

RAS 2548



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OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF
December 22, 2000

David A. Wolf, Esq.
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Re: Removal of Rolloff Boxes from Molycorp Site

Dear David,

I am writing in response to your letters of November 9 and December 1, 2000. In your most recent letter, you reference our telephone conference on November 10, 2000. I would like to confirm that this telephone conference did not involve solely you, me and John Ashburn of Unocal, as indicated in your letter. Rather, Chad Smith of the Canton Township Board of Supervisors, and Rick Horn, Molycorp's Plant Manager for its Washington facility, also participated in this phone call.

During this telephone conversation, Molycorp responded to the inquiries raised in your November 9 letter, as well as additional questions posed by both you and Mr. Smith during our telephone conference. Moreover, as you will recall, Molycorp offered to appear before the Canton Township Board of Supervisors to report directly on the decommissioning activities at the Washington facility and respond to any questions. In this regard, Rick Horn met with the Supervisors on November 17. Furthermore, George Dawes subsequently appeared before the Board of Supervisors on December 8 to further update the board and respond to any additional questions.

Accordingly, with the exception of the new, additional inquiry regarding protective equipment raised in your December 1, 2000 letter, all information you have requested in your correspondence, or which otherwise may have been requested by the Township, has already been provided verbally to you and/or the Canton Township Board of Supervisors. However, pursuant to your request, I am providing the following written summary of this information.

As we explained on November 10, the rolloff boxes initially were to be transported to a tented area adjacent to the rail cars for offloading. However, when removal of the rolloff boxes began on Monday, November 6, and the first rolloff was brought to the tent, Molycorp discovered that the material in the rolloff had solidified and could not be removed. Accordingly, Molycorp was

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compelled to modify its protocol. An area near the rolloff boxes was selected as the new offloading location. Gravel was placed on the ground, and a berm was constructed. Hay bales were then placed around the berm. The rolloffs were then taken to this area where the material was unloaded onto the ground and then transferred into a truck via a backhoe. The trucks were then driven over to the tented area adjacent to the rail cars. During the course of the offloading the material in the bermed area, water was sprayed on the material to prevent fugitive dust emissions. Moreover, continuous air monitoring was performed which confirmed that there was no airborne contamination caused by this process.

Importantly, both the NRC and the DEP were notified of this change in the disposal protocol. Neither the NRC nor the DEP voiced any objections or concerns. Furthermore, as we explained, representatives from the DEP were present on numerous occasions during the week of November 6 to observe and monitor these activities. However, as we explained both to you and to Mr. Smith on November 10, the NRC's and DEP's approval of this change in protocol was verbal. Accordingly, as we clearly advised you on November 10, no written approval letters from the NRC or DEP exist, as requested in your December 1 letter. This change in protocol did not pose any risk either to public health or to the environment, and was within compliance with the approved Part 1 Decommissioning Plan.

During the November 10 telephone conference, Mr. Smith inquired as to the precautions Molycorp intended to take to prevent any damage to the waterline located near the pile during the course of the current decommissioning activities. Although Molycorp indicated that it did not believe these activities posed any risk to the structural integrity of the waterline, Molycorp offered to coordinate with Sam Stockton, the Canton Township Manager, in seeking input from the water company regarding any additional necessary precautions.

Thereafter, on November 15, Mr. Stockton, Mr. Horn and Jay Lucas of the water company met at Molycorp to address this issue and agree upon any necessary precautions. Mr. Lucas indicated that he did not believe any additional precautions were necessary to safeguard the structural integrity of the waterline during these activities, provided that Molycorp would not park any earth moving equipment directly over the waterline. Lucas added that merely driving earth moving equipment over top of the waterline would not pose any risk to the structural integrity of the line. Molycorp agreed not to part equipment directly on

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top of the line. Mr. Stockton, on behalf of the Township, agreed that this was acceptable.

Thereafter, Mr. Horn appeared before the Canton Township Board of Supervisors on November 17 to update the Supervisors on Molycorp's current decommissioning activities. Mr. Horn reiterated the information previously provided to Mr. Smith during the November 10 telephone conference, and updated the Supervisors on the recent discussions with Mr. Stockton and Mr. Lucas on November 15. Following Mr. Horn's report, none of the Supervisors raised any additional questions or concerns.

As indicated above, George Dawes thereafter met with the Canton Township Board of Supervisors on December 8. Prior to this meeting, Mr. Dawes called Sam Stockton, the Township Manager, to advise him that Molycorp had finished offloading the rolloff boxes, and that Molycorp would be taking down the tent located near the railroad loading area. Furthermore, Mr. Dawes advised Mr. Stockton that Molycorp would begin loading intermodal containers onto the rail cars on Friday, December 8. Finally, Mr. Dawes advised Mr. Stockton that Molycorp would be bringing in a drilling rig to begin closing three abandoned wells on Molycorp's property.

At the meeting on December 8, Mr. Dawes updated the Board of Supervisors with respect to the information he had previously provided to Mr. Stockton. Furthermore, Mr. Dawes responded to several inquiries posed directly by the Board of Supervisors. In this regard, Dawes was asked whether Molycorp had adopted any safeguards to prevent soil runoff during the offloading of the rolloff boxes. Mr. Dawes reiterated that the area designated for the offloading of the rolloff boxes had been bermed. Mr. Dawes added that Molycorp also had erected two silt fences as an additional precaution. Mr. Dawes was also asked whether any of Molycorp's current cleanup activities called for below-grade excavation. Mr. Dawes confirmed that any work currently being done was only to grade, and would not involve any below-grade excavation.

Currently, the next meeting of the Canton Township Board of Supervisors is scheduled for sometime in early January. Molycorp intends to continue to appear at these meetings and report directly to the Board.

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In your December 1 letter, you raise an additional issue with respect to cleanup personnel handling materials from the rolloff boxes without using any personal protective equipment, including suits and protective face masks. You are correct in noting that the workers removing material from the rolloff boxes were not utilizing personal protective equipment. However, such equipment was not necessary or required. The activities you described were not generating dust, and neither the materials nor their handling posed any risk to the health or safety of the workers which would necessitate such equipment. In fact, this was confirmed through the continuous air monitoring performed during these operations. Molycorp understands that the NRC was aware that personal protective equipment would not be used, and that the NRC did not voice any objection or otherwise raise any concerns. Again, because of the nature of the cleanup activities in the material involved, this did not pose a health risk to the workers involved.

As you are aware, the material in the rolloff boxes has already been shipped off site, and Molycorp is in the process of arranging for removal of the empty rolloff boxes. Molycorp also is presently removing material located in the pile for off-site disposal. For your information, the protocol for removal of the material in the pile is virtually identical to that employed with the rolloff boxes. The material from the pile is being loaded by backhoe into intermodal containers (similar to rolloffs) at the pile. The containers are then covered and transported to the rail spur area. A crane then picks up the containers and secures them on the rail car. Continuous air monitoring is being performed during these activities to ensure that the process does not cause any airborne contamination. Furthermore, Molycorp has implemented precautions to prevent any soil erosion. This protocol, which is within compliance with the approved Part 1 Decommissioning Plan, has already been fully explained to Canton Township both through telephone conversations with Township representatives as well as face-to-face meetings with the Board of Supervisors. I am unaware of any unanswered questions or concerns raised by the Township with respect to this protocol or these activities.

I trust that this responds to your inquiries. However, in closing, I would like to address two final issues. First, to the extent that your correspondence implies that Molycorp has failed to communicate with Canton Township regarding its activities or otherwise respond to the Township's inquiries, the facts set forth above clearly establishes that this is simply untrue. Second, I would like to

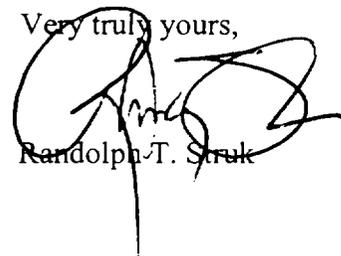
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reiterate Molycorp's offer made during our November 10 telephone conference that the Township should feel free to bypass counsel and communicate directly with Molycorp regarding any future questions with respect to Molycorp's decommissioning activities. Since Molycorp began its decommissioning activities several years ago, Molycorp has repeatedly offered to meet with the Township to address questions regarding Molycorp's proposed activities. Unfortunately, more recently these inquiries have been made through counsel rather than directly between the parties. However, as we indicated in the November 10 telephone conference, any questions that the Township has can be addressed more quickly and cost effectively if raised directly with Molycorp rather than through lawyers. I trust that you share my belief that it is in the best interests of our clients to deal directly with one another where possible.

If you have any questions, please call me.

Very truly yours,



Handwritten signature of Randolph T. Struk in black ink, consisting of a large, stylized 'R' and 'S'.

Randolph T. Struk

RTS/cag

cc: Administrative Judge Charles Bechhoefer
Dr. Richard F. Cole
Executive Director for Operations, US Nuclear Regulatory Commission
Secretary, US Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
John T. Hull, Esquire, NRC
Peter Gold, Esquire, EPA
Robert C. Williams, P.E., DEE, Assistant Surgeon General
Robert Maiers, Pa. DEP
Dr. Kamdish Sivarajah, PA Department of Health
Leroy Person, NRC