

January 24, 2000

Mr. Robert G. Card, [ ]  
Kaiser-Hill Company, LLC  
Rocky Flats Environmental Technology Site  
10808 Highway 93, Unit B  
Golden, CO 80403-8200

EA-2000-01

Subject: Preliminary Notice of Violation and Imposition of Civil Penalty - \$55,000  
(NTS-RFO--KHLL-SITEWIDE-1999-0009, NTS-RFO--KHLL-FACOPS-1998-0001, and NTS-RFO--KHLL-SITEWIDE-1999-0007)

Dear Mr. Card:

This letter refers to the Department of Energy's (DOE) evaluation of recurring procurement quality problems identified to you in Preliminary Notice of Violation (PNOV) EA-1999-06 and the effectiveness of corrective actions you identified in your response to the PNOV. Our letter of August 18, 1999, transmitting PNOV EA-1999-06 stated that DOE would defer enforcement action on additional similar violations contingent upon your taking corrective actions that effectively prevent recurrence of the procurement quality problems. DOE held a follow-up conference with you and your staff on November 16, 1999, to discuss the adequacy and implementation status of these corrective actions.

Based upon our review of several recurring problems with the procurement process at Kaiser Hill, LLC (KHLL) and the information you provided during the follow-up enforcement conference, DOE has concluded that your corrective actions have not been adequate to prevent recurrence of these problems. During the follow-up conference your staff identified to DOE numerous shortcomings with your corrective actions that included (1) the lack of an individual owner for management of the corrective action plan, (2) insufficient feedback and follow-up on corrective actions, (3) inadequate rate of progress in improving procurement performance and (4) failure to adequately address implementation of requirements.

Also during the conference, your staff also identified the key actions you were taking to correct these shortcomings. KHLL identified that the prior existing action plans for procurement deficiencies were being consolidated, along with the new actions to correct the shortcomings identified above, into a comprehensive Procurement System Improvement Plan. Compensatory actions were established, including (1) a Procurement Review Team to evaluate and approve procurement requests and the Statement of Work (SOW) for services and (2) the assignment of a dedicated senior floor manager to monitor and improve receiving and inspection activities.

The actions described at the conference on November 16, 1999, are comprehensive and if fully implemented should resolve the problems. However, DOE is concerned with the initial failure to implement the corrective actions as described at the first enforcement conference on May 27, 1999, particularly since those corrective action commitments provided the basis for DOE's earlier decision to defer additional enforcement action. Therefore, in accordance with the "General Statement of Enforcement Policy" 10 CFR 820, Appendix A, the violations described in the attached PNOV have been classified in the aggregate as a Severity Level II problem. In determining the Severity Level of these violations, DOE considered the programmatic and recurring nature of these deficiencies and the potential safety significance associated with these events.

In order to emphasize the need to ensure that your corrective action commitments are fully implemented and are sufficiently comprehensive and thorough to prevent recurrence of the problems, I am issuing the enclosed PNOV and Imposition of Civil Penalty in the amount of \$55,000. The base civil penalty for a Severity Level II violation is \$55,000. DOE has considered the adjustment factors in the Enforcement Policy and concluded that no mitigation to the base civil penalty is warranted. DOE notes that if these corrective actions had been identified and implemented in response to the PNOV EA-1999-06, the follow-up conference and this enforcement action would likely have not been taken.

In order to provide DOE assurance that the Procurement System Improvement Plan has a reasonable schedule, you are required to submit the plan and schedule to DOE at Rocky Flats for approval as part of your response to this PNOV.

You are required to respond to this letter and follow the instructions specified in the enclosed PNOV when preparing your response. Your response should document any additional specific actions taken to date. Corrective actions will be tracked in the Noncompliance Tracking System (NTS). You should enter into the NTS (1) any additional actions you plan to prevent recurrence and (2) the target completion dates of such actions. After reviewing your response to the PNOV, including your proposed corrective actions entered into the NTS in addition to the results of future assessments or inspections, DOE will determine whether further enforcement action is necessary to ensure compliance with DOE nuclear safety requirements.

Sincerely,



David Michaels, PhD, MPH  
Assistant Secretary  
Environment, Safety and Health

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Enclosures:  
Preliminary Notice of Violation  
Enforcement Conference Summary

cc: M. Zacchero, EH-1  
K. Christopher, EH-10  
S. Hurley, EH-10  
D. Stadler, EH-2  
O. Pearson, EH-3  
J. Fitzgerald, EH-5  
C. Huntoon, EM-1  
L. Vaughan, EM-10  
P. Golan, RFFO  
M. Weis, RFFO  
L. Bressler, DOE-RFFO PAAA Coordinator  
R. Tiller, KHLL  
F. Casella, KHLL [ ]  
R. Azzaro, DNFSB  
D. Thompson, DNFSB  
Docket Clerk, EH-10

## PRELIMINARY NOTICE OF VIOLATION

Kaiser-Hill Company, LLC  
Rocky Environmental Technology Site

EA-2000-01

The Department of Energy (DOE) has evaluated recurring failures of the Kaiser-Hill Company, LLC (KHLL) during 1999 to correct quality assurance deficiencies in the procurement process. DOE identified these deficiencies to KHLL in a DOE Investigation Summary Report dated May 6, 1999, and in an enforcement action issued on August 18, 1999. DOE's evaluation determined that KHLL failed to adequately correct these deficiencies. In accordance with the "General Statement of Enforcement Policy," 10 CFR 820, Appendix A, DOE proposes to impose civil penalties pursuant to Section 234A of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282a, and 10 CFR 820. The particular violation is set forth below.

### I. Violation Associated with the Procurement Process

10 CFR 830.120(c)(2)(iii) *Procurement* requires that procured items and services shall meet established requirements and perform as specified. Prospective suppliers shall be evaluated and selected on the basis of specified criteria. Processes to ensure those approved suppliers continue to provide acceptable items and services shall be established and implemented.

10 CFR 830.120 (c)(1)(iii) *Quality Improvement* requires that processes to detect and prevent quality problems shall be established and implemented. Items, services, and processes that do not meet established requirements shall be identified, controlled, and corrected according to the importance of the problem and the work affected. Correction shall include identifying the causes of problems and working to prevent recurrence. Item characteristics, process implementation, and other quality-related information shall be reviewed and data analyzed to identify items, services, and processes needing improvement.

Contrary to the above, KHLL failed to take corrective action and prevent recurrence of quality problems with the procurement process identified by DOE to KHLL in an Investigation Summary Report dated May 6, 1999, and in an enforcement action issued on August 18, 1999. Specifically,

- A. In August 1999, KHLL investigated an occurrence involving four [radioactive material] storage cans that had degraded prematurely. These cans had been packaged with [radioactive material] and placed into overpack storage cans that had been supplied to KHLL by a vendor. During KHLL's investigation of this problem, KHLL found that the overpack cans were not fabricated to the proper thickness. The KHLL investigation found that it failed to detect this error through the vendor quality assurance process or the site receipt inspection process.
  
- B. On September 28, 1999, KHLL began installation of a gasket for the [Radioactive Material] Stabilization and Packaging System that did not conform to specifications. The gasket material did not meet requirements for texture and did not meet the specified durometer range. An investigation of the event by KHLL identified that one shipment of this gasket material was accepted without the required documentation and two additional shipments were released for use without the required receipt inspection and certification. Once the deficient gasket material was discovered, KHLL failed to initiate the nonconformance process to control the material and to address the problem prior to beginning the installation of the gasket.
  
- C. On December 8, 1999, KHLL reported safety-related deficiencies in Level-B garments that are used to protect workers from radioactive contamination. Workers detected the problem with the Level-B garments prior to suiting-up or during doffing, when several garments split at a seam. Breakdowns associated with this occurrence included a fabrication design change to the garments by the vendor that was not prevented by sufficient specificity in the design drawing and KHLL's removing of source inspection requirements without supporting justification.

Collectively, these violations represent a Severity Level II problem.  
Civil Penalty - \$55,000

Pursuant to the provisions of 10 CFR 820.24, Kaiser-Hill Company, LLC is hereby required within 30 days of the date of this Preliminary Notice of Violation (PNOV) and Proposed Imposition of Civil Penalty, to submit written statement or explanation to the Director, Office of Enforcement and Investigation, Attention: Office of the Docketing Clerk, P. O. Box 2225, Germantown, MD 20875-2225. Copies should also be sent to the Manager, DOE Rocky Flats Field Office, and to the DOE Cognizant Secretarial Office at Headquarters for the facility that is the subject of this notice. This reply should be clearly marked as a "Reply to a Preliminary Notice of Violation" and should include the following for each violation: (1) admission or denial of the alleged violations; (2) any facts set forth which are not correct, and (3) the reasons for the violations if admitted, or if denied, the basis for denial. Corrective actions that have been or will be taken to avoid further violations will be delineated with target and completion dates in DOE's Noncompliance Tracking System. In the event the violations set forth in this PNOV are admitted, this Notice will constitute a Final Notice of Violation in compliance with the requirements of 10 CFR 820.25.

Any request for remission or mitigation of the civil penalty must be accompanied by a substantive justification demonstrating extenuating circumstances or other reasons why the assessed penalty should not be paid in full. Within the 30 days after the issuance of this Notice and Civil Penalty, unless the violations are denied, or remission or mitigation is requested, Kaiser-Hill Company, LLC shall pay the civil penalty of \$55,000 imposed under Section 234A of the Act by check, draft, or money order payable to the Treasurer of the United States (Account 891099) mailed to the Director, Office Enforcement and Investigation, Attention: Office of the Docketing Clerk at the above address. Should Kaiser-Hill Company, LLC fail to answer within the time specified, the contractor will be issued an order imposing the civil penalty.

If requesting mitigation of the proposed civil penalty, Kaiser-Hill Company, LLC should address the adjustment factors described in Section VIII of 10 CFR 820, Appendix A.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Michaels', written in a cursive style.

David Michaels, Phd, MPH  
Assistant Secretary  
Environment, Safety and Health

Dated at Washington, DC  
this 24th day of January 2000

**FOLLOW-UP ENFORCEMENT CONFERENCE SUMMARY**  
**NTS-RFO--KHLL-FACOPS-1998-0001,**  
**NTS-RFO--KHLL-SITEWIDE-1999-0009,**  
**NTS-RFO--KHLL-SITEWIDE-1999-0007**

The Office of Enforcement and Investigation (EH-Enforcement) held a follow-up Conference with representatives of the Kaiser-Hill Company, LLC (KHLL) on November 16, 1999, at the Department of Energy (DOE) Rocky Flats Environmental Technology Site, Colorado. EH-Enforcement held the meeting to discuss the adequacy and implementation status of the contractor's corrective actions relating to EA-1999-06 and the above-cited Noncompliance Tracking System (NTS) reports. The noncompliances described in these documents relate to breakdowns in the procurement process at KHLL.

The conference was called to order by R. Keith Christopher, Director, EH-Enforcement. A list of attendees is attached.

KHLL management reviewed a timeline of events from June 4, 1998, when KHLL reported deficiencies with the procurement of standard waste boxes through October 13, 1999, when DOE acknowledged the KHLL response to EA-1999-06. KHLL management acknowledged vulnerabilities in the area of procurement and stated that contractor personnel are committed to improve performance in this area. The shortcomings that KHLL identified with its corrective actions for EA-1999-06 included (1) the lack of an individual owner for management of the corrective action plan, (2) insufficient feedback and follow-up on corrective actions, (3) inadequate rate of progress in improving procurement performance, and (4) failure to adequately address implementation of requirements. Action taken to improve performance included the establishment of a procurement review team to evaluate and approve all procurement requests and statements of work for services and the consolidation of corrective actions into a comprehensive Procurement System Improvement Plan. Attached is a handout from KHLL detailing key areas its management personnel discussed at the conference.

During the conference, EH-Enforcement requested specific information pertaining to audit reports on credit card procurements, information relating to the procurement of Level-B suits, and a copy of the Procurement System Improvement Plan. KHLL management stated it would provide the requested information. Mr. Christopher then adjourned the conference.

## **List of Attendees**

### **EH-Enforcement**

R. Keith Christopher, Director  
Sharon Hurley, Senior Investigator  
Anthony Weadock, Enforcement Specialist  
Steven Hosford, Technical Advisor

### **DOE Rocky Flats**

David Lowe, Acting D.M.  
John Schhneider, FPA  
S.J. Olinger, Acting AME  
James Jeffries, QPD Director  
Lisa Bressler, DOE PAAA Coordinator

### **Kaiser-Hill, L.L.C.**

Robert Card, [ ]  
Robert Tiller, [ ]  
Marvin Brailsford, [ ]  
Bob Warther, [ ]  
Paul Kreitz, [ ]  
Frank Casella, [ ]