0018

Internal
C0070012

OK

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: NEICO/Wellington Prep Plant
Permit #: C/007/012

NOV # N06-37-1-1
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation**. Mark and explain each event.

- ☐ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety).
- ☐ c. Damage to property.
- ☒ d. Conducting activities without appropriate approvals.
- ☐ e. Environmental harm.
- ☐ f. Water pollution.
- ☐ g. Loss of reclamation/revegetation potential.
- ☐ h. Reduced establishment, diverse and effective vegetative cover.
- ☐ i. No event occurred as a result of the violation.
- ☐ j. Other.

Explanation: The past use of the Price River Water Collection Well is described in MRP Sec. 5.26, Item GG. Closure of the pumphouse River Water collection well is described in the MRP Sec. 5.42.2 item 2, page 5.40. Protection of water wells is described in the MRP Sec. 7.38. Closure of the Price River water well did not occur during reclamation of the Price River Pumphouse as described.

MRP Sec 5.30 describes the operation and function and capacities of the Auxiliary (pg. 2). and Dryer ponds (pg. 7).

MRP Sec 5.26 , Item H. describes the Price River pumphouse sump, fed by the Price River. MRP Sec. 5.26 Item AA describes the buried clearwater pipeline that used to carry water from the Price River Pumphouse to the Auxilliary pond.

MRP Sec. 5.26 Items P. and JJ. describe the past and current uses of the Auxiliary and Dryer ponds. The Dryer Pond was enlarged in 1994 and a spillway was constructed in 1997 (App. L). Maps 1 & 2 in App. L illustrate the Dryer Sediment Pond; however, the culvert carrying inflows at approximately 1 - 2 gpm is not shown on these Maps or on Map 712 e (which shows the configuration of the pond before the spillway was constructed) or discussed in the MRP Sec. 5.26 or Sec. 5.30.

The water flowing into the Dryer pond from this new source is not described in the MRP and is the subject of the Notice of Violation.

Identifying the source of the flow into the Dryer pond was of keen interest to the Division inspector during many inspections in 2005 and 2006. The culvert end was not noticed until water began flowing into the Dryer pond (first noticed in 2005). The source was not readily identified, because the inlet to the culvert could not be found and because the source of the water inflow to the Dryer pond is not described or documented in the plan. After searching for a water source in the adjacent farm fields and discussing the culvert (which goes beneath the railroad tracks) with the Union Pacific Railroad employees (see Insp. Rpt #828, Dec. 20, 2005), the Division theorized that the source of the water was the buried clear water pipeline which may have been severed beneath the surface during the Price River Pumphouse reclamation. The buried pipeline is shown on the 1981 Plate E9-3341, although it was removed from the existing MRP Plate E9-3341.

The Division requested closure of the Price River Water Well to stop the flow to the broken pipe. Rather than close the well, the Permittee provided a management plan on July 5. The information provided did not define the source of the water or quantity of flow. The water may be flowing into the pipeline end directly from the Price River, or it may be coming from the adjacent Price River Water Well fed by the Price River. Both possibilities are supported by the Map E9-3430 which provides a schematic of the Pumphouse and which shows a buried pipe from the Price River Water Well entering the Pumphouse and the Buried Clearwater pipeline exiting the Pumphouse, running under the sluiceway to the opposite river bank.

The reclamation plan calls for removal of the Dryer pond, but this will not be possible with constant water flow into the pond.

2. Has the even occurred? Yes

   If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: Pipes leading from the Price River Pumphouse to the Price River water well and to the Dryer pond were left beneath the reclaimed surface.

A bog has been created in the vicinity of the former pumphouse. Reclamation was completed at the pumphouse in late fall 2004. Water was first noticed flowing into the Dryer pond in January 2005. There is a possibility that the source of both flows to the bog and to the Dryer pond is the adjacent Price River Water Well. There is also a possibility that the pipeline beneath the Price River has rusted through or was broken and is now bringing river water into the vinicity of the reclaimed pumphouse and Dryer pond.

3. Did any damage occur as a result of the violation? No

   If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not bee discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: Water in the Dryer pond has accumulated to a three-foot depth. There has been no discharge. A small wetland has developed along the water's edge. In May 2006, the water appeared to have reached equilibrium with the source, but in June, evaporation of water into the pond allowed more inflows to be seen. Water is still flowing into the pond.

There is standing water in the Price River Water Well housing that is upgradient from the boggy ground, suggesting a raised water table. A photograph of this water well (and adjacent pipe and cistern) is attached to the Partial Insp. Rpt. #881 (Feb. 28, 2006). The Price Water well has not been used since reclamation of the Covol Plant.

Soils in the pumphouse vicinity were sampled by U.S. SteelCorp in 1983 (Sample #4A, Table 2-4, Sec. 2.22 of the MRP). This 0 - 12 inch sample indicates that the soils were sandy in texture, had a pH of 8.9, with an Electrical Conductivity of 0.5 mmhos/cm. The major cation was magnesium. Since the reclamation work, there is a likely increase in soil salinity from evaporation of the boggy soils at the location of the Price River Pumphouse reclamation site (see photograph of salt accumulation in the pocks that accompanies the Insp. Rpt. #881 Feb. 28, 2006). A naturally occurring band of alkaline soils along the Price River Banks supports native plant species. And since, there is currently vegetation growing in the bog (reeds and saltgrass), it is likely that native species will tolerate the increased salinity. However, the NOV has been modified to request soil sampling of the boggy soils to determine the salinity of the affected soils.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: This chain of events occurred when the Permittee allowed a contractor to remove scrap metal from the site in 2002 (as described in Sec. 5.40, pg. 6). The contractor also removed the Price River Pumphouse (without authorization) and precipitated the reclamation of the pumphouse site. The Permittee broadened the reclamation work to include removal of a bridge and sluiceway from the pumphouse area. The Permittee removed a cement ditch that frequently carried clear water from the pumphouse site to the Price River (Insp. Rpt. #857 Jan. 31, 2006). Grading was completed in fall 2004. The Permittee conducted reclamation without understanding the network of subsurface pipes and the connection of the Price River Well and sump to the pumphouse. The violation occurred as a result of lack of familiarity with the operations of the Price River Pumphouse facility as described in the MRP and shown on Map E9-3430 and formerly shown on Map E9-3341.

The Permittee did not take corrective action to identify the source of the water over the course of a year, although it was of keen interest to the Division Inspector [See Insp. Rpt. #686 (July 29, 2005), #762 (Oct. 19, 2005), #798 (Nov. 30, 2005), #857 (Jan. 31, 2006), #881 (Feb. 28, 2006)]. The Division requested an update to the MRP providing the source of the water inflow to the Dryer pond and water quality information (see Complete Inspection Report #828 (December 20, 2005), Complete Inspection Report #911 (March 2006). The Division requested closure of the Price River Water well in March, (Insp. Rpt. #911), and again in May (Insp. Rpt #962). The complete inspection of June 2006 was held open until July 6 when a "management plan" was received from the Permittee. The Division determined that the management plan did not define the source of the water or provide enough detail for operation or reclamation. After working with the Permittee for one year on the issue, without making much progress, the Division wrote the violation.

☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

☐ Was the operator in violation of a specific permit condition?

Explanation: _____

☐ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: Abatement dates have not arrived. Good faith points could be given if Permittee meets abatement deadlines.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: The MRP summarizes the reclamation of the Price River Pumphouse in Sec. 5.40. The Permittee was asked in December 2005 (Insp. Rpt #828) to update the information on Plate E9-3341 to show the retained plant pumphouse and buried clear water pipeline. The Permittee could have looked through the Division's archives for this information or looked through their

own archived information. The NOV requests that if water continues to flow into the Dryer Pond, the Permittee provide a management plan for operations and reclamation of the Dryer Pond, including an assessment of the flow in ac/ft/yr.

The Permittee was asked in December 2005 to take a water sample from the flow into the Dryer Pond. This sample was taken Feb. 22, 2006 and the results of the sample were viewed during the March 28, 2006 inspection (Insp. Rpt #911).

To abate the NOV, the Permittee has been asked to either close the Price River water collection well or develop a management plan, including a determination of the operational status of the Price River Well and which answers the question of whether well is contributing to flows in the Dryer pond. The Permittee's Resident Agent would need to hire a contractor to dig out the pipes and observe water flows. Two months abatement time after issuing the NOV allows for plenty of time to get a contractor.

3. Was the submission of plans prior to physical activity required by this NOV / CO? No If yes, explain.

Explanation: _____

Priscilla W. Burton — Authorized Representative

Priscilla W. Burton — Signature

July 21, 2006 — Date

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