



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 75TH AIR BASE WING (AFMC)
HILL AIR FORCE BASE UTAH

22 August 2014

MEMORANDUM FOR 75 CFG/CEEA

FROM: 75 ABW/JACE

SUBJECT: Legal Review, 813 no. 24171, Magnesium/Thorium Landfill Removal at Little Mountain Test Annex

1. This 813 and the proposed application of the CATExs discussed below are legally sufficient, IAW 40 C.F.R. 1508.4, 32 C.F.R. 989.13 and Appendix B to Part 989, provided the requirements and concerns of all other reviewers are met.
2. Application of CATEx A2.3.11 is legally sufficient. I have reviewed the March 2014 "EPU Overhaul Complex at Little Mountain" EA/FONSI, and find it applicable to the CATEx for the proposed action. A portion of the EPU Overhaul Complex EA discusses soil excavation and removal as part of that project, and analyzes the environmental impacts of soil excavation and removal in very near proximity to the proposed action in this 813. The discussion and analysis could be applied to this proposed action as well. The only difference would be the soil being excavated, which in the case of this proposed action is impacted by low-level residual radioactivity due to prior magnesium and thorium disposal at the site. However, test results indicate the soil is not a RCRA hazardous waste. Chemicals are not present beyond background levels, and there is no impact to groundwater. Thorium source material is less than 0.05% by weight, an unimportant quantity per 10 CFR 40.13a. Even with the relatively minor difference in the soils, the environmental impacts of the soil excavation and removal for this proposed action would be very similar, if not identical to those discussed in the EPU Overhaul Complex EA.
3. Plans are for the excavated soil to be disposed at an NRC-approved, permitted, and regulated disposal facility permitted to accept low-level radioactive waste. Transportation of the impacted soil is covered by application of CATEx A2.3.28: "Routine transporting of hazardous materials and wastes in accordance with applicable Federal, state, interstate,

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and local laws.” Although the soil is not RCRA hazardous waste and is impacted by only low-level residual radioactivity, application of this CATTEN nevertheless seems prudent and is legally sufficient.

4. A question has arisen concerning consultation with Native American tribes. Tribal consultation could be required for the proposed action if the action were to disturb previously undisturbed soils. However, this action will disturb only those soils already disturbed by previous disposal activities at the site, and so will not require tribal consultation.

5. I note that significant sampling and analyses have already been conducted at this site pursuant to several previous investigatory activities. An email exchange occurred today between Mark Loucks, Chief of Environmental Restoration at AFCEC/CZCOM, Hill IST, and Melanie Pershing, NEPA/REPI Program Manager at the Planning Branch, AFMC/A7NX, which gives additional details about the site and its investigations. It could be beneficial for additional background if this email exchange were attached to this 813.

6. **Recommendation:** I recommend application of CATTENs A2.3.11 and A2.3.28, and that the Loucks/Pershing email exchange of 22 Aug 2014 be attached to this 813.

//Signed 22 Aug 2014//
JOSEPH G. LINFORD, DAFC
Environmental Attorney

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