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MAY 6 1986

Honorable Richard G. Lugar
United States Senate
Washington, D.C. 20510

Dear Senator Lugar:

Thank you for your letter of April 9, 1986, concerning the Union Carbide facility in Henderson County, Kentucky. You asked about the location of the plant and the listing of TF-1 under the Resource Conservation and Recovery Act (RCRA). I would like to first clarify my understanding of the proposed Union Carbide operation.

Union Carbide has applied for a permit to recycle TF-1, used as a flushing agent in electrical transformers, that has been contaminated with PCBs. Solid waste from this recycling process will be transported off-site to a permitted TSCA facility for incineration. The TF-1 will be processed at the Henderson facility after Union Carbide drains and flushed the transformers at its customer's site.

The State of Kentucky issued Union Carbide a construction permit under the authority of the State's Air Pollution Control Act in December 1985. Union Carbide also applied to EPA for a Toxic Substance Control Act (TSCA) permit. Union Carbide submitted its application to EPA's Region IV office in February 1986 and a test demonstration plan in early April 1986. Both submittals are now under review by the Region. TSCA requires the EPA consider location during this review to ensure that permit issuance would not constitute and "unreasonable risk" to human health and the environment. In addition, due to citizen and Congressional concerns, EPA Region IV is voluntarily conducting a public health and environmental assessment of the area surrounding the facility.

Prior to operation, Union Carbide must successfully conduct demonstration testing, and secure a TSCA operating permit and a Kentucky Air Pollution Control Act operating permit. Once in operation, the facility must conduct routine testing to ensure permit standards are continually met.

Secondly, I would like to clarify why the information presented by Dr. Howard E. Dunn is not sufficient in itself to list TF-1 as a hazardous waste. The possible inclusion of one or more of the

chemical constituents of TF-1 in 40 CFR 261.33 would not automatically make a mixture of these constituents a hazardous waste. This "listing" refers only to the commercially pure grade of the chemical, any technical grades or the chemical that is produced or marketed, and all formulations in which the chemical is the sole active ingredient. Thus, TF-1 could contain a constituent listed in 40 CFR 261.33 and not be a hazardous waste. I cannot comment on the specific chemical composition of TF-1, due to regulations concerning confidential business information.

In order for EPA to promulgate a rule listing a waste as hazardous, factors in addition to toxicity must be considered. These include the concentration of the constituents, quantity of waste generated, the persistence and potential of the constituents to migrate from the waste and move into the environment, and the plausible types of mismanagement to which the waste may be subject. Based on the factors, a waste then will be "listed" when the data allows the Agency to conclude that the waste may pose a substantial present or potential hazard to human health or the environment when improperly managed.

Because of the absence of existing data in this area, EPA has scheduled toxicity tests for several of the TF-1 components. Once this testing is completed, a determination can be made on whether these constituents are hazardous and whether the waste should be listed.

If you should have specific questions on the permitting process, you may wish to contact Connie Jones, EPA Region IV (404-881-2091), of J. Alex Barber, Kentucky Department of Environmental Protection (502-564-6716). Please let me know if you have any further questions.

Sincerely,

J. Winston Porter
Assistant Administrator

cc: J. Alex Barber
Connie Jones