



**AMERICAN
MINING
CONGRESS**

FOUNDED 1897

Suite 300
1920 N Street N.W.
Washington, D.C. 20036
202/861-2800
TWX 710/822-0126
Easylink: 62756020
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 Maruchau*, 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 MISCELLANEOUS
DENVER
APRIL 24, 1985

Lunch

NAME	CO.	TEL.
D.B. CROUCH	AMC	
Don Patterson	Beveridge + Diamond	202-928-0255
Pet Gachnaw	Borax Gold	303-220-9727
Wade Stuland	Echo Bay Mgmt Corp	702-8244403
WAGE SANDERS	Freemont - McMo Ran	504 582-4230
WAYNE COOPER	U. S. BORAX	213-251-5614
EUGENE D. SMITH	U. S. BORAX	213-251-5410
ELDON D. HELMER	MAGNA COPPER CO.	602-385-3476
Steve C. Mueller	AMAX	303-231-0322
RAY ENHARD	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	REINOLDSONNY HARD REPAIRS	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
KRISHNA PARAMESWARAN	Asarco	212-510-2129
Terry Larson	Unocal Corp	805-877-7294

FUNCTION

LOCATION

DATE

NAME

TITLE

David S. Crouch	Corp Mgr Envtl Affairs	COMPANY Hormel	CITY State	ZIP CODE
Rob Dwyer	Sr Asst	COMPANY A M C	CITY State	
Wade Sanders	Sr Env Eng Freepress McMoran	COMPANY Freepress McMoran	CITY State	
Wayne Cooper	Sr Env Sci	COMPANY U.S. Borax	CITY State	
Eugene A. Smith	VP. Gov. & Pub. Affairs	3075 Wilshire Blvd, L.A.	CA 90010	
Ellen Werner	Corp Dir of Env. Affairs	COMPANY MAGNET COPPER CO.	CITY State	
Tony Gomez	Env. Coordinator	PO Box 14	AZ 85631	
Steve C. Mueller	Director Environmental Services	COMPANY CYREUS SIERGITA CORP	CITY State	
Ray Enghard	Environmental Engineer	P.O. Box 527	AZ. 85622	
KRISHNA PARAMESWARAN	Sr. Analyst	COMPANY AMAX Mineral Processes Co	CITY State	
Louis Maruchean	Senior Attn	1707 Cde Blvd	Golden CO	
Meade Stiland	Mgr Env Aff	COMPANY Big River Zinc	CITY State	
Tom Jaweck	Dir. Govt	Rt. 3 & Hunsdale Ave	IL 62201	
Don Patterson	Attorney	COMPANY ASARCO INC	CITY State	
Vince Morando	Env. Mgr.	180 MAIDEN LANE	NEW YORK N.Y. 10038	
		COMPANY AMAX INC	CITY State	
		1707 Cde Blvd	Golden CO 80401	
		COMPANY Echo Bay Mgmt Corp	CITY State	
		5750 N. 1st Rd	N.W. 84503	
		COMPANY ZCA	CITY State	
		300 FRANKLIN ROAD	PA 15061	
		COMPANY Beveridge & Diamond	CITY State	
		COMPANY ENGELHARD CORP.	CITY State	
		MENLO PARK, CA 940	NJ 08818	

April 24-25, 1989

DATE

[illegible]



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President

MEMORANDUM

April 28, 1989

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

FROM: Rod Dwyer, Senior Counsel

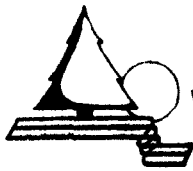
RE: Gary Welch's Proposal for Economic Argument in
Response to EPA's Proposed Rule on Processing
Wastes

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 foreign-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,

Mr. Roderick T. Dwyer
27 April 1989

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 ^{May}~~April~~, I would anticipate having a first draft statement in your hands no later than 21 ^{May}~~April~~ 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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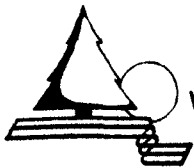
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