

**Collier, Shannon, Rill & Scott, PLLC**

Attorneys-at-Law  
3050 K Street, N.W.  
Suite 400  
Washington, D.C. 20007

Tel.: (202) 842-8400  
Fax: (202) 842-8451

10 Barrack Street  
Level 12  
Sydney, NSW 2000, Australia  
Tel.: 61-2-862-6700  
Fax: 61-2-862-8263

Chet M. Thompson  
(202) 842-8815  
Internet: cmt@colshan.com

October 8, 1999

Mr. Ronald Hauber  
Director, Non-proliferation, Export, and Multilateral Relations  
Office of International Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Export License Variance

Dear Mr. Hauber:

Per our telephone conversation yesterday, on behalf of Bayou Steel Corporation ("Bayou"), we are writing to request your assistance in obtaining a variance from the Nuclear Regulatory Commission's ("NRC's") export licensing requirements codified at 10 C.F.R. part 110. To facilitate your review, this letter briefly describes the material at issue and the manner in which we propose to export it to Stablex Canada, Inc. ("Stablex"), a Canadian facility fully licensed to receive and dispose of the material. We have also enclosed the following documents for your review:

- (1) an executed NRC Form 7;
- (2) the U.S. Environmental Protection Agency's ("EPA's") Acknowledgment of Consent for Export of the material to Stablex, dated October 6, 1999; and
- (3) a letter from you to me dated May 25, 1999 granting another company a permitting variance to ship the same type of material to Stablex.

Bayou Steel produces carbon steel products by melting scrap metal in an electric arc furnace ("EAF"). The EAF melting process generates dust that is captured and controlled by an emission control baghouse. The resulting dust ("EAF dust") is regulated by EPA as the hazardous waste K061 and must be disposed of at a permitted hazardous waste landfill or recycled by the high temperature metals recovery ("HTMR") process.

Bayou inadvertently melted a cesium-137 source that was buried within a load of scrap metal that was charged to the furnace. Like all EAF steel mills, Bayou uses state-of-the-art radiation detection equipment to monitor all incoming loads of scrap metal. Loads that trip an alarm are

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rejected and returned. However, as the NRC is aware, no matter how sophisticated, detectors are not guaranteed to detect all sources all of the time, especially those that are well-shielded or buried deep with a load of scrap metal. As a result of that inadvertent melting, Bayou is in the possession of approximately 80 tons of EAF dust that contains relatively low levels of cesium-137 (less than 1300 pCi/g).

The material is regulated as a "mixed waste" under U.S. law because its is both hazardous under the Resource Conservation and Recovery Act ("RCRA") and "radioactive." Under NRC regulations, any material that contains cesium-137 above background levels (i.e., above two pCi/g) is considered radioactive. The material is not, however, radioactive under Canadian law.

Stablex has analyzed the waste and determined that it can accept, treat, and dispose of the wastestream pursuant to its Certificate of Operation. Before landfilling the material, Stablex has agreed to treat it to meet applicable U.S. land disposal restrictions ("LDR") treatment standards. As evidenced by the attached EPA Acknowledgment of Consent, Environment Canada and EPA have also reviewed and approved the shipment. The only remaining hurdle is NRC approval.

Thus, Bayou Steel hereby requests NRC to grant a licensing waiver for this one-time shipment. Bayou does not believe that this shipment, one to a company authorized and capable of safely handling the material, falls within the rubric of export transactions that NRC is attempting to regulate under 40 C.F.R. part 110 (e.g., shipments to countries that cannot handle the waste, the proliferation of nuclear material, etc.). If authorized, the material would be sent directly to Stablex for treatment and disposal in an environmentally-sound manner. Given the relative simplicity of the proposed transaction, the low-levels of cesium-137 involved, and the fact that NRC recently granted a similar waiver (see attached letter), we believe that NRC's review should be fairly cursory. Bayou Steel has already incurred enormous expenses as a result of the inadvertent melting and is anxious to resolve this matter as expeditiously as possible.

Environment Canada and EPA have already approved this transaction. Bayou Steel needs only NRC's approval to initiate the shipment. To that end, we would greatly appreciate any assistance you can provide us on this matter and look forward to your response. If you have any questions, please call me at the above number.

Sincerely,



Chet M. Thompson

Counsel to Bayou Steel Corporation

cc: Mr. Al Pulliam