

1 considered a product or a manufacturing  
2 intermediate.

3 So the question to you is, what  
4 procedures are in place or do you plan to  
5 put in place to monitor incoming D001 waste  
6 streams to ensure that the wastes will not  
7 contain chemical constituents, and that's  
8 important, chemical constituents identical  
9 to those of U waste codes which you are not  
10 permitted to manage?

11 MR. SADOWSKI: Well, Dr. Pinto, we  
12 had a considerable amount of discussion in  
13 this response; and in reviewing this  
14 response, Southdown, the Applicant, took the  
15 position that there were several steps in  
16 the process of categorizing waste and these  
17 are driven by two things.

18 One is the regulations which  
19 instruct individuals in how a hazardous  
20 waste should be characterized or  
21 categorized, and the other is the waste  
22 analysis plan.

23 Southdown has to follow those  
24 regulations in categorizing wastes whether

1 we agree with them or not, and I agree that  
2 it can be a very complex process as given by  
3 the example you just stated.

4 The waste analysis plan is designed  
5 to give Southdown that assurance that the  
6 waste coming from the generator has been  
7 properly characterized, that the waste codes  
8 assigned to it, whatever they are, are  
9 appropriate and that when the waste is  
10 received at the facility, it indeed matches  
11 the characterization initially provided to  
12 us by the generator. In terms of the  
13 specific example you cited, it's true that  
14 that can happen. I guess it's difficult for  
15 me right now to address a response to that,  
16 because what you're suggesting is something  
17 that could happen even though every rule and  
18a regulation was followed in the  
19 characterization of the waste, the  
20 assignment of the waste codes and the  
21 testing of the waste before it got to the  
22 facility.

23 It appears the question is more  
24 towards, well, there's certain compounds

1 that we would prefer Southdown not accept  
2 regardless of the circumstances. And I  
3 guess if there's a list of compounds that  
4 meet that criteria, that it's the Board's  
5 opinion that we shouldn't accept them no  
6 matter **what, no matter** what waste code is  
7 assigned, then maybe we need to have a  
8 a little further discussion as to what that  
9 list of compounds would be.

10 Certainly we're willing to work with  
11 the Board in establishing a criteria for  
12 waste acceptance. I am the one who drafted  
13 this response and tried to frame it in terms  
14 of what we committed to do and what the  
15 regulations require.

16 I can't see anything beyond that  
17 that we could do, but we're certainly  
18 willing to work with the Board to address  
19 that concern to the satisfaction of  
20 everyone.

21 DR. PINTO: Will you have  
22 information regarding the profile of the  
23 generators in terms of the products they are  
24 producing, processes that are involved?

1 MR. SADOWSKI: Yes.

2 DR. PINTO: I see. Then I would  
3 recommend to the Board that the Staff work  
4 with Southdown to develop criteria that  
5 could be included in the permit. That would  
6 essentially allow us to overcome this  
7 problem that I see.

8 CHAIRMAN IOANNIDES: Recommendation  
9 accepted.

10 DR. PINTO: I will stop there for  
11 now.

12 CHAIRMAN IOANNIDES: Are you  
13 concluded?

14 DR. PINTO: Yes. I have some  
15 remarks that I will leave for later as well.

16 CHAIRMAN IOANNIDES: Are there any  
17 other matters that you wish to discuss or  
18 make remarks at this time?

19 MR. TYLER: Yes, Mr. Chairman.

20 CHAIRMAN IOANNIDES: Mr. Tyler.

21 MR. TYLER: Mr. Chairman, to the  
22 Applicant.

23 Would you describe the approach you  
24 are proposing to take with respect to

1 financial responsibility closure, post  
2 closure, post closure care, perpetual care.

3 MR. MERRILL: I believe the  
4 financial assurance mechanism is set forth  
5 in the application. I believe it's Section  
6 I, and in that section, the proposed  
7 mechanism is a closure trust with a surety  
8 bond guaranteeing payment, which I believe  
9 is Option B under 3745-55-51, I believe, and  
10 the surety bond and the document are  
11 included in Section I in the language that's  
12 providing for in the regulation.

13 MR. TYLER: So you do not intend to  
14 cash fund closure or post closure care or  
15 perpetual care, but rather to use  
16 exclusively the surety technique?

17 MR. MERRILL: At this time that has  
18 been the choice of Southdown.

19 MR. TYLER: The trustee looking at  
20 these books is Bank One?

21 MR. MERRILL: I believe so.

22 MR. TYLER: And once the fund is  
23 established, there will be no transfers of  
24 cash to the fund unless and until the

1 facility is closed?

2 MR. MERRILL: I'm not familiar with  
3 the trust document to give you a specific  
4 answer, but I know that there is a surety  
5 bond that's guaranteed payment into the  
6 trust which is the financial assurance  
7 mechanism for the State of Ohio, that the  
a funds will be available for closure.

9 MR. TYLER: Are there provisions in  
10 the bond that -- are there circumstances  
11 under which the bond could lapse or not be  
12 renewed?

13 MR. MERRILL: I believe the terms  
14 require notice to Ohio EPA in such  
15 situations. It uses the same language  
16 that's required in the regulation, which I  
17 believe puts up notices for these types of  
1a defaults, so that Ohio EPA is noticed and  
19 that Ohio EPA can then contact the Applicant  
20 to see whether a different financial  
21 assurance mechanism is going to be used and  
22 what that is and make sure that those funds  
23 are still in place for the closure.

24 MR. TYLER: Are there draft

1 financial assurance provisions in the  
2 proposed application at this point, in the  
3 proposed permit?

4 MR. SHAPIRO: I don't believe so.

5 MR. TYLER: Mr. Chairman, Dr. Pinto,  
6 I would like -- if this permit is agreed to,  
7 I would like an opportunity to review the  
8 financial assurance provisions, bond and  
9 trust agreements prior to journalization.

10 CHAIRMAN IOANNIDES: Granted. Such  
11 a review granted, Mr. Tyler.

12 Any other discussions?

13 DR. PINTO: I do have a couple of  
14 other points. I was just trying to give the  
15 other members a chance rather than  
16 dominating the discussion.

17 Again, going back to your responses  
18 in document 226. Concerning the  
19 responsibility of installing vapor monitors  
20 in your tank farm area, when we visited the  
21 plant, we were told that we could not get  
22 into the containment areas because you  
23 required gas masks to enter the containment  
24 area. That tells me there is the

1 possibility of vapor accumulation in that  
2 area.

3 Your response to the suggestion that  
4 we install -- that you install vapor  
5 monitors said that there is no possibility  
6 of vapor accumulation.

7 I have a difficulty reconciling  
8 these two things, so I would ask you to  
9 respond to that.

10 MR. SADOWSKI: Our safety rules  
11 require that anyone entering the containment  
12 area have a certain degree of personal  
13 protective equipment either being worn or  
14 available at that time, and organic vapor  
15 respirator is one of those pieces of  
16 equipment that, although it's not necessary  
17 to be worn, must be carried on that  
18 individual's person.

19 The reason for that is that the  
20 individuals who are working in that area may  
21 be working on a piece of equipment which may  
22 have hazardous waste fuel contacting. It  
23 may become exposed to the atmosphere in a  
24 maintenance-type of situation.