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Wal-Mart zealously defends against environmental charges

As a retailer, Wal-Mart Stores Inc. doesn't do such serious environmental damage as, say, a company with its own manufacturing facilities or one involved in transporting hazardous wastes.

Indeed, the Bentonville company advertises its environmentally friendly policies and participates in community cleanup and recycling efforts. Success stories in those areas are sure to be heard June 1 at the company's annual shareholders' meeting at Bud Walton Arena in Fayetteville.

But with 4,100 locations and 1.24 million employees worldwide, the world's largest retailer steps with a heavy tread wherever it goes, sometimes bending or breaking environmental laws. Add to that a significant block of people who, for one or many reasons, just don't like the company, and you've got a large, energetic force ready to push any complaint and publicize any transgression.

Before you consider forming a legal defense fund, though, rest assured Wal-Mart advocates for its interests with a zeal admired by some and criticized as improper or worse by others.

The company has been more or less continuously at odds with scattered state and federal environmental regulators for years. Currently, Wal-Mart is negotiating the terms of a multimillion-dollar consent decree with the U.S. Department of Justice to wrap up a nine-years-old series of storm water runoff violations in Texas, Oklahoma and New Mexico.

The Environmental Protection Agency, which brought the complaints, wants \$5.6 million; Wal-Mart intends to pay much less.

In Connecticut, the retailer is preparing to defend a lawsuit brought last year by State Attorney General Richard Blumenthal. In charging 11 of the company's 16 stores with storm water runoff violations that allegedly contaminated surrounding areas with fertilizer, oil and other contaminants, Blumenthal called Wal-Mart a **"serious statewide polluter"** and an "environmental lawbreaker."

And in Pennsylvania, the company and a contractor agreed in 1998 to pay the EPA a \$170,000 penalty for hazardous waste violations. Wal-Mart is also negotiating with the U.S. Army Corps of Engineers there to settle a wetlands damage claim.

Wal-Mart plans to pay the Corps \$200,000, according to the company's 2001 annual report, an amount for which it has already been reimbursed by a contractor on the project. The company had previously paid the Pennsylvania Department of Environmental Protection \$25,000 in a related matter, along with funding a \$75,000

community environmental project.

For a global corporation with revenue of \$191.3 billion last year, the amounts seem trifling. So, said Wal-Mart spokesman Bill Wertz, do the violations.

"We're not talking about any harm to the environment," Wertz said last week. "We're talking about administrative permit violations ... I'm not aware of there being any significant environmental damage."

Most were caused, in fact, by contractors, Wertz said.

"We expect and require [contractors] to comply with all applicable regulations. Overall, Wal-Mart has an excellent environmental record," he said.

That attitude grates on government officials assigned to police the environment, not to mention citizens who already view Wal-Mart and other large corporations with suspicion.

In the Pennsylvania case, for instance, "Wal-Mart failed to follow an EPA directive and remove the tank containing lead and submit a plan for cleanup when it purchased the ... property three years ago," the Philadelphia Inquirer reported at the time. "[EPA spokesman Bill] Smith said underground storage tanks containing domestic sludge exist throughout the property," the Inquirer story stated.

"Our complaint is that the tanks were never inspected and closed," Smith said.

Connecticut Environmental Protection Commissioner Arthur J. Rocque Jr. slammed the company for its lack of response to complaints.

"The [Department of Environmental Protection] has made repeated attempts to bring the chain of Wal-Mart stores in Connecticut into compliance with the state's environmental requirements," he said. "Unfortunately, Wal-Mart has failed to take their environmental shortcomings seriously and they continue to create conditions that adversely impact the state's natural resources."

EPA Divisional Inspector General Truman R. Beeler sounded downright resigned in a 1997 review of an Idaho case.

"There were many complaints that excavated soil from a WalMart construction site in Idaho was being dumped along the edge of Sand Creek and other low-lying areas, possibly wetlands," Beeler wrote. "The State sent some letters to WalMart and its contractor attempting to get corrective action but had problems getting them to comply with the regulations."

Public criticism

Anti-Wal-Mart Internet sites abound, criticizing the company on numerous issues, including environmental effects, labor standards, wages and urban sprawl.

"Let's all celebrate Wal-Mart's ... commitment to the environment by staying out of their store environment on Earth Day," one Web site proclaims, mocking the company's celebration of the annual eco-awareness day.

"Wal-Mart has sprawled over more than 301 million square feet of earth, yet they want us to associate with their efforts to celebrate Earth Day? Are they talking about the same earth I am?"

The company's "green coordinator" program, which once claimed that an associate in each store would be responsible for and aware of national and local environment-friendly programs, attracted some embarrassing scrutiny from National Public Radio commentator Julia King last year.

King searched in vain for the advertised green associate, from the service desk at her local store to Wal-Mart headquarters.

Finally, King said, though a store sign promised a coordinator on the premises, someone explained that the company no longer requires the position in every store because it interfered with work.

The company Web site now refers to the position as "voluntary." Each store now has, the site stated, an assistant manager whose duties include ensuring environmental team playing.

The green coordinator issue aside, Wal-Mart typically responds with characteristic aggressiveness once a real threat is perceived.

Just before Blumenthal announced the Connecticut lawsuit, Wal-Mart sent a videotape "to every home in town," reported the Hartford Courant. "A new store proposed for a 142-acre site with 37 acres of wetlands is depicted in perfect harmony with the pristine waterways that run nearby."

Two days after the lawsuit announcement, in the face of fierce local opposition to the proposed store, the company helped promote a rally for pro-Wal-Mart citizens.

Wal-Mart initially met the Pennsylvania sanctions with veiled threats to the local development deal, the Inquirer reported:

"Richard H. Mays, a Washington lawyer [who has since moved back to Little Rock] who represents the Arkansasbased chain, said Wal-Mart would contest the citation and the proposed penalty before an EPA administrative law judge. He said the EPA action could have an adverse impact on [the development]."

"Any time you raise the specter of hazardous waste or contamination, you also raise the red flag for potential investors [who might want] to finance these developments," Mays said.

Mays' law firm, Environmental Legal Services, is located in the TCBY Tower.

After two years of negotiations, the fine, originally priced at \$482,000 by the EPA, dropped to \$170,000.

A similar process appears to be at work on the Department of Justice's proposed \$5.6 million fine.

After nine years of unsuccessfully citing the company and its contractors through a string of store constructions, the EPA has turned the file over to the Justice

Department's Environment and Natural Resources Division (ENRD), said EPA spokesman David Bary.

"This is being pursued civilly by the DOJ," Bary said. "The entire matter is being negotiated."

ENRD officials in Washington didn't return calls for comment, but Wal-Mart's Wertz was optimistic.

"We are hopeful of reaching an agreement," he said of the talks. "The discussions we're having with the federal [regulators] are in a much lower ballpark. We have since had a long series of talks with them, and we're hopeful that this can be resolved fairly soon."

Partnership

EPN's tepid responses to Wal-Mart's apparent intransigence could stem in part from the cooperative efforts between the two. EPA proudly trumpets the resurrection of a former toxic waste site in Stratford, Conn., through partnership with the town, state officials and a local developer.

A shopping mall is scheduled to rise on the decontaminated Superfund site, home for 70 years to automotive parts manufacturer Raymark Inc.

Wal-Mart has agreed to anchor the mall.

Wal-Mart is also a partner in an EPA Child Health Champion Project in Nogales, Ariz., through which the agency hopes to raise awareness and promote treatment for asthma-related diseases.

In addition, the company and the EPA each works with Jacoby Development Inc., according to a report in Shopping Center World magazine. Jacoby Development, based in Atlanta, works on the cutting edge of environmentally friendly development and has become a favorite of both entities.

Jacoby, which has worked with Wal-Mart since 1987, has combined with the EPA in areas as diverse as downtown Atlanta and a closed Navy base in Hawaii.