



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

0052668

March 6, 2000

Keith Klein, Manager  
Richland Operations Office  
U.S. Department of Energy  
P.O. Box 550, A7-50  
Richland, WA 99352

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EDMC

Re: Penalties Assessed for Violation of CERCLA Requirements at 221-U Facility

Dear Mr. Klein:

This letter notifies the U.S. Department of Energy (DOE) of the penalties assessed for violations of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements agreed to within the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) with respect to waste management practices at the 221-U Facility (U Plant) located at Hanford. The violations were described in detail in the letter to Messrs. Klein and Liedle from Michael Gearheard (U.S. Environmental Protection Agency - EPA) and Michael Wilson (Washington State Department of Ecology - Ecology) dated November 17, 1999. The two CERCLA waste management violations are summarized below:

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- 1) Failure to have an approved Waste Control Plan (WCP) prior to generation of waste and while waste was being stored. This violates the Sampling and Analysis Plan for 221-U Facility, DOE/RL-97-68 Revision 0 (SAP), which is a portion of the Remedial Investigation/Feasibility Study (RI/FS) document approved by the Tri-Parties (DOE, EPA, and Ecology). The SAP references the Bechtel Hanford Incorporated (BHI) policy which specifies how investigation derived waste (IDW) must be managed. The policy, BHI-EE-10, spells out the procedure that is to be used for IDW management. The procedure specified in BHI-FS-03 W-011, "Control of CERCLA and Other Past Practice Investigation Derived Waste," was not followed. It clearly indicates the requirement for an approved WCP prior to generation of waste. Waste was generated from characterization activities for the Canyon Disposition Initiative (CDI) U-Plant Pilot Project and accumulated on June 22, 1999. The waste, which process knowledge indicated might have been tributyl phosphate (TBP), was generated long before the WCP was signed September 29, 1999, and was stored without a WCP until that time.
- 2) Failure to sample the waste as per the approved SAP. The SAP specifies in Table 3-3 that liquid waste from a number of locations where TBP is a Contaminant of Potential Concern must be sampled. The waste in question was drained from piping that was cut for access to the ventilation tunnel. This was part of the characterization of the ventilation tunnel as it was necessary to remove the pipe for direct characterization activities. The liquid waste from characterization of the ventilation tunnel was required to be sampled per the SAP.

The penalties assessed for both violations reflect several considerations. The stipulated penalty for violation #1 accrued while the waste was being stored from the time of waste generation on June 22, 1999, until a signed WCP on September 29, 1999. Under the Tri-Party Agreement (TPA), EPA may assess a penalty of up to \$5,000 for the first week, and \$10,000 for each additional week (or part thereof) for any failure to comply with a term or condition of Part III of the TPA. The maximum possible penalty for this period of non-compliance is \$135,000. In actuality, Investigation Derived Waste (IDW) was generated as early as the summer of 1998, when repair began on the 75-ton crane to enable its use in specific characterization activities. Direct characterization of canyon cells was initiated in September 1998 as per the schedule in the SAP. Characterization wastes, including personal protective equipment (PPE), were generated nearly each week from the start of characterization activities (crane repair) in the summer of 1998. Thus, violations could be cited that would have accrued over a much longer interval. The earlier time periods are not factored into the penalty assessed for violation #1. A reduced penalty of \$50,000 is levied due to the small amount of waste involved.

The maximum penalty of \$5000 was assessed for violation #2 because of the threat to the integrity of the Environmental Restoration Disposal Facility (ERDF) posed by the practice of disposing of waste without following sampling requirements. While the one waste shipment did not represent significant potential to harm the environment, the practice of disposing of waste without accurate and complete knowledge of its nature is a serious departure from required procedures in place to ensure proper treatment and disposal of waste at ERDF.

After the considerations described above, a total penalty of \$55,000 is levied. The total consists of an assessment of \$50,000 for violation #1, and a one-time penalty of \$5,000 for violation #2. The penalty for violation #1 amounts to \$5,000 for the first week, and \$1,800 for each additional week.

Under paragraph 73 of the Tri-Party Agreement, the DOE has fifteen days upon receipt of this letter to invoke dispute resolution. The DOE can invoke dispute resolution only on the question of whether the failure to comply did in fact occur. The amount of the penalty is not subject to dispute resolution.

If the DOE does not invoke dispute resolution within fifteen days of receipt of this letter, then the DOE shall submit a check payable to the Hazardous Substances Superfund within sixty days of receipt of this letter, or such other time agreed to by EPA in writing, for the full amount of the stipulated penalties assessed in accordance with the enclosed bill. The check must be sent to:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 360903M  
Pittsburgh, Pennsylvania 15251.

The letter transmitting the check should indicate that the check is for the Hanford Site and include site identification No. 10-97. A copy of the transmittal letter should be sent simultaneously to:

Doug Sherwood  
U.S. Environmental Protection Agency  
712 Swift Boulevard, Suite 5  
Richland, WA 99352.

The EPA is still investigating the effectiveness of the corrective actions taken by the DOE and its contractors with regard to waste management at U-Plant and site-wide. Please contact Doug Sherwood at (509) 376-9529 if you have any questions.

Sincerely,



Michael Gearheard, Director  
Environmental Cleanup Office

cc: Michael Hughes, BHI  
Michael Wilson, Ecology  
Robert Wilson, Ecology  
Administrative Record: CDI 221-U Building

# **EPA News Release**

00-15

March 6, 2000

Contact: Doug Sherwood  
509/376-9529

## **EPA Issues \$55K in Penalties to Department of Energy for Hanford Waste Violations**

The Northwest regional office of the U.S. Environmental Protection Agency (EPA) has assessed stipulated penalties totaling \$55,000 against the U.S. Department of Energy (DOE) for violations of the Tri-Party Agreement's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements. The violations involved poor waste management practices at the 221-U uranium separation facility (U-Plant), one of five former chemical processing facilities in the 200 Area of Hanford.

In a letter dated March 6, 2000, EPA indicated it is assessing stipulated penalties of \$50,000 against DOE for failure to have an approved Waste Control Plan (WCP) prior to the generation of "investigation-derived" waste (IDW) – this includes personal protective gear, sampling equipment, and other wastes created during a CERCLA investigation -- and a one-time penalty of \$5,000 for failure to sample the waste before its disposal.

Both penalties address violations of the Sampling and Analysis Plan (SAP) that was agreed upon under the Tri-Party Agreement.

The waste was discovered September 16, 1999, during a Washington State Department of Ecology inspection of a 90-day waste accumulation area.

EPA is concerned that the violations indicate that DOE had inadequate understanding of what wastes were generated by characterization activities at the former uranium separation facility.

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EPA Regional Superfund Chief Mike Gearheard said, "The Tri-Party Agreement is very clear on DOE's responsibilities to follow careful waste management practices. Continued missteps at one of the country's most dangerous sites cannot and will not be tolerated."

EPA continues to investigate waste management at Hanford.

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