

ILLINOIS POLLUTION CONTROL BOARD  
December 3, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 80-195  
 )  
CORE-LUBE, INC., an Indiana )  
corporation; H/L DISPOSAL CO., )  
an Illinois corporation; and )  
DUCKETT DISPOSAL, INC., an )  
Illinois corporation, )  
 )  
Respondents. )

MR. THOMAS CHIOLA, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

KIRK, WOLGAMOT & KURTH, ATTORNEYS AT LAW (MR. JOHN P. WOLGAMOT, OF COUNSEL), APPEARED ON BEHALF OF RESPONDENT CORE-LUBE, INC.

SEBAT, SWANSON, BANKS, LESSEN & GARMON, ATTORNEYS AT LAW (MR. LARRY LESSEN, OF COUNSEL), APPEARED ON BEHALF OF RESPONDENTS H/L DISPOSAL COMPANY AND DUCKETT DISPOSAL, INC.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the October 20, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, on June 5, 1980, the delivery by Core-Lube, Inc. ("Core-Lube") to Duckett Disposal, Inc. ("Duckett") of a load of paraformaldehyde solids without concurrently delivering a properly completed manifest in violation of Rule 301 of Chapter 9: Special Waste Hauling Regulations ("Chapter 9").

Count II alleged that, on June 5, 1980, Respondents Core-Lube, Duckett, and H/L Disposal Company ("H/L Disposal") allowed the emission of fumes from paraformaldehyde materials to physically affect some persons at H/L Disposal site No. 2 in violation of Rule 102 of Chapter 2: Air Pollution Control Regulations ("Chapter 2") and Section 9(a) of the Illinois Environmental Protection Act ("Act").

Count III alleged that Duckett delivered the paraformaldehyde solids to the H/L Disposal site No. 2 at a time when H/L Disposal

did not possess the necessary supplemental permit from the Agency for the acceptance of such special wastes in violation of Rule 302(B) of Chapter 9 and Section 29(e) of the Act.

Count IV alleged that, on June 5, 1980, "H/L Disposal accepted and disposed of at H/L Disposal site #2 a load containing approximately 200-500 pounds of paraformaldehyde solids" without possessing the requisite supplemental permit from the Agency in violation of Rule 310(b) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(d) of the Act.

Count V alleged that, on June 5, 1980, Respondent H/L Disposal accepted the load of paraformaldehyde solids from Duckett "without concurrently receiving a signed manifest" in violation of Rule 302(A) of Chapter 9.

A hearing was held on June 24, 1981. The parties filed a Stipulation and Proposal for Settlement on July 23, 1981.

Core-Lube, Inc., which is wholly owned by C. L. Industries, Inc., an Indiana corporation, owns and operates a plant located on Maplegrove Road in Georgetown, Vermilion County, Illinois which manufactures foundry resins and catalysts.

Duckett Disposal, Inc., whose President and sole owner is Mr. Gary Duckett, owns and operates a waste hauling business which is located at 1600 Tilton Road in Danville, Vermilion County, Illinois.

H/L Disposal Company operates a solid waste management site which is located on 16 acres on Brickyard Road in Danville, Vermilion County, Illinois and handles municipal refuse and wastes pursuant to Agency Permit No. 1972-20. (See: Exhibit A).

The parties have stipulated that on June 5, 1980, following an equipment failure at the Core-Lube plant, an agitator malfunction in the manufacturing process resulted in the formation of about 200-500 pounds of solid paraformaldehyde. (Stip. 3). Subsequently, "Core-Lube mixed the paraformaldehyde with other debris, including wood, paper and dirt, all of which was placed in a roll-off dumpster on the Core-Lube property". (Stip. 4). This debris was then transported by Mr. Gary Duckett of Duckett Disposal, Inc. to the H/L Disposal site No. 2. (Stip. 4).

The Agency has determined that the solid paraformaldehyde is a "hazardous waste" according to applicable Agency criteria. (See: Exhibits B & C). Although the Respondents "do not necessarily agree with this determination" by the Agency, they "have chosen not to challenge the Agency determination" for settlement purposes. (Stip. 4). However, all parties agree that the paraformaldehyde is "a special waste" under Rule 103 of the Board's Special Waste Hauling Regulations. (Stip. 4).

Core-Lube has admitted that it did not deliver a properly completed manifest "to Mr. Gary Duckett of Duckett Disposal, Inc.

who picked up the load which included the paraformaldehyde". (Stip. 6).

However, Core-Lube has indicated that it could present testimony to show that: (1) the problem was caused by "a one time occurrence due to equipment failure"; (2) its "employees who were used to working around the paraformaldehyde did not consider the substance to be hazardous or dangerous" when it was loaded into the roll-off container; (3) prior to the loading, a company official "made a good faith attempt to determine whether the material was hazardous by checking the listings in the May 19, 1980 Federal Register", and (4) the Company has fully cooperated with the Agency and "offered its assistance to dispose of the paraformaldehyde". (Stip. 6-7).

On the other hand, the Agency has noted that, "under the Resource Conservation and Recovery Act definition of hazardous materials, paraformaldehyde would be considered hazardous under 40 CFR 261.21 and 261.23. (See Exhibit C)".

Duckett has admitted that it "did not receive a manifest from Core-Lube for the load" which included the paraformaldehyde and "that it had no knowledge whether the H/L site to which it took the load which included the paraformaldehyde had a permit to accept such special waste". (Stip. 7). However, Duckett has stated that it could present testimony to demonstrate that it routinely hauled ordinary debris from the Core-Lube facility and had "no knowledge" that this particular load contained a special or hazardous waste. (Stip. 8).

H/L Disposal has admitted "that it did not receive a supplemental permit from the Agency to accept the paraformaldehyde at its site...nor did it receive a manifest". (Stip. 8).

However, H/L Disposal has indicated that it could present testimony to show that: (1) it had "no knowledge that the load received from Duckett contained any special or hazardous waste"; (2) once it suspected there was a problem with the load due to fumes, "it immediately contacted both the Agency and the Vermilion County Emergency Service and Disaster Agency" for advice on how to handle matters; (3) it followed the Agency's advice and promptly covered and buried the load; (4) "there has been no request that H/L remove the material", and (5) the three individuals who were temporarily affected by the fumes when the load was deposited at the site did not require any medical treatment and have not suffered any ill effects or continuing symptoms. (Stip. 8-9).

The proposed settlement agreement provides that: (1) each Respondent will take specified steps to avoid any similar problems in the future; (2) H/L Disposal shall be responsible for the portion of its site where the paraformaldehyde is buried (i.e., to monitor that portion to insure that no environmental problems occur at some future date), and (3) Core-Lube agrees to pay a stipulated penalty of \$1,000.00 . (Stip. 10-11).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondents, Core-Lube, Inc., an Indiana corporation, H/L Disposal Company, an Illinois corporation, and Duckett Disposal, Inc., an Illinois corporation, have violated Rule 102 of Chapter 2: Air Pollution Control Regulations; Rule 310(b) of Chapter 7: Solid Waste Regulations; and Rules 301, 302(A), and 302(B) of Chapter 9: Special Waste Hauling Regulations and Sections 9(a), 21(d), and 21(e) of the Illinois Environmental Protection Act. Core-Lube, Inc. will be ordered to pay the stipulated penalty of \$1,000.00 .

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

ORDER

It is the Order of the Illinois Pollution Control Board that:


1. The Respondents, Core-Lube, Inc., an Indiana corporation, H/L Disposal Company, an Illinois corporation, and Duckett Disposal, Inc., an Illinois corporation, have violated Rule 102 of Chapter 2: Air Pollution Control Regulations; Rule 310(b) of Chapter 7: Solid Waste Regulations; and Rules 301, 302(A), and 302(B) of Chapter 9: Special Waste Hauling Regulations, and Sections 9(a), 21(d), and 21(e) of the Illinois Environmental Protection Act.

2. Within 45 days of the date of this Order, Respondent Core-Lube, Inc. shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000.00 which is to be sent to:

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

3. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on July 23, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 3<sup>rd</sup> day of December, 1981 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board