



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

February 24, 2011

CERTIFIED MAIL # 7007 3020 0001 4124 7361
RETURN RECEIPT REQUESTED

Mr. David L. Wessman
U.S. Department of Energy
Idaho Operations Office (NE-ID)
1955 Fremont Ave.
Idaho Falls, ID 83401-1216



CERTIFIED MAIL # 7007 3020 0001 4124 7378
RETURN RECEIPT REQUESTED

Mr. Jeffrey D. Mousseau, President
Bechtel BWXT Idaho
850 Energy Drive, Suite 200
Idaho Falls, ID 83401

Dear Mr. Wessman and Mr. Mousseau:

The Idaho Department of Environmental Quality (Department) administers programs designed to ensure that businesses and individuals comply with specific permits and rules designed to protect the citizens and the environment throughout the State. Based on available information, the Department believes the U.S. Department of Energy (DOE) and Bechtel BWXT Idaho (BBWI) may have violated such rules and/or permit requirements at the Idaho National Laboratory (INL). The purpose of this letter is to notify DOE and BBWI of apparent violations as described in the document enclosed herein.

The Department is seeking the cooperation of DOE and BBWI in resolving these matters to the full satisfaction of the parties. DOE and BBWI are advised to contact the Department within fifteen (15) days after receipt of this letter. At such time, the Department will schedule a meeting at a mutually agreeable date and time, at which the Notice of Violation can be discussed. If DOE and BBWI elect not to meet with the Department on the alleged violations, the Department will seek resolution of these matters using its authorities as provided by law. Arrangements to meet should be made by contacting Natalie Clough at (208) 373-0506 or at the following address:

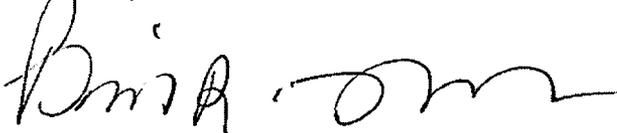
Natalie Clough
Hazardous Waste Compliance Manager
Waste Management and Remediation Program Division
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255

110223



Thank you in advance for your prompt attention to this matter. The Department is confident that we can work cooperatively to resolve these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian R. Monson". The signature is fluid and cursive, with a large initial "B" and a long horizontal stroke at the end.

Brian R. Monson
Hazardous Waste Program Manager
Waste Management and Remediation Division

BRM:js

06/NOV2011

cc: E. Neher, Regional Administrator, DEQ-IFRO
R. Owen, DEQ-IFRO
D. Early, Deputy Attorney General
N. Clough, Waste Management and Remediation Division
N. Brill, BBWI
INce
COF

NOTICE OF VIOLATION

ISSUED TO:

**United States Department of Energy
Idaho Operations Office
1955 Fremont Ave.
Idaho Falls, ID 83401**

**Bechtel BWXT Idaho, LLC
850 Energy Dr., Suite 200
Idaho Falls, ID 83401**

The Idaho National Laboratory (INL) is a hazardous waste treatment, storage and disposal facility, owned and operated by the United States Department of Energy (DOE). Bechtel BWXT Idaho, LLC (BBWI) operates the Advanced Mixed Waste Treatment Project (AMWTP) at the INL for DOE. On October 28, 2010, the Department of Environmental Quality (DEQ) was notified by DOE/BBWI that an incident had occurred in the AMWTP's Supercompactor Unit within Building WMF-676. The incident was reported as a "pressure event" that took place at approximately 11:11 a.m. on October 28, 2010. The condition was created by a sudden release of pressure from a container undergoing treatment (compaction) in the Supercompactor Unit at the time. The AMWTP contingency plan was activated as a result of the event. Information regarding the incident was provided to DEQ by DOE/BBWI on October 28, 2010, November 4, 2010, November 11, 2010, and December 6, 2010.

Pursuant to the Hazardous Waste Management Act of 1983 (HWMA), Idaho Code §§ 39-4406 and 39-4413, the Idaho Environmental Protection and Health Act (EPHA), Idaho Code §§ 39-108 and the Final Partial Permit (Permit Number ID4890008952), DEQ has determined that the following violations of the Hazardous Waste Management Act of 1983, Idaho Code § 39-4401, et seq., and the Idaho Rules and Standards for Hazardous Waste, IDAPA 58.01.05, et seq., have apparently occurred at the AMWTP on the INL facility located near Idaho Falls in Bingham, Bonneville, Butte, Clark and Jefferson counties, Idaho.

VIOLATIONS

Violation Nos. 1 - 9

Legal Provisions Violated:

IDAPA 58.01.05.008 Idaho Rules and Standards for Hazardous Waste [40 CFR §§ 264.13 (b) and 264.31] and the AMWTP HWMA/RCRA Permit, Permit Conditions II.C.1, II.G.1, II.K.1, IV.C., IV.F.1, IV.H.1, IV.H.1.a., and IV.H.2.d.

IDAPA 58.01.05.008 incorporates by reference 40 CFR § 264.13 (b) which states in relevant part:

"The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with paragraph (a) of this section..."

Permit Condition II.C.1 states:

"The Permittee shall comply with the WAP for the MWMUs, in accordance with IDAPA 58.01.05.008 [40 CFR § 264.13 (b)], IDAPA 58.01.05.011 [40 CFR § 268.7], as described in Attachment 2 of this Permit and Permit Conditions II.C.2 through II.C.11 of this Permit."

Permit Condition II.G.1 states:

"The Permittee shall comply with the applicable unit-specific WAC for the Box Lines, Drum Repack System, SCW Glovebox System, and Supercompactor Unit, in addition to the general WAC specified in Attachment 2 of this Permit."

Permit Condition IV.C states:

"The Permittee may treat MW meeting the general and unit-specific WAC as specified in Attachment 2 of this Permit."

Attachment 2, Section C, Waste Characteristics, WMF-676 Unit Specific WAC, Supercompactor WAC, page 5 states in relevant part:

"The WMF-676 supercompactor WAC requirements for receiving waste include the following:

- *Drums must not contain any of the following additional prohibited materials: free liquids, as determined by RTR to be in excess of 5% of the waste volume and non-vented gas containers. RTR results and/or visual examination results for drums must be recorded in the Operating Record."*

Permit Condition IV.F.1. states in relevant part:

"Operation Standards: The Permittee shall comply with the operations standards in Attachments 1.H, 1.H.i, and 1.H.iv of this Permit for sampling, sorting, visually examining, separating/segregating, and/or size reducing waste in the units."

Attachment 1.H.i, Section D-8a(1)(a), Box Lines, page 14, states in relevant part:

"Prohibited Waste. Any prohibited items that are unknowingly received in WMF-676 are segregated, packaged for removal, and returned to the generator, DOE, or other MWMU as appropriate."

"Items Requiring Attention. Waste containers containing unknown waste items (compressed gas cylinders, small inner containers, etc.) that can potentially be treated within WMF-676 are handled on a case-by-case basis. Waste items that cannot be treated in WMF-676, but are acceptable for receipt and sorting are retrieved from waste containers and transferred to containers/baskets pre-labeled with barcodes. Further information regarding the disposition of the prohibited waste is provided in Attachment 1.H.ii."

Attachment 1.H.ii, Section D-8a(1)(a), SCW Glovebox System Process Description, page 7 states in relevant part:

"Unit Specific WAC Prohibited Waste. Waste that does not meet a WMF-676 MWMU WAC may be transferred to the SCW glovebox system. These items are treated and/or stored in the SCW area until transferred to downstream treatment or to another waste management unit."

"WMF-676 WAC Prohibited Waste. Waste that does not meet the WMF-676 WAC may be inadvertently received in WMF-676. This waste may then be transferred to the SCW glovebox system. Storage of prohibited waste may occur in the SCW glovebox system, drum repack system, or Room 236 (SCW collection area) until transferred out of WMF-676."

Permit Condition IV.H.1 states in relevant part:

"Approved Activities. The Permittee may perform supercompaction as described in Attachment 1.H.iii of this Permit."

Attachment 1.H.iii, Section D-8(a)(1)(a), Supercompactor, page 3 states in relevant part:

"Prior to supercompaction, those drums requiring pre-treatment will receive pre-treatment in accordance with this Permit (e.g. drum repack system, box lines, containment enclosure, etc.)."

Permit Condition IV.H.1.a states:

"The Permittee may not manage the following waste in the Supercompactor Unit:

- *MW with unknown EPA HWNs or unknown IDCs/MWG,*
- *MW containing free liquids at greater than 5% by volume,*
- *MW containing small intact containers with an excess of 1 in. of liquids that are designated for disposal at WIPP,*
- *MW containing free liquid mercury, or*
- *MW containing other non-debris items such as non-vented gas cylinders."*

IDAPA 58.01.05.008 incorporates by reference 40 CFR § 264.31 which states:

"Facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment."

Permit Condition II.K.1 states:

"The Permittee shall operate each MWMU so as to minimize the possibility of a fire, explosion, or sudden/non-sudden release to the air or soil which could threaten human health or the environment, in accordance with Attachment 6 of this Permit."

Permit Condition IV.H.2.d states:

"The Permittee shall follow the special precautions to prevent reaction of ignitable, reactive, or incompatible waste in the Supercompactor Unit described in Attachment 6 of this Permit."

Based upon information provided to DEQ by DOE/BBWI on October 28, 2010, November 4, 2010, November 11, 2010, and December 6, 2010, DOE/BBWI failed to comply with the Supercompactor Unit Waste Acceptance Criteria (WAC) contained in the Waste Analysis Plan (WAP) in Attachment 2 of the AMWTP HWMA/RCRA Permit on October 28, 2010 for container number 10386611. Review of video recordings of waste repackaging activities on that date in the North Boxline in WMF-676 indicates three fire extinguishers from box number 10010056 were placed into container number 10386611. Container number 10386611 was subsequently treated via volume reduction (compaction) in the Supercompactor Unit. At least one of the three fire extinguishers in container number 10386611 was pressurized at the time of compaction, which resulted in a sudden release of pressure and shut-down of the Supercompactor Unit. Non-vented pressurized cylinders are prohibited from being treated in the Supercompactor Unit. DOE/BBWI failed to segregate prohibited items [i.e. pressurized fire extinguisher(s)] from the waste placed in container number 10386611. Therefore, container number 103866 did not meet the WAC for the Supercompactor Unit. Failure to remove prohibited items from the waste feed to the Supercompactor could have resulted in a fire, explosion, reaction between incompatible wastes, and/or injuries to personnel.

1. Container number 10386611

Penalty Assessed: \$10,000

Based upon information provided to DEQ by DOE/BBWI on October 28, 2010, November 4, 2010, November 11, 2010, and December 6, 2010, DOE/BBWI failed to comply with requirements contained in Attachments 1.H.i, 1.H.ii, 1.H.iii and the Waste Analysis Plan (WAP) in Attachment 2 of the AMWTP HWMA/RCRA Permit for segregating prohibited items and/or special-case wastes on October 28, 2010 from waste placed into container numbers 10386611, 10386603, 10386754, 10386751, 10386599, 10386598, 10386597, 10386596, and on October 24, 2010 for container number 10385961. Review of video recordings of waste repackaging activities on those dates in the WMF-676 North and South Boxlines indicates the above containers potentially held prohibited items and/or special-case wastes that were required to be identified, examined, documented in the operating record, and segregated from the Supercompactor Unit waste feed prior to treatment. The waste in container numbers 10386603, 10386751, 10386599, 10386598, and 10386596 was supercompacted without first meeting these requirements. Failure to comply with Attachments 1.H.i, 1.H.ii, 1.H.iii, and the WAP could have resulted in a fire, explosion, reaction between incompatible wastes, and/or injuries to personnel. Items of concern in the containers included potentially non-vented pressurized cylinders (i.e. fire extinguishers), sealed bags, a sealed pipe, and inner containers that potentially held more than one inch of liquid as indicated below:

2. Container number 10386603 (unopened bag/bottle, fire extinguisher)
Penalty Assessed: \$4,399
3. Container number 10386754 (unopened bottle)
Penalty Assessed: \$4,399
4. Container number 10386751 (one fire extinguisher)
Penalty Assessed: \$4,399
5. Container number 10386599 (one fire extinguisher)
Penalty Assessed: \$4,399
6. Container number 10386598 (one fire extinguisher)
Penalty Assessed: \$4,399
7. Container number 10386597 (sealed bag)
Penalty Assessed: \$4,399
8. Container number 10386596 (one fire extinguisher)
Penalty Assessed: \$4,399
9. Container number 10385961 (taped pipe, two to four sealed bags)
Penalty Assessed: \$4,399

TOTAL PENALTY ASSESSED: \$45,192

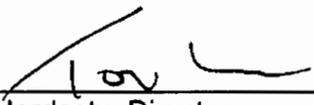
TIMETABLE

DOE and BBWI may request a compliance conference with DEQ to explain the alleged violations and discuss entry into a Consent Order which will include payment of assessed penalties, and a plan to remedy damage caused by any violation and assure future compliance. To arrange a compliance conference, DOE and BBWI must contact DEQ within fifteen (15) days after receipt of this Notice of Violation. Failure to request a conference within fifteen (15) days after receipt of this Notice of Violation, or reach agreement on a Consent Order within sixty (60) days may result in a civil enforcement action in district court for penalties, injunctive relief, and costs including attorney fees.

Inquiries or correspondence concerning this Notice of Violation shall be directed to:

Natalie Clough, Hazardous Waste Compliance Manager
Hazardous Waste Program
Waste Management and Remediation Division
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208) 373-0297

DATED THIS 24th day of February 2011



Toni Hardesty, Director
Idaho Department of Environmental Quality