

La Follette

The Robert M. La Follette School of Public Affairs at the University of Wisconsin-Madison

La Follette School Outreach Report

Pursuing Continuous Environmental Improvement: Why Three Companies Joined Wisconsin's Green Tier

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From the publishing of Rachel Carson's *Silent Spring* and the launching of the contemporary environmental movement, there has been an enduring conflict between environmentalists and the advocates of unregulated economic development. For many years environmentalists have assumed that improvement in waste management and air and water quality must be attained through a command-and-control structure that involves national, state, and local governments imposing restrictions and thereby regulating aspects of economic growth. Within state departments of natural resources and the national government's Environmental Protection Administration, the regulate-and-control culture developed and became the dominant paradigm. It met resistance from business and industry almost every step of the way. For industry, the environmentalist model involved a myriad of government regulations, large costs, permits, inspections, and monitoring for

compliance. Failure to achieve compliance with regulations exposes industry to an arsenal of weapons held by public and private groups. These weapons include fines, inability to acquire permits, project delays, lawsuits, and tarnished reputations. The risks of failing to meet minimum standards involve reduced investment, falling stock value, reduction in profits, layoffs, and possible bankruptcy. In the view of many advocates of free markets, the innovation that Adam Smith associated with capitalism is curtailed in an atmosphere of regulation, control and fear. Business leaders find themselves arguing for growth while their environmentalist adversaries advocate that more is less. Environmental quality and public health are juxtaposed to more profit, meeting consumer demand, and job growth.

This conflict about goals and values manifests itself in many ways. Even the state and local government college textbooks reflect what appear to be inherent conflicts between the goals of environmentalists and the advocates of economic development. Almost all contain a chapter on environment and another on economic growth. Chapters on environment applaud advances made in reducing pollution that took place through government regulation and planning. The impact of these regulations on business economics is typically not mentioned. In contrast, a chapter on economic development will emphasize what state and local governments do to improve their business climate and compete for large employers and investment capital. If environmental impact or regulations are mentioned at all, it is often in the context that some states are more attractive to business than others because they have lower standards or offer leniency in enforcement.

The adversarial relationship between the advocates of economic growth and the advocates of environmental quality is being challenged by a movement that is the subject of this article. The new governance movement is seeking to change the way we pursue improvements in environmental quality and economic growth. Instead of controversy, confrontation, and threat, it seeks collaboration, problem-solving, and understanding. Instead of industry being a consumer of government regulations that cover a narrow set of activities, industry works with regulators to develop standards that are comprehensive and cover all aspects of production. It is a movement that expects industry to take ownership of the environmental problems with which it is associated with and expects regulators to allow industry to propose creative solutions. It is a movement that does not polarize players into good guys and bad guys but instead encourages them to solve problems and work on implementing environmental management systems together.

Wisconsin's Green Tier program represents many of the key elements of this new approach to improving environmental quality. This program created in 2004 allows a public or private participant

to have one contact in the Department of Natural Resources that develops an understanding of their operation. Through a collaborative approach, the program emphasizes problem-solving, environmental planning, goal setting, and the development of an environmental management system to achieve continuous improvement. It also involves self-regulating and the use of third parties and compliance auditing.

Through case studies, this paper tells the story of some of the key participants in Wisconsin's Green Tier, giving particular attention to representatives of industries that have entered the program. It is a story of pioneers who seek to offer a new paradigm for improving environmental quality. This story will focus on what drives these people to break from the patterns of the past. It will focus on the benefits and risks they perceive. To encourage participants to be very frank, this interviewer guaranteed confidentiality. Thus names of people and companies are fictitious.

Case One: A Manufacturer of Heavy Machinery

Scenario: Charley Chase enters the front entrance of the plant, looking proudly at the International Organization for Standardization flag flying under the U.S. flag. Although many are unaware, he knows that the ISO flag represents a complex international effort of 118 countries to develop manufacturing, trade, and communication standards. The standards developed under 14001 were crafted to ensure proper management of environmental issues in a broad way. That flag for Charley reflects a commitment to being a good corporate citizen. ISO 14001 requires firms to monitor their environmental performance, set goals for themselves, assess whether they have met those goals, and then set new ones. The plant Charley works for is in Wisconsin's Fox River Valley, where the paper industry is an important part of the economy. Charley is the environmental, health, safety, and security manager for Papmac, a company that manufactures heavy machinery used by the paper mills to turn trees into paper. The 180 people who work on the factory floor turn the steel that enters one end of the building into large pieces of freshly painted machinery that exit the other. Because of what Papmac does and the volume of painting that goes on, air emissions and hazardous waste are major environmental concerns. This is an unusual day because of a phone call Charley receives from Mike Malloy of the Wisconsin Department of Natural Resources. Because Papmac was an ISO certified company that illustrated a past commitment to both meeting environmental regulations and developing an environmental management system, it was selected as a possible recruit for Wisconsin's Green Tier Program.

Mike Malloy, the bureau director for cooperative environmental assistance, explains to Charley that Green Tier was enacted in 2004 and involves an alternative to command-and-control regulation. After Mike mentions some of the basics of the program and refers Charlie to the Department of Natural Resources website that offers more information, they agree to meet. They both understand that participation in the Green Tier program would be voluntary and based on the record of compliance with existing regulations.

Deliberations: Charley Chase informally discussed the phone conversation with some of the Papmac's vice presidents. It was decided that the meetings with the Department of Natural Resources should also include Papmac's chief administrator, senior vice president of purchasing, a vice president of manufacturing, and the general plant manager. There were two thirty-minute meetings with the senior Papmac staff and two representatives of the Department of Natural Resources. Before and after each meeting there were informal discussions and phone conversations among the company's local leaders. In addition Papmac's senior officers met for a couple of hours without any DNR people to discuss their entry into Green Tier.

At those meetings, the executives of Papmac focused on potential benefits, costs, and risks. They see their company as an environmentally responsible firm that is making great progress in reducing waste and emissions. As a result, they are producing more with less. They see Green Tier as an extension of their existing environmental management system. The disclosure requirements of Green Tier would not put them in a position of begging for regulatory leniency. There were no violations with existing regulations, and they already had an environmental management system. They decided the costs of entering the program would not be great given their prior investment in an environment management system. "This is a chance to have the state put a feather in our cap," Charley argued. "We can tell clients that we practice what we preach."

An additional motivation played into Papmac's decision, an event that came to be a humiliating experience for their European parent company, one of those experiences that makes the officers cringe when they think about dealing with regulators. Their parent company was reported for a regulatory violation. Without an opportunity to respond, the firm was stormed by regulators. Charley recalled, "These people came into the offices, made people move away from their computers and stop working. Files were seized and everything came to a halt. The people in the plant felt like criminals when the search was being conducted. People wondered if they were going to be closed down, and whether they would still have a job. The officers of

this company never want that to happen to us.”

He added: “One of the things we like about the Green Tier program is that the Wisconsin Department of Natural Resources assigns one regulator to your operation as a point person. He or she gets to know our business. Since air emissions are the major challenge for Papmac, the point person from DNR is an air emission specialist. This regulator will specialize in our company and know our industry. He will obtain an understanding of what we do and what challenges we face. The regulator will be familiar with best practices and share his knowledge. The DNR point person will know what emissions are coming from our plant.

“If someone calls in a complaint about an odor, the regulator can say that the problem is not Papmac’s because they are not using a substance that would produce such an odor. That is very important because Papmac is in an industrial zone with other companies that also create emissions. Sometimes we smell the odors of other firms right here on our factory floor, said one of the officers. In the summer when the area factories are opened up and the wind is blowing, people in the surrounding community can easily jump to the wrong conclusion about the source of an emission. There is an auto body shop down the road that also uses a lot of paints and solvents. It is easy to reach the wrong judgment on who is responsible for what emissions.

“A regulator who gets to know us will gain an appreciation of the strides we have made to reduce the paint and cleaning materials we use . We want someone at the DNR who knows that we have reduced the toxic solvents used to clean our sprayers by 50% through changing the priming and painting process sequence. We want a regulator who knows that we have switched to biodegradable materials where possible. We want a regulator who knows that we recycle everything we can and that we even encourage our suppliers to improve on their environmental impact. We want a regulator who knows how we dramatically reduced hazardous waste. We have reduced our levels to the point where we are not required to get the hazardous waste permit, even though we still do. We at Papmac are so committed to recycling that when we do not finish a spray can of paint, we put it in a place for employees to take and use around their homes or on their own personal machinery. When we do empty a paint container, the container is recycled. Green Tier offers us a chance to have a DNR representative who understands what we do, knows our commitment, and works with us instead of against us.”

Reflection: In the interview, some of the benefits of Green Tier were mentioned as possible incentives to enter the program. One of these is regulatory flexibility for disclosed violations. Participants are given

time to reach compliance if they disclose a problem. Another incentive is that participants cannot be sued for disclosed violations within the time period they are given to attain compliance. In the interviews, these incentives were brought up as possible reasons for entering Green Tier. Was the program attracting firms with something they had been covering up? Were they motivated by a chance to avoid liability? To date, none of the Green Tier participants have requested regulatory flexibility or used the lawsuit protection provisions of the program.

In responding to the question about Green Tier and its offer of regulatory flexibility, Charley Chase said, "As a regulated entity, we are interested in influencing the regulations and regulators so that we are comfortable working with them. While there is certainly the opportunity to claim we are trying to relax the regulations, we are not, and we want them to protect us from ourselves and our neighbors. That said, there is ample room for cooperation between regulators and regulated, and that is what we hope to ultimately get from Green Tier. We can't necessarily measure it or put a dollar value to it, but we do realize it has value."

Author's note

In my three case studies, corporate respondents were asked a variety of questions to encourage them to discuss the risks and costs they weighed in deciding to become Green Tier applicants. Some of these were related to specific requirements such as transparency, information sharing, communications plans, and employee training.

Green Tier participants are expected to share information related to past citations and violations of environmental regulations. A firm's Green Tier application is put on the Wisconsin Department of Natural Resources website. It requires participants to note whether civil judgments were entered against them for violation of environmental regulations. Participants are expected to share information on best practices and to develop a communications plan.

Green Tier even requires participants to develop an employee training program through which information

is shared and employees are educated in best practices for reducing the company's environmental footprint.

In the case of Papmac, some of the environmental quality improvements the company made increased their profit margin. Would such a company be eager to share this information with competitors?

Green Tier participants must meet a public hearing requirement that allows the community to respond to their application and goals. Information sharing and transparency may involve risks for some firms. Regulators, community members, and environmental groups may find things out about emissions or toxic waste associated with an industry that they did not know. More scrutiny and possibly media attention could result.

In my case studies questions were posed to solicit answers to the perceived benefits and risks involved with information sharing.

Charley said Green Tier may offer them a chance to get some slack in regulations: "For example, suppose we get some big contracts that mean more production. For us that is more profit and it puts more jobs in the community. But it also may mean higher emission amounts. The rate of emissions would not change but the amount would. This is when we might need some slack. We want a regulator who understands the amount went up because production went up, not because we are bad guys."

In the case of Papmac, information sharing requirements did not create reluctance for the decision-makers. Charley Chase noted, "Our parent company is traded on Wall Street to the tune of 48% of its ownership. So we are already sharing information on various aspects of our business. What is new is sharing information on environmental aspects of our operation. Information sharing offers benefits in terms of benchmarking. We can learn from it, and it will hopefully get us to a yes position with regulators. In terms of an employee training program, we already incorporated environmental best practices, so that was nothing new for us either."

Regarding meeting the communications plan requirement, Charley pointed out, "Our firm has been involved in a great deal of communication regarding environmental quality. We seek to influence our vendors and other businesses we deal with to be environmentally responsible. We demonstrate what we are doing. Regularly we host environmental management classes from the UW-Green Bay and the tech college to demonstrate our operation and help educate students."

With respect to risks, Papmac had one officer who expressed reluctance. He pointed out, "Under the command-and-control model you knew where you stood. There were specific regulations, and we had no trouble meeting them. Predictability and comfort came with that. They made the rules and we complied. With the Green Tier approach, we are dealing with continuous improvement, and the rules cover many more aspects of our business. Things are not as defined, predictable and measurable." For example, Papmac's Green Tier objectives include experimenting with alternative avenues for donation of useable items and scrapped stock material. The plan calls for future actions for donations and disposal without specifying what they are. He said: "We are supposed to review the process for obtaining a portable generator. Under Green Tier, there aren't always specific standards where you can say we met or did not meet them."

Other aspects of Green Tier that could discourage participation involve reporting, an annual environmental review, and compliance auditing. Papmac's proposed agreement involves annual environment management system audits, with every third audit performed by an outside auditor approved by the Department of Natural Resources. Papmac

must submit an annual report to the department. The company will be evaluated on its employee training program, alternative avenues for donation of useable items, scrapping stock material, and whether it has worked with contractors and suppliers to develop environmentally preferable solutions to current products. Obviously, these requirements require change, time, and expense. Do they discourage participation? If so, which factors offset them to make a company join the program?

In the case of Papmac, the requirements related to reporting and evaluation of compliance was offset by other factors. Charley Chase pointed out that the firm's Green Tier plan is desirable and realistic. "One thing that influenced our decision was the realization that by being the first industry in our field to sign on to Green Tier, we could have a guiding influence with the enforcement provisions. We want the state to understand what we do, and we do not fear monitoring our achievement. The results will provide an opportunity to grow. Another aspect of Green Tier is that we expect to get a heads-up warning. We will have time before we hit a regulation limit. Regulators will be able to identify what we do, and this will encourage support. Green Tier gives us more of a chance to have a voice. It will provide recognition and that will be an asset."

When asked what tipped Papmac over the edge into joining the program, Charley said, "In our meetings with the DNR people we could look the other guy in the eye while he was on our turf. We could see that the DNR people wanted to work with us, not against us. That was more important than the hours of paperwork the program involves. And finally, Mike Malloy, the bureau chief at DNR, was persistent. His contacts and phone calls kept Green Tier on our agenda. It was the contacts and the spirit of cooperation that encouraged us to take the leap. That spirit of cooperation has continued for us."

Case Two: Providing the Electrical Highway

Scenario: What a stressful time this has been, thought Linda Meyer as she sat at her desk. Linda Meyer is the manager of environmental projects at Electrotrans, a company that transmits electricity through a four-state region. It builds, operates, and maintains energy highways. Electrotrans faces a variety of adversaries that perceive threats to birds, people, private property rights, and local control. Linda longed for system that wasn't so adversarial and put her company in a more positive light. She longed for something that would make people aware of how Electrotrans was trying to be environmentally sensitive. However the focus of the media and the public was usually negative. The latest battle involved running a very long high-voltage

transmission line through parts of Minnesota and northern Wisconsin. There was a big debate about whether such a line was needed and whether power wouldn't better be generated locally. The state approved the project, but adversaries continued to be strong, vocal, and litigious. Creating a path for high-voltage transmission lines has a big, negative impact in the eyes of environmentalists, and many are not appeased by Electrotrans' investments in habitat development. Adversaries also focus on property rights and local control. In Wisconsin, once a project is approved, public utilities have the ability to exercise condemnation power to achieve right of way. In addition Electrotrans and other utilities supported a controversial bill that would extend their condemnation power to public lands. The use and extension of condemnation power was generating a lot of friction. There is also a good deal of controversy about how much influence local governments should have in the permitting process. If every county or municipality could decide whether to permit a project, the delays and costs would be outrageous. Long-distance transmission lines would be very hard to install.

Linda Meyer's career path had coupled electric generation and transmission with environmentalism for many years. She had worked for both private companies as well as public utilities like Electrotrans. In all her positions she was involved in environmental projects and she wanted to be an environmental leader. When she took Mike Malloy's phone call that initiated the Green Tier proposal, she was immediately attracted to the program because it offered an innovative alternative to adversarial decision-making.

Deliberations: After acquiring from the bureau director of Wisconsin's Cooperative Environmental Assistance information about the Green Tier program, Linda decided to become its advocate. She went to work on the Electrotrans' vice presidents to build interest among members of the executive team. Green Tier was especially attractive to them because it involved a continuation of the one-stop shopping trend where a company is assigned one primary regulator who comes to understand the business. "We were interested in alternative ways to regulate and wanted to ensure that a regulatory process emerged that would be faster and cheaper. We wanted a process that focused on what is really important. We also realized that it was a big advantage to be in this new program at the beginning. This would give us a chance to shape the process," Linda said.

After a consensus was reached, the group devoted about forty hours to the decision and what would go into the application. There were many things to consider, so they had four one-hour meetings with representatives from Wisconsin's Department of Natural Resources.

At least two hours was spent crafting the accounting for a stewardship fund. To achieve credibility and avoid the appearance of collusion with the department, the executive team decided to fund a third-party stewardship fund that would be used to pay for an independent audit. The audit would report the degree to which environmental goals were being implemented. This is not a requirement of the program, but considering all the negative press Electrotrans was receiving, they felt it was the way to go.

Reflections: When asked about the risks that the executive team discussed, Linda Meyer said that there was reluctance to get more involved with regulators. One vice president pointed out, "With some regulators, you give them an inch, and they take a mile." There was a fear that regulators would expect them to do more and more. Another vice president noted, "We could end up giving a lot and get little in return. There could be large costs, but we could also save a lot if the program worked well." But what tipped people over the edge and won the commitment to the program, Linda said, "was that in my heart I knew it was the better way to do business. The executive team realized that we stood to save a great deal in construction costs if there was more certainty and less delay in the permitting process. Project costs for us are much higher when we have delays and slow decision making." It was hoped that through collaboration with the Department of Natural Resources that these benefits could be realized.

Regarding whether the information-sharing requirement of Green Tier was considered a benefit or risk, Linda noted that their executive team had an outlook that favored sharing information. "It is one of our corporate values. We pride ourselves in being open to public input. We want to know what is important to people and improve our interactions with the public. Our reluctance came with how sharing information can involve security risks. If people know the details of the transmission system we face more risk of construction sabotage. National security is tied to our business."

Green Tier has other requirements that can be perceived as benefits or risks. These include having a public hearing on the application, creating an employee environmental training program, having a communications plan, and performing compliance audits. Linda pointed out that Electrotrans already had an employee training program that focused on environmental impact. The company had a communications plan. Regarding evaluation of compliance and enforcement, the executives were very positive about the Green Tier approach. Self-reporting was already in operation. They liked the limited protection Green Tier offers. If a participant discloses violations in a compliance audit, it is given a chance to fix things without

penalty as long as it sticks to a compliance schedule. "We do not have any violations now, but it could be a useful component in the future," said Linda. Electrotrans avoided a large expense associated with Green Tier because it had the basics of an environmental management system in place.

Along with perceived benefits, the informal atmosphere that developed between the company and the regulators that played a major influence in tipping Electrotrans' executives in favor of Green Tier. Linda noted that the Department of Natural Resources people with whom they dealt in their Green Tier discussions were very open. "They supported our business. Mike Malloy and Tom Sullivan tried to understand us and where there was common ground between Electrotrans and DNR. There was an effort to discover where our paths crossed. A cooperative atmosphere developed and that was very important to us. For example, instead of recommending that we begin with some set of grand goals that would be very complex and expensive, we were encouraged to start small. Green Tier is a new program that is getting its feet wet. Its advocates want a big bang for the investment. They want participants to succeed in what they set out to do. Green Tier involves continuous improvement, so one can start small and develop more challenging goals over time."

Linda pointed out that getting involved with Green Tier was the right thing to do. "We recognize our projects are not popular. We are a public utility and perceptions of us are often negative. Green Tier offers something positive. It will encourage a transition from command-and-control to cooperation. A secondary concern is the ability to change the culture. We have old ways of thinking among the non-environmental folks. Environmental protection should be part of the design of construction projects, and we are very involved with construction. Doing the right thing means going beyond the minimum. Green Tier offers incentives for our construction subcontractors. Construction people can help develop regulations and improvements. A common ground can develop between construction standards and environmental stewardship. Green Tier encourages Electrotrans to add an environmental piece to what we do, including construction. Many in the construction industry need to change their thinking process and how they do their work. Green Tier will allow us to tell subcontractors, here is our environmental plan. You need to help us comply with it in order to work for us."

Case Three: A Large Livestock Operation

Scenario: As John Chapman rides to work early one morning he is struck by the incredible contrast in the dairy farm he manages and the typical family-run dairy farm. John manages what many Wisconsinites would call a factory farm. As he enters the milk parlor, cows are leaving their pens and lining up to get on a merry go round. After they get on the huge rotating wheel, they are hooked up to milking machines by one of seven employees who end up milking about 3,000 cows that day. The milk leaves the cows and machines and enters a plumbing system that almost immediately brings it down in temperature. By the time the giant wheel makes a full circle each cow has been milked, inspected, and cleaned. In single file lines through chutes the cows head back to their pens where they stay until the next milking. If they have a health problem, they may be taken to the on-site cow hospital. John Chapman is manager and part owner of a dairy farm where no cows can be seen grazing in the green pastoral landscapes. The tremendous amount of manure generated by Country Dairy's cows is not spread on their property as is typical of the small dairy farms. Unlike small, family farms, his farm faces more regulations and, in John's view, his farm does less damage to land and water. As large livestock operations like his have taken a foothold in Wisconsin, there is a great deal of suspicion about how much land they will buy, and about their impact on the land and water. Critics do not like the fact that the hormone-injected cows of Country Dairy spend their milk producing lives in individual stalls in large pens instead of grazing in the pastures of east central Wisconsin. Unlike the smaller farms, Country Dairy focuses on only one mission: producing and selling milk. Almost all the milk will be used to make cheese, but Country Dairy is not directly involved in cheese-making.

Deliberations: John entered the office building thinking about what he could do to improve Country Dairy's relationship with the community and environmental groups. As he checked his e-mail he found a message from a professor he had recently been working with on an environmental management system. The professor suggested that John check out a new Wisconsin environmental program called Green Tier. Using the website, he found out more about the program and it sounded very promising. A phone call put him in contact with Mike Malloy, the bureau chief in charge of cooperative assistance programs.

John Chapman decided to study the program and make an application. John was entrusted to make such decisions by the other family members who owned the dairy. John was viewed by the other

owners as a sensible, hard working, trustworthy, competent manager. In addition to his managerial talents, he had degrees in physics, geology, and veterinary medicine. These characteristics along with a can-do attitude, win John a great deal of respect.

To learn about Green Tier and to apply, John said he invested about ten hours in a personal study of the program's aspects and about eight hours in meetings with people from the Wisconsin Department of Natural Resources. Given the four hours spent driving to Madison and back for each meeting and the time spent on the application, this amounted to about thirty hours for a man who measured costs in terms of time.

Reflections: While some Green Tier applicants considered having more contact with regulators risky, this was not the case for John. He hoped that by becoming a Green Tier participant, the Wisconsin Department of Natural Resources would help him dispel fears and ignorance about Country Dairy. According to John, Country Dairy never had a problem with people from Department of Natural Resources nor did its owners see the Green Tier program as any kind of threat. John felt Country Dairy was in harmony with what the Green Tier program called for. "We want the public to become aware that large livestock operations can be environmentally conscious," John said. "If we tell people that we are working on being environmentally good, many do not believe us. However, if DNR says we are doing well, they are more likely to believe it. The Green Tier application process allows us to formalize what we do environmentally. It is an incentive for me to put things in writing. Through information sharing, people in our community and environmentalists will see our commitment to environmental quality and to this community.

"We are currently milking 3,000 cows a day. We can go up to 3,800. Milking and servicing our equipment is what we do. People fear we will pollute ground water. We do not. In fact, one of the reasons we located here is because the clay soil reduces the likelihood that ground water will be penetrated. We have an environmentally safe way of handling the animal waste. Our solid waste is recycled into fuel and fertilizer. We give the fertilizer away to our neighbors to spread on their fields. We use the fuel for heating. We build in an environmentally sensitive fashion. Environmental protection and restoration is part of our design and operation. People fear that we are going to buy up loads of land. That is not our goal. People fear that we are bad for the local economy and have few ties to the community. This is not true."

John pointed out that 95% of their spending is within a thirty-mile radius. "We buy all our feed locally and even buy 150 tons of

pizza crust trimmings a year from a local pizza-maker. These trimmings might otherwise be thrown away. We use it for feed. We buy our machinery locally. Our milk hauler is from the community and he makes a good living off of us. We pay our people well, provide health insurance and a pension plan. People need to understand that we are more of a community operation than many small farms.”

John said the people with the Department of Natural Resources were very cooperative and want Green Tier to work. However, he said, some problems with Green Tier need to be corrected. Regarding transparency and sharing information with environmental groups, he pointed out that showing what you need to do to improve may lead some people to become more critical. But John is willing to take that risk if there is a positive return.

“My main complaint about information sharing is not related to the requirement, it is related to DNR. I was hoping for more information from DNR regarding what comprises a good application and a good environmental management system for a business like ours. The Green Tier application is very open and expectations are not clear. There were no examples provided of a good application for an operation like ours. One of the requirements of Green Tier is to develop an environmental management system [EMS]. We were working on one before our application. It is very time consuming and involves a lot of paperwork. We worked with a University of Wisconsin group from Manitowoc, but they were not able to give us a good example of an EMS either.

“Another aspect of information sharing I am disappointed with concerns press coverage. We need others to inform the public about what we do in order to have credibility. We want more interest group and press involvement so people will become aware of the details of our operation. The information we provided to DNR about what we do environmentally should have been put on the DNR web site. A letter that went out to the community that publicized our Green Tier application would be nice. There was no letter and the website doesn't offer much information. It tells people to contact DNR if they want more information. How many people will do that?” John said Country Dairy has not had much feedback from the Department of Natural Resources about best practices or the specific challenges it faces. The department does not seem to have the staff to keep up their end of the information sharing process. The emphasis on cooperation in theory is there. It has not been there in practice yet.

John also found some things about the employee training component of Green Tier objectionable. “The employee training program is an obstacle because it is expensive and not very useful. For our six managers, employee training makes sense. They will work with the

environmental management system. However we have to train twenty-five people who do repetitive work. The training will take three or four hours per employee, which amounts to \$7,000 in labor cost.”

Another source of apprehension involved the evaluation process. Unlike the command-and-control system that emphasized meeting specific requirements, Green Tier focuses on encouraging applicants to set goals that focus on their total operation. Because the goals may be rather general, evaluation of compliance may involve a good deal of discretion. This ambiguity bothered John: “We do not know who can certify our environmental management system or who will pay the cost to have someone come in and do an audit. We do not know whether the evaluation will be recognized by environmental groups and the community. If the evaluation does not lead to us getting positive recognition for what we are doing, we will drop out of the program.”

Given John's concerns about the negative image of Country Dairy among some environmental and community groups, one might imagine that he was attracted to the limited protection Green Tier participants receive from civil forfeiture actions for violations that are voluntarily disclosed in a compliance audit. However, the offer of penalty mitigation was not an important incentive for Country Dairy's application for Green Tier because there were no fears of suits and the dairy was in compliance with all environmental regulations. John admitted that maybe this protection will be important in the future. John also hoped that the development of an environmental management system and Green Tier participation would eventually carry some benefit in insurance rates, but his insurance company has not come through with anything of the kind.

Summary

Although there are major differences in the businesses that are the subject of this study, business decision-makers perceived some common incentives and risks. When Green Tier was created, some critics thought the program would recruit firms that were eager to disclose violations and take advantage of the penalty mitigation component of the program. This was not a motive for any of the companies I studied. Their applications and the testimonies of those interviewed reveal full compliance with existing regulations. There were no requests for regulatory flexibility, and none of the executives indicated a desire to take advantage of the penalty mitigation aspect of the program.

I discovered Green Tier has recruited firms committed to environmental improvement. This confirms the findings of Al Iannuzzi in

his case studies on cooperative voluntary compliance initiatives contained in his 2002 book *Industry Self-Regulation and Voluntary Environmental Compliance*. The companies I studied decided to participate in the Green Tier program for the sake of gaining recognition for their environmental commitment and practices. They realized that if the Wisconsin Department of Natural Resources granted them the use of the Green Tier logo and publicized their accomplishments, that non-tangible benefits could be realized. These include improvement in their reputations, attractiveness to investors, respect from peers in their industrial sectors, and less hostility from environmental and community groups. Other incentives for entering the program involved the desire to have a cooperative relationship with regulators instead of an adversarial one. This goal was universal among those interviewed and to a significant degree has already been realized. High marks were given to the Green Tier staff for their spirit of cooperation. None of the industry participants interviewed felt threatened by the people they dealt with from Department of Natural Resources. With the exception of Country Dairy, the companies agreed that Green Tier staff members were eager to provide information, meet with business decision makers, and follow through with answers to questions. Even the manager of Country Dairy had praise for the spirit of cooperation in the DNR staff, but he felt that the information-sharing problems he experienced were mostly related to the program having a small staff and sparse resources. All those interviewed appreciated having one DNR person who was becoming a specialist in what they did. The participants all wanted one DNR person who they could go to with problems, who they could get advice from, and who could defend their interests from unwarranted accusations. In the case of Electrotrans, there was also the hope that a better relationship with regulators would make the permitting process move more quickly and save money in reducing delay.

Another incentive for entering Green Tier was to be a pioneer in this program created by Wisconsin Act 276, which was introduced in 2003 and signed into law in April 2004. By being the first in each of their industrial sectors, they were setting the bar and not responding to what others did when it came to best practices and criteria for determining compliance. There was a desire to be a leader and a model in this alternative to command-and-control regulation that emphasizes moving beyond compliance with existing regulations.

Finally, in considering why companies decided to enter the Green Tier program, one must take into account the desire to do the right thing. In each company I studied there was at least one executive who led the charge. Each argued the case for Green Tier not only on the basis of gaining recognition, profit, and reputation advantages,

but on the basis of environmental ethics, cooperation with regulators, and moving beyond compliance with existing environmental regulations. In each of the three firms studied, there was a high level executive who was a strong, convincing advocate. In two of the companies, this advocate played a strong role in countering opponents who emphasized risks, costs, and feared change that could increase vulnerability.

And what were the primary risks that company representatives identified? Because the companies that have applied for Green Tier have been good environmental performers, there was not a great fear of regulators. However, some Green Tier advocates did confront fellow officers who felt that the less contact they had with regulators the better. Green Tier emphasizes initiating contact with regulators instead of being passive, showing comprehensive environmental performance rather than demonstrating compliance with regulations that may cover a narrow sector of operations, and continually improving rather than doing just what the regulations call for. Some opponents fear that regulators expectations would go beyond what companies could reasonably deliver.

There was also a fear of the unknown, especially compliance auditing. Some critics saw command-and control-regulation as being more comfortable because the roles of the regulated and the regulators were more defined. In the words of one executive, "They make the regulations, and we either meet the limits or we face the consequences." With Green Tier, an industry or institution is expected to propose a contract to the Department of Natural Resources that involves a realistic plan for environmental monitoring and achievement. This contract is evaluated in terms of whether the incentives of the participation contract are proportional to the environmental benefits that the participant will provide. Some feared that the criteria by which their contract would be judged are very open to interpretation. Finally, only large companies had applied for the Green Tier program as of this report. These are companies that could absorb the administrative and training costs. They could afford to create and document environmental management systems. One company was even able to contribute substantial sums to a foundation that would in turn create an independent auditing system. Many firms may have much more difficulty with the needed staff and budget the program entails. However, small firms have much to contribute to the program in terms of innovative ways to improve environmental performance and much to gain from potential recognition. Small firms also have a major impact on the environment and should be encouraged to move beyond compliance to a focus on their environmental footprint.

References

Iannuzzi, Al Jr. (2002) *Industry Self Regulation and Voluntary Environmental Compliance*. Boca Raton: Lewis Publishers.

Wilson, Graham. (2003) *Business and Politics*. New York: Chatham House Publishers.

Wisconsin Department of Natural Resources Cooperative Environmental Assistance Bureau. "Green Tier: FAQs" <http://dnr.wi.gov/org/cea/environmental/faqs.htm#charter> (June 1, 2005).

Wisconsin Statute 299.83 (6) (j).