

LAW OFFICES
KELLER AND HECKMAN

1150 17TH STREET, N.W.
SUITE 1000
WASHINGTON, D.C. 20036

(202) 956-5600

JOSEPH E. KELLER
JEROME H. HECKMAN
CHARLES M. HEENAN
WILLIAM H. BORGHESE, JR.
MALCOLM D. NAGARTHUR
WAYNE V. BLACK
MARTIN W. BERCOVICI
JOHN S. ELDRED
CAROLE C. HARRIS
MICHAEL F. MORRONE
JOHN S. DUSECK
PETER C. DE LA CRUZ
CHRISTINE A. NEAGHER
SHIRLEY S. FUJIMOTO
LAWRENCE P. HALPRIN
EDWARD L. KORWEK
TERRENCE D. JONES

MARY MARTHA McNAMARA
MARK FOX EVENS
RALPH A. SIMMONS
C. DOUGLAS JARRETT
PETER A. BUSBER
SHEILA A. MILLAR
RUSSELL H. FOX
JAN M. WAMSTED
ILENE RINGEL HELLER
SUSAN T. CONTI
SUSAN J. BLUM
MARK C. HAYES
SANDRA J.P. DENNIS
PATRICK J. NURD*
E. ADAM LEYENS
S. CRAIG TAUTPST
DAVID H. JETT**

*ADMITTED IN VIRGINIA ONLY
**ADMITTED IN PENNSYLVANIA ONLY

SCIENTIFIC STAFF
DANIEL B. DIXLER
DURWARD F. DODGEN
CHARLES V. BREDER

TELEX
AS 95551

TELECOPIER
(202) 296-7682

CABLE ADDRESS "KELMAN"
WRITER'S DIRECT DIAL NUMBER

(202) 956-5641

January 15, 1987

Roy T. Gottesman, Ph.D.
The Vinyl Institute
Wayne Interchange Plaza II
155 Route 46 West
Wayne, New Jersey 07470

Re: Draft EPA Land Disposal Ban Comments and Scheduled
Meeting with EPA on Clean Air Act Standard

Dear Roy:

This letter reports on comments developed by the Health, Safety and Environment Committee in response to an Environmental Protection Agency (EPA) proposal to restrict the land disposal of certain wastes. We also report on a meeting requested by EPA later this month to discuss the possible resolution of several issues we raised in our challenge to the Agency's revisions to the Clean Air Act vinyl chloride standard.

A. Land Disposal Ban

As agreed to at the December 18, 1986 meeting of the Health, Safety and Environment Committee, the Committee met in our offices on January 12 and 13 to prepare oral testimony concerning land disposal restrictions for the so-called California list wastes proposed by EPA under the Resource Conservation and Recovery Act (RCRA). 51 Fed. Reg. 44,714 (Dec. 11, 1986). Committee Chairman W.C. Holbrook presented an oral statement to EPA officials at a public hearing held on January 14, 1987. His presentation was well received by the EPA panel, who paid close attention and appeared to understand our criticisms. He

UEV-239522

Roy T. Gottesman, Ph.D.
January 15, 1987
Page 2

stated that EPA correctly analyzed congressional intent not to include polymers such as polyvinyl chloride in the land disposal ban for halogenated organic compounds (HOCs). However, EPA failed to adequately translate its intent into appropriate regulatory language. Thus, we requested that EPA specifically exempt PVC polymer waste and PVC compound waste, add a definition of HOC to the regulation, and revise the proposed regulations so that the toxicity characteristic leaching procedure (TCLP) would be used to generate the analyte for non-liquid wastes rather than measuring the total quantity of HOCs in the waste itself.

Written comments are now due by February 9, 1987. A set of draft comments is enclosed. Except for the first paragraph, the attached draft follows Mr. Holbrook's oral statement. Since we are free to revise or supplement our oral testimony, please advise me of any corrections or changes to be made. So that we will have adequate time to revise the comments and clear any substantive changes, I would appreciate receiving suggested changes no later than February 4, 1987.

B. Meeting With EPA on Vinyl Chloride Litigation

Earlier this week, I was contacted by Steve Samuels, the Justice Department attorney representing EPA in our court challenge to the Agency's final rule amending the national emission standard for vinyl chloride. 51 Fed. Reg. 34,904 (Sept. 30, 1986); SPI v. U.S.E.P.A., No. 64-1640 (D.C. Cir.). In response to the Petition for Reconsideration we filed with EPA, the EPA standards-writing staff at Research Triangle Park, North Carolina, suggested that a meeting on January 26 of technical representatives from the Vinyl Institute and EPA might lead to the resolution of some of the issues in dispute. The tentative attendees on behalf of EPA will be Gil Wood, Bob Ajax, Fred Dimmick, a representative from Radian Corporation, and Richard Roos-Collins, an attorney from EPA's Office of General Counsel who has recently been assigned to handle our Petition for Reconsideration and the litigation.

EPA requested that a small delegation of technical representatives from the Vinyl Institute attend. Since EPA contacted us at the same time that the Health, Safety and Environment Committee was meeting, as at this time, the meeting

Roy T. Gottesman, Ph.D.
January 15, 1987
Page 3

ing company representatives will likely attend: W.C. Holbrook (BFGoodrich); Joe King (Occidental); Joe Ledvina (Vista); and Bob Oubre (Dow). I also plan to attend. Assuming that some type of agreement can be reached, Mr. Roos-Collins and I would be present to agree on a procedure for finalizing settled issues.

Although we are delighted that EPA has requested this meeting, we have been cautioned that EPA's request to meet should not be interpreted as a sign that the Agency is willing to change its position on all of the issues we have raised. Nor does EPA appear willing at this juncture to initiate another rulemaking to change existing regulatory language. However, many of our difficulties with the definitional sections of the revised regulations could be resolved through some type of interpretative letter that would favorably resolve our criticisms and constitute uniform guidance to EPA regional and headquarters personnel as well as state environmental officials who have air enforcement authority and whose states adopt the revised regulations. We are hopeful that at least some of the disputed issues can be resolved quickly.

C. Waste Minimization

Last year, representatives from the Health, Safety and Environment Committee met with contractors from Versar, Inc. and Jacobs Engineering in conjunction with a draft EPA report to Congress on minimization of hazardous waste. That report has been completed and the portion that addresses vinyl chloride monomer manufacture is enclosed. Also enclosed is the December 11, 1986 Federal Register notice on the availability of the report should anyone wish to obtain all four volumes.

D. Status of NESHAPS Litigation

Joe King of Occidental has provided us with a list from EPA of the cases it has brought for violations of the Clean Air Act vinyl chloride standard and the current status of the cases. A copy is enclosed for background information.

Roy T. Gottesman, Ph.D.
January 15, 1987
Page 4

**E. Vinyl Institute Comments on EDC, TCE
and Carbon Tetrachloride Summarized**

Over the last year, the Vinyl Institute has submitted comments to EPA in response to the Agency's notice of intent to list ethylene dichloride (EDC), trichloroethylene (TCE), and carbon tetrachloride as hazardous air pollutants under Section 112 of the Clean Air Act. Radian Corporation was assigned the task of summarizing the comments received by EPA on these and seven other chemicals. I recently obtained a copy of their summary report and was pleased to note that the Vinyl Institute's comments were properly noted. Indeed, no other association and no individual company comments appeared to address the same issues or provide the information contained in the Vinyl Institute comments. This simply confirms the necessity and value of commenting and the need to continue this activity in the future.

* * - *

I trust that this will bring you up-to-date on a number of EPA issues. I look forward to receiving any suggestions on the draft land disposal restriction comments. If I can be of any assistance in any other way, please let me know.

Cordially yours,



Peter L. de la Cruz

Enclosures

cc: Charles E. O'Connell
Lewis R. Freeman, Jr.
Hugh Patrick Toner
Margaret Rogers