

John Therriault - please docket in COOL for PCB 07-95

From: Carol Webb
To: Therriault, John
Date: 2/17/2010 3:10 PM
Subject: please docket in COOL for PCB 07-95

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>>> "ART" <arthurclark@aetenvironmental.com> 2/17/2010 2:44 PM >>>

From: ART [mailto:arthurclark@aetenvironmental.com]
Sent: Wednesday, February 17, 2010 10:57 AM
To: 'David S. O'Neill'
Subject: Let us put this to bed Settlement

Mike

Once again I am proposing that you and I revisit the settlement of this case. The main dispute is whether the material was waste. Since under Federal and Illinois law the generator can at any time make the determination the fact that the material was released as a product makes it not a waste. In this case the generator removed the material from the waste category, and allowed it to be used as a product to treat oil wells. Thus when it was shipped to Illinois the material was not waste, the only history relevant is the determination by the generator that the material was not waste, from that point on the material was treated as material being handled, stored and used as a valuable material. The use of the material was in oil wells to enhance production, a normal procedure. In fact the material was indeed unique in its composition for the wells in Illinois, in the limestone formation. The material was used over a period of nearly a year; that is judicial use.

Neither the USEPA nor the ILEPA regulate treatment of oil wells by law. Acid treatment of oil wells is common, also in Illinois. The total fallacious attempt to have the chromium content change the material is just that fallacious. Chrome solutions are used throughout the oil and gas industry for corrosion prevention, etc. Additionally the origin of the chrome is not known, but if it was from an RCRA empty tank, or from the commercial acids, does not change the material to a waste, it was a product.

I understand the problem for persons not knowledgeable about the oil and gas industry and production, work-over or treatment procedures of wells to be shocked. However many much more shocking procedures are done every day. Go watch a well completion where 5000 to 20,000 gallons of acid, sand and chemicals are injected into the new well to stimulate the production. This is a fact that very hazardous chemicals are injected into oil or gas well every day, and of the more than 40,000 wells in Illinois thousands receive acid stimulation and chemical cleaning every day.

Nobody in this dispute ever tried to use the material illegally. All the paperwork was in the open. Only an ill informed, chagrined CID agent pushed and we believe intimidated persons illegally, for his own edification. He did not know the law on removal of material from a waste designation, the exemption of RCRA empty tanks, the use of corrosive materials to treat oil wells, etc. He rather had personal agenda and used the Illinois EPA and others to his end.

So let us revisit the path to settlement.

Arthur Clark