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Government Agency—Gravel Containing Asbestos

Hazardous waste fees were due concerning hazardous waste generated and disposed of when a school district removed asbestos-containing gravel that had been used for a running track and as road base. There is no exemption for asbestos-containing waste materials which are in a form similar to that in which asbestos naturally occurs. 8/1/90.

Mr. Robert M. Frank
Environmental Fees Unit

August. 1, 1990

Janet Vining
Legal

REDACTED Unified School District

Your June 11, 1990 memorandum concerns the application of the hazardous waste disposal fee, generator fee, and Superfund tax to REDACTED Unified School District's removal and disposal of asbestos-containing gravel. We conclude that there is no applicable exception or exemption and that the school District must pay the appropriate fees.

The School District used gravel-bearing asbestos as a base for running tracks and as a road base around the transportation building and bus parking lot. The rock, which is common in REDACTED County, was used as an inexpensive substitute for paving. The asbestos in the gravel was in a friable state, and was removed pursuant to the School District's asbestos abatement program.

The School District first argues that "natural hazardous substances", such as the asbestos-containing gravel, are exempt from the hazardous waste fees and taxes, which apply instead to hazardous asbestos products that were manufactured for insulation and roofing. We disagree. Since the gravel is being disposed of, it meets the definition of "waste" in the Health and Safety Code, and since it contains asbestos, it meets the definition of "hazardous waste". There is no statutory exemption for asbestos-containing waste materials in a form similar to that in which asbestos naturally occurs.

The School District also argues that it is entitled to take advantage of the exemption provided in Section 25174.7 of the Health and Safety Code, since it is a local agency that removed a release of hazardous waste caused by another person. Specifically, the School District asserts that it did not cause the release, but, rather, the release was the result of a natural occurrence. However, the gravel was not "hazardous waste" when it was purchased and laid as a base for the tracks and roads.

Th gravel became waste when the School District removed and disposed of it, and the School District is responsible for that release of hazardous waste.

In summary, the REDACTED Unified School District must pay the appropriate disposal and generator fees and Superfund tax regarding its removal and disposal of asbestos-containing gravel.

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