

THE DOE RUN COMPANY
Smelting Division

TO: John FitzSimmons September 7, 1988

FROM: Dan Vornberg

SUBJECT: AMC Smelter RCRA Decision Meeting

Ken Buckley and I attended an AMC meeting in Washington today, to better understand the impact of the court decision relisting six smelter wastes under the hazardous waste rules, and also to develop a strategy to allow more time, or to defeat the previous court ruling. An agenda is attached.

1. Impact Of The Rule. The impact was summarized by the Beveridge and Diamond lawyers as attached. In short, while uncertainties abound, with regard to every facet of the impact, we will probably have until July, 1990 (assuming the State of Missouri cooperates) to adjust the management practices at our smelters, so as to argue they are not regulated or alternatively to file a Part A RCRA permit. One year later we must file our full Part B application and within several (perhaps four years thereafter) have in place all projects which qualify us as permitted. Otherwise, we must shutdown.

At Herky, we are hoping not to require a Part A & B, but at Buick it may be difficult or impossible. If we do not file, we must have things in place by mid 1990. Of equal concern is the possibility that many other wastes or materials besides surface impoundment solids, will fall into the net, and solving the impoundment problem at Herky may not be sufficient to get us out. By February, 1989, we should know whether Herky can escape the noose. Another rule is due out then. If Part A & B applications are filed and permits obtained, "corrective action" concerning past activities on the sites will be required.

The question of regulation of furnace slag will almost certainly be pushed off several years, although the specter of previously disposed slag being regulated has now been raised.

2. Defensive Actions. After extensive discussion, the following actions will be undertaken in an attempt to slow down, derail or improve the die cast by the court decision.

- (a) AMC will probably ask the Supreme Court to review the case and perhaps issue a stay. Probability of success is low, but the value of victory very high.
- (b) Determine whether a rider on the appropriations bill in 1988 could be used to stay the effect of the court decision for a year to allow EPA to finish its report to Congress. Carlstrom will participate as appropriate.
- (c) Try to influence EPA regulatory actions. Work to proceed within commodity groups under Processing Subcommittee of AMC Solid Waste Committee. Actions to go through normal channels. Three specific actions are October 15, 1988 proposal, and February, 1989 rule concerning which waste will continue to have "Bevill" protection for awhile, Report to Congress II as revised, and the follow-up Federal Register visitation by EPA of the six listed wastes. The Lead Commodity group will meet in St. Louis in the near future to begin developing a paper on our issues. Vornberg and Nowotny will participate in this effort.
- (d) The Washington Representatives group will plot a strategy to deal with next year's RCRA re-authorization bill which will almost certainly contain a section on mine wastes. Carlstrom to participate in this effort with advice and consent from DRC.
- (e) At the plant level operators (who were well represented at the meeting) should use the time to improve management practices at their respective plants. The advice seemed to be to focus on "mismanagement conditions" that release metals to water or air.

DLV:lr

cc: J. Zelms	K. Buckley	L. Evans
W. Nowotny	M. Kearney	D. Crouch
D. Amistadi	J. Carter	B. Carlstrom
E. Alsbury	D. Bailey	J. Bonner

Doe Run Specific: With the die cast by EPA, the smelting division will be formulating plans and capital needs to address the problems at both smelters. Centerpoint should brace itself for "opportunities" in this area.



**AMERICAN
MINING
CONGRESS**

FOUNDED 1897

Suite 300
1920 N Street N.W.
Washington, D.C. 20036
202/861-2800

TWX 710/822-0128
Easylink: 62750020

John A. Knebel
President

WASHINGTON MINE WASTE GROUP

AGENDA

Wednesday, September 7, 1988

AMC Main Conference Room

- I. Call to order - 9:00 a.m.

- II. EPA listing of Six Mineral Processing Wastes as Hazardous
 - A. Background
 1. Developments 1978 to July 1988
 2. Court decisions in EDF & HWTC v. EPA
 3. August 31, 1988, EPA listing of six wastes
 - B. Implications of the listing
 1. For industry generally
 2. For individual smelters

- III. Options
 - A. Administrative/Regulatory
 1. Complying with listing -- determining retroactivity, compliance date
 2. Changing the listing
 - a. Industry petitions for rulemaking to: narrow scope of listing; rescind listing entirely; limit impact of other Subtitle C provisions (e.g. mixture and derived-from rules); generic reevaluation of all listed wastes
 - b. Individual companies petition to delist specific waste at specific sites
 3. Amending Subtitle C rules
 4. Submission of additional data on listed wastes

5. October 15, 1988, proposed rule -- preparation and submission of industry and individual company comments
6. Subtitle D program -- how to continue and expand program to include processing wastes

B. Judicial

1. Petition for rehearing en banc pending
2. Petition for certiorari
3. Judicial review of August 31, 1988, listing
4. Shell Oil challenge to listing

C. Legislative

1. Possible objectives: restoring broad scope of Beville Amendment to include all processing wastes; rescinding or suspending listings; limiting impact of Subtitle C requirements for either these six listed wastes or all processing wastes; mandating one regulatory program for all industry wastes including processing; supporting decision in AMC v. EPA (on definition of solid waste)
2. Possible vehicles: RCRA reauthorization; riders on other bills (e.g. Clean Air Act); report language
3. Briefing congressional supporters

IV. Adjournment

Compliance Schedule For Newly-Listed Wastes
In Authorized States

September 1, 1988	-	Promulgation of listing.
December 1, 1988	-	Notification deadline (assuming the 90-day period is triggered by federal, rather than state, listing).
March 1, 1989	-	EPA deadline for promulgating LDRs for the newly-listed wastes (no hammer applies).
July 1, 1990	-	Deadline for state adoption of the listings (assuming only regulatory changes are required).
July 1, 1991	-	Deadline for state adoption of the listings (assuming statutory changes are required).
September 1, 1992	-	Possible deadline for MTR retrofitting of surface impoundments (assuming the 4-year period is triggered by federal listing).
November 8, 1992	-	Possible loss of interim status for TSDFs (other than land disposal facilities or incinerators) that failed to submit Part B permit applications by November 8, 1988.
State Effective Date ("SED") [no later than July 1991]	-	Effective date for generator, transporter, and general TSDF requirements.
	-	Deadline for submitting Part A permit applications.
	-	Effective date for California List LDRs as they apply to newly-listed wastes.

- SED + 1 year
[no later than July 1992] - Deadline for land disposal facilities to submit Part B permit applications and certify compliance with ground-water monitoring and financial responsibility requirements.
- SED + 4 years
[no later than July 1995] - Possible deadline for MTR retrofitting of surface impoundments (assuming the 4-year period is triggered by state listing).

Compliance Schedule for Characteristically-Hazardous
Listed Wastes

- | | | |
|-------------------|---|---|
| September 1, 1988 | - | Promulgation of listing. |
| December 1, 1988 | - | Notification deadline
(assuming the 90-day period
is triggered by federal
listing). |
| March 1, 1989 | - | Expiration of the 6-month
delay on the duty to test
solid wastes for the
hazardous waste
characteristics. |
| | - | Effective date for generator,
transporter, and general TSDF
requirements. |
| | - | Deadline for submitting
Part A permit applications. |
| | - | Effective date for California
List LDRs as they apply to
characteristically-hazardous
listed wastes. |
| | - | <u>Possible</u> deadline for MTR
retrofitting of surface
impoundments (assuming the
wastes do not qualify as
newly-identified wastes). |
| March 1, 1990 | - | Deadline for land disposal
facilities to submit Part B
permit applications and
certify compliance with
ground-water monitoring and
financial responsibility
requirements. |

November 8, 1992

- Possible loss of interim status for TSDFs (other than land disposal facilities or incinerators) that failed to submit Part B permit applications by November 8, 1988.

March 1, 1993

- Possible deadline for MTR retrofitting of surface impoundments (assuming these wastes qualify as newly-identified wastes).

AHG/mp/1363a