

Business ethics assignment

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The purpose of the Compressor is to boost pressure and to send the natural gas northward. As part of the plant's operation, heat is generated during the gas compression process, and the heat is removed with cooling water. The water, in turn, is cooled by the passage through cooling towers. Although this process sounds straightforward, operating just like thousands of other activities with cooling towers around the world, PIG did something else. Gas compression generates heat. That means the gas and the compressors have to be cooled with circulating water which, in turn, passes through cooling towers.

TO keep its cooling towers from corroding too fast, PIG added a "corrosion inhibitor" to the cooling water from the day it first operated the plant. That corrosion inhibitor was chrome 6. When the cooling water became saturated with undisclosed solids (like chrome 6), PIG discharged some of it into unlined earthen ponds located at the compressor station. That seawater is referred to as "blow down cooling water." Large amounts of residue left on the soil after PIG sprayed contaminated wastewater into the air. After the water dried, soil-containing chrome 6 was free to blow in the wind where it could be inhaled by living things.

By 1966 an estimated 65 tons of chromate-based corrosion inhibitors were discharged into the unlined ponds. A biochemist said concentrations of highly toxic chromium VI in the groundwater basin reached peak levels of 1,000 to 5,000 times the safe limit for drinking water and more than 50,000 times the safe level for inhalation. PIG didn't line the ponds until 1972. The company sent 750,000 additional gallons of chrome 6 wastewater every month to the ponds for another six years. Once the toxic material was in the

unlined ponds, there was nothing to stop it from migrating to the wells that supplied nearby homes, farms and ranches.

HYDROLOGICAL CYCLE Following the normal process of nature, called the “hydrological cycle,” the toxic material (called “the plume”) was free to travel from where it was (in the ponds) to the groundwater. Once it was in the aquifer that supplied Hinkler residents with all their water, the toxic material got into the people’s wells. Wherever the plume traveled, the corresponding wells in its path were contaminated. Many people and domestic animals in the high desert town of Hinkler, California were getting sick. Some had died.

Since residents depended on the local groundwater supply for all their needs, officials from the company advised the State of California they had detected levels of hexameter chromium (chrome 6) in a groundwater monitoring well north of the compressor station’s waste water ponds. The levels were ten times greater than the maximum amount allowed by law. Known as a cancer-causing chemical since the 1950s, chrome 6 is especially dangerous to lungs. After PIG&E reported the pollution to the government, company officials started a program to buy every piece of property in the community thought to be affected by the pollution.

That’s what medical records had to do with real estate transactions. It wasn’t long before PIG&E had 75% of those houses and buildings destroyed. The company reported it was merely responding to vandalism. PIG&E distributed flyers discussing the company’s use of “chromium” to local residents.

Nowhere in the flyer was there any mention of the type of chromium PIG had

used. In fact, one could make a strong case that carefully selected words were deliberately misleading such as: Chromium occurs in two forms. The form that is present in groundwater can cause health effects in high doses.

The cleanup program, however, will result in chromium levels that meet the very conservative drinking water standards set by the EPA. In addition, the form of chromium that will be left on soils after irrigation is nontoxic. In fact, chromium in this form is a naturally occurring metal that is an essential ingredient in the human diet, one that is often included in multiple vitamin/mineral supplements. PIG told neighbors of the plant to avoid drinking well water, but it is safe to use for all other domestic purposes such as bathing and watering animals and plants.

EFFECTS OF CHROME 6 People and animals who lived in the area had been breathing, ingesting, and absorbing dangerous toxins into their bodies for decades. The Health Hazards of Chrome 6: Lung cancer. Irritation or damage to the nose, throat, and lung (respiratory tract) if hexavalent chromium is breathed at high levels. Irritation or damage to the eyes and skin if hexavalent chromium contacts these organs in high concentrations. Breathing in high levels of hexavalent chromium can cause irritation to the nose and throat. Symptoms may include runny nose, sneezing, coughing, itching, and a burning sensation.

Repeated or prolonged exposure can cause sores to develop in the nose and result in nosebleeds. If the damage is severe, the nasal septum (wall separating the nasal passages) develops a hole in it (perforation). Intake of chromium can cause stomach upsets and ulcers, convulsions, kidney and

liver damage, reproductive or developmental effects. PIG VIOLATION OF ENVIRONMENTAL ACTS PIG caused damages under the following acts: The Clean Water Act (CAW) This Act establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

The basis of the CAW was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. “ Clean Water Act” became the Act’s common name with amendments in 1972. Gender the CAW EPA has implemented pollution control programs such as setting wastewater standards for industry. We have also set water quality standards for all contaminants in surface waters. The CAW made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. Pea’s National Pollutant Discharge Elimination System (NAPES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NAPES permit; however, industrial, municipal, and other facilities must obtain permits if their charges go directly to surface Waters. Wastewater Management under the Caw’s National Pollutant Discharge Elimination System: EPA regulates discharges of pollutants from municipal and industrial wastewater treatment plants, sewer collection systems, and storm water discharges from industrial facilities and municipalities.

The Clean Water Action Plan targets enforcement to the most important water pollution problems. Safe Drinking water Act (SODA): EPA safeguards human health by enforcing the requirements of the SODA to ensure that the nation's public drinking water supply and its sources (rivers, lakes, reservoirs, springs, and ground water wells) are protected. EPA ensures that public drinking water systems comply with health-based federal standards for contaminants, which includes performing regular monitoring and reporting. Proposition 65 (1986): This is a California law passed by voter initiative.

Known as the Safe Drinking Water and Toxic Enforcement Act, Proposition 65 is designed to provide public warnings about the risk of exposure to toxic chemicals and to eliminate toxins from drinking water supplies. It is responsible for California having some of the strongest environmental protections in the nation, and thus has helped make the state a model for other regions seeking to address environmental hazards. Resource Conservation and Recovery Act (1976): It seeks to prevent the creation of toxic waste dumps by setting standards for the management of hazardous waste.

Like CERCLA, this law also includes some provisions for cleanup of existing contaminated sites. PIG ETHICS VIOLATIONS The primary business ethics issues involve deception, bribery, harm to the environment, and ultimately the inability to trust local businesses. In this case, PIG deceived the entire town of Hinkler by allowing them to believe that their water source was safe. PIG held a meeting with 200 people from Hinkler to explain the benefits of PIG using chromium 3 at their plant.

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Chromium 3 is a safer form of chromium, however PIG was not actually using chromium 3 at their plant, and was actually using the harmful chromium 6 instead. As explained previously, hexameter chromium, or chromium 6, is extremely dangerous and harmful to humans. This deceit contain dude for far too long, allowing the community to believe that children could safely play in pools and all members could safely drink water out of their faucet. They also made an attempt to bribe the members of the Hinkler immunity to drop the charges against them, and even before that to accept that their health issues were not at all related to PIG.

The second example of bribery, which is a higher level of ethical dilemma, was that PIG paid for doctors' visits for Hinkler community members with health issues. PIG&E essentially bribed these people to go to a specific doctor by paying for the visit, where the doctor told them all that their health problems were completely unrelated to the chromium used at PIG&E plants. This is an extremely unethical behavior as it compounds the negative aspects of robbery, deception and dishonesty. This hexameter chromium was clearly very dangerous to humans, and it was also very harmful to the environment, especially the water system.

PIG&E was portrayed in an extremely negative light once again because this company did not seem to care about sustainability whatsoever.

Sustainability was described to be “ The ability to meet the needs of the present without compromising the ability of future generations to meet their own needs” (UN 1987 Summit). PIG&E did not enact policies to keep the water safe, and therefore compromised the future Of Hinkler by contaminating the water. PIG&E skipped the step of adding liner to the pools
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at their plant to keep the flow-off water safe. This clearly was harmful to the environment and risked sustainability.

PIG&E also ordered employees to destroy documents about chromium contamination. PIG&E displayed a total lack of social responsibility with its use of the hexameter chromium. PIG&E disregarded the extremely harmful effects the chemical could have on its stakeholders, the Hinkler residents. The theory of Utilitarianism applies here, an act is right if and only if it results in as much good as any available alternative. The harm citizens incurred due to the actions of PIG&E demanded justice that involved compensation and correction PIG&E's act failed to seek an action that benefited the welfare of everyone involved.

The theory of Moral Objectivism slightly relates to this case. The 10 Morals of core Morality were violated by PIG. THE LEGAL BATTLE After Erin Broomstick having made strong contacts with many of Hinkler residents, lawyer Massy stepped in. He told Hinkler residents that he believed that PIG had poisoned them with Car 6, and that this was the cause of their varied ailments. By 1993 Broomstick and Massy had 47 clients. The terms of he contracts with the law firm gave the firm 40 per cent of any reward, and Massy filed the suit.

The case went before the county court, and the first big hurdle was passed: the judge ruled that PIG should have known about the contamination of the groundwater, and that the case could go forward to a jury. When 77 initial plaintiffs filed their lawsuit against PIG in 1993, it was the direct result of a monstrous effort by this dedicated legal team. People who drank polluted

water, and breathed contaminated air, wanted answers. As Walter Lack, whose firm took over lead responsibilities for the litigation, told the trial judge on January 4, 1994: Some of the plaintiffs were upset because they believed PIG did not respect them.

Except, as PIG claimed, not all the people were injured. It was one thing for PIG to acknowledge its chrome 6 had contaminated the property around the compressor station. It was quite something else to agree the contamination had caused actual harm. Fear of harm – like fear of cancer – is not an injury. And plaintiffs' settlement demand was hard for PIG&E to comprehend: \$250 million. Turns out, PIG&E would have saved a huge amount of money on settlement and fence costs had they accepted the plaintiffs' demand early in the case.

As lawyers for both sides fought, the case grew. Eventually 648 plaintiffs joined the lawsuit. That did not account for all the people who had lived in the Hinkler area over the years – some of whom were not part of the case but were sick. The legal teams reviewed about 1 million documents and took several hundred depositions. As PIG's own documents were starting to stack the liability decks against it, company officials received the worst possible news from the trial court. The “fear of cancer” claim (referred to as “preconception injuries” in the case) would go to the jury.

PIG&E had filed a motion to strike all claims for “preconception” injuries. Its lawyers had argued such injury claims were speculative. Maybe so goes the argument for plaintiffs, but people who drank polluted water and breathed contaminated air get one day in court. Even if they aren't actually sick on the

day of trial, how would they ever recover if they got sick in the future? The court said- Public policy can rightly be said to be found in the concept that the public interest in a pure water supply gives rise to a special relationship to one who lutes that supply in some substantial fashion.

However, there may be no public policy to be served if the pollution occurs at a time and in a manner when no one knows, or ought to know, that the acts now complained of endanger the public. The existence of facts necessary to make the determination of any such special relationship, as well as the factual background to determine whether public policy principles should be applied, are terrible issues best left to the Trier Of fact. Put simply, if PIG didn't realize that its discharge of chrome 6 would cause harm to the public, it may not have violated public policy.

On the other hand, if it knew – or should have known – the result would be different. Since it is the jury's job to determine facts – and the above issues are fact issues – the jury would decide whether plaintiffs could recover for such injury claims. Not a great prospect for PIG. By July and August of 1994, with the preconception win in their pockets, plaintiffs literally bombarded PIG with six inches of motions to compel production of documents and more detailed answers to interrogatories. Their lawyers knew what they were doing; they had done the investigative background work; they were prepared; they knew their case.

What they needed from PIG were the details: The facts and figures of how much chrome 6 was used; how and when it was discharged; when the wells were first tested; how much concealment from the citizens of Hinkler was

really going on. Under the circumstances, it seems reasonable that PIG layovers must have gone to their client for a heart-to-heart discussion. Assuming such a meeting took place, it probably went something like this: By September 19, 1994 the parties reached an agreement to arbitrate/mediate.

The agreement pulled the case out of the trial court – where a jury would have cited it – and placed it into the hands of Justice John K. Trotter and Judge Daniel H. Weinstein, two outstanding retired jurists. The case still had a long life ahead of it, but at least the parties had formulated a reasonable way to work through the claims of more than 600 people. Once the parties agreed on an orderly way to arbitrate the case, about 36 claims were tried. The process took nearly two years.

The plaintiffs' lawyers had to: Prove medical causation Deal with missing evidence that had been lost or destroyed Reconstruct a complex hydro-geological water system Prove the extent of PIG&E's inappropriate conduct At the end of the arbitration trial, the plaintiffs reached a global settlement with PIG which: Compensated all the named plaintiffs in the amount of \$333 million Required PIG to clean up the environment Required PIG to stop using chromium 6. The case has become a landmark for other plaintiffs whose "preconception" injuries would previously have been completely disregarded.

The Hinkler lawsuit was a case study in how the rise of private arbitration, as an alternative to costly public trials, is creating a two-tiered legal system that not only favors litigants who can afford it over those who cannot, but is open to potential conflicts of interest and cronyism. The case never went to

trial, because Pacific Gas & Electric, the utility accused of polluting Hinkler, and the plaintiffs' lawyers agreed to private arbitration before a panel of for-hire judges, some of whom had socialized with the plaintiffs' attorneys.

Gravid, a famous tort lawyer who handled the case for PIG advised the residents Of Hinkler to agree to voluntary arbitration rather than wait years to have the case heard in an open court with a jury, and then face the possibility of engine appeals. They agreed. Arbitration is faster than a juries trial, but cases proceed behind closed doors, so the trial proceedings and the ways that decisions are reached are not made part of the public record. The public, and even the plaintiffs, don't know exactly what evidence was permitted in the PIG&E vs.. Hinkler case, nor how the arguments proceeded.

What we, and they, do know was that the case was decided in favor of the complainants, who were paid some \$333 million in damages, the largest legal settlement in US history. \$333 million is a huge amount of money, but the lawyers received 0 per cent of the reward, about \$133 million. The moneys actually received by Hinkler residents ranged from \$10, 000 to upwards of \$1 million. There have been hard feelings in Hinkler about the settlement, especially how the specific disbursal amounts were decided – they don't know, because that part of the process was decided in the arbitration, and not revealed to the residents.

The lawyers advised town residents not to reveal to anyone other than family members the amount of their own rewards. All this has made many people suspicious of their leavers and of each other. In addition, there eave been allegations of cronyism and favors passing between the attorneys on

the case and the judges. Some have argued that the whole case is about why private arbitration is an erosion of the justice system. Now, many of the townspeople who sued complain their awards were smaller than they deserved.

Some have even hired lawyers to get back excessive legal fees charged to children. They say the attorneys kept their awards for six months after the settlement money was delivered, and that they didn't receive interest on it. They complain that there was little or no apparent logic behind the varying amounts of money individual plaintiffs received; some claim that the arbitrators never even looked at their medical records. What PIG&E should have done They should have resolved this issue originally by removing the hexameter chromium from their processes and admitting wrongdoing.

This company should have done everything in their power to prevent health problems from starting in the first place, or spreading to additional members of society. They also should have reimbursed anyone affected by hexameter chromium at the very beginning. PIG&E should have arranged for the people of Hinkler with NY health problems to see a doctor of their choice, in order to receive a second opinion on their health condition. PIG&E again should have admitted wrongdoing and sent a letter of apology to all who were affected explaining what went wrong and encouraging them to see another doctor as soon as possible.

They should have taken the steps to line the pool and prevent all flow-off water from being contaminated. PIG&E could have resolved this ethical issue easily, however instead continued on their path of unethical behavior which

they paid for in the long run. PIG&E lost more money in exult of the act through court costs, fines, settlements, post contamination containment and clean up, than they would have spent originally correcting the problem when discovered The good in telling the truth would have been more beneficial than the good in lying.