



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

April 18, 2000

Mr. Robin DeLaBarre  
Non-Proliferation/Nuclear Energy Affairs (NP/NEA)  
Office of Nuclear Energy Affairs  
U.S. Department of State  
Washington, DC 20520

Dear Mr. DeLaBarre:

This refers to our letter to you dated March 23, 2000 regarding an application from Bayou Steel Corporation (XW004) for a license to export Class A mixed hazardous radioactive waste to Stablex Canada, Inc., for treatment and disposal.

In order to assist in your review of the application we are enclosing copies of recent correspondence between NRC and the Environmental Protection Agency (EPA) concerning the pending application. Please consider this information in connection with that sent to you on March 23.

If you require additional information, please call me or Betty Wright at 301-415-2344.

Sincerely,

Ronald D. Hauber, Deputy Director  
Office of International Programs

Enclosures:

1. NRC Ltr. To EPA dtd 03/27/00
2. EPA Ltr to NRC dtd 04/06/00

cc w/enclosure: A. Welihozkiy, DOE  
M. Krupa, DOE  
W. Witter, DOD  
S. Clagett, DOC  
AECB



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 27, 2000

Mr. Robert G. Heiss  
Director  
Import-Export Program  
Enforcement, Planning, Targeting and  
Data Division  
Office of Compliance (2222A)  
U.S. Environmental Protection Agency  
Washington, DC 20460

Dear Mr. Heiss:

Enclosed for your review and comment is a copy of an application from Bayou Steel Corporation (XW004) for a license to export Class A mixed hazardous radioactive waste to Stablex Canada, Inc., for treatment and disposal. The material consists of 70.73 tons (84.5 cubic yards) of electric arc furnace (EAF) dust which contains <1300 pCi/g of cesium-137 (approximately 9.6 milligrams); Bayou inadvertently melted the cesium-137 source that was buried within a load of scrap metal that was charged to the furnace.

Bayou Steel produces carbon steel products by melting scrap metal in an electric arc furnace. The melting process generates dust that is captured and controlled by an emission control baghouse; the resulting dust (EAF dust) is regulated by EPA as the hazardous waste KO61 and must be disposed of at a permitted hazardous waste landfill or recycled by the high temperature metals recovery process.

We are also enclosing the attachments to the export license application which include copies of correspondence between the applicant and EPA (identified as EPA Notice No. 558/99 dated October 6, 1999) and a Written Confirmation from the Canadian Atomic Energy Control Board (dated October 4, 1999). These documents authorize the export/import of the hazardous waste from the United States to Canada. Additionally, inasmuch as the material is classified as "mixed waste", since it also contains the radioactive isotope cesium-137, Bayou Steel is required to obtain a specific export license from the NRC before any shipments can be made.

Enclosed also for your information is a copy of our March 23 letter to the Department of State in which we request that they notify the Canadian government of the proposed Class A mixed hazardous radioactive waste import. We have also asked for their comments with respect to the Code of Practice on Transboundary Movement of Radioactive Waste and their views as to whether the subject export would be consistent with the Code's guidelines.

Before taking action on this application, we would appreciate receiving your comments regarding the proposed export. If you require any additional information, please call me or Betty Wright, export/import licensing officer, at 301-415-2344.

Sincerely,



Ronald D. Hauber, Deputy Director  
Office of International Programs

Enclosures:

Appl. dtd 10/06/99 (XW004 - Canada)  
w/attachments as noted

cc w/enclosure: A. Welihozkiy, DOE  
M. Krupa, DOE  
W. Witter, DOD  
S. Clagett, DOC  
AECB



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Ronald D. Hauber  
Deputy Director  
Office of International Programs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

XW004  
11005189

Dear Mr. Hauber:

Thank you for your letter of March 27, 2000, in which you request our comments on the proposed export of mixed hazardous radioactive waste by Bayou Steel Corporation of LaPlace, Louisiana (Bayou), to Stablex Canada in Blainville, Quebec, Canada. As you know, my office, on behalf of the United States Environmental Protection Agency (EPA), previously reviewed Bayou's Notice of Intent to Export (Notice No. 558/99), dated September 9, 1999, seeking to export flue dust/baghouse dust to Canada under the Resource Conservation and Protection Act (RCRA) regulations and the requirements of the bilateral agreement existing between the countries for the control of transboundary movements of hazardous waste. The Notice did not indicate that the waste was mixed (hazardous and radioactive) in nature.

EPA submitted the Notice to Environment Canada, EPA's counterpart in Canada, for consent or objection. After federal and provincial review, Environment Canada consented on October 4, 1999, and EPA issued its Acknowledgment of Consent (AOC) to Bayou on October 6, 1999. The consent of Environment Canada and, consequently, EPA's AOC remain effective at present with respect to the hazardous waste component of the waste. .

Several weeks ago Ms. Betty Wright of your office contacted Mr. Robert Small of my staff and advised him of a proposed export by Bayou of radioactive mixed waste, which in point of fact was the same waste described in the original Notice of Intent to Export hazardous waste. We have advised Environment Canada of this development, and also informed Mr. Chet Thompson, counsel to Bayou, that Environment Canada is considering whether to suspend its October 4 consent. We understand that Environment Canada is presently evaluating the applicability of Canadian law as it relates to the radioactive component of this mixed waste. In their telephone conversation, Mr. Thompson represented to Mr. Small that his client has not shipped any of this waste, and, in any event, has no intent to begin exporting this mixed waste until after the requirements of your agency and ours have been met.

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We appreciate this opportunity to comment on Bayou's export license application pending before your agency. We have no comment on that application. We do, however, strongly support close communication and cooperation between our agencies on this matter, as well as all others of mutual interest in the future. In particular, we will advise your office if Environment Canada should decide to suspend its consent to Bayou's Notice.

I know our agencies are in agreement that mixed wastes should never move internationally until all applicable requirements have been satisfied. Toward that end, we previously developed a form cover letter (enclosed), to accompany our AOCs when waste is known to be mixed. This letter reminds regulated parties of their responsibility to identify all potentially applicable federal, state, and local requirements to which they may be subject.

We look forward to working with the Nuclear Regulatory Commission on this matter in the future, upon completion of your consideration of Bayou's application. Please feel free to contact me at (202) 564-4108 or Robert Small at (202) 564-5043.

Sincerely,

*Robert G. Heiss*

Robert G. Heiss, Director  
Import-Export Program  
Enforcement, Planning, Targeting and  
Data Division  
Office of Compliance (2222A)

Enclosure

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Dear [U.S. primary exporter]:

Enclosed is the United States Environmental Protection Agency's (EPA) Acknowledgment of Consent (AOC) letter for the export of the RCRA mixed hazardous waste specified in your Notification of Intent to Export dated [date]. This EPA AOC letter is in addition to, and not in lieu of, any other documents that may be required by local, state, and/or other U.S. government entities having competent jurisdiction over the handling and movement of radioactive materials.

This transmittal letter must accompany the enclosed EPA AOC letter, which is denominated by the notification number [number], and dated [date]. Please be advised that this transmittal letter is, by this reference, incorporated in its entirety into the enclosed AOC letter.

Sincerely,

[name], Director  
Import-Export Program  
Enforcement Planning, Targeting, and Data Division  
Office of Compliance

Enclosure

cc: U.S. Nuclear Regulatory Commission

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2000 APR 11 AM 9:35