



Wellington Preparation Plant
 Informal Conference Outline
 at
 State of Utah, Division of Oil, Gas & Mining
 Salt Lake City, UT

Incoming
 e/007/0012
 OK

October 30, 2006

I. INTRODUCTION

- A. Appreciate the opportunity of the informal conference before we take it to the next level.
- B. The NOV should not have been issued by the Division.
- C. NEICO has been open and proactive with the Division about the issue.
- D. NEICO has every right to have water transferred to the area via the Clearwater Pipeline.

II. PUMPHOUSE RECLAMATION

- A. Pumps and pumphouse removed without permission (October 2004)
- B. Reported to DOGM (October 2004)
- C. Remaining structures fenced and posted as a safety hazzard (October 2004)
- D. Interim reclamation of remaining structures (October 2004)

III. DRYER POND INFLOW DOCUMENTATION

- A. Inflow noticed in December 2004.
- B. Reported inflow to DOGM inspector (G. Galecki).
- C. Searched for water source.
- D. 4th Quarter (Annual) 2004 Pond Inspection Report - Reported pond depth in pond annual report by P.E. (see attachment).
- E. 1st Quarter 2005 Pond Inspection Report - Reported inflow of "unknown source" (see attachment).
- F. 2nd Quarter 2005 Pond Inspection Report - Reported inflow; checked as-built dwg; checked with design P.E. regarding as-built dwg (see attachment).
- G. 3rd Quarter 2005 Pond Report - reported P.E. comments; details on decreasing water level; took GPS coordinates; called railroad regarding culvert designs (see attachment).

- H. 4th Quarter (Annual) 2005 Pond Inspection Report - Provided pond depth in pond annual report by P.E. and continued "minor inflow" (see attachment).
- I. 1st Quarter 2006 Pond Inspection Report - Reported inflow; note to have hydrologist sample inflow (see attachment).
- J. 2nd Quarter 2006 Pond Inspection Report - Reported inflow and water level (see attachment).

IV. CHRONOLOGY OF EVENTS

- A. February 2006: Sampled inflow of Dryer Pond.
 - 1. Determined water to be non-toxic; compared sample to local GW.
- B. April 2006: Received from DOGM from March inspection report stating the Price River Water well must be sealed and it must be completed in this field season.
 - a. We did not see this comment in inspection report at that time.
- C. June 2, 2006: Meeting at PFO. Our inspector asked how the well sealing was progressing. I told her I had not seen this in her report. When I was informed about the "requirement" I said I would check in to this immediately. Priscilla Burton then informed me verbally that she was expecting us to seal the well "by the end of June" (not just before the end of "this field season").
- D. June 3-29, 2006:
 - 1. Research into the process of sealing the well began immediately. These findings suggested the well must be sealed by a certified subcontractor.
 - 2. Findings also revealed a strong likelihood that if the well was abandoned and sealed at this time that NEICO would loose the water rights associated with it.
 - 3. NEICO's legal department was presented with these findings.
- E. June 30, 2006:
 - 1. At the next on-site inspection I informed my inspector of our findings and because of them, NEICO has no plans to seal the well.
 - 2. Our inspector said we must then submit a **Well Management Plan** by the following week to manage the well "*in a manner approved by the Division*".
- F. July 5, 2006:
 - 1. The Well Management Plan was submitted (attached). The plan

included a **history** of the well from 1957 to-date. This history showed the nearly constant use of the well and its importance to the property.

- G. July 7, 2006:
 - 1. The Division issued NEICO an NOV for the following:
 - a. *Failure to operate Dryer pond in accordance with the plan.*
 - b. *Failure to adequately close or manage water well during the Price River Pumphouse reclamation which occurred during the fall of 2004.*
 - 2. Remedial actions were outlined by the Division to abate the NOV (see attached APPENDIX M).

- H. July 20, 2006:
 - 1. Our inspector added more requirements to the list of remedial actions (soil sampling and laboratory analyses).

- I. August 7, 2006:
 - 1. Remedial Actions 1-3 were submitted to the Division.

- J. August 29, 2006
 - 1. Onsite meeting with specialists from Div. of Oil, Gas & Mining, Div. of Water Rights, JBR and Mt. Nebo Scientific.

- K. October 2, 2006:
 - 1. Remedial Actions 4-8 were submitted to the Division.

- L. October 20, 2006
 - 1. As requested by the Division, all Remedial Actions (1-8) were made "insertable" to the MRP and submitted.

V. **SUMMARY TASKS ACCOMPLISHED**

- A. As a result of observations by NEICO representatives of the water entering the Dryer Pond (**prior to the NOV**).
 - 1. Documentation of water entering the Dryer Pond in pond inspection reports (see above for more information).
 - 2. Point out flows to Division inspectors.
 - 3. Several ground surveys by Mt. Nebo Scientific (with the Division JBR and Blackhawk Engineering) in an attempt to locate the source of the new water entering the Dryer Pond.
 - 4. Several phone calls and conversations with the environmental and engineering services of the railroad in an attempt to find as-built drawings or approved engineering plans for the culvert beneath the

- main line that enters the Dryer Pond.
5. Water sampling in February 2006 by JBR.
6. Consult the engineer that designed the pond regarding the culvert.
7. Review of MRP regarding Dryer Pond and pumphouse area.
8. Onsite meetings with railroad managers and workman related to the Dryer Pond site.
9. Prepare Management Plan for well and pond.

B. As a result of Division requests and the NOV, the following tasks were accomplished in order to complete the remedial actions:

1. Thorough review of Water Rights files at the State Engineers office by Mt. Nebo and JBR.
2. Phone conversations and meetings with Covol to review their operations with the well.
3. Surveys by Blackhawk Engineering (see Appendix M) that included:
 - a. Monitoring well GW-6 (ground, collar, and water level),
 - b. So-called "Bog" area,
 - c. River level,
 - d. Well water levels,
 - e. Clear Water Pond dam,
 - f. Dryer Pond (culvert flowline, pond water level, hydrant,
 - g. Conclusions based on surveys.
4. Hydrologic study by JBR (see Appendix M) that included:
 - a. Additional water sampling,
 - b. Additional water rights research,
 - c. Comparisons of water quality data,
 - d. Depth to water measurements in wells,
 - e. Groundwater depths,
 - f. Relationships between water in pumphouse area and Dryer Pond inflow,
 - g. Relationships to potentiometric gradient of groundwater of pumphouse and Dryer Pond areas,
 - h. Geology and hydro-geology of study areas,
 - i. Flow measurements at Dryer Pond,
 - j. Flow discussions of "bog" area.
 - k. Conclusions
5. Preparation of water rights, soils, and management information for MRP including:
 - a. Soil sampling by Mt. Nebo Scientific,
 - b. Laboratory analyses by BYU laboratory,
 - c. Soil protection plan,
 - d. Price River protection report,
 - e. Current operations of the Dryer Pond,
 - f. Future reclamation of the Dryer Pond Area,

- g. Updated Dwg. E9-3341 showing Clear Water Pipeline, boundary and reclaimed areas,
- h. Updated Dwg. 712E showing exposed culvert in Dryer Pond.

VI. **CONCLUSIONS - REASONS NOV SHOULD BE VACATED**

- A. The NOV should not have been issued.
- B. We considered the water entering the Dryer Pond a "positive" outcome. There has never been a negative consequence such as environmental or safety issue.
- C. The Dryer Pond has enough capacity to receive the design runoff plus the maximum level of water that could presently enter the pond via the Clearwater Pipeline.
- D. The current approved MRP provides information about water being transferred from the pumphouse area to the Dryer Pond (see attached Sec. 5.62, p. 8-12), 10/03/97; Sec. 5.30, p. 3, 9/1/91; Sec. 7.42, 1b, 4/30/98).
- E. The Nature of the Violation is without merit:
 - 1. The demand by the Division in the inspection report was for NEICO for final sealing of the water well (not about Dryer Pond management) .
 - 2. The NOV was "**failure to operate Dryer pond in accordance to approved plan**".
 - a. Water in this pond was reported as soon as it was observed (see II above), *prior to the NOV*.
 - b. A History & Management Plan was submitted to the Division prior to issuance of the NOV. This plan included the management of the Dryer Pond.
 - 3. The NOV also states "**Failure to adequately close or manage water well during the Price River Pumphouse reclamation which occurred during the fall of 2004**".
 - a. As documented prior to the NOV, closing the water well would negatively impact current value of the property future operations.
 - b. A management plan was submitted to the Division *prior to issuance of the NOV*.
- F. The provisions of the act regulations, or permit violated (R645-300-142, R645-301-755) are not applicable.
 - 1. R645-300-
 - a. 142. The permittee will conduct all coal mining and reclamation operations only as described in the approved application, except to the extent that the Division otherwise directs in the permit.
 - (1) This use was well documented (see II and V-D)

above).

2. R645-301-

- a. 755. Casing and Sealing of Wells. All wells will be managed to comply with R645-301-748 and R645-301-765. Water monitoring wells will be managed on a temporary basis according to R645-301-738.

(1) See regs cited here below.

3. R645-301-

- a. 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.

(1) The well was not "exposed" or discovered by reclamation activities. It was a known well with a documented history. It continues to be a viable asset to NEICO.

2. R645-301-

765. Permanent Casing and Sealing of Wells. When no longer needed for monitoring or other use approved by the Division upon a finding of no adverse environmental or health and safety effects, or unless approved for transfer as a water well under R645-301-731.100 through R645-301-731.522 and R645-301-731.800, each well will be capped, sealed, backfilled, or otherwise properly managed, as required by the Division in accordance with R645-301-529.400, R645-301-631.100, and R645-301-748. Permanent closure measures will be designed to prevent access to the mine workings by people, livestock, fish and wildlife, machinery and to keep acid or other toxic drainage from entering ground or surface waters.

(2) This well is *not* a monitoring well.

G. Driven by the regulations and time-frames associated with the NOV actions, it was necessary for NEICO to abate the inappropriate NOV.

1. Many of these abatements were unnecessary
2. The abatement actions were quite costly to NEICO
3. NEICO has always been very responsive to the past Division requests.
4. Not only has this process been inappropriate and costly, if the NOV is allowed to stand, it further punishes NEICO by remaining on its permanent business record.