Ind. Harbs-RCRA
TAZ/FYI/DEP

2810

it is highly possible that Warner got 2 different statements from CUB on different days.

RECEIVED
JAN 4 1991
LAW DEPARTMENT
T. A. ZALENSKI

RECEIVED
JAN 23 1991
LAW DEPARTMENT
D. E. PAPAJCIK

Filed in Open Court
JAN 16 1991
Robert C. Antich

STATE OF INDIANA)
)
COUNTY OF LAKE) SS:
)
IN THE MATTER OF:)
)
LTV STEEL COMPANY)

WARRANT OF ENTRY,
INSPECTION, AND INVESTIGATION
PURSUANT TO IC 13-7-5-3(a)

2810

TO: The State of Indiana
By and Through a Designated Agent of Its
Department of Environmental Management or by
any Constable, Police Officer, Sheriff,
or Conservator of the Peace Greetings:

WHEREAS, there has been filed with me an affidavit which is attached and incorporated herein by reference, and

WHEREAS, I find probable cause exists to believe that IC 13-7 and/or the rules promulgated thereunder have been violated by LTV Steel Company on premises located at East Chicago, Indiana, and

WHEREAS, I believe that a physical entry on the premises located at 3001 Dickey Road, East Chicago, Indiana by designated agents of the Department of Environmental Management, applicant herein, pursuant to IC 13-7-5-3(a), or by any Constable, Police Officer, Sheriff, or Conservator of the Peace, will materially aid in determining whether and to what extent those statutes and rules thereunder have been violated.

YOU ARE HEREBY AUTHORIZED AND ORDERED, in the name of the State of Indiana, with the necessary and proper assistance, to enter into or upon the following described real property, to wit:

Parcel numbers 31-8-1, 31-8-2, 31-8-4, 31-8-5, 31-8-10, 31-8-11, 31-8-12, 31-9-1, 31-9-2, 31-9-7, 31-10-1 and 31-13-2; T37N, R9W, North Township, Lake County, Indiana,

Commonly known as LTV Steel Company, to search, inspect, sample, photograph, monitor, and investigate such premises for the purpose of ascertaining any violation of IC 13-7 and/or the rules promulgated thereunder, to seize, inspect, sample, copy, and photograph evidence which constitutes, relates to, or is a part of any violation of IC 13-7 and/or the rules promulgated thereunder, and to inspect and photograph any equipment or methods used to generate, treat, store, dispose of, or otherwise handle hazardous waste or any hazardous substance on said property, using all reasonable and necessary tools and methods for the detection of the presence of hazardous or unauthorized waste or any hazardous substance at the site in violation of IC 13-7 and/or the rules promulgated thereunder.

YOU ARE FURTHER ORDERED to commence the entry, inspection, and investigation authorized herein during regular business hours the week of January 14 through January 18, 1991 to conclude the same at a reasonable time thereafter, and to conduct such entry, inspection, and investigation in a reasonable manner.

YOU ARE FURTHER ORDERED to leave a copy of this warrant at the premises at the time of the inspection.

Issued this 16th day of January, 1991, by

T. Edward Page, Magistrate
Judge

Superior Court of Lake County
Court

Executed this 17 day of January, 1991, at the hour of 10:00 a.m. CST

Name

Title

Indiana Department of Environmental Management

Return of Service

TO: _____
Judge

_____
Court

I hereby certify that I have served this Warrant:

1. By delivery of a copy of this Warrant to Richard L. Myers present at the property inspected at the time of inspection on Jan. 17, 1991, ~~1991~~, at 10:00 a.m. CST.

2. By leaving a copy of this Warrant at the property inspected at the time of the inspection on _____, 1991, and by deposit in the U.S. Mail, a copy, postage prepaid, properly addressed to _____ at _____ on _____, 1991.

3. By delivery of a copy of this Warrant to _____ at _____ on _____, 1991, _____ ____.m.

Inspection concluded at _____ ____.m. on _____, 1991.

LIST OF ITEMS SEIZED:

Name

Title

Indiana Department of Environmental Management

Name

Title

LTV Steel Company

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)
)
IN THE MATTER OF:)
)
LTV STEEl COMPANY)

AFFIDAVIT

Mr. Ted F. Warner, being duly sworn upon his oath, deposes and says:

1. I am an Environmental Scientist II, employed by the Office of Solid and Hazardous Waste Management of the Indiana Department of Environmental Management (Department). Part of my duties in that employment include the inspection of hazardous waste handlers, generators, transporters, and treatment, storage, or disposal facilities for the Department.

   I received a Bachelor of Science degree in Environmental Health from Indiana State University in 1973. During my employment with the Department, I have received substantial on-the-job training and have attended numerous courses and workshops relating to my work as a field inspector. I have received special training in the application of rules adopted by the U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA), and similar rules adopted by Indiana under parallel State statutes, including those applicable to facilities that have achieved "interim" or "permitted" status under RCRA.

   A principal part of my job responsibilities over the past five (5) years has been to conduct inspections of facilities in interim or permitted status that transport, treat, store, or dispose of hazardous wastes to determine their compliance with the interim status standards set forth in 40 CFR Part 265 and parallel State rules at 329 IAC 3. I have inspected over one hundred (100) such facilities, both under a contractual arrangement between the Department and the U.S. EPA and on behalf of the Department, which now administers portions of the federal hazardous waste program in Indiana. These inspections were to determine the facilities' compliance with those standards. I have initiated numerous reports leading to enforcement actions against those I observed to be out of compliance.

2. Under IC 13-7-3-3, the Department has the duty to:

   Conduct a program of continuing surveillance and inspection of solid waste management sites and actual or threatened sources of environmental pollution by contamination, radiation, odor, or noise.

3. Further, under IC 13-7-8.5-1, the Department has the duty to:

   Regulate and require the proper and safe transportation, treatment, storage, and disposal of any hazardous waste that is generated in or transported into this state.

4. To implement this and other duties of the Department, IC 13-7-5-3(a) empowers the Department to:

   Have a designated agent, upon presentation of proper credentials, enter upon private or public property to inspect for and investigate possible violations of this article (IC 13-7) or any rule adopted thereunder.

5. I have probable cause to believe that a violation of IC 13-7 has been committed by LTV Steel Company (LTV Steel) at 3001 Dickey Road, East Chicago, Indiana.

6. My belief is based upon the following facts known to me:

   On March 13, 1986, I attempted to conduct an inspection of LTV Steel for closure purposes. Based upon information contained in Department

files, it was discovered that it was past practice for LTV Steel to dispose of wastes on-site. The purpose of this inspection was to identify areas where deposition of wastes had occurred and to identify any hazardous wastes which may have been deposited in these areas. Mr. Carl Broman of LTV Steel granted me permission to inspect five (5) hazardous waste storage tanks located at the facility, but denied my request to inspect the on-site waste deposition areas. These areas consisted of suspected surface lagoons and waste piles. Mr. Broman denied me access to these areas due to a desire to contact corporate officials before granting permission to enter these areas.

On April 8, 1986, I was granted permission to inspect the above-noted areas. During this inspection, I identified eight (8) areas of concern where possible deposition of hazardous wastes may have occurred. The identification of these areas was based on information supplied by Mr. Broman and by personal visual observation.

On June 6, 1987, I conducted a follow-up inspection of LTV Steel to gain further information concerning one of the areas of concern identified during my inspection conducted on April 8, 1986. Specifically, I wished to obtain information concerning the deposition of wastewater treatment plant sludge and sinter in an area called the "hill" and in an adjacent "drying bed." During the June 6, inspection, Mr. Carl Broman stated that no sludge was placed on the ground at any time or at any place at LTV Steel. This position was radically different from what Mr. Broman stated during my April 8, 1986 inspection, where he stated that an area was, indeed, used for storage of wastewater treatment plant sludge and sinter prior to off-site disposal.

On September 22, 1987, I conducted a scheduled inspection of LTV Steel. Again, I spoke with Mr. Carl Broman concerning the existence of a sludge deposition area. During this inspection, I pointed out to Mr. Broman that the Federal Register, Vol. 51, No. 20, Tuesday, October 21, 1986 (page 37308) indicated that LTV Steel was in fact placing wastewater treatment plant sludge in drying beds for a period of ten (10) days to two (2) weeks prior to off-site disposal. Mr. Broman acknowledged this information and proceeded to inform me that the location of the area where sludge had been placed was directly east of the drying area. He also indicated the area on a map.

Due to the conflicting nature of the information supplied by Mr. Carl Broman concerning the existence of the "hill," as well as the seven (7) additional areas of concern delineated during my April 8, 1986 inspection, sampling will need to be conducted to determine the existence and/or extent of hazardous waste contamination present at LTV Steel.

7. In order to determine the extent to which LTV Steel has violated and/or is in compliance with the applicable statutes or rules and to determine the nature and extent of any actual or potential harm to the environment caused by any violation, it is necessary for representatives of the Department to conduct an indepth and thorough investigation of its property. Such inspection shall be in accordance with the powers and duties of the Department and shall be consistent with the purpose and scope of the applicable statutes and rules, and may include:

   a. Entry upon the property of LTV Steel, known as and more specifically described as: parcel numbers 31-8-1, 31-8-2, 31-8-4, 31-8-5, 31-8-10, 31-8-11, 31-8-12, 31-9-1, 31-9-2, 31-9-7, 31-10-1 and 31-13-2; T37N, R9W, North Township, Lake County, Indiana.

   b. Entry into each and every building, structure, site, or condition existing on the aforesaid property.

   c. Inspection, sampling, seizure, photographing, copying, or otherwise recording any condition or document as they exist or are maintained on or at the aforesaid property, without limitation.

8. This affidavit is for the purpose of obtaining a warrant for the inspection and investigation discussed in the preceding paragraph.

Further, affiant says not.

Ted F. Warner

STATE OF INDIANA)
)
COUNTY OF LAKE)

Subscribed and sworn to me, a Notary Public in and for said County and State on this 16th day of January, 1991.

My Commission Expires:

5-14-92

Carolyn M. Koontz
Notary Public Carolyn M. Koontz
Residence: Boone

STATE OF INDIANA)
) SS:
COUNTY OF LAKE

IN THE MATTER OF:

LTV STEEL COMPANY

AFFIDAVIT

Ms. Pamela J. O'Rourke, being duly sworn upon her oath, deposes and says:

1. I am an Environmental Scientist III employed by the Office of Solid and Hazardous Waste Management of the Indiana Department of Environmental Management (Department). Part of my duties in that employment include the inspection of hazardous waste handlers, generators, transporters, and treatment, storage, or disposal facilities for the Department.

2. I received a Bachelor of Science degree in Environmental Education from Indiana University in 1981 and a Master's degree in Public Affairs/Environmental Policy from Indiana University in 1990. During my employment with the Department, I have received substantial on-the-job training and have attended numerous courses and workshops relating to my work as a member of the hazardous waste enforcement section. I have received special training in the application of rules adopted by U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA), and similar rules adopted by Indiana under parallel State statutes, including those applicable to facilities that have achieved "interim status" and permitted status under RCRA.

3. Under IC 13-7-3-3, the Department has the duty to:

   Conduct a program of continuing surveillance and inspection of solid waste management sites and actual or threatened sources of environmental pollution by contamination, radiation, odor, or noise.

4. Further, under IC 13-7-8.5-1, the Department has the duty to:

   Regulate and require the proper and safe transportation, treatment, storage, and disposal of any hazardous waste that is generated in or transported into this state.

5. To implement this and other duties of the Department, IC 13-7-5-3(a) empowers the Department to:

   Have a designated agent, upon presentation of proper credentials, enter upon private or public property to inspect for and investigate possible violations of this article (IC 13-7) or any rule adopted thereunder.

6. I have probable cause to believe that a violation of IC 13-7 has been committed by LTV Steel Company (LTV Steel) at 3001 Dickey Road, East Chicago, Indiana.

7. My belief is based upon the following facts known to me:

   On March 13, 1986, Mr. Ted Warner of the Office of Solid and Hazardous Waste Management of the Department attempted to conduct an inspection of LTV Steel for closure purposes. Based upon information contained in Department files, it was discovered that it was past practice for LTV Steel to dispose of wastes on-site. The purpose of this inspection was to identify areas where deposition of wastes had occurred and to identify any hazardous wastes which may have been deposited in these areas. Mr. Carl Broman of LTV Steel granted Mr. Warner permission to inspect five hazardous waste storage tanks located at the facility, but denied Mr. Warner's request to inspect the on-site waste deposition areas. These areas consisted of suspected surface lagoons and waste piles. Mr. Broman denied Mr. Warner access to these areas due to a desire to contact corporate officials before granting permission to enter these areas.

On April 8, 1986, Mr. Warner was granted permission to inspect the above-noted areas. Based upon his findings during this inspection, it is suspected that contamination of the soil underneath, as well as adjacent to, these areas has occurred.

8. In order to determine the extent to which LTV Steel has violated and/or is in compliance with the applicable statutes or rules and to determine the nature and extent of any actual or potential harm to the environment caused by any violation, it is necessary for representatives of the Department to conduct an indepth and thorough investigation of its property. Such inspection shall be in accordance with the powers and duties of the Department and shall be consistent with the purpose and scope of the applicable statutes and rules, and may include:

   a. Entry upon the property of LTV Steel, known as and more specifically described as: Parcel numbers 31-8-1, 31-8-2, 31-8-4, 31-8-5, 31-8-10, 31-8-11, 31-8-12, 31-9-1, 31-9-2, 31-9-7, 31-10-1, and 31-13-2; T37N, R9W, North Township, Lake County, Indiana

   b. Entry into each and every building, structure, site, or condition existing on the aforesaid property.

   c. Inspection, sampling, seizure, photographing, copying, or otherwise recording any condition or document as they exist or are maintained on or at the aforesaid property, without limitation.

9. This affidavit is for the purpose of obtaining a warrant for the inspection and investigation discussed in the preceding paragraphs.

Further, affiant says not.

Pamela J. Clemple

STATE OF INDIANA)
)
COUNTY OF LAKE)

Subscribed and sworn to me, a Notary Public in and for said County and State on this 11th day of January, 1991.

My Commission Expires:

5-14-92

Carolyn M. Koontz
Notary Public Carolyn M. Koontz
Residence: Boone

!0491h rmw 12/28/90