How Companies Inadvertently Destroy Shareholder Value During Deals

...and what can be done about it?

Presented to USAEE
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Topics

- EHS issues in Energy Deals
- Destroying Value and Creating Value
- Remote Sensing®
- The Three Buckets℠
EHS Issues in Deals

Brief History

- **1960s** – Environmentalism launched with Rachel Carson’s “Silent Spring”
- **1970s** – The first Earth Day and Love Canal becomes known
- **1980s** – Buyers avoid getting the liabilities with the assets, largely CERCLA-driven (Superfund)
- **1990s** – Sellers seek to understand their liabilities as a defense against buyer’s DD
- **2000s** – Use DD as a proactive strategy to obtain competitive advantage and create value
EHS Issues in Deals
What are Today’s EHS Drivers?

- Operations Excellence / Process Safety
- Climate Change
- REACH in Europe
  (Registration, Evaluation, Authorization and Restriction of Chemicals)
As pets... how can we reduce our carbon footprint?

Easy...

Stay out of the fireplace.
EHS Issues in Deals

Importance

- These issues typically represent 5% to 30% of selling price in energy deals

- Usually among the Top 3 issues to negotiate during a transaction

- Often the longest section of the Purchase and Sale Agreement

- Most Deal Leaders are ill-equipped to negotiate these issues well
Common Mistakes
Lead to Value Creating Opportunities

- Deal Leaders who don’t understand the EHS issues facing the business
- Failure to understand the difference between Operational Issues and Transactional Issues
- EHS Advisors who are technocrats and are operating in functional silos
- Taking a narrow view of EHS
Stages of EHS Activities in Deals

- Data Room Opens
- Remote Sensing® Used in Gaining Negotiating Leverage
- Signed Agreement
  - Transition Planning
  - Claims Planning
- Closing
  - Transition Implementation
  - Claims Management
Remote Sensing®
What is it?

- Identify major risks and liabilities and other key information about the target company before the Data Room opens

- Value is created by generating actionable intelligence

- Performed without the knowledge of the target

- Key is to know where to look and what to ask for
Remote Sensing® is used to assist Deal Leaders to credibly communicate EHS issues with the Board when the following situations arise:

- In advance of large corporate acquisitions
- Deals involving JV partners and the partner is concerned about confidentiality
- Need for confidentiality within the acquiring organization.
Three Buckets
Each Can Dramatically Impact Value
Key Take Away

For Energy Deals, EHS issues can be a strategic weapon for companies who recognize the value of:

- Remote Sensing®
- Three Buckets℠
Pilko & Associates

Business Driven EHS Advisors to Executives & Boards

- Management Consultants specializing in EHS matters in the Chemical and Energy Sectors
- Consultants have an average of 27 years experience
- Advisor to Boards and Senior Management
- Specialize in three major practice areas:
  - Large transactions, advising on $425+ billion in transactions in 48 countries
  - Governance and Board Issues
- Industry leader in strategic positioning of EHS matters in Acquisitions and Divestitures
- Organized 23 Client Roundtables since 2000 to benchmark Best Practices in global chemical and energy transactions
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