

John Therriault - PCB 07-95 public comment

From: Carol Webb
To: Therriault, John
Date: 6/2/2010 3:08 PM
Subject: PCB 07-95 public comment

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2 ORIGINAL

>>> "ART" <arthurclark@aetenvironmental.com> 6/2/2010 2:47 PM >>>

From: ART [mailto:arthurclark@aetenvironmental.com]
Sent: Tuesday, June 01, 2010 10:55 AM
To: 'David S. O'Neill'
Subject: FW: Settlement

Mike

What should we do?

This dispute has been going on for more than five years stemming from an incident more than seven years ago.

An unused acidic material was shipped to Illinois for use as an oil well treatment.

The Illinois EPA runs a materials exchange which has the same material available for reuse.

The shipper was Luxury Wheels and the consignee was Kincaid P & P.

Since the generator released it for continued or reuse, it was not a waste.

It was used to treat oil wells, which are not regulated by the EPA.

The material was used and handled as a product.

Originally Kincaid P&P and USA Coal were also charged.

Kincaid P&P personnel were involved.

Questions of Fact:

Why would the workers claim to have put the acid down the production well tubing knowing that that would be impossible due to check valves? They knew to put the acid into the casing and follow it with 1000 gallons water to clean the well bore and formation. Since the tubing is full of fluid, has a check valve on the bottom, one cannot put 1 gallon much less 25 gallons down the tubing, it is physically impossible.

Why would the workers claim to have put 280 gallons of the acid down the Galloway #1 gas injection well when that well had 750 psi gas pressure on it and any attempt to do such an insane thing would have resulted in acid spraying all over the place, not a pretty site.

There are too many unanswered questions.

Why did the USEPA drop the case after extensive investigations? Why did Cooke continue after the USEPA

dropped the case? Why would the workers confess to doing something on their own which was not authorized, possibly illegal, and yet no charges?

Mike Cooke is the answer. He was made to look like a fool throughout this investigation and he was not happy, and was subsequently moved to Homeland Security out of EPA.

The material in question was uniquely suitable for oil well treatments, having a strong acidic nature, containing nitric and phosphoric acids along with glycolic acid. This combination was thought to clean the oily face of the well through oxidation and through acidic destruction of the underlying limestone formation allowing for the release of the flow inhibiting oily coating. In fact we feel that so enhancement of the production occurred, therefore at least some of the acid must have been used as expected.

When the acid material was no longer to be used it was then declared waste by Kincaid P&P as the generator, and shipped to SET in TX for disposal. The generator made the decision to dispose of the material.

So Kincaid P&P with Kincaid P&P employees, used a material to treat some oil wells, the material was then pumped from the wells as produced waters, handled and disposed of correctly, not a hint of any environmental damage in any manner. There was simply a responsible reuse (continued use) of an acid material uniquely suited for treatment of oil wells.

An example which illustrates the situation is: a business has a drum of HCl, it has no further use for the material, arranges for the disposal of the material, subsequently a second business has a use for the material, contacts the original business which simply removes the drum from the disposal group and gives it to the second company for use, reuse, continued use etc. It does not matter whether at one time the HCl was slated for disposal, was waste. The fact that the generator reclassified the material and gave it for use makes the material not a waste. This is and was always the law. The generator can release his material for use, reuse, etc. The onus is on the generator to validate the use vs. disposal of the material, the cradle to grave idea.

One note is that years ago when Lori and I talked to the IEPA, they really had no idea as to the reuse (continued use) of hazardous material, and no idea that all kinds of hazardous materials are routinely used to treat oil wells. They were reacting to Mike Cooke's pressures.

The dog and pony show with the two workers telling where they used the acid is pure drama. As I mentioned, their statements are fabrications, as evidenced by especially the Galloway #1 where years later when Mr. Miloncus took over operating the wells, he had to "blow down" the well for weeks due to the gas pressure still on the well. The fact that flow lines full of produced oil and water cannot take a gallon much less 25 gallons, the fact that the piping found was set up for casing injection, not tubing and so many more. And why if two Kincaid employees did something wrong on their own, why no charges, not a thing?

Luxury Wheels was under investigation for illegal discharge to the local POTW, this material was simply in the wrong place at the wrong time. If there was no ongoing investigation, the use, reuse, continued use, would have been simply that, but with the ongoing investigation, we got roped in and the agent Cooke was ignorant of the use, reuse, continued use regulations and treatment of oil well in general.

Additionally there was confusion since the prepared bath (the 2000-3000 gallons), and the proprietary ingredient were call the same name, as is common in the plating industry. Alumetch G is a glycolic acid solution, the Alumetch G bath is nitric acid, phosphoric acid plus Alumetch G, thus the confusion. I have again looked at the volumes of paperwork, literally file drawers full, and still the generator gave the unused material for reuse.

And if not for the botched investigation by Mike Cooke, (a 42 count felony incitement settled to one felony, lying on discharge form and one misdemeanor of barely exceeding discharge limits for Ni maybe 10% over permit limit, once), there would have never been any problem with the continued use of an unused material to treat non EPA regulated oil wells.

Let us revisit the possibility of reaching agreement, the time is right, the dispute is cold, let us put this to rest. Finally there are so many questions of material fact that we have not resolved, and may be impossible to find the witnesses at this date that we would suggest that you revisit our previous settlement offer and let us get this done.

AET is a broker, and EOR is and oil well operator, neither shipped nor received any waste, or hazardous material in the state of Illinois. That is simply the fact, check the paper work.

No hazardous waste was shipped to Illinois by Luxury Wheels, they shipped it as a material, unused acid solution.

Let us finish this
Art