

CASE 8-5 ONE TOWN'S FIGHT TO AVOID SUPERFUND STATUS

The Berkshires region of Massachusetts is one of the most beautiful areas of New England. With the Housatonic River running through it, the quaint town of Pittsfield sits in the heart of Berkshire country. However, the area is not as pure as it appears. Pittsfield was the battleground for one of the most unpleasant environmental battles in the country. It was between General Electric (GE) and the Environmental Protection Agency (EPA).

Imagine if you learned that the town you live in has for years contained a chemical classified by EPA as a potential carcinogen, and that a major *Fortune 50* company was responsible for the presence of that chemical. How would you feel about that company? You'd most likely expect them to take responsibility for cleaning up the contamination. But would you want them to be allowed to continue doing business in your area? This case examines why one town fought not only for the cleanup of its land, but also to maintain a relationship with the company responsible for the presence of the chemical.

GE'S HISTORY IN PITTSFIELD

In 1931, unaware of any environmental dangers present, GE began using PCBs (polychlorinated biphenyls) in the production of electric transformers and other products at its factory in Pittsfield, Massachusetts. PCBs were used as insulators and flame retardants and at the time were considered state of the art for this type of equipment. In the 1940s and 1950s, some landowners in the town

obtained soil from the GE plant for use as fill at their properties. This soil was much later found to contain PCBs. GE continued to use PCBs in its manufacturing operations until just before Congress outlawed PCB use in 1977, when studies confirmed that the chemical causes liver cancer and reproductive problems in animals.

In 1981, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act, known as the Superfund hazardous waste cleanup program. Properties with a Superfund designation are eligible for federal cleanup under the EPA, which can sue responsible parties for up to three times the cost of the cleanup if the parties refuse to conduct the cleanup themselves.

By the time GE shut down its transformer and defense businesses in Pittsfield over a period of years in the late 1980s and early 1990s, 12 miles of the Housatonic River adjacent to and downstream of the plant had been directly contaminated and a 55-mile stretch of the river showed some effects of the chemical leakage. As a result of GE's use of PCBs, its 250-acre plant in Pittsfield was severely contaminated in several locations. Years later, traces of PCB were found in fish as far away as sections of the Housatonic River in Connecticut, and fish in the Massachusetts portion of the Housatonic registered some of the highest PCB levels in the United States.

Pittsfield had once been a thriving community. GE was a driving force behind the region's economy, employing over 14,000 people. Like many small- and mid-sized

towns with a single major employer, Pittsfield relied heavily on GE for its economic life. But the closing of the majority of GE's property contributed to years of economic decline in Pittsfield. For decades the area struggled to diversify its economy, and to cope with the loss of defense and manufacturing jobs.

For almost two decades (from 1960 to 1979), GE's recently retired CEO John "Jack" Welch lived in Pittsfield and worked for GE in the company's plastics division. Under his leadership, it grew from a small niche business to one of the company's most profitable units. In 1981, Welch became CEO. When GE began to downsize its presence in Pittsfield in the mid- to late-1980s by exiting the power transformer and defense businesses, many residents felt GE—including Welch—was turning its back on them. However, the plastics operations remained; they are currently located on 75 acres in Pittsfield and employ 600 people.

ENVIRONMENTALISTS URGE HOUSATONIC CLEANUP

In 1992, the Housatonic River Initiative was founded by State Representative Christopher J. Hodgkins, one of the first people to urge the cleanup of the river, and George Wislocki, president of the Berkshire National Resources Council. The organization's grassroots mission was to remove PCBs from the Housatonic River to make the river fishable and swimmable.

For years, federal regulators worked with GE and interested parties to determine the appropriate cleanup plan. Although GE vehemently fought the designation as a Superfund site, it spent \$130 million on cleanup and testing of potentially contaminated sites over more than a 10-year period.

In 1997, several important events sped the cleanup efforts. First, GE received negative publicity after a major testing of resi-

dential soil revealed substantial PCB contamination. Pittsfield residents learned that the soil they had received free from the GE plant years before for use in landscaping and construction of homes contained PCBs. Consequently, land on which more than 100 homes were built was contaminated. GE denied having any knowledge that the soil was contaminated.

In addition, records revealed that a retired GE engineer had warned the company about the potential problem in 1981. These findings prompted the EPA to request all company-related records regarding waste removal in Pittsfield. The State Attorney General's office ordered a grand jury investigation into the situation. Simultaneously, comprehensive cleanup negotiations began among GE, the EPA, the state, and the city of Pittsfield.

NATIONAL PRESS EYES PITTSFIELD

In August 1997, John Devillars, EPA Regional Administrator, proposed the GE/Housatonic River site as a candidate for the Superfund National Priority List. He promised to remove the nomination if GE agreed to a fuller and faster settlement than Superfund could provide. By this point, local, regional, and national news media had picked up the story and were offering readers regular coverage of the situation. *The New York Times*, *The Wall Street Journal*, *The Boston Globe*, and other papers were carrying stories with each new development.

In response to the national media attention, General Electric took out more than \$100,000 worth of advertising in the local paper to try and ease homeowners' concerns, providing details of its cleanup efforts and denying that PCBs caused health risks as extensive as environmental groups claimed.

Around this time, Mayor Gerald Doyle Jr. publicly opposed support of Superfund,

claiming such a designation would trigger “economic disaster” for the region, as companies would be hesitant to bring operations to the area. The mayor’s comments initiated a deep public debate over the pros and cons of Superfund status. Environmentalists claimed Superfund status was the only sure way to guarantee the cleanup of the area, since Superfund status would allow EPA to clean up the sites and sue GE for up to three times the costs.

But those opposed to Superfund status pointed out that for years Pittsfield had been a thriving community, and that even with a reduced workforce, GE was still a driving force behind the region’s economy. They claimed designation of Superfund would stigmatize the city and cost it money over the long run.

STALL IN TALKS BRINGS THREAT OF SUPERFUND STATUS

On April 2, 1998, the EPA talks reached an impasse. John Devillars, the EPA regional administrator, ordered the process for Superfund designation to begin. He said the property was one of New England’s five most hazardous waste sites. He claimed Superfund status would give the federal government the resources and power to clean up the contaminated sites. GE said this move could set the stage for years of legal battles.

Less than a week later, Stephen Ramsey, vice president of corporate environmental programs at GE, wrote in a letter to EPA that there was no scientific link between PCBs and cancer or birth defects.

Later that month at the company’s stockholder meeting, CEO John Welch debated Sister Pat Daley, who compared GE to the tobacco companies. The national media picked up the story reporting that Welch told Daley she “owed it to God to be on the side of truth.”

MAYOR URGES PITTSFIELD TO AVOID SUPERFUND

Talks continued through the summer of 1998, with GE offering cleanup proposals and EPA presenting counterproposals. On June 12, 1998, Mayor Doyle wrote to Pittsfield residents to provide them with more information on the GE proposals, saying, “There is much to lose if we do not achieve a settlement.” He said the EPA should negotiate a cleanup plan and avoid Superfund status. In addition, the local Chamber of Commerce sent memos to members asking them to lobby politicians to support Mayor Doyle’s plan.

Business leaders praised Doyle’s stance. But some environmentalists and residents felt the mayor pressured the EPA to make a deal. By late August, there was still a substantial divide on the key issues. An advisory board was set up and appointed by the mayor to advise the mayor on the issue. Four members of this board resigned because they disagreed with the way he was handling the negotiations.

AN UNPRECEDENTED AGREEMENT TO WORK TOGETHER

On September 25, 1998, the dispute was ended when GE and the EPA agreed to work together to clean up the contamination and avoid Superfund status. General Electric agreed to clean up PCBs on its land and in the surrounding affected areas. It would do so under standards, specified in the agreement, that EPA agreed were fully protective of health and the environment. GE agreed to clean up its factory site, the upper half-mile of the Housatonic River, and surrounding areas—including a school and several residential and commercial properties. The EPA agreed to clean up the next 1½ miles of the river under a cost-sharing agreement with GE. The agreement

also set up a process for the continued study and ultimately the selection of a cleanup plan for the remainder of the river, which GE would have to carry out after any court challenges.

In addition, a new economic development authority was created, called the Pittsfield Economic Development Authority (PEDA), which was charged with encouraging and overseeing economic redevelopment within the city, including the GE plant. GE agreed to demolish approximately 2.1 million square feet of buildings at its 250-acre plant, and turn over 52 acres of land within that plant in an area that was once the heart of the Berkshire's economy, to PEDA. General Electric committed \$10 million in cash over 10 years to the city to offset lost property taxes, \$15 million in a rebuilding budget to assist PEDA with redevelopment efforts, and \$3 million to a landscape budget, and agreed to pay for marketing studies to help attract new businesses to the site.

After the agreement had been made, several government officials—including Senator Edward Kennedy, EPA regional administrator John DeVillars, and Pittsfield Mayor Gerald Doyle—said elements of the process would serve as a national model for other communities facing similar challenges. Carol M. Browner, EPA administrator, said, “GE’s agreement to help fund an economic redevelopment package to benefit the community is a significant part of the agreement. It ensures that public health and the environment will be protected and the local economy will prosper.”

The settlement was finalized in a lengthy document that was filed in court in October 1999 and approved by the court in October 2000. In addition, the State Attorney General’s office and GE reached an agreement to settle the grand jury investigation. ■

QUESTIONS FOR DISCUSSION

1. You are hired as a public relations consultant by General Electric in the fall of 1997. What strategic counsel do you provide to the company for responding to the developing media attention?
2. As Vice President of Corporate Affairs for General Electric in 1998, just before the final agreement is made with the EPA, you are charged with managing all media relations for the company. What is your official statement to the media regarding the outcome of the case?
3. What relationships should General Electric have focused on building—or rebuilding—after the agreement was reached on September 25, 1998?
4. What are the (a) legal and (b) ethical responsibilities of a company like GE to remediate conditions that occurred openly, legally, and honestly in an earlier era?