

RESOLUTION 88-9

To Request that the Fell Iron and Metal Site Be Included in the Consent Decree, and to Request that the Cost of Prior Cleanups of PCB's at Fell Iron Also Be Included in the Consent Decree

WHEREAS, on October 23, 1984, the U.S. Environmental Protection Agency tested Fell Iron and Metal, 503 North Rogers Street, Bloomington, Indiana, for PCB contamination. Test results showed contamination at 435 ppm in the middle of the Fell Iron entrance gate. Other readings at the Fell Iron site were as follows:

Location	ppm
15 ft. north of post #1	71,700
15 ft. north of post #2	10,700
15 ft. north of post #3	15,800
15 ft. north of post #4	21,500
15 ft. north of post #5	13,900
15 ft. north of post #6	36,700
70 ft. north of post #4	753
16 ft. north of post #2	17,800;
and	

WHEREAS, in October, 1984, the EPA removed 346 capacitors from the Fell Iron site. In January, 1985, the EPA removed an additional 15 capacitors from another area of the Fell Iron site; and

WHEREAS, EPA tests confirmed that the capacitors removed from Fell Iron were contaminated with PCB's, and EPA officials stated that at least some of the capacitors removed from the Fell Iron property bore a Westinghouse Electric Corp. label; and

WHEREAS, as stated in the Common Council's Resolution 86-38, the Indiana Department of Environmental Management, Office of Solid and Hazardous Waste released an Inspection Report for Fell Iron and Metal on September 29, 1986, which stated, in part, that "[t he soil sample results show substantial organic and inorganic contamination, including PCB's. As much as 26,000 ppm of PCB was found in one sample....Although no capacitors or transformers were found, the sampling results indicate that at the site soils are contaminated with both organic compounds and metals. Soils in the area are quite permeable (karst limestone topography). Consequently groundwater contamination is very likely"; and

WHEREAS, on January 4, 1988, David Himm, Vice President of Fell Iron and Metal received a bill from the EPA for \$89,000.00 for the partial removal and clean up which the EPA conducted at the Fell Iron site in 1984; and

WHEREAS, in lieu of voluntary payment, the EPA filed a lawsuit in January, 1988, in federal court against Fell Iron and Metal, and Westinghouse seeking \$89,000.00 in compensation for the earlier cleanups; and

WHEREAS, on March 22, 1985, the Common Council of the City of Bloomington approved a Consent Decree providing for the permanent disposal of PCB contaminated materials at six sites in and around Bloomington, Indiana; and

WHEREAS, in October, 1983, the out-of-court settlement was reached which later resulted in the Consent Decree. At that time, a local newspaper article stated that Robert Pugliese, Vice President and general counsel for Westinghouse, said the company would take care of any other, as yet undiscovered sites which are found to be contaminated, with PCB's; and

WHEREAS, the Monroe County Board of Commissioners and the Bloomington Common Council passed resolutions requesting that Fell Iron and Metal be included in the Consent Decree; and

WHEREAS, Westinghouse officials have recently stated that they will not consider adding any additional sites to the agreement until the cleanup decree process moves forward; and

WHEREAS, the EPA took soil samples in November, 1987, from the Fell Iron site and preliminary test results indicate that a third cleanup of the Fell Iron site will be necessary:

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

1. The Common Council reiterates its request of October 15, 1986, that Fell Iron and Metal, 503 North Rogers Street, Bloomington, Indiana, be included in the Consent Decree.
2. The Common Council urges that the process to include the Fell Iron and Metal site in the Consent Decree be expeditiously concluded in order that the interim cleanup of the site can be started immediately.
3. The Common Council requests that Westinghouse justify its refusal to include the Fell Iron site in the Consent Decree.
4. The Common Council further requests that all costs related to the cleanup of PCB contaminated materials at the Fell Iron and Metal site be retroactively assumed through the Consent Decree mechanism.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 6 day of April, 1988.

*Pam Service*  
PAM SERVICE, President  
Bloomington Common Council

SIGNED and APPROVED by me upon this 7<sup>th</sup> day of April, 1988.

*Tomilea Allison*  
TOMILEA ALLISON, Mayor  
City of Bloomington

ATTEST:

*Patricia Williams*  
PATRICIA WILLIAMS, City Clerk

#### SYNOPSIS

This Resolution, co-sponsored by Councilmembers Service and Gardner, requests that Fell Iron and Metal, 503 North Rogers Street, be included in the Consent Decree, and that all costs for the cleanup of PCB contaminated materials at Fell Iron be retroactively assumed through the Consent Decree mechanism. This Resolution further requests that Westinghouse explain the reasoning behind its refusal to add the Fell Iron site to the Consent Decree.

4/11/88 signed copies:

Rep. McCloskey  
Rep. Hamilton  
EPA  
County Comm. Leg  
Westinghouse  
Joseph Karagannis  
Legal  
Fell Iron (David Simon)  
Steve Coach (MCBd of Health)  
Jeff Gardner  
USB