

0023



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

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Salt Lake City, Utah 84180-1203
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801-359-3940 (Fax)
801-538-5319 (TDD)

June 12, 1996

CERTIFIED RETURN RECEIPT
P 074 979 420

Patrick D. Collins, Ph.D.
Nevada Electric Investment Company
Mt. Nebo Scientific, Inc.
P.O. Box 337
Springville, Utah 84663

Re: Proposed Assessment for State Violation No. N-96-39-1-1, Nevada Electric Investment Company, Wellington Prep Plant Mine, ACT/007/012, Folder #5, Carbon County, Utah

Dear Mr. Collins:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Steve Demczak on February 12, 1996. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



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C-96-39-1-1
ACT/007/012
May 30, 1996

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

H: I&E/Proplet

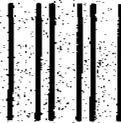
blb

Enclosure

cc:

James Fulton, OSM
Vicki Bailey, DOGM

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



PENALTY FOR PRIVATE
USE, \$300

SENDER INSTRUCTIONS
Print your name, address and ZIP Code in the space below.
• Complete items 1, 2, 3, and 4 on the reverse.
• Attach to front of article if space permits, otherwise affix to back of article.
• Endorse article "Return Receipt Requested" adjacent to number.

Print Sender's name, address, and ZIP Code in the space below.

**DIVISION
OF
OIL GAS & MINING**

1592 W NORTH TEMPLE STE 1210
BOX 145801
SALT LAKE CITY UT 84114-3801

RETURN TO

3. and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees, the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
PATRICK COLLINS
NEICO
PO BOX 337
SPRINGVILLE UT 84663

4. Article Number
P 074 979 420

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address
X

6. Signature - Agent
X *Bonnie Collins*

7. Date of Delivery
6/17/96

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 U.S.G.P.O. 1988-212-885 DOMESTIC RETURN RECEIPT

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-217-132

BB DOGM ACT/007/012 FLD 5 N96-39-1-1 6/13/96

P 074 979 420

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

Seal to
PATRICK COLLINS
(See Reverse)

NEICO

PO BOX 337

SPRINGVILLE UT 84663

Postage

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing

to whom and Date

Return Receipt showing to whom

Date, and Address of Delivery

TOTAL Postage and Fees

Postmark or Date

PS Form 3800, June 1985

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE NEICO/Wellington Prep Plant

NOV# N-96-39-1-1

PERMIT# ACT/007/012

VIOLATION 1 OF 1

ASSESSMENT DATE 6/12/96

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 6/12/96

EFFECTIVE ON YEAR TO DATE 6/12/97

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____
_____	_____	_____

1 point for each past violation, up to one year

5 points for each past violation in a CO, up to one year

No pending notices shall be counted

TOTAL HISTORY POINTS _____

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? B Hindrance

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

3. What is the extent of actual or potential damage?

RANGE 0-25*

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

- 1. Is this a potential or actual hindrance to enforcement? Actual
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

The inspectors statement reflected that the identification signs did in fact have phone numbers on them however, attempts to use these numbers by the Division of Air Quality indicated that the numbers were in fact not valid.

TOTAL SERIOUSNESS POINTS (A OR B) 0

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE: OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct?
IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The permittee had overlooked the change in the phone numbers at the office located in Las Vegas.

IV. GOOD FAITH MAX -20 PTS. (Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO - EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*

(Immediately following the issuance of the NOV)

Rapid Compliance -1 to -10

(Permittee used diligence to abate the violation)

Normal Compliance 0

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance Or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

Rapid Compliance -11 to -20*

(Permittee used diligence to abate the violation)

Normal Compliance -1 to -10*

(Operator complied within the abatement period required)

Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0
PROVIDE AN EXPLANATION OF POINTS

The abatement deadline was January 31, 1996, the NOV was terminated effective January 29, 1996.

V. ASSESSMENT SUMMARY FOR _____

I. TOTAL HISTORY POINTS _____

II. TOTAL SERIOUSNESS POINTS 12

III. TOTAL NEGLIGENCE POINTS 8

IV. TOTAL GOOD FAITH POINTS _____

TOTAL ASSESSED POINTS 20

TOTAL ASSESSED FINE \$ 200.00