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CARL FARDLEY
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RECEIVED MAR 29 1977

Dear Jerry:

1. Environmental Defense Fund's press release
2. Wall Street Journal article of 3/25
3. Washington Post article of 3/25
4. New York Times article of 3/25
5. Washington Star article of 3/25

I called Mr. Donald Fowler, the Department of Justice attorney representing EPA, to voice concern that EPA had agreed to implement this proposal before the industry or public had a chance to comment. I was assured by him, and subsequently by EPA lawyers, that no such side agreement has been entered into.

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5-1693

Jerome H. Heckman, Esq.
March 25, 1977
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I spoke to John Lawrence and Jerry Blizin with respect to any response SPI should have at this time. It is my belief that we should let our filing in court next week reflect our views and not make any statement at this time.

I am concerned that EDF would indicate in its press release that EPA will promulgate final regulations incorporating the requirements suggested by EDF. Because there is the slight possibility that a side deal has been cut that we are not aware of, I suggest we file a Freedom of Information request to obtain any documents prepared by the Agency which led to the issuance of the final proposed settlement agreement. I would appreciate your concurrence on this suggestion as soon as possible.

If you have any further questions, please advise.

Cordially,


- Gary H. Baise

GHB/sm

Enclosures

cc: Mr. John Lawrence ✓
Mr. D. C. Nuechterlein
Mr. Robert Laundrie

SCC
5-1694

ENVIRONMENTAL

DEFENSE

UNIT

NEWS RELEASE

1525 18th STREET, NW, WASHINGTON, D.C. 20036/202 833-1485

FOR RELEASE: Friday, March 25, 1977

CONTACT: Mr. Robert J. Rauch
EDF Staff Attorney

Ms. Jacqueline M. Warren
EDF Staff Attorney

EDF AND EPA AGREE TO SETTLEMENT OF VINYL CHLORIDE CASE

The EDF announced today that it has reached a proposed settlement with the EPA of the case it brought last November challenging the final emission standard for vinyl chloride. Vinyl chloride is a toxic air pollutant which has been linked to cancer and birth defects in humans.

Robert Rauch, an EDF staff attorney, described the settlement as "an important breakthrough in the regulation of airborne carcinogens under the Clean Air Act. Until EDF filed its suit last November, EPA had taken the position that the only control requirement imposed by Section 112 of the Act was the installation of 'best available technology.' The Agency took this position despite the fact that Section 112 requires it to set standards for hazardous air pollutants such as vinyl chloride which will provide 'an ample margin of safety to protect public health.' The Act clearly requires a health, not a technology based standard.

"For carcinogens such as vinyl chloride that means we must attempt to reach levels as close to zero as possible. Scientists have not discovered a 'threshold' below which no risk of cancer exists."

The heart of the proposed settlement is a recognition of this principle by EPA and the establishment of a zero emission goal. To move toward that goal, the Agency has agreed to cut the existing emission

standard in half from 10 to 5 ppm within 3 years from the date amendments to the current standard are promulgated. It has also agreed to undertake a complete review of health effects data and control technology at the end of that 3 year period to determine if further steps toward the zero emission goal can be taken.

Furthermore, the settlement agreement provides that new vinyl chloride plants will have to meet the revised 5 ppm emission standard within 3 months of the date amendments are promulgated. Existing plants which plan to expand their production capacity would not be permitted to emit any net increase in vinyl chloride emissions. Any additional emissions which would result from the addition of the additional capacity would have to be offset by equivalent reductions in emissions from the existing plant. This will insure that ambient levels of vinyl chloride which already present a threat to human health are not increased, thus aggravating the existing health risk. Finally, the settlement provides that EPA will fund projects designed to improve vinyl chloride control technology in order that additional reductions in emissions will be possible in the future.

The settlement proposal has been submitted to the U.S. Court of Appeals for the District of Columbia for its approval. Assuming the Court approves the settlement, it will then be proposed in the Federal Register for public comment. Following the receipt of comments, EPA will promulgate final regulations incorporating the above requirements.

The ENVIRONMENTAL DEFENSE FUND (EDF) is a private, non-profit, national membership organization, incorporated under the laws of the State of New York, with offices in Washington, D.C.; East Setauket, New York; New York City, New York; Denver, Colorado; and Berkeley, California. Organized in 1967, EDF currently has a membership of more than 42,000 persons throughout the United States including scientists, educators, lawyers and other citizens dedicated to finding scientifically sound solutions to the nation's environmental problems.

EPA Agrees to Tighten Vinyl Chloride Standards

By a WALL STREET JOURNAL Staff Reporter
WASHINGTON—The Environmental Protection Agency has agreed in a proposed court settlement to tighten air-emission standards for plants making vinyl chloride.

Last fall, the EPA adopted rules requiring a 90% cut in air emissions of the cancer-linked chemical. The Environmental Defense Fund, a Washington-based group, challenged the rules in a suit.

The group said, and the EPA confirmed, that as part of a proposed settlement the government agency would work toward an "ultimate goal" of zero vinyl chloride emissions. EPA would propose tightening the existing emission requirements over the next three years and after that would review the program to see if the zero emission goal can be achieved.

The settlement has been submitted to the federal court of appeals for the District of Columbia for approval. If the court approves, the new rules will be formally proposed by EPA for public and industry comment.

Wall Street Journal
3/25/77

E.P.A. AGREES TO TIGHTEN LIMITS ON VINYL CHLORIDE

WASHINGTON, March 24 (UPI)—The Environmental Defense Fund said today that it had reached a "breakthrough" settlement with the Environmental Protection Agency in a dispute over how much vinyl chloride air pollution would be allowed from plants.

The fund sued the agency last year, contending that its proposed regulations to restrict the gas, which has been indicted as a cause of birth defects and cancer, were not stringent enough. The settlement, defense fund attorneys said, involves the establishment of a zero emission goal. To move toward that goal, the agency has agreed to cut the existing emission standard in half from 10 to 5 parts per million within three years from the date amendments to the current standard are promulgated.

The proposed settlement was presented to the United States Court of Appeals for the District of Columbia for its approval.

Plants in the plastics industry are known to emit vinyl chloride in manufacturing a wide range of products. The gas already has been banned as a propellant in aerosol sprays, and was linked to cases of fatal liver cancer among workers in such plants.

New York Times
3/25/77

EPA Reaches Vinyl Chloride Agreement

Associated Press

Under legal challenge by an environmental group, the U.S. Environmental Protection Agency has agreed to tighten restrictions on air pollution by a chemical called vinyl chloride, suspected of causing cancer and birth defects.

The Environmental Defense Fund, a citizens group which sued EPA last November, announced the agreement yesterday and EPA confirmed it. The settlement was subject to approval by the U.S. Court of Appeals here.

Before the lawsuit was filed, EPA claimed that clean air laws required only the application of the "best available technology" to control such hazardous forms of air pollution as vinyl chloride, a chemical used in the production of plastics.

The Environmental Defense Fund, which has successfully fought for

EPA Okays Zero-Emission As Goal for Vinyl Chloride

By Cristine Russell
Washington Star Staff Writer

The Environmental Protection Agency, in a proposed court settlement, has agreed to strengthen pollution control standards for the cancer-causing chemical vinyl chloride, by cutting the allowable emissions in half and moving toward an ultimate goal of "zero" emissions into the air.

The agreement came in response to a lawsuit filed last November by the Environmental Defense Fund, a public-interest organization which charged that the federal vinyl chloride standard failed to adequately protect the health of an estimated 4.5 million people who live in the vicinity of plants that manufacture or process vinyl chloride.

The chemical, which is widely used in the formulation of plastics, has been linked with cancer in animal laboratory tests as well as human occupational exposure — particularly a rare liver cancer called angiosarcoma which has appeared in exposed workers.

AN ATTORNEY FOR the environmental group, Robert Rauch, described the settlement as "an important breakthrough in the regulation of airborne carcinogens under the Clean Air Act."

Rauch said that EPA had previously taken the position that the only control requirement under the hazardous substances section of the act was the installation of the "best available" control technology, de-

spite the legislative requirement to set standards which will provide "an ample margin of safety to protect public health."

"The act clearly requires a health, not a technology-based standard. For carcinogens such as vinyl chloride that means we must attempt to reach levels as close to zero as possible. Scientists have not discovered a 'threshold' below which no risk of cancer exists," said Rauch.

He said that the "significant" aspect of the agreement was EPA's acceptance of the zero emission control goal, with a phased reduction toward this goal. "This will form the linchpin of a generic petition which we will submit to them which will ask for regulation of all airborne carcinogens using this approach," Rauch said.

UNDER THE SETTLEMENT, the EPA proposed to tighten the existing 10 parts per million vinyl chloride emissions standard to 5 parts per million for existing plants within 3 years of the date in which amendments are promulgated.

In addition, new plants will have to meet the lower standard within 3 months of that date and existing plants will not be permitted to increase their levels of emissions.

The agency also agreed to re-evaluate health effects and control technology data on the chemical to see if the standard can be lowered even further toward a zero emission level.

EPA attorney Ron Naveen, who helped negotiate the settlement, cautioned it must first be accepted by the court and then must be proposed in the Federal Register to undergo public comment. The agency would be required to take final action on the proposal by next January. "What we proposed is not necessarily what will come out of the wash next year," he said.

NAVEEN CALLED THE agreement a "victory for EPA as well as EDF" that will allow the agency to move forward in enforcement of the vinyl chloride standard. The amended standard would not, according to Naveen, require changing the type of pollution control equipment currently required, but would involve "using that equipment more efficiently."

Members of the plastics industry are expected to raise objections to the more stringent standard and an attorney for one of those companies, Goodyear Tire and Rubber Co., yesterday expressed general concern that the settlement "represents a pattern whereby EPA publishes regulations, is sued by some environmental group and goes back behind closed doors and makes some sort of new arrangement."

The industry attorney said that the "existing regulations are tough enough."

Washington Star
3/25/77

Washington Post
3/25/77

bans on the pesticide DDT and other environmentally hazardous substances, claimed the EPA was required to set standards restricting the airborne emissions of vinyl chloride enough to protect human health.

The EPA confirmed that it has agreed to cut the present limit on vinyl chloride emissions in half — from 10 parts per million to 5 parts per million — within three years after a new regulation is issued; and to aim toward an eventual goal of zero emissions.

The EPA agreed to review both the information on vinyl chloride health effects and the methods of controlling emissions at the end of those three years, to determine whether it can order still further emission reductions.

The EPA cannot move to issue the new standards until the settlement receives court approval.

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