



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

November 6, 2006

Mr. Gregory L. Simpson
Project Manager
Textron, Inc.
40 Westminster Street
Providence, RI 02903

RE: Former Gorham Manufacturing Facility – Park Parcel, 333 Adelaide Ave., Providence, RI
RIDEM Response to November 2, 2006 TCLP Issue e-mail from Textron
Case No. 2005-059 (Associated with Case No. 97-030)

Dear Mr. Simpson:

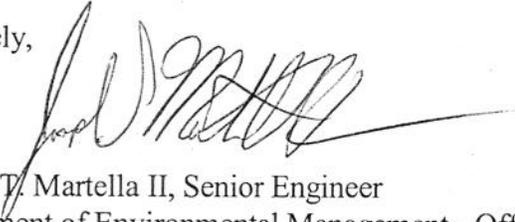
On November 2, 2006, the Rhode Island Department of Environmental Management (the Department) received your electronic mail (e-mail) submittal, Re: Former Gorham Manufacturing Site - Slag Information, including the attached letter from Kenneth M. Kastner, Esquire of Hogan & Hartson, LLP to Jamieson M. Schiff, Esquire of Textron, Inc. (Textron). In the e-mail you repeat Textron's previously expressed position that Textron does not agree that soil in proximity to the slag material requires toxicity characteristic leaching procedure (TCLP) testing under the hazardous waste regulations. One reason indicated is Textron's opinion that the slag material is itself excluded from the being considered hazardous waste under 40 CFR 261.4(b)(7)(ii)(B) as "slag from primary lead processing" under the so-called Bevill exemption.

The Bevill exemption applies only to slag generated as a result of "primary lead processing," i.e. the processing that extracts the lead from ore-bearing rock. While the Department does not agree that the Bevill exemption applies to the Adelaide Avenue facility, in order for the Department to properly evaluate your claim, Textron must submit any documentation in its possession that demonstrates that Gorham Manufacturing Company (Gorham) engaged in "primary processing" of lead ore at the Adelaide Avenue facility. In order for the Bevill exemption to be applied, Textron must demonstrate conclusively that: a) Gorham's Adelaide Avenue facility was specifically shipping in unprocessed lead ore and smelting the lead out of it; b) that these on-site primary lead processing activities were the exclusive source of the lead and copper contaminated slag; and c) that no other non-lead smelting process, or "secondary" smelting process was conducted at the Adelaide Avenue facility that could have produced lead-contaminated slag as a byproduct.

This letter is solely intended as a response to Textron's claim under the Bevill exemption and shall not be construed as a comment regarding the applicability of any other state or federal law.

If you have any questions regarding this letter, please contact me by telephone at (401) 222-2797 x7109 or by e-mail at joseph.martella@dem.ri.gov.

Sincerely,



Joseph T. Martella II, Senior Engineer
Department of Environmental Management - Office of Waste Management

XC: Terrence D. Gray, P.E., Assistant Director, RIDEM/AW&C
Leo Hellested, P.E., Chief, RIDEM/OWM
Kelly J. Owens, RIDEM/OWM
Michael Andrews, RIDEM/OWM
Brian Wagner, Esq., RIDEM/OLS
Richard Enander, PhD, RIDEM/OTCA/Risk Assessment
Charles Horbert, RIDEM OWR/Wetlands Permitting
Martin Wencek, RIDEM OWR/Wetlands Permitting
Elizabeth Scott, RIDEM / OWR
Frank Battaglia, EPA – Region 1
Tammie A. McRae, ATSDR
Robert Vanderslice, PhD, RIDOH
Hon. David N. Cicilline, Mayor, City of Providence
Senator Juan M. Pichardo, District 2
Representative Thomas Slater
Providence City Councilman Ronald Allen
John J. Lombardi, City of Providence
Thomas Deller, City of Providence
Sara Rapport, Esq., City of Providence
James Ryan, Esq. PS&H
Steven Fischbach, Esq., RILS
David Heislein, MACTEC
Peter Grivers, EA
Knight Memorial Library