

THE FORKLIFTER

Engineering student Bryan Springer has a high paying summer job as a forklift operator. This job enables him to attend college without having to take out any student loans. He was now staring at a 50 gallon drum filled with used machine coolant, wondering what he should do.

Just moments ago, Bryan's supervisor, Max Morrison, told him to dump half of the used coolant down the drain. Bryan knew the coolant was toxic, and he mentioned this to Max. But Max was not swayed.

Max: The toxins settle at the bottom of the drum. If you pour out half and dilute it with tap water while you're pouring it, there's no problem.

Byran: I don't think that's going to work. Besides, isn't it against the law?

Max: Look, kid, I don't have time for chit-chat about a bunch of silly laws. If I spent my time worrying about every little regulation that comes along, I'd never get anything done -- and neither will you. Common sense is my rule. I just told you -- Toxins settle at the bottom, and most of them will stay there. We've been doing this for years, and nothing's happened.

Byran: You mean no one's **said** anything about it? That doesn't mean the environment isn't being harmed.

Max: You aren't one of those "environmentalists," are you? You college guys spend too much of your time in the "ivory tower." It's time to "get real" -- and get on with the job.

Byran: But....

Max: Butt nothing. Time to get off yours and do the job. You know, you're very lucky to have a good paying job like this, kid. In three months you'll be back in your cozy college. Meanwhile, how many other college kids do you think there are out there wondering if they'll be able to afford to go back -- kids who'd give their eye teeth to be where you are right now.

Max then left, fully expecting Bryan to dump the used coolant. As Bryan stared at the drum, he pondered his options. What options do you think he has? What do you think he should do?

COMMENTARIES

Joseph Ellin

Bryan Springer is ordered to dump a drum of coolant in a way that seems to him to be both illegal and harmful to the environment. He 'ponders his options.' What are they? He has at least ten. He could comply and (1) keep quiet. He could comply, but report Max's illegal orders, either (2) within or (3) outside of the company. Or, (4) he could refuse, quit, and keep quiet; or refuse, quit, and report Max either (5) within or (6) outside of the company. Or, he could refuse and wait and see if Max fires him. If Max does, Bryan could (7) leave the company quietly and get another job; or (8) threaten Max with reporting him in the hope that Max will not fire him after all; or, report Max after being fired, again either (9/10) within or outside of the company.

Should Bryan identify and analyze these options and try to figure out which is the best? One might wonder whether Bryan's position justifies his making a moral and intellectual crisis of this incident. One view would be

that morality is 'situation independent'-- that every illegality or immorality must be confronted, no matter who you are or what your relation is to the wrongdoer. On this view, all that triggers the moral necessity to act is, knowledge of the wrongful act. Given that you are required to do something, it follows that you ought to carefully consider your options and try to determine which is the morally best. On the other hand, perhaps it is relevant that Bryan holds merely a summer job as a forklift operator, presumably low-level, though well-paid, unskilled labor. He has no personal, professional or financial connection to the company, which to him is merely a meal-ticket back to college. Is it his responsibility to see that this company's wrongful actions be corrected? In personal relations, there is a principle of minding one's own business: sometimes it is best to overlook what people do, even things you find distasteful or even shocking, just because it is not up to you to interfere. Might not such a principle apply to certain employees? On this view, more than knowledge of the wrong is necessary to justify some reaction to that wrong. It is hard to say exactly what that 'more' might be, but following the analogy of personal relations, perhaps one ought to have a sufficiently strong or close connection with the wrongdoer.

One reason for the 'mind your own business' principle is that one thing leads to another. If you do interfere in something you find unpalatable, you may find yourself drawn more deeply into a situation than you anticipated or are prepared to handle. Therefore unless you're already involved through your relationship with the parties, you should stay out. In this case, refusing Max's order might not only get Bryan fired, but would put him in the position of having a second and a third decision to make--whether to fight to retain the job, and whether to report Max within the company or to an enforcement agency. Refusing to dump the coolant and then just walking away from the bad situation (knowing that Max will just hire someone else who's probably going to be more compliant) might not seem like an ideal, or even an acceptable, solution. Bryan is not an engineer, not even a graduate student, but only a college student who has (presumably) neither the knowledge nor other resources necessary to make a long-term fight out of this violation. So perhaps Bryan might be forgiven if he were to take Max's advice and do what he's told.

Yet in the present case, Bryan does not merely find out about the illegal dumping; he is being ordered to perform it himself. This makes it more difficult--but not out of the question--to claim that it is not any of his business. Bryan evidently does not share Max's cynicism about environmental regulations, and his words to Max seem to indicate that he has strong convictions against violating the regulations and possibly harming the environment. So he must examine his conscience and see how strong these feelings really are. If they are as strong as his words seem to indicate, then it is clear that he has little choice but to refuse Max's order and see what Max does about it. He can hardly justify the claim that he's only following orders and that it isn't important enough to worry about, when on his own principles dumping toxins is important enough to worry about.

So Bryan has a lot to think about. Before he refuses Max's order, he might consider some of his options, for example, whether, should Max fire him, he wants to fight to keep the job, perhaps by threatening Max to report him to somebody, if he is willing and able to do that. But if he chooses to take this route, he has to be sure he's going to follow up.

Of course he also has to consider what he'll do if Max backs off. Should he report Max's practice anyway? Suppose Max tells Bryan he doesn't have to dump the coolant and then assigns him to some other job. Should Bryan assume that the illegal dumping is going on as before (they've been doing it for years after all, long before Bryan came around); and if so, then what does he do? He might feel obliged to snoop around and find out, with a view to reporting Max anyway. After all, if he stops at simply getting himself out from under the order to do the dumping himself, all the while suspecting that the illegal practice is continuing, he might be guilty of 'clean hands'-- i.e., the position that it's okay if dirty things go on as long as I don't have to do them. So the situation is more

complicated than college-student Bryan is likely to imagine at first blush, when in the rush of indignation he challenges Max by contradicting his claim that "nothing's happened" so far.

Considering the open-ended commitment Bryan might find himself taking on if he decides to make an issue of this incident, I think there is room for the conclusion that given his limited relationship to the company, he might honorably decide that there is no real reason to get involved with this problem. The whole thing can be regarded as a marvelous learning opportunity.

C.E. Harris

Bryan is in a difficult situation. He seems to believe that complying with Max's order is both illegal and wrong. Yet he has little if any power in the company and is in danger of losing a valuable job if he disobeys. Furthermore, he is faced with the necessity of making an immediate decision. He might decide that he just does not want to do something that he considers wrong and that he has already earned as much as most students earn in a summer. If need be, he can take out a student loan. He might also believe that his example of refusing to dump the coolant could have an effect on company policy.

On the other hand, he might decide to dump the coolant down the drain. He might argue that one more dumping will not make that much difference, and it will give him a little more time to make a decision. He might also believe that staying on will have more effect on company policy than merely quitting or being summarily fired. This is a factual issue, having to do with the likely consequences of various courses of action.

There are other factual considerations as well. Is Max's claim that the toxins will settle to the bottom correct? Bryan might be able to go to the local library and find the answer to this question. Then there is the question of his chances of changing Max's mind. Max would appear to be the kind of person whose mind is not easily changed. Does Bryan know anyone else in the company who might listen to his side of the story?

Suppose Bryan discovers that Max's theory about how to reduce the toxic effect has no validity at all. He also confirms his suspicion that repeated dumping of the toxins into the drain is not only illegal, but a considerable source of environmental pollution and a potential health hazard. Finally, he decides that there is no possibility of changing Max's mind. This is the way Max has done things for years, and he is not about to change. The only way Max will change is to receive an order to do so from his superior.

At this point Bryan should spend some time attempting to imagine as many possibilities and scenarios as he can. He wants to do something that will not only preserve his personal integrity and protect the environment, but also preserve his job. It may not be possible to do both, but he should at least try. If the company is large enough to have an "ethics hotline" or an ombudsman or an officer in charge of corporate responsibility, he should certainly make use of the opportunities that these resources afford. If not, he should lay his case before Max's superior or the personnel officer.

Bryan should think long and hard about how he can approach Max's superior in a non-confrontational way. One possibility is to say that he (Bryan) has a problem with dumping the toxic waste into the drain. This approach avoids pointing an accusatory finger at Max or other employees. He might then ask for advice on how he can handle his problem. He might combine this approach with an expression for the possible legal difficulties that the company might face. If he can do so, Bryan should also approach his superior with some specific plan in mind. He should not only point out a problem, but offer a possible solution.

If this is done in a way that is both sincere and non-confrontational and if Bryan manages to find a receptive person, he has a good chance of both protecting the environment and protecting his job. If not, he may have to face an unpleasant choice. However, he should try to avoid such choices wherever possible. "Preventative ethics" tries to eliminate the need for making tragic choices.

It is important to see that this attempt to avoid tragic choices is not being less ethically responsible, but more ethically responsible. This is because such an approach would satisfy more moral demands. If he is successful, Bryan would not only have protected the environment by means of a change in company policy, but he would also have satisfied a legitimate moral obligation to himself by saving his job.

Ted Lockhart

Bryan might easily convince himself that it is not his responsibility to subject himself to the possibility of getting fired for disobeying the directive he has been given. After all, he is only a summer employee who needs the job to pay his way through college. He is not yet a member of the engineering profession and therefore has no obligation to "hold paramount the safety, health, and welfare of the public." The responsibility for whatever environmental damage or violations of environmental regulations would result from dumping the coolant down the drain is Max's and possibly Max's superiors. Of course, Max's arguments for dumping the coolant are very unconvincing, and there is little doubt about the meaning of Max's thinly veiled threats against Bryan. Furthermore, Max is probably right that Bryan's going ahead and dumping the coolant on this one occasion, and perhaps on the few occasions on which he will be called on to perform similar acts during his temporary employment, will have no discernible effects on the environment. Why then should he risk antagonizing Max further by continuing to resist Max's directive and quite possibly losing his job as a result? More-over, even if he were to refuse to dump the coolant, there is little reason to doubt that task would simply be assigned to someone else who has fewer qualms about doing what he/she is told.

However, there are good reasons for Bryan not to carry out Max's directive. Bryan should consider not just the consequences of his actions on the one or few occasions on which he would be called on to dump toxic substances into drains but rather the consequences of the practice of similar persons in similar situations performing similar actions. And the latter consequences are significant and can be expected to have significant negative effects on the safety, health, and welfare of the public. If no one refused to participate in such a practice, then it is difficult to see how the practice itself would ever be stopped. And if someone should at some point refuse to participate, then why shouldn't Bryan do so under the present circumstances? Of course, there may be little hope or expectation that Bryan's sacrificing his summer job and jeopardizing his career plans would catch on and start a ground swell of workers' refusing assignments that endanger or harm the environment. But this is not the point. We would not say that one has no duty to vote in an election if he/she is reasonably certain that his/her vote would not affect the outcome of the election. The appropriate question is "What if everyone in your situation did what you are contemplating doing?" This is also the question that Bryan should ask himself in deciding what to do in the situation in which he finds himself.

Given what is at stake for Bryan, we should not blame him if he decides not to be a hero, and he deserves praise if he chooses the heroic course. But questions of praise and blame are not really the crucial issues for the decision-maker. Bryan has the best reasons for doing what would be best to do in the situation. And that means that he should respectfully but firmly refuse to carry out Max's directive.

Michael Rabins

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 Bryan to follow. The options:

- i) Do as he is told and nothing else.
- ii) 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.
- iii) Similar to (ii), 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.
- iv) 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 (i), 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 Bryan better understand some of the potential consequences of his following Max' orders without question.

Still in regard to option (i), as a budding engineer 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 (ii) 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 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 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 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".*

That brings us to option (iii), which is only different from the previous one in that 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 Bryan will no longer be employed by his company. In any event there is a fairly extensive literature** 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 (iv) 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.

Henry West

One thing that Bryan can do is to follow orders. Another is to do what he thinks ought to be done with the machine coolant. A third is to make an issue out of Max's or the company's environmentally irresponsible practices.

If he follows Max's instructions, dumping half of the used coolant down the drain, diluting it with tap water, Bryan himself is not going to get into any trouble. No inspectors are going to blame him, a summer forklifter following orders from his supervisor, for anything that may be illegal or detrimental to the environment. And 25 gallons are probably not going to make much difference anyway. He will keep his job; things will go on as before. If he feels uncomfortable today, maybe he won't be required to do something tomorrow that he thinks is harmful. If it happens day after day, he can then think about quitting or at least getting a different job next summer. After all, it is not his choice that the coolant be disposed of this way; so why should he regard himself as responsible? If the company were able to automate the process, they wouldn't even have a human forklifter involved. He is no more responsible than a mechanized conveyor belt would be.

Presumably half of the waste coolant is poured down the drain to avoid more expensive costs of disposal, by weight, of the coolant drums. Half empty drums don't weigh as much as full ones. Since Max has left and is presumably not watching, Bryan could do with the whole drum what he's expected to do with the half in which the toxins supposedly settle. Without emptying out half, he could take the full drum to its destination. He would then have not personally participated in the company's illegal and destructive activity. He wouldn't have done anything to change what they've "been doing for years, and nothing's happened", but he could feel that on that one occasion, the right thing was done. When Max found out, as he likely would, Bryan would certainly get balled out and probably lose his job, but he might believe it worth it to do what is the right thing to do.

The third possibility is to make an issue of the practice. He probably can't expect Max's supervisor not to know what is going on. How far up the supervisory scale would he have to go before anyone would care? Would anyone care anywhere up? If he isn't going to get a sympathetic ear from within the company, should he report the practice to some environmental group, either the state Environmental Protection Agency or some private group concerned with protecting the environment? Or a newspaperman who has been doing investigative reporting on violations of environmental regulations?

No matter how much Bryan believes in conserving the environment, which one to do depends partly upon the

expected consequences.

If he takes the third option, how likely is he to bring about a change, how difficult will it be, how much will it cost him? If he goes over Max's head with his protest, he is most likely to get nowhere and to be out of a job. If he seeks publicity, how much trouble is it going to be to him, and how likely that he gets anyone's interest? These things happen everyday in thousands of companies. The environmental agencies have more than they can handle in reports of incorrect disposal of toxic chemicals. What good is his report going to be? And if he does get someone's attention, who wants to make a legal case or an investigative report on it, is Bryan getting in over his head? He is supposed to have a summer job to make money to pay for school. Can he afford at this point to become a serious environmental activist?

If Bryan replaces the drum without emptying it, he has kept "clean hands" with regard to the company's polluting. He can think to himself that if all people refused to do things destructive of the environment, that would make a big difference. But what other people do is not affected by what Bryan does here and now. His 25 gallons don't make a big difference to the environment, but his disobeying the orders of his boss may make a big difference as to how much money he makes this summer.

Another possibility is that Max may be right. The toxins may settle to the bottom. Perhaps Bryan should do some research on the question before sticking his neck out in protest. He might also do some research on environmental law to see if the company is doing something illegal. If he finds out that toxins do settle so that the environmental damage is not as great as otherwise, but also finds out that what the company is doing is strictly illegal, is Bryan in an ethically better or worse situation? He is now working for a company which is not doing as much harm as he feared, but it is one that is engaged in illegal dumping. What if Bryan were not a summer forklifter but a regular employee? How much difference would that make in the action which he should take?

Twenty-five gallons of toxic coolant may be a relatively small matter on the scale of current environmental destruction. What if it were not a half drum down the drain, but hundreds of drums into a river or lake? If you conclude that Bryan should do as he is told, when do you draw the line and say that he should not do as told? If you are an employee in situations like this, is it disloyal to go outside the company to expose their improper practices? Should you first have exhausted all possibilities of getting a change of policy by working within the company?