



December 18, 1998

The Honorable Bill Richardson  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue  
Forrestall Building  
Washington, D.C. 20585

Dear Secretary Richardson:

Pursuant to paragraph No. 15 of the Consent Agreement entered into between the Department of Energy, Khosrow B. Semnani, and Envirocare of Utah, Inc. on May 13, 1997, and pursuant to the Federal Acquisition Regulations, the Natural Resources Defense Council (NRDC) requests that DOE move immediately to debar Khosrow B. Semnani as a government contractor.

Paragraph No. 15 of the Consent Agreement states:

In the event Semnani is convicted of a crime that is a cause for debarment under the FAR arising out of the facts alleged in Anderson v. Semnani this Agreement will be extended through the end of the maximum three (3) year period of debarment and the Department may initiate debarment proceedings against Semnani personally, subject to credit for the period of Semnani's exclusion from the Companies as provided by this agreement.

On December 14, 1998, Mr. Semnani was convicted of a crime against the federal government and sentenced. His sentencing came about in the context of a plea bargain agreement with the U.S. Attorney's office and as a result of Mr. Semnani pleading guilty to a criminal act. That act arose out of the facts alleged in Anderson v. Semnani.

Under FAR 9.104-1, the determination of present responsibility to contract with the federal government is based on six factors, including "a satisfactory record of integrity and business ethics." See FAR 9.104-1(d). The lack of present responsibility as to business integrity is usually evidenced by an indictment, conviction or civil judgment for procurement fraud or other wrongdoing. See FAR 9.407-2(b).

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Moreover, FAR 9.406-2 states, in part:

- 2(a) The debarring official may debar a contractor for a conviction of or civil judgment for -
  - (1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract; -
  - (3) Commission of . . . bribery, . . . making false statements, tax evasion, . . .;
  - (5) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.
- (2)(c) Any other cause of so serious or compelling a nature that it affects the present responsibility of a government contractor or subcontractor.

Mr. Semnani has admitted in sworn court documents, and in public statements, that he paid money to Mr. Larry Anderson, then Director of Utah's Bureau of Radiation Control, for the purpose of obtaining Envirocare of Utah's operating licenses, the very licenses upon which Mr. Semnani relied in obtaining DOE contracts. His conviction clearly involved making false statements regarding those payments, and his conviction involves tax evasion. These facts, taken individually or collectively, represent compelling evidence of a lack of "business integrity or business honesty" that directly affects Mr. Semnani's fitness to be a government contractor.

In addition, the Consent Agreement states that DOE will debar Mr. Semnani if he is convicted of a crime that is a cause for debarment under FAR arising out of the facts alleged in Anderson v. Semnani. As noted above, Mr. Semnani's conviction clearly arises out of the allegations in Anderson v. Semnani, and clearly falls within the types of FAR violations that are appropriate for debarment.

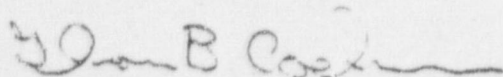
On the day of Mr. Semnani's conviction, Envirocare officials announced their intention to seek the immediate reinstatement of Mr. Semnani as a government contractor, as if his conviction for a criminal act somehow reestablished or reinstated his "fitness."

The audacity of that position is transparent. Moreover, any decision by DOE to reinstate Mr. Semnani as a suitable government contractor would be in direct conflict with the express provisions of the Consent Agreement, would be counter to the provisions of the FAR, and would be counter to the interests of the federal government and the

integrity of the procurement process. Mr. Semnani has been convicted, not cleared, of a criminal act directly related to his status as a government contractor.

NRDC urges DOE in the strongest possible terms to debar Mr. Semnani immediately. I look forward to your prompt response.

Sincerely,



Dr. Thomas B. Cochran  
Director, Nuclear Program  
The Wade Greene Chair  
for Nuclear Policy

cc: Senator Frank Murkowski  
Senator Robert C. Smith  
Mary Anne Sullivan, Esq.  
Richard P. Hopf