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DIVISION OF OIL, GAS AND MINING

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January 2, 1997

TO: File

THROUGH: Joe Helfrich, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist

Re: Designation of Operator, Nevada Electric Investment Company, Wellington Preparation Plant, ACT/007/012-96D, Folder #2, Carbon County, Utah

SUMMARY

On November 25, 1996, the Division received an application from Nevada Electric Investment Company (NEICO) to designate EARTHCO as the operator for the Wellington Preparation Plant. A revised application was received December 30, 1996. NEICO submitted both an application for designation of operator and an amendment application for the operation and reclamation plan.

The applications do not affect the operation and reclamation plan with respect to certain regulations, such as the permit term and unsuitability claims. Therefore, the applications were not reviewed for compliance with these regulations.

The application to designate EARTHCO as the operator is considered complete and accurate and can be approved. However, the amendment application still needs more information. Subject to the recommendation from the Applicant Violator System, it is recommended the Division approve the operator designation but require more information for the plan.

ADMINISTRATIVE FINDINGS

IDENTIFICATION OF INTERESTS, VIOLATION INFORMATION, AND RIGHT OF ENTRY INFORMATION

Identification of Interests

Analysis:

The permittee is and will continue to be Nevada Electric Investment Company (NEICO), a Nevada corporation. NEICO proposes to designate EARTHCO, also a Nevada corporation, as the operator for the Wellington Preparation Plant. The resident agent for the permittee is Patrick Collins of Mt. Nebo Scientific, and the resident agent for EARTHCO is CT Corporation System. EARTHCO will be responsible for paying the abandoned mine reclamation fee.

The amendment application and application to designate a new operator show the officers and directors of both NEICO and EARTHCO together with their addresses and the dates they assumed their positions. It also shows the names and addresses of persons that own or control NEICO and EARTHCO. The application to designate a new operator shows the employer identification numbers for persons that own or control the proposed operator, but the amendment application does not contain this information about either the applicant or the proposed operator The Division can approve the proposal to designate a new operator without approving the amendment application because it does not contain this information..

EARTHCO has not previously owned or controlled mining and reclamation operations, but NEICO previously owned 50% of the Crandall Canyon Mine in Utah. The plan amendment application gives pertinent information about that mine.

The amendment application indicates NEICO has legal title and EARTHCO has equitable title for the land that will be affected by the operations. It shows the holders of leasehold interests in the area to be affected by surface operations and the owners of contiguous lands. Some of the information in this portion of the application needs to be updated, but this is being done in review of NEICO's response to the Division's July 25, 1996, technical analysis.

Mine structures that require MSHA numbers include two refuse piles and three ponds. The MSHA numbers for these structures are shown in the application.

Findings:

Information provided in the application to designate Earthco as the operator is considered complete and accurate. However, prior to final approval of the amendment application, the applicant must provide the following in accordance with:

R645-301-112.230 The application needs to contain employer identification numbers for NEICO and EARTHCO and the persons that own or control them.

The land ownership information in the applications may not be current, but this

problem is being resolved in the permit review process and does not apply to the issue of designating a new operator.

Violation Information

Analysis:

The application to designate EARTHCO as the operator says neither EARTHCO, its affiliates, nor persons controlled by or under common control with EARTHCO have forfeited a mining bond or similar security deposited in lieu of bond. EARTHCO has no history of past violations, and no affiliated companies have unabated cessation orders or violations of air and water regulations.

The violation information in the operator designation application needs to be in the operation and reclamation plan.

Findings:

The application to designate EARTHCO as the operator is considered adequate with regard to this section of the regulations. However, information provided in the proposal to amend the operation and reclamation plan is not considered adequate to meet the requirements of this section. Prior to final approval of the amendment application, the applicant must provide the following in accordance with:

R645-301-113 The operation and reclamation plan amendment application needs to be updated with the violation information about EARTHCO.

Right of Entry

Analysis:

On October 21, 1996, NEICO and EARTHCO entered a two-year sales agreement for the Wellington Preparation Plant. As operator, EARTHCO would have the right to conduct mining and reclamation operations.

No other right of entry information changes with the applications.

Findings:

The application is considered adequate with regard to this section of the regulations.

INSURANCE, NOTARIZED SIGNATURE

Insurance

The application to designate EARTHCO as the operator says EARTHCO's certificate of liability insurance was mailed directly to the Department from the Price Insurance Agency. This statement is correct: the Division received an insurance policy showing EARTHCO and NEICO as insureds. Other aspects of the policy are in compliance with R645-301-800.

Findings:

The application is considered adequate with regard to this section of the regulations.

Notarized Signature

Analysis:

The application to designate EARTHCO as the operator contains the statement required by R645-301-123 with the notarized signatures of Richard Hinckley and James Scott of NEICO and EARTHCO, respectively. The cover sheet for the amendment application contains this statement with the notarized signature of Richard Hinckley.

Findings:

The application is considered adequate with regard to this section of the regulations.

RECOMMENDATIONS

The application to designate EARTHCO as the operator of the Wellington Preparation Plant contains the information required for approval of this proposal. However, the application for permit change does not contain employer identification numbers for the entities that own or control NEICO and EARTHCO. It also does not contain violation information for EARTHCO. The Division can approve the application to designate EARTHCO as the operator, but the operation and reclamation plan needs a little more information.

cc: Pamela Grubaugh-Littig