

On the basis of the record of the administrative hearing in the matter of Chem-Fab Corporation held on December 13, 1979, the Commission makes the findings and conclusions, and enters the order as set out on the attached Findings of Fact, Conclusions of Law, and Order, which is incorporated herein by reference.

COMMISSIONERS

RS
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]

SUBMITTED BY: Paul N. Means, Eng.

DATE PASSED: 1/25/80

BEFORE THE ARKANSAS COMMISSION ON POLLUTION CONTROL
AND ECOLOGY

IN THE MATTER OF
CHEM-FAB CORPORATION

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER

A hearing on this matter was held before the Commission's representative, Ken Kirkpatrick, on December 13, 1979, in the Commission Room, Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas. Chem-Fab Corporation appeared by its president, Ronald Regan. The Department was represented by Paul N. Means, manager of the Enforcement Branch. Based on the record of this hearing, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On or before November 10, 1979, Chem-Fab Corporation, by its employees, disposed of liquid chemical wastes at the Garland County Landfill.
2. The Garland County Landfill is not permitted to receive liquid or hazardous wastes.
3. Said wastes had a pH of greater than 13, and pose a hazard to human health and the environment.
4. Chem-Fab Corporation has disposed of hazardous wastes at a non-permitted facility.
5. The waste presents a continuing hazard of contamination of underground and surface water.

CONCLUSION OF LAW

Chem-Fab Corporation is guilty of violating the Arkansas Hazardous Waste Management Act, Ark. Stat. Ann. §82-4212(c).

ORDER

IT IS THEREFORE ORDERED that Chem-Fab Corporation remove all of the hazardous waste material and any contaminated soil from the Garland County Landfill. The waste shall then be disposed of in a permitted hazardous waste facility, or in the alternative, the waste shall be neutralized and fixed. If Chem-Fab chooses to neutralize and fix the waste, Chem-Fab shall demonstrate by appropriate tests that the material is no longer hazardous. It is further ordered that Chem-Fab Corporation complete the removal of the waste material within thirty (30) days of the receipt of this order.

IT IS SO ORDERED.

Arkansas Commission on
Pollution Control and Ecology

Jim Brooks, Chairman

Date: _____



STATE OF ARKANSAS
DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY
8001 NATIONAL DRIVE
LITTLE ROCK, ARKANSAS 72209

501-371-1701 GEN OFFICE
501-371-1701 AIR DIVISION
501-371-1701 SOLID WASTE DIV
501-371-1701 WATER DIV
501-371-2130 BUS OFFICE

M E M O R A N D U M

TO: All Commission Members
FROM: Paul Means *PNM*
DATE: January 2, 1980
SUBJECT: ADMINISTRATIVE HEARING

Pursuant to Act 406 of 1979, an administrative hearing was held in the matter of Chem-Fab Corporation of Hot Springs, on December 13, 1979.

Ken Kirkpatrick served as the hearing officer and the record was made before him. Attached is a copy of the testimony and exhibits from the hearing. Also attached is a proposed order to be issued by the Commission. This order was prepared by the staff and reflects their recommendations.

This will come before the Commission for consideration at the next meeting, and this material is being provided so that you may review it before the meeting.

PM/cj

Enclosures

IN THE MATTER OF CHEM-FAB CORPORATION.

The purpose of this hearing is to make a record of evidence and testimony in regard to this matter for submission to the Commission on Pollution Control and Ecology for their consideration. Ken Kirckpatrick, the Associate Director, is serving as the Commission's representative for the purpose of making a record which we are recording and will have typed up.

My name is Paul Means and I am Chief of the Enforcement Branch. I will present the evidence on behalf of the Department.

MEANS: Is anyone from Chem-Fab Corporation here?

REGAN: Yes.

MEANS: Briefly, this hearing will be conducted along the lines of a usual administrative procedure hearing. The Department will present its evidence in the form of testimony and you (Mr. Regan) will have the opportunity to ask any questions and upon the conclusion of that you will have the opportunity to make a statement or whatever you feel necessary.

Did you receive a copy of the Order Notice of Hearing?

REGAN: Yes.

MEANS: We will make that part of the record as the Department's Exhibit A.

At this time, if anybody intends to make a statement or testify please stand and let Mr. Kirkpatrick, the Commission's Representative, swear you in.

MEANS: The first person to testify will be Larry Cummings.

MEANS: Would you please state your name.

CUMMINGS: Larry Cummings.

MEANS: What is your occupation:

CUMMINGS: District Inspector in Hot Springs Region.

MEANS: Are you a Department employee?

CUMMINGS: Right.

MEANS: Did you receive a possible complaint about the Garland County Landfill in November?

CUMMINGS: I did.

MEANS: Do you know the approximate date?

CUMMINGS: It was on a late Tuesday afternoon.

MEANS: November 12.

MEANS: Did you investigate this complaint?

CUMMINGS: The following day.

MEANS: Did anyone from the Department go with you to investigate.

CUMMINGS: They did.

MEANS: Who was that?

CUMMINGS: Lloyd Wolfe and Paul Franklin, two employees of our Department that are assigned to the Solid Waste Division.

MEANS: What did you find at the Garland County Landfill?

CUMMINGS: Upon arriving we got a backhoe and went to the dumping site and at the site we did some excavation down to where the material had been dumped and there we found the evidence.

MEANS: Would you describe the material you found?

CUMMINGS: It was a grayish sludge.

MEANS: Did you take a sample of the material?

CUMMINGS: I did.

MEANS: Was the material contained in anything?

CUMMINGS: No, it was only contained by the surrounding earth and the hole it was in.

MEANS: What method did you use of taking the sample?

CUMMINGS: Reverse lid wide mouth fruit jar right out of the source as the earth was pulled back from the dumping site.

MEANS: Did you send this sample back to the Department labs for analysis?

CUMMINGS: That day, with Mr. Wolfe.

MEANS: (To Regan) Do you have any questions you would like to ask Mr. Cummings?

REGAN: No.

MEANS: Would you state your name for the record please?

WOLFE: Lloyd Wolfe.

MEANS: Where do you reside?

WOLFE: At 3809 Pine Cone Drive, Little Rock.

MEANS: What is your occupation?

WOLFE: I am a Training Specialist for the Solid Waste Management Division of the Department.

MEANS: Did you accompany Mr. Cummings to investigate the Garland County Landfill?

WOLFE: Yes, I met him over there.

MEANS: Did you observe him take a sample of the material?

WOLFE: Yes sir.

MEANS: Did you bring the sample back to Little Rock?

WOLFE: Yes, I brought it back to our Environmental Engineer, Mr. Doice Hughes.

MEANS: Was it then given to the Chemistry Lab?

WOLFE: Yes.

MEANS: (To Regan) Do you have any questions?

REGAN: Not at the moment.

MEANS: Would you state your name please.

JUSTICE: Jay Justice.

MEANS: Where do you reside?

JUSTICE: Route 1, Alexander

MEANS: What is your occupation?

JUSTICE: Chemist.

MEANS: Did you analyze the sample material from the Garland County Landfill?

JUSTICE: I analyzed part of it; I ran pH on it.

MEANS: Would you describe the color and consistency of the sample?

JUSTICE: It looked like a green black cup of mud.

MEANS: Did you test this material for pH.

JUSTICE: Yes, I did.

MEANS: What method did you use?

JUSTICE: Well, it looked so bad I really didn't want to put it on the pH meter so I got some pH paper and used it.

MEANS: What was the pH you measured?

JUSTICE: It was at least 13 because on the pH paper you can't discern, or at least I couldn't, between 13 and 14. So it was at least 13 but could have been higher.

MEANS: Do you recognize this as a copy of the report you prepared?

JUSTICE: Right.

MEANS: Did that reflect your findings on pH.

JUSTICE: Yes, it does.

MEANS: (To Regan) Would you like to see this?

REGAN: Yes I would...no questions.

MEANS: I would like to make that part of the record as Department Exhibit B.

MEANS: Mr. Justice, do you take any special precautions in handling material with a pH of 13 or greater?

JUSTICE: Yes, you would. You wouldn't want to spill it on you because it would likely corrode your skin---eat your skin away.

MEANS: No further questions.

MEANS: Would you state your name please?

DORSEY: Robert Dorsey.

MEANS: Where do you reside?

DORSEY: Route 7, Benton.

MEANS: What is your occupation?

DORSEY: Inspection Engineer with the Department of Pollution Control.

MEANS: Have you discussed the dumping of this material at the Garland County Landfill with representatives of Chem-Fab Corporation.

DORSEY: Yes, I did.

MEANS: Do you recall their names?

DORSEY: Mr. Regan and the Plant Manager, Mr. Smith.

MEANS: What was the subject of your discussion with them?

DORSEY: The type of material and also the fact that this type of material should not have been dumped in the landfill.

MEANS: Did they indicate that they had dumped it there or caused it to be dumped there?

DORSEY: Yes, they did.

MEANS: Have you personally investigated the site of the dumping?

DORSEY: Yes.

MEANS: As an engineer for the Department, what would you recommend doing with the material on the site?

DORSEY: Under the present set-up, remove it from the site and haul it to an authorized disposal site for that type of material.

MEANS: Do you foresee any problems with leaving it where it is?

DORSEY: Yes, I do.

MEANS: Would you elaborate on those briefly?

DORSEY: The main problem would be migration of the material thru underground channels into subsurface or surface water. There is a creek approximately 1/2 mile away which is tributary to the lake in that area. And one feature could be a fish kill.

MEANS: (To Regan) Do you have any questions?

REGAN: No questions.

MEANS: That is all the Department would like to present. If you (Regan) would like to make a statement at this time, you may.

REGAN: One statement we are in the process of preparing is an application to allow us to dump in the Kansas approved area. We must have approval of the Kansas State Health Department to do that. Once that approval is obtained it is our intention to move the material to an approved landfill in Wichita.

? Is there an approved landfill that would accept that material in Arkansas.

? No, there is not at this time.

MEANS: Is there anything further you would like to put on the record?

REGAN: Nothing further.

We will make a written transcript of this tape to be submitted to the Commission when they meet in January, tentatively January 25. The staff also will prepare an order for the Commission to consider with our recommendations on it. At the same time, this will be presented to the Commission along with the record. If you have a proposal that you would like to submit to the Commission, or if you would like to appear at the meeting and make a statement, if you will submit that in writing to us, preferably by January 11 so we can mail it out to them, we will present it then.

That concludes the hearing.

Sample From Garland CO Landfill Dept. 2

STATION # _____ INSPECTOR Wolfe 00028 LOG # 20814

DATE: COLLECTED 79 - 11 - 14 TIME _____ RECEIVED 79 - 11 - 14 - 1430

TEMP: 00020 AIR _____ C 00010 WATER _____ C GAUGE/FLOW _____

% DILUTION	BOTTLE #	INITIAL D.O.	BOTTLE #	FINAL D.O.	DIFF	FACTOR

00095 SPEC COND (K=ROKCL) * 0.001413 R _____ K _____) _____ * K= _____ UMHO
 00940 CHLORIDE: _____ ml sample; _____ ml titrant _____ MG/L
 00410 TOTAL ALKALINITY: _____ ml sample; _____ ml titrant _____ MG/L
 00335 C. O. D. _____ ml titrants: _____ standard _____ blank _____ samp _____ MG/L
 00300 DISSOLVED OXYGEN _____ MG/L 00400 PH 7.13
 00310 B. O. D. _____ MG/L 70300 RESIDUE, FILT. _____ MG/L
 00301 OXYGEN, SAT. _____ % 00530 RESIDUE, NONFILT _____ MG/L
 00076 TURBIDITY _____ NTU 00080 COLOR _____ CPU

 00610 AMMONIA - N _____ MG/L 00625 KJELDAHL - N _____ MG/L
 00615 NITRITE - N _____ MG/L 00665 TOTAL PHOSPHORUS _____ MG/L
 00620 NITRATE - N _____ MG/L 00945 SULFATE _____ MG/L
 00630 NITRITE+NITRATE - N _____ MG/L

 01002 TOTAL ARSENIC _____ UG/L 00927 TOTAL MAGNESIUM _____ MG/L
 01027 TOTAL CADMIUM 1.4 ug/L 01055 TOTAL MANGANESE _____ UG/L
 00916 TOTAL CALCIUM _____ MG/L 71900 TOTAL MERCURY _____ UG/L
 01034 TOTAL CHROMIUM 432 ug/L 00937 TOTAL POTASSIUM _____ MG/L
 01042 TOTAL COPPER 13.9 ug/L 00929 TOTAL SODIUM _____ MG/L
 01045 TOTAL IRON _____ UG/L 01092 TOTAL ZINC 410.7 ug/L
 01051 TOTAL LEAD 35.9 ug/L 00900 TOTAL HARDNESS _____ MG/L

 31810 FECAL COLIFORM _____ /100ML 31591 TOTAL COLIFORM _____ /100ML
 31679 FECAL STREPTOCOCCUS _____ /100ML Total Sulfide ~~0.000~~ 1.64 %

Complaint / Hot Springs / Garland Co / Chem Fab

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IN THE MATTER OF
CHEM-FAB CORPORATION

O R D E R A N D N O T I C E
O F H E A R I N G

The Arkansas Department of Pollution Control and Ecology has determined that there is reason to believe Chem-Fab Corporation, (hereinafter referred to as "Respondent"), is in violation of the Arkansas Hazardous Waste Management Act, Act 406 of 1979. This charge is based on the following facts and allegations.

- (1) Respondent has on or before November 10, 1979, disposed of chemical wastes at the Garland County Landfill.
- (2) Said wastes had a ph of greater than 13, and pose a substantial hazard to human health, can cause substantial injury, and pose a hazard to the environment.
- (3) The Garland County Landfill is not permitted to receive liquid or hazardous wastes.
- (4) Respondent has disposed of hazardous wastes at a non-permitted facility.
- (5) Respondent's actions have created a substantial hazard to human health and the environment.

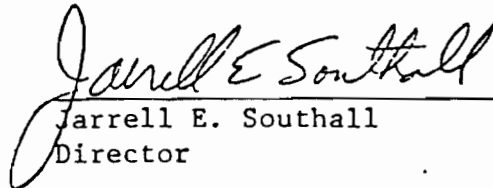
IT IS THEREFORE ORDERED THAT:

- (1) Chem-Fab remove all of the waste material and any contaminated soil from the Garland County Landfill. The waste shall be removed in a manner and placed in containers such that it does not pose a risk of harm to the environment and human health.
- (2) The waste shall then be disposed of in a permitted hazardous waste facility.

OR:

If these corrective measures are not taken, notice is hereby given that a hearing will be held on December 13, 1979, at 9:00 A.M. in the Commission Room, Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas. Chem-Fab Corporation may appear by its authorized agent, may be represented by counsel, and may present witness and other evidence on its behalf in answer to the above allegations and order.

ARKANSAS DEPARTMENT OF POLLUTION
CONTROL AND ECOLOGY


Jarrell E. Southall
Director

DATE: NOVEMBER 28, 1979