CHEMICAL MANUFACTURERS ASSOCIATION

Vinyl Chloride Panel

Health Committee

FAX

December 28, 1995

TO:	Jim Barter	PPG Industries	412/434-2137
	Ed Beeler	GEON	216/447-6459
	Ron Gilbert	Westlake	713/963-1540
	Mark Gruenwald	Borden	614/225-7638
	James Knaak	Occidental	716/286-3141
	Caffey Norman	Patton Boggs	202/457-6315
	Dave Penney	Vista	713/588-3478
	Dave Pun	Formosa	201/716-7283
	Jonathan Ramlow	Dow	517/636-1875
	Jay Strange	Georgia Gulf	504/687-0294

FROM: Has Shah CMA

RE: The Next Conference Call on January 19, 1996

MESSAGE

Happy New Year!

The agenda for the January 19, 1996 conference call at 2:30 p.m. ET is enclosed. Please review the agenda, as I have assigned Committee members to address the agenda items. A copy of the letter to Christian Seigneur also is enclosed.

SENDER: Elena Howell

PHONE: 202/887-1191

PAGES: 5

CMA IS MOVING!

EFFECTIVE JANUARY 1996, OUR NEW ADDRESS WILL BE: 1300 WILSON BOULEVARD • ARLINGTON, VIRGINIA 22209

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CHEMICAL MANUFACTURERS ASSOCIATION
Vinyl Chloride Health Committee
Conference Call
Tentative Agenda

Date: January 19, 1996
Time: 2:30 p.m. ET

1.0 Approval of November 30, 1995, Record of Conference Call

2.0 Status of Vinyl Chloride Epidemiology Update Study.

2.1 Negotiations with ENSR - Mike Druckman, Jonathan Ramlow and Has Shah.

2.2 Status of The Study at Applied Epidemiology, Inc. - Kenneth Mundt, Jonathan Ramlow, and Has Shah

3.0 Discussion of proposals from Dow Chemical, CIIT, and Huntingdon for the combined Reproductive/Developmental Effects Study - All

4.0 Review of the Revised Draft Memorandum of Understanding between ATSDR and CMA - Caffey Norman

5.0 Review of Status of Commitments for the Vinyl Chloride 1996-1997 Research Program - Has Shah

6.0 Discussion of Molecular Toxicology Research at the University of North Carolina at Chapel Hill - Jim Knaak, Jim Barter, and Jonathan Ramlow

7.0 Review of Draft Comments on the ATSDR Toxicological Profile - Jim Barter, Jim Knaak, and Jonathan Ramlow

8.0 Discussion of the Draft ATSDR Vinyl Chloride Medical Management Guidelines - All

9.0 Discussion of the Vinyl Chloride Brain Cancer Case Control Study Proposal from Carlo Tamburo of the University of Louisville - Jonathan Ramlow, Ed Beeler, and Has Shah

10.0 Strategy Discussion to respond to California EPA's Draft Addendum Health Risk Assessment of Ambient Fugitive Vinyl Chloride Emissions from a Landfill Site - All

11.0 Set a date for the next Vinyl Chloride Conference Call or meeting

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CHEMICAL MANUFACTURERS ASSOCIATION

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December 28, 1995

Christian Seigneur, Ph.D.
General Manager
ENSR Consulting, Engineering and Remediation
1420 Harbor Bay Parkway
Suite 160
Alameda, CA 94502

Dear Dr. Seigneur:

Thank you for your letter of November 14. That letter, along with your previous communications by telephone, suggest to us that it may be possible to reach an amicable resolution of our dispute over the transfer from ENSR to Applied Epidemiology, Inc. ("AEI") of data from the CMA vinyl chloride epidemiology study. We thought it would be expedient to write to you to address some of the points in your letter, and to see if we could progress settlement of this matter.

First, it is unclear whether your offer to absorb the costs associated with obtaining the missing death certificates includes all of the missing death certificates, as well as the personnel time and related expenses of obtaining them. In addition to the 829 death certificates from the previous vinyl chloride study, there are up to 200 additional death certificates from the original study that also need to be replaced. Although states charge approximately $10 for each certificate, the actual cost of replacing those certificates (which ENSR had previously represented to be in its possession and easily retrievable) is significantly larger. The additional personnel time necessary to obtain those missing death certificates is going to cost CMA $20,474. As to related exp ns s, states charge a fee for doing searches for certificates for which the certificat number is unknown, which will amount to an extra $1,500 that CMA must pay. In addition, the cost for a nosologist to code the missing death certificates is $2.50 per certificate. Finally, there is a 10% overhead charge that CMA must pay to AEI for each of the above-listed items. Therefore, assuming that approximately 1000 death certificates need to be replaced, the total additional cost to CMA will be $37,921.40.

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Second, you take the position in your November 14 letter that ENSR is not responsible for the costs that CMA has incurred as a result of ENSR's six month delay in performing the contract because ENSR was not aware of the arrangement between CMA and AEI. My records show that not to be the cas . Correspondence from Dr. Whorton indicates that ENSR was in contact with Dr. Kenneth A. Mundt at AEI at least as early as May. In light of the previous periodic conversations that I had with you, and the fact that the contract for the transfer of data provides that the data "shall be promptly delivered to CMA or its designee upon request," ENSR cannot deny that it understood CMA's immediate need for the vinyl chloride study data. The costs to CMA arising out of ENSR's failure to perform the contract for over six months are exactly the kind of costs for which ENSR agreed to indemnify CMA. These costs have already reached an amount of $40,948, plus a 10% overhead charge, which CMA will have to pay to complete the vinyl chloride epidemiology study.

Therefore, in order to make CMA whole, ENSR would have to: (i) pay CMA $37,921.40 to replace the lost death certificates, and (ii) indemnify CMA in an amount of $45,042.80 to cover the additional costs to CMA resulting from ENSR's six month delay. In total, that would amount to $82,964.20. In the spirit of coming to a prompt and amicable resolution of this dispute, however, CMA is willing to absorb half of that amount, $41,482.10, if ENSR agrees to cover the other half. CMA believes that this is very reasonable, particularly given that these costs result from ENSR's failures and delays in performing its contract obligations to CMA.

Finally, you state in your November 14 letter that ENSR does not hav responsibility for the lack of organization of the files that it transferred to AEI. Apart from the fact that ENSR acquired Environmental Health Associates, Inc. ("EHA") and therefore is liable for the way EHA organized those files, ENSR represented that the $20,000 contract price included the service of inventorying those files. Specifically, the scope of work to which you refer in your November 14 letter states: "In his February 1994 letter to Dr. Shah, Dr. Whorton estimated the costs for this transfer to be $19,300. Therefore, our initial cost estimate is $20,000." Dr. Whorton's February 1994 letter specifically identified $8,000 of the $19,300 estimate as the cost to ENSR to "[i]nventory boxes, prepare for shipping, [and] copy certain records." As you admit in your letter, ENSR transferred the files from its storage facility in the way they were stored, and did not provide the

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inventorying services it contracted to provide. Therefore, CMA should not have to pay $8,000 of the $20,000 contract amount.

Thus, CMA is willing to settle this matter and forego litigation if ENSR agrees to pay CMA $41,482.10 and to release CMA from paying $8,000 of the remaining amount due on the contract. In that event, CMA would not hold ENSR's performance of this contract against ENSR in the future.

We look forward to hearing from you after you have had a chance to consider this letter.

Sincerely,

Hasmukh C. Shah, Ph.D.
Manager, Vinyl Chloride Panel

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