISION OF OIL, GAS AND MINING



James W. Carter, Director