

US EPA ARCHIVE DOCUMENT



## *RCRA Permit Appeal Fact Sheet*

**1989**

**FACILITY:** RMI Extrusion Plant  
Ashtabula, Ohio  
OHD 980 683 544  
RCRA Appeal No. 89-20

**PETITIONER:** Chris Trepal

**PETITION FILED:** August 10, 1989

**STATUS OF PETITION:** See Permit Appeal Status Report

**ISSUES:**

- Other corrective action issues (groundwater assessment)
- Procedural issues
- Miscellaneous other issues (emergency planning and response; capacity and structural integrity of the containment system; storage and inspection of mixed radioactive waste; health concerns for worker safety)

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### **Summary of Petition:**

The petitioner argues that RMI's hazardous waste management permit should be denied. The petitioner presents numerous arguments in support of a permit denial, citing an inadequate emergency response plan, inadequate containment of hazardous and radioactive waste, and various groundwater contamination issues. The petitioner also asks for further review of health and local concerns, including the expansion of any clean-up efforts at RMI (especially the pending incineration of hazardous and possibly radioactive soils and sediments from the nearby Fields Brook Superfund site).

- **Groundwater Assessment.** The petitioner expresses concern about the groundwater quality assessment and argues that an additional investigation should be performed in order to assess the nature and extent of possible hazardous and radioactive contamination in the areas both downgradient and upgradient of the RMI facility. The petitioner requests that special testing be done for groundwater contamination to see if there are traces of plutonium.
- **Procedural Issues.** The petitioner argues that combining the portions of the permit concerning storage of hazardous waste with the portions relating to the cleanup of groundwater contamination limits the ability of the public to critique the cleanup plans. The petitioner also argues that EPA needs to clarify two responses to comments on the draft



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permit, including a clarification of whether used oils sent to recyclers, and other wastes never monitored before disposal, are under RCRA jurisdiction.

- **Emergency Planning and Response.** The petitioner argues that the emergency planning and response requirements in the permit are not stringent enough, given that the facility is in close proximity to an NPL Superfund site. The petitioner also maintains that these plans contain major deficiencies in the following areas:

- Identifying transportation routes for extremely hazardous substances;
- Locating facilities near places such as residences, schools, and hospitals;
- Outlining procedures for providing notification to emergency coordinators, community coordinators, and the public when a release has occurred;
- Determining the occurrence of a release and the populations affected by such a release; and
- Identifying emergency equipment, facilities and responsible persons.

The petitioner maintains that there should be warning signs on the banks of Fields Brook stating that there are hazardous, toxic, and radioactive materials present in the Brook, and that no one should walk through or wade in its waters or banks.

- **Capacity and Structural Integrity of the Containment System.** The petitioner argues that the total volume of wastes stored is 11,000 gallons, but that the containment system can only hold approximately 1,164 gallons. In addition, the storage shed is old, and the RMI facility is in an "earthquake" area. The petitioner questions the ability of the storage shed to withstand quake activity. The petitioner argues that containment should be able to contain all hazardous wastes, especially in light of the large proportion of uranium in some wastes and the ignitability of the stored solvents.
- **Storage and Inspection of Mixed Radioactive Waste.** The petitioner also raises the following issues concerning storage and inspection of mixed hazardous/radioactive waste.
  - The petitioner maintains that the permit should be modified to include a weekly radiation inspection in addition to the storage area inspections, as long as the stored RCRA materials contain uranium.



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- The petitioner argues that the amount of uranium in the mixed hazardous waste is excessive and should not be stored over 90 days, especially with barrels that contain ignitable chlorinated solvents.
  - The petitioner argues that RMI must determine the plutonium content of uranium handled at the facility. The inability of RMI to test for plutonium-contaminated materials does not relieve the facility of the responsibility to know the radioactive content of its materials.
- **Health Concerns for Worker Safety.** The petitioner presents an example of a worker who received a "body burden" of plutonium and other radionuclides, and argues that other workers probably were affected. The petition cites an example of another worker who had a piece of jewelry that was worn to work and then analyzed and found to contain Pu-241.

**BEFORE THE ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

|                               |   |                       |
|-------------------------------|---|-----------------------|
| In the Matter of:             | ) |                       |
| RMI Company Extrusion Plant   | ) | RCRA Appeal No. 89-20 |
| RCRA Permit No. OHD 980683544 | ) |                       |
|                               | ) |                       |
|                               | ) |                       |

**DENIAL OF PETITION FOR REVIEW**

Chris Trepal has petitioned for review of a permit issued to RMI Company Extrusion Plant (RMI), which produces metal rods and tubing in Ashtabula, Ohio. The permit, issued by EPA Region 5 pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. §6901 et seq., authorizes RMI to store liquid hazardous waste in 55-gallon drums in a steel storage shed on its premises, and also requires corrective action for groundwater contamination at the facility. For the reasons stated below, the petition is denied.

A RCRA permit decision will not ordinarily be reviewed unless it is based on a clearly erroneous finding of fact or conclusion of law, or involves an important matter of policy or an exercise of discretion that warrants review. See 40 C.F.R. §124.19. The preamble to section 124.19 states that "this power of review should be only sparingly exercised" and that "most permit conditions should be finally determined at the Regional level \* \* \* ." 45 Fed. Reg. 33412 (May 19, 1980). Therefore,

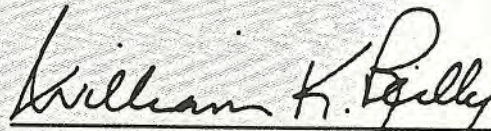
the burden of demonstrating entitlement to review rests on the petitioner.

The petition for review "must not only identify disputed issues, but demonstrate that special and important reasons necessitate review, e.g., a conflict between the permit decision and an applicable statute or regulation, or a conflict between Regions regarding an important policy matter that requires uniformity" (emphasis in original). In re Waste-Tech Services and BP Chemicals America, Inc., RCRA Appeal No. 88-8, at 3, n. 2 (September 22, 1988). Moreover, an objection to a permit term or condition must be articulated with the requisite specificity, clarity and support to enable meaningful consideration. In re Resource Technology Services, Inc., RCRA Appeal No. 83-1, at 2, n. 2 (September 17, 1983), citing Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553-554 (1978).

The petitioner raises nine issues. Since she has not identified a clear error of fact or law by the Region or an issue of policy warranting review as a discretionary matter with respect to any of the issues raised, review of the petition is denied. The record shows that the Region has given sufficient consideration to each of the matters raised by the petition.

Therefore, for the reasons set forth in the Region's Response to Comments on the draft permit and in the Region's response to the petition (except as noted below), review is denied. <sup>1/</sup>

So ordered.



William K. Reilly  
Administrator

Date: MAY 20 1991

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<sup>1/</sup> In addressing the petitioner's request for weekly radiation inspections of RMI's storage drums (Petition at 1), the Region states, among other things, that its authority over the drums is "limited to its RCRA hazardous waste container management regulations." Response to Petition at 15. The Region overlooks its general authority under RCRA Section 3005(c)(3) to impose permit conditions beyond those authorized by a specific regulation where necessary to protect human health and the environment. See also 40 C.F.R. §270.32(b)(2). However, the Region expressly determined that the permit conditions as written adequately protect human health and the environment (Response to Petition at 15, Response to Comments at 2). Since the petitioner has not shown that the Region's determination in this regard was clearly erroneous, the petitioner has not demonstrated that review is warranted.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Denial of Petition for Review in the matter of RMI Extrusion Plant, RCRA Appeal No. 89-20, was mailed to the following in the manner indicated.

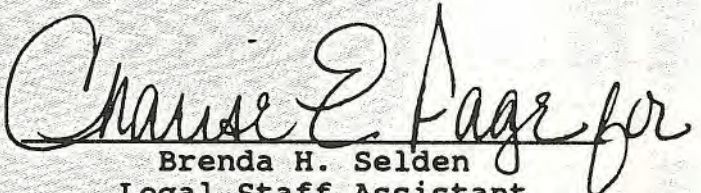
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MAY 30 1991

  
Brenda H. Selden  
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