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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

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November 28, 1997

CERTIFIED RETURN RECEIPT
P 074 977 279

Steve Traweek, Resident Agent
EarthCo
1179 East Main Street, #104
Price, Utah 84501

Re: Proposed Assessment for State Cessation No. C-97-41-2-1, Nevada Electric Investment Company, Wellington Preparation Plant, ACT/007/012, Folder #5, Carbon County, Utah

Dear Mr. Traweek:

The undersigned has been appointed by the Division 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 cessation order (CO). This CO was issued by Division Inspector, Paul B. Baker on November 25, 1997. Rule R645-401-600 et. seq. 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 this CO, has been considered in determining the facts surrounding this CO and the amount of penalty.

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

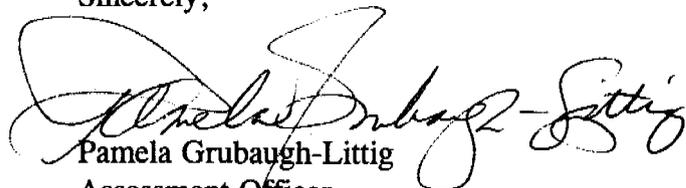
1. If you wish to informally appeal the fact of this CO, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the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

Page 2
C-97-41-2-1
ACT/007/012
November 28, 1997

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 the CO 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,



Pamela Grubaugh-Littig
Assessment Officer

tat
Enclosure
cc: James Fulton, OSM
Richard Hinckley, NEICO
Patrick Collins, Mt. Nebo Scientific
Vicki Bailey, DOGM
O:\007012.WELASSESMNT\C97412-1.LTR

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS, & MINING

COMPANY/MINE NEICO/ Wellington Preparation Plant

NOV# C-97-41-2-1

PERMIT ACT/007/012

VIOLATION 1 OF 1

ASSESSMENT DATE 11/28/97

ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

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

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N-96-39-1-1</u>	<u>12/30/96</u>	<u>1</u>
<u>N-96-41-2-1</u>	<u>05/20/97</u>	<u>1</u>
<u>C-97-41-1-1</u>	<u>06/10/97</u>	<u>5</u>
<u>N-97-41-2-1</u>	<u>06/10/97</u>	<u>1</u>
<u>N-97-41-5-1</u>	<u>11/05/97</u>	<u>1</u>

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 9

II. SERIOUSNESS (EITHER A OR B)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point up or down, utilizing the inspector's and operator's statements as guiding documents.

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

A. EVENT VIOLATION MAX 45 POINTS

1. What is the event which the violated standard was designed to prevent?

Water Pollution.

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

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

Water mixed with sediment from the sump below the pumphouse was pumped through a six-inch pipe to an area about thirty feet from the Price River. It discharged into this wetland-type area, flowed across an area with a lot of salt grass & tamarisk, then discharged into the Price River.

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 15

PROVIDE AN EXPLANATION OF POINTS:

The actual discharge from the pipe or into the Price River was not sampled. The inspector did take a sample of water from the saltgrass area which may not be representative of the discharge either from the pipe or into the river.. The water was dark gray to black and had a sheen indicating the presence of oil and grease.

B. HINDRANCE VIOLATION MAX 25 POINTS

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

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

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A OR B) 35

III. NEGLIGENCE MAX 30 POINTS

- 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--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

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

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

The environmental harm associated with a discharge into the Price River should be evident to a prudent operator. There was blatant disregard for the environmental consequences.

IV. GOOD FAITH MAX 20 POINTS

(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 the 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?

IN 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 of the plan submitted for abatement was incomplete)

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

EASY OR DIFFICULT ABATEMENT? Easy

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

The permittee must sample the treat water for oil and grease. This violation is not abated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION C-97-41-2-1

I. TOTAL HISTORY POINTS: 9

II. TOTAL SERIOUSNESS POINTS: 35

III. TOTAL NEGLIGENCE POINTS: 20

IV. TOTAL GOOD FAITH POINTS: 0

TOTAL ASSESSED POINTS: 64

TOTAL ASSESSED FINE: \$1,720.00

NO. C 97-41-2-1

Cessation order

To the following Permittee or Operator:

Name Nevada Electric Investment Company

Mine Wellington Preparation Plant Surface Underground Other

County Carbon State UT Telephone (435) 637-4155

Mailing Address 6226 West Sahara Las Vegas, NV 89151

State Permit No. ACT/007/012

Ownership Category State Federal Fee Mixed

Date of inspection November 21, 19 97

Time of inspection 10:20 a.m. p.m. to 12:40 a.m. p.m.

Operator Name (other than Permittee) Steve Traweek, Earthco

Mailing Address 1179 East Main St. #104 Price, UT 84501

Under authority of the Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, *Utah Code Annotated*, you are ordered to **cease immediately** the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that **this order does** **does not** **require cessation of mining** expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This order shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the Division of Oil, Gas & Mining.

CERTIFIED RETURN RECEIPT

P 074 977 278

Date of service/mailling November 25, 1997

Time of service/mailling 10:00 a.m. p.m.

Steve Traweek
 Permittee/Operator representative

Resident Agent
 Title

Mailed From SLC Office
 Signature

Reclamation Biologist
 Title

Paul B. Baker
 Division of Oil, Gas & Mining representative

41
 Identification Number

Signature

SEE REVERSE SIDE

WHITE-DOGM YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE

PSC- B6

CC: **Patrick Collins, NEICO**

**UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS**

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.

RETURN TO 

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

DIVISION OF OIL GAS & MINING
1594 W NO TEMPLE STE 1210
PO BOX 145801
SLC UT 84114



PENALTY FOR PRIVATE USE, \$300

PS Form 3811, 11/25/97, ACT/007/012, 697-41-2-1

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. This return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees for additional services (if requested), see the postmaster for fees and check box(es) for additional services requested.

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

3. Article Addressed to:

STEVE TRAWEEK
EARTHCO
1179 E MAIN #104
PRICE UT 84501

4. Article Number
P 074 977 278

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address
Steve Trawek

6. Signature - Agent
Steve Trawek

7. Date of Delivery

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

STICK POSTAGE STAMPS TO ARTICLE TO ORDER 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 strip 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 retail carrier (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed strip to the right of the return address of the article, date, 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 strips. 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.

P 074 977 278
RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

STEVE TRAWEEK
EARTHCO
1179 E MAIN #104
PRICE UT 84501

Postmark or Date	NOV 25 1997 SALT LAKE CITY UT MAIL OFFICE
Return Receipt to whom and Date of Delivery	
Date and Address of Delivery	
TOTAL Postage	
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	

PS Form 3800, June 1987T DOGM ACT/007/012 C97-41-2-1 11/25/97



gk

CESSATION ORDER NO. C 97-41-2-1

Violation No. 1 of 1

Nature of condition, practice or violation

R645-301-731; R645-301-750

Provisions of act, regulations or permit violated

Failure to conduct coal mining & reclamation operations to minimize disturbance to the hydrologic balance within the permit and adjacent areas; and to prevent material damage to the hydrologic balance outside the permit area. Failure to conduct water discharges in compliance with Utah and Federal water quality laws and regulations.

Check appropriate box

- Condition, practice or violation is creating an imminent danger to health or safety of the public.
- Permittee/Operator is/has been conducting mining activities without a permit.
- Condition, practice or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- Permittee or Operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. N _____ within time for abatement originally fixed or subsequently extended.

Operation(s) to be ceased immediately

Unauthorized discharge of water from the pumphouse into the Price River, and adjacent riparian or wetland areas.

Affirmative obligation(s) and abatement time (if applicable)

Sample water in the pumphouse and test for oil and grease. Abatement due December 12, 1997.