Department of Energy
Washington, DC 20585

January 29, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dennis Carr
Portsmouth Site Project Director
Fluor-B&W Portsmouth, LLC
3930 US Route 23 South
Piketon, Ohio 45661

NEA-2015-01

Dear Mr. Carr:

This letter refers to the Department of Energy's (DOE) Office of Enterprise Assessments' investigation into the facts and circumstances associated with the improper alteration of radiation protection (RP) records at the Portsmouth Gaseous Diffusion Plant (PORTS) decontamination and decommissioning project in April 2013. The Office of Enforcement provided the results of the investigation to Fluor-B&W Portsmouth, LLC (FBP) in an investigation report dated September 23, 2014. An enforcement conference was convened on November 13, 2014, with you and members of your staff to discuss the report's findings and FBP's corrective action plan. A summary of the enforcement conference and list of attendees is enclosed.

DOE considers the falsification and other improper alteration of RP records to be of high safety significance. Although no individuals received a radiological dose as a result of these events, the events uncovered extensive breakdowns in the FBP RP program, including willful falsification of documents by FBP managers, and posed an elevated risk of unplanned radiological exposures to PORTS workers and the public. These events revealed several specific deficiencies including: (1) falsification and other improper alteration of RP records, (2) failure to effectively implement quality improvement programs, (3) failure to ensure that instruments and equipment used for monitoring are routinely tested for operability and failure to effectively implement work processes, (4) failure to appropriately manage RP records, and (5) failure to ensure adequate training and qualification of RP personnel.

Based on the evaluation of the evidence in this matter, including information presented at the enforcement conference, DOE concludes that FBP violated requirements enforceable under 10 C.F.R. § 820.11, *Information requirements*; 10 C.F.R. Part 830, *Nuclear Safety Management*, Subpart A, *Quality Assurance*

Requirements; and 10 C.F.R. Part 835, *Occupational Radiation Protection*. Accordingly, DOE hereby issues the enclosed Preliminary Notice of Violation (PNOV), which cites one Severity Level I violation, three Severity Level II violations, and one Severity Level III violation, with a total proposed base civil penalty, before mitigation, of $390,000.

In determining the appropriate civil penalty for the Severity Level I violation, DOE grants 25 percent mitigation based on self-identification of the associated violations and corrective action by FBP. For the three Severity Level II violations, DOE grants FBP 25 percent mitigation for identifying the associated violations after confirming that falsification had occurred. For two of the Severity Level II violations, DOE also grants 25 percent mitigation for corrective actions that appear to make recurrence of these issues less likely. The remaining Severity Level II violation is for quality improvement; historically, DOE has not granted mitigation for corrective actions taken for such violations. Consistent with past practice, DOE has not imposed a civil penalty for the Severity Level III violation. As a result, the total proposed civil penalty is $243,750.

Pursuant to 10 C.F.R. § 820.24, *Preliminary Notice of Violation*, you are obligated to file a written reply within 30 calendar days after the date of filing of the enclosed PNOV and to follow the instructions specified in the PNOV when preparing your response. If you fail to submit a reply within the 30 calendar days, then in accordance with 10 C.F.R. § 820.33, *Default order*, subsection (a), DOE may pursue a Default Order.

After reviewing your reply to the PNOV, including any proposed additional corrective actions entered into DOE's Noncompliance Tracking System, DOE will determine whether any further action is necessary to ensure compliance with DOE nuclear safety requirements. DOE will continue to monitor the completion of corrective actions until this matter is fully resolved.

Sincerely,

Steven C. Simonson

Steven C. Simonson
Director
Office of Enforcement
Office of Enterprise Assessments

Enclosures: Preliminary Notice of Violation (NEA-2015-01)
Enforcement Conference Summary and List of Attendees

cc: William Murphie, DOE PPPO
Vincent Adams, DOE PPPO
Thomas Hines, DOE PPPO
Doug Fogel, FBP

Enclosure 1

Preliminary Notice of Violation

Fluor-B&W Portsmouth, LLC
Portsmouth Site

NEA-2015-01

A U.S. Department of Energy (DOE) investigation into the facts and circumstances associated with the improper alteration of radiation protection (RP) records at the Portsmouth Gaseous Diffusion Plant (PORTS) decontamination and decommissioning (D&D) project in April 2013 identified multiple violations of DOE nuclear safety requirements. Violations committed by Fluor-B&W Portsmouth, LLC (FBP) include: (1) falsification and other improper alteration of RP records, (2) failure to effectively implement quality improvement programs, (3) failure to ensure that instruments and equipment used for monitoring are routinely tested for operability and failure to effectively implement work processes, (4) failure to appropriately manage RP records, and (5) failure to ensure adequate training and qualification of RP personnel.

Pursuant to Section 234A of the Atomic Energy Act of 1954, as amended, and DOE regulations set forth at 10 C.F.R. Part 820, *Procedural Rules for DOE Nuclear Activities*, DOE hereby issues this Preliminary Notice of Violation (PNOV) to FBP. DOE has grouped and categorized the violations as one Severity Level I violation, three Severity Level II violations, and one Severity Level III violation. As explained in 10 C.F.R. Part 820, Appendix A, *General Statement of Enforcement Policy*, paragraph VI(b), "[s]everity Level I is reserved for violations of DOE Nuclear Safety Requirements which involve actual or high potential for adverse impact on the safety of the public or workers at DOE facilities." It further adds that "[s]everity Level II violations represent a significant lack of attention or carelessness toward responsibilities of DOE contractors for the protection of public or worker safety which could, if uncorrected, potentially lead to an adverse impact on public or worker safety at DOE facilities," and "[s]everity Level III violations are less serious but are of more than minor concern: i.e., if left uncorrected, they could lead to a more serious concern." In consideration of the mitigating factors, DOE proposes a total civil penalty of $243,750.

As required by 10 C.F.R. § 820.24(a) and consistent with Part 820, Appendix A, the violations are listed below. Citations specifically referencing the quality assurance (QA) criteria of 10 C.F.R. § 830.122 constitute a violation of § 830.121(a), which requires compliance with those criteria.

I. VIOLATIONS

A. Falsification and Other Improper Alteration of Records

Title 10 C.F.R. § 820.11, *Information requirements*, states that "(a) [a]ny information pertaining to a nuclear activity provided to DOE by any person or maintained by any person

for inspection by DOE shall be complete and accurate in all material respects[; and] (b) [n]o person involved in a DOE nuclear activity shall conceal or destroy any information concerning a violation of a DOE Nuclear Safety Requirement, a Nuclear Statute, or the Act." Title 10 C.F.R. § 830.6, *Recordkeeping*, states that "[a] contractor must maintain complete and accurate records as necessary to substantiate compliance with the requirements of this part.

Title 10 C.F.R. § 835.3, *General rule*, subsection (a) states that "[n]o person or DOE personnel shall take or cause to be taken any action inconsistent with the requirements of (1) [t]his part or (2) [a]ny program, plan, schedule, or other process established by this part."

Contrary to the above requirements, FBP falsified and otherwise improperly altered RP records (i.e., daily source and background check records for hand-held radiation monitoring instrumentation). According to an FBP investigation, several FBP employees and contractors, including five managers and supervisors, falsified, or directed the falsification of, RP records in April 2013. These employees occupied all four levels of the RP organization, from the RP technicians (known as radiation control technicians, or RCTs) to the RCT supervisors and RP program managers, and the manager of the RP organization. The FBP investigation into this matter identified 32 instances of falsification of RP records, which violates 10 C.F.R. §§ 820.11, 830.6, and 835.3.

RP records were also improperly altered in other ways. An FBP extent-of-condition (EOC) report, FBP-IOM-ESH&Q-13-0089, identified hundreds of records changed without managerial approval, without using an authorized process, and without any notation. FBP evaluations revealed that these records were not complete and accurate in all material respects. QA surveillance CM-SRV-FY13-1180 observed that RP daily function check data was recorded carelessly: numbers and signatures were not legible, data had been marked over, and unsatisfactory data was marked as satisfactory and approved by the RCT. That surveillance also noted that the proper data correction protocol was not consistently followed and some records were removed and never recovered.

Collectively, these noncompliances constitute a Severity Level I violation.
Base Civil Penalty – $150,000
Proposed Civil Penalty (as adjusted) – $112,500

B. Quality Improvement

Title 10 C.F.R. § 830.122, subsection (c), *Criterion 3 – Management/Quality Improvement*, (Criterion 3), requires the contractor to "(1) [e]stablish and implement processes to detect and prevent quality problems[;] (2) [i]dentify, control, and correct items, services, and processes that do not meet established requirements[;] (3) [i]dentify the causes of problems and work to prevent recurrence as a part of correcting the problem[; and] (4) [r]eview item characteristics, process implementation, and other quality-related information to identify items, services, and processes needing improvement."

FBP implements the requirements of Criterion 3 through its QA Program Description (QAPD), FBP-QA-PDD-00001, which includes Section 3.0, *Quality Improvement*, and Appendix A, which cross references the QA criteria with the applicable sections of the FBP QAPD and procedures. The key procedure for FBP's implementation of Criterion 3 is FBP-QP-PRO-00020, *Problem Reporting and Issues Management*.

Contrary to the above requirements, FBP did not effectively establish and implement processes for quality improvement. Specific examples include the following:

1. FBP has a program and some processes for responding to issues once they are identified, but its processes were deficient and implementation was limited. This deficiency is compounded by FBP's inconsistent and infrequent use of quality improvement tools including:

    a. Independents assessments were infrequent and occurred on an ad hoc basis, in reaction to problems that had already occurred, rather than in an attempt to proactively discover and correct issues. In addition, there was a lack of QA oversight: Proper QA oversight could have detected and prevented some of the issues with RP records. The FBP Quality Assurance Program Description (QAPD), FBP-QA-PDD-00001, Section 9.4, *Assessment Planning*, states that "FBP develops assessment plans and implementing schedules to ensure effective monitoring of the adequacy and effectiveness of programs, activities, operations, management systems, facilities, and business health, including activities performed by subcontractors." Contrary to this requirement, from March 2011 (the beginning of FBP's tenure as the PORTS D&D contractor) until March 2013, the RP organization did not request or receive any QA oversight of RP programs, procedures, or records management, thereby limiting its ability to detect and prevent quality issues.

    b. Failure to follow-up on management assessments (MAs): The RP organization conducted four MAs between September 2011 and December 2012, focusing on the fundamental RP program elements needed to ensure compliance with 10 C.F.R. Part 835. However, corrective actions to address the MA observations and recommendations were often narrowly focused, incomplete, and ineffective. Issues identified by these MAs (e.g., lack of instrument maintenance procedures, incomplete surveys, incomplete calibration records) were left uncorrected months, or even years, after they were identified. Furthermore, no internal MAs of RP instrument procedure compliance were performed, despite increasing evidence of issues in this area in 2012.

2. FBP established an Issues Tracking System (ITS), consistent with FBP-QP-PRO-00020 to "identify, control, and correct items, services, and processes that do not meet established requirements." However, FBP did not ensure that this process was implemented effectively. FBP RCTs, engineers, and supervisors were well aware of the ITS, but from June 2012 through May 20, 2013, RCTs filed no problem reports and RP supervisors filed fewer than five. FBP personnel perceived numerous barriers to the use

of problem reports and questioned their effectiveness because the issues identified in those reports were often not addressed.

3. FBP failed to take timely corrective action to address other quality issues in RP records. An early indication of this deficiency was reflected in MA FBP-MA-11-20, dated December 8, 2011, which included a recommendation to perform an MA focusing specifically on the RP instrumentation program. Timely follow-up on this recommendation could have identified and corrected these issues well before April 2013. Instead, an informal internal study was initiated in the second half of 2012 and a review of the RP instrumentation program by an RP radiological engineer was initiated in January 2013. According to FBP personnel, the informal internal study began to uncover RP records issues with increasing regularity in the second half of 2012 and these issues were raised on more than one occasion in RP management meetings. However, RP management did not respond to these issues at that time. These conditions continued to be observed, and were supplemented by similar observations by the RP radiological engineer, into early 2013 without correction.

4. Examples of FBP's failure to take timely corrective action in response to other quality issues include:

   a. RP supervisors did not respond to issues in procedures and procedural compliance with timely corrective action. Although aware of these issues, RCTs and supervisors did not develop a comprehensive approach to identifying required document changes or processing required changes. RCTs relied on the supervisors to initiate changes to the documents and the supervisors voiced a reluctance to use the change process as they perceived it as cumbersome.

   b. RP records technicians brought several RP records management issues to the attention of FBP management in October 2012. One of these issues was that the RP organization had no inventory or plan for RP records as required by FBP-RP-BS-PRO-00095, *Record Identification and File Plan Creation and Maintenance*. However, RP management did not take timely and effective action to address these issues.

   c. RP supervisors often did not review the RP technician daily function check logs on a timely basis (i.e., sometimes the logs were not checked for as much as months later) and the issues identified during the supervisors' reviews were not addressed in an effective or timely manner. FBP QA surveillance CM-SRV-FY13-1180 indicated that RP supervisors continued to accept outdated forms and less than full compliance with procedures from mid-2012 to April 2013.

Collectively, these noncompliances constitute a Severity Level II violation.
Base Civil Penalty – $75,000
Proposed Civil Penalty (as adjusted) – $56,250

C. Routine Testing of Instruments for Operability and Work Processes

1. Routine Testing of Instruments for Operability

Title 10 C.F.R. § 835.401, *General requirements*, subsection (b), states that "[i]nstruments and equipment used for monitoring shall be … (4) [r]outinely tested for operability."

FBP implements the requirements of 10 C.F.R. § 835.401(b)(4) in Section 3.4.4 of the RP program plan and in procedure FBP-RP-PRO-00078, *Radiological Instrumentation.* Section 3.4.4 of the RP program plan states that "[o]perability checks are performed to verify that the instruments respond properly to radiation." FBP-RP-PRO-00078, Section 6.1.3, identifies a prerequisite to "[s]ource check radiological instruments that do not have a built-in automatic functional test feature daily prior to noon or immediately prior to use." Section 8.1.2 of this procedure directs RP technicians and RP supervisors to "[v]erify that instruments and equipment used for monitoring are … routinely tested for operability."

Contrary to these requirements, FBP failed to ensure that the daily function checks of RP instrumentation were effective in ensuring the operability of instrumentation used for RP surveys. Multiple evaluations by FBP showed that on hundreds of occasions, instruments that failed daily function checks were placed in service and then used to perform measurements that are used to ensure worker safety and demonstrate regulatory compliance.

2. Work Processes

Title 10 C.F.R. § 830.122, subsection (e), *Criterion 5 - Performance/Work Processes* (Criterion 5), requires contractors to "[p]erform work consistent with technical standards, administrative controls, and other hazard controls adopted to meet regulatory or contract requirements, using approved instructions, procedures, or other appropriate means."

Title 10 C.F.R § 835.104, *Written procedures*, states that "[w]ritten procedures shall be developed and implemented as necessary to ensure compliance with this part, commensurate with the radiological hazards created by the activity and consistent with the education, training, and skills of the individuals exposed to those hazards."

FBP requirements for work processes for its RP activities are documented in FBP-RP-PL-00002, *Radiation Protection Program*, Section 1.6, which states that "[t]he provisions of the RPP [radiation protection program] are implemented through lower level administrative controls, including written procedures. . . . FBP develops and implements written procedures, work authorizations, and other documents as needed to ensure compliance with the requirements of [10 C.F.R.] 835. All employees and staff augmentation personnel are obligated to comply with the applicable procedures and other documents that implement this RPP." FBP general requirements for the use of procedures are documented in FBP-NSE-PRO-00090, *Use of Procedures for Work*

Control, and FBP-BS-PRO-00032, *Use of Procedures*. In addition, procedure FBP-RP-PRO-00078, *Radiological Instrumentation*, Section 5.2.2, states that "[w]ritten procedures approved by Radiation Protection govern the use of all radiological survey instruments."

Contrary to the above requirements, FBP failed to ensure that procedures were effectively used to control work and failed to perform work consistent with approved procedures. Specific examples of work process violations include the following:

a. Inadequacy in the procedures for detecting and correcting errors in RP records of the daily function checks for RP instrumentation has led to a number of problems, from the generation of substantial errors that were not detected by the RP technicians themselves, to the substantial delays in supervisory review, to supervisors signing off on log sheets containing obvious errors. These conditions are contrary to the requirements of Section 6.2.6 of FBP-RP-PRO-00023 which states that RP records should be "complete and accurate."

b. Procedures FBP-RP-PRO-153 and FBP-RP-PRO-159 do not specify who is required or authorized to approve the functional check data forms that are generated and completed by RP technicians. The form indicates that the "RCT Supervisor or Designee" approves the form, but there is no procedural step for the supervisors review. In addition, procedures FBP-RP-PRO-153, FBP-RP-PRO-159, and FBP-RP-PRO-00144, *Eberline/Thermo Scientific RO-20 Operation*, provide no guidance to the RP supervisors on the appropriate timing for daily function check record reviews. Furthermore, Section 2.1 of FBP-RP-PRO-159 states that "[t]his Level 4 procedure applies to FBP employees and staff augmentation radiological control technicians (RCTs) and RCT supervisors who perform radiation surveys or review them." However, FBP-RP-PRO-00159 does not describe the required actions for these RCT supervisors.

c. FBP-RP-PRO-00023, *Radiation Protection Program Records*, provides inadequate instructions for managing the different types of RP records. For example, sections 6.6.1 through 6.6.3 of this procedure describe different types of records that must be maintained and the type of information they must contain, but provide no instructions for maintaining the records. FBP personnel were provided a listing of the records they receive and had protocols for handling those records. However, these protocols are not formal FBP documents and do not provide instructions for records control.

d. FBP-RP-PRO-00023, Step 6.6.7, requires that all records must be uniquely identified. However, a review by the FBP found that the same survey number was used for multiple records generated over an extended period of time.

e. FBP-RP-PRO-00144, *Radiation Instrument Calibration Facility*, provides direction for the calibration work in the X-700 facility, but no procedure addresses calibration work in the X-720 facility.

f. RP personnel did not consistently use the current version of the form as indicated by the associated procedure. Instead, they used various versions of forms for daily function checks, some with reference numbers and some without. Often, the version of the form differed from the version of the procedure, causing confusion about which form to use. As a result, RP technicians sometimes used outdated versions of the form.

g. FBP-RP-PRO-00023 does not effectively establish roles and responsibilities for RP records management. Direction to RP personnel in this procedure is vague and limited to such statements as "submit records generated or received as a result of this procedure."

h. Once RP records are generated and then reviewed and approved, the records are considered complete. However, FBP-RP-PRO-00023 has no provisions for correcting errors in completed records, even though such corrections are common.

Collectively, these noncompliances constitute a Severity Level II violation.
Base Civil Penalty – $75,000
Proposed Civil Penalty (as adjusted) – $37,500

D. Records Management

Title 10 CFR § 830.122, subsection (d), *Criterion 4 – Management/Documents and Records* (Criterion 4), item (2), requires that contractors "[s]pecify, prepare, review, approve, and maintain records."

Title 10 C.F.R. § 835.701, *General provisions*, requires that "(a) [r]ecords shall be maintained to document compliance with this part and with radiation protection programs required by § 835.101" and "(b) [u]nless otherwise specified in this subpart [i.e., subpart H – Records], records shall be retained until final disposition is authorized by DOE."

FBP requirements for managing RP records are documented in FBP-RP-PRO-00023 and FBP-BS-PRO-00062. In addition, procedure FBP-RP-PRO-00078, Section 10.2.1, requires RP personnel to "[m]anage records generated or received as a result of performing this procedure in accordance with FBP-BS-PRO-00011, *Records Management Including Document Control*, and FBP-BS-PRO-00062, *Records Management Program*." Section 10.2.2 of FBP-RP-PRO-00078 requires RP personnel to "[m]aintain records generated by this procedure in accordance with FBP-RP-PRO-00023."

Contrary to the above requirements, FBP failed to manage records appropriately. Specific examples include the following:

1. FBP-RP-PRO-00023, Section 6.1, requires RP personnel to "[e]stablish and maintain a radiation protection records management program to control records required by this procedure at all stages from creation to disposition" and Section 6.6.7 requires that records are "[p]rotected from … unauthorized alterations." However, RP records

custodians had few mechanisms for controlling and tracking access to records and even these minimal controls were often circumvented. This lax environment facilitated the ability to make inappropriate record changes.

2. Section 6.5.1 of FBP-BS-PRO-00095, *Record Identification and File Plan Creation and Maintenance*, requires records custodians to "[c]oordinate with management to identify Quality Assurance (QA) Records ... produced by [the] organization for inclusion on organizational file plan. . . ." Section 1.1 of this procedure states that "[t]his procedure provides instructions for how Fluor-B&W Portsmouth LLC (FBP) shall develop, implement and maintain a file plan that describes all categories of records ... created, received and maintained by each organizational unit." Contrary to these requirements, the RP organization has not developed a file plan, record inventory, or any plans for record control.

3. FBP-BS-PRO-00062, Section 6.5.2, requires the originator of documents to "[e]nsure QA records are stamped, initialed, or signed and dated by authorized personnel for authentication ... prior to transmitting to [the] records custodian." FBP-BS-PRO-00062, Section 6.5.3, requires record custodians to "[r]eceive QA records from [the] organization and ensure they have been authenticated as completed QA records." However, contrary to FBP-BS-PRO-00062, RP management instructed records technicians to treat official records (i.e., records subject to the controls associated with QA records) as "in process" working documents, thereby undermining the implementation of these requirements.

4. FBP-RP-PRO-00062, Section 6.3.1, item D, defines the process for making corrections to a record by creating a "supplement." This section requires that corrections made through the "supplement process" be made in such a manner that "anyone accessing the original record will be aware of the new record with its rectified information and of the linkage between the original version of the record and the rectified version of the record." However, many of the RP records that were corrected using the "supplement process" are not reliably traceable back and cross-referenced to the original record.

5. Contrary to the requirements of Section 6.7.3.A of FBP-BS-PRO-00062, RP records were not stored in an area posted or marked as a records management and document control record storage area or as an approved/permanent record storage area.

Collectively, these noncompliances constitute a Severity Level III violation.
Base Civil Penalty – $15,000
Proposed Civil Penalty (as adjusted) – $0

E. Training and Qualification

Title 10 C.F.R. § 830.122(b), *Criterion 2 - Management/Personnel Training and Qualification* (Criterion 2), states that contractors must "(1) [t]rain and qualify personnel to be capable of performing their assigned work" and "(2) [p]rovide continuing training to personnel to maintain their job proficiency." Title 10 C.F.R. § 835.901, *Radiation safety training*, describes the training program required by 10 C.F.R. Part 835.

Title 10 C.F.R. § 835.901, *Radiation safety training*, provides requirements to complete training in radiation safety topics described in 10 C.F.R. § 835.901(c) and to demonstrate knowledge of those topics.

FBP implements the requirements of Criterion 2 in FBP's QAPD, FBP-QA-PDD-00001, Section 2.0, *Personnel Training and Qualification*, and in the 14 procedures identified in Appendix A of that document. FBP implements the requirements of 10 C.F.R. § 835.901 for the RP organization in FBP's RP program document, FBP-RP-PL-00002, Section 8.1, *Training Program*, and in procedure FBP-RP-PD-00001, *Radiation Safety Training*. Section 6.1.2 of FBP-RP-PD-00001 requires each FBP project manager to "[e]nsure each individual demonstrates knowledge of the applicable radiation safety training by successful completion of an examination and performance demonstrations."

Contrary to the above requirements, the FBP training program did not adequately prepare RP personnel to perform their assigned duties. Specific examples include the following:

1. FBP training on records generation and proper alteration is deficient. FBP's open-book exams and on-the-job training do not explicitly address RP records. RP records topics are covered in continuing education, but it takes 2 years for an individual to complete all modules, so new RP personnel could remain untrained on records management for a considerable time.

2. A number of weaknesses in the continuing training of FBP personnel affected their ability to properly generate RP records and make proper corrections to these records when needed:

    a. Training by means of required reading gave trainers only a limited ability to assess the newly-trained RP technicians' mastery of the material. RP personnel indicated that some supervisors or managers "coached" new RP technicians on how to obtain the right answer without necessarily mastering the subject.

    b. Some FBP personnel completed their continuing training requirements at a rate that would likely hinder long-term retention of the subject matter. Time pressure to complete the transition from past contractor procedures to FBP procedures resulted in some individuals covering continuing training topics at a rate of up to nine reviews per session.

    c. FBP undertook a transition in procedures that merged the significantly different ways of doing business from two past contractors (LATA/Parallax Portsmouth, LLC; and Centrus Energy Corp., formerly USEC, Inc.). This transition was not adequately addressed in training.

Collectively, these noncompliances constitute a Severity Level II violation.
Base Civil Penalty – $75,000
Proposed Civil Penalty (as adjusted) – $37,500

II. REPLY

Pursuant to 10 C.F.R. § 820.24(b), FBP is hereby obligated, within 30 calendar days after the date of filing of this Preliminary Notice of Violation (PNOV), to submit a written reply. The reply should be clearly marked as a "Reply to the Preliminary Notice of Violation" and must be signed by the person filing it.

If its reply specifically states that FBP waives any right to contest this PNOV or the proposed civil penalty, then, pursuant to 10 C.F.R. § 820.24(d), this PNOV will constitute a Final Order upon the filing of the reply. In such cases and in accordance with 10 C.F.R. § 820.32(c), the total proposed civil penalty of $243,750 must be remitted within 30 calendar days after the Final Order is filed. Payment of the civil penalty must be made by check, draft, or money order payable to the Treasurer of the United States (Account 891099) and mailed to the address provided below.

If FBP disagrees with any aspect of this PNOV or the proposed remedy, then as applicable and in accordance with 10 C.F.R. § 820.24(c), the reply shall include: (1) any facts, explanations, and arguments which support a denial that a violation has occurred as alleged; (2) any extenuating circumstances or other reason why the proposed remedy should not be imposed or should be further mitigated; and (3) a discussion of the relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE. In addition, 10 C.F.R. § 820.24(c) requires that the reply include copies of all relevant documents.

Please send the appropriate reply by overnight carrier to the following address:

Director, Office of Enforcement
Attention: Office of the Docketing Clerk
U.S. Department of Energy
19901 Germantown Road
Germantown, MD 20874-1290

A copy of the reply should also be sent to the Manager of the DOE Portsmouth/Paducah Project Office.

Pursuant to 10 C.F.R. § 820.33, *Default order*, subsection (a), if FBP does not submit a written reply within 30 calendar days after the date of filing of this PNOV, the Director of the Office of Enforcement may pursue a Default Order.

III. CORRECTIVE ACTIONS

Corrective actions that have been or will be taken to avoid further violations should be delineated, with target and completion dates, in DOE's Noncompliance Tracking System.

Steven C. Simonson
Director
Office of Enforcement
Office of Enterprise Assessments

Washington DC
This 29th day of January 2015