

**Pine River Superfund Citizen Task Force
P.O. Box 172
St. Louis, MI 48880**

August 20, 2001

Ms. Lois Gartner
National TAG Coordinator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
Washington, D.C. 20460

Dear Ms. Gartner:

As you may recall, you met representatives of our Task Force at the Nashville TAG Workshop in September 2000. We are a community advisory group (CAG) for two superfund sites and a host of related sites of contamination, including a low level radioactive waste site in Michigan. Recently, our group has faced a question regarding use of TAG funds that we hope you can resolve.

The owner of the prime superfund site and the responsible party at other sites is Fruit of the Loom and its wholly owned subsidiary, NWI Land Management. They have an agreement with the original polluter, Velsicol Chemical Co., to meet Velsicol's legal responsibilities at the sites. Formerly, Velsicol was a subsidiary of Fruit of the Loom (then known as Northwest Industries).

Fruit of the Loom filed for bankruptcy protection at the end of 1999 and is in the process of reorganization. From our research into Securities and Exchange Commission (SEC) filings, we know Fruit of the Loom has set aside \$100 million in cash and insurance to cover environmental liabilities. Currently, the company is facing substantial spending to stabilize or clean-up both the Velsicol Superfund site in St. Louis, Michigan, and the nuclear waste site in Breckenridge, Michigan (a few miles from St. Louis). However, the company is pleading that it has little money for such responsibilities.

While they have used this plea orally both regarding the superfund site and the nuclear waste site, it has come-up in writing most recently related to the nuclear waste site. Consequently, I have included with this letter a copy of a letter from the Nuclear Regulatory Commission to Fruit of the Loom that includes a request on clarification of the bankruptcy. I also have enclosed a copy of a letter from the CAG to the NRC explaining the funds we understand are available for remediation. (I have included relevant pages from the Fruit of the Loom SEC filings in April 2001.)

We are worried that the Fruit of the Loom plea of poverty is influencing the decisions of

federal and state environmental regulators about forcing the company to fulfill its responsibilities. We believe only expert legal advice can reassure regulatory staff to put the pleadings of Fruit of the Loom in their proper perspective.

The reason we are writing is that the CAG voted at our last meeting to seek expert advice on the availability of the Fruit of the Loom environmental money and on the extent of protection of Fruit of the Loom/Velsicol under a 1982 Consent Decree. While we know there are restrictions on the use of TAG funds related to legal assistance, we want to learn if we can spend TAG money on technical assistance to answer either of the two questions below:

1. Are Fruit of the Loom's environmental reserves and insurance available for our sites, and what competing demands exist for those funds (what other superfund sites might need to claim those funds)?
2. Is contamination of the Pine River resulting from the failure of the Velsicol Superfund Site containment system (a matter currently being checked by the state in conjunction with the EPA) "new" natural resource damage and therefore not covered by the 1982 Consent Decree (where they specifically are freed of responsibility for their previous natural resource damages to the river)?

The point of each question above is not for the CAG to sue Fruit of the Loom. Rather, we need answers to the two specific, technical questions above to know what to ask regulators to do. However, because these technical questions are more related to law than chemistry or biology, we want to learn if we will violate TAG regulations in paying for such technical advice. It seems in reading the regulations (35.4075) that so long as we are not engaged in "legal action" and if we avoid a "relationship to which the attorney/client privilege would apply," we can seek such technical assistance.

While we hope we can spend TAG money to get answers to both questions, we understand we might get a "Yes" to one and a "No" to the other. We hope you will get back to us as soon as possible, preferably before September 1, with a written answer to both. We are at a critical junction in these matters and need to move as quickly as possible to resolve all questions.

Should you want to discuss these questions, please call me at my office (989) 463-7203 or home (989) 463-6170. Thank you for your help in the past and for all you can do for us to get prompt answers to these TAG questions.

Sincerely,

Edward C. Lorenz, Ph.D.
Chair