



Roy T. Gottesman
Executive Director

*File: Lawsuits.
NRDC, VC on Amendments*

RECEIVED

AUG 03 '85

Route: WTR

Jek

Copy: _____

File: _____

X-F: _____

August 1, 1985

To: Vinyl Institute Legal Committee
Vinyl Institute Manufacturing Practices Committee

Subject: Natural Resources Defense Council v. EPA

Attached is Peter de la Cruz's letter of July 30 and a copy of the brief filed by NRDC in the subject action.

Please provide any comments you have, particularly as they relate to any additional changes and/or revisions to the draft Vinyl Institute brief circulated to you earlier, directly to Peter so they can be incorporated into the final version now due in mid-August.

Roy
Roy T. Gottesman

RTG:g

Enc.

cc: Meredith Scheck (w. enc.)
Peter de la Cruz (w/o enc.)

A Division of

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.
355 LEXINGTON AVENUE • NEW YORK, N.Y. 10017 • (212) 503-0652

VEV-170655

RECEIVED

JUL 31 1985

DR. R. T. GOTTESMAN

TELEX

98801

TELECOPIER

(202) 296-7882

CABLE ADDRESS "KELMAN"

WATER'S DIRECT DIAL NUMBER

(202) 457-1116

LAW OFFICES
KELLER AND HECKMAN

1150 17TH STREET, N.W.
SUITE 1000
WASHINGTON, D.C. 20036
(202) 457-1100

JOSEPH E. KELLER
JEROME H. HECKMAN
CHARLES H. HECKMAN
WILLIAM H. BORSHESANI, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
MARTIN W. BERCOVICI
JOHN S. ELDRED
CAROLE C. HARRIS
MICHAEL F. MORRONE
LARRY S. SOLOMON
JOHN S. DUBICK
PETER L. DE LA CRUZ
CHRISTINE A. HEASHER
SHIRLEY S. FUJIMOTO
LAWRENCE P. HALPRIN

MARK FOX EVENS
RALPH A. SIMMONS
C. DOUGLAS JARRETT
EDWARD L. KORWEK
PETER A. SUBER
SHEILA A. MILLAR
RUSSELL H. FOX
LEE M. WEINER
ILENE RINGEL HELLER
SUSAN T. CONTI
SUSAN J. BLUM
MARK C. HAYES
DEREK A. BLOOM
SANDRA J.P. DENNIS
KENNETH A. GRIGG, JR.

July 30, 1985

FEDERAL EXPRESS

Roy T. Gottesman, Ph.D.
The Society of the Plastics
Industry, Inc.
355 Lexington Avenue
New York, New York 10017

Re: Natural Resources Defense Council v. EPA

Dear Roy:

Enclosed is a brief filed by the Environmental Protection Agency (EPA) in the Natural Resources Defense Council's (NRDC) challenge to EPA's withdrawal of the 1977 proposals to amend the vinyl chloride standard. We were delighted to find that EPA accepted our suggestion and adopted as its first argument the position that NRDC has no basis for bringing this action because it did not participate in the rulemaking and the arguments that NRDC raises here were not made by any commenter during the EPA proceeding.

After opening with this procedural argument, EPA argues that the Agency may consider feasibility in promulgating emission standards under Section 112 of the Clean Air Act. The EPA brief closes by arguing that even if EPA may not consider feasibility, because the 1976 standard is presumptively valid, withdrawal of the 1977 proposal would, at worst, constitute a "harmless error" and, thus, it would be inappropriate for the court to grant NRDC's petition.

We would appreciate any comments you or members of the Vinyl Institute might have on the EPA brief. In particular, we would be interested whether reading the EPA brief suggests additional changes or revisions to the draft Vinyl Institute brief circulated in early July.

VEV-170656

A
KELLER AND HECKMAN

Roy T. Gottesman, Ph.D.
July 29, 1985
Page Two

I look forward to receiving your comments.

Cordially yours,

Peter

Peter L. de la Cruz

Enclosure

cc: Charles E. O'Connell (w/ enc.)
Thomas J. McGrath (w/o enc.)

VEV-170657