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Mr. Gary H. Baise
Beverage and Diamond, P.C.
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Mr. Robin Morse
Baker and Botts
One Shell Plaza
Houston, Texas 77002

Dear Gary and Robin:

This letter is in response to your request for a determination of the regulatory status of the wastewater treatment system at Dow's Battleground Road Plant (LaPorte, Texas) that was described in your letter (dated September 26, 1985) to Messrs. Barry W. Dixon and William Rhea. As you outline in your letter, this plant uses monochlorobenzene (MCB) in a number of processes. In none of the uses described in the letter is MCB used in a chemical reaction, or otherwise function as a chemical feedstock, reactant, or process intermediate; rather MCB is used as a solvent as it is defined/interpreted under the hazardous waste rules. The MCB used in these processes then undergoes further processing, including the recovery of MCB in a recovery column.^{1/} The bottoms from the MCB recovery column are then sent to an on-site thermal oxidizer where they are incinerated along with several other wastes, which are characteristically hazardous. The scrubber liquor from the incinerator (which contains MCB) is then sent to the wastewater treatment system. (The wastewater treatment system consists of several interconnected basins and tanks.) In addition, as you indicated in your letter, the concentration of MCB at the headworks of the treatment system, is variable, but exceed 25 ppm.

1/ I attempted to exclude all confidential information from this letter.

Based on this description, the wastewater entering the wastewater treatment system is not covered under the mixture rule exemption of 261.3(a)(2)(iv)(B) and thus, the wastewater treatment system is subject to the hazardous waste rules, unless specific units are otherwise exempted (i.e., tanks that are part of a wastewater treatment system are exempt from regulation). My basis for this is two-fold:

- * The mixture rule exemption applied to solvents that are used as part of the manufacturing process that find their way into the wastewater treatment system via leaks from pumps, valves, from normal cleaning operation, etc. It does not include the discharge of still bottoms into the wastewater treatment system nor the discharge of spent solvents or still bottoms that are treated and then discharged into the wastewater treatment system. The monochlorobenzene still bottoms at the plant are treated in an on-site thermal oxidizer before being discharged into the wastewater treatment system; therefore the scrubber liquor is not covered under the mixture rule exemption. (This point was noted by Dow Chemical in their comments to the Agency when the mixture rule was promulgated interim final on November 17, 1981, a copy of which is enclosed.)
- * The mixture rule exemption is to be applied at the headworks of the facilities wastewater treatment or pre-treatment system. Since the concentration of MCB at the headworks of the treatment system is above the specified level--namely 25 ppm--the mixture rule exemption does not apply.

Consequently, as we have discussed previously, the impoundments that are part of the wastewater treatment system at Dow's Battleground Road Plant are currently subject to regulation under the hazardous waste regulations.

Please feel free to give me a call if I can be of any further assistance; my telephone number (202) 475-8551.

Sincerely yours,

Matthew A. Straus, Chief
Waste Identification Branch

cc: Barry W. Dixon
William Rhea