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United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

July 18, 1994

Mr. Charles St. John  
BKK Landfill  
2210 South Azusa Avenue  
West Covina, California 91792

Dear Mr. St. John:

Thank you for your February 7, 1994 letter inquiring about EPA's position on federal waste minimization requirements for hazardous waste disposal facilities, and for Clarence Gieck's January 10, 1994 letter to Administrator Browner describing your company's efforts to reduce the toxicity of landfill leachate. This letter responds primarily to your February 7 letter addressed to me.

You inquired about the waste minimization requirements of Section 3002(b) of the Resource Conservation and Recovery Act (RCRA). This section requires generators of large quantities of hazardous waste to certify on their hazardous waste manifests that they have "a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and...the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment." In addition, there is a similar certification requirement under RCRA Section 3005(h) for permitted hazardous waste facilities which are treating, storing, or disposing (TSD) hazardous waste on the premises where the waste was generated.

We understand from your description that the F039 is "generated" at the Class I landfill and according to our Region 9 office, there is a RCRA permit for the FO39 leachate treatment plant at the site. Therefore, the requirement of Section 3005(h) that permitted TSD facilities certify that they have a waste minimization plan in place applies. In addition, if the hazardous waste quantities

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generated per month cause your site to be classified as a large quantity generator, the RCRA Section 3002(b) certification requirements also apply (i.e., the manifest certification), as long as you are sending the FO39, or other hazardous waste generated at your landfill site, off-site.

We agree that a landfill leachate generation scenario may not easily lend itself to "reduc[ing] the volume or quantity and toxicity of [leachate]," especially for a landfill which is no longer accepting waste. However, we believe there are certain measures which can reduce the quantity of leachate and we encourage you to investigate these fully. For example, any measures you have taken to reduce run-on and precipitation infiltration (e.g., from a major storm) to the Class I hazardous waste landfill are positive waste minimization efforts.

With respect to the statutory waste minimization requirements appearing to be directed toward primary generators, such as manufacturers, we agree that there is no statutory exemption for a site generating hazardous waste as a result of a remedial type of activity.

We believe that the statute affords hazardous waste generators flexibility to determine which waste minimization activities are economically practicable. This flexibility, combined with opportunities for waste minimization even in a remediation situation, leads us to conclude that the statutory waste minimization certification requirement is flexible enough to accommodate a party conducting a remediation. However, we are continuing to assess the issue, and we will consider the comments you provided in your letter.

Again, thank you for your letter and your interest in waste minimization requirements.

Sincerely,

Michael Shapiro, Director  
Office of Solid Waste

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Attachment  
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February 7, 1994

Michael Shapiro  
Director of the Office of Solid Waste  
United States Environmental Protection Agency  
Mail Code 5301  
401 "M" Street, SW  
Washington, D.C. 20460

Dear Mr. Shapiro,

Recently, I had a conversation with Ms. Becky Cuthbertson of your branch, regarding the recent regulations concerning Waste Minimization. Ms. Cuthbertson, suggested I explain to you our position and how this rule will affect our facility.

As you are aware, Ms. Carol Browner of the EPA sent out notifications last December (1993) to Large Quantity Generators of hazardous waste of the new requirements regarding waste minimization. The list of Large Quantity Generators was derived from the biennial reports which are submitted to the EPA.

BKK Landfill is composed of an operating Class III Municipal Solid Waste Facility and a closed Class I hazardous waste facility. The Class I facility accepted hazardous waste from 1972 to 1984. As a result of on-site groundwater contamination, BKK and USEPA Region IX entered into an Order on Consent, under RCRA §3008 (h). In this agreement, BKK is performing site investigation and remediation activities to control or eliminate the extent of on-site contamination. Included in this remediation activity is a plan to treat on-site groundwater and landfill liquids contained within the Class I and III landfills. This is performed in BKK's Leachate Treatment Plant which utilizes a Bio/Powdered Activated Carbon Treatment system. A treatment residual of this system is a filter

cake material which carries the waste code of the leachate from the Class I facility: F039 multi-source leachate. The filtercake is transported off site for incineration at an appropriate facility.

Our dilemma is that the requirements of the waste minimization rules are directed toward primary generators, such as manufacturers, not secondary generators, such as we. In our conversation, Ms. Cuthbertson recognized that there was no "exit" mechanism in this statute for facilities which would not otherwise be considered a Large Quantity Generator. In the context of site remediation, the requirements of waste minimization should not apply.

Waste minimization requirements regulated by the California EPA, Department of Toxic Substance Control, are similar to the federal standard. In November of last year, I discussed this issue with members of Cal-EPA in Sacramento and Region 3, who came to the same conclusion as Ms. Cuthbertson and me.

In summary, even though the waste minimization regulations are directed at primary generators, secondary generators who are performing remediation activities are included in the same category. As regulations currently exist, there is no distinction between wastes which are generated in a manufacturing process, or a waste which must be generated in an effort to protect human health and the environment.

Therefore, to resolve this issue may we suggest the following:

- 1) Provide for facilities which generate waste in their efforts to remediate an environmental medium a means to exit the rule.
- 2) Recognize site remediation as a form of waste minimization and therefore exempt from the rule.
- 3) Create some form of certification from the EPA which recognizes that waste minimization does not refer to remediation activities.

I look forward to hearing from you and hope that we may work together in the future to resolve this issue. Should you have any questions or comments, please contact me at (818) 965-0911.

Sincerely,  
BKK Landfill

Charles St. John  
Compliance Specialist

CC: Stan Lau - Office of Pollution Prevention Technology and  
Development, CAL-EPA

Donna Perlz- Chief of Waste Minimization Branch, USEPA

Laura Yoshi - Deputy Director of the Hazardous Waste  
Management Division, USEPA, Region IX