

Till Death Do Us Part

By Joan Delaney

Seven years ago Mel Hooper, owner of Mel's Gas and Service Station in Princeton, IL, had some waste oil to get rid of. No problem — he simply called Lenz Oil Services, Inc., a licensed waste recycler in Lamont, IL and sold them his oil — 400 gallons of it — for \$28.

Then the trouble began. Lenz stored the oil in tanks which overflowed, contaminating the soil. When the Illinois Environmental Protection Agency (IEPA) investigated in 1985, Lenz was hit with \$9 million in damages. Unable to pay for the cleanup, the company, which was insured for only \$2 million, filed for bankruptcy.

That solved Lenz's problems, but left Hooper and other businesses holding the bag. State environmental laws, modeled after the tough Federal Superfund Statute, stipulate that anyone involved with waste is liable. That includes operators and owners of waste disposal plants, those who transport waste, and people, like Hooper, who generate it.

So far, Hooper's \$28 has brought him \$1,768 of grief. The IEPA has charged him and some 600 other companies 4.42 cents per gallon in first-phase cleanup costs. That's no big deal for the larger companies involved in the mess, like Commonwealth Edison, which sold 60,549 gallons to Lenz, and Krueger-Ringier, an Arizona-based printing plant that got rid of 176,610 gallons. They can make it up in rate increases. But Hooper, whose 13-year-old shop grosses about \$200,000 a year, can't raise prices because customers will go down the street and buy gas cheaper.

For him, his \$1,768 tab is enough of a bite to make him fight. After making two payments of \$294.67 each to IEPA, he refuses to send another dime. "The biggest contribu-

IF YOU GENERATE HAZARDOUS WASTE, IT'S YOUR RESPONSIBILITY — FOREVER.

tors to the spill have hired lawyers. We don't have the money," explains Hooper. So he and 10 other small business owners have taken their case public, contacting the media and state and federal politicians in an effort to change the law. "We wrote Dan Rather, 60 Minutes, congressmen, representatives, you name it," he says. The group's efforts have resulted in publicity sympathetic to their plight. But so far no one has moved a muscle to change the legislation.

Donald Gimbel, an attorney for IEPA, is sympathetic towards Hooper and his group. But "our job is to enforce the law," he says. "Those who haven't settled will be sued and the state will almost double the bill." That means Hooper could wind up paying \$7.70 a gallon, or \$3,080 if charged for the full amount.

According to Louise Jacobs, Chief

Counsel for Small Business Advocacy EPA, Washington, D.C., Hooper has no choice but to pay up. "Even if he fights, his legal fees will be higher than the money he owes. And because the laws are so tough, he is certain to lose."

What galls Hooper is that he strictly adhered to the law. "We sold our waste to a licensed hauler. We did by law what we were supposed to do," says Hooper, who is so frustrated he's threatened to give waste oil back to his customers.

Hooper and his group further contend that the IEPA is not doing its job. "We're paying them to inspect facilities to make sure that these so-called licensed waste disposers are following government regulations," says Hooper. "The burden of responsibility rests on them."

According to Gimbel, there's not enough money to hire additional inspectors to do a more effective job. Further, the Superfund is designed to protect the taxpayer. "Congress argues that the burden of the cleanup should be spread among those who contribute to it," says Gimbel. "If you generate waste, it's your waste and you're responsible for it — forever."

Hooper's problems are far from over. Engineers found underground contamination at the Lenz site as well, so in a few years he will have to pay his share of those cleanup costs.

Hooper is not sure where he'll go from here. To protect himself against future liability, he now uses a licensed hauler that is insured for \$9 million. "That's why we picked him," Hooper says. "We just give him the stuff. There are no receipts. As far as I'm concerned, the hauler was never here. That's the only way I can stay in business." ■

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Avoiding Trouble

- Make sure your hazardous material is properly stored in drums so it doesn't leak on the way to the site.
- Check with a state regulatory agency to see if your waste hauler is in compliance with the law.
- Personally inspect the waste disposal facility. If it looks poorly maintained, it probably is.
- Make sure your waste transporter is adequately insured.