



VIA: Email & U.S. Mail

July 17, 2006

TASK 0571

Utah Coal Regulatory Program
 STATE OF UTAH
 Division of Oil, Gas & Mining
 1594 West North Temple, Suite 1210
 Salt Lake City, Utah 84114-5801

RE: N06-37-1-1: Pre-Penalty Assessment Letter
 Wellington Preparation Plant
 (C/007/012)

*Incoming
 C/007/0012
 Copy Ann
 add 770*

Dear Coal Program Staff:

This letter is intended to provide the Division with some related information prior to the proposed penalty assessment of the above referenced NOV. Please have the assessment officer note following:

1. The activities from which the violation was based did not constitute any imminent public safety dangers.
2. The activities from which the violation was based did not constitute imminent environmental concerns.
3. When a violation was proposed by our inspector, we later discovered some problems associated with sealing the well (NEICO would soon loose the water rights associated with the well). We provided this information to our inspector at our inspection at Wellington on June 30, 2006. At that time the inspector asked us for a **draft** "management plan" for the well if we did not intend to abandon and seal the well. The attached document is the draft management plan provided to our inspector July 5, 2006 (the date requested by the inspector). The violation was faxed to me on Friday, July 7, 2006 at 4:30 pm.

Sincerely,

Patrick D. Collins, Ph.D.
 Resident Agent/Environmental Consultant

Enclosure

cc: T. Garcia
 M. Davidson

RECEIVED

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DIV. OF OIL, GAS & MINING

- DRAFT -

HISTORY & MANAGEMENT
OF THE WATER COLLECTION WELL
AT THE WELLINGTON PREP PLANT

July 5, 2006

INTRODUCTION

The Wellington Prep Plant (C/007/012) is owned and operated by NEICO. The site has a water collection well located on the east side of the Price River. More specifically, the well is located in the SE¼, NE¼, Section 16, T15S, R11E. A certified water right is associated with this well site (Water Right No. 91-255). Additionally, supplemental water rights are appurtenant to this well site (Water Right Nos. 91-215, 216, 254, 255, 371). Although a pumphouse that was located near the well has recently been dismantled and removed, NEICO's intention is to retain the well and its associated water rights for future use.

HISTORY

- The Wellington Prep Plant has had water rights for this well site since 1958.
- The original owners of the site prepared and washed coal to be used for making steel at the Geneva Plant in Utah County, Utah.
- In the coal washing process, water was collected by: 1) pumping recycled water from the Clearwater Pond, 2) pumping it from the Price River, and 3) pumping it from the well mentioned above.
- The wash plant was in continuous operation from 1958 until 1985, when Kaiser Coal bought and operated the site.
- In 1985, revegetation research plots were irrigated with the well water. This practice was soon discontinued by Kaiser Coal.
- The Wellington Prep Plant site was purchased by NEICO and IPA in 1989. The site was operated by Castle Valley Resources as a coal loadout for the Genwal Mine.
- NEICO became sole owner of the site in 1995.
- In 1997, Earthco leased the property from NEICO and began to demolish and reclaim

some areas of the site. It is believed that Earthco also utilized the water from the well at that time for these activities.

- From 1997 to 2003, Covol Technologies utilized the well water along with water from the Price River to fill the Clearwater Pond and North Slurry Pond. The water was necessary to transport and process the fines in the area as part of the operations at their onsite wash plant.
- More recently (2004-05), the well water has been used for a variety of activities including dust suppression and control.
- *Note:* When water was not being pumped from the pumphouse, well, or Price River, a small amount of water (estimated at approximately 1 gal/min) could usually be observed draining through the concrete ditch that was constructed to deliver water from the Price River to the pumphouse. Notably, this water drained toward the Price River instead of away from it as it did when water was delivered to the pumphouse for operational procedures. It was assumed that these flows were coming from either groundwater of the immediate area or from the pipeline coming from the aforementioned well in the area.

Furthermore, there is often a “wet area” near the pumphouse, a potential consequence of the groundwater or well water of the area.

- After the Covol Wash Plant was removed in 2004, the pumphouse located in the vicinity of the well was removed by a Covol subcontract without permission of the permittee (NEICO) or the operator (Covol).
- Absence of the pumphouse building structure created a potential public safety hazard due to below-grade support facilities. Covol then agreed to reclaim the remaining pumphouse structure to eliminate the safety problems. This work was accomplished in October 2004.
- During the winter of 2005, water was observed entering the Dryer Pond located on the west side of the Price River near the old facilities area of the Wellington Prep Plant.
- Water samples were taken and analyzed from the flows into the Dryer Pond by a NEICO representative. The water was found to be nontoxic or hazardous and met current water quality standards.
- A review of the as-built drawings of the Dryer Pond did not show the inlet where this water was entering the pond. Prior to the unexplained flow to the pond, the inlet was not visible.
- Consultation with the engineer that designed expansion of the Dryer Pond revealed that the inlet to the pond where water has been entering was unknown to him.

- In 2006, a Division inspector for the Wellington site reviewed archived early drawings and found that there was a water pipeline that historically conveyed water from the pumphouse area to the Dryer Pond area. It was postulated at that time that flows in the Dryer Pond could originate from the pumphouse area and be a consequence of changes made by reclamation activities of the pumphouse. Although the possibility does exist that this is the source of the water in the Dryer Pond, it is not a certainty.

MANAGEMENT

The water well and associated water rights to it are a valuable asset to NEICO for future operations by NEICO or potential future owners of the site. The well has been in use on the site since 1958. Recent meetings with potential buyers to the site have expressed a strong desire to retain the well and its water rights.

Suggestions have been made by the Division to permanently seal the water collection well described above as part of reclamation of the pumphouse. Because there is the strong likelihood that if the well was abandoned and sealed at this time that NEICO would lose the water rights associated with it, so NEICO has no plans to seal the well. NEICO therefore intends to manage the well "*in a manner approved by the Division*". The applicable state regulation for this well states the following:

R645.301.748 Casing and Sealing of Wells. Each water well will be cased, sealed, or otherwise managed, as approved by the Division, to prevent acid or other toxic drainage from entering ground or surface water, to minimize disturbance to the hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area. If a water well is **exposed** by coal mining and reclamation operations, it will be permanently closed unless otherwise managed in a manner approved by the Division. Use of a drilled hole or borehole or monitoring well as a water well must comply with the provision of R645-301-731.100 through R645-301-731.522 and R645-301-731.800.

Management procedures, comments, and advantages for retaining the well and its water rights are listed below.

- If, in fact, the water entering the Dryer Pond on the west side of the Price River originates from the pumphouse area, it is assumed that this discharge is the same as described in the "*Note*" in the HISTORY section above.
- The well is located in an area where there is no toxic or hazardous materials near it. The well is covered and generally unnoticeable to the public, so it should not be subject to unwanted material entering the ground or surface waters.
- With the pipeline system in place, water can be delivered from the well to either the east or west side of the river. This is a definite advantage to the operator(s) of the site. The water

can currently be used for dust control or other purposes.

- The well water could be used for reclamation or industrial activities in the future.
- The well water currently provides wildlife habitat with its discharge into the Dryer Pond.
- When evaporation exceeds discharge to the Dryer Pond, the water level decreases. When discharge exceeds evaporation, the water level rises to the level of the input culvert and seems to reach a point of equilibrium and does not discharge from the Dryer Pond. If, however, water should release from the Dryer Pond, this pond is an approved UPDES point.
- The water entering the Dryer Pond is of good quality.
- Retention of the well and its water rights increases the market value of the Wellington property.