KIRKLAND & ELLIS

MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

VIA FACSIMILE

TO: CMA PCB Panel and MegaRule Team

FROM: Tim Hardy

DATE: May 25, 1995

RE: The Final Words (until the hearing)

Here's what's in the last (and final) batch of comments, #246-274:

246 NY State DEC: *NY regulates PCBs > 50 under RCRA and likes that system; wants 12, not 10," of soil cover; argues for allowing PCB wastes in permitted landfills only if they have leachate collection and removal systems; argues against allowing landfilling based on TCLP results.*

247 Stanley, NC, Citizens: Do not want the industrial furnace in their town burning PCBs.

248 EPA National Environmental Investigation Center: *Wants Appendix III omitted; argues it is impossible to get representative samples of .62 materials (as they are "inhomogeneous") and thus one should sample the worst case.*

249 Connecticut DEP: Worried about fluff in municipal landfills; *argues against pre-1978 presumption; says .61 self-implementation is too flexible and claims self-implementation will encourage dilution; argues (q) materials should* ***not*** *be authorized.* ***Says nothing at all about transformer registration!!!***

250 Browning Ferris: Like us, favors new anti-dilution policy, likes self-implemented clean up, argues strongly for allowing landfilling in MSWL's based on TCLP results, likes the household waste exemption. And argues for allowing sewage sludge to be used for beneficial land use even with detectable PCBs.

251 Detroit Edison: On our team.

252 Baumgartner & Assocs: These shredder consultants like the TCLP option for fluff but have many comments on Appendix III.

253 Institute of Scrap Recycling Industries: These ferrous shredders like the TCLP test for fluff, want fluff to be allowed to be a landfill cover, have comments on Appendix III and an alternative to it, want the household exemption broadened.

254 Columbia Gas: Pipeline comments that seem to parallel ours.

255 Georgia Power: On our team.

256 Hands Across the River Coalition: New Bedford group objecting to industrial furnace burning.

257 Iowa-Illinois G & E: Seems quite similar to us on electrical, disposal and pipeline issues.

258 Commodore: Wants recognition of its *non*-solvent extraction process.

259 Wheelabrator Clean Water Systems: Nation's largest biosolids company cites NAS study saying detectable PCBs should not prevent beneficial land use of sewage sludge.

260 Dept. of the Army, OAS, IL & E: Says there is no way it can look for solid (q) PCBs in its 775 million sq feet of buildings and 133 million linear feet of cable. Like us, wants universal application of 1987 spill policy, use of TCLP to allow landfilling, allowing concrete clean up, more flexible storage requirements; opposes (q) requirements, etc.; wants home renovation waste added to household exemption.

261 U.S. Dept. of Transportation: Is concerned about Coast Guard and MARAD; likes authorization of (q) materials in ships, but opposes the requirements; also wants to dispose of ships with PCBs overseas.

262 AK Steel Corp: Shares our electrical eqpt concerns, etc.

263 IBM: Opposes (q) use requirements; wants to be able to import small capacitors for disposal.

264 East River Electric (SD): Agrees with us.

265 EET, Inc: Wants recognition of its in situ treatment option for porous surfaces.

266 Safety-Kleen: 75 pages of comments from the "world's largest recycler of automotive and industrial fluids." Wants deliberate dilution allowed; wants recycling to be an appropriate remediation method; broader household exemption; import for disposal, etc.

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267 EPA Superfund Staff: *Region X says most ballasts now go to TSCA disposal; not happy with microencapsulated material staying on-site; says Superfund is happy with 1 ppm level in residential areas; notes microencapsulated material can be much higher than that -- even when it passes the TCLP, which can be passed with high PCB concentrations. Thus wants microencapsulation deleted from .61. Also wants self-implementation universe narrowed, e.g. where there is potential exposure to plants.* ***Claims PCB wastes will never exceed 50 ppb in the TCLP test.***

268 National Oil Recyclers Assn: Used oil people say they rarely encounter PCBs. Argue to allow intentional dilution.

269 EPA NEIC: *A supplement to #248: Nix taking representative samples of fluid under .60 (g)(1) & (2), as prosecutors should be allowed to look for hot spots.*

270 Spill Control Assn of Am: *Wants sewage sludge land use regulated tightly; believes 1 ppm soil is not protective (wants 0.09 ppm, p. 12), points to Dioxin Reassessment as the right way to go in assessing risks, keeps talking about sensitive populations, etc.*

271 Dallas Water Utilities: Re land use of municipal sludge.

272 Full Circle Ballast Recyclers: As a ballast processor, likes all the new requirements for them. Does not appear to have any data of its own -- cites Myers, Rollins & Canada.

273 Midwest Power (IA): Short comments consistent with us.

274 Shipbuilders Council of Am: Wants to make sure Navy -- not them -- is the PCB waste generator.

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