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

Michael O. Leavitt  
Governor  
Kathleen Clarke  
Executive Director  
Lowell P. Braxton  
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December 22, 1998

**CERTIFIED RETURN RECEIPT**  
P 074 978 512

Patrick Collins, Resident Agent  
Mt. Nebo Scientific  
P. O. Box 337  
Springville, Utah 84663

Re: Proposed Assessment for State Violation No. N98-41-5-1, Nevada Electric Investment Company, Wellington Preparation Plant, ACT/007/012, Folder #5, Carbon County, Utah

Dear Mr. Collins:

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 violation. The violation was issued by Division Inspector Paul Baker, November 27, 1998. 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 the Notice of Violation, has been considered in determining the facts surrounding the violation 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 violation, 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 you are also requesting a review of the fact of violation, as noted in paragraph

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N98-41-5-1  
ACT/007/012  
December 15, 1998

1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation 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

blb

Enclosure

cc: James Fulton, OSM  
Vicki Bailey, DOGM

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

COMPANY/MINE NEICO/ Wellington Preparation Plant NOV# N98-41-5-1  
PERMIT ACT/007/012 VIOLATION 1 OF 1  
ASSESSMENT DATE 12/15/98 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>C97-41-2-1</u>	<u>12/30/97</u>	<u>5</u>
<u>N97-41-4-1</u>	<u>02/19/98</u>	<u>1</u>
<u>N98-41-2-1</u>	<u>06/09/98</u>	<u>1</u>
<u>N98-41-4-1</u>	<u>11/25/98</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 8

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? B- Hindrance

A. EVENT VIOLATION MAX 45 POINTS

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

**PROBABILITY**

**RANGE**

None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS**     

**PROVIDE AN EXPLANATION OF POINTS:**

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**     

**PROVIDE AN EXPLANATION OF POINTS:**

**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**   1  

**PROVIDE AN EXPLANATION OF POINTS:**

The potential for harm was extremely low.

**TOTAL SERIOUSNESS POINTS (A OR B)**   1  

**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**   Negligence  

**ASSIGN NEGLIGENCE POINTS**   8

**PROVIDE AN EXPLANATION OF POINTS:**

The permittee had discussed doing this work with the Division on October 2, 1998. However, the Division at that meeting had advised the permittee to submit an amendment before the work was actually done. The drainage pattern was changed and topsoil stockpiles moved which were not identified in the current approved plan.

**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:**

This violation has not been terminated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION	<u>N98-41-5-1</u>
I. TOTAL HISTORY POINTS:	<u>8</u>
II. TOTAL SERIOUSNESS POINTS:	<u>1</u>
III. TOTAL NEGLIGENCE POINTS:	<u>8</u>
IV. TOTAL GOOD FAITH POINTS:	<u>0</u>
TOTAL ASSESSED POINTS:	<u>17</u>
TOTAL ASSESSED FINE:	<u>\$170.00</u>

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# State of Utah

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## INSPECTION REPORT

Partial: X Complete:    Exploration:     
Inspection Date & Time: November 23, 1998, 10:15 AM to 1:15 PM  
Date of Last Inspection: October 6, 1998

Mine Name: Wellington Preparation Plant County: Carbon Permit Number: ACT/007/012  
Permittee and/or Operator's Name: Nevada Electric Investment Company (NEICO)  
Business Address: c/o Earthco, 1179 East Main #104, Price, Utah 84501  
Type of Mining Activity: Underground Surface Prep. Plant X Other  
State Official(s): Paul Baker  
Company Official(s): Patrick Collins (Mt. Nebo), Mike Gipson (Covol)  
Federal Official(s): None  
Weather Conditions: Mostly clear, 50's  
Existing Acreage: Permitted- 1720 Disturbed- 356 Regraded- 1.5 Seeded- 1.5 Bonded- 177  
Increased/Decreased: Permitted- 0 Disturbed- 0 Regraded- 0 Seeded- 0 Bonded- 0  
Status: Exploration/ X Active/ Inactive/ Temporary Cessation/ Bond Forfeiture  
Reclamation (Phase I/ Phase II/ Final Bond Release/ Liability Year)

### REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

#### Instructions

- Substantiate the elements on this inspection by checking the appropriate performance standard.
  - For complete inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check N/A.
  - For partial inspections check only the elements evaluated.
- Document any noncompliance situation by referencing the NOV issued at the appropriate performance standard listed below.
- Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
- Provide a brief status report for all pending enforcement actions, permit conditions, Division Orders, and amendments.

	EVALUATED	N/A	COMMENTS	NOV/ENE
1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. SIGNS AND MARKERS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. EFFLUENT LIMITATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EXPLOSIVES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. NONCOAL WASTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. SLIDES AND OTHER DAMAGE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. CONTEMPORANEOUS RECLAMATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. BACKFILLING AND GRADING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. REVEGETATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. SUBSIDENCE CONTROL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. CESSATION OF OPERATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. ROADS:				
a. CONSTRUCTION/MAINTENANCE/SURFACING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. DRAINAGE CONTROLS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. OTHER TRANSPORTATION FACILITIES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. SUPPORT FACILITIES/UTILITY INSTALLATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS CHECK (4th Quarter-April, May, June)_(date)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. AIR QUALITY PERMIT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## INSPECTION REPORT

(Continuation sheet)

Page 2 of 2

PERMIT NUMBER: ACT/007/004

DATE OF INSPECTION: November 23, 1998

(Comments are Numbered to Correspond with Topics Listed Above)

1. Permits, Change, Transfer, Renewal, Sale

On November 16, 1998, the Division received an amendment application to change the postmining land use for part of the facilities on the west side of the Price River. NEICO is also applying for bond release in this area.

3. Topsoil

The two topsoil piles along the access road on the west side of the river have been moved and combined with the pile west of the coarse refuse pile. The site does not now conform with the maps in the plan. I issued violation N98-41-5-1 requiring the permittee to gain approval for the activity performed and to seed the expanded topsoil piles and the areas where the topsoil was.

4. Hydrologic Balance

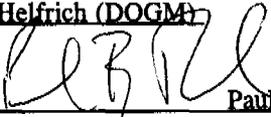
a. Diversions

The drainage design for the facilities area on the west side of the Price River shows a watershed delineation approximately in line with the slurry pipeline. In other words, if the slurry pipeline was extended to the west, this would approximately divide the watersheds for the areas where runoff would flow to the facilities sediment pond and where it would flow to the auxiliary, road, and dryer ponds. The area has now been graded in such a way that runoff from a larger area would flow toward the auxiliary and road ponds. Also, a berm has been built dividing the two areas. While the area where the drainage control plan has been changed is not large, probably about three acres, the site does not conform to the operation and reclamation plan designs. Violation N98-41-5-1 was issued for failing to perform operations as shown in the plan.

Copy of this Report:

Mailed to: James Fulton (OSM), Patrick Collins (NEICO/Mt. Nebo Scientific), Steve Traweek (Earthco)

Given to: Joe Helfrich (DOGM)

Inspector's Signature:  Paul B. Baker #41 Date: December 2, 1998