

Law Offices
Thomas W. Schmitt & Jay K. Filler, Jr.

3901 N. Route 23
P.O. Box 115
Marengo, IL 60152-0115

FAX 815-568-8142
Phone 815-568-8123

May 1, 2009

RECEIVED
MAY 05 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

COPY

Mr. Steven Kaiser
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604-3590

RE: Fox Valley Systems, Inc.
Docket No. EPCRA-05-2009-001
Billing Document BD2750944E013

Dear Mr. Kaiser:

Enclosed please find the original Progress Report #1 called for under the Consent Agreement in the above matter.

Additionally, based on the request contained in your letter of April 28, 2009, work commenced on the project on January 21, 2009. Should you need the progress report amended to include that start date, please advise.

Additionally, as near as I can determine, the Consent Agreement does not call for a particular form for the report, nor does it include what information is required. If there is any additional information you would like in the initial report, I trust you will contact me.

As to the remaining issues raised in your letter, you are correct in that the SEP was to begun prior to my letter of April 23rd. The failure to advise the EPA that the testing had begun was inadvertent.

While I realize that the sending of the check without complying with the strict terms of the agreement was inconvenient, that transmission was in part a result of your client's direct communication to my client. I was not aware they had received the signed Consent Agreement, nor was I aware that my client had sent the check. As you may recall, we did not receive the final version of the Consent Agreement until January 13th. It was submitted to you on January 20th, and apparently sent to my client on or about February 7th. Essentially, my client received the agreement approximately 40 days after the start date set forth in the agreement. Our progress report, while late under the agreement, was essentially late that same 40 days.

Page 2 - Mr. Steven Kaiser
RE: Fox Valley Systems, Inc.
May 1, 2009

I would therefore respectfully request that you waive any penalties at this time. As the next report is due on May 15th, we would expect to be submitting that on time.

Very truly yours,

Jay K. Filler, Jr.
JKF/cls

cc: Mr. Thomas M. Smrt
Mr. Robert Allen
Regional Hearing Clerk



Mr Robert Allen (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd
Chicago, IL 60604

COPY

30-Apr-2009

Supplemental Environmental Project (SEP) EPCRA-05-2009-0012

Research and testing of existing formulas:

Progress report number 1

Fox Valley Systems, Inc (FVS) Easy marker product line consists of 16 colors.

We have gathered the current formulas for our Easy Marker product line, reviewed the formulas for accuracy with our records and have tested samples of all the 16 colors using the opacity charts.

The product densities have also been tested to insure accuracy of the easy marker product line performance levels to ensure it is consistent with FVS reputation for the highest quality marking paint.

We have continued to place much focus implementing current and new quality control methods with respect to procedures for raw materials inspection techniques. Density, viscosity measurement and physical appearances are noted and recorded on a continuing basis for all product lines. This insures a consistent quality in the manufacturing process.

We have tested ingredients used for each formula, compared the ingredients with their MSDS and matched the ingredients used to their formulas.

Ingredients tested and reviewed include: resins, dispersing agents, associative thickeners, anti-settling agents, rheological additives, wetting agents, surface active additives, solvents and pigments.

To ensure the highest levels of quality and compliance of the FVS Easy Marker product line, we have completed the following procedures for our current formulas:

1. Inspected all finished products
2. Conducted in-process testing for ingredients in the formulas
3. Verified raw materials with formulas and MSDSs

Based on this testing, standards have been established for comparing the new water based formulas.

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Sincerely,

Thomas M. Smrt
President