AMERICAN MINING CONGRESS

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1920 N Street N.W.
Washington, D.C. 20036
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TWX 710/822-0126
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John A. Knebel
President

MEMORANDUM May 3, 1989

TO: Solid Waste Subcommittee & Consultants

FROM: Rod Dwyer, Senior Counsel

RE: Minutes of the Solid Waste Subcommittee Meeting, April 24-25, 1989, Stapleton Plaza Hotel, Denver, Colorado

The meeting was called to order at 1 p.m. Monday, April 24, 1989, by Subcommittee Chairman David Crouch. A list of those in attendance is enclosed. Chairman Crouch announced that the purpose of the meeting was to analyze and prepare to respond to the Environmental Protection Agency's (EPA) April 7 proposed rule on processing wastes.

Following initial discussions of the proposed rule, those present divided into four work groups, each focusing on a separate aspect of the proposed rule. The work groups were constituted as follows:

1. Hazard/Toxicity Criteria -- Steve Mueller*, AMAX Inc.; Krishna Parameswaran, ASARCO Incorporated; Ray Ehrhard, Big River Zinc; and Eldon Helmer, Magma Copper Company.

2. Volume Criteria -- Tom Janeck*, Zinc Corporation of America; Tony Gomez, Cyprus Minerals Company; and Gary Welch, for Phibro.

3. "Processing" Definition -- Lou Marucheau*, AMAX Inc.; Wayne Cooper, U.S. Borax & Chemical Corporation; Meade Stirland, Echo Bay Mines Inc.; Kent Lott, Monsanto Company; and Wade Sanders, Freeport-McMoRan Inc.

4. General Resource Conservation and Recovery Act Issues (e.g. mixture and derived from rules, applicability of Section 3004(a) and (x)) -- Gerald Schurtz*, Kennecott Corporation; Dan Vornberg, The Doe Run Company; Meade Stirland, Echo Bay Mines Inc.; Gary Welch, for Phibro; Vince Morando, Engelhard Corporation; and Terry Larson, Unocal Corporation.

* denotes unofficial chairman of the group

The groups worked on their issues until approximately 5 p.m., when Mr. Crouch adjourned the meeting until 8:30 a.m. the following morning.

At 8:30 a.m. Tuesday, April 25, Mr. Crouch called the subcommittee to order. A list of those in attendance is enclosed.

The work groups continued their issue analyses, begun the day before, until 10:30 a.m., at which time the group chairmen reported, identifying issues to be addressed in AMC comments on the proposed rule. Each work group is to send to Mr. Dwyer, by Friday, April 28, an outline of the issues identified by the group. Discussions of these issues are to be further developed in preparation for a comment drafting meeting in Washington, D.C., on May 10 and 11 or May 11 and 12. Actual meeting dates will hinge on whether and when EPA representatives can meet with subcommittee representatives to discuss the proposed rule.

It was decided that a smaller group, drawn from the four work groups would prepare the comments and testimony. These people include Eldon Helmer, Steve Mueller, Tom Janeck, Tony Gomez and David Crouch. The subcommittee decided that AMC should testify at the May 23 public hearing.

On the matter of preparing AMC comments on the EPA proposed (January 26) Pollution Prevention Policy, the subcommittee noted that ASARCO Incorporated, Cyprus Minerals Company and the Lead Industries Association were preparing comments. Mr. Dwyer was instructed to base AMC comments on those other comments.

With regard to possible action by EPA on amending the definition of solid waste, it is necessary to conduct a conference call among subcommittee members (identified at the April 4 subcommittee meeting) and John Fognani. Tom Janeck reported that his technical work group met April 20, and that he and Krishna Parameswaran would prepare and circulate "case studies" on recycling in the minerals-processing sector -- activities that likely would be adversely affected should EPA seek and obtain Congressional amendments granting EPA authority over recycling practices in this industry.

Gary Welch offered two unsolicited proposals to assist the subcommittee in developing comments on the April 7 proposed rule on processing wastes: (1) to prepare a response to the economic portion of the proposed rule, the response to focus not just on incremental costs but on "smelter margin" and the impact on that margin of the proposed rule; and (2) to serve as a technical writer in pulling together all technical comments for AMC's submittal on this proposed rule. The former would cost approximately $4,000; the latter could cost $8,000. After explaining his proposals to the subcommittee, Mr. Welch left the room and the subcommittee considered his proposals. The subcommittee decided not to accept the second proposal, and to request that Mr. Welch submit a written description of the first proposal to Mr. Dwyer. Mr. Crouch directed that the written description of the "smelter margin" argument proposal be circulated to those present at the meeting for a fast decision.

There being no further business to come before the subcommittee, Mr. Crouch adjourned the meeting at approximately 1:30 p.m.

Enclosures

SOLID WASTE SUBCOMMITTEE
DENVER
APRIL 24, 1989

NAME	CO.	TEL.
D.B. CROUCH	AMC	
Don Patterson	Beveridge & Diamond	202-828-0255
Pat Gochnour	Bond Gold	303-220-9727
Meade Stirland	Echo Bay Mgmt Corp	702-8744403
WADE SANDERS	Freeport-McMoRan	504 582-4230
WAYNE COOPER	U. S. BORAX	213-251-5614
Eugene D. Smith	U.S. Borax	213-251-5410
ELDON D. HELMER	MAGMA COPPER Co.	602-385-3476
Steve C. Mueller	AMAX	303-231-0322
RAY EHRHARD	BIG RIVER ZINC	618/274-5000
LOUIS Marucheau	AMAX	(303) 231-0692
TONY GOMEZ	CYPRUS	(602) 648-8516
Gordon A Aland	Monsanto	208-547-3391
MARC BOWMAN	FMC	208-236-8200
Robert Geddes	Monsanto	208-547-3391
Kent V. Lott	Monsanto	208-547-3391
VINCE MORANDO	ENGELHARD	201-632-6401
GARY WELCH	REPRESENTING ASARCO RESOURCES	314-227-1021
Tom JANECK	ZCA	412-773-2284
GERALD SCHURTZ	BP Minerals	801-322 8333
Frances Hartogh	Gold Fields Mining	303-988-0360
Joe Baird	Idaho Mining Ass'n	208-343-5454
KRISNA PARAMESWARAN	Asarco	212-510-2129
Terry Larson	Unocal Corp	805-~~[illegible]~~ 977-7294

Solid Waste Subcommittee Meeting | Stapleton Plaza Hotel, Denver, CO | April ~~24~~-25, 1989

FUNCTION | LOCATION | DATE

NAME	TITLE	COMPANY	Street	City	State	ZIP CODE
David S. Crouch	Corp Mgr Env'l Affairs	Homestake				
Rod Dwyer	Sr Cnsl	AMC				
Wade Sanders	SR Env Eng Freeport McMoRan	Freeport McMoRan				
Wayne Cooper	SR Env. Sci	U.S. Borax	3075 Wilshire Blvd	L.A	CA	90010
Eugene D. Smith	V.P. Gov. & Pub. Affairs	U.S. Borax	3075 Wilshire Blvd, L.A.		Calif	90010
Ellon Helmer	Corp. Dir of Env. Affairs	Magma Copper Co.	PO Box M	San Manuel	AZ	85631
Tony Gomez	Env. Coordinator	Cyprus Sierrita Corp	P.O. Box 527	Green Valley	Az.	85622
Steve C. Mueller	Director Environmental Services	AMAX Mineral Resources Co	1707 Cole Blvd	Golden	CO	
Ray Enrhard	Environmental Engineer	Big River Zinc	Rt. 3 & Monsanto Ave	Sauget	IL	62201
Krishna Parameswaran	Sr. Analyst	ASARCO Inc	180 Maiden Lane	New York	N.Y	10038
Louis Maruchean	Senior Att	AMAX Inc	1707 Cole Blvd	Golden	Co	80401
Mindi Stiland	Mgr Env Aff	Echo Bay Mgmt Corp	5750 Neil Rd	Reno	Nev.	89502
Tom Janeck	Dir, Govt & Reg. Affairs	ZCA	300 Frankfort Road	Monaca	PA	15061
Don Patterson	Attorney	Beveridge & Diamond				
Vince Morando	Env. Mgr.	Engelhard Corp.	Menlo Park, CN 40	Edison	NJ	08818

Solid Waste Subcommittee Meeting
FUNCTION

Stapleton Plaza Hotel, Denver, CO
LOCATION

April 24-25, 1989
DATE

NAME	TITLE	COMPANY / Street	City / State / ZIP CODE
GERALD SCHURTZ	Mgr. ENV. Affairs	COMPANY BP Minerals America Street	City SLC State UT
Terry Larson	Mgr, Env Affairs	COMPANY Unocal Corp Street P.O. BOX 7600	City Los Angeles State Ca 90051
Dan Vornberg	Env Manager	COMPANY The Doe Run Company Street 881 Main	City Herculaneum State Mo 63048
Pat Rooney	Associate for ASARCO	COMPANY Holland & Hart Street 555 - 17th Street	City Denver State CO 80201
[illegible] E. WELCH	Reporter Public Affairs	COMPANY Street	City St Louis State Mo
Gordon A Aland	Senior Mining Specialist	COMPANY Monsanto Co Street Box 816	City Soda Springs State Idaho 83276
Bob Hallman	outside counsel Phibro Resources	COMPANY Cahill Gordon & Reindel Street 80 Pine St.	City N.Y., N.Y. State 212-701-3680
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John A. Knebel
President

MEMORANDUM

April 28, 1989

TO: Attendees of April 25, 1989, Solid Waste Subcommittee Meeting

FROM: Rod Dwyer, Senior Counsel

RE: Gary Welch's Proposal for Economic Argument in Response to EPA's Proposed Rule on Processing Wastes

As discussed at the April 25 meeting of the Solid Waste Subcommittee, Gary Welch has put in writing for your consideration his proposal to frame and economic argument, based on the "smelter margin" concept, that AMC can include in its overall comments on the Environmental Protection Agency's (EPA) April 7 proposed rule on processing wastes (copy enclosed).

Gary Welch estimates the work would take 40 hours at $96 per hour or $3840. This does not include any expenses, but "expenses" would not be a large sum (there should be no travel required on this project). Mr. Welch has agreed to a total cost to AMC not to exceed $4000. AMC has budgeted funds for economic analysis of mining and mineral processing regulations. The budgeted funds are adequate to cover the proposed work; i.e. there would be no need to seek additional funds for this project.

Please call me (202/861-7530) by Friday, May 5, with your vote on whether or not AMC should contract with Gary Welch for the proposed work.

Enclosure

WELCH ASSOCIATES
173 Hilltown Village
Suite 313
Chesterfield, MO 63017

COPY

Gary E. Welch
President
314-227-1021

27 April 1989

Mr. Roderick T. Dwyer
Senior Counsel
American Mining Congress
1920 N Street, N.W., Suite 300
Washington, DC 20036

Dear Rod:

This letter will constitute my proposal to undertake work on behalf of the Solid Waste Subcommittee of the American Mining Congress (AMC) to develop an economic argument to support AMC's other comments on the US Environmental Protection Agency's (EPA) 7 April 1989 proposed rule "Mining Waste Exclusion Under Subtitle C of RCRA" (54 FR 15316).

In general, the economic statement, which I would propose to develop, would argue that EPA should take no final action on the 33 wastes it proposes to conditionally retain within the scope of the Bevill exclusion pending completion of the Regulatory Analysis required by Executive Order 12291 and that the EPA analysis should focus, not on the $100 million criterion but, rather, on "(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with forign-based enterprises in domestic or export markets."

By way of background, smelters purchase concentrates under contracts which typically read (for lead) as follows:

> "pay for ninety percent of the contained metal at Metals Week average price minus $X per ton treatment cost."

The $X per ton is the so called "smelter margin" from which the smelter operator must cover all costs (labor, energy, materials, environmental, etc.).

As one can see, under purchase terms such as outlined above, smelter operators benefit little from upward base metal price movements - a point which AMC has not exploited in any prior submission to EPA.

By comparing potential Subtitle C costs to smelter margins and not to commodity prices, as EPA is prone to do, a much more dramatic cost impact can be demonstrated. I believe we can make a strong case that the defacto regulation of processing wastes,

 DR230-008594

which occurs because EPA does not continue to exclude all smelter wastes, would significantly impact the ability of domestic producers to compete "in domestic and export markets" which the President, in the Executive Order, and Congress, in the 8002 study requirements of RCRA, were particularly concerned about.

The argument would be developed from the standpoint that EPA, in consultation with the Bureau of Mines, has both the time (until 15 January 1990) and the information necessary to complete the required analysis. As a minimum, the presentation may start EPA to properly think about smelter economics as it approaches the Second Report to Congress.

To undertake development of the suggested argument I would need, in addition to accurate AMC member company identification of wastes which will (on the effective date of the exclusion rulemaking) potentially be subject to RCRA Subtitle C management standards, copies of economic studies previously submitted by AMC, a copy of the draft Second Report to Congress and, most importantly, copies of representative smelter concentrate purchase contract terms for at least the main processing industry sectors. Contract terms would, of course, be held in strictest confidence and only general language extracted for the write-up.

I would estimate a total of forty professional hours would be required to secure copies of concentrate purchase agreements, identify materials potentially subject to RCRA Subtitle C requirements (including volume and management alternatives), review and synthesize prior statements and prepare the proposed write-up (estimated to be six to ten pages in length). My billing rate for professional services is $96.00 per hour. Only time actually spent would be billed and out-of-pockets would be billed at cost.

Assuming the work could be authorized by 12 ~~April~~ May, I would anticipate having a first draft statement in your hands no later than 21 ~~April~~ May 1989.

Please call if you have any questions. I look forward to the opportunity to be of service to AMC's member companies.

Best regards.

Very Truly Yours,

Gary C Welch

gw/gw

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