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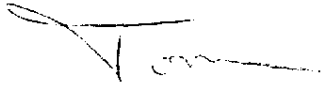
DATE: April 4, 1990

**Interoffice
Communication**

SUBJ: RECENT ENVIRONMENTAL ARTICLES

VISTA

Attached are two recent articles regarding environmental performance, public perception and its impact on a company's financial and operating status.



T. G. Grumbles

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Attachment

Distribution:

J. D. Burns, J. R. Ball, R. D. Gamblin, J. A. DeBernardi, T. H. Huffman, J. J. Weidner, G. G. Draper, W. J. B. Vogel, B. E. A. Larsen, R. T. Ferrell, H. R. Flammer, G. W. Inbody

V. W. Weiss-Austin

VVV 000012836

cc: NAE, PJH, ETS, CSM, RLS, TEG
NTF, NSV, TEG

Taiwan-based Formosa Plastics tagged 'outlaw' Group urges federal inquiry

by ROBERT CULICK
Houston Chronicle

POINT COMFORT
Plastics Co.

and not
expansion in Texas until
cleans up soil and water contami-
nation, an environmental group said
in a report released Thursday.

International plastics giant For-
mosa was courted by Texas politi-
cians and public officials in 1988
when it began its search for a site for
a new facility. The state promised
expedited regulatory hearings and
tax incentives that could top \$225
million for the Taiwan-based com-
pany.

A Houston Chronicle investigation
last summer uncovered a history of
pollution incidents and violations of
air and water permits in Louisiana
and Texas by Formosa. Texans
United, the environmental and
economic development group, said
Thursday that Formosa should be
investigated by federal officials
and the Texas Water Commission
because of the possibility of

The report said the water table 25
feet below the Formosa site, which is
close to Lavaca Bay, is polluted with
chemicals and a suspected

Rick Abrahams, director of Tex-
ans United, urged a group of citizens
at a town meeting here to demand an
environmental impact statement
from state and federal officials.

"If you look at what this company
has done, you'll know much of what
will happen in the future. Companies
always look better at permitting
time, but companies, like individu-
als, don't change overnight," Abra-
hams said.

He suggested that the people of
Calhoun County bargain with the
company for improved environmen-
tal safeguards.

Abrahams' report said that "de-
spite Formosa's claims to the con-
trary, the company's Point Comfort
plant has a long and dirty record of
air and water pollution, including
gross violations of state and fed-
eral law."

The report said that recent tests by
the Texas Water Commission show
extremely high levels of toxic chem-
icals in the ground water beneath
Formosa "potentially endangered
local drinking water supplies."

Residents questioned why state

and federal agencies were not ade-
quately monitoring Formosa. James
Blackburn, a Houston attorney rep-
resenting the Calhoun County Re-
source Watch, said: "You may find
it hard to believe but politics has
nothing to do with it. What I have
found is when the public lets the
politicians know they expect their
health to be protected, the standards
go up."

Bill Jones, a Formosa spokesman,
said the company has turned the
corner and has a new attitude about
environmental problems.

He said a new policy was laid out
last week by company owner Y.C.
Wang, the corporate leader of a
group of plastic manufacturers said
to be among the largest privately
held corporations in the world.

"Essentially, he said the Texas
Water Commission and the Environ-
mental Protection Agency are the
teachers, and we better become the
best students we can be. We got the
message," Jones said.

He denied allegations that the
company has ever tried to hide
information.

"We may have been slow, but there
has never been an attempt to cover
up information," Jones said.

Many in the standing room only
group that crowded the cinder block
community center carried signs sup-
porting the company. As they dis-
cussed Formosa, the smoke plume
from Formosa's current facility, ad-
jacent to the center, wafted over-
head through open windows and
doors.

Larry Robinson, president of the
local chamber of commerce, said
"we need jobs in Calhoun County.
That's the bottom line."

He decried the television cameras
and reporters who were in the room.
"We can do this within our county.
We don't need all the adverse pub-
licity," Robinson said.

Diane Wilson, organizer of the
Calhoun County Resource Watch,
said the local media has been reluc-
tant to print views of people who
don't support the Formosa expan-
sion.

The company expects a report on
its application to the water commis-
sion within 60 days. The report will
be the basis upon which the three-
member appointed commission de-
cides whether to grant Formosa's
requests to discharge water contain-
ing ethylene dichloride into Lavaca
Bay, 120 miles south of Houston.

VVV 000012837

Poor environmental report cards may cost companies future investors, say investment firms. Companies being spurned include industrial giants like General Motors and W.R. Grace.

Increasingly, investment companies are ruling out potential investments in corporations blamed for chronically dumping toxic waste or for releasing dangerous chemical emissions, say "socially responsible" companies like Franklin Research & Development of Boston. Certain to deter investors are catastrophic chemical accidents like Bhopal and proven negligence by industrial polluters. Also damaging to investment prospects is being repeatedly named a "potentially responsible party" at hazardous waste sites.

"Potential investors want to invest in companies that are kind to the environment. They put pressure on firms by refusing to invest in stocks and mutual funds," says one Franklin official.

To identify questionable firms, investment companies poll their shareholders, consult with environmental and public interest groups, tabulate answers firms give to questions on their environmental compliance record and check a firm's reputation by studying newspaper clippings. "A very favorable sign," says Steve Schueth of the Maryland-based Calvert Social Investment Fund, "is a company's willingness to disclose information about its environmental track record." Firms found innocent of alleged waste disposal violations, those that cooperate with EPA in legal action, and ones that take initiatives to curb their disposal of toxic chemicals and that are forthcoming with that information earn a high grade. "Of course, companies must, first of all, be financially sound," says Schueth, "but they must also demonstrate they have avoided costly lawsuits and are free from liability."

Firms that fail to make the grade, like GM and W.R. Grace, earn a 5.0 "worst" environmental score, according to a Franklin rating of 25 major U.S. corporations cited in a recent article in Fortune Magazine. Despite initiatives taken by the companies to improve their environmental record, both GM and Grace have a well-deserved reputation for questionable waste disposal practices, says Franklin. According to GM's 1990 10K Report, which must be submitted to the U.S. Securities & Exchange Commis-

sion, the company has been designated a potential polluter at some 150 Superfund sites with a liability of about \$90-million. At one site in Michigan, GM was fined \$395,000 by EPA for PCB disposal.

But GM is quick to point out that in many of those cases, the company is only one of several parties allegedly responsible for the pollution. Furthermore, a GM report cites 30 Superfund site cleanups the company has participated in. The company says, in one case, it was credited with helping to remove 45,000 waste drums from the Seymour, IN site. In another, it initiated negotiation with EPA and the state of Delaware to clean up the Harvey and Knotts Drum site near Wilmington. Under a mixed funding agreement with the agency, GM will pay about one-third of the \$9-million cleanup cost. The company also says that its efforts to minimize waste by substituting less toxic materials in manufacturing and recovering materials from waste streams should be included in any accounting of GM's environmental record.

W.R. Grace's track record speaks for itself, says Franklin. The firm has been cited as a potential polluter at 26 Superfund sites including the controversial Woburn, MA site where Grace was blamed for drinking water pollution allegedly responsible for the leukemia deaths of six children. The Woburn case is the main reason the firm received a poor environmental rating, says Franklin. On May 31, 1988, Grace pleaded guilty to charges it lied to EPA about the amount of

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toxic chemicals it used at a plant in Woburn. U.S. District Court Judge Joseph Tauro fined the firm \$10,000 for misleading the government, a felony violation. "By submitting false information to the EPA, W.R. Grace placed a greater value on its legal liability, profits and public image than on the health and welfare of the community and environment," said then regional administrator Michael Deland.

The charges stemmed from a federal grand jury investigation of Grace's Cryovac plant, where EPA was told in 1982 that it had purchased only limited quantities of hazardous materials. At the time, EPA investigators were trying to determine the source of toxic contamination in two nearby wells, which some experts claimed were responsible for a high leukemia rate in the area. Grace said it used small quantities of industrial solvents such as toluene and trichloroethylene. But according to a 1987 indictment, the firm actually bought hundreds of gallons of solvents, including some compounds the company claimed not to have used and allowed employees to dump wastes in the ground. Although Grace reached an out-of-court monetary settlement with plaintiffs in the leukemia case in 1986, a federal court jury found that the company "substantially contributed" to the pollution of two drinking wells.

In November 1989, EPA said that Grace's Nashua, NH plant had "significant problems" in transferring hazardous

chemicals and the way it alerts the city to chemical emergencies. Both of the concerns fall under the authority of Superfund's Title III law. A joint audit of the Nashua plant's environmental and safety compliance by EPA and the Occupational Safety & Health Administration was conducted last fall in the wake of toxic gas releases and the subsequent evacuation of residents, the discovery of 25 possible toxic waste sites on company property and an acknowledgement by Grace that it is the likely source of cyanide that appears to have leaked from the site onto the banks of the Merrimack River. Some of the sites appear to be inactive waste sites, according to an EPA regional official.

Despite its poor environmental track record, said a Franklin official, the company should be credited with recent steps it has taken to improve that record. Among those initiatives are a 5-year goal to reduce toxic emissions, a commitment to improve chemical release prevention systems and the training of an on-site emergency response team equipped to respond to emergency chemical releases. In light of those developments and in response to arguments raised by Grace officials over the company's poor environmental rating, Franklin said it is willing to review the rating.

Grace environmental compliance officials were unavailable for comment. -- Lew Gurman

VVV 000012838

LOVE CANAL RISKS — Resettlement in the balance as EPA, state review options

Resettlement of Love Canal, the nation's landmark hazardous waste site, grew more uncertain last week as federal and New York officials mulled moves that could influence the lifting of a two-year ban on reoccupying the area.

A spokesman for EPA chief William Reilly said last week the agency is reviewing risk assessments and pollution and land use studies of the site in response to a demand by environmentalists who claim resettlement of the canal would endanger public health. According to the spokesman, Reilly fears that if resettlement is allowed to go ahead without a fresh look at the site, the agency could be blamed for establishing a precedent of endorsing cleanups that fail to meet the standards of health protection mandated by the Superfund law. Environmental activists Lois Gibbs of the Citizens Clearinghouse for Hazardous Waste and Jacqueline Warren of the Natural Resources Defense Council asked Reilly to reassess alleged health risks to pregnant women posed by the site, claiming that New York State Health Commissioner Dr. David Axelrod used a faulty approach in determining the site was habitable.

A ban on resettlement ordered two years ago by state Attorney General Robert Abrams presently bars prospective home owners from purchasing homes in the resettlement zone near the canal. Although the ban is likely to be lifted if Abrams approves the final version of a draft environmental impact statement (EIS) issued three weeks ago by the Love Canal Area Revitalization Agency (LCARA), the quasi-state authority responsible for selling the homes, the Reilly move to reassess health risks appears to complicate the ultimate resolution of the issue. "What the state does depends on what EPA finds," said an attorney who works for Abrams. In any case, LCARA must still consider public comments on the EIS before issuing a final EIS. Abrams must determine whether the final EIS complies with state environmental laws before he can rule on the ban.

Whether the EPA will play a major role in determining the solution to the dilemma is uncertain, said several sources.

NEWSWATCH

CERCLA LIABILITY — Courts giving EPA too much discretion, lawyer charges

Recent court rulings have expanded cleanup liability under Superfund, frequently ruling in favor of EPA when the agency has attempted to break new ground for liability. The expansion has at times stretched congressional intent of the law and allowed the agency a large amount of discretion, according to attorney Stephan D. Ramsey, who spoke at a recent American Bar Association seminar on environmental law.

Over the past year, federal courts have expanded Superfund liability to the benefit of EPA's enforcement efforts to include individuals working for polluting companies, parent corporations, lending institutions and manufacturers of hazardous substances. The Superfund law, however, provides that only owner/operators, transporters, generators and disposers of hazardous waste can be held liable for Superfund cleanups.

EPA looks for new areas of liability when assets sufficient to clean up a site are not available from the traditional owner/operator defendants, according to Ramsey, who charges EPA's main concern is finding "deep pockets" to pay for cleanup. This is why EPA filed claims against individuals, failing to find a clear responsible party at the Arco Industries site in Michigan, he says — a case that has opened the door to individual liability.

Other decisions, based on interpretations of the law, stretch the intent of Congress, according to Ramsey. An Eighth Circuit Court ruling holding a pesticide manufacturer liable for contamination resulting from actions taken by a pesticide blender is a prime example. While it is clear Congress did intend owners

of contaminants to be held liable, holding one company, a manufacturer, liable for actions of another, a pesticide blender, may not be exactly what Congress wanted, says Ramsey.

Two other important court decisions have also broadened the scope of Superfund liability, to include lending institutions and parent corporations. Fleet Factors Corp. was held liable for cleanup costs after it foreclosed on equipment used at a contaminated work site of one of its borrowers (U.S. v. Fleet Factors, U.S. district court, southern district of Georgia). Kayser-Roth Corp. was held liable for cleanup costs incurred by EPA during agency efforts to remediate a Superfund site created by Stamina Mills, a subsidiary of Kayser-Roth (U.S. v. Kayser-Roth, U.S. district court for Rhode Island).

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