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State of Utah

DEPARTMENT OF NATURAL RESOURCES

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Outgoing
C0070012
#4043
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July 20, 2012

Patrick Collins, Resident Agent
Mt. Nebo Scientific
P.O. Box 337
Springville, Utah 84663

Subject: Extension of time for Midterm Permit Review Response, Task ID #4043, NEICO, Wellington Prep Plant, C/007/0012

Dear Mr. Collins:

The Division received your request for additional time to respond to the midterm review of the above-mentioned site on July 18, 2012.

Your request is hereby granted. Please submit the required amendment with the accompanying C1 and C2 forms by no later than November 20, 2012. Your response to the deficiencies will need to be submitted as an amendment to your MRP and will be processed as a separate task. A copy of the deficiencies has been attached for your convenience in responding.

If you have any questions, please call me at (801)538-5325 or April Abate at (801)538-5214.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/sqs
Attachment
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Deficiency List

Task No. 4043

Task Name: 2012 Midterm Permit Review

The members of the review team include the following individuals:

April Abate (AA)
Priscilla Burton (PB)
Ingrid Campbell (IC)
Angela Nance (AN)
James Owen (JO)

[R645-301-113.300]: Violation Notices The MRP lists the most recent update of the violations database in 2004. This information should be updated. (AA)

[R645-301-114.100]: Right of Entry The ROE information provided in the section deals solely with the COVOL lease and their ROE agreement with NEICO. The remainder of the section includes the lease agreement between NEICO and COVOL. There was no information in this section discussing the legal right of entry for the Permittee themselves. This section should reference a deed and/or any other lease agreements that are in place for the Permittee to demonstrate legal ROE in order to comply with this regulation. (AA & PB)

[R645-301-116.100]: Permit Term Information The information regarding the permit term was last updated in 1994. If any information about the long-term operational plan for the site has changed, than that information should be updated in this section also. (AA)

[R645-301-722.100]: Location and Extent of Ground Water This section discusses the nature and extent of groundwater within the permit area. The section references Table 722.1 with water level readings collected in 1990. This table however, provides data current up through 1998. The table should be updated to include more recent groundwater gauging levels while preserving the historic data for comparison. The reference in the narrative text should also then be updated. (AA)

[R645-301-722.400]: Location and Depth of Water Wells This regulation is missing from the plan. Please add a reference to the map showing the locations of all groundwater monitoring wells and any other water wells within and adjacent to the permit area. A reference to the well location map and Table 7.22-1 should be referenced here. (AA)

[R645-301-723]: Sampling and Analysis This section describes the water sampling plan for the site. This will likely be updated when the Probable Hydrologic Consequences (PHC) section of the plan gets updated. In addition, there is language in this section discussing COVOL's water monitoring responsibilities. This information should be updated. Furthermore, this section discusses the need to monitor groundwater for the presence of BTEXN and propylene glycol compounds. This action was based on the operational activities at the COVOL wash plant when additives were used in the coal washing process. Since these compounds were not detected in significant concentrations, continued monitoring no longer appears necessary. The language in this section should be updated to reflect the historic operations at the COVOL wash plan. (AA)

[R645-301-724]: Water Quality This section references water quality data up through May 1997. This section summarizes the tabulated data found in Table 7.24.3. This information should all be updated based

on the outcome of the PHC evaluation. The Permittee may want to consider consolidating some of these data tables or removing them altogether from the plan since this data is all available electronically through the Division's electronic water quality database. (AA)

[R645-301-724.400]: Climatological Information This section requires climatological information of the permit area. Seasonal temperature ranges were provided; however, seasonal precipitation ranges and prevailing wind direction and velocity information were not. The information provided in the MRP lists only the average annual precipitation total. Please provide *seasonal precipitation averages, prevailing wind direction* and *velocity information*. (AA)

[R645-301-724.600]: Survey of Renewable Resource Lands This section discusses COVOL operations in the present tense and should be updated. (AA)

[R645-301-727]: Alternative Water Resource Information This section discusses a water right held by the Permittee for water from the Price River. The section also discusses a lease agreement with COVOL. This section should now be updated to reflect historic water usage when COVOL operated their facility. Paragraph 3 also lists the State Department of Health as the regulatory authority over the Price River. This should be changed to the Utah Department of Environmental Quality. (AA)

[R645-301-728]: Probable Hydrologic Consequences (PHC) Based on ongoing discussions with the Permittee and their hydrologic consultant, it was agreed that a revised PHC should be prepared for the site as part of the 2012 midterm permit review. (AA)

[R645-301-731.122 and -.222]: Water Monitoring These sections should be updated based on the outcome of the revised PHC. (AA)

[R645-301-731.800]: Water Rights and Water Replacement Information on the operational status of COVOL and its use of 5 cfs of water requires updating. (AA)

[R645-301-733.220]: Permanent and Temporary Impoundments
The MRP currently states that no permanent impoundments are proposed. Based on the midterm field visit, a discussion initiated with regard to the Dryer Pond indicating that it could be a candidate for a permanent impoundment given the continuous source of water being fed to it via a culvert. Alluvial water is contained in the impoundment creating a wetland feature of high esthetic value. The Division feels that the quality of the water in the impoundment meets the criteria set forth in 733.220 thru 733.226. The permanent wetland impoundment would have to be added to the reclamation plan and an application for a land-use change, should it be transferred to industrial use. (AA)

[R645-301-121.100 & -521.165]: Label the topsoil stockpiles and include them in the legend on Facilities Map E9-3341. (PB)

[R645-301-121.100 & -112.600]: Update Surface ownership map Plate E9-3341A and Section 112.600 of the MRP. (PB)

[R645-301-820.113]: Currently the Reclamation Agreement (dated 2000) references MRP Chap 1 Ex. A for the bonded area, which is the map included with the COVOL lease, is this reference still accurate? If not, please update the reference to the map illustrating the 392 bonded acres in the 2000 Reclamation Agreement. (Previous reclamation agreements have referred to Dwg. E9-3341 for the bonded/disturbed area. However Map E9-3341 shows a permit boundary that is significantly larger than 392 acres, but does not have a bonded/disturbed area boundary on the map or in the legend. (PB)

[R645-301-233.100]: The 2008 bond describes soil salvage from Areas E, D, H, & I. This will not result in the best available soil in the permit area being utilized. Rather Areas B & C are the most preferable, followed by shallow soils in Area D and G. Compare borrow areas shown on Plates E9-3341 and E9-3511 and make adjustments to Plate E9-3341 to show Borrow Area B and reinstate Borrow Area B on p 4, Sec. 2.41 and make adjustments to the reclamation plan and bond, accordingly. (Area I is not designated or discussed as a borrow area in the MRP.) **(PB)**

[R645-301-541.400]: Site operations have changed since 1998, when Section 2.41 (reclamation plan) was written. Please re-evaluate whether the best-case scenario described in Section 2.41 (removal of coarse refuse by re-mining) is still feasible and whether the potential for using Borrow Area B soils (Dwg E9-3511) is now possible, and make adjustments accordingly to the Reclamation plan described in Chapters 2 and 5 of the MRP. **(PB)**

[R645-301-121.200 & -121.300]: The Table of Contents lists Tables 2-1 through 2-8, please provide page numbers for these tables in the Table of Contents. **(PB)**

[R645-301-121.200 & -243]: In addition to straw or hay mulch, the application of another form of organic matter was a variable in the 1991 test plot (Appendix A and Sec. 2.33, p. 2). The results of the 1994 test plot evaluation are reported in Section 3.41, but it is not clear what organic amendment was included as a variable. Please clarify. **(PB)**

[R645-301-121.200 & -244.200]: Section 3.41 p. 4a varies from the remainder of Section 3.41 and Section 2.41 with regard to the approach to seeding, surface roughening and mulch incorporation. Is ripping followed by green hay incorporation with drill seeding specific to a location within the permit area? If so, please specify on page 4a the area to receive the treatments described on page 4a. **(PB)**

No deficiencies were issued by Ingrid Campbell; however, the Division would like to remind the Permittee that they have committed to remove Class C noxious weed, tamarisk, in riparian areas and replanting with willow and cottonwood cuttings to enhance wildlife habitat (Mining and Reclamation Plan Volume I-A, Section 3.42).

[R645-301-112.330]: The information in the current MRP presented below does not match the information found in the OSM/AVS database. The Operator should submit either updated pages for the MRP to reflect the correct information, or the Operator should provide a Secretary's Certificate or End Dates so that the AVS can update its records. **(AN)**

NEICO

1. The following individuals have a different Begin Date in the MRP as compared to the date listed in the AVS database.
 - a. **Michael W. Yackira, President & Treasurer**
(AVS 6/01/04 vs. MRP Aug 2004)
 - b. **Paul J. Kaleta, Secretary**
(AVS 2/01/06 vs. MRP Apr 2006)
 - c. **Walter M. Higgins, Director**
(AVS 6/01/04 vs. MRP Aug 2004)

This discrepancy should be addressed by either correcting the MRP or providing a

Secretary's Certificate to correct the AVS.

Nevada Power Company

1. The AVS shows **Walter M. Higgins, Chairman and CEO, with a Begin Date of 10/01/04**. The MRP shows a Begin Date of Aug 2000. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
2. The AVS shows **Krestine M. Corbin, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of July 1999. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
3. The AVS shows **T.J. Day, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of July 1999. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
4. The AVS shows **James R. Donnelley, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of July 1999. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
5. The AVS shows **Walter M. Higgins, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of August 2000. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
6. The AVS shows **Philip G. Satre, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of January 2005. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
7. The following individuals are in the AVS database as an Officer or Director, but they are not listed in the MRP:
 - a. **David Barney, Vice President, 10/01/93**
 - b. **Charles Lenzie, COB and CEO, 10/01/93**
 - c. **Richard Hinkley, Director, 5/01/91**
 - d. **Richard Hinkley, Vice President, 10/01/93**
 - e. **Cynthia Gilliam, Vice President, 10/01/93**
 - f. **Steven Rigazio, Vice President, 10/01/93**
 - g. **Gloria Weddle, Vice President, 10/01/93**
 - h. **Fred Gibson, Jr., Director, 2/01/78**
 - i. **John Goolsby, Director, 1/01/91**
 - j. **C. Ryan, Director, 9/01/78**
 - k. **Frank Scott, Director, 5/1/72**
 - l. **Arthur Smith, Director, 1/01/59**
 - m. **J. Tiberti, Director, 11/01/63**
 - n. **Walter Higgins, President, 10/01/04**
 - o. **Earnest East, General Counselor/Secretary/SVP, 10/01/04***These discrepancies should be addressed by either correcting the MRP or submitting End Dates or a Secretary's Certificate to update the AVS database.*

Sierra Pacific Resources

1. The AVS shows **Walter M. Higgins, President, with a Begin Date of 10/01/04**. The MRP shows a Begin Date of Aug 2000. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
2. The AVS shows **Walter M. Higgins, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of August 2000. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
3. The AVS shows **Philip G. Satre, Director, with a Begin Date of 2/20/05**. The MRP shows a Begin Date of January 2005. *This discrepancy should be addressed by either correcting the MRP or providing a Secretary's Certificate to correct this information in the AVS.*
4. The following individuals are in the AVS database as an Officer or Director, but they are not listed in the MRP:
 - a. **David Barneby, Vice President, 7/29/99**
 - b. **William Peterson, Sr. Vice President, 7/29/99**
 - c. **Steven Rigazio, President, 5/31/00**
 - d. **Gloria Weddle, Vice President, 7/29/99**
 - e. **Fred Gibson, Jr., Member, 7/29/99**
 - f. **Mark Ruelle, CFO/SVP/Treasure, 7/29/99**
 - g. **Matt Davis, Vice President, 7/29/99**
 - h. **Steven Oldham, Vice President, 6/20/00**
 - i. **Douglas Ponn, Vice President, 7/29/99**
 - j. **Mary Jane Reed, Vice President, 7/29/99**
 - k. **Mary Simmons, Controller, 7/29/99**
 - l. **Edward Bliss, Member, 7/29/99**
 - m. **James Murphy, Member, 7/29/99**
 - n. **Earnest East, General Counselor/Secretary/SVP, 10/01/04**

These discrepancies should be addressed by either correcting the MRP or submitting End Dates or a Secretary's Certificate to update the AVS database.

[R645-301-830.140]: The reclamation cost estimate which is approved and incorporated into the current Wellington Prep Plant mining and reclamation plan has not been updated to current unit costs. Current unit costs are used to calculate the direct costs of reclamation including demolition, backfilling and grading, and revegetation. Also, there has been on-site demolition that is not reflected in the MRP. Updates should be provided using the 2012 data from R.S. Means *Heavy Construction Cost* data manual and the Caterpillar Handbook or other appropriate resources. Also, bond summary sheets are not updated to current escalation factor estimates. The Permittee must provide updated information in terms of detailed estimated cost, with supporting calculations for the estimates, submitted by the permit applicant. This includes updated unit costs (to be used to update bond calculation spreadsheets) and updated escalation factors (used the Division's approved 1.2% and 5 year escalation). **(JO)**