



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1315 W. 4th Avenue • Kennewick, Washington 99336-6018 • (509) 735-7581

July 26, 2001

Mr. Keith Klein
United States Department of Energy
P.O. Box 550, MSIN: A7-50
Richland, Washington 99352

Mr. Keith Thomson
Fluor Hanford Incorporated
P.O. Box 1000, MSIN: H5-50
Richland, Washington 99352

RECEIVED
AUG 01 2001
EDMC

Dear Messrs. Klein and Thomson:

Enclosed is a Notice of Disposition upon Application for Relief from Penalty number 01NWPKW-2467. The decision contained in the Notice of Disposition was made after careful consideration of the information provided in your Application for Relief from Penalty dated April 9, 2001. Appeal procedures are described in the Notice of Disposition.

The Application for Relief from Penalty argues that pursuant to RCW 43.05.060(3), Washington State Department of Ecology (Ecology) is barred from issuing a notice of penalty if it has concurrently issued a notice of correction. RCW 43.05.060(3) is inoperative, however, with respect to penalties issued for violation of the federally authorized portions of Ecology's dangerous waste program.

RCW 43.05.901 provides that if a state regulatory agency determines that any part of chapter 43.05 RCW is in conflict with federal law or program requirements, "the conflicting part of the chapter shall be inoperative solely to the extent of that conflict." Under RCW 43.05.0902, this determination process must begin with a notice of the alleged conflict from "responsible federal officials." Upon receiving this notice, the responsible state agency is directed to actively seek resolution of the conflict and to determine whether the conflict can be resolved without a loss of benefits or authority to the state. If the agency determines that resolution of the conflict cannot be achieved, the agency is directed to notify the governor, the president of the senate, and the speaker of the house of representatives of its determination.

Messrs. Klein and Thomson
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Ecology issued a notice of correction should not serve to bar Ecology from issuing a notice of penalty under RCW 43.05.060(3).

The remainder of the Application for Relief from Penalty fails to present information or factors that were not considered in setting the original penalty. As a result, pursuant to RCW 43.21B.300(1) the Application for Relief from Penalty is hereby denied.

The penalty described in Notice of Penalty No. 01NWPKW-2467 is due and payable by USDOE and Fluor Hanford (FH) within thirty (30) days of receipt of this Notice of Disposition. Please remit the penalty, payable to Fiscal Cashier, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

If either USDOE or FH wishes to contest the penalty you may file an appeal with the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. At the same time, a copy of your appeal must be sent to the Washington State Department of Ecology, Fiscal Office, P.O. Box 47615, Olympia, WA 98504-7615, to Bob Wilson, Compliance Inspector, Washington State Department of Ecology, 1315 W. 4th Avenue, Kennewick, WA 99336-6018 and to Andrew Fitz, Assistant Attorney General, P.O. Box 40117, Olympia, WA 98504-0117. These procedures are consistent with Chapter 43.21B RCW.

Sincerely,



Bob Wilson, Compliance Specialist
Nuclear Waste Program

BW:nc
Enclosure

cc: Doug Sherwood, USEPA
Fred Ruck, FH
Gloria Williams, USDOE
Jamie Zeisloft, USDOE
Mary Lou Blazek, OOE
Administrative Record: 222-S Laboratory Complex



STATE OF WASHINGTON
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July 30, 2001

Mr. Keith Klein
United States Department of Energy
P.O. Box 550, MSIN: A7-50
Richland, Washington 99352

Mr. Keith Thomson
Fluor Hanford Incorporated
P.O. Box 1000, MSIN: H5-50
Richland, Washington 99352

Dear Messrs. Klein and Thomson:

Re: Letter sent dated July 26, 2001

It has come to my attention that some text was inadvertently left out of the letter sent to you dated July 26, 2001. Attached is the corrected version of that letter.

Please accept my apology for any inconvenience this may have caused.

Sincerely,

Bob Wilson, Compliance Specialist
Nuclear Waste Program

BW:nc
Enclosure

cc: Doug Sherwood, USEPA
Fred Ruck, FH
Gloria Williams, USDOE
Jamie Zeisloft, USDOE
Mary Lou Blazek, OOE
Administrative Record: 222-S Laboratory Complex