



m 12-2-88  
**Reynolds Electrical & Engineering Co., Inc.**

Post Office Box 98521 • Las Vegas, NV 89193-8521

IN REPLY REFER TO:

500-02-112

L. H. Dodgion, Administrator  
Division of Environmental Protection  
Nevada Department of Conservation  
and Natural Resources  
201 South Fall Street, Room 221  
Carson City, Nevada 89710

Re: Urea Incident/Settlement Proposal

Dear Mr. Dodgion:

Set forth below is REECO's Settlement Proposal.

SETTLEMENT PROPOSAL

On December 2, 1988, a Finding of Alleged Violation and Order was issued by the Administrator of the Division of Environmental Protection, pursuant to Nevada Revised Statutes (NRS) 445.317 and 445.324, requiring compliance by Reynolds Electrical & Engineering Co., Inc. (REECo), with the terms and conditions of the Order by the dates specified.

The Finding of Alleged Violation and Order alleged that REECO had violated NRS 445.221 which states:

"Except as authorized by a permit issued by the Department under the provisions of NRS 445.131 to 445.354 inclusive and regulations promulgated under such sections by the Commission, it is unlawful for any person to

**REECO**

AN  **EG&G** COMPANY



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discharge from any point source any  
pollutant into any waters of the State."

On November 2, 1988, REECO decided to clean out a truck-mounted spreader box containing an estimated 4,000 pounds of urea. REECO uses chemical urea as a runway deicer. Urea is also used on farmlands as a fertilizer and food supplement for cattle. The urea used by REECO is supplied in a granular prill form and is applied to the runway by means of a spreader box mounted on a truck. Urea is a compound synthesized from ammonia and carbon dioxide. Due to its hygroscopic nature, the prill tends to consolidate into a crusted mass if left exposed for an extended period of time. In deciding how to dispose of the material, REECO personnel discussed several methods such as burying it in a land fill or flushing it out with water. REECO supervisory personnel, with the approval of the REECO sanitarian whose primary responsibility is waste management, approved disposing of the urea by flushing the spreader truck with water thereby causing it to dissolve and be dispersed on the desert soil. REECO personnel proceeded to dilute the material with large quantities of water. However, unknown to the sanitarian, a sump covered by brush had been created by a REECO



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subcontractor, causing the water to accumulate rather than disperse over the desert floor.

On the morning of November 3, 1988, a Nye County Sheriff's Deputy discovered a dead horse in the vicinity of the sump, and several more were observed drinking from it. By November 5, 1988, a total of sixty-one wild horses had been found in an area radiating from the ponded water. On November 3, REECO personnel immediately took action to create a fresh pond of water to lure the horses away from the suspected contaminated water.

During the morning of November 3, 1988, water samples were collected by REECO's Environmental Department from the sump and standing pools of water. A portion of these samples were given to the BLM to be sent to a laboratory for analysis. Autopsies were performed on some of the dead horses and fixed the cause of death as ammonia toxicity.

All of the foregoing facts are set forth more fully in a report submitted to the State in response to an Order by the State issued December 2, 1988.

In the spirit of cooperation with the State, REECO desires amicably to settle this matter without the expense and complexities of protracted litigation. In attempting to reach a



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reasonable settlement on this matter, we would suggest taking into account factors used by the Federal Government in assessing payments for alleged environmental violations.

The Federal EPA Administrator has discretion in the assessment of the penalty. Federal Water Pollution Control Act Amendments of 1972, Sections 101(a), 311(b)(5,6), (f,k,l), 33 U.S.C.A. Sections 1251(a), 1321(b)(5,6)(f,k,l); note to 40 C.F.R. Section 117.22 (penalties).

"Note: The Administrator will take into account the gravity of the offense and the standard of care manifest by the owner, operator, or person in charge in determining whether a civil action will be commenced under section 311(b)(6)(B). The gravity of the offense will be interpreted to include the size of the discharge, the degree of danger or harm to the public health, safety, or the environment, including consideration of toxicity, degradability, and dispersal characteristics of the substance, previous spill history, and previous violation of any spill prevention regulations. Particular



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emphasis will be placed on the standard of care and the extent of mitigation efforts manifest by the owner, operator, or person in charge."

In this instant case, in determining whether to assess REECo for compensatory damages, fines or penalties, we also ask that the State consider that this was an unfortunate accident due to human error in trying to cope with an extremely complex multiple statutory scheme involving both State and Federal statutes. In addition to the statutes, there are thousands of pages of regulations and judicial interpretations. Further, there are hundreds of pages of lists of chemicals that require specific disposal techniques. Given this setting, it is virtually impossible for any entity, State, Federal or private, to not at some point in time, run afoul of environmental statutes and regulations.

Moreover, REECo considered this a maintenance task rather than a disposal task. None of the REECo personnel involved had the slightest notion that the urea would pose a danger to any type of species. As a matter of fact, many of the personnel were familiar with urea since it had been used as a deicer for runways, sidewalks, driveways, and on their own farms



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as a fertilizer and food supplement to cattle. Hence, little consideration was given to special disposal techniques because none were thought to be required.

But, as fate would have it, several unexpected forces came together at an inopportune moment, that is, a large amount of crusted urea in a truck, an unknown sump covered by brush dug by a subcontractor, washing the large amount of crusted urea out of the truck and wild horses searching for water in that area at that time. And further, even though a large quantity of water had been used to dilute the urea, the level of toxicity was still enough to cause the death of the wild horses how unbeknownst to REECo personnel, have some peculiar sensitivity to urea. Upon identifying the probable problem, REECo personnel moved quickly to immediately confine and eradicate the contaminated water to a small area.

Moreover, the discharge never posed a threat or any danger to the public health or safety of any human population or hardly any other animal or plant species. As the report by Dr. Eberling states, the travel time of urea in this situation would be such that there was not then or now a danger of any ground water or wells being contaminated. As Dr. Eberling's report



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further notes, urea is easily and quickly degradable in the soil or atmosphere to relieve it of any harmful characteristics.

In all previous occasions where there have been a few other environmental violations by REECo at the NTS, REECo has always cooperated fully with the State in any type of cleanup or remedial action. REECo always tries to maintain the highest standards of care and professionalism within its organization regarding environmental concerns. REECo has recently created a new division to deal exclusively with environmental and health matters. This division is already staffed with many highly educated, well trained environmental professionals and others are steadily being hired. We have also instituted a position of an Environmental Compliance Officer. The General Manager of REECo has dedicated a great deal of money, manpower and equipment to this area of concern. Dozens of environmental compliance procedures have already been written. In-house and outside training is constantly taking place.

In view of the foregoing actions by REECo in managing environmental compliance and the quick action taken to ameliorate this unfortunate accident, damages assessed against REECo should be minimal. It is suggested that REECo pay compensatory damages to the State of \$100.00 per horse which

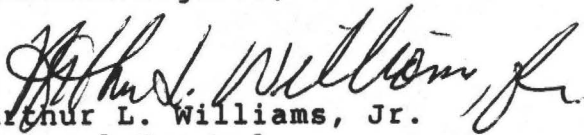


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would total \$6,100.00. This value is based on the State's auction price of \$125.00 per horse which find few buyers. Because of the nature and all the surrounding circumstances of this unfortunate accident, REECO should not be assessed any fine or penalty.

REECO, as in the past, will continue to cooperate fully with the State in environmental compliance matters.

Kindest regards,

  
Arthur L. Williams, Jr.  
General Counsel

ALW:mh