

From: "Robertson, Gary" <Gary.Robertson@DOH.WA.GOV>
To: "Kevin Hsueh (E-mail)" <KPH@nrc.gov>
Date: Fri, Oct 27, 2000 1:27 PM
Subject: Criterion 4

Attached are my draft letter to Paul Lohaus, and Diane Hallisy's final letter to me, on the sludge disposal proposal. I'm also faxing you the PCB lab analysis for the pit water and the Midnite Mine Water Treatment Plant sludge. Hopefully next week we can set up a conference call to discuss these documents.

<<LOHAUS5.doc>> <<sludgenrc.doc>>

Gary Robertson, Head
Waste Management Section
Division of Radiation Protection
Department of Health
P.O. Box 47827
Olympia, WA 98504-7827
(phone) 360/236-3241
(fax) 360/236-2255
e-mail: gary.robertson@doh.wa.gov

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CC: "Lopez, Lilia (ATG)" <LiliaL@ATG.WA.GOV>, "Stoffel..."

DRAFT

October 27, 2000

Paul Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike, 3rd Floor
Rockville, Maryland 20852

Dear Mr. Lohaus:

By letter dated August 8, 2000, the Department of Health requested, pursuant to U.S. DOE's request, that NRC review its assessment of the Dawn Mining Company license amendment application for direct disposal of source material into the company's tailings disposal area, for consistency with the NRC guidance regarding disposal of non-11e.(2) byproduct material in tailings impoundments. In reviewing the application, you have asked for clarification of the response to Criterion 4 regarding the applicability of federal regulations for hazardous or toxic waste prior to disposal.

The source material proposed for disposal in the tailings disposal area is the source material currently licensed by the department for Dawn Mining Company's possession at the mine site and processing at the millsite. It is not physically mixed with any other material. Therefore, there are no other federal statutes, such as the Toxic Substances Control Act (TSCA), that become applicable as a result of physically mixing the source material with other material.¹ The department does, however, require ongoing analysis of the material for dangerous waste constituents.

As stated in the response to Criterion 4 contained in the department's Technical and Environmental Evaluation previously provided to you, the source material proposed for disposal in the tailings disposal area is not dangerous waste, as defined in Washington State. Under Washington's dangerous waste regulations, Chapter 173-303 WAC,

¹ We note that source material, as defined in the Atomic Energy Act, is exempt from TSCA under 15 U.S.C.A. §2602(2)(B)(iv), and RCRA under 42 U.S.C.A. §6903(27).

Paul Lohaus, Director
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dangerous waste includes all categories of waste regulated under RCRA. Please see copy of enclosed letter from Diane Hallisy and enclosed copies of WAC 173-303-010 (Purpose of Regulations), 51 F.R. 3782 (Environmental Protection Agency's Final Authorization of State Hazardous Waste Management Program), and 64 F.R. 55142 (recent update to final authorization). Thus, the determination that the source material is not "dangerous waste" under Chapter 173-303 WAC means that it is not classified as "hazardous waste" under RCRA and is, therefore, not subject to regulation under RCRA. We further note that the source material does not contain polychlorinated biphenyls. Please see letter from Diane Hallisy and enclosed copy of March 2000 PCB test report.

If you have any further questions or concerns, please contact me.

Sincerely,

Gary Robertson, Head
Waste Management Section

GLR:krf

October 25, 2000

Mr. Gary Robertson,
Department of Health
Division of Radiation Protection
PO Box 47827
Olympia WA 98504-7827

Dear Mr. Robertson:

This letter is in response to your telephonic request of October 18, 2000, for amplification of the definition of "dangerous waste" contained in my letter of April 3, 2000, to Mr. Thomas Shepherd. In that letter I confirmed that the filtercake sludge from the Midnite Mine water treatment plant was not a dangerous waste in the State of Washington. It should be noted that the definition of dangerous waste also includes PCBs.

The Department of Ecology has been given direct authority over hazardous/dangerous waste management in the State of Washington by the U.S. Environmental Protection Agency. Washington's Dangerous Waste Regulations, WAC 173-303, have been determined to be at least as, or more, stringent than the Resource Conservation and Recovery Act (RCRA), 40 CFR Parts 260-299. All categories of wastes regulated under RCRA are included in the Dangerous Waste Regulations. Therefore, any waste which is determined not to be regulated under the Dangerous Waste Regulations would not be regulated under RCRA.

To put it more plainly – "hazardous waste" under RCRA is synonymous with "dangerous waste" under WAC 173-303. I hope that this addresses your needs.

If I can be of further assistance, please do not hesitate to contact me at (360) 407-7109 or via e-mail at diha461@ecy.wa.gov .

Sincerely,

Diane K. Hallisy
Environmental Specialist
Nuclear Waste Program

03-22-2000 10:37AM FROM JACO Analytical Lab. Inc. TO

15092584512... P.01

PCB (Method 6082) TEST REPORT

03/22/2000

1421
DARN MINING COMPANY
P.O. BOX 250
FORD WA 99013

JACO ANALYTICAL, Inc.
103 12th Ave SW
EPHRATA WA 98874
WA LAB ID#: C256

Report #: E0031511

Date received: 03/15/2000

Date analyzed: 03/22/2000

Please contact the laboratory at 509-754-5725 if you have any questions.

UTILITY SERIAL NO.	COMPANY #	MISC.	AROCLOR	PPM	JAL #
BOVD PIT	1050	WATER		ND	OE0023041
PIT 2		WATER		ND	OE0023042
PIT 3	000301	WATER		ND	OE0023043
* TPS	9911	SLUDGE		ND	OE0023044

* Midnite Mine WATER TREATMENT Plant Sludge

Report #: E0031511

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Number of samples: 4

Glenda Nelson, Director

Glenda Nelson