

Ecology Center • *Ecology Begins At Home*

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September 20, 1991

Dear Ecology Center Member,

On September 16, the Ecology Center filed suit in federal court alleging pollution reporting violations by Johnson Controls, Inc (JCI). We intend this landmark case to result in reduced pollution and improved worker safety at JCI's plant in Whitmore Lake. The foam cushion plant is located off U.S. 23, less than ten miles from Ann Arbor. This facility is one of three factories owned by JCI in Washtenaw County, and one of hundreds owned by the Milwaukee-based corporation.

As Ecology Center members, we want to give you as much information as possible about this important legal action. Below we've answered some questions about the lawsuit.

What law did Johnson Controls violate?

Ecology Center investigations, documented by reports obtained under the federal Freedom of Information Act, reveal that Johnson Controls violated the federal Community Right-to-Know Act - also known as SARA Title III - in each of the past four years. In particular, the company violated sections 311, 312 and 313, which require corporations to report storage, handling, safety data, and emissions of hazardous chemicals. Penalties for these violations could exceed \$1 million.

Why is this law important?

SARA Title III was passed in 1986 after the Union Carbide disaster in Bhopal, India which killed or injured thousands of people near the facility. Congress passed the law to accomplish two objectives, first, to protect communities by mandating emergency plans be developed by companies that store and/or use large quantities of dangerous chemicals, and second, to provide the general public with information about the potential hazards and exposures to toxic chemicals in their area. And, as you know, the Ecology Center successfully fought for a strong state law and a model county right-to-know regulation to supplement the federal law.

What hazardous chemicals does Johnson Controls use?

JCI's Whitmore Lake facility emitted between 1.1 and 1.5 million pounds of methylene chloride each year since 1987 (the first year in which companies were required to report). This ranks the plant as the second largest known emitter of the chemical in the state, and the sixteenth highest methylene chloride emitter in the nation. The company also uses, stores and emits other hazardous chemicals, including toluene diisocyanate (TDI) and diethanolamine. The company has not appeared on any of the EPA's publicly released rankings of industrial toxic emitters, due to their failure to report.

How dangerous are these chemicals?

Methylene chloride is a probable carcinogen, and has been targeted as one of the chlorinated solvents responsible for loadings of persistent toxics in the Great Lakes. TDI is a possible carcinogen and chemical sensitizer. Repeated exposure to levels too low to cause irritation can cause gradual but permanent loss of lung function. Diethanolamine may cause brain or nerve damage, or skin and lung allergies.

Dr. Tom Robbins, an occupational health physician at the University of Michigan's Occupational Medicine Clinic, states that "over the past few years, we've treated at least a half dozen cases of respiratory complaints from Johnson Controls employees, cases we've diagnosed as occupational asthma due to chemical exposure." Based on numerous descriptions, Robbins concludes "there are several operational problems at the Whitmore Lake facility that are causing harmful exposures." Other workers at the plant have been sensitized to chemicals they have been exposed to and can no longer work in production areas of the plant.

In addition, the community of Whitmore Lake, and the surrounding Northfield Township, has unusually high levels of chronic disease - far higher than Washtenaw County as a whole. Johnson Controls' emissions are part of the toxic loadings which may be compromising the health of community residents.

Johnson Controls' storage of chemicals on the Whitmore Lake site is of great concern to county emergency response officials, and may also be of great concern to nearby residents. An accidental release could force the evacuation of all residents within four square miles. A 500-unit trailer park sits just to the south of the facility's fence by US-23.

JCI's existing air pollution permit provides virtually no restrictions for any of its emissions, and a DNR air quality official has told us that the Department would never grant such a permit today. In addition, Johnson's older production line was "grandfathered" perpetually for use in its 1982 permit, so the DNR cannot force an upgrade.

What does the Ecology Center intend to achieve through this suit?

We are seeking an agreement with the company to reduce its use and release of toxics, and to increase plant safety. The Ecology Center is not merely seeking a payment of fines, but instead a reinvestment in a cleaner and safer facility. The Center has approached the company to negotiate a settlement which would include a plant toxics reduction program, a substantial decrease in toxic emissions in the workplace and to the community, and worker health and safety improvements. We do not know how the company will respond.

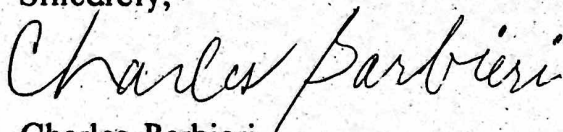
Why is this suit unique?

By bringing the suit, we are able to negotiate in areas where regulatory agencies have no ability or authority to take action. Our action marks the first time an environmental organization in Michigan has used the "citizen suit" provisions in SARA Title III. Section 326 of SARA allows citizens to initiate enforcement action when government agencies responsible for enforcing the law have not done so.

In addition, we intend to include the participation of worker representatives from UAW Local 408 in our efforts to reach a toxics reduction agreement with the company. Johnson Controls workers are on the front line in exposure to toxins from the plant, and reducing their exposures is one of the goals of the proposed settlement.

We will keep you informed through our newsletter, and through membership mailings. Important actions such as this one are possible because of your continuing support, for which we remain grateful.

Sincerely,



Charles Barbieri
President, Board of Directors

P.S. Ecology Center members who live near JCI should feel free to contact Tracey Easthope or Charles Griffith for more information. An informational meeting will be held soon. Please call for details.