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EPA's Region VII PCB Enforcement Actions
Concerning PCB Treatment, Inc. and
Environmental Resources Management, Inc.

Statement of
Hugh J. Wessinger, Senior Associate Director
Resources, Community, and Economic Development Division

Before the
Subcommittee on Environment, Energy, and
Natural Resources
Committee on Government Operations
House of Representatives



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UNITED STATES GENERAL ACCOUNTING OFFICE
Washington, D.C. 20548

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STATEMENT OF
HUGH J. WESSINGER, SENIOR ASSOCIATE DIRECTOR
RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT,
ENERGY, AND NATURAL RESOURCES
OF THE
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS
ON
EPA'S REGION VII PCB ENFORCEMENT ACTIONS
CONCERNING PCB TREATMENT, INC. AND
ENVIRONMENTAL RESOURCES MANAGEMENT, INC.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to present information that you requested on the Environmental Protection Agency's PCB (polychlorinated biphenyls) enforcement activities regarding two companies doing business in the agency's Region VII, the Kansas City Region covering the states of Kansas, Missouri, Nebraska and Iowa. As you know, we are in the process of reviewing this region's enforcement of PCB regulations and will be reporting on that review in about 6 months. As you requested, our purpose here today is to describe Region VII's enforcement activities regarding PCB Treatment, Inc. and Environmental Resources Management, Inc.

Since we have not completed our work we are not in a position to make any conclusions and recommendations at this time on either EPA's overall activities or its activities pertaining to these individual companies.

As you know, EPA is responsible for establishing and enforcing regulations controlling the use and disposal of PCBs. EPA's regulatory activities concerning PCB include, (1) approving PCB disposal and destruction processes developed by private companies, (2) inspecting these companies for compliance with PCB regulations and (3) taking enforcement actions against companies found to be in violation of the regulations in terms of requiring corrective action and assessing monetary penalties.

PCB Treatment, Inc. (PCB Inc.)

PCB Treatment, Inc. (which also has done business as PCB, Inc. and as PCB, Inc. of Missouri and is hereafter referred as PCB Inc.) started operations in February 1982. At first the company was engaged in the transportation and storage of PCBs and PCB items, activities that do not require EPA permits. Later it acquired two EPA Region VII permits: one for a chemical process to destroy PCBs in mineral oil dielectric fluids primarily used in capacitors and a second permit for a process to decontaminate PCB electrical capacitors for salvage. (Capacitors are devices used to control the power factor and voltage in electrical systems and to improve their efficiency.) The company also attempted to obtain a permit for a process to decontaminate PCB electrical transformers for salvage, but it could not successfully demonstrate to EPA that its process worked and never received approval.

In November 1982, the company received its first EPA permit. This 6-month interim approval, which was granted on June 1, 1983, permitted the company to destroy PCBs in mineral oil dielectric fluids at its 2100 Wyandotte Street facility in Kansas City,

Missouri. The approval was based on a successful demonstration that it could achieve the required level of PCB destruction. After a second interim approval of 3 months, EPA granted a 3-year approval in October 1983. This approval expired September 15, 1986.

About 1 year later, and at the company's request, the permit to destroy PCBs in mineral oils was transferred to Environmental Resources Management, Inc., a company associated with PCB Inc. (the same person was owner and president of both firms). The disposal location was also changed to 45 Ewing Street, Kansas City, Kansas where both firms had facilities.

In February 1983, PCB Inc. initially attempted to demonstrate its process for dismantling PCB capacitors and decontaminating the capacitor casings for salvage, but it was not successful. After the company made changes, it held a successful demonstration in May 1983, and EPA Region VII granted a 6-month interim permit in July 1983. The interim permit was followed by a 3-year permit in January 1984 that expired February 1, 1987.

Between February 1982 and July 1985, EPA inspected PCB Inc.'s facilities on three separate occasions--July 2, 1982; April 22, 1983; and November 20, 1984--because of third-party complaints received concerning the manner in which the company handled PCBs. The first and third inspections found two storage violations, which resulted in civil administrative penalties of \$18,000 and \$70,000, respectively, being proposed. Each of these civil actions was resolved through consent agreements whereby the company agreed to take corrective action and pay a reduced fee. The reduced fines paid by PCB Inc. were \$7,200 and \$28,000, respectively. EPA found no violations during the second inspection in April 1983.

In December 1983, PCB Inc. asked EPA for a 60-day extension for destroying PCBs by incineration that, under EPA regulations,

were required to be destroyed by January 1, 1984. EPA denied the extension and proposed a \$10,000 penalty for failure to destroy the PCBs on time. The penalty was subsequently reduced to \$1,000, and paid by the company, after the company took corrective actions to prevent a similar problem in the future.

Between August 1985 and March 1986, EPA performed six different inspections of PCB Inc. operations which resulted in an administrative complaint being issued on August 12, 1986, with total proposed penalties of \$2,436,000. (See appendix I for details.) The violations for which these penalties were proposed included the following:

- metal, purportedly decontaminated by PCB Inc., and sold as scrap, was still contaminated with PCBs,
- improper storage, (i.e., PCB items were not in approved storage containers, storage areas had defective or missing curbing),
- improper disposal (i.e., disposal process not operated as approved, spilled PCBs not cleaned up),
- improper marking of PCB containers (i.e., containers not marked as containing PCBs, containers not marked with dates of placement into storage for disposal), and
- inadequate record keeping (i.e., records did not show when all PCB items were received or destroyed).

Each of the six inspections involved some new violations being discovered. In addition, later inspections found that some previously detected violations had not been corrected.

After EPA issued that administrative complaint on August 12, 1986, it extended the company's deadline for filing an answer to the complaint on four different occasions. However, on January 20, 1987, Region VII advised PCB Inc. that it would not consider any further time extensions. This action was followed by an answer to the complaint and a request from the company's legal counsel for a hearing.

The answer to the complaint denied each of the 36 cited violations. On February 3, 1987, EPA's Regional Counsel referred the case to EPA's Administrative Law Judge. As of March 31, 1987, Regional Counsel was still negotiating with the company and waiting for the Administrative Law Judge to set a hearing date.

As of March 31, 1987, PCB Inc. was closing down its PCB disposal operations. The company had sent some of its inventory of PCBs and PCB items to disposal but still had large quantities in storage. The company has indicated to EPA that it plans to have all its inventory shipped out for disposal to an approved facility by June 1987, and have its facilities cleaned up by August 1, 1987.

Environmental Resource Management, Inc.

Environmental Resources Management, Inc. (ERM) started business in mid-1984. As noted earlier, in September 1984, the owner of PCB Inc. requested that EPA transfer that company's permit to chemically destroy PCBs to ERM, which he also owned. He requested that the disposal site be changed from 2100 Wyandotte Street, Kansas City, Missouri, to 45 Ewing Street, Kansas City, Kansas. EPA approved the changes in October 1984, with the permit expiring on September 15, 1986. An application to renew the permit to destroy PCBs was pending at EPA as of March 31, 1987. In 1985 ERM also applied for approval to process PCB transformers so they could be salvaged. This application was not approved.

EPA's Region VII first inspected ERM on September 18, 1984, in response to a third party complaint about PCBs possibly contaminating food grain stored next door to ERM. EPA found two violations of PCB storage regulations and proposed a penalty of \$18,750 on December 12, 1984. On March 12, 1985, EPA agreed to waive \$7,500 of the penalty if ERM corrected the storage deficiencies upon which the penalty had been based.

Between September 16, 1985 and March 20, 1986, EPA inspected ERM operations four times and issued an administrative complaint on September 2, 1986, with total proposed penalties of \$1,561,875. (See appendix II for details.) The violations for which these penalties were proposed included the following:

- ERM did not maintain adequate records of the acquisition, processing, and disposal of PCB and PCB-contaminated items as required by the PCB regulations.
- ERM did not operate its permitted PCB process as required by the permit conditions (i.e., oil was processed with PCB concentrations higher than authorized by its permit, waste from the PCB destruction process was not disposed of in a landfill as required, and processed oil contained PCBs in excess of the approved limits).
- PCB materials were not properly marked.

ERM's attorneys submitted an answer to the complaint on January 20, 1987, after receiving several time extensions from EPA. This answer denied all 12 violations cited in the complaint. On February 3, 1987, EPA's Regional Counsel referred the case to EPA's Administrative Law Judge. As of March 31, 1987, Regional Counsel was still negotiating with the company and waiting for the Administrative Law Judge to set a hearing date.

EPA inspected ERM again on August 28, 1986, and September 30, 1986. The August 28, 1986, inspection report lists 31 possible violations, and the September 30, 1986, inspection report lists several other possible violations. Regional officials told us that violations found during these last two inspections would also be considered while resolving the violations from the four previous inspections.

On August 28, 1986, EPA advised ERM that it would not renew the permit for the current PCB destruction process at ERM's facility at 45 Ewing Street, Kansas City, Kansas, because the site is located in a 100-year flood plain. Furthermore, EPA would not issue any permit to ERM until it had evidence that ERM had corrected all past violations of PCB regulations and of permitted operating conditions. On October 27, 1986, ERM notified EPA that it was moving the site of its PCB oil destruction process to 1220 Wyoming Avenue, Kansas City, Missouri. EPA informed ERM that it would not issue a permit for the new site until the old site was closed and cleaned of any PCB contamination.

Mr. Chairman, this concludes my prepared statement. We would be glad to respond to your questions.

DETAILS OF EPA's AUGUST 12, 1986,
ADMINISTRATIVE COMPLAINT AGAINST
PCB Inc.

<u>Inspection</u>	<u>Violation</u>	<u>Penalty</u>	<u>Total</u>
August 9, 1985	Not properly disposing of PCB contaminated scrap metal.	<u>\$25,000</u>	\$25,000
September 16, 1985	Records did not show when all PCB items were received or destroyed - 2 counts.	\$47,500	
	Storage areas had defective or missing curbing - 2 counts.	30,000	
	PCB items not in approved storage containers - 2 counts.	50,000	
	PCB items not properly marked.	25,000	
	PCBs and PCB items collected from the capacitor-dismantling process were not properly disposed of - 4 counts.	175,000	
	Disposal process not operated as approved.	25,000	
	Company improperly considered capacitor disposal process complete before all dismantled components were disposed of.	25,000	
	Spilled PCBs were detected on storage walls, constituting improper disposal.	<u>7,500</u>	385,000

December 13,
1985

422 drums of PCB
capacitor parts without
the dates they were placed
in storage for disposal. \$25,000

PCB items not marked. 750

PCB items improperly
stored. 2,250

A drum of PCB oil without
the date it was placed in
storage for disposal. 25,000

Two 55-gallon containers
of PCB oil not marked. 750 53,750

January 9,
1986

PCBs stored in improper
containers. \$ 2,250

PCB items not marked -
2 counts. 24,750

PCB items without dates
showing when they were
placed in storage - 2
counts. 22,500

Not in compliance with
an operating approval
condition. 25,000

Previously detected
storage violations
continued to exist. 60,750 135,250

March 3, 1986

Five stored PCB
capacitors were leaking. \$ 2,250

PCB debris from capacitor
processing line not
properly stored. 25,000

Capacitor processing line
not operated as
approved by Regional
Administrator. 25,000 52,250

March 11, 1986	Four PCB containers not marked.	\$ 750	
	PCB oil spill on processing line not cleaned up.	18,000	
	Not in compliance with operating approval conditions - 2 counts.	50,000	
	Continued to keep inadequate records since the September 1985 inspection - 2 counts.	<u>1,716,000</u>	<u>1,784,750</u>
	Total		<u>\$2,436,000</u>

DETAILS OF EPA'S SEPTEMBER 2, 1986,
ADMINISTRATIVE COMPLAINT AGAINST
ENVIRONMENTAL RESOURCES MANAGEMENT, INC.

<u>Inspection</u>	<u>Violation</u>	<u>Penalty</u>	<u>Total</u>
September 16, 1985	Records were not kept as required by PCB regulations and EPA approval conditions - 2 counts.	\$43,750	
	Company processed oil with PCB concentrations exceeding approved preprocessing limits.	25,000	
	A sample taken from cleaned oil contained PCBs that exceeded the approval limit.	25,000	
	Wastes from the PCB destruction process were not disposed of in a landfill as required by EPA approval conditions.	25,000	
	ERM did not operate its PCB destruction process as approved by EPA.	<u>25,000</u>	\$143,750
December 12, 1985	One 55-gallon drum of PCB oil was not properly marked.	<u>\$625</u>	625
January 16, 1986	Company did not have records demonstrating that PCB concentrations in oil it processed did not exceed EPA's approved preprocessing limitation of 10,000 parts per million.	\$25,000	

	Company still did not have records required by EPA's approval to operate - a continuing violation since the September 1985 inspection.	<u>922,500</u>	\$947,500
March 20, 1986	Company still did not have records required by EPA's approval to operate - a continuing violation since the January 1986 inspection.	\$420,000	
	Company did not have records documenting that PCB concentrations in PCB oil it processed did not exceed EPA's approved preprocessing limit of 10,000 parts per million.	25,000	
	Company did not operate its PCB destruction process as approved by EPA.	<u>25,000</u>	<u>470,000</u>
	Total		<u>\$1,561,875</u>