

Michael Rabins' Commentary on "Disposing of Toxic Waste"

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Disposing of Toxic Waste

L. Bryan Springer has at least four options, and perhaps some middle ground combinations of the four. Just listing them to start offers a basis of discussion for leading to a personally acceptable course of action for L. Bryan to follow. The options:

1. Do as he is told and nothing else.
2. Do as he is told, but on his own time develop as convincing a documented argument as he can to present to Max Morrison and Max' superiors to convince the company to change its dumping policy.
3. Similar to 2, but to take his arguments outside of the company he is working for; possibilities include appropriate municipal agencies, federal regulatory agencies or the news media.
4. Refuse to do as he is told, citing his personal convictions. He can then hope to be reassigned, or more likely, he can prepare to resign or be fired.

On option 1, L. Bryan must be aware of what laws he may be violating if he decides to follow Max's orders. He must be prepared to personally deal with the consequences of those laws (fine and/or imprisonment) if he is personally indicted for the felony of toxic waste dumping under the terms of the U.S. "Resource Conservation and Recovery Act" (RCRA). Perhaps just as important, he must be conscious of what he personally would be doing to the environment. There is a wealth of literature (and NOVA series T.V. tapes) on such famous toxic waste cases as "Love Canal", "PCB Dumping" and "Asbestos Manufacturing" that could help L. Bryan better understand some of the potential consequences of his following Max' orders without question.

Still in regard to option 1, as a budding engineer L. Bryan should be aware of the first Fundamental Canon in the NSPE Code of Ethics, "Hold paramount the safety,

health and welfare of the public in the performance of their professional duties." Maybe driving a forklift is not yet one of his professional duties, but it is a means for him to get to those duties. Also, the company he is working for is ostensibly involved in engineering related work (it's machine coolant he was asked to dump); and the strictures of the NSPE code of ethics apply equally to companies as to individuals. A company can violate one of the code items only through the actions of its employers. So, in aiming its code of ethics at individuals, the NSPE is clearly also enjoining companies to follow those same guidelines. There is not and cannot be separate codes for individuals and companies to follow.

Option 2 will take a great deal of effort on Bryan's part. He must feel strongly about the issues involved to even contemplate embarking on this course of action. He will need to gather information on the toxicity of the specific chemicals he is dumping and what medical evidence is available about the effects of that toxic waste on the public. This is most effective if put in numerical terms such as the probability of whatever serious consequence is possible per unit level of exposure (for example, probability of the number of serious illnesses per 100,000 people exposed to one part per million in their drinking water). Next he will need to gather information on current applicable laws, and particularly what fines and penalties are at risk. Finally, he will need to present the cost of alternatives available to Max's company other than just outright dumping. That's a lot of work, but if L. Bryan is really disturbed about the situation and still wants to keep his summer job, he may have no other alternative to spending some significant research time in the local library.

If L. Bryan does opt to present this kind of a case he must do it with great tact and diplomacy. He must convince Max that seriously considering alternatives to dumping may be in Max's and the company's best interests. He must somehow convince Max to be his ally in trying to sell the cost of the alternatives to dumping to Max's superiors in the company. The appearance of an end-run by L. Bryan around Max to Max's superiors should be avoided at all costs. Michael Davis has written some pragmatic and effective advice on this subject in his paper "Avoiding the Tragedy of Whistle Blowing".(1)

That brings us to option 3, which is only different from the previous one in that L. Bryan would now be working outside of the company he is employed by (i.e., going public). There are those that make the case that this course of action only makes sense after one has resigned from the company, in other words after there is no longer anything personal (job and income) at stake. This may be a moot point since

once he goes public, it is highly likely that L. Bryan will no longer be employed by his company. In any event there is a fairly extensive literature(2) on whistle blowing, when it is permissible, when it is obligatory, and how one may best be protected against the consequences of whistle blowing.

Option 4 is self-explanatory and needs no further discussion other than to note that it may be personally gratifying but does little to alleviate the basic situation.