

MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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Admitted in PA and NJ

September 7, 2017

VIA ELECTRONIC MAIL

Ragesh Patel
Environmental Group Manager
Environmental Cleanup and Brownfields
Pennsylvania Department of Environmental Protection
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PHILADELPHIA, PA
*CHERRY HILL, NJ
WILLIAMSPORT, PA
by appointment only

**Partner responsible - Bruce S. Katcher*

Re: Easton Road PFCs Site;
Penn Color Inc. Response to Request for Information

Dear Mr. Patel:

On July 13, 2017, Penn Color Inc. ("Penn Color") received a request from the Pennsylvania Department of Environmental Protection (the "Department") for information relating to a release or threatened release of perfluorooctanoic acid ("PFOA") and perfluorooctane sulfonate ("PFOS") at the Easton Road PFCs Site (the "Easton Road Site") in Doylestown, Bucks County, Pennsylvania (the "Information Request").¹ Penn Color owns a property in Doylestown (the "Penn Color Property") located near the Easton Road Site.² Penn Color ceased operations at the Penn Color Property during or before 2000.

The Information Request generally requests that Penn Color provide documentation relating to hazardous substances or contaminants that were disposed of, stored, treated, spilled or released at the Easton Road Site. Penn Color has identified no information within its custody or control related to the Easton Road Site and responsive to the Information Request. Penn Color nevertheless has interpreted the Information Request as relating to activities at the Penn Color Property and has reviewed available information in that context.

¹ While the Information Request initially requested a response within thirty (30) calendar days of Penn Color's receipt of the Information Request, the Department subsequently extended this response deadline to September 11, 2017.

² The Information Request is made pursuant to Section 503 of the Pennsylvania Hazardous Sites Cleanup Act ("HSCA"), the Act 108 of October 18, 1988, 35 P.S. Section 6020.503. Penn Color construes its obligation to respond to the Information Request as coextensive with the scope of the Department's authority pursuant to Section 503 of HSCA, and has interpreted the Information Request on the basis that the Information Request is reasonably related to information relevant to EPA's lawful objectives pursuant to Section 503 of HSCA.



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In applying this broader interpretation to its response to the Information Request, Penn Color is necessarily limited by the current availability of information. In particular, because activities at the Penn Color Property date back to the 1960s, and the facility had ceased all operations by 2000, many historic records and documentation no longer exist, as Penn Color does not routinely maintain any documents that are not required to be maintained by law. Similarly, Penn Color is not in a position to produce any information that is not in Penn Color's possession, custody, or control.

With consideration to the foregoing, Penn Color has undertaken a diligent and good faith effort to identify reasonably available existing information and documents, including by reviewing both electronic records and paper records still remaining in storage at the Penn Color Property. Based on this review, Penn Color identified certain information and documents that relate to hazardous substances or contaminants that were used or managed at one time or another at the Penn Color Property. Penn Color is providing such information with this response.

The available information supports the conclusion that no PFOA or PFOS (or any chemicals containing PFOA or PFOS) were used at the Penn Color Property during the relevant timeframe. Such information also reflects that the prior Penn Color operations generated only very small quantities of hazardous waste at the Penn Color Property, and that all such waste was transported off-site for disposal. Penn Color also responds to the Information Request by stating that, to the best of its information and belief, during the period of Penn Color's ownership of the Penn Color Property, no person other than Penn Color engaged in activities relating to hazardous substances or other contaminants at the Penn Color Property. Further, to the best of Penn Color's information and belief, other entities had conducted industrial operations at the Penn Color Property prior to Penn Color's acquisition of the property in the 1960s.

The information comprising Penn Color's response to the Information Request is being provided to the Department as two sets of documents. The first set consists of information that is available within Penn Color's electronic record-retention system. This documentation can be accessed by the Department at the two ShareFile links included in the cover email to this letter. Please note, one of the links is dedicated to responsive information provided subject to the assertion that such documentation constitutes confidential business information ("CBI"), and the other link provides responsive information that is not identified as CBI. Specifically, Penn Color asserts a claim of business confidentiality pursuant to Section 503(h) of HSCA, 35 P.S. § 6020.503(h), with respect to the identity and usage specifications of the chemicals used by Penn Color, as such information reflects the company's unique and proprietary product constituents and compositions, processes, and operations. Should such information be disclosed to the public, Penn Color's competitive position within the industry would be adversely affected. Moreover, such information does not relate directly to the health or safety effects of a hazardous substance or contaminant. Accordingly, Penn Color requests that the Department maintain the

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information contained within the ShareFile dedicated to CBI as confidential and proprietary business information, including by segregating such information from the public file.

The second set of documents consists of information that predates the company's electronic-filing system and therefore is available in paper form. These documents are being shipped to the Department for delivery this week.

Finally, Penn Color states that nothing included herein, including the accompanying documentation, is intended to constitute a waiver by Penn Color of any available arguments or defenses; Penn Color expressly preserves its right to raise any available arguments and defenses at any time.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Katherine L. Vaccaro". The signature is written in a cursive, flowing style.

Katherine L. Vaccaro
FOR MANKO, GOLD, KATCHER & FOX, LLP

cc: Joshua Crooks (w/o encl.)
Brian Glass, Esq. (w/o encl.)
Bart Cassidy, Esq. (w/o encl.)