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Memorandum

To: the Record

From: Bernie Hyde, Chief, Hazardous Materials Staff

Subject: Trip Report -- Atlas Asbestos National Priority List Superfund Site  
-- Sacramento and Coalinga, CA -- July 5-8, 1988.

Had asbestos safety briefing Tues. July 5, 1988, a.m. in Sacramento, flew to Coalinga in early p.m., with Buz Kennedy, Dick Johnson, Dean Stepanek and Dave Howell. We received a briefing on the area from Bob Rheiner (DM), Steve Addington (AAM), and John Keyes, District Geologist. They emphasized the close and successful relations that the BLM offices have with EPA. I, in turn, briefed the participants on the problems with EPA and DOJ in WO and a draft proposal to get a resolution of the precedent problems for 1872 Mining Law sites under CERCLA. We made a full overflight of the BLM Clear Creek Management Area (CCMA) including the various asbestos mine. It was evident from the low altitude flight that tailings pile slumping was a problem for the mines in the area and that the Atlas mine was subject to it, at least to some degree. Slumping was also evident in non-mining zones of the area especially near the serpentine boundary. The overflight also made it clear to me that the remainder of the CCMA was both larger and more complex area than I had earlier understood.

On Weds. July 6, after checking out the safety equipment, we drove to the CCMA. I was surprised to find that staff drove right onto the NPL mine site and stopped for touring. I reminded them that this was a serious violation of Bureau safety and hazardous materials policy, but I stayed with the group making my own violation. The acting AM expressed surprise that such a policy existed. It appears to me that the mill tailings pile, which is built on a mountain drainage and is two to three hundred feet high, is showing significant indications of destabilization. The AM explained the actions the RA and DO were contemplating or were already carrying out in terms of road barriers, pipe fence and berm walls where there was no vegetation, as planned in the RMP. I suggested that since it was an NPL site we could probably afford to fence the entire mine site and a safety zone (including the tops of the drainages) off with chain link and barb wire. Dave and Steve maintain that this is too expensive and would be damaged by vandals and hard to maintain. I pointed out the importance of excluding anyone from the site, both to reduce BLM liability for safety problems like slumping, and to reduce the chance of lofting of particulates by preventing disturbance of the zoolithic crust evident in the area. I further suggested that because of the NPL designation, the road through the mine be closed and filled and that the mine and safety zone around it be withdrawn from the operation of the mining law to further reduce entry problems. These suggestions were considered unnecessary and too costly.

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The group visited other mines in the area, including the still operating King City Asbestos Co. "Joe Pit". There, the Area staff are trying to prevent the mine from becoming another Atlas-type CERCLA site, by imposing a bond and trying to get a modification of the mining plan of operations for proper restoration. Since the mine is only operated roughly six months in every two years it seems to me to be race between proper bonding and plan of operation approval on the one hand and the end of the working cycle on the other.

In the afternoon, we viewed the CCMA recreation area. Bureau effort has been most impressive there. Such programs as fire management and control, protection of unique plant communities, shooting control, erosion control and repair in watersheds, employee safety and use of State recreation grant monies to try to encourage recreational camping and ORV use out of the asbestos zones, appear to be substantially successful. The off-road bikers who are the users of the area are essentially thrill seekers and deliberate risk takers.

The threat of asbestos in the wet season, use period is relatively insignificant in comparison to the risk of traumatic injury, although BLM safety and rescue efforts have kept the mortality rate very low. For this type of user the CCMA seems to be an appropriate recreation area, imposing little, if any, non-voluntary risk. Natural erosion to bare serpentine is evident through out the area and even the disturb "pathway" appear to be relatively stable. Off the CCMA, the nearby public land management consolidation, fire control and wildlife and habitat development efforts are also impressive. Overall it was evident that California recreationists are fortunate to have the Hollister RA for a neighbor.

We had a closing overflight on Thursday July 7, 1988, and returned to Sacramento. There were several small meetings on Thursday, but due to a delay in the State Director's schedule we could not close out until Friday. One of the meetings was a briefing for the mineral staff on the RA's efforts to control liability at the Joe Pit. The Solicitor's office apparently strongly supported the efforts but the State Office Mineral Staff seem to find it an overreaction. This is unfortunate, since I feel that this could lead to another substantial cost to the Federal taxpayer. I also briefed the DM on my concerns and proposals. I was especially concerned that the DO was not placing priority appropriate to an NPL site on public and employee safety at the Atlas mine and mill site or on funding for the cleanup. I also expressed concern about the need to assure consistency with the NCP and the requirements of Section 113(k) of CERCLA on all actions that are ordered by EPA or that are not precisely set out in the RMP. I explained the potential political and judicial difficulties with Bureau actions on one of the 300-500 most dangerous hazardous materials site in the U.S. that do not meet a "reasonable man's" expectations of adequate protection. Inadequacies in these actions can leave the BLM subject to regulatory penalty, Congressional and other criticism and private liability litigation.

At the 7:30 am closeout with the State Director, he listened to my proposal on avoiding precedent under the 1872 Mining Law for sites closed before 1979. He was vaguely positive in response. I reiterated for him the concerns I had expressed on Wednesday and the prior afternoon, on public and employee safety, adequacy of funding, procedural protections, protection of contractors employees, fencing, road closings, etc. He appeared to reject all such

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concerns without consideration. He stated that he would consider having the safety policy changed at the Bureau level. This was disappointing but not entirely surprising given the reactions of his junior managers. I returned home Friday.

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