

US EPA ARCHIVE DOCUMENT

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RRPP
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ELIMINATING PCBs FROM THE NORTH AMERICAN ENVIRONMENT

EXECUTIVE SUMMARY

S.D. Myers, Inc. (SDMI) applauds President Clinton's plan that is being implemented by the EPA so that excellence and leadership in environmental matters can be easily accomplished. SDMI brings to the XL program a proposal which has a very broad base of political and economic and international support: allowing the U.S. to help rid the North American continent of U.S. manufactured PCBs with the best available technologies available in the world today.

SDMI believes its innovative PCB technology combined with the enthusiastic team work in the "XL" program can dramatically impact North America. Our proposal is to import PCBs from the countries of Mexico and Canada to the U.S. for disposal via recycling and total destruction. The "XL" program will enable us to implement recycling as the preferred method of disposal via recycling and total destruction. This will provide the best available technology in the world for the purpose of PCB disposal at the lowest price in the world.

BACKGROUND.

Virtually all the PCBs that are in the North American continent were manufactured by the U.S. Neither Mexico nor Canada had PCB manufacturing capabilities. This means that U.S. companies sold PCBs to Canadian and Mexican companies. The EPA has, in similar circumstances, said that it is the duty of the manufacturing country to help with the disposal of those same PCBs:

Since the PCBs and PCB Items discussed in your letter were produced in Japan or Korea and sold to DOD (presumably for profit), the Agency believes that those foreign governments should see that safe methods of disposal are made available. Firms in these countries have benefited from the sale of those materials; therefore, the governments should see that safe methods of disposal are made available. Firms in these countries have benefited from the sale those materials; therefore the governments should share the responsibility for safe disposal. May 22, 1986 EPA document.

Notwithstanding the moral duty of the U.S. to help dispose of the PCBs it manufactured, the U.S. for more than 20 or 30 years transported PCBs to Canada and to Mexico. In 1987, Congress passed TSCA and specifically regulated PCBs. The EPA, when promulgating rules in 1979, stated that their method of regulating PCBs would have prohibited the import and export of PCBs for disposal purposes, allowed the import and export of PCBs for disposal purposes, allowed the import and export of PCBs for a one year period of time (something that had already been going on without incident for 20 or 30 years). The EPA said of the open border policy:

Since the requirements governing disposal of PCB wastes must be complied with for all imported PCB wastes, no unreasonable risks should result. Moreover, proper disposal in this country provides protection against possible hazards from improper disposal. May 31, 1979.

The EPA also said that the success of the Open Border Policy (which allowed both imports and exports of PCBs for disposal) was dependent upon other countries developing proper PCB disposal facilities (if improper or no facilities existed, then exported U.S. PCBs would not be handled properly and since PCBs are persistent in the environment, the U.S. could be harmed). By 1980, none of the countries had developed proper PCB disposal facilities and so the EPA closed down the Open Border Policy. The EPA of 1980 said, however, that **"within a month EPA will publish a Proposed Rule governing the export and of PCBs for disposal and for use."** As of 1995, 15 years later, the EPA has not done what it said it would do.

Note that in the 1980 closing of the Open Border Policy, the EPA cited only export related concerns. No concerns about transporting PCBs for export or import were discussed or mentioned. No concerns about improper U.S. disposal were discussed or mentioned. In short, the borders were closed due to export related concerns. SDMI is requesting permission to import PCBs for disposal via U.S. EPA permitted recycling and total destruction processes; SDMI is not requesting permission to export any PCBs.

One reason that import for disposal by SDMI fits into the "XL" program is that it will have environmental benefits to U.S. citizens as well as to citizens in Mexico and Canada. For example, in Canada a number of years back they had a fire that cost over \$10 million to clean up and generated dioxins. The Quebec government is now letting a contract for \$30 million to dispose of the remains of this fire at St.-Basile-le-Grande. A representative from the previous Quebec Minister of Environment's office came to Washington in March of this year and testified that there were many PCBs in storage around the Niagara Falls area. Records from Environment Canada show that 1/3rd of all Canada's PCBs are in storage for disposal and that there are over 4,000 PCB storage sites throughout Canada -- 70% of them in the Provinces of Ontario and Quebec, which provinces border the Great Lakes and the St. Lawrence Seaway. Region V EPA put out a document, sent to us by the Sierra Club, stating that there would be 38,000 deaths by cancer from PCBs in the Great Lakes (a Risk Analysis of Twenty-six Environmental Problems, dated December 1991). I am assuming that the Virtual Elimination Pilot Project for the virtual elimination of PCBs and mercury from the Great Lakes was the result of this document. Region V EPA has been urging utility companies and others around the Great Lakes to remove their PCBs from use...but the Canadians have not had, until just a couple months ago, any way to dispose of their PCBs. Their one alternative now is very, very expensive and is 7 to 10 times further away than is the SDMI plant in Tallmadge, Ohio. If the EPA has determined that one year storage is the maximum for safe handling of PCBs (and they have) and if the EPA has determined that PCBs around the Great Lakes should be removed from service as quickly as possible (as they are requesting), then it only seems logical to assume that the PCBs north of the Great Lakes would pose similar problems and that by helping those companies dispose of their PCBs so that the human health and environment of the United States is not unreasonably harmed would fit into the "XL" project goals.

Environmental problems in Mexico are well documented. While the Mexican government has not inventoried their PCBs as have the Canadians, our exploration has shown that many PCBs are in storage awaiting a reasonable method of disposal (export to Europe is very costly and companies don't like shipping PCBs over oceans). John Melone, Director of Chemical Management Division of the EPA, has said on more than one occasion that the EPA is concerned about PCBs in Mexico because of reports of open burning of PCBs and PCB contamination of the Rio Grande that flows into the U.S. There is no method for disposal of Mexican PCBs currently available (other than SDMI's PCB-GONE chemical destruction process for low levels of PCBs in oil).

Background Summary. The PCBs in North America are primarily, if not exclusively manufactured by U.S. companies. The EPA closed a border which had been open for PCB traffic for 20 to 30 years only due to export related concerns. When it closed the border, the EPA said that it would promulgate new rules "within a month" -- 15 years later this has never been done. Environmental problems have occurred and are occurring, which would not have occurred had the U.S. allowed the import of PCBs for disposal. SDMI has demonstrated its ability to transport and dispose of PCBs via recycling and total destruction without presenting an unreasonable risk to human health or the environment. The "XL" program is an excellent avenue for facilitating the removal of U.S. manufactured PCBs from the North American continent.

HOW DOES THIS REQUEST FIT IN WITH SELECTION CRITERIA?

1. Environmental Results. The "XL" program would enable SDMI to achieve environmental performance that is superior to what would be achieved through present compliance with current regulations. Presently Mexican PCBs are being burned in open pits threatening the Mexican and U.S. citizens along the U.S./Mexican border. The case in Canada, while not as dramatic, is just as severe when the consequences are considered relative to the storage of great amounts of PCBs around the Great Lakes. Explicit definitions and results will be included in the agreement negotiated among the stake holders.
2. Cost savings and proposed reduction. SDMI believes its involvement in the "XL" program can by all means produce a cost savings and an economic opportunity for all involved. Our experience and technical background affords us the opportunity to provide the necessary research and documentation needed to create ecological and economical incentives to eliminate PCBs from North America permanently. The EPA recognizes that SDMI can eliminate PCBs from North America without presenting an unreasonable risk of injury to human health or the environment but present regulations inhibits such practices. In Canada alone we can save U.S. and Canadian companies over \$100,000,000 because our technology costs less than currently available technology. The cost savings is the incentive necessary to get PCBs out of storage and destroyed in Mexico and Canada.

3. Stakeholder support. We can give you a list of hundreds and thousands of people and organizations that support our "XL" program but the most important stakeholders are the 1700 local people who have committed themselves to supporting our technology. They believe they can make a difference in our world! If you don't have something to believe in then there is no motivation for accomplishment and success. The local community under the leadership of our mayor believes in our "XL" program to recycle PCBs in Mexico and Canada. The grass roots effort will make the project successful and PCBs will be eliminated in North America.

Most of the last four years has been spent in trying to get Canadian support. Our list of supporters is as follows:

- 1) 2 Mayors (written letters of support)
- 2) 6 Congressmen (written)
- 3) 2 Senators (1 written)
- 4) The Summit County Legislative Delegation (written)
- 5) U.S. Chamber of Commerce (written)
- 6) General Motors and other major U.S. companies (written)
- 7) American Automotive Manufacturers Association (written)
- 8) Chemical Manufacturers Association (written)
- 9) 1700 people from the Tallmadge area (petitions at Congressman Sawyer's office)
- 10) Quebec PCB Owners Group (written -- 6600+ companies, etc.)
- 11) Ontario PCB Owners Group (written -- 8000+ companies)
- 12) Phone Call from Quebec MOE to Carol Browner (in EPA records and in transcription of March 6th meeting)
- 13) Numerous EPA documents showing that the Canadians have repeatedly, over the years, requested the EPA to open the borders for allowing import of PCBs
- 14) We have talked to Greenpeace, Sierra Club, Audobon Society and World Wildlife Fund -- none of these groups have said they would oppose what we are asking to do (an EPA fear was that these groups would sue EPA if EPA allowed import)
- 15) Victor Lichtinger, head of the NAFTA environmental commission, believes the U.S. should allow the import of PCBs from Canada and Mexico (we just met with him last week for the second time. You can verify his support of allowing PCBs to come to the U.S. for disposal by calling him at (514) 288-0200).
- 16) The Can/Am Border Trade Alliance (written -- representing 60,000 companies. Contact Executive Director Jim Phillip at (716) 754-8824).
- 17) Environment Canada and Quebec Ministry of the Environment as spoken through Michael Cloughesy, a NAFTA JPAC member (in writing via transcription of the March 6 formal hearing. He can be reached at (514) 393-1122).
- 18) The U.S. EPA person who wrote our disposal via recycling permits (Dr. Sheldon Simon, retired now, can be reached to verify this at (708) 946-9056).
- 19) Ohio EPA. Tom Buchan is the inspector of SDMI and can be reached at (614) 644-3068.
- 20) The Region V EPA permit writer Priscilla Fonseca can be reached at (312) 353-4342.

4. Innovation. SDMI's "XL" project embodies a systematic approach to environmental protection that tests alternatives to existing regulatory requirements. We believe that through the "XL" program we can deliver superior results that will not control pollution but rather virtually eliminate pollution permanently through recycling technology.

5. Transferability. SDMI's "XL" program is easily transferrable as we will demonstrate through the project. We believe our efforts will benefit both the industry and the environment.

6. Feasibility. SDMI has been recognized by many EPA officials for its commitment to excellent and its successful development in uncharted waters. Our "XL" project is both technically and administratively feasible with SDMI carrying most of the burden. The scope of our "XL" project falls within the financial capability and boundaries of our corporate strength. The EPA can accomplish this administratively by either immediately granting SDMI its exemption petitions (which apply to Canada only) or the EPA can accomplish this by granting SDMI an enforcement discretion to import PCBs from Canada and Mexico. SDMI has done all the necessary paperwork to prove that it has a proper transportation plan, a proper packaging plan and that it can handle the material properly at its plant in Tallmadge, Ohio (and that it can properly dispose of the debris). Dr. Goldman has said two or three times that there is no question about SDMI's ability to properly handle the material; Region V EPA has said in writing that SDMI can properly handle material at its plant; no one has been able to show even one technical flaw in SDMI's exemption petitions or plan of operation.

7. Monitoring, reporting and evaluation. SDMI already provides the EPA a record of all incoming material and how it is disposed of (i.e., a facility mass balance). SDMI could add to its reporting to show how many PCBs came from Mexico and how many from Canada. The EPA typically asks for a report every year. SDMI also has to report any spills or environmental problems that it has -- and so the EPA would be duly notified if anything "bad" happened.

8. Shifting of risk burden. SDMI has letters from Region V EPA and from the industrial hygienist that processing PCBs at the SDMI facility does not pose an unreasonable risk of injury to human health or the environment. Since SDMI will be processing U.S. manufactured PCBs and since SDMI will be following all U.S. EPA and DOT processing and shipping guidelines and permit conditions, there will be no unreasonable risk of injury to human health or the environment.

RISK BENEFIT ANALYSIS.

Benefits to be gained from granting SDMI its exemption requests.

1. Help remove the threat of a chemical which the EPA has estimated will cause 38,000 cancers in the Great Lakes Region alone.
2. Create over 85 U.S. jobs.
3. Bring in over \$180,000,000 in U.S. balance of trade receipts.

4. Bring in over \$30,000,000 in tax revenues that would be paid for by the Canadians.
5. Recycle over 75,000,000 pounds of natural resources that would otherwise not be recycled.
6. Granting of SDMI's petitions would be consistent with U.S. environmental agreements with Canada, with GATT, with the Basel Convention with OECD and with NAFTA and the Canadian agreement.
7. A U.S. company manufactured virtually all the PCBs in Canada and in Mexico and so the U.S. government has a duty to help with their disposal, according to the EPA.
8. Help for U.S. companies to dispose of their Canadian and Mexican PCBs -- and to do it cheaper than can be done in Canada or Mexico.
9. Promote cooperation between Canada, Mexico and the U.S. on environmental matters. Canadian officials have made it clear to the U.S. EPA that they would like a U.S. option/solution to their problem, at least one Canadian official has talked favorably to Carol Browner herself about SDMI's exemption petitions and the EPA is involved in NAFTA where talk of "unprecedented cooperation" for environmental matters was in abundance from the U.S. delegation.
10. Environmental groups have said that they would not oppose SDMI's exemption requests, if granted by the EPA.
11. It is always a benefit when an Agency does what they said they would do.
12. It is consistent with other times when the EPA has granted permission to import PCBs.
13. The EPA would be positively responding to governmental officials and others.
The EPA has:
 - A. Received letters of support from:
 - 1) the mayor of Tallmadge;
 - 2) the mayor of Coffeyville, KS (location of the Aptus incinerator);
 - 3) the Summit County Legislative Delegation;
 - 4) Congressman Tom Sawyer and five Congressmen in whose districts SDMI has offices;

B. Been told by SDMI and others that the following environmental groups are not opposed to SDMI's exemptions:

- 1) Greenpeace;
- 2) Audobon Society and the
- 3) World Wildlife
- 4) local chapters of the Sierra club
- 5) the EPA has letters from many major U.S. corporations with subsidiaries in Canada (GM, Chrysler, Ford, Boise Cascade, and others) in support of SDMI's exemption requests;
- 6) Rollins (incinerator) and Westinghouse (Aptus incinerator)
- 7) the EPA has received letters from the Ontario and Quebec PCB Owners groups -- groups which represent over 14,400 Canadian companies, which companies account for approximately 70% of Canada's PCBs;
- 8) **the EPA has been told that our Congressman and Senator received over 1,700 petitions (gathered in 3 days) of local citizens asking them to support our exemption petitions.**

C. Been notified that:

- 1) every EPA official who has visited SDMI's has said they believe that SDMI can "safely" handle the material from Canada;
- 2) Canadian officials who have visited SDMI believe SDMI can handle their materials;
- 3) Canadian law allows PCBs to be exported to the U.S. for disposal (if the EPA will allow it);
- 4) Canadian officials have "unofficially" and officially asked the EPA to allow PCBs from Canada to come to the U.S. for disposal and in one case, specifically asked for SDMI.

In short, the list of supporters for SDMI being granted its exemption petitions includes almost everybody who has a voice in this matter. SDMI has found no one who has said that they would oppose the EPA granting SDMI its exemption request except for competitors (who don't want SDMI to get a jump on them) and for certain individuals within the EPA who have expressed their opposition to this ever since SDMI applied for an exemption.

RISKS TO BE BORNE FROM GRANTING SDMI ITS EXEMPTION REQUESTS.

Transportation risks.

Transport of drained transformers.....0 (no liquid to spill)
Transport of lighting ballasts.....0 (no liquid to spill)
Transport of capacitors.....greater than zero*
Transport of PCB liquids
(and solvent waste and debris).....greater than zero*

*History shows that, conservatively, for every 6.6 million miles of transportation there will be one spill costing \$9800 to clean-up. SDMI's exemption requests entail 1.2 million miles of transportation per year and 5.5 million miles total over five years (five years would be enough to import all Canadian PCB transformers, capacitors, lighting ballasts and liquids).

For maximum import quantities of PCBs from Mexico and Canada, the probability is ≤ 0.5 spills per year at a cost of $\leq \$4,700$.

Processing risks.

☆SDMI's recycling processes.....no unreasonable risk (based upon 5.75 year's of past history and based upon EPA findings)
☆Incineration.....less than 2 in 1 billion.
no unreasonable risk (based upon over 10 years of past history and based upon EPA findings)

Political risks.

☆From politicians.....0
☆From the local population.....0
☆From environmental groups.....0
☆From EPA officials knowledgeable about SDMI's processes.....0
☆From the general population.....no unreasonable risk

“Relative” YEARLY benefit/cost summary.

	<u>Benefit</u>	<u>Cost</u>
Transportation	\$3.5 Million	\$4700
Processing	\$30+ Million	no unreasonable risk
Jobs	85+	unemployment
Risk of injury to human health or the environment	no unreasonable risk	no unreasonable risk
U.S. environment	threat removed	no unreasonable risk
North American environment	PCBs removed	no unreasonable risk

Costs of denying SDMI's exemption requests.

“The reasonably ascertainable costs of denying an exemption, depending on the individual petition.” (from proposed denial).

No disposal action on a chemical which EPA has estimated could cause 38,000 cancers in the Great Lakes region alone—according to EPA figures.

☆ No job creation in the U.S. from this activity and loss of U.S. jobs because of a decreased demand for U.S. PCB disposal (fewer PCBs to dispose of)

☆ No new tax revenues; no new monies for charitable giving; no new monies for employee profit-sharing; and no new monies for investment in R&D; loss of over \$150 million in U.S. balance of trade receipts.

☆ Appear hypocritical to the rest of the world (the U.S. exports over 130,000 metric tons of hazardous waste to Canada alone).

☆ Less to no recycling of the PCB wastes—increased North American incineration and especially incineration of metals.

☆ Demonstrate to Canada and Mexico that in environmental matters, the cooperation assumed by NAFTA exists only in word—not in deed.

☆ Triumph of form over substance.

RISK BENEFIT SUMMARY.

The only real risk of \$4,700 in transportation. The \$180,000,000 in U.S. revenues and the elimination of a chemical the EPA has said could cause 38,000 deaths should demonstrate that the benefits far outweigh the risks.

ADDITIONAL INFORMATION.

SDMI has just submitted information to the Enforcement Division referencing this "XL" project. One copy of a portion of this information is included with this submittal. Should you need more copies, please let us know. SDMI also has over 400 pages of documentation supporting the technical and grass roots claims made in this 10-page summary. Any or all information that the Agency needs or desires to help it in its determination of whether this fits into the "XL" project is available at your request. Please give either Dana Myers ((216) 633-2666, ext. 3200) or Mike Valentine ((813) 732-6774) a call within questions or comments.