



A Division of The Society of The Plastics Industry, Inc.

Sherrill M. Galt

Roy T. Gottesman
Executive Director

February 1, 1991

Robert D. Luss, Esq.
Occidental Chemical Corporation
P.O. Box 1772
300 Berwyn Park, St. 300
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Re: New York Subway Transit Authority Fire

Dear Bob:

As you are aware, a fire occurred in the New York City subway system in late December that resulted in two fatalities. I received a call in early January from Robert Joyce, an attorney with the New York law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, with whom we have had prior contact, as his firm represented the telephone company in suits resulting from the New York City Telephone Company fire several years ago. Mr. Joyce had visited our office a few years ago in connection with those suits and we had made available to him information relating to carcinogenicity and smoke toxicity that was in our files in order to assist him in the litigation.

In his call, Mr. Joyce advised me that he had been retained by the City of New York to defend against suits that might arise from the subway fire. He stated that an Op-Ed piece authored by Deborah Wallace (of Allied Tube & Conduit fame) had appeared in New York Newsday. Because the Wallace piece was replete with inaccuracies and promoted her usual biased views, I sent a letter to the Editor of Newsday on January 17th, copy enclosed, in an attempt to get equal time. To this point, I am not aware that my letter has been published.

I know you are aware that an article appeared in the January 12th New York Times which had comments attributed to Transit Authority personnel and related to smoke having come "from the burning PVC that insulated the cable, the cable itself and the wooden cover over the subway's third rail." Unnamed "health authorities" are reported to have said "that PVC fumes can cause irritation of the lungs and eyes, and in extreme cases, death."

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Our initial reaction was to respond to this with a Letter to the Editor of the New York Times and, in fact, a letter was drafted, copy enclosed. Before sending it however, I decided to talk with Bob Joyce and get his input as to whether a letter might be prejudicial or might actually steer the investigations toward PVC. I was finally able to reach him on January 30th to discuss this with him.

I learned the following additional information from him. Autopsy reports showed that the male fatality had congestive heart disease and was a "walking time bomb." The female fatality was severely asthmatic and highly susceptible to fumes. There have been some 60 lawsuits filed by Solin & Leopakis, a plaintiff's attorney firm that Henry Lipsig was formerly with. Most of these, according to Bob Joyce, focused on fumes from PVC fires, because Bob stated "that's the only thing they knew." In actuality, the fire investigation has shown that in addition to PVC, neoprene, wood and creosotes were present as potential fire fuels so that it would be difficult to pinpoint the cause of the smoke toxicity to PVC.

Bob Joyce felt that there was no need to send the Times the proposed letter, which I had shared with him, and I decided not to do so.

If you or any of the members of the Legal Committee wish to contact Bob Joyce, he can be reached at (212) 490-3000. If you wish to discuss this with me, please call.

Sincerely yours,

Roy

RTG/pmb
cc: Legal Committee
N. Jacobs

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A Division of The Society of The Plastics Industry, Inc.

Roy T. Gottesman
Executive Director

January 17, 1991

Mr. Ernest Tollerson
Newsday
235 Pinelawn Road
Long Island, New York 11747

Dear Mr. Tollerson

The item in the January 8th Forum authored by Deborah Wallace concerning the recent Transit Authority fire contains a number of factual errors that should be brought to the attention of your readers. Moreover, her piece does not describe some of the private financial support that she and her husband have received in the past which has most probably colored her thinking on some of the issues she raises.

Your readers should know that Ms. Wallace once headed an organization called the Public Interest Scientific Consulting Service, a company that Fortune magazine documented in 1983 as being largely funded by Allied Tube and Conduit Corporation (now ATCOR), a manufacturer of steel electrical conduit. One of the activities that she undertook as head of that organization was a concerted effort to incorrectly characterize the fire performance properties of PVC products - especially those in competition with the metal pipe industry. The campaign she describes in her Forum piece dates back to those days.

Most of the claims she makes in her place about PVC are patently untrue, have never been documented or have been entirely discredited by subsequent scientific research.

Most significantly, she states that she has warned the MTA "about the hazards of heated PVC, which produces not only smoke but toxic hydrochloric acid fumes whose effects on the lungs and heart can linger for years". There is, in fact, no scientific documentation (conducted by Southwest Research Institute for the Federal Aviation Administration), showing that the hydrogen chloride produced by burning vinyl acts primarily as an irritant, not a toxicant.

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Moreover, in those tests, it was found that the test subjects (baboons, with respiratory systems much like humans) could survive hydrogen chloride levels thousands of times higher than those that have been recorded as being present in fires.

In fact, Ms. Wallace's tirade against PVC misses the mark entirely - as it has for many years. The presence of PVC in New York's subways does not present an unusual fire hazard. It is a minor part of the sum total of combustibles found within the system. The real problem is that any and all of these materials - scrap wood, waste paper, fuels, etc. - produce carbon monoxide when they burn, and carbon monoxide is the proven killer in fires.

The Transit Authority is correct to dismiss Ms. Wallace's claims against PVC. At best, they are based on faulty science; at worst they are based on vested interest. Instead, they should (and most likely are) focusing their attention on things like improving egress from the subways and access by emergency personnel, cleaning up debris in stations, and upgrading equipment repair and replacement schedules. These are the things that will truly make New York's subways more fire safe.

Sincerely yours, *

RTG/pmb



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NEW YORK TIMES

1/12/91

Possible Toxic Danger Seen In Subway Fire in Brooklyn

By FELICIA R. LEE

The head of the Transit Authority said yesterday that passengers who suffered smoke inhalation during a fatal fire in a Brooklyn subway tunnel last month may have been exposed to dangerous levels of toxic substances. He promised that the Transit Authority would contact the riders after the completion of a toxicological analysis to determine the extent of the danger posed by the smoke.

The Transit Authority president, Alan J. Klepper, made his remarks after a transit official testified at a City Council hearing that the exposed piece of cable that is believed to have caused a short circuit and started the fire was encased in polyvinyl chloride, or PVC. The smoke that poured through the IRT tunnel after the short circuit and explosion came from the burning PVC that insulated the cable, the cable itself and the wooden cover over the subway line's third rail.

The official, Thomas Prendergast, an acting senior vice president at the agency, said that when PVC burns it emits two substances, hydrogen chloride and carbon monoxide, that can have serious effects. Health authorities have said that PVC fumes can cause irritation of the lungs and eyes, and in extreme cases, death.

Debate Over PVC

In 1982, City Council President Carol Bellamy sought to have the material removed from subway stations, citing its potential to emit deadly fumes during a fire. At the time, an environmental physiologist, Deborah N. Wallace, warned that the combination of PVC, the increasing number of track fires and problems with subway doors "renders the public unsuspecting sitting ducks."

The Transit Authority declined to follow Ms. Bellamy's suggestion, saying that it did not consider the presence of PVC likely to pose a hazard. But the authority also said in 1982 that it did not plan to use the material in future wiring projects.

Two riders died after the Dec. 28 fire in the Clark Street Station, one of a heart attack. The other had a history of asthma. In addition, 188 riders suffered injuries, mostly from smoke inhalation.

Mr. Klepper said that the Transit Authority was trying to determine how much PVC was burned, which would allow it to gauge the toxicity of the smoke that the 1,000 passengers were exposed to during the 40 minutes they awaited rescue.

Jared Labow, a spokesman for the Transit Authority, said that the agency is working with Emergency Medical Services to get the names and addresses of everyone treated for smoke inhalation after the accident.

The toxicology report on the smoke will probably take several weeks to complete, Mr. Labow said.

Mr. Klepper's comments came during an emotional three-hour hearing

Committee on Transportation to explore the circumstances surrounding the Dec. 28 fire.

As in previous inquiries into the accident, there were more questions than answers yesterday, particularly questions about why it took emergency teams more than 30 minutes to respond. New York City officials have already recommended better training and equipment for rescuers and better cooperation between the Transit Authority and the city's police, fire and medical emergency teams. Investigations into the fire continue.

Four people who had been trapped on the train described the incident to the Council committee yesterday as a nightmare that seemed to have no end, telling of passengers vomiting, having heart attacks, gasping for air and trying to break windows to escape the reddish-brown smoke.

'We Were Forgotten'

The committee heard tape recordings of two desperate telephone calls to 911 made by passengers seeking help after the train had made it back to the Borough Hall station.

"No one came to rescue us," said Martin Druyan, a Brooklyn Heights lawyer who was on the train. "We were forgotten down there."

Mr. Druyan said that when the train finally reached safety in the station,

Warning letters to riders are promised.

the passengers stumbled off to find two police officers as the only rescue personnel to greet them.

One of the tapes was of a rambling and breathless call Mr. Druyan made to 911 from the station:

"At Borough Hall there's a train filled with smoke. It's at Court Street and Borough Hall. There's no oxygen, there's people throwing up all over the train station. You've got a train full of people. There are police on the scene but there are no ambulances here. There's no oxygen. People are sick. There's people who've had heart attacks and there's no medical attention. There's no E.M.S. There's no fire trucks at Court, and uh, the IRT 2 and 3, the train I just got off. I'm lucky to be alive."

Milton Puryear, a 41-year-old investment banker, said he and his 8-year-old son, Manelik, went home, where he called his private physician.

"I'm afraid 10 or 20 years have been shaved off my son's life," Mr. Puryear said. "My son does not want to get on the train anymore."

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DRAFT

January 15, 1991

Mr. Joseph Lelyveld,
Managing Editor
The New York Times
229 W. 43 Street
New York, NY 10036-3913

Dear Mr. Lelyveld:

The article in the January 12 edition written by Felicia Lee concerning the recent Brooklyn subway fire contains some errors of fact that I feel should be brought to the attention of your readers.

Ms. Lee quotes transit official Thomas Prendergast as stating that the smoke from the fire "came from the burning PVC that insulated the cable, the cable itself and the wooden cover over the subway line's third rail." He goes on to state "that when PVC burns, it emits two substances, hydrogen chloride and carbon monoxide, that can have serious effects." He further claims that "PVC fumes" can cause death. These statements illustrate how dangerous a little knowledge can be.

Yes, PVC emits hydrogen chloride and carbon monoxide when it burns. But, the hydrogen chloride emitted by PVC has never been linked to a fire death and, in fact, extensive testing conducted by Southwest Research Institute for the Federal Aviation Administration bears out its role as a fire irritant, not a toxicant.

Although the investigation of the Brooklyn fire will take some time to complete, I hope investigators will look for other, more likely culprits. One of these may be the wooden cover mentioned in the story. It, like any other item that burns -- including scrap paper, fuels, etc. -- produces carbon monoxide, the proven killer in fires.

Ms. Lee's story also notes that the Transit Authority had previously considered, but not acted upon, recommendations to remove PVC from the subway system's stations. The Transit Authority was right to do so. The claims made against PVC at that time were scientifically unfounded and, in some cases, put forth by individuals with documented commercial interests in attacking a material that was making inroads against a competitive product.

Clearly, the Brooklyn subway fire calls for a thorough investigation. But the objective should be to get to the bottom of the problem, not to find easy scapegoats.

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