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*J. Mullins
From Keller & Heckman*

BY MESSENGER

Joseph Hadley, Esquire
Keller & Heckman
1150 Seventeenth Street, NW
Washington D.C. 20036

Re: Potential Criminal Prosecution and
Enforcement by EPA and the U. S.
Department of Justice

Dear Joseph:

On April 18, 1980, the Environmental Defense Fund (EDF) requested the Administrator of EPA to consider imposing a system of civil penalties to discourage future discharges of vinyl chloride from emergency relief valves. I contacted the Agency staff to determine their views with respect to the EDF request and was advised that the Agency would be responding to EDF by letter and that I would receive a copy of their response. Today I received a copy of a letter dated May 12, 1980, a copy of which is enclosed for your review.

Note the second paragraph which indicates that EPA "has initiated the judicial enforcement process against several sources" Based on this sentence I called the EPA staff to determine when and what the Agency has initiated. I was advised that EPA has referred at least one case to the Department of Justice for criminal prosecution and several cases for civil action. Moreover, the staff indicates that such action will be filed within the next 30 - 45 days. In addition, several cases are being prepared by the regional offices for referral to the Department of Justice. With respect to the criminal action, I was told that it would not be filed with respect to any company operating in Region II. You will recall that I thought such an action might be filed in Region II based on a conversation I had had with EPA enforcement personnel in that Region in October of 1979.

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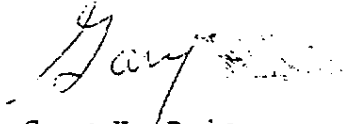
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Because of this information I suggest that with respect to the relief valve discharge issue the PVC Safety Group may wish to reconsider the Complaint and Motion of Points and Authorities we prepared on this issue in 1979.

One note of caution, the Department of Justice after considering the recommendation of EPA could decide not to proceed. As you know, the Agency can recommend that the Department of Justice take action but cannot force it to do so. However, if the Department of Justice refuses to represent the Administrator, he may pursuant to Section 305 of the Clean Air Act appoint his own attorneys to appear and represent him.

If you have any questions, please advise.

Cordially,


Gary H. Baise

GHB/tsl

Enclosure