

Tort and regulatory risk



Running head: TORT AND REGULATORY RISK
Recognizing and Minimizing Tort and Regulatory Risk Plan
The University of Phoenix
To create a plan for Alumina Inc. and other companies to recognize and minimize tort and regulatory risks will take a team to do. Alumina Inc. face legal issues because of events caused by compliance and lack of leadership. In this plan Alumina Inc.

will be able to prevent, detect, a correct risks the company may come across. Identifying regulatory risks When looking at regulatory risks, risks are best viewed in the light of a parent/child relationship, with the company being the parent, and the products and services being the child. When the child does a wrong and the wrong causes harm to another, resulting in monetary compensation being necessary, the child is not the one held accountable. It is the parent that is made responsible. If the child is a bully and beats another child causing physical and mental harm, the parent is held accountable for the unruly child. Alumina Inc being the parent is to be held accountable for its high level of PAH (the child) found in the water. According to Jennings (2006), ??? Tort is an interference with someone or with someone??™s property that results in injury to that person or to that person??™s property??? (p. 367).

Tort explains a legal injury and who is held liable for causing this injury. Alumina Inc., is an aluminum company worth four billion dollars and is operates in eight countries. Alumina has been following guidelines set by the Environmental Protection Agency since existence. But five years ago something changed.

Below is a chart of the legal issues as well as principles Alumina Inc. is up against:| Issues | Principles || 11 million gallon crude oil spill | Oil Pollution Act Violation || PAH concentration above prescribed limit | EPA Act Violation || Increased traffic poisons water and PAH poses a danger to | EPA/ Clean Water Act Violation || animal, aquatic, and human life. | || Alleged contamination of water | Clean Water Act Violation || Pulling of audit | Freedom of Information Act Violation || Consumption of contaminated water | Safe Drinking Water Act Violation | Preventive and Detective Measures

When a company comes under scrutiny the first department that will be under siege are the leaders. Leaders and executives need to all be on one accord for Alumina Inc. to continue to make a profit. The lack in leadership or the lack in leaders involvement can lead to defamation and negligence. Leadership is the brains of the operation and if the brain is not operating correctly than the body cannot function but in Alumina Inc.

case the company lost focus, which could lead to strict tort or violation of EPA regulations. For the company to function leadership need to have a clear objective and goal for the company. Alumina can conduct test as well as use data to keep track of business and evaluate areas to make sure EPA regulations are being adhered to. This will allow Alumina Inc. to know what is going on, what needs to be completed, and the area that needs focus.

This will improve performance allowing Alumina facilities to be injury free. Along with test and data community awareness and outreach will be initiated to open up the lines of communication and so everyone is in the know. Purpose driven disciplined leaders are needed to detect and prevent risks for Alumina Inc.

to stay in business. Corrective Measures The regulatory risk that Alumina Inc. face can be corrected with current legislation such as the Federal Water Pollution Act of 1972. According to Jennings (2006), ??? Under this act, two goals were set: (1) swimmable and fishable waters by 1983 and (2) zero discharge of pollutants by 1985??? (p. 467). By Alumina Inc. focusing on legislation the company will not have to worry about pollution in the water. Jennings (2006) states, ??? In 1986, Congress passes the Safe Drinking Water Act, which provides for the EPA to establish national standards for contaminant levels in drinking water??? (p.

468). This way Alumina Inc. can always ensure that PAH levels continue to stay below prescribed levels. Alumina Inc. plants must be in tiptop to even be able to operate. So, according to Jennings (2006), ??? For a plant to be able to discharge wastes into waterways, it must obtain from the EPA a National Pollution Discharge Elimination System (NPDES) permit. Obtaining a permit is a complicated process that requires EPA approval but also state approval, public hearings, and an opportunity for the discharge proposes to release??? (467). This way public will know that Alumina Inc.

is in no way polluting or discharging pollutants because the company went through the process of receiving this permit. It will help build up trust with the public and give the company a good look. Obtaining this permit with help Alumina Inc.

correct risks so no more traffic poisoning water and PAH will no longer pose a threat to animal, aquatic, and human life. Another risk that will be corrected

is drinking water will not be contaminated. Managing Risk To understand risk Alumina Inc. must understand what risk the company will face.

One major risk Alumina Inc. face is compliance because the company is responsible for following EPA guidelines. If and when these EPA guidelines are not followed and events happen that are against compliance the company will face legal issues.

Alumina Inc. risk is facing legal issues when something happens that is against compliance. Legal cases for companies are not short or inexpensive and no company will want to have to worry about lawsuits.

For Alumina Inc. to continue to operate and stay open another risk is liability. To address these risks, certain steps need to be taken.

To manage these risks the first step is to identify hazards inside and outside the company. Since, EPA laws way heavily on the company being able to operate conducting monthly test to make sure the company is up to standards. Checking PAH levels to keep them low is important because high PAH is a major hazard. Secondly, having high PAH levels have negative affects on people. As a company Alumina Inc. need to know how these people will be affected and ensure the people that everything is fine because Alumina Inc. will not be out of compliance. It's like people don't smoke around people with asthma because secondhand smoke can trigger an attack.

But Alumina will keep water and air clean so nothing happens negatively to the public. Finally, with knowing how the public can be affected it is Alumina

Inc. responsibility to make sure precautions are put in place to prevent the worse from happening. Using a less hazardous chemical is a major move for Alumina Inc. as well as builds barricades to keep the public away from chemicals and the facilities. If someone has come in contact with hazardous chemicals washing stations should be readily available to help remove the materials.

Common Torts & ADR According to Jennings (2006), ??? There are three types of tort liability: intentional torts, negligence, and strict tort liability. Under the intentional tort standard, the party intended to commit the act. Under negligence, the party may have been careless or may not have thought carefully through his or her actions, but the actions were not done with the intent to cause harm. Strict tort liability is a form of product liability??? (p. 368, 369). The charge against Alumina Inc. is that carcinogenic discharge allegedly contaminated Lake Dira, contributed to a woman??™s daughter Leukemia and she wants something done about it because treating Leukemia is expensive. This charge would be under strict tort liability because if this charge is true a federal regulation was broken and when making products, products chemicals were released which caused bodily harm. Alumina Inc. does not want a long drawn out trial so the best option would be mediation. Bringing in a neutral third party to help both sides come up with an agreement or resolution, the mediator is not forcing any judgment. This will cause the company less money and keep the public out because mediation is confidential.

Conclusion The simulation states, “Environmental regulation is perhaps the most stringent area of government’s regulation of business. The government imposes immense technology investment demands on industry for regulatory compliance. However, the penalty for a single act of recklessness can be far greater” (University of Phoenix, 2010, p. 2).

Alumina Inc. need to follow the plan that identified regulatory risks and tort liability as well as ways to prevent, detect, correct, and manage the risk the company face.

If the plan is followed to the letter Alumina Inc. will not have to worry about any lawsuits or not meeting regulation standards. References

Jennings, M. (2006). *Business: Its legal, ethical, and global environment* (7th ed.).

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Retrieved from University of Phoenix, Simulation, LAW531” Business Law course website.