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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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801-538-7223 (TDD)

March 23, 1998

CERTIFIED RETURN RECEIPT
Z 230 747 317

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

Re: Proposed Assessment for State Violation No. N98-41-2-1, Nevada Electric Investment Company, Wellington Preparation Plant, ACT/007/012, Folder #5, Carbon County, Utah

Dear Mr. Traweck:

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 March 11, 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.

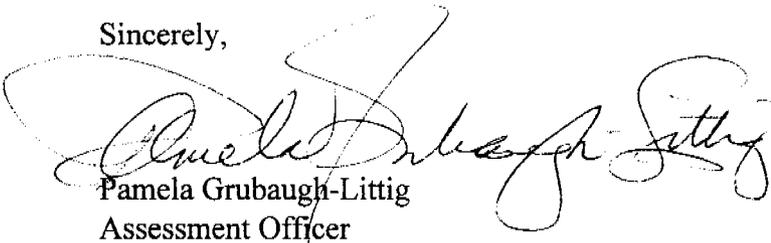
Under R645-401-700, there are two informal appeal options available to you:

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

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ACT/007/012
March 23, 1998

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
Patrick Collins, Mt. Nebo
Vicki Bailey, DOGM

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

COMPANY/MINE NEICO/ Wellington Prep Plant

NOV# N98-41-2-1

PERMIT ACT/007/012

VIOLATION 1 OF 1

ASSESSMENT DATE 03/16/98

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>12/30/97</u>	<u>5</u>
<u>N97-41-2-1</u>	<u>02/19/98</u>	<u>1</u>
<u>N97-41-4-1</u>	<u>11/05/97</u>	<u>1</u>
<u>N97-41-5-1</u>	<u>05/20/97</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 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- Event

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?

PROBABILITY

RANGE

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 3

PROVIDE AN EXPLANATION OF POINTS:

The on-site drainage plans were not installed according to the approved designs. Due to the nature of the site, it is not likely the modular preparation plant drainage will leave the site untreated.

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:

During the inspection, processing materials were flowing down an undesigned ditch. Some material had beaked up behind the culvert. However, it is not likely this material will leave the site without being treated.

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) 8

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

PROVIDE AN EXPLANATION OF POINTS:

The permittee had been advised during the January and February inspections to correct the discrepancies between the site and the approved plan. It is likely not too much attention was paid to the 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? ModerateASSIGN GOOD FAITH POINTS 0**PROVIDE AN EXPLANATION OF POINTS:**

The violation has not been terminated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION	<u>N98-41-2-1</u>	
I.	TOTAL HISTORY POINTS:	<u>14</u>
II.	TOTAL SERIOUSNESS POINTS:	<u>8</u>
III.	TOTAL NEGLIGENCE POINTS:	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS:	<u>0</u>
	TOTAL ASSESSED POINTS:	<u>37</u>
	TOTAL ASSESSED FINE:	<u>\$540.00</u>

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Z 230 747 317

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 1179 E MAIN ST #104	
Post Office, State, & ZIP Code PRICE UT 84501	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Address	
TOTAL Postage & Fees	
Postmark	

SENDER: Complete items 1 and 2, when additional services are desired, and complete items 3 and 4.

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)

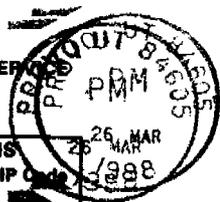
3. Article Addressed to: STEVE TRAWEEK EARTHCO 1179 E MAIN ST #104 PRICE UT 84501	4. Article Number Z 230 747 317
Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Return Receipt for Merchandise	
Always obtain signature of addressee or agent and DATE DELIVERED.	

5. Signature - Address X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X <i>[Handwritten Signature]</i>	
7. D	

PS Form

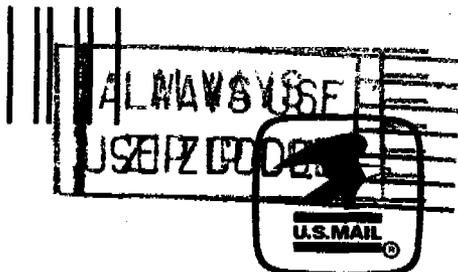
RECEIPT

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

RETURN TO

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

DIVISION OF

OIL GAS & MINING



[Vertical text on the right side of the page, partially obscured and difficult to read. It appears to contain additional instructions or terms of service.]