

**State of Utah****Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

August 9, 2006

CERTIFIED MAIL
No. 7004 2510 0004 1824 3458

Patrick Collins, Resident Agent
Nevada Electric Investment Company
P.O. Box 337
Springville, Utah 84663

Subject: Proposed Assessment for State Violation No. N06-37-1-1, Task No. 2571, Nevada Electric Investment Company, Wellington Prep Plant, C0070012

Dear Mr. Collins:

The undersigned has been appointed by the Division of Oil, Gas & 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, Priscilla Burton on July 7, 2006. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information that was submitted by you or your agent within fifteen (15) days of receipt of this 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 thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. 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 thirty (30) days of

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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.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty will become final, and the penalty will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock
Assessment Officer

sd
Enclosure
cc: OSM Compliance Report
Vickie Southwick, DOGM
O:\007012.WEL\Compliance\2006\N06-37-1-1 assessltr.doc

<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:

*****The permittee is allowing water to flow into the dryer pond from a source not described in the MRP. The inspector indicates that this activity is not approved. The event (conducting activities without appropriate approvals) has actually occurred.**

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 0

PROVIDE AN EXPLANATION OF POINTS:

*****The Inspector indicated that no damage occurred as a result of the violation. Water is flowing into the dryer pond, but there is only potential for damage at this point.**

- B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? 0
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*****NA.**

TOTAL SERIOUSNESS POINTS (A or B) 20

III. NEGLIGENCE (Max 30 pts.)

- 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 Ordinary Negligence

ASSIGN NEGLIGENCE POINTS 2

PROVIDE AN EXPLANATION OF POINTS:

******At this point it is still unclear as to the source of the water entering the dryer pond. While it appears that the water may be a result of unauthorized removal of a pumphouse, this activity was not directed by the Operator, but by a subcontractor (The Permittee is still responsible). It is clear from the Inspector's statement and from information provided by the Operator that the water entering the dryer pond was not planned or expected. The Operator provided a management plan dated July 5, 2006 which provided a history and plan for retaining the well at this site. Unfortunately, the plan did not adequately address management of the water entering the pond. The Operator should have been more proactive in dealing with the water situation and trying to identify the source of the water in the pond, especially after being prompted a number of times by the inspector. For this reason I am assigning 2 points under the negligence category because of the lack of reasonable care.***

IV. GOOD FAITH (Max 20 pts.)

(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 condition 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?

IF 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? Difficult

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

****The abatement has not yet been completed, so good faith points cannot be awarded at this time. This category will be looked at again after the abatement has been completed. Points will be awarded depending on how quickly the abatement is met.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N06-37-1-1</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>20</u>
III. TOTAL NEGLIGENCE POINTS	<u>2</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>22</u>
TOTAL ASSESSED FINE	<u>\$484.00</u>