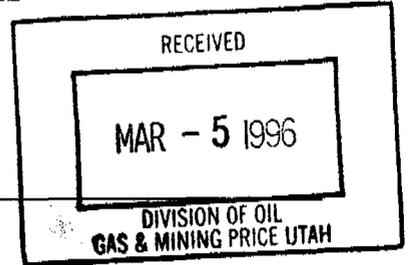


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UTAH DIVISION OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
355 WEST NORTH TEMPLE
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203



IN THE MATTER OF CESSATION)
ORDER NO. C96-39-1-1,)
NEVADA ELECTRIC INVESTMENT)
COMPANY, WELLINGTON)
PREPARATION PLANT, CARBON)
COUNTY, UTAH)

REQUEST FOR DISCOVERY

NEVADA ELECTRIC INVESTMENT COMPANY ("NEICO"), by and through its counsel of record, hereby requests from the State of Utah, Department of Natural Resources, Division of Oil, Gas & Mining (the "Division") all information regarding Cessation Order No. C96-39-1-1 issued by the Division, including but not limited to:

1. all documents, records, photographs and other evidence that the Division has in connection with its investigation of this case;
2. all documents of the Division, the Department of Environmental Quality, Division of Air Quality, and any other investigative reports relating to this case;
3. any evidence known to the Division that tends to negate or mitigate the alleged violation; and
4. a list of all known witnesses to the alleged offense and any recorded or written statements of such witnesses, including the Division inspector who issued the citation.

This discovery is requested to be provided to counsel for NEICO on or before March 1, 1996.

DATED this 21st day of February, 1996.

VAN COTT, BAGLEY, CORNWALL & McCARTHY

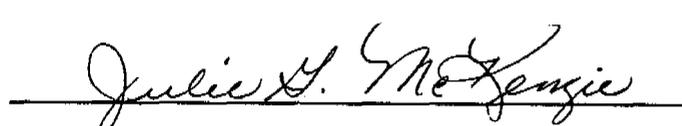
By


Denise A. Dragoo
Attorneys for NEICO
50 South Main, Suite 1600
P.O. Box 45340
Salt Lake City, Utah 84145-0340
Telephone: (801) 532-3333

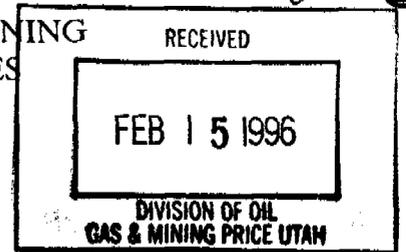
CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the within and foregoing REQUEST FOR DISCOVERY to be mailed, postage prepaid, this 21st day of February, 1996, to the following:

James Carter, Esq.
Director, Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203



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



---oo0oo---

IN THE MATTER OF THE APPEAL :
OF FACT OF VIOLATION N95-39-2-2,
NEVADA ELECTRIC INVESTMENT
COMPANY, WELLINGTON
PREPARATION PLANT :

AMENDED FINDINGS,
CONCLUSIONS,
AND ORDER

CAUSE NO. ACT/007/012

---oo0oo---

On November 3, 1995, 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 Notice of Violation ("NOV"). The following individuals attended:

Presiding: James W. Carter
Director

Petitioner: Denise Dragoo, Esq.
Patrick D. Collins
Greg Poole

Division: Joe Helfrich
Steve Demczak
Daron Haddock
Sharon Falvey

On November 20, 1995, NEICO submitted to the Division a request to reconsider the Findings, Conclusions, and Order entered in this matter on November 3, 1995, based on documentary information not available at the time of the informal conference. Based upon the information provided by the Petitioner at the informal conference and on

November 3, 1995, the Division enters the following Amended Findings, Conclusions and Order:

FINDINGS OF FACT

1. Notice of this informal conference was properly given.
2. Violation N95-39-2-2, part 2 of 2, was written for "Failure to maintain slopes of 2H:1V" on the outslope of the coarse refuse pile adjacent to the railroad tracks in the permit area. The Violation cited rules R645-301-536.800 and R645-301-553.250.
3. R645-301-553.250 provides: "553.251. The final configuration for the refuse pile will be suitable for the approved postmining land use....The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent)."
4. R645-301-536.800 refers to R645-301-528.322 which provides: "Refuse Piles. Each pile will meet the requirements of MSHA, 30 CFR 77.214 and 30 CFR 77.215..." 30 CFR 77.215 provides, in pertinent part: "(h) 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 degrees) except that the District Manager may approve construction of a refuse piles in compacted layers exceeding 2 feet in thickness and with slopes exceeding 27 degrees where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained."
5. On April 23, 1976, NEICO's predecessor submitted a report to the District Manager of MSHA specifically stating that "The slopes of the refuse pile exceed 2:1 (27 degrees), but it is located in an area where no impoundment of water can occur to cause

failure of the pile." NEICO has submitted to the Division engineering data concerning the refuse pile. On November 10, 1995, NEICO requested that the District Manager of MSHA either confirm that the 1976 report is evidence of his approval of the refuse pile configuration or that he grant a specific variance. To date, the MSHA District Manager has not responded to NEICO's request.

CONCLUSIONS OF LAW

1. R645-301-553.250 requires that refuse pile slopes be no steeper than 2 horizontal to 1 vertical at "final configuration" in preparation for reclamation, but does not require that such slopes be maintained at 2h:1v at all times during the operating phase of the refuse pile.

2. R645-301-536.800, R645-301-528.322 and the MSHA regulations referred to do require the slopes of refuse piles to not exceed 2h:1v during the operating phase, unless the District Manager of MSHA has approved a greater slope.

3. The lack of documentation of prior approval by the District Director of MSHA for the steeper slope of the refuse pile in question constitutes a hindrance violation of R645-301-536.800 and the other regulations referred to therein, but does not constitute a violation of R645-301-553.250.

ORDER

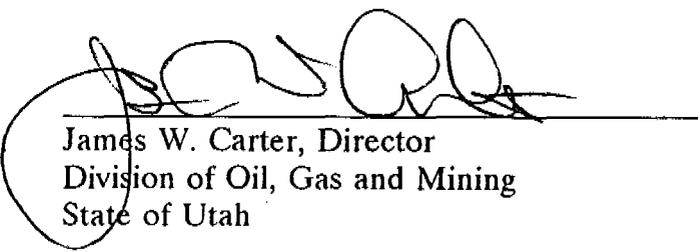
NOW THEREFORE, it is ordered that:

1. NOV N95-39-2-2, part 2 of 2 be upheld as a hindrance violation.

2. The abatement of N95-39-2-2 be modified to require that, within 60 days, NEICO submit the written approval of the District Manager of MSHA for a steeper slope than 2h:1v based upon engineering data which substantiates a minimum safety factor of 1.5 for the refuse pile will be attained.

3. The Petitioner may appeal this 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 6th day of January, 1996.



James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS, AND ORDER for Cause No. ACT/007/012 to be mailed first-class, postage prepaid, on the 8th day of February, 1996, to the following:

Denise Dragoo, Esq.
Van Cott, Bagley, Cornwall & McCarthy
50 South Main Street, Suite 1600
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Salt Lake City, Utah 84145-0450

Patrick D. Collins
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Mt. Nebo Scientific, Inc.
P.O. Box 337
Springville, Utah 84663

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6771 South 900 East
Midvale, Utah 84047

