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March 11, 1977

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To: VCM/PVC Producers Group
VCM/PVC EPA Technical Committee
Attendees at October 26, 1976 Meeting

Re: SPI-VCM/PVC--EDF v. Train

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Gentlemen:

Following up on our March 4, 1977 communication concerning the pending dismissal of the above-referenced case, and the denial of the SPI Motion to Expedite Briefing and Oral Argument, enclosed herewith is a letter we have just received from Albert Beveridge of Beveridge, Fairbanks & Diamond, our Associate Counsel for Environmental Protection Agency (EPA) matters, transmitting the proposed "Joint Motion To Dismiss These Proceedings." Also enclosed is a copy of the Court's March 4, Order denying the SPI Motion to Expedite and a March 9, 1977 letter from Mr. Beveridge concerning the confirmation of Douglas Costle as the new Administrator of EPA and several policy issues raised during the hearing on his nomination.

The Joint Motion to Dismiss is directly related to the EPA-EDF settlement proceedings. In essence, it indicates EDF would dismiss its Petition for Review on the condition EPA proposes to amend the National Emission Standard for Vinyl Chloride. It requires EPA propose to (1) reduce the current 10 ppm limitation to 5 ppm by January 1, 1981, (2) set an ultimate goal of zero vinyl chloride emissions, (3) limit new source emissions to the 5 ppm standard after July 1, 1978, (4) and require that emissions increased by expansion be offset by equivalent reductions at the expanding facility. In other words, EDF wants the rulemaking reopened to cut the current emissions limitations in half. As you will realize when you read the stipulation developed by EPA and EDF, EPA would reopen the rulemaking without committing to adopt the proposals but if they are not ultimately adopted, EDF would be free to petition the Court for a new review of any action EPA does take.

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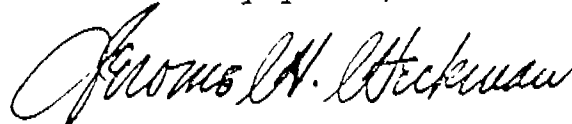
Page Two

Our options at this point are limited to acquiescing in the dismissal, simply refusing to sign the Joint Motion, or actively opposing the Motion to Dismiss. Legally speaking, obviously, the Producers Group may take any of these courses of action. From a practical point of view, however, and based on the advice of Beveridge, Fairbanks & Diamond, we recommend active opposition to the Motion to Dismiss. Such opposition would probably be ineffective legally but will show that the industry is maintaining its position that the current limitations are appropriate and that additional or additive technology and more recent health data are of no moment. In opposing, our basic position would be to object to a conditional dismissal of the case because this would allow EDF to achieve in an inappropriate manner that which could and should be accomplished via the recognized standards amendment procedures.

We are at this time unable to inform you about how Air Products and Goodyear, the other two intervenors, will react to the Joint Motion to Dismiss. Nevertheless, we suspect that they will probably refuse to join in the Motion because there would appear to be nothing to be gained by doing so.

So that we can have your instructions on how to proceed at the earliest possible moment (EDF and EPA want to file their Motion by March 18), we are hereby requesting that you review the attached Joint Motion to Dismiss and Attachment A immediately, and that each voting representative or his designee call Joe Hadley of our office at (202)457-1116 as soon as possible to state whether his company agrees or disagrees with the recommendation of EPA Associate Counsel on this matter.

Cordially yours,



Enclosures

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