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

Michael O. Leavitt
Governor

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Executive Director

Lowell P. Braxton
Division Director

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Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

May 18, 1998

CERTIFIED RETURN RECEIPT
Z 230 747 326

Steve Traweek, Resident Agent
EarthCo
3584 Highway 31 South #190
Pelham, Alabama 35124

Re: Proposed Assessment for State Violation No. N98-41-3-1, 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 violation. The violation was issued by Division Inspector Paul B. Baker on May 14, 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:

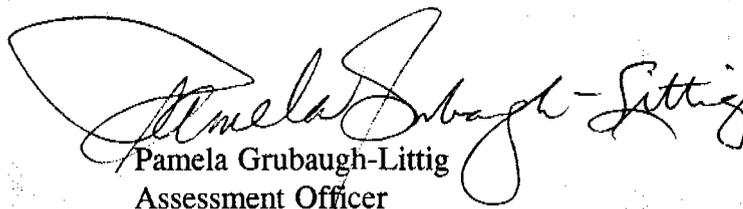
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding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

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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 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

tat
Enclosure

cc: James Fulton, OSM
Richard Hinckley, NEICO
Patrick Collins, Mt. Nebo Scientific
Vicki Bailey, DOGM

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

COMPANY/MINE Nevada Electric Investment Co./Wellington Prep Plant NOV# N98-41-3-1

PERMIT ACT/007/012 VIOLATION 1 OF 1

ASSESSMENT DATE 05/15/98 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>N96-41-2-1</u>	<u>06/06/97</u>	<u>1</u>
<u>C97-41-1-1</u>	<u>06/10/97</u>	<u>5</u>
<u>C97-41-2-1</u>	<u>02/19/98</u>	<u>5</u>
<u>N97-41-2-1</u>	<u>06/10/97</u>	<u>1</u>
<u>N97-41-4-1</u>	<u>05/07/98</u>	<u>1</u>
<u>N97-41-5-1</u>	<u>03/31/98</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 14

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?

Occurred

<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:

About 2 to 3 gallons per minute of water containing 2.7 gpm diesel fuel (results of initial test) is flowing through the Siaperas Ditch to 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 5

PROVIDE AN EXPLANATION OF POINTS:

The concentration in the ditch is high enough that could reduce the amount of aquatic life, however, the relatively small flow is mixed with the flow of the Price River. However, the Colorado squawfish (an endangered species) has been found a short distance downstream from where this discharge occurred.

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) 25

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 12

PROVIDE AN EXPLANATION OF POINTS:

When the approval to allow the COVOL process to commence was given by the Division, this possibility was discussed. The contamination was not deliberate but the permittee did have a good idea "it could happen".

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? _

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

Not terminated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION	<u>N98-41-3-1</u>
I. TOTAL HISTORY POINTS:	<u>14</u>
II. TOTAL SERIOUSNESS POINTS:	<u>25</u>
III. TOTAL NEGLIGENCE POINTS:	<u>13</u>
IV. TOTAL GOOD FAITH POINTS:	<u>0</u>
TOTAL ASSESSED POINTS:	<u>52</u>
TOTAL ASSESSED FINE:	<u>\$1,080.00</u>

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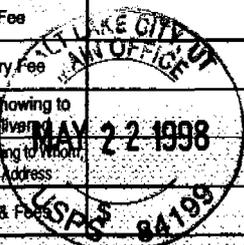
US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to STEVE TRAWEEK	
Street & Number 3584 HWY 31 S #190	
Post Office, State, & ZIP Code PELHAM AL 35124	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	MAY 22 1998
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	
Postmark or Date	



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. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

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

3. Article Addressed to:
STEVE TRAWEEK
EARTHCO
3584 HWY 31 S #190
PELHAM AL 35124

4. Article Number
Z 230 747 326

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

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature - Address
Steve Traweck

6. Signature - Agent
[Signature]

7. Date of Delivery
MAY 22 1998

8. Addressee's Address (ONLY if requested and fee paid)

Ps Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 **DOMESTIC RETURN RECEIPT**
 (PSN 7511-100) 0088

3800 April 1985

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.



PENALTY FOR PRIVATE USE, \$300

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

RETURN TO

DIVISION
OF
OIL GAS & MINING
1594 W NORTH TEMPLE STE 1210
BOX 145801
SALT LAKE CITY UT 84114-5801

- Stick postage stamps to article to cover 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 stub 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 rural carrier (no extra charge).
 2. If you do not want this receipt postmarked, stick the gummed stub 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 ends 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.