

Corrections and additions made to
original letter to W. Skars
as sent out on Saturday

CHK

Copies of letter given to Mrs. Hessel P. D. Telfer

N13364

RE 0012011

April 15, 1966

Mr. Frank N. Ikard, President
American Petroleum Institute
1271 Avenue of the Americas
New York, N. Y. 10020

Attention of Mr. Willard M. Wilson, Secretary

Dear Mr. Ikard:

I am returning, herewith, ~~all but one carbon copy~~ ^{original} of the letter-agreement between The American Petroleum Institute and the University of Cincinnati (the copy being retained for the purpose of precision in any further correspondence), concerning the continuation of the investigative program of the Kettering Laboratory in which the Institute proposes to participate as a sponsor. My reason for this is that I cannot submit this to the Board of Directors of the University of Cincinnati, the sole contractual agency of the University, in its present form.

I shall assume that the representatives of the Institute and I, as the principal investigator for the Kettering Laboratory in this project, see eye to eye on the general issues involved here, and that I am merely straightening out some matters of form between the two institutions and so setting the record straight. We operate, as does the A.P.I. in many matters, under public scrutiny, as the agents of an institution that is responsible primarily to the public interest. There is only one point in the agreement which may not be regarded as purely formed by the Institute, and certainly cannot be so regarded by the University. I refer here to Clause 3. I shall discuss it first, as the only essential item, and make certain minor suggestions later.

For a number of reasons of propriety, in relation to the situation of the other sponsors of this project, who are being joined only lately by A.P.I. (this project has been under way since 1939), the impression implied by this agreement that the A.P.I. is the arbiter of the disposition of reports is somewhat unsatisfactory. The primary issue, however, is not one of propriety but of institutional policy, as indicated above, this general program has been under way since 1939. The work on human respiratory exposure has been proceeding systematically since 1950, and the present work is but one phase of a general program which has as its goal the elucidation of the fate of inhaled lead in the human organism under a variety of conditions. The program in general, and specific phases of it, have been talked about and written about in public professional meetings in this country and abroad. The technique and purpose of the present experiments have been described and published. Stepwise documentation of this work is the basic ingredient of its worth and reliability. It would be more than unwise, therefore; it would be a fatal policy, for the purposes of the sponsors, if any part of it were to be carried out under the terms of Clause 3. Reports will indeed be made to A.P.I. in the manner specified, except that some attention will have to be paid to the convenience of the investigators and that of the other sponsors. However, there will be no secrecy attached to the work, nor can publication of the results be subject to the discretion of A.P.I., if for no other reason than that the other sponsors would not agree to such a provision in this agreement.

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April 15, 1966

In the final analysis, however, this Laboratory and this University will not accept any formal barrier to the publication of the results of their own work, as to discussions in Scientific and Professional Circles. I could not submit any agreement containing such a provision to the Board of Directors of the University of Cincinnati with any hope of obtaining their consent, even if I so desired. I would be told, at once, that I know University policies much better than to make such a proposal. (I am putting this in firm language, not because I have any feeling that it is necessary as a matter of persuasion, but rather because this is the backbone of the position of the Kettering Laboratory in the scientific and professional community.) Those of your people who attended the recent "Symposium on Lead" in Washington, as well as those who may have seen some of the comments of the trade and ordinary press, will recognize that the Kettering Laboratory, and I, myself, were being accused of a biased alliance with industry. I have tried during the life of the Kettering Laboratory to prove by our work and by the recorded position of this University, that this is wholly untrue. I simply could not have done this, nor could I continue to do it, if we were to qualify our right to speak and publish. I have never done it and never shall, and moreover, this Medical School and University would not, knowingly, permit me to do so. When I speak in professional circles, I make known my views, not those of the industries whom we undertake to guide, in their best interests, by our work and advice. This is not to say that we play fast and loose with household and trade information transmitted to us in confidence. We are, indeed conscious of the transmission of "privileged information," and we act accordingly. For this reason there is a clause in our agreement that states that the manuscripts of publications shall be submitted to sponsors for comment and criticism. This might be regarded by the cynical as equivalent to submission for consent, but this is distinctly untrue. Our purpose is to avoid any statement that might, inadvertently, result in liability or injury to a sponsor. I say "inadvertently," only because we might not realize that we were identifying a company or a product, or revealing trade "know how." In the final analysis, however, we must be the final arbiter as to what, where and when we speak or write. We may well accept pertinent criticism, sound advice or, for that matter, editorial critique, but at our own discretion. If this sounds arbitrary, so it must be, for there is no gray issue in this but only black and white. Our professional position is all we have to offer to our sponsors, and we are not likely to damage it by our own acts.

Please accept my apology for this lengthy discussion, but I think such a detailed declaration is necessary at this time, when this very principle has been questioned. However, in order to expedite these negotiations (so to speak) I shall make suggestions for the language that might be used, subject to your choice of your own words to the same end. I have no pride in my own choices in this respect, but only in the clarification of the issues. I enclose, therefore, a restatement of the agreement, and also a copy of a short form of agreement which we often use, this to be merely an illustration of the policies of the University of Cincinnati, as promulgated, with the approval of its Board, by the Kettering Laboratory.

Cordially yours,

Robert A. Kehoe, M.D.

RAK:wp

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enclosures

ATTACHMENT

(Of this, six copies would serve the purposes of all concerned
of which only one signed copy need be retained by the University)

This letter is authorization to the University of Cincinnati, to include the American Petroleum Institute among the sponsors of an investigation entitled, "Human Exposure to Particulate Lead Compounds in the Air Under Experimental Conditions," which is being conducted in the Kettering Laboratory in the Department of Environmental Health of the College of Medicine of the University of Cincinnati. This investigation is to be conducted, for the present, in accordance with a proposal submitted on March 11, 1966, and approved by the American Petroleum Institute's Committee on Air and Water Conservation, the same being attached hereto as a part of this letter-agreement. The investigation will be designated, for the purposes of the American Petroleum Institute, as CAWC-EHS, II 6 and is to be under the direction of Robert A. Kehoe, M.D., who will advise and consult with the A.P.I.'s Committee for Air and Water Conservation, through its Environmental Health Section, concerning the progress of the investigation, from time to time, as may be mutually desirable. The period covered by this agreement is from January 1, 1966, to December 31, 1966, and is subject to the following conditions.

1. Budget. (No alteration of this is suggested. Any alteration desired by the sponsor, to accord with the short form of the agreement here attached, will be acceptable.) R.A.K.
2. (This is entirely acceptable in its present form except that the University of Cincinnati must be referred to as the "independent contractor." It is in fact the contractor, and would insist upon the recognition of this fact.) There is no harm, however, in the statement with respect to liability, although it is unnecessary in law. A.P.I. has no direct, indirect or remote liability for the acts of the University. I suggest the alteration, "understood that the University of Cincinnati, through the Kettering Laboratory, is acting" etc. If this should be said in better legal terminology, there should be no objection.
3. (Suggested total revision). Formal reports of progress are to be made to the A.P.I.'s Committee for Air and Water Conservation, Environmental Health Section, at appropriate stages in the investigative work, and at regular intervals of not less than six months. Informal reports may be obtained by the sponsor on request. The results of the experimental work shall be published at appropriate times according to the stage of development of the work. Any reference to the American Petroleum Institute or to its participation in the sponsorship of the investigation will be submitted to the Institute for suggestion and comment. (The second paragraph requires no comment. R.A.K.)

The signatures of the appropriate officials of the University are indicated below.



AMERICAN PETROLEUM INSTITUTE

1271 AVENUE OF THE AMERICAS

NEW YORK 20, N. Y.

April 12, 1966

Robert A. Kehoe, M.D.
Kettering Laboratory
Eden & Bethesda Avenues
Cincinnati, Ohio 45219

Dear Dr. Kehoe:

This letter is authorization to initiate an investigation by Kettering Laboratory, Cincinnati, Ohio, on Human Exposure to Particulate Lead Compounds in the Air under Experimental Conditions in accordance with the final proposal submitted on March 11, 1966, and approved by the American Petroleum Institute's Committee for Air and Water Conservation and attached hereto as part of this letter agreement. The investigation will be designated CAWC-EHS, II-6, and is to be under the direction of Robert A. Kehoe, M.D., who will advise and consult with the API's Committee for Air and Water Conservation, through its Environmental Health Section, concerning the progress of the investigation whenever requested to do so. The period covered by this agreement is from January 1, 1966 to December 31, 1966 and is subject to the following conditions:

1. Budget

The total budget for the period covered by this agreement is \$25,000 and will be paid to the Kettering Laboratory on April 12, 1966. Financial reports are to be rendered at least annually and at the completion of agreement to Mr. E. C. Belefski, Assistant Treasurer, American Petroleum Institute, 1271 Avenue of the Americas, New York, N. Y. 10020 and Mr. P. N. Gemmelgard, Director, Committee for Air and Water Conservation, American Petroleum Institute, 1271 Avenue of the Americas, New York, N. Y. 10020.

It is understood that any unexpended balance remaining on completion of the project will be returned to the American Petroleum Institute and that no excess over the amount of the budget is to be obligated or spent without written authorization.

2. Kettering Laboratory Solely Liable for Damages

It is agreed and understood that the Kettering Laboratory is acting as an independent contractor in the performance of any and all work hereunder, and it shall be solely liable and responsible for the payment of any and all legal claims for damages made by its employees or agents or by any other person or

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persons, on account of any property damage or personal injury sustained or suffered by, or the death of, any person or persons arising or growing out of or in connection with the performance of this agreement or any act or omission in connection herewith.

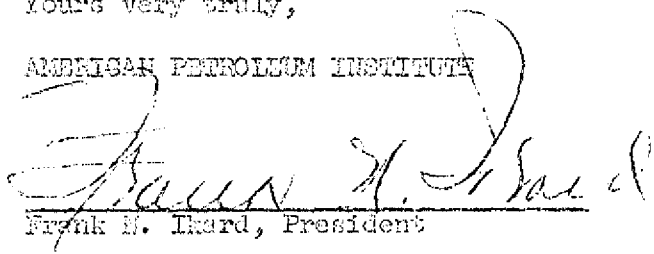
3. Reports and Publication of Results

Reports of progress are to be made to the API's Committee for Air and Water Conservation Environmental Health Section in the form and at times prescribed by the API. Publication of results of the completed investigation in the public interest shall be subject to joint release by the Kettering Laboratory and the American Petroleum Institute. Prior to such joint release, no information shall be disclosed as to the results of the investigation nor shall any publicity be accorded the investigation in any of its phases.

If the terms of this contract as indicated above are accepted by the Kettering Laboratory, the return of three copies of this letter signed by the contracting officer of the Kettering Laboratory will signify such acceptance.

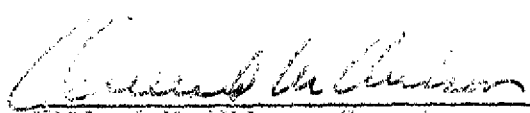
Yours very truly,

AMERICAN PETROLEUM INSTITUTE


Frank M. Ikard, President

April 12, 1966

(Date)


Willard H. Wilson, Secretary

Accepted:

(Date)

KETTERING LABORATORY

(Contracting Officer)

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