

March 29, 2007

Edgar D. Bailey, P.E., CHP, Chief
Waste Licensing Program
Texas Department of State Health Services
1100 W. 49th Street
Austin, Texas 78756

Dear Mr. Bailey:

This refers to your request, dated November 14, 2006, and follow up clarification, dated February 1, 2007, to the U.S. Nuclear Regulatory Commission (NRC) Region IV office for an NRC determination as to whether electric arc furnace dust (K061) and other material contaminated with Cs-137 from the accidental melting of a Cesium sealed source may be disposed of at the U.S. Ecology Idaho Subtitle C RCRA disposal facility (USEI). Your request is subsequent to a similar October 27, 2006, request from the LeTourneau Corporation (LeTourneau) to both the Texas Department of State Health Services (DSHS) and NRC. You stated that if NRC determines that disposal can occur, DSHS will approve the removal of the waste from the LeTourneau site near Longview, Texas, for the purpose of transporting and disposing of it in the USEI facility.

In accordance with the provisions of 10 CFR 30.11, "(t)he Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part....as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest." The NRC staff prepared a Safety Evaluation Report (SER) (enclosed) which considered granting an exemption which would authorize receipt, processing, and disposal of the LeTourneau contaminated material at USEI without the need for licensing that facility. The SER concluded that transport and disposal of the subject material poses no danger to the public health and safety, does not involve information or activities that could potentially impact the common defense and security of the United States and that it is in the public interest to dispose of these wastes in the controlled environment of a RCRA Subtitle C hazardous waste disposal facility. Therefore, NRC conclude that receipt, processing and disposal of these materials at USEI without meeting the licensing requirements of 10 CFR 30.3 is authorized by law and will not endanger life, property or the common defense and security and is otherwise in the public interest. Accordingly, pursuant to 10 CFR 30.11, NRC hereby grants an exemption effective immediately from the licensing requirements of 10 CFR 30.3 which will permit disposal of the LeTourneau contaminated material at the USEI facility. The staff also evaluated the environmental impacts of the exemption and determined that granting it will not result in any significant environmental impacts. For this action, an Environmental Assessment and Finding of No Significant Impact were prepared and published in the *Federal Register*, Vol.72, No.53, March 20, 2007.

E. Bailey

2

If you have any questions, please contact James Shaffner of my staff at 301-415-5496 or via email at jas11@nrc.gov.

Sincerely,

/RA/

Scott Flanders, Deputy Director
Environmental Protection and Performance
Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Safety Evaluation Report
2. *Federal Register* Notice

cc: T. Jenkins, Idaho Department of
Environmental Quality
S. Welling, US Ecology Idaho
W. Stuckey, LeTourneau Inc.

E. Bailey

2

If you have any questions, please contact James Shaffner of my staff at 301-415-5496.

Sincerely,
/RA/

Scott Flanders, Deputy Director
Environmental Protection and Performance
Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Safety Evaluation Report
2. *Federal Register* Notice

cc: T. Jenkins, Idaho Department of
Environmental Quality
S. Welling, US Ecology Idaho
W. Stuckey, LeTourneau Inc.

DISTRIBUTION:

EPPAD r/f	LCamper	CMcKenney	RidsFsmeOd
RidsFsmeMssa	RidsRgn4MailCenter		

ML070530580

OFFICE	DWMEP	DWMEP	OGC	DWMEP	
NAME	JShaffner	RWhited	NJensen	SFlanders	
DATE	03 /19 /07	03/19 /07	03/22/07	3/29/07	/ /

OFFICIAL RECORD COPY

