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DIVISION OF ENVIRONMENTAL PROTECTION

GASTON CAPERTON
GOVERNOR

1356 Hansford Street
Charleston, WV 25301-1401

LAIDLEY ELI MCCOY, PH.D.
DIRECTOR

January 9, 1997

Mr. Jeff Kidwell
Atlantic Division
NAVFACENGCOM
Code 1823
1510 Gilbert Street
Norfolk, Virginia 23511-2699

**RE: Allegany Ballistics Laboratory
Site 7
Segregation Soil Disposal**

Dear Mr. Kidwell:

During the telephone conference call 17 December 1996 regarding Site 7 segregated soil disposal with representatives of EPA, OHM, WVDEP, and the Navy, the Navy's RCRA representative stated the Beryllium (Be) in the soil was not identified in appendix VIII part 261 of 40 CFR based on a RCRA Hot Line response.

In it's position of 'single point of contact' for the remediation efforts at Allegany Ballistics Laboratory, the Office of Waste Management/Site Investigation and Response (SIR) section presented the Navys' interpretation to the Office of Waste Management/Compliance Monitoring and Enforcement (OWM/CME) section.

OWM/CME has evaluated the information and **does not agree** with the Navy decision. OWM's position is based on the physical description for Beryllium and Beryllium compounds identified in "The Merck Index * Eleventh Edition", the analytical information from the soil segregation, and the containers labeled "Be" extracted during the segregation activities. Regardless of whether the beryllium occurs as an oxide, carbide, hydride, or other compound, if it is in powder form it is considered RCRA waste P015. Therefore, the Segregated materials from Site 7 must be identified as P015 (Beryllium) and U151 (Mercury) contaminated and disposed of in accordance with RCRA regulations.

In order to be in compliance with State law, the Navy must adhere to the following requirements in handling the Site 7 RCRA waste:

1. Apply for a RCRA permit modification to authorize location of the containerized contaminated material at Allegany Ballistics Laboratories' permitted RCRA Hazardous Storage Area and within 30 days of receipt of this notice move the material to the Facility's Hazardous Waste Storage Area.
2. Continue your efforts to find a disposal facility in the United States, and if necessary seek a disposal variance and dispose of the contaminated materials within six months.
3. Should a disposal site not be located in the United States, make a comprehensive case for not sending the waste to the Canadian disposal facility(s) previously identified.
4. No later than the 28th day of each month or until proper disposal of the contaminated material, provide OWM with a report that clearly identifies the actions taken during the previous month to solicit the proper disposal of the contaminated waste.

If there are any questions, or if you require further clarification, please contact me at (304) 558-2745.

Sincerely,



Thomas L. Bass
Environmental Resource Specialist
Site Investigation and Response
Office of Waste Management

TLB/MS/b

cc: Mike Dorsey, OWM/CM&E
Bruce Beach, EPA
Byron Brant, LANTDIV
Linda Saksvig, LANTDIV
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Lou Williams, NAVSEA
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David McBride, Alliant Techsystems
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Bill Cadow, Lectro-Tech, Inc.