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VIA FED-EX OVERNIGHT

December 20, 2001

Mr. Robert Springer
Director, Waste, Pesticides and Toxics Division
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77 W. Jackson Boulevard
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Mr. William Muno
U.S. Environmental Protection Agency, Region V
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Re: Sauget Illinois Sites

Dear Bob and Bill,

Thank you for your letter of December 17, 2001, which responded to my letter to the two of you, dated October 31 as a follow-up to our meeting on October 3. We appreciate the efforts being made by EPA to address the complex issues presented by the Sauget area sites in a coordinated manner. In this letter I want to provide you with reactions on behalf of Solutia to the principal matters covered in your letter to me.

I would like to begin by thanking you once again for the productive meeting we had on October 3. Through that meeting, the subsequent interactions with your staff, and our exchange of letters, we believe that we are making encouraging progress to deal with a complicated and potentially difficult set of issues. Solutia is committed to strong support for needed measures to protect public health and the environment, and we want to continue to chart a course and carry out positive actions that will best resolve the various and potentially conflicting objectives that represent the overall public interest.

In these comments, I will generally try to follow the order of your letter and will insert a few headings to better identify separate topics, as follows:

Integrated Approach

We appreciate that you have accepted our earlier suggestion to take an integrated approach to the management of the Krummrich RCRA AOC, the Sauget Area 1 CERCLA cleanup, and the Sauget Area 2 CERCLA cleanup. As we now have all agreed, the groundwater plumes from the three are commingled and the issues therefore intertwined. We also agree that an interim response action at Sauget Area 2 is the appropriate next step in this integrated approach, to be developed through a focused Feasibility Study now being prepared by Solutia pursuant to your letter of November 14, 2001 to the Area 2 PRP Group.

We do want to underscore that a large number of potentially responsible parties are involved at the Sauget Area 2 site and that your letter of November 14 was addressed to Solutia in its capacity as representative for the entire group. Nonetheless, as reflected in your letter, Solutia has agreed with the other parties that Solutia will prepare the FS. Solutia intends to submit the FS to EPA before December 31, 2001

In this part of your letter you also discuss satisfaction of the RCRA Environmental Indicator for the Krummrich facility. We will comment on that aspect separately below.

Deferral of ROD for Area 1

In our letter of October 31 we also proposed that, in order to effectively bring together the three areas and all the important relevant data, EPA should defer development of a Record of Decision specifying remedial actions for Sauget Area 1 until the RI/FS for Area 2 and the CMS for Krummrich can be completed. Your letter accepts the essence of that recommendation, agreeing that the ROD be deferred until the sampling investigations are completed, subject to the condition of expeditious progress on the Area 2 interim response action. We believe that condition is reasonable on your part and are pleased to be in agreement on this overall approach.

In regard to this question, you have stated your view that control measures at the Area 1 source areas are "necessary and appropriate at this time" and have said that EPA plans to finalize an Engineering Evaluation/Cost Analysis in the near future, looking toward an interim action ROD sometime in 2002. We have major doubts and reservations as to what control measures, if any, would be justified at those areas. We look forward to further discussions with you as those matters are further evaluated during the coming months.

Consolidated Report

The third principal suggestion we presented during our October 3 meeting and in our October 31 letter was that it would be desirable to assure effective integration of the entire cleanup process by producing a single consolidated report that would serve as both the RI/FS for Area 2 and the CMS for the Krummrich facility. We understood at the meeting that you expressed a willingness to consider that suggestion, but in your letter

you have said that this would not work well from your viewpoint. Given the other positions and actions you have taken, we believe that you have made a clear commitment to assuring a fully coordinated approach to management of the various interrelated remedial actions. That meets our primary objective. We therefore feel comfortable to concur with your preference not to pursue this particular item.

Environmental Indicator Compliance

On May 3, 2000 EPA and Solutia entered into an Administrative Order on Consent (AOC) concerning the Krummrich facility. That agreement required Solutia, among other items, to demonstrate satisfaction by January 1, 2002 with the Environmental Indicator that migration of groundwater contamination is under control. This was one of the significant matters discussed at our meeting on October 3 and also summarized in my letter to you of October 31. Your letter contains certain statements on this subject that are of concern to us, together with other statements that confirm our understanding. This matter is important to Solutia. We want to be sure that we have a clear understanding with you on this as a critical element of our total agreement, and therefore I will provide more detail on this item.

When Solutia and EPA executed the AOC, we believed that the Krummrich groundwater plume already was under control and that satisfaction of the EI could be demonstrated through collection of data but without further control measures. We believe that this assumption was also obvious to EPA, since it was agreed that extensive investigative efforts were required and there would never have been time in the 20 months between May 3, 2000 and January 1, 2002 to do both the investigation and also the installation of new control measures. It may also be noted that during the past three years EPA has intensively urged companies to commit to satisfying the EIs, although there is no legal foundation in the statute or regulations for EPA to impose requirements on companies to do so. The decision by Solutia to undertake to meet the EI by this deadline was a part of Solutia's efforts to cooperate with EPA and to give strong support to its environmental programs. Pursuant to the AOC, Solutia prepared and submitted to EPA earlier this year a Description of Current Conditions and an Eco Risk Assessment reporting extensive data we had collected. We also had initiated modeling analyses that we anticipated would make the demonstration of satisfying the EI.

At the October 3 meeting EPA informed us that the modeling analyses could not be accepted as demonstrating EI compliance. You and your staff said that actual sampling data would be essential from your viewpoint for that purpose. This issue is greatly complicated here because the point which the initial modeling indicates as the edge of the plume is directly beneath another hazardous waste area (Site R, which is part of Sauget Area 2) from which the same type of contaminants are being released. Thus it appears to be impossible through any methodology except modeling to determine where the Krummrich plume does end and that it is "under control."

The practical resolution to this conundrum which both we and you focused on during our discussion on October 3 is that the interim measures that Solutia and EPA have agreed on

will control migration of contaminants from both sources. They therefore will confirm definitively that the plume from Krummrich is under control to satisfy the EI, once those measures are in place.

Meanwhile it is critical to Solutia that there be a clear understanding that would negate any suggestion of a possible violation of the AOC during the intervening period of time until the interim measures are completed. We therefore particularly appreciate the statement in your letter that "compliance with the interim action ROD would satisfy Solutia's obligation pursuant to the RCRA AOC to demonstrate compliance with the Environmental Indicator for control of migration of contaminated groundwater."

A further need to cover this issue is for EPA to grant an extension of time for meeting the EI. During the October 3 meeting EPA offered to provide such an extension. In my letter I stated that we would submit a request for such an extension, which I understood would cover the full period until the Area 2 interim measures would be in place. In subsequent discussions between Solutia representatives and Ken Bardo of your staff, however, he proposed that we ask for only a 90-day extension, since he has authority to grant that himself, which would facilitate its issuance in advance of the January 1, 2002 deadline. We anticipated that a further extension could then deal with subsequent periods.

Subsequent developments have created uncertainty as to EPA's intentions regarding issuance of the extension of time. In discussions with Mr. Bardo during November he stated that it would be a condition for granting the 90-day extension that Solutia first submit the design for the interim measure extraction well system. Solutia therefore delayed submitting the extension request until that design work was completed, and submitted the design work to EPA together with the extension request on December 3. In a telephone discussion on that same date, however, Mr. Bardo added an additional new condition that the extension would not be considered until Solutia had also submitted the focused Feasibility Study for Sauget Area 2. Since that report was not scheduled to be submitted until after January 1, 2002, the implication was that the extension would not be issued until that date had passed. Now, in statements on page 2 of your letter, it is stated that the extension will be dependent on EPA's evaluation of "the <u>effectiveness</u> of the proposed design" and "the <u>adequacy</u> of the focused feasibility study," as well as "Solutia's <u>continued cooperation in implementing</u> the selected interim groundwater remedy." (Emphases added).

In the light of all these statements, we have no idea as to <u>when</u> EPA intends to issue the deadline extension or <u>what</u> strings may be tied to it. This situation is not acceptable to Solutia. We also believe that it is neither consistent with the understandings we reached during our October 3 meeting, nor with the larger objectives of the coordinated regional approach. We do not want to overreact to this one item. For the immediate future, we intend to move forward to fulfill the commitments we have made to you, but we do ask that you address this issue at once and resolve it in accordance with our earlier understanding.

Expectations on Remedy

Your letter also addresses the subject of expectations for a final remedy at Sauget Areas 1 and 2 and the Krummrich facility, responding to the discussion of that subject in my letter of October 31. My letter had set forth our preliminary analysis that the major component of remedial action for the overall area would be the extraction wells adjacent to the river to intercept any unacceptable migration of contaminants into surface waters. I also expressed an expectation that the area between the various source areas and the riverfront would be used as an attentuation zone and that further control measures at the source areas themselves would be very limited. Your letter expresses disagreement with these expectations, stating that they may be inconsistent with EPA goals and policies and that it is premature to make judgments on these issues. Your letter also states that EPA is committed to working closely with Solutia and the other PRPs in developing remedies for these areas which are both practical and protective.

We believe that this exchange of views is as far as this subject can productively be carried at this stage in the process. We agree that it would be premature to be making any decisions on such issues now. We all need the additional data that will be developed as we move forward. We do think it is helpful, however, even at this very generalized level of broad concepts to have a framework of basic alternatives in mind to guide the future investigation and analysis.

Conclusion

We appreciate the opportunity for this exchange of views. We also appreciate the continuing constructive interaction with you and your staff on these issues. We are hopeful that the one item discussed above regarding the AOC deadline extension can be resolved quickly to eliminate any potential problem in that area. Overall, we are pleased by your commitment to enhancing the coordination between the RCRA and Superfund programs and with the progress already made toward an integrated approach to these matters. We look forward to working closely with you and once again confirm Solutia's commitment to cooperation with EPA and supporting its environmental protection efforts.

Sincerely,

Brent J. Gilhousen