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May 22, 1992

CERTIFIED MAIL # P 326 796 062
Return Receipt Requested

Mr. Terry A. Vaeth
Manager
U. S. Department of Energy
Rocky Flats Plant
P. O. Box 928
Golden, Colorado 80402-0928



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Mr. James O. Zane
Manager
EG&G Rocky Flats, Inc.
P.O. Box 464
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U.S. DEPARTMENT OF ENERGY
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NOTICE OF VIOLATION NO. 92-05-22-01
U. S. Department of Energy
Rocky Flats Plant

Dear Messrs Vaeth and Zane:

Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) staff have conducted a preliminary review of the "Draft Final Phase I RFI/RI Work Plan for OU-8 (700 Area), Rocky Flats Plant", dated May, 1992, and have found the document to be seriously deficient. Submittal of this deficient document constitutes a violation by the Department of Energy (DOE) of the Interagency Agreement (IAG), Statement of Work (SOW) and Part XI, Section D.5 of the Rocky Flats Plant hazardous waste permit (91-09-30-01). Submittal of this deficient document places E.G. & G. Rocky Flats, Inc. in violation of Part XI, Section D.5 of the Rocky Flats Plant hazardous waste permit (91-09-30-01).

The Work Plan is required to provide a detailed description of the work to be performed in order to comply with the requirements of the SOW. The Division finds that DOE and EG&G have not exercised reasonable diligence in preparing this Work Plan. The following deficiencies are noted:

1. Individual Hazardous Substance Site (IHSS) locations and configurations continue to change presenting the Division with continued uncertainty as to the appropriateness of proposed sampling locations. The Historical Release Report, January 1992, proposed revised locations for some of the OU-8 IHSSs. However, further changes are proposed in the Work Plan (Figure 6.2 indicates significant alteration to the configurations of IHSSs 123.3 & 150.6 and the addition of IHSS 144N.);
2. the review and evaluation of existing data and the resulting summary of the physical and chemical characteristics of known contaminants, as required by the SOW (VI.B.), are incomplete;



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3. the Field Sampling Plan (FSP) is not supported by the Data Quality Objectives (DQOs) because the DQOs are based on an incomplete review and evaluation of existing data; and
4. sample locations, although required by the SOW (VI.B.), and a logical outgrowth of DQOs, are poorly presented.

Due to these deficiencies, the Work Plan cannot be evaluated to determine if the FSP is adequate to identify the nature and extent of contamination (SOW, VI.B.3.).

DOE's Work Plan transmittal letter, dated April 30, 1992, acknowledges these deficiencies. Although we find that many of the elements of an acceptable Work Plan are contained in the submittal, the deficiencies overshadow the overall effort.

The Division believes all of the above deficiencies could have been avoided had procurement of contracts to prepare this Work Plan been timely. Procurement difficulties have been repeatedly cited by DOE as a cause for requesting delays for milestone dates. This has occurred despite an attempt to resolve the procurement issue through the dispute resolution process on the Walnut Creek IM/IRA in OU 2. Procurement difficulties are not an acceptable reason for submitting inadequate documents and potentially delaying investigation and clean-up activities at the Rocky Flats Plant, particularly when initiating the procurement process in a timely manner can produce reviewable and adequate submittals.

The OU-8 transmittal letter states that additional scoping meetings will be scheduled in order to correct the Work Plan deficiencies. We believe scoping meetings are not appropriate at this juncture. Rather, DOE and EG&G should utilize the time to solve the procurement process problem, determine the appropriate IHSS locations and configurations, evaluate existing data, assure adequate DQOs and arrive at a viable FSP. Nevertheless, as always, we are available to assist DOE and EG&G in developing an adequate document. Previously, when DOE and EG&G have submitted substandard draft documents, the regulatory agencies have worked extensively with DOE and EG&G to correct the problems. While this attitude of cooperation continues to be our goal, DOE and EG&G must implement appropriate changes in the procurement process so as to avoid this type of problem.

The draft Work Plan should be updated by June 22, 1992 to correct the noted deficiencies. The Division will attempt to evaluate the completeness and adequacy of the document over a shortened period but may require the full 90-day review period. DOE and EG&G, however, are not relieved of the requirement for submitting an approvable Final Phase I Work Plan for OU-8 by the milestone date of September 28, 1992.

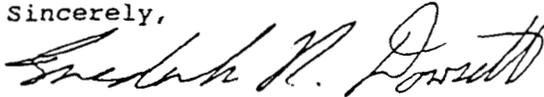
The procurement problems contributing to the violation described in this Notice of Violation are a subset of a larger group of management difficulties that threaten to seriously delay the cleanup of Rocky Flats. We believe that resolution of these issues requires a cooperative effort between DOE and EG&G and the state and federal regulators, as will be more fully described in a joint letter from CDH and EPA to DOE that will be sent in the near future.

Terry A. Vaeth and James O. Zane, Notice of Violation
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Please be advised that the Division intends to pursue its enforcement options in accordance with the Colorado Hazardous Waste Act. Also, the Division reserves its right to request an assessment of stipulated penalties to DOE by the U. S. Environmental Protection Agency as set forth in Part 19, Paragraph 129, of the IAG.

Your staff members may address technical questions to Harlen Ainscough of the Division's Hazardous Waste Facilities Unit at 331-4977. If your attorneys have any questions regarding the legal aspects of this matter, they may contact Daniel Miller of the Colorado Attorney General's office at 620-4745.

Sincerely,



Frederick R. Dowsett, Unit Leader
Monitoring and Enforcement
Hazardous Materials and
Waste Mangement Division

FD/ha

cc: James K. Hartman, DOE
Frazer Lockhart, DOE
Jack M. Kersh, EG&G
Daniel S. Miller, AGO
Gary Baughman, CDH
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