

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF

DEAN OIL CO.,

DKT. No. RCRA-UST-94-006

Respondent

ORDER GRANTING MOTION FOR PARTIAL DISMISSAL

On March 14, 1997, the Complainant filed a motion for Partial Dismissal of the violations numbered 13, 14 and 15 in the Administrative Complaint. To date, the Respondent has filed no opposition to said Motion. The Complainant's stated basis for the dismissal is that the "Respondent has submitted to EPA information which substantiates the defenses to these violations which were raised in the Respondent's Answer.'" Nevertheless, the Complainant has requested that these violations be dismissed "without prejudice." See, Complainant's Motion.

This action has been pending for two and a half years. It involves a multitude of counts arising out of myriad circumstances. Assuming the accuracy of the Complainant's representations regarding the defenses to these three alleged violations, there seems to be no point in dismissing the alleged violations "without prejudice," and thus, leaving open an opportunity to presumably relitigate those matters at another time. Therefore, the Complainant's Motion for Partial Dismissal is **GRANTED**, and the Violations set forth in paragraphs 13, 14 and 15 of Section C of the Administrative Complaint are hereby **DISMISSED, WITH PREJUDICE.**

Susan L. Biro

Administrative Law Judge

Dated: 4/7/97

Washington, D.C.

In the Matter of Dean Oil Company, Respondent

Docket No. RCRA-UST-94-006

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion For Partial Dismissal**, dated April 7, 1997 was sent this day in the following manner to the addressees listed below:

Original by Regular Mail To: Julia Mooney

Regional Hearing Clerk

U.S. EPA

Atlanta Federal Center

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Copy by Regular Mail To: Suzanne Rubini

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Maria Whiting

Legal Staff Assistant

Dated: April 7, 1997