

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JULY 12, 1989

Michael S. Giannotto
Shea & Gardner
1800 Massachusetts Avenue, Northwest
Washington, D.C. 20036

Dear Mr. Giannotto:

This is in response to Magma Copper Company's petition of December 16, 1988, requesting a clarification of the K064 hazardous waste listing, acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production. You contend that the K064 listing does not apply to Magma's waste which is generated during primary smelting operations.

In your petition you state that Magma's acid plant blowdown (APB) is a wastestream that results from the processing of off-gases from the flash furnaces and converters used to smelt copper. The APB is piped to a totally enclosed tank called a "tailings agitator" where it is mixed and neutralized with large volumes of alkaline tailings from Magma's beneficiation process. The tailings/blowdown mixture is then piped to on-site tailings ponds. You state that there is no stage or operation at Magma where acid plant blowdown is thickened. Also, you state that the blowdown is never sent to dedicated lagoons for settling and no portion of Magma's blowdown becomes a slurry/sludge which is recycled back to the smelter for processing. You further state that the APB does not undergo any process that concentrates potentially hazardous constituents in a sludge or slurry. Finally, although this fact does not effect whether the waste in question meets the listing description, you provided information on the concentration of hazardous constituents in the APB and APB/tailings mixture which indicate that these wastes do not fail the EP toxicity test.

Based on the information provided in your petition as described above, and assuring its accuracy, the Agency does not believe that Magma's APB or APB/tailings mixture meets the K064 listing description. Therefore, the Agency does not formally need to rule on your petition. It is our understanding that based on this representation Magma will voluntarily dismiss its petition for review (No. 88-1866) in the United States Court of Appeals for the District of Columbia Circuit.

I hope this letter has addressed your concerns.

Sincerely,

Robert L. Duprey
Acting Deputy Assistant Administrator

FaxBack # 11441