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

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September 19, 1997

TO: File

THROUGH: Daron Haddock, Permit Supervisor *DRH*

FROM: Paul Baker, Reclamation Biologist *PB*

Re: Postmining Land Use Change, Nevada Electric Investment Company,
Wellington Preparation Plant, ACT/007/012-97F, Folder #2, Carbon County,
Utah

SUMMARY:

Nevada Electric Investment Company (NEICO) is proposing to change the postmining land use from undeveloped land to industrial in the areas of the access road, the railroad spur, and a few other parts of the disturbed area at the Wellington Preparation Plant. This application constitutes a major revision that requires public notice and a comment period. The first public notice was published in the "Price Sun Advocate" on September 2, 1997, and the public comment period will end October 23, 1997.

TECHNICAL ANALYSIS:

RECLAMATION PLAN

POSTMINING LAND USE

Regulatory Reference: R645-301-412

Analysis:

The permittee for the Wellington Preparation Plant has proposed changing the postmining land use for certain areas from undeveloped land to industrial. The application includes a map showing the areas where the use would be changed and a legal description of the area. Portions of the text of Chapter 4 of the operation and reclamation plan have also been changed to justify the proposed change.

According to information in the application, the area is zoned as "heavy industrial," and several companies and municipalities have approached the operator with an interest in this type of development. The applicant intends to develop the entire area west of the Price River as an industrial site, but, for now, the land use would only be changed in the areas shown on the map submitted with this application. The roads will remain and will be used as they are designed. Prospective developers are willing to accept the property in its current configuration. The roads and rail spur are crucial assets in the property development, and it is anticipated that development of this industrial site could create hundreds of jobs.

The Division is required to determine if the proposed land use can be considered a "higher or better use" using the criteria of R645-100 and R645-301-413.300. "Higher or better uses" is defined as postmining land uses that have a higher economic value or nonmonetary benefit to the landowner, or the community, than the premining land uses.

Although the land was considered undeveloped land, it had limited grazing and some wildlife habitat use. The only part of the permit area with critical wildlife habitat is the riparian area near the Price River, and the applicant has not disturbed most of this area and has not proposed to change the land use. Wildlife habitat in the area where the land use is proposed to be changed is listed as "substantial value" for some species. According to the definition of this term, these areas provide some forage but are primarily existence areas.

Prior to disturbance, most of the area where the land use would be changed probably had a galleta/atriplex vegetation community. The Natural Resources Conservation Service has estimated productivity in adjacent areas with this community at 240 pounds of dry forage per acre. This compares to a sagebrush/grass community in Carbon County in fair range condition with 800 pounds per acre and a pinyon-juniper/shrub community with 1750 pounds per acre. The areas where the land use would be changed have limited value for grazing or wildlife use.

In meetings with Division staff members, a representative of Carbon County has expressed the county's interest in having the land use changed and has confirmed information in the proposed amendment concerning the number of jobs that could be created. Taking into account the limited value of the land if it were to be returned to the premining land use and the value of the site for the proposed use, the proposed postmining land use is considered a "higher and better use."

According to information in the proposed amendment and also the information received from Carbon County, it appears the proposed use meets the criteria of R645-301-413.300. The proposed industrial development will include consumption of some water, and there could potentially be some water discharge. However, these would be governed under the jurisdiction of the Divisions of Water Rights and Water Quality. The plans are not

impractical or unreasonable, they are consistent with local land use policies, and they would be implemented as quickly as bond is released.

Before this amendment is approved, the applicant must finish advertising the amendment for four consecutive weeks and submit proof of publication, and the Division must accept and review public comments for a total of 30 days after the last publication date. Before bond is release, the Division will need to closely evaluate whether the site meets reclamation and bond release criteria.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations. The proposed land use can be considered a higher and better use than the premining use and meets other criteria of the land use rules.

RECOMMENDATIONS:

The applicant has met the requirements of R645-301-400 for approval of an alternative postmining land use for the areas delineated in the proposed amendment. The applicant is currently advertising this significant permit revision, and they will need to submit proof of publication when advertising is completed. The Division is required to accept public comment for 30 days from the last advertisement and to make a decision on whether to approve the significant revision within 120 days of receipt.

The Division is also required by R645-300-121.300 to notify certain local, state, and federal agencies of receipt of this proposal and to allow them the opportunity to comment.