>>> Bruce Calder <Bruce.Calder@tdh.state.tx.us> 03/07/02 04:43PM >>>

Dear Mike,

Thank you for returning my call today. As I mentioned in my voice mail to you, I have a couple of questions concerning groundwater issues at the Title II sites in Texas. I've gone ahead and put them into an MS/Word document, which is attached.

As we get nearer to the termination process for these sites, I want to keep an open dialogue between TDH, NRC, and the licensees. As you can see, I've copied Dennis, Kevin, the RSOs of Conoco/Conquista and RGR/Panna Maria, their groundwater consultant, and my supervisor, so everyone is in the loop.

I hope that these questions are not too much of a barrage all at once, and as time goes on I want to endeavor to keep it to just one or two questions at a time. Please know that we are very grateful for your input and will appreciate any help you and NRC can offer with these questions.

If anything is not clear, or if you need additional info from me, please feel free to call me at (512)834-6688, X-2862, or e-mail is fine, too. Thank you very much!

Bruce

**********
* Bruce Calder, Geologist *
* Texas Department of Health *
* Bureau of Radiation Control *
* (512) 834-6688, X-2862 *
**********

1. Secondary groundwater-protection standards were apparently never established by either State agency which has regulated the Conoco/Conquista site over the years. The site, nevertheless, has at least four straight years of quarterly groundwater monitoring data. If in the near future, the Texas Department of Health (TDH) accepts, and in turn establishes, secondary groundwater-protection standards proposed by Conoco, would it be an acceptable approach for Conoco to use its *previous* years of data as a set to compare the standards to? The comparison would be thus a backward-looking comparison, as opposed to the more conventional approach of setting standards, then comparing future data against those standards.

2. If a licensee proposes and then gets State acceptance of an ACL for a particular constituent, what happens if that ACL is itself later exceeded? Is the licensee allowed to propose another higher ACL, or is it a one-time deal on ACL setting?

3. Concerning exceedance in general, what does the NRC suggest concerning such issues as re-sampling, statistics, etc., to decide unequivocally that there is, in fact, an actual exceedance? For example, how many occurrences of an exceedance will be considered sufficient to define it as a *contamination* certainty? Also, is there a form of statistical analysis or statistical significance that NRC suggests be used to determine with some degree of certainty the existence of an exceedance? Are mill tailings licensee's expected to follow the statistical analysis regimen of 40 CFR §264.97?

4. Please help us understand what is meant in the language found in Federal Register Vol. 48, No. 196, *"Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Final Rule,"* Friday October 7, 1983, p. 45942 (left column, second to last paragraph, last sentence) where it states, "If environmental contamination is a realistic possibility (or fact) beyond 500 meters *[which I've converted to be approx. 1,640.5 feet]* (or the site boundary), remedial actions must be taken, or alternative concentration standards (with EPA concurrence) are required."

    (a) Is this particular sentence in this issue of the Federal Register codified into the regulations somewhere? If so, please advise as to a direct citation. *[I was unable to locate it in either 40 CFR Part 192 or Part 264]*.

    (b) Is the "site boundary" referred to here the "restricted area" boundary around the impoundment, or the property-ownership boundary?

    (c) If the contamination conditions fail this test either way, then if the licensee wishes to propose an ACL for one or more particular constituents, is this saying that EPA *must also* review the ACL application for its own satisfaction, and ultimate concurrence? That is, must EPA also have to be satisfied before the ACL can go forward?