

Fiesta Corporation

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November 16, 2007

Mr. Daniel Schuette
Director of Environmental Quality
DNR
P.O. Box 176
Jefferson City, Missouri 65102

Mr. Robert Geller
Hazmat Waste Division
DNR
P.O. Box 176
Jefferson City, Missouri 65102

Mr. Joe Bindbeutel
Chief Counsel
Environmental Protection Division
Supreme Court Building
P.O. Box 899
Jefferson City, Missouri 65102

Dear Mr. Schuette,

This letter is in reference to information we have previously provided in July 2007 to MDNR and EPA regarding buried barrels of mercury on the former PPG Works #9 Site in Crystal City, Missouri (hereafter Site). Additionally, Fiesta Corporation (hereafter Fiesta) has concerns about other environmental issues associated with the Site. Consider this letter notice of the problems and a formal complaint about non-action by both MDNR and EPA, and a request for immediate action.

Fiesta is developing a cultural facility adjacent to the Site with Plattin Creek meandering between the Site and our facility. Our facility is environmentally green and will promote health and welfare through sports, recreation, the Arts, and music. Plattin Creek is an integral part of our development and will be used for swimming, boating, and fishing with children of all ages participating.

Fiesta has engaged Volz Engineering to prepare plans for our project. As part of this engagement, Volz has been investigating all easements, utilities, and environmental issues on the

Site to address whether they exist for the benefit of our project and how they impact our project. Mel Kosanchick, PE, the Senior Project Manager, has brought many issues to our attention which EPA and MDNR should have concerns about.

The first issue is raw sewage that apparently flows through what was believed to be an abandoned sewer system that crosses the Solar Cool Restrictive Area and runs to the former waste treatment plat on the Site. The original waste treatment plant was replaced by a new plant located behind the levee in Crystal City.

The second issue is the possible seepage of chemicals from the Solar Cool Restrictive Area into this abandoned sewer system.

The third issue is the possible seepage of both chemicals and raw sewage into Platin Creek below the Solar Cool Restrictive Area towards the Mississippi River. In the nine months that Fiesta has owned its project, I am personally aware of two fish kills and multiple dead animals in the creek after the Mississippi River had backed up into Platin Creek. We believe the seepage is the cause of the fish and animal kills.

The fourth issue is that chemicals and fumes are backing up the abandoned sewer system, into Crystal City, and placing the public at risk. When the Mississippi River rises, the excess water backs up into Crystal City's sewer system. This antiquated abandoned sewer system is a conduit for the spread of contamination throughout the Site and Crystal City and must be investigated in order to identify the extent of said contamination and potential future contamination.

The fifth issue is fuel and gas lines left in place after the demolition of the PPG Plat. It does not appear that any of the lines were removed, per BOCA National Building Code, at the time of demolition. This creates multiple issues for the Site, especially with its proposed use of an iron ore smelter dealing with high heat, sparks, molten iron and molten slag. Further, Fiesta shall utilize its gas line as a utility access. All other such lines should be removed for safety purposes according to the applicable Building Code.

The sixth issue is Fiesta's access through the Site for roads, utilities, and rail. PPG contaminated areas of the Site create the risk of significant, undetermined expense to Fiesta because of PPG and MDNR's recording of two Declarations of Restrictive Covenant and Grant of Easement Agreement on the Site. Because of Fiesta's easement rights and the effect that the Declarations and the related Plans have on the Site, Fiesta or its predecessors should have been notified and allowed to participate in the negotiation of remediation plans and the Declarations of Restrictive Covenant and Grant of Easement Agreement. In this manner, Fiesta and its predecessors could have addressed PPG's responsibility to provide uncontaminated access and rights through the Fiesta easements. Certainly, to the extent, Fiesta has rights on the Site through instruments recorded before the Declarations, Fiesta does not view itself as bound by the Declarations.

The seventh issue is PPG's total disregard of the Declaration of Restrictive Covenant and Grant of Easement agreement. PPG's maintenance personnel have ignored the restrictions set forth for the Solar Cool Restrictive Area by repeatedly mowing the area with no protective gear or dust control. During the process, you can smell the chemicals. The gates have also been repeatedly left unlocked with open access to the public of the Site.

The eighth issue is that in July 2007, Fiesta notified both the EPA and MDNR that a credible source had informed them of the presence of barrels of mercury buried on the Site. Fiesta has repeatedly called to confirm the status of any investigation of this issue. Neither agency has responded and NO action, that we are aware of, has been taken.

Fiesta has assisted in the property management of the Carter Carburetor property at Grand and St. Louis Avenue for numerous years. Because of the allegation that the Herbert Hoover's Boys and Girls Club might want the property for recreation, EPA has required that ACF, the generator, reevaluate the site even though that property is owned by a private party with no interest in using the site for recreation. How is the PPG Site any different in this situation? Why doesn't the EPA and MDNR require much more of the Site and its owner? It is no different and should not be treated as such! The EPA and MDNR should intervene now and look at these issues, especially before PPG, the responsible party, discards the Site.

As you likely know, there is a sale contract pending on the Site to the City of Crystal City. At the City Council meeting Monday, November 12, 2007, Mel Kosanchick provided a letter to the Council, a copy of which is enclosed, regarding procedures to protect Crystal City. At the City Council meeting on November 12, in response to this letter, Crystal City's attorney said:

Mr. Senkel: Sir, as part of the preliminary negotiations in this matter the city has been in constant contact with PPG and with the Department of Natural Resources regarding its position of restrictions, about 190 pages of restrictions upon the PPG site, and the activity and use thereon. As part of the process we meet with EPA and DNR in having a "no further action" letter issues by DNR as to the site. We then went forward under the EPA with new rules and regulations to establish that as a bona fide purchaser there would be base-line liability for any environmental issues and we had all the site studies done.

Mel Kosanchick: Has there been any dollar evaluation of the environmental liabilities since the city would encumber buying this property?

Mr. Senkel: Sir, with a base-line liability there would not be. I am sure you understand that.

These comments from the City certainly do not recognize the liability and damages for interference with Fiesta's easement rights resulting from the current course of handling of the environmental cleanup on the Site.

If this sale closes without your agencies having an opportunity to address the issues raised herein, you will let PPG off the hook and in doing so, you are not protecting the citizens who employ you. Instead, you are allowing profiteers to destroy the environment and you are placing a huge burden upon the citizens of the City of Crystal City so that "We the People" will ultimately have to follow up and clean up your mistake.

Due to the fact that Fiesta shares easements and Plattin Creek with the Site, we respectfully request that you require this Site be reevaluated as a potential recreation site and adhere to the guidelines as set forth for a recreational use. Do not turn a blind eye to these very serious issues: Mercury, Raw Sewage in Plattin Creek, Toxic Chemicals Leaching into Plattin Creek, PPG's blatant disregard of your requirements under the Declarations of Restrictive Covenant and Grant

of Easement and the potential interference and damages to Fiesta's easement rights which the Declarations and MDNR's position concerning the use of the PPG Site imposed without any participation by Fiesta or its predecessors.

Sincerely,

Tom Kerr

Enclosures

cc:

Scott Pemberton	US EPA	Katie Henry	Great Rivers
Dave Williams	US EPA	Kat Logan Smith	Missouri Coalition for the Environment
Jeff Weatherford	US EPA	Victor Melenbrink	The Schnaare Law firm
Janice Kroone	US EPA	Shonaugh Clement	Clements & Associates
Bob Geller	MDNR	James Klaar	Attorney General Office
Eric Sappington	MDNR	David Senkel	Crystal City Attorney
Ken Hanna	MDNR	Entire City Council	Crystal City
Carrie Bridges	MDNR	Tom Schilly	Mayor of Crystal City
Christine O'Keefe	MDNR	Edward Kemp	Jefferson County Commission
Karen Cass	MDNR	Patrick Lamping	Jefferson County Commission
Jon Santangelo	Stinson Morrison Hecker LLP	Chuck Banks	Presiding Co-Commissioner
John G. Young	Stinson Morrison Hecker LLP	Ron Casey	State Representative
Nick Frey	Stinson Morrison Hecker LLP	Ryan McKenna	State Senator
Lisa Byrne	Stinson Morrison Hecker LLP	Bill & Debbie McKenna	Distinguished Citizens
Kenneth Brostron	Lashley & Baer, P.C.	Jack Ginnever	Crystal City For Concerned Citizens
Margaret Mooney	Lashley & Baer, P.C.	Mel Kosanchick, PE	Volz Engineering
Julie O'Keefe	Armstrong Teasdale	Edward Myers	Lechner Realty
Richard Scherrer	Armstrong Teasdale		