



VIA FACSIMILIE

June 20, 1997

Mr. James Smith
United Steelworkers of America
Local 8031
Rocky Flats Environmental Technology Site
Highway 93 and Cactus -- Bldg. T690E
Rocky Flats, Colorado 80007

RE: Arbitration of Grievance 96-0046, Vernon McKendree

Dear Mr. Smith:

This will confirm our meeting for the above referenced grievance on Monday, June 23 at 10:00 a.m. in the Labor Relations Department. I am confident we will be able to agree upon an issue's statement and any joint exhibits to be submitted during the arbitration. I regret you were unable to meet this week, but I understand how rapidly schedules can become filled.

Sincerely,

Florence J. Phillips
Florence J. Phillips
Assistant General Counsel

cc:

Scott Shaw -- Kaiser-Hill Labor Relations

Kaiser-Hill Company, L.L.C.

Courier Address: Rocky Flats Environmental Technology Site, State Hwy. 93 and Cactus, Rocky Flats, CO 80007 • 303.966.7000

Mailing Address: P.O. Box 464, Golden, Colorado 80402-0464

Robert E. Allen, Ph.D.
Arbitrator

2307 Hillside Drive
Laramie, Wyoming 82070
(307) 745-9441

Department of Management
University of Wyoming
Laramie, Wyoming 82071
(307) 766-6332

July 21, 1997

Mr. Jerry Harden
President, USWA, Local No. 8031
9584 W. Kentucky Avenue
Lakewood, CO 80226

Dear Mr. Harden:

I have enclosed two copies of the decision from the arbitration between the Kaiser-Hill Company and the United Steelworkers of America, Local Union No. 8031 (the Vernon McEndree termination grievance). I have also enclosed a statement for my fee and expenses in this matter. Please forward the statement to the proper party for payment. Thank you.

Sincerely,



Robert E. Allen
Arbitrator

IN THE MATTER OF AN ARBITRATION)	OPINION AND AWARD
between)	OF THE ARBITRATOR
KAISER-HILL COMPANY)	THE TERMINATION OF
and the)	MR. VERNON McENDREE
UNITED STEELWORKERS OF AMERICA,)	
DISTRICT 12, LOCAL NO. 8031)	JULY 21, 1997

This matter came before Arbitrator Robert E. Allen on June 24, 1997 at the Doubletree Hotel, 8773 Yates Drive, Westminster, Colorado. The Kaiser-Hill Company (hereinafter referred to as the Company) was represented by Ms. Florence Phillips, Assistant General Counsel. Mr. James Smith, Staff Representative, presented the case for the United Steelworkers of America, District 12, Local No. 8031 (hereinafter referred to as the Union). Witnesses testified under oath administered by the Arbitrator. Closing arguments were presented orally at the conclusion of the hearing.

The Company called the following witnesses:

Dr. Fred Dowsett, Colorado Department of Public Health and Environment;
 Donna Miller, Central Computer Facility employee;
 Dan Kunz, compliance specialist, Rocky Mountain Remediation Service;
 Esther Beck, training coordinator, Rocky Mountain Remediation Service;
 Bill Anderson, manager, Rocky Mountain Remediation Service;
 Robert Allen, foreman, Rocky Mountain Remediation Service, and;
 Scott Shaw, Kaiser-Hill, labor relations representative.

The Union called the following witnesses:

Terry Hoff, stationary operating engineer, Rocky Mountain Remediation Service;
 Vernon McEndree, grievant,
 Gary Swenson, local union officer and company employee.

THE ISSUES

The parties requested the Arbitrator to decide the following issues:

Was the Grievant, Mr. Vernon McEndree, terminated for just cause?
 If not, what is the appropriate remedy?

STATEMENT OF THE CASE

The Company operates Rocky Flats along with several subcontractors for the Department of Energy (DOE). Rocky Flats produced nuclear devices for the defense industry for many years, and at the present time, is in its closure phase. This involves removing normal and radioactive wastes from the site, inventorying and storing nuclear materials, and cleaning up radioactive and hazardous materials that have accumulated over time at the Company's facility and on its grounds. The Grievant in this matter, Mr. Vernon McEndree, was initially employed at Rocky Flats on November 30, 1992. He worked as a stationary operating engineer (SOE), and at the time of his termination on February 18, 1997, was employed by Rocky Mountain Remediation Service. Although he had worked for other companies (Dyncorp and Safe Sites of Colorado) at the Rocky Flats facility prior to being employed by Rocky Mountain Remediation Service, his duties remained largely the same. As an SOE, he was responsible for maintaining the ventilation systems in buildings as well as other assigned duties.

Because of the nature of the operations at Rocky Flats, the company is covered by the Resource Conservation Recovery Act (RCRA) as well as other federal and state environmental protection laws. RCRA governs the management of solid and hazardous wastes with an emphasis on the day-to-day operational issues (as opposed to end pipe or chimney concerns). As a basic part of RCRA requirements, inspections must be completed to assure that there has been no deterioration or leaks in tanks and ancillary equipment (such as piping, pumps and valves) which store and convey solid, hazardous or radioactive wastes. These RCRA inspections can be the responsibility of SOEs if they have been properly trained and certified.

Mr. Fred Dowsett of the Colorado Department of Public Health and Environment testified that these inspections are important for three major reasons. First, they are a basic part of the procedures in place to decrease the likelihood of preventable problems. Second, they are conducted to identify potential problems before they become serious. Third, they decrease the likelihood of leaks in tanks, piping and other related equipment. He pointed out that in such systems, leaks are a major concern because of the risks associated with them to employees and Company operations. As part of the inspection process, employees are required to complete inspection check sheets. Dr. Dowsett pointed out that these checklists help ensure that the inspections are carried out and that the inspector's observations are recorded. Inspectors are

required to sign the completed checklists to attest that the inspection had been completed. By noting problems and bringing them to management's attention, the inspection checklists help assure that problems will be remedied before they become serious. Additionally, the documents are relied upon by the Colorado Department of Public Health and Environment to demonstrate that the inspections are completed. If there were no signed checklists, problems could go unreported. Dr. Dowsett testified that RCRA inspection procedures are an important part of the regulatory process. Therefore, reports that the checklists have been falsified are taken seriously and are considered to be RCRA violations. RCRA violations can lead to civil penalties for the DOE, the Company and Rocky Mountain Remediation Service depending upon the potential harm that was done, the seriousness of the violation, and whether the violation was voluntarily reported or discovered by Colorado Department of Public Health and Environment inspectors.

Mr. McEndree and another employee, Mr. Terry Hoff, had responsibilities for SOE duties in several buildings. When the two started working together in November 1996, they decided that Mr. Hoff would be responsible for buildings #883 and #881 and that Mr. McEndree would handle the rest of their area of responsibility. Building #881 had piping running through it that was the subject of RCRA inspections. Mr. Hoff testified that from about August 1996 to January 1997, he was uncertain about his qualifications to perform RCRA inspections in Building #881. Although he had requested his supervisors repeatedly to clarify his situation, this was not done until January 1997. Because of this uncertainty, Mr. Hoff would do the RCRA inspections in Building #881 but would have the other SOE assigned to the area, who was qualified to do inspections, sign the checklist indicating that the inspection had been completed. From about August 1996 until November 1996, Mr. Johnson signed the checklists for Mr. Hoff. When Mr. McEndree replaced Mr. Johnson as an SOE on the afternoon shift in November 1996, he and Mr. Hoff continued the practice. Mr. Hoff performed the inspections and Mr. McEndree completed the related paperwork.

RCRA inspections became an issue on February 6, 1997. On that date, Ms. Donna Miller, an employee assigned to the Central Computing Facility (CCF) noticed a problem. The CCF is a highly restricted area in Building #881 because it contains sensitive and classified information and houses expensive and vital computer equipment. Because of these conditions, access to the CCF is seriously limited. The doors to the facility are locked and a log is maintained at the main entry recording the names of individuals entering the area. Employees must state the reason for their visit, sign in and are then given an electronic access card for the main door. At the completion of

their visit, they return the card and sign out. When filing sign in logs for January and early February 1997, Ms. Miller noticed that no one had signed into the CCF to perform RCRA inspections on February 3, 4, and 5, 1997. However, she was not certain about the nature of the problem. Either the RCRA inspections had not been made or someone on the CCF staff was allowing RCRA inspectors into the facility without following the security procedures, i.e., the sign in procedures. Ms. Miller went to her supervisor, Ms. Hillary Trotter, who in turn contacted Mr. Eric Johnson, a Rocky Mountain Remediation Service manager, about her concerns. They agreed that she would determine whether CCF employees were letting people into the computer center without signing in. Mr. Johnson agree to look into the matter from his end.

On Sunday February 9, 1997, Mr. Robert Allen, the foreman of the SOEs working for Rocky Mountain Remediation Service, telephoned Mr. Johnson to talk about the scheduling of SOE overtime. During this conversation, Mr. Johnson informed Mr. Allen that there could be a problem with RCRA inspections in the CCF. Because it was Sunday, Mr. Allen decided to wait until the next day before looking into the matter. On February 10, 1997, he talked to Ms. Miller and Ms. Trotter. The initial review of records indicated that RCRA inspections were missed on two days in February. A review of the situation in the CCF revealed that with one exception, CCF employees were enforcing the sign in requirements. As part of his investigation into the matter, Mr. Allen talked with Mr. McEndree and Mr. Hoff. Mr. McEndree reported that he thought Mr. Hoff was doing the inspections in Building #881.

Mr. Allen contacted his supervisor, Mr. Bill Anderson, on February 11, 1997. In turn, Mr. Anderson contacted his superior, Mr. Tom Grey to designate the situation as an "occurrence" to be reported to the DOE, the Company, and to Rocky Mountain Remediation Service. When an "occurrence" is declared, an investigatory fact-finding meeting must be conducted in accordance with DOE regulations. This meeting was conducted at 3:00 p.m. on February 11, 1997. At this meeting, Mr. McEndree stated that he believed that Mr. Hoff was performing the RCRA inspections in the CCF. Mr. Hoff claimed that he had previously told Mr. McEndree that he was not qualified to do the RCRA inspections and that was no longer doing them. Mr. McEndree claimed that he did not remember being told by Mr. Hoff that he was no longer doing the inspections.

A discipline meeting was held on February 12, 1997. As of that date, the belief was that inspections had been missed on two days. At this meeting, Mr. McEndree continued to argue that he believed Mr. Hoff was doing the RCRA inspections in the CCF. He also declared that he did

not remember having a discussion with Mr. Hoff in which Mr. Hoff stated that he was not qualified to do the inspections, and therefore, would not be doing them anymore.

Mr. Allen reviewed CCF sign in logs and RCRA inspection reports from June 1996 until February 1997 to determine whether RCRA inspection reports coincided with the presence of SOEs in the CCF. Mr. Anderson also reviewed CCF documents. He reviewed the logs and computer printouts which identified visitors to the CCF. These reviews of the records indicated that there were completed inspection forms prepared by Mr. McEndree on nine days for which he or no other SOE made RCRA inspections in the CCF. These situations occurred on January 7, 14, 21, 22, 27, 30, February 3, 4, and 5, 1997.

At the conclusion of the investigation, Mr. Scott Shaw, a labor relations representative recommended to the managers involved that Mr. McEndree be terminated for the falsification of documents. It was decided that Mr. McEndree simply assumed that the inspections were being conducted but never verified with Mr. Hoff that they were. Despite not knowing whether the inspections had been done, Mr. McEndree signed the checklists as if they were. Based on the interviews with Mr. McEndree, Mr. Hoff, Ms. Trotter, Ms. Miller and a review of the relevant documents, the Company believed that it had just cause to terminate Mr. McEndree for the falsification of the inspection reports. Mr. McEndree was notified of the termination decision on February 18, 1997. In response to this decision, the Union grieved the Company's action. While acknowledging that the inspections had not been conducted on the dates in question, the Union held that the penalty of termination was too severe given the unintentional nature of the violation of Company policy. Failure by the parties to resolve the matter through the grievance procedure led to this arbitration.

POSITION OF THE COMPANY

The Company's basic position was that Mr. McEndree simply failed to perform his job that required him to perform RCRA inspections in the CCF and then falsified documents to cover his actions. By not conducting the required inspections, he put the health and safety of other employees at risk and exposed himself as well as the Company to civil and criminal prosecution. The Company held the Mr. McEndree must be held accountable for his actions. It was pointed out that the Union acknowledged that the inspections were not conducted on the days in question. By

failing to do the inspections and falsifying the records associated with the inspections, Mr. McEndree provided the Company just cause for his termination. The Company emphasized that the issue is not whether Mr. McEndree's actions were intentional but whether he falsified documents.

The Company urged the Arbitrator to reject Mr. McEndree's claim that he did not intentionally falsify documents. The Company claimed that he knew that inspections were not being performed and that he never asked Mr. Hoff about them. He had also been told by Mr. Hoff that he was not qualified to do the RCRA inspections and that he would no longer be doing them. Additionally, Mr. McEndree was present during a training session in which Mr. Kunz told Mr. Hoff that he was not qualified to do RCRA inspections. The Company pointed out that as a result of training from Mr. Kunz on January 30, 1997 and a discussion with Mr. Anderson on about February 4 or 5, 1997, Mr. McEndree knew that he could be terminated for falsifying Company records. Even after these meetings, Mr. McEndree continued to falsify the inspection reports. It was also pointed out that another employee, Mr. Dwayne Hall, had been terminated about a month earlier for falsifying inspection reports. It was also argued that the termination decision in this case was made after a thorough investigation into the matter had been conducted. Ms. Miller, Mr. Hoff, and Mr. McEndree were interviewed and relevant documents were reviewed. The termination decision was made only after it was clearly established that Mr. McEndree submitted completed inspection reports for nine days on which RCRA inspections had not been conducted in the CCF. For these reasons, the Company argued that it had just cause for terminating Mr. McEndree, and therefore, requested that the Union's grievance in this matter be denied.

POSITION OF THE UNION

The Union pointed out that from August 1996 until November 1996, Mr. Hoff and another employee (Mr. Johnson) shared responsibility for RCRA inspections in Building #881. Mr. Hoff did the inspections and Mr. Johnson completed the related paperwork. Because Mr. Hoff was uncertain concerning his qualifications to do the RCRA inspections, he did not sign the inspection sheets. He had Mr. Johnson, who was qualified to do the inspections, sign the inspection checklist for him. The Union held that while Mr. Hoff did not have the formal credentials needed

to perform RCRA inspections, he knew how to do them and was “comfortable” doing them. Furthermore, there were no apparent problems (e.g., leaks or spills that endangered people or equipment) during the time period Mr. Hoff was doing RCRA inspections in Building #881.

When Mr. McEndree replaced Mr. Johnson as an SOE on the afternoon shift, he and Mr. Hoff continued the same arrangements that Mr. Hoff had with Mr. Johnson concerning the performance of RCRA inspections in Building #881. Mr. Hoff would do the inspections and Mr. McEndree would handle the related paperwork. The Union argued that it was not Mr. McEndree’s responsibility to determine whether Mr. Hoff was qualified to do the inspections. Rather, it was the Company’s responsibility. It was maintained that Mr. McEndree did not intentionally falsify inspection reports. He relied on the longstanding arrangement in which Mr. Hoff would do the inspections and he would fill out the inspection checklists. This practice had been followed by both Mr. McEndree and his predecessor for a number of months with no apparent problems. This was the case until Mr. Hoff decided to stop doing the inspections. The Union pointed out that Mr. McEndree could not remember being told by Mr. Hoff that he was no longer going to do the inspections. Therefore, when he continued to fill out the inspection forms, it was on the belief that the inspections were actually being performed as they had been in the past. Therefore, the Union urged the conclusion that Mr. McEndree did not intentionally falsify Company documents. While acknowledging that Mr. McEndree had made a mistake, the Union held that termination was too severe a penalty. It was requested that the grievance (Joint Exhibit #3) be sustained and that Mr. McEndree be reinstated to his former position and made whole for any losses associated with his improper termination.

DISCUSSION AND CONCLUSIONS

While Mr. McEndree was clearly wrong when he signed the inspection checklists for inspections that had not been completed, the situation in which he found himself had, in part, been established by lax supervisory practices. Mr. Hoff had agreements with Mr. Johnson and later with Mr. McEndree that he would do the RCRA inspections in Building #881 and they would sign the inspection checklists because he was uncertain about his formal qualifications to do the inspections. Because of the uncertainty surrounding his status as a RCRA inspector, Mr. Hoff believed that he should not sign the inspection sheets. Despite trying repeatedly to clarify his

situation with his supervisors, he testified that he did not learn that he was not RCRA qualified until late January 1997. Assuming Mr. Hoff testified credibly, then management must take some responsibility for the problem that ultimately led to Mr. McEndree's termination. First, it allowed an illegal practice to be followed for approximately six months. While it appears that experienced SOEs like Mr. Hoff and Mr. McEndree had considerable control over how they allocated job duties amongst themselves within their areas of responsibility, it is difficult to imagine that over a six month period someone in management did not notice that a SOE was working in a building that required RCRA inspections and was not properly qualified to do them. Second, management representative such as Mr. Allen were not called to rebut Mr. Hoff's claim that he asked about his status with respect to RCRA inspections at least fifteen times but to no avail. It appears that Mr. Hoff stopped doing RCRA inspections at about the time he was told that he was not qualified to do them. Had Mr. Hoff been told when he initially raised the issue in August 1996 that he could not do RCRA inspections Mr. McEndree would never have been signing the forms for Mr. Hoff. Either Mr. Hoff would have been certified by the Company to do the inspections or he and Mr. McEndree would have worked out an alternative distribution of job duties that allowed Mr. McEndree to do the RCRA inspections. Because of its failure to deal with the situation in a timely fashion, management must take some responsibility for allowing the arrangement to develop and persist. The Arbitrator was not persuaded by the Company's argument that neither Mr. Hoff nor Mr. McEndree ever said anything to management representatives about their improper arrangement. Management has the responsibility to know about such situations even without being told.

Despite these circumstances, Mr. McEndree was in control of his destiny. He did not have to enter into the improper inspection arrangement with Mr. Hoff and he certainly should have not signed inspection checklists without knowing, in fact, that the inspections had been conducted. Despite these transgressions that clearly warrant serious discipline, the Arbitrator decided that termination was too serious a penalty as contended by the Union.

Before discussing the rationale underlying this decision, it must be emphasized that Mr. McEndree and Mr. Hoff were not disciplined for the many times that Mr. Hoff did the inspections and Mr. McEndree signed the inspection checklists. Rather, Mr. Hoff was reprimanded for performing three inspections after being told by Ms. Beck on January 7, 1997 that he could not do them (Union Exhibit #1) and Mr. McEndree was terminated for the nine occasions on which he

signed checklists indicating that inspections had been performed when in fact they had not (Joint Exhibit #3). This suggests that the arrangement Mr. Hoff and Mr. McEndree had, by itself, would not have justified Mr. McEndree's termination. To the Arbitrator, this conclusion means that he would not have been terminated if Mr. Hoff had conducted the inspections on the nine days in question.

When deciding this matter, the Arbitrator rejected the Company's contention that Mr. McEndree's intentions were irrelevant. Therefore, for the Company to prevail in this matter, it had to establish that Mr. McEndree knew that Mr. Hoff was no longer doing the inspections and that he continued filling out the inspection checklists anyway. In other words, it had to be demonstrated that Mr. McEndree's actions were deliberate rather than unintentional. If Mr. McEndree knew that the inspections were not being conducted, then he was deliberately shirking his responsibilities and could be terminated as a result. The Company does not have to tolerate such irresponsible behavior. However, if he did not know that the inspections were no longer being conducted by Mr. Hoff, then the actions that led to his termination were inadvertent. Unintended poor job performance while disciplinable is a less serious infraction than the deliberate shirking of job duties.

As a defense, Mr. McEndree testified that he believed that Mr. Hoff was doing the inspections. Mr. Hoff claimed during the investigation of this matter (but not under oath at the arbitration hearing) that he told Mr. McEndree that he was no longer going to conduct the RCRA inspections in Building #881. The disposition of this matter came down to the credibility of Mr. Hoff's claim. If he did not tell Mr. McEndree that he was no longer doing the inspections, then Mr. McEndree was signing the checklists under the longstanding belief that Mr. Hoff was conducting the inspections. While Mr. McEndree was wrong to sign the sheets without verifying that the inspections had been performed, his behavior was less egregious than if he knew the inspections were not being completed and he was signing the checklists anyway.

After reviewing the testimony and evidence in this matter, the Arbitrator was not convinced that Mr. Hoff told Mr. McEndree that he had stopped doing the inspections. It was most likely that Mr. Hoff learned that he could not perform RCRA inspections on January 7, 1997 as testified by Ms. Beck. Although Mr. Hoff claimed that he did not remember being told this by Ms. Beck, it would be quite a coincidence if he did not do the inspection on January 7, 1997 for some reason other than being told by her that he could not do the inspections. If Mr. Hoff told Mr. McEndree

that he was no longer going to do inspections, it would have been reasonable for this to have happened on the day that he learned from Ms. Beck that he should not be doing the inspections, i.e., January 7, 1997. However, this probably was not the case. Even though he did not do an inspection on January 7, 1997, it is unlikely that he conveyed this information to Mr. McEndree because he continued doing inspections on some days. He did inspections January 8, 16 and 17, 1997 (Union Exhibit #1). The Arbitrator seriously doubted that Mr. Hoff would have told Mr. McEndree about his change in practice while he was still doing the inspections (i.e., prior to January 17, 1997). The Company did not establish why Mr. Hoff was occasionally doing the inspections in early January 1997 and then stopped doing them in total after January 17, 1997. The key point is that the Arbitrator did not believe that Mr. Hoff would have said anything to Mr. McEndree while he was still doing inspections. By the time he stopped doing them totally, there had already been two days on which he did not do the inspections (January 7 and 14, 1997) but Mr. McEndree reasonably assumed that he did. According to the Company's logic, Mr. McEndree had already committed offenses for which he could have been terminated before he was probably told by Mr. Hoff that he was no longer doing inspections.

Although Mr. Hoff's behavior was not consistent with his claim that he told Mr. McEndree that he had stopped doing the inspections, this does not mean that he said nothing about his situation. He could have told Mr. McEndree that Ms. Beck told him that he was not yet qualified to do the inspections. However, this is different than saying he was no longer going to do the inspections. Mr. McEndree had to have known that Mr. Hoff was technically not qualified to conduct the inspections. Otherwise, he would not have had to sign the inspection checklists on Mr. Hoff's behalf. Similarly, when the topic arose in the training session with Mr. Kunz on January 30, 1997, there was no reason for Mr. McEndree to assume that Mr. Hoff would stop doing the inspections. Mr. Hoff had already been doing them for months with the knowledge that he was probably not qualified to do them. Otherwise, he would have not had Mr. Johnson and Mr. McEndree fill out the required paperwork.

On the other hand, Mr. McEndree's behavior was consistent with that of a person who did not know that his partner stopped doing the inspections. He continued to complete the inspection forms even though it would be very easy for the Company to determine that inspections had not been completed given the sign in procedure in the CCF. The Company subsequently demonstrated just how easy it was to show that inspections were not done when it investigated the situation in

February 1997. Additionally, during the early phase of the investigation, the Company was aware of three missed inspections and asked Mr. McEndree whether further investigation would reveal any more problems. Mr. McEndree answered that there would be no more. The Company interpreted this answer to be a lie. However, there is another interpretation. Again, given how easy it was to prove that the inspections had not been done, his answer could have reflected the belief that Mr. Hoff had been conducting the inspections, and therefore, there were no other problems.

There was no testimony presented at the arbitration hearing by Mr. Hoff about the conversation he had with Mr. McEndree concerning his unwillingness to continue performing RCRA inspections. Mr. Hoff did not testify concerning where the conversation was held, when it was held, and what was said. Even if his testimony is taken at face value (which the Arbitrator did not), he had to have stopped doing the inspections before anything was ever said (if anything was said) to Mr. McEndree. Mr. Hoff testified that he learned that he could not do RCRA inspections in late January 1997. This probably meant that he learned about his status in the training session conducted by Mr. Kunz on January 30, 1997. If this was the case, then he could not have told Mr. McEndree that he would no longer be doing the inspections until January 30, 1997 or later. Therefore, according to Mr. Hoff's own testimony, he had already missed at least five inspections before he notified Mr. McEndree of his decision to stop doing RCRA inspections. If he did not say anything to Mr. McEndree prior to missing five inspections, there was no compelling reason for him to say anything after January 30, 1997. Because of these considerations, the Arbitrator doubted that Mr. Hoff said anything at any time to Mr. McEndree.

Because there was no reason for him to believe that the inspections were not being done by Mr. Hoff, it was decided that Mr. McEndree did not intentionally falsify the RCRA inspection checklists. While Mr. McEndree's performance was not acceptable, it did not warrant his termination. Rather than deliberately shirking his job duties, Mr. McEndree mistakenly trusted his coworker to live up to the conditions of their longstanding arrangement. By so doing, he inadvertently completed checklists on days inspections were not conducted.

It must be emphasized that Mr. McEndree's situation was very different than the case involving Mr. Dwayne Hall. Mr. Hall knowingly failed to conduct investigations for which he was responsible and completed checklists to cover up his failure to do his job. This certainly was not Mr. McEndree's situation. The Company allowed him and Mr. Hoff to divide up the

responsibilities in their assigned work area. As part of this process, Mr. Hoff took responsibility for the RCRA inspections in Building #881 even though he had doubts about his qualifications to do so. He worked out an arrangement with Mr. McEndree that allowed him to do the inspections as long as Mr. McEndree would take care of the paperwork. This was a practice that the Company had tolerated (knowingly or unknowingly) for a number of months prior to Mr. McEndree getting involved in November 1996. Mr. McEndree and Mr. Hoff would occasionally talk about the inspections. However, the normal practice was that Mr. McEndree would simply assume that Mr. Hoff was upholding his end of the arrangement by doing the RCRA inspections in Building #881. For some period of time, this appeared to be a reasonable assumption. Mr. Hoff did the inspections and Mr. McEndree did the paperwork. Although Mr. Hoff stopped doing the inspections in January 1997, Mr. McEndree continued to fill out the checklists as if the inspections had been done. As discussed above, the Arbitrator did not believe that Mr. McEndree was deliberately trying to hide the fact that inspections were not being performed as did Mr. Hall. It must also be noted, that unlike Mr. Hall, Mr. McEndree did not benefit from filling out the completed checklists. Given the distribution of job duties between Mr. Hoff and Mr. McEndree, it was not Mr. McEndree's job to do the inspections in Building #881, it was Mr. Hoff's. When Mr. Hoff stopped doing the inspections, he had less work to do but Mr. McEndree still had all of his regular job duties to perform. It was not demonstrated by the Company that Mr. McEndree benefited from wrongly filling out the inspection reports as did Mr. Hall. Because Mr. McEndree believed that the inspections were being completed and benefited in no obvious way when Mr. Hoff stopped doing them, it must be concluded that Mr. McEndree's actions were unintentional, and therefore, less serious than Mr. Hall's even though both involved proven falsifications of RCRA inspection reports.

AWARD

After a complete and thorough review of the entire record of this matter, it is decided that the Company did not have just cause to terminate Mr. Vernon McEndree. However, he did commit offenses that warranted serious discipline. As a remedy, Mr. McEndree's termination is converted to a suspension. The Company is directed to reinstate Mr. McEndree to his former position with no loss of seniority. However, he is not entitled to pay and other benefits lost while he was suspended.



Robert E. Allen
Arbitrator

GEORGE BECKER
PRESIDENT

LEO W. GERARD
SECRETARY-TREASURER

RICHARD H. DAVIS
VICE-PRESIDENT
(ADMINISTRATION)

LEON LYNCH
VICE PRESIDENT
(HUMAN AFFAIRS)



United Steelworkers of America

DISTRICT No. 12
SUB-DISTRICT No. 6

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PUEBLO, COLORADO 81004



JACK R. GOLDEN
DISTRICT DIRECTOR

(719) 564-5241
FAX (719) 564-1498

MAIL: P.O. BOX 2009
PUEBLO, CO 81005

September 8, 1997

Robert Allen, Arbitrator
University of Wyoming
Department of Management & Marketing
Laramie, Wyoming 82071

RE: Vern McEndree Arbitration

Dear Mr. Allen:

It has been brought to my attention that it took twenty (20) days to reinstate Vern McEndree to his job as an SOE.

Your award was mailed out on July 21, 1997, the Union received its copy on July 23, 1997, I assume the Company received their copy approximately the same day. They didn't mail McEndree a 'return to work notification' until July 31, 1997, which McEndree received on Saturday, August 2nd. He contacted the Company on Monday, August 4th, at which time he was told he wouldn't return until August 11th.

In my opinion this is an excessive delay in complying with your award. Normally, five (5) days is sufficient time to reinstate a person. I would appreciate your observation in regard to this matter.

Hoping to hear from you soon.

Respectfully,

James L. Smith
Staff Representative

JLS:lb:opeiu #5

cc: J. Harden
G. Swenson
D. McCormick



July 31, 1997

Vernon L. Mcendree
31699 Robinson Hill Road
Golden, CO 80403

RE: ARBITRATION - AAC-013-97

Dear Mr. Mcendree:

As a result of the recent Arbitration regarding your termination from your position, I am offering you a position to return to the Rocky Flats Environmental Technology Site as a Stationary Operating Engineer (SOE). The position would be to return to the same building (881) and shift (PM's) that you previously occupied.

Please contact me as soon as possible to let me know if you are interested in the position. If I do not receive notification from you by August 18, 1997, I will assume you are not interested in the position. I can be reached at (303) 966-6173.

Sincerely,

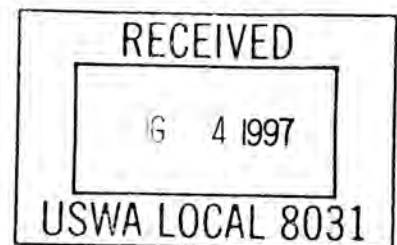
Alonzo A. Casias / Dy. SGE
Alonzo A. Casias
Human Resources

cc:

W. D. Anderson
R. C. Easdon
J. M. Harden

AAC:bjc

*PER LOWMIE - UREA WONT REPORT
UNTIL 8-11-97 - 7:00 AM -
1) JUSTIFICATION
2) BACKPAY
3) BENEFITS*



Kaiser-Hill Company, L.L.C.

Courier Address: Rocky Flats Environmental Technology Site, State Hwy. 93 and Cactus, Rocky Flats, CO 80007 • 303.966.7000

Mailing Address: P.O. Box 464, Golden, Colorado 80402-0464



July 31, 1997

Vernon L. Mcendree
31699 Robinson Hill Road
Golden, CO 80403

AUG-4-97 MON 6:47 INDUSTRIAL RELATIONS FAX NO. 3039662169

RE: ARBITRATION - AAC-013-97

Dear Mr. Mcendree:

As a result of the recent Arbitration regarding your termination from your position, I am offering you a position to return to the Rocky Flats Environmental Technology Site as a Stationary Operating Engineer (SOE). The position would be to return to the same building (881) and shift (PM's) that you previously occupied.

Please contact me as soon as possible to let me know if you are interested in the position. If I do not receive notification from you by August 18, 1997, I will assume you are not interested in the position. I can be reached at (303) 966-6173.

July 31, 1997

Sincerely,

Alonzo A. Casias / by [signature]
Alonzo A. Casias
Human Resources

cc:

W. D. Anderson
R. C. Easdon
J. M. Harden

AAC:bjc

Kaiser-Hill Company, L.L.C.

Courier Address: Rocky Flats Environmental Technology Site, State Hwy. 93 and Cactus, Rocky Flats, CO 80007 • 303.966.7000

Mailing Address: P.O. Box 464, Golden, Colorado 80402-0464

Robert E. Allen, Ph.D.
Arbitrator

2307 Hillside Drive
Laramie, Wyoming 82070
(307) 745-9441

Department of Management
University of Wyoming
Laramie, Wyoming 82071
(307) 766-6332

September 18, 1997

James Smith
Staff Representative
United Steelworkers of America
P.O. Box 2009
Pueblo, CO 81004

Re: United Steelworkers of America, Local #8031 and the Kaiser-Hill Company
(the Vern McEndree arbitration)

Dear Mr. Smith:

I received your letter concerning the amount of time it took Kaiser-Hill to reinstate Mr. McEndree to his former position as I directed in the above referenced matter. It is difficult for me to critique the Company's actions without knowing why 20 days were taken to get Mr. McEndree back on the job. I agree that 20 days seems like a long time but I cannot conclude that it was unreasonable without knowing all the facts surrounding the company's actions. Because the remedy in this matter did not involve the calculation of back pay, I did not retain jurisdiction over it in the event that that parties confronted problems when implementing the terms of the decision. Therefore, I do not believe that I have the authority to initiate a review of the issue that you have raised. It seems that I could review the timeliness of Mr. McEndree's return to work by mutual agreement of the parties. Alternatively, it seems that the Union could grieve the matter and initiate a discussion of your concerns through the grievance procedure. However, you are more familiar with this option than I am.

I would be glad to help in the resolution of your concerns over the timeliness of Kaiser-Hill's actions in Mr. McEndree's case. However, I do not believe I have the authority to make any recommendations without hearing from both union and company representatives. To do that I would have to be given jurisdiction over the matter by the parties. If you would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,



Robert E. Allen
Arbitrator



May 1, 1997

97-RF-02415

Robert E. Allen
University of Wyoming
Department of Management & Marketing
Laramie, Wyoming 82071

McENDREE TERMINATION ARBITRATION (GRIEVANCE NO. 96-0046) -
RCE-086-97

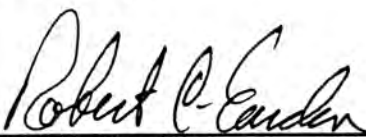
Dear Mr. Allen,


This letter will serve to inform you that the parties have selected you to arbitrate and render a decision in the above referenced grievances. The parties will be contacting you to inform you of the representatives who will be presenting this case.

The Company will be contacting you to schedule a mutually acceptable date and time to convene the hearing. Upon notification of the date and time of the hearing, the Company will reserve a hearing room in the immediate area.

If you have any questions regarding this matter, please contact either of the undersigned.

Respectively,


Robert C. Easdon
Manager of Labor Relations
Kaiser-Hill Company, L. L. C.
(303) 966-5685


James Smith
Staff Representative
United Steelworkers of America, District 12
(303) 922-0607

pja

cc:
S. J. Bensussen - Kaiser-Hill Company, L. L. C.
J. M. Harden - United Steelworkers of America, Local 8031
D. McCart - Kaiser-Hill Company, L. L. C.
D. A. McCormick - Kaiser-Hill Company, L. L. C.



Kaiser-Hill Company, L.L.C.

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Mailing Address: P.O. Box 464, Golden, Colorado 80402-0464