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ACT/007/012

State of Utah

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September 30, 1997

TO: File

THRU: Daron Haddock, Permit Supervisor DRH

FROM: Robert Davidson, Soils Reclamation Specialist RAD

RE: Deficiency Response to December 23, 1996 Technical Analysis, Nevada Electric Investment Company, Wellington Preparation Plant, ACT/007/012-MT97, Folder #2, Carbon County, Utah

RECLAMATION PLAN

TOPSOIL AND SUBSOIL

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-240.

The following topsoil reclamation assessment focusses on the topsoil borrow issues at the Wellington Preparation Plant as follows:

- Background - Recent historical background events
- Analysis - Review critique of NEICO's current submittal
- Findings - Three deficiencies are presented for the current submittal

Background:

The topsoil borrow issues and events for the Wellington Preparation Plant have occurred as follows:

- The Division's July 25, 1996 Technical Analysis (TA) for the Wellington Mine Reclamation Plan (MRP) contained the following deficiency: ***R645-301-533.252,*** *supply the needed amount of borrow material to meet the minimum regulatory requirement of 4 feet of the best available, nontoxic and noncombustible material.*
- On October 23, 1996, Nevada Electric Investment Company (NEICO) provided a

Deficiency Response submittal which replaced a portion of the existing MRP's Section 2.41, pages 4-10, (6/30/95 & 10/13/95) with an amended Section 2.41, pages 4-8, (10/23/96) for proposed topsoil borrow areas A through G. The submittal also replaced Drawing G9-3511, certified 6/95 with an amended Drawing G9-3511, certified 10/96 illustrating the potential borrow areas.

- The Division responded to the 10/23/96 Deficiency Response on December 23, 1996. In essence, soil borrow areas A and B were approved for soil borrow and were incorporated into the MRP with two outstanding deficiency findings for R645-301-233 and R645-301-241. In review, these two outstanding deficiency findings required the following:

  (1) on-site, real-time analysis be provided for Area "A" to demarcate soil salvage based on subsurface soil quality,

  (2) Area "A" soils should only occur after Area "B" soils have been exhausted,

  (3) additional sampling of Area "B" soils should be performed to further examine the northern and periphery portions of this proposed topsoil borrow area , and finally

  (4) Area "E" should be replaced by Area "B" in the MRP as referenced in Section 2.41.

Analysis:

The current "Deficiency Response" submittal addresses the Division's 12/23/96 Technical Analysis (TA) by requesting that the application for using areas A, B and C, Plate G9-3511, be withdrawn from the MRP for the following reasons:

- Soil-borrow Area A has been classified Prime Farmland as determined by the NRCS on April 11, 1997. This is a reversal of an earlier SCS determination made on June 14, 1983.

- Earthco proposes that soil removal and excavation within Areas B and C would create a catchment basin that would potentially impound water adjacent to a primary road and rail spur. Based on this "catchment basin" theory, Earthco consulted the Utah Division of Water Rights, State Engineer, Mr. Mark Page. The following concerns must be addressed by Earthco for pre-approval from the State Engineer, and possibly the Army Corp of Engineers, for excavating a catchment basin of the size and magnitude as proposed:

  - Impacts on down stream water rights associated with Price River.

  - Potential for impounding water, perhaps in excess of 25 acre feet.

- Contributory to salt concentration into the Colorado River drainage.

- Possible interference with interstate commerce in potential impacts to Union Pacific's main line, (Denver-Salt Lake).

- A storm drainage control plan may not be feasible to allow post mining land use (industrial).

Earthco has committed to investigate alternatives for soil borrow by replacing areas A, B, and C. Their commitment requested 90 days from submittal date of this amendment, which would put conclusion of the investigation at the end of September, 1997.

In response to Earthco's submittal, the Division has determined the following:

- Since Area "A" has been designated as Prime Farmland, then Area "A" can no longer be considered for soil borrow. Therefore, all concerns regarding Area "A" in the Division's earlier TA are no longer applicable.

- As a result of removing Area "A", additional pressure is now placed on the remaining borrow areas "B" and "C" for acquiring the soil quantity and quality necessary for the reclamation commitments at the Wellington site. The worst case scenario calls for acquiring approximately 1.2 million cubic yards of soils and fills as approved from the Division. All deficiencies associated with borrow areas "B" and "C" are still in force and must be addressed.

- The statement for creating a "catchment basin" is false since the current Mine Reclamation Plan (MRP) does not approve establishing an impoundment in the soil borrow area. Furthermore, the permittee must remove the soil in a manner that will provide appropriate drainage, thus not creating an impoundment. Therefore, all concerns and requirements from the Utah Division of Water Rights are negated, unless Earthco is proposing to create an impoundment. If Earthco is proposing an impoundment, an appropriate amendment showing the exact engineering and hydrological details must be submitted to the Utah Division of Oil, Gas and Mining for approval and implementation into the current MRP.

- The Division cannot withdraw soil borrow areas "B" and "C" from the MRP. Earthco committed to providing additional options for soil borrow to allow release of soil borrow areas "B" and "C." However, to date, no amendment or option has been submitted to the Division that sufficiently identifies 1.2 million cubic yards of alternate soil borrow. Until other alternatives are approved by the Division for soil borrow, soil borrow areas "B" and "C" will remain intact within the MRP.

- Finally, NEICO has not addressed the deficiency concerning replacing all references of soil borrow Area "E" with Area "B" as explained in the previous submittal.

Findings:

The permittee must provide the following, prior to approval, in accordance with the requirements of:

R645-301-232.720 and R645-301-233. Approved soil borrow areas "B" and "C" will remain in the MRP for reclamation, otherwise, provide soil borrow areas acquiring the soil quantity and quality necessary for the reclamation commitments at the Wellington site. The worst case scenario calls for acquiring approximately 1.2 million cubic yards of soils.

Additional sampling of Area "B" and "C" soils should be performed to further examine the northern and periphery portions of these topsoil borrow areas. The Division requests that they be appraised of the sampling agenda and participate during the sampling.

R645-301-241. Section 2.41, General Requirements, page 3, Coarse Refuse Pile, Slurry Ponds, and Coarse Slurry Pond subsections all reference Borrow Area "E" for imported soil during reclamation. Area "E" should be replaced by Area "B" as explained in the MRP's Section 2.41.

R645-301-552, R645-301-553 and R645-301-761. The statement for creating a "catchment basin" is false since the current Mine Reclamation Plan (MRP) does not approve establishing an impoundment in the soil borrow area. Furthermore, the permittee must remove the soil in a manner that will provide appropriate drainage, thus not creating an impoundment. Therefore, all concerns and requirements from the Utah Division of Water Rights are negated, unless Earthco is proposing to create an impoundment. If Earthco is proposing an impoundment, an appropriate amendment showing the exact engineering and hydrological details must be submitted to the Utah Division of Oil, Gas and Mining for approval and implementation into the current MRP.

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