

2/3/00

**U. S. NUCLEAR REGULATORY COMMISSION
BEFORE THE PRESIDING OFFICER**

DOCKETED
USNRC

LICENSEE: MOLYCORP, INC.
(Washington, Pennsylvania Site Decommissioning Plan)
License No. SMB-1394
Docket Nos. 040-08794 and 040-08778
ASLBP No. 00-775-03-MLA

'00 FEB 25 P3:34

OFFICE OF THE
PRESIDING OFFICER
ADJUTANT GENERAL

SUPPLEMENT TO AMENDMENT TO
REQUEST FOR HEARING BY
CANTON TOWNSHIP, PENNSYLVANIA,

FIRST AMENDMENT TO REQUEST FOR
HEARING BY CANTON TOWNSHIP, PENNSYLVANIA
ON LICENSEE'S AMENDMENT REQUEST FOR
DECOMMISSIONING OF ITS CANTON TOWNSHIP FACILITY,

AND

SUPPLEMENTAL REPLY OF PETITIONER
CANTON TOWNSHIP TO NRC STAFF'S RESPONSE
(collectively referred to as "Supplemental Responses")

Petitioner/Requestor CANTON TOWNSHIP, by its counsel, hereby files the following Supplemental Responses to correct the record concerning actual allegations which have come to Petitioner/Requestor's attention subsequent to its last filing, as follows:

1. On or about June 28, 1999, Canton Township filed a Request for Hearing in Docket Nos. 040-08794 and 040-08778 on Molycorp's License Amendment Request regarding its schedule for submission of a revised Site Decommissioning Plan and Environmental Report.
2. On or about November 11, 1999, as directed by the NRC Presiding Officer, Canton Township filed an Amendment to its Initial Request for Hearing.
3. On or about December 13, 1999, Canton Township filed a Request for Hearing on Molycorp's Amendment Request for decommissioning of its Canton Township facility.
4. On or about February 9, 2000, Canton Township filed a Reply to the NRC Staff's Response.

DSO3

5. As set forth in the record in this matter, Licensee/Molycorp, Inc. has proposed a temporary storage of ten years for certain radioactive by-products and/or waste, which material is currently located in Molycorp's York, Pennsylvania facility and will be located within the municipal boundaries of Canton Township.

6. Molycorp, Inc. has stockpiled certain radioactive by-products and/or waste, presently located within the municipal boundaries of Canton Township.

7. Thereafter, on or about May 8, 1984, Molycorp, Inc. entered into a Contractual Consent of Landowner with Canton Township to which is attached a map showing the existence of a Right-of-Way owned by the Tylerdale Connecting Railroad (hereinafter referred to as "Right-of-Way"). A true and correct copy of the Contractual Consent of Landowner found at Deed Book Volume 2153, Pages 97-101, including a site map recorded in the Recorder of Deeds Office of Washington County, Pennsylvania, is attached hereto, incorporated herein and marked as Exhibit "A."

8. Molycorp, Inc. has proposed to store the aforesaid radioactive by-products and/or waste at both permanent and temporary sites on or near the Right of Way.

9. To the best of Canton Township's knowledge, information and belief, the aforesaid Right-of-Way is still owned by the Tylerdale Connecting Railroad Company. The records of the Tax Assessors' Office for Washington County, Pennsylvania lists this Right-of-Way as exempt property titled to the Tylerdale Connecting Railroad Company. A true and correct copy of the Tax Assessors' records dated February 10, 2000 identifying the Right-of-Way as exempt property titled to the Tylerdale Connecting Railroad Company is attached hereto, incorporated herein and marked as Exhibit "B."

10. The Right-of-Way owned by the Tylerdale Connecting Railroad is subject to and governed by 66 Pa.C.S.A. §709 entitled "Disposition of Real Property by Public Utility Engaged in Railroad Business," which states in part that the Right-of-Way must first be offered to the local municipality for public use. Any disposition which fails to comply with the statute is voidable.

11. Canton Township has in the past developed preliminary plans to create public recreational facilities in the area near Molycorp Inc.'s property. The subject Right-of-Way would be an important part of those public recreational facilities.

12. Molycorp, Inc. has proposed both a temporary and permanent storage facility of certain radioactive by-products and/or waste on or near real estate it does not own.

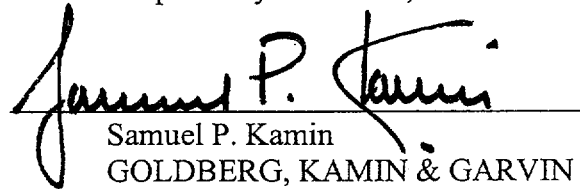
13. Storage of the aforesaid radioactive by-products and/or waste at both permanent and temporary sites would adversely affect the health, safety and welfare of potential users of Canton Township's proposed public recreational facility.

14. For the reasons set forth herein, together with those previously presented in its filings, Canton Township reiterates that it has established its need for and a right to a hearing under 10 CFR, §2.1205(h) relating to Molycorp's Site Decommissioning Plan and that in view of the interrelatedness of the issues and concerns set forth in the Site Decommissioning Plan and the proceeding concerning the temporary storage of the York material, the two proceedings should be consolidated.

WHEREFORE, Petitioner/Requestor Canton Township, Pennsylvania hereby respectfully requests a hearing before the U.S. Nuclear Regulatory Commission on these proceedings.

Date: February 18, 2000

Respectfully submitted,




Samuel P. Kamin
GOLDBERG, KAMIN & GARVIN
1806 Frick Building
Pittsburgh, PA 15219
(412) 281-1119
Special Counsel for Canton Township

VERIFICATION

I, SAMUEL P. KAMIN, hereby state that I am Special Counsel for Canton Township. I further certify that I am authorized on behalf of Canton Township to make this verification to the foregoing Supplemental Responses by virtue of my position as Special Counsel of record, and certify that the averments set forth therein are true and correct to the best of my knowledge or information and belief.

I understand that this verification is made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: February 18, 2000



SAMUEL P. KAMIN

06434

BOOK 2153 PAGE 97

JAN 24 1983

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES
BUREAU OF SOLID WASTE MANAGEMENT
DIVISION OF HAZARDOUS WASTE MANAGEMENT

14.00

APPLICATION NO. (Department Use Only)

CONTRACTUAL CONSENT OF LANDOWNER

(I)(We), the undersigned, hereinafter sometimes referred to as "landowner", being the owner(s) of 16.5 acres of land located in Canton Township (TOWNSHIP, BOROUGH, OR CITY), Washington County, Pennsylvania, as described in the deed(s) recorded in the Recorder of Deeds Office at Deed Book(s) and page(s) (See attached page) and shown by crosshatched lines on the map attached hereto which is signed in the original by the landowner upon which Molycorp, Inc. HAZARDOUS WASTE MANAGEMENT FACILITY OPERATOR proposes to engage in hazardous waste storage, treatment or disposal activities for which application for permit will be made to the Department of Environmental Resources under the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L.380,35 P.S.16018.10 *et seq.*, and of which application this consent will be made a part, DO HEREBY ACKNOWLEDGE THAT THE HAZARDOUS WASTE MANAGEMENT FACILITY OPERATOR AND HIS PERSONNEL HAVE THE RIGHT TO ENTER UPON AND USE THE LAND FOR THE PURPOSES OF CONDUCTING HAZARDOUS WASTE MANAGEMENT ACTIVITIES. Furthermore, (I)(We), the undersigned, do hereby irrevocably grant to the hazardous waste management facility operator and to the Commonwealth of Pennsylvania or any of its authorized agents, or employees, the right to enter upon the aforesaid land before the beginning of the hazardous waste management activities, during the hazardous waste management activities and for a period of 20 years after final closure of the facility, for the purposes of inspection and for the purpose of conducting such pollution abatement or pollution prevention activities required under the Act, the regulations promulgated thereunder and the terms of the permit as the Department deems necessary. (I)(We) do hereby grant in addition to the Commonwealth, for the aforesaid period of time, a right of entry across any adjoining or contiguous lands owned by (us)(me) in order to have access to the land described herein. It is specifically agreed and understood that this contractual consent gives the Commonwealth the right to enter, inspect the premises, and abate or prevent pollution as a matter within the police power but does not obligate the Commonwealth to do so, does not constitute any ownership interest by the Commonwealth in the aforesaid land, and does not affect or limit any rights available to the Commonwealth under applicable law.

EXHIBIT
tabbles
A

THE LANDOWNER agrees TO ALLOW THE ABOVE-NAMED HAZARDOUS WASTE MANAGEMENT FACILITY OPERATOR TO TRANSFER OR ASSIGN, BY WRITTEN AGREEMENT, THIS CONTRACTUAL CONSENT TO ANOTHER HAZARDOUS WASTE MANAGEMENT FACILITY OPERATOR.

This Consent shall terminate and become null and void if the hazardous waste management facility operator does not apply to the Department of Environmental Resources for a permit to conduct hazardous waste management activities on the aforesaid land within 2 year(s) from the date of this Consent. Nothing in this Consent shall preclude or limit the landowner's authority to terminate the right or privilege of the hazardous waste management facility operator to conduct hazardous waste management activities on the aforesaid land.

This Contractual Consent shall be deemed to be a recordable document. Prior to the initiation of hazardous waste management facility operations under the permit, this Consent shall be recorded by Molycorp, Inc. and entered into the deed book (d.b.v.) index at the office of the recorder of deeds in the county(ies) in which the hazardous waste management facility is to be located.

In witness whereof and intending to legally bind (myself) (ourselves), (my) (our) heirs, successors and assigns, (I) (we) have hereunto set (my) (our) hand(s) and seal this 3 day of May, 1984.

(SEAL)



RECORDED
JUN - 1 1984 1:13 P.M.
OLGA O. WOODWARD
RECORDER
WASHINGTON CO., PA.

Molycorp, Inc.
LANDOWNER (Print Name)

By: [Signature]
Signature

W. N. Warhol
(Print Name)

By: [Signature]
Signature Raymond Hawryluk

(Print Name)

ACKNOWLEDGEMENT OF INDIVIDUALS OR PARTNERS

STATE OF _____ :
 : SS
COUNTY OF _____ :

On _____, before me, the undersigned Notary, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and who acknowledged that _____ executed the same and desires it to be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL) _____ My Commission Expires: _____
NOTARY PUBLIC (DATE)

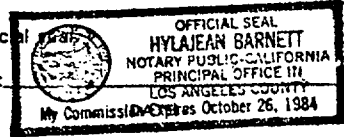
ACKNOWLEDGEMENT OF CORPORATIONS

STATE OF CALIFORNIA :
 : SS
COUNTY OF LOS ANGELES :

On May 8, 1984, before me, the undersigned Notary, personally appeared W. N. Warhol Vice President, Manufacturing of Raymond Henry Luk Molycorp, Inc., a corporation, and that s(he), as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation and desires that this instrument be recorded.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

(SEAL) _____ My Commission Expires: _____
NOTARY PUBLIC

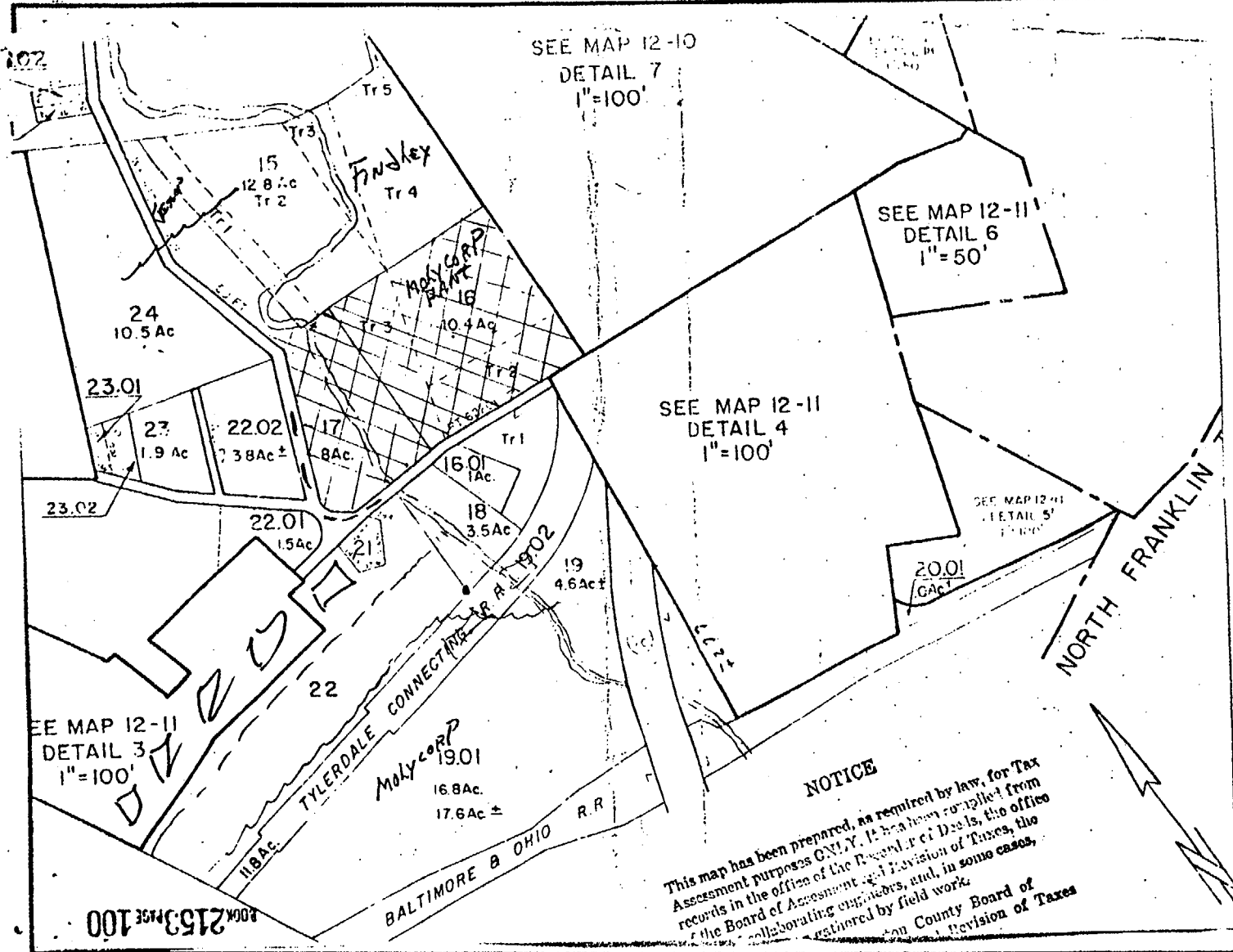


Oct. 26, 1984

This instrument has been recorded in _____ County, Pennsylvania, this _____ day of _____, at Book _____, Page(s) _____.

(SIGNED - PRINT NAME)

(SEALED)



SEE MAP 12-10
DETAIL 7
1"=100'

SEE MAP 12-11
DETAIL 6
1"=50'

SEE MAP 12-11
DETAIL 4
1"=100'

SEE MAP 12-11
DETAIL 5
1"=100'

SEE MAP 12-11
DETAIL 3
1"=100'

NOTICE

This map has been prepared, as required by law, for Tax Assessment purposes ONLY. It has been compiled from records in the office of the Recorder of Deeds, the office of the Board of Assessment and Revision of Taxes, the collaborating engineers, and, in some cases, gathered by field work.
County Board of Assessment and Revision of Taxes

BOOK 2153 PAGE 100

Re: Sources of title to real estate in Washington County, Penna.

- ✓ #2 Deed Book 637 page 496 - Gordon Land Company to Molybdenum Corporation of America - 2.2917 acres
Dated July 8, 1940
Acknowledged July 12, 1940
Recorded July 15, 1940
- ✓ #3 Deed Book 707 page 603 - Manor Real Estate and Trust Company to Molybdenum Corporation of America - 2.313 ac.
Dated April 30, 1946
Acknowledged April 30, 1946
Recorded May 15, 1946
- ✓ #X Deed Book 1036 page 462- Manor Real Estate Company to Molybdenum Corporation of America - 6.076 acres
Dated December 12, 1958
Acknowledged December 16, 1958
Recorded January 6, 1959
- ✓ #* Deed Book 483 page 270 - Electric Reduction Company to Molybdenum Corporation of America - 5.34 acres
Dated June 16, 1920
Acknowledged June 16, 1920
Recorded August 25, 1920

- ✓ A Deed Book 1330 page 1056- Findlay Refractories Company to Molybdenum Corporation of America (Quitclaim Deed)
Dated October 29, 1970 .482 acres
Acknowledged October 29, 1970
Recorded January 12, 1971



Pennsylvania } S. S.
Washington Co. }

Recorded in the office for Recording Deeds & c in and
for said county in Deed Book 2153 Page 97
Given under my hand and seal of the said office this
1st day of June A.D. 1984

Oleg O. Woodward
Recorder

RUN DATE: 02-10-2000

WASHINGTON COUNTY

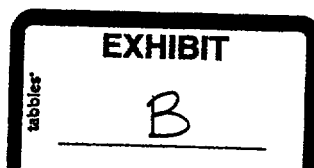
RUN TIME 11:17:35

PARCEL ID: 120-011-00-00-0019-02

NAME: CANTON EXEMPT PROPERTY TYPE: X
NAME2: TYLERDALE CONNECTING RR CO
ADDR:
ADDR: *

DESC-1: 11.8 AC SURF		2001	2000	1999
DESC-2:	CODE:	5	5	5
DESC-3:	LAND:	1,958	1,958	1,958
DESC-4:	BLDG:	0	0	0
DESC-5:	TOTL:	1,958	1,958	1,958

SALE DATE PRICE ----- DEED(S) -----



CERTIFICATE OF SERVICE

I hereby certify that the original and/or a copy of the foregoing Supplemental Responses has been served this date on the following in the following manner, which service complies with the rules and regulations of the U.S. Nuclear Regulatory Commission:

DOCKETED
USNRC
00 FEB 25 P3:34

VIA FIRST-CLASS MAIL:

OFFICE OF THE SECRETARY
U.S. NUCLEAR REGULATORY COMMISSION
ADJUDICATIONS STAFF

Administrative Judge Charles Bechhoefer
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and
Adjudications Staff

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

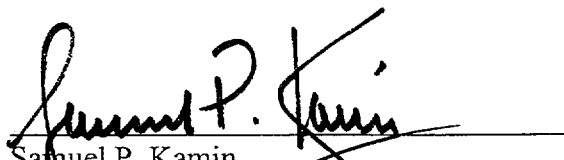
John T. Hull, Esquire
U.S. Nuclear Regulatory Commission
Mail Stop 0-15 D21
Washington, D.C. 20555

Molycorp, Inc.
300 Caldwell Ave.
Washington, PA 15301
Attention: Mr. John Daniels
Licensee

Randolph T. Struk, Esquire
Thorp, Reed & Armstrong, L.L.P.
One Riverfront Center
Pittsburgh, PA 15222
Counsel for Licensee Molycorp, Inc.

Jeffrey A. Watson, Esquire
Smider & Watson, P.C.
138 N. Franklin Street
Washington, PA 15301
Counsel for City of Washington

Date: February 18, 2000


Samuel P. Kamin
GOLDBERG, KAMIN & GARVIN
1806 Frick Building
Pittsburgh, PA 15219
(412) 281-1119
Special Counsel for Canton Township