

**Lockheed Idaho Technologies Company****INTERDEPARTMENTAL COMMUNICATION**

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**Date:** October 30, 1996

**To:** G. R. Rodman MS 4146 6-8077

**From:** J. R. Mitchell *gjm* MS 3428 6-7923

**Subject:** BORAX V ENTOMBMENT PROJECT REQUIREMENTS UNDER 40 CFR 61, SUBPART M - JRM-378-96

Per your request, a review of the 40 CFR 61, subpart M requirements for the Borax V Entombment Project has been completed. Environmental Affairs has reviewed the regulations, and some of the gray areas regarding these requirements have been discussed with the EPA NESHAPs Coordinator in Boise. This letter summarizes these requirements and documents the conversations with EPA.

There are a number of internal regulatory interpretations and e-mail notes that discuss whether the Borax site should be considered an active or inactive waste asbestos disposal site, or an asbestos waste disposal site at all. To resolve this issue and others, representatives from LMITCO's Environmental Affairs met with Rebecca Goehring of EPA. It was Ms. Goehring's interpretation that Borax V be considered subject to inactive asbestos landfill requirements of 40 CFR 61.151, but not the requirements of 40 CFR 61.154 for an active waste disposal site. This position was documented in a Memo to File of Meeting Minutes by Deborah Wiggins dated August 19, 1996 (attached).

LMITCO and DOE-ID have agreed to comply with Ms. Goehring's interpretation of the regulations. These requirements are summarized below.

40 CFR 61.151(a) (3) Cover the asbestos containing waste material with a least 60 centimeters (two feet) of compacted nonasbestos containing material, and maintain it to prevent exposure of the asbestos containing waste.

40 CFR 61.151(b) Install and maintain warning signs and fencing as follows. [The regulation goes on to specify the warning signs and spacing requirements.(See 40 CFR 61.151 (b) (1-3) for exact specifications).]

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40 CFR 61.151(d) Notify administrator in writing at least 45 days prior to excavating or otherwise disturbing any acm.

40 CFR 61.151(e) Within 60 days of a site becoming inactive and after the effective date of this subpart, record, in accordance with State law, a notation on the deed that:

- (1) Land has been used for the disposal of acm.
- (2) The survey plot and record of the location and quantity of asbestos
- (3) The site is subject to 40 CFR part 61, subpart M.

[Compliance with 40 CFR 61.151(e) above is documented in an e-mail dated October 10, 1996, from Mary M. McKnight (DOE-ID, Office of the Chief Counsel)(attached). Ms. McKnight called Rebecca Goehring at EPA in regard to compliance with 40 CFR 61.151 (e). Ms. McKnight states in the profs note "she (Rebecca) did not seem particularly concerned with compliance with 40 CFR Section 61.151 (e), and understood that our CERCLA 120 (h) efforts would ensure any subsequent purchasers were aware that hazardous substances were located on site.]

Please note that this letter only summarizes the requirements for an inactive asbestos waste disposal site. The regulations should be consulted for exact language, and other possible alternatives regarding the burial cover. The attached documents should also be reviewed for background information.

If you have any questions or concerns, please call Tim Solle at 526-8568.

TAS:cl

#### Attachments

cc: J. D. Hops, MS 3591  
P.C. Kroupa, DOE-ID, MS 1117  
M. M. McKnight, DOE-ID, MS 1209  
J. H. Piper, MS 3428  
R. W. Russell, DOE-ID, MS 1146  
T. A. Solle, MS 3428

T. H. Waite, MS 5227  
W. J. Wiggins, MS 3428  
NEPA File INEL -94-010A  
Air Permitting File  
J. R. Mitchell File