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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 26 1986

MEMORANDUM

SUBJECT: Definition of Replacement Unit

FROM: Marcia Williams, Director  
Office of Solid Waste (WH-562)

TO: Harry Seraydarian, Director  
Toxics and Waste Management Division (T-1)  
Region 9

This is in response to your March 10, 1986, memo requesting confirmation that the IT Corporation surface impoundments (D-2, D-3, and E) at Martinez, California are replacement units under Section 3015 of RCRA. Based on the information contained in your memo and my staff's conversations with Bob Boesch of your staff, we agree with your conclusion that the units should be regarded as replacement units under the statute.

The legislative history to the Hazardous and Solid Waste Amendments (as noted in the draft guidance entitled, "Guidance on Implementation of the Minimum Technological Requirements of HSWA of 1984, Respecting Liners and Leachate Collection Systems" dated May 24, 1985) reveals that Congress intended EPA to consider three criteria in the definition of a replacement unit: (a) the unit is taken out of service; (b) all or substantially all of the waste is removed; and (c) the unit is reused. The attachment to your memo, along with information provided to us through phone conversations, indicate that the units stopped receiving wastes and were emptied of 95% or more of the liquid and sludge that they had contained.

As explained in the May 24, 1985, guidance, we believe that an impoundment has been taken out of service if the normal flow of waste to the impoundment has ceased. We also would consider removal of 95% of the waste in each of the impoundments to be "substantial" removal. When the impoundments again begin to receive hazardous waste, this will constitute reuse. Further, we agree that it is consistent with the legislative history to argue that, based on this information, the units qualify as replacement units.

EXHIBIT 2

RO 13789

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Therefore, before hazardous wastes can be again placed in these units, they must be retrofitted to comply with the requirements of Section 265.221 for liners and leachate collection systems.

If there are any questions on this matter, please call  
Les Otte of my staff at 475-8860.

cc: RCRA Branch Chiefs, Regions I-VIII and X