



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

10/14/2000

Mr. Stephen D'Esposito
Mineral Policy Center
1612 K Street, NW, Suite 808
Washington, DC 20006

Dear Mr. D'Esposito:

Thank you for your letter of October 11, 2000, voicing concerns about draindown and seepage from gold heap leaches. Specifically, you requested the Environmental Protection Agency (EPA) to address whether these wastes are subject to Subtitle C regulations under the Resource Conservation and Recovery Act (RCRA).

The Agency determined in 1986 that heap leach piles constitute extraction/beneficiation activities, and that all wastes from that activity are Bevill exempt. The Agency codified this position in the September 1, 1989 rule (see 54 FR 36592 and 40 CFR 261.4(b)(7)). We understand waste or leach piles or closed underground mines could fill with rainwater or groundwater and in turn generate liquid wastes that could be toxic. While the Agency noted its concern about these types of liquid wastes generated from Bevill exempt wastes, the Agency, concluded such liquids were also Bevill exempt since their source was Bevill exempt wastes. If the Agency were to regulate leakage from Bevill exempt wastes as hazardous wastes, such a position would essentially render all extraction/beneficiation wastes non-exempt which would not reflect Congressional intent.

If such leakage has the potential of adversely impacting drinking water, such leakage would be regulated under the Clean Water Act and the Safe Drinking Water Act. If this leakage poses a substantial threat or imminent hazard to human health, the Agency could address that threat under the authorities provided by section 7003 of RCRA and sections 104 and 106 of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Finally, the underpinning of all the Bevill exemptions is that State programs would address the

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environmental concerns through their existing regulatory authorities. You may wish to share your concerns with the State of Nevada.

If you have any other questions regarding this issue, please feel free to contact Mr. Robert Dellinger, Director, Municipal and Industrial Solid Waste Division at 703-308-8254.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth A. Colsworth", followed by a small flourish.

Elizabeth A. Colsworth, Director
Office of Solid Waste



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

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Glenn Miller, Ph.D
Chairman, Great Basin Watch
Post Office Box 10262
Reno, Nevada 89510

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Dear Dr. Miller:

Thank you for your letter of October 11, 2000, voicing concerns about draindown and seepage from gold heap leaches. Specifically, you requested the Environmental Protection Agency (EPA) to address whether these wastes are subject to Subtitle C regulations under the Resource Conservation and Recovery Act (RCRA).

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Sincerely,

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Elizabeth A. Cotsworth, Director
Office of Solid Waste



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WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Tom Myers, Ph.D
Director, Great Basin Mine Watch
Post Office Box 10262
Reno, Nevada 89510

Dear Dr. Myers:

Thank you for your letter of October 11, 2000, voicing concerns about draindown and seepage from gold heap leaches. Specifically, you requested the Environmental Protection Agency (EPA) to address whether these wastes are subject to Subtitle C regulations under the Resource Conservation and Recovery Act (RCRA).

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Elizabeth A. Cotsworth, Director
Office of Solid Waste