

ILLINOIS POLLUTION CONTROL BOARD  
July 12, 1979

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 79-19  
 )  
 JACK CHASE, d/b/a ABCOA THINNERS, )  
 and MICHAEL CHASE, )  
 )  
 Respondents. )

MR. BRIAN E. REYNOLDS, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. JACK D. CHASE AND MR. MICHAEL CHASE APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed January 31, 1979 by the Environmental Protection Agency (Agency) against Respondent Jack Chase d/b/a Abcoa Thinners (Resp.), and Michael Chase. The complaint charges a violation of Section 21(f) of the Environmental Protection Act (Act) in connection with the transportation and disposal of about seventy-five barrels of ink waste in a bean field on or about September 23, 1978. A hearing was held in Belleville, St. Clair County, on May 2, 1979. Respondents appeared pro se and Mr. Jack Chase indicated that they were willing to proceed without an attorney (R. 4, 8). A competitor of Abcoa Thinners, a Mr. Haney, voluntarily left the hearing after Mr. Jack Chase objected to his presence (R. 5). The Hearing Officer did not order him to leave. No other members of the public attended (R. 62).

Mr. Kenneth G. Mensing, Manager of the Southern Region of the Division of Land Pollution Control and Mr. Patrick McCarthy, an Agency inspector, testified concerning an inspection made October 23, 1978 pursuant to a call from the St. Clair County sheriff (R. 15, 36; Ex. 3-7). They observed an area fifty to sixty feet square covered with barrels in the back corner of a very rural and secluded bean field. A vehicle had driven along the eastern edge of the field to the corner and then swung out, maneuvered and backed into the corner where the barrels were dumped, damaging crops in the process (R. 18). The barrels had been randomly and haphazardly dumped. Some were upright, while others were on their sides or tilted. Some of the barrels had leaked and spilled and some continued to leak. There were different colors and thick-

nesses and a volatile odor which the witnesses associated with the paint industry (R. 19, 50; Comp. Ex. 4). Laboratory analysis of the spilled materials from the ground was done by the Agency laboratories in Springfield (R. 38; Ex. 7). Some of the constituents identified were flammable or mildly toxic solvents, including butyl acetate, ethyl hexanoic acid (sic), ethyltoluene, toluene and xylene. The pigments were not analyzed, but are often toxic (R. 35; Ex. 7).

Mr. Jack Chase was called as an Agency witness, pursuant to Procedural Rule 325 (R. 8). Mr. Chase is a self-employed chemical waste hauler who has a warehouse on 15th Street in East St. Louis (R. 9, 27). He has several employees, including his son, Michael (R. 11). He hauls one load every three months from Orchard Corporation of America (R. 10). In October 1978 Abcoa hauled the seventy-five, fifty-five gallon barrels containing ink solids from Orchard and disposed of them on the farm. Mr. Chase took full responsibility for that act but would make no comment as to why it was done (R. 11, 12).

Respondent's son, Michael Chase, is the Abcoa warehouse foreman (R. 45, 48). Approximately one month before the discovery of the barrels he picked them up at Orchard Corporation and went from there to the warehouse, and from there out to the farm where he dumped the barrels (R. 46). One of the men who worked with him told him that one of the man's relatives owned the farm. The man was going to notify the owners that they were going to leave barrels there for a month or two until there was room in the warehouse. Some of the barrels were leaking. However, Mr. Chase didn't dispose of the barrels because they were leaking but because he needed room (R. 47).

The farm is owned by a Mr. Kelling who, because he was in Louisiana, did not attend the hearing (R. 62). The farm is located in Stuckey Township, about eight to ten miles south and east of the warehouse (R. 51, 54; Ex. 9). It is not a permitted waste disposal site (R. 44).

The testimony includes complete admissions by both Respondents. The Board rejects the explanation offered by Michael Chase. The barrels were dumped in a secluded area eight to ten miles from the warehouse. Respondents have produced no witnesses to testify that there was an agreement to use the farm for storage. The fact that crops were damaged indicates that the dumping was done without regard for the owner's rights. It seems unlikely that Abcoa intended to return for the barrels considering the manner in which they were stacked haphazardly. It would have been easier to reload them if they were stacked neatly in a small area. The Board therefore finds that the barrels were transported to and disposed of at an unpermitted site in violation of Section 21(f) of the Act.

On November 21, 1978 Mr. Jack Chase, his son and another employee removed the barrels with Agency supervision (R. 28, 40, 43; Ex. 5). Part of the field wasn't harvested or cultivated near the barrels (R. 41, 43; Ex. 8). Mr. Chase promised to remove contaminated soil, but had not yet done so because of the weather (R. 32, 56). Mr. Chase stated that he had made a partial payment to the farmer (R. 56).

In assessing a penalty, the Board will consider Section 33(c). Without a doubt it is injurious to the public welfare to scatter barrels of toxic, flammable ink around the countryside. Since this is a case of unpermitted dumping, no question is presented concerning suitability of the site. Although the Board can find no social and economic value in unpermitted dumping, it is noted that Respondents are in the recycling business. The Board recognizes the value of recycling. However, Respondents were not recycling the barrels in question.

Mr. Chase complained that he was given adverse publicity in the newspapers before the hearing. After that, no one in the St. Louis area wanted to do business with him. He had lost several accounts because of the incident and Abcoa Thinners was filing bankruptcy (R. 54-56). The Agency has presented no evidence to contradict the assertion that the company is bankrupt, but points out in its closing argument that Abcoa Thinners is a sole proprietorship which cannot take bankruptcy separately from its owner (R. 60).

This violation represents a serious, deliberate violation of the Act. However, since Respondents have cooperated with the Agency and taken steps to repair the damage, the Board will assess a penalty of \$800. The Board finds that this is necessary to aid enforcement of the Act.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

#### ORDER

It is the Order of the Pollution Control Board that:

1. Respondents Jack Chase d/b/a Abcoa Thinners and Michael Chase are in violation of Section 21(f) of the Act.
2. Within thirty days of the date of this Order, Respondents shall, in cooperation with the Agency and property owner, strip the contaminated soil from the field and haul it to a permitted landfill.

3. Respondents shall cease and desist from violations of the Environmental Protection Act.
4. Respondents shall, by certified check or money order payable to the State of Illinois, pay a joint and several penalty of \$800 which is to be sent to:

State of Illinois  
Fiscal Services Division  
Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

Mr. Jacob D. Dumelle and Mr. Nels Werner dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 12<sup>th</sup> day of July, 1979 by a vote of 3-2.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board