

LAW OFFICES OF
JOHN C. MUELLER

818 551-2901

July 29, 2004

Orchid Kwei
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 0806
Sacramento, CA 95814-0806

Post-it brand fax transmittal memo 7671		# of pages ▶
To	Phil Clander	From
Co.	on Janshid	Co.
Dept.	Permitting	Phone #
Fax #	818 551 2901	Fax #
		7/30/04

Rc: Quemetco, Inc.

Dear Orchid:

On behalf of my client, Quemetco, Inc., I wanted to inform you of, and object to, a "special meeting" the Department of Toxic Substances Control in Glendale plans to hold with select members of the community today at 1:00 p.m.

Ms. Therese Cirone, Vice-President, Environmental, Health & Safety of RSR Corporation, the parent corporation of Quemetco, Inc., received a phone call yesterday afternoon, by Jamshid Shahi of the DTSC Glendale Office. He informed Ms. Cirone that he and others at the DTSC had invited certain members of the community who live somewhere in the vicinity of Quemetco's battery recycling facility in the City of Industry ("Facility"), to a meeting to inform them that the members are in some sort of risk due to lead levels in soil around the perimeter of the Facility. One presumes, although it is not clear, that the DTSC is concerned about the potential of the public inhaling dust contaminated with lead. That is, of course, an air quality concern which the South Coast Air Quality Management District regulates. As recently as July 7, 2004, high level officials from the SCAQMD specifically informed some of the same members of the public whom we believe the DTSC has invited to its private meeting - Quemetco was specifically not invited - that lead concentrations in the ambient air surrounding the Facility were well below the state standards and have been consistently dropping.

Quemetco is very concerned that certain members of the DTSC staff, perhaps inadvertently, will unnecessarily and provocatively, signal to the community that its health is at risk due to soil contamination when it is clearly not.

As you are aware, the DTSC sent a letter to Ms. Cirone on June 28, 2004, informing her of sampling results of surface soil taken around the perimeter of the Facility in March 2004. The letter argues that the samples were obtained "to evaluate whether or not Quemetco might be able to meet the human health risk Environmental Indicators at this time by having human exposure pathways under control." We do not agree that the DTSC's Environmental Indicators program is intended to be used in the fashion the DTSC's Glendale office states.

July 29, 2004

Nevertheless, without conceding that the DTSC has the authority in this case to require Quemetco to conduct soil sampling around the perimeter of the Facility, Quemetco has agreed to conduct additional sampling. In compliance with the timeframe imposed by the DTSC, Quemetco submitted on July 27, 2004 a "RCRA Facility Investigation and Interim Measures Plan" for Quemetco to conduct significant perimeter sampling.

Now, without awaiting the additional sampling or the results, DTSC staff has prematurely decided to conduct this special "informative" meeting today. Whether planned or unplanned, the DTSC actions may well prejudice the community against Quemetco before the facts are in.

First, there is no evidence that anyone is in danger, imminent or otherwise, due to lead contaminated soil near the Facility. To the contrary, AQMD offsite ambient air monitors have confirmed the results of Quemetco's perimeter air monitors that the ambient air surrounding the facility is well below the 1.5 microgram per cubic meter standard imposed by the State of California and Rule 1420 of the AQMD rules. In fact, on July 7, 2004, Rudy W. Eden, Senior Manager, Laboratory Services with the AQMD called Quemetco's air monitoring results a real "success story" for air quality. He demonstrated how the AQMD's own offsite air monitor precisely tracks Quemetco's own perimeter monitors to show Quemetco well in compliance.

While Quemetco does not believe that there is a health hazard evidenced by the lead samples taken by the DTSC, nevertheless, since June 28, Quemetco has discontinued the use of the third-party landscaping company to work along the western and southern borders of the facility so that there would be no question of exposure of soil to the workers. I am separately forwarding to you by email pictures of the extremely narrow, landscaped areas on the western and southern boundaries of the Facility. You can see the planters are fully planted and are raised up. It defies common sense to suggest that there is any real risk of exposure to the soil. No children live next to the plant. There is minimal foot traffic. No one would jump up into the planters, remove the plantings and kick up dust. It should also be noted that the northern boundary is inaccessible to the public since a locked and gated flood control channel parallels the north of the Facility. The eastern boundary is also inaccessible to the public since it is fenced off property owned by Quemetco.

Second, by insisting in its June 28 letter that Quemetco conduct additional perimeter sampling - which Quemetco has agreed to do - there is the unmistakable implication that Quemetco has caused perimeter lead contamination. Seventh Avenue which runs along the western boundary is a heavily trafficked north/south corridor. Similarly, Salt Lake Avenue which runs along the southern boundary bears significant truck traffic and a major railroad line. There can be no dispute that lead from leaded gasoline and railroad operations has deposited lead in soil throughout all major industrial areas. It is premature to assume there is a health risk or even the cause of the contamination.

It is probably too late to "un-ring the bell" and, Quemetco is in no way trying to tell the DTSC with whom it can and cannot meet. However, we are concerned about today's special meeting since it is plainly premature and runs the risk of prejudicing the community against Quemetco.

JUL-29-2004 12:54

- 3 -

If you have any questions, please do not hesitate to call me.

Very truly yours,

Law Offices of John C. Mueller

By:


John C. Mueller