

# **Exhibit A**

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION SIX

UNITED WATER PENNSYLVANIA INC.

and

Case 6-CA-37236

UTILITY WORKERS UNION OF  
AMERICA, AFL-CIO

**COMPLAINT AND NOTICE OF HEARING**

Utility Workers Union of America, AFL-CIO, herein called the Union, has charged that United Water of Pennsylvania, herein described by its correct name United Water Pennsylvania Inc., and herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151 et seq., herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in this proceeding was filed by the Union on February 17, 2011, and a copy was served by mail on Respondent on February 18, 2011.

(b) The amended charge in this proceeding was filed by the Union on May 10, 2011, and a copy was served by mail on Respondent on May 10, 2011.

2. At all material times, Respondent, a Pennsylvania corporation with its headquarters in Harrisburg, Pennsylvania and service centers in various locations, has been engaged in the delivery of potable water to consumers. Solely at issue in this proceeding is Respondent's facility in Bloomsburg, Pennsylvania, herein called Respondent's facility.

3. (a) During the 12-month period ending January 31, 2011, Respondent, in conducting its business operations described above in paragraph 2, derived gross revenues in excess of \$500,000 from the operation of its business.

(b) During the 12-month period ending January 31, 2011, Respondent, in conducting its business operations described above in paragraph 2, purchased and received at its Harrisburg, Pennsylvania facility, goods valued in excess of \$5,000 directly from points outside the Commonwealth of Pennsylvania.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5. At all material times the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2 (13) of the Act:

Jack Polk	-	Director of Labor Relations
Mindy Ohren	-	Human Resource Generalist
Kirby Pack	-	Area Supervisor

7. At all times since at least 2000, the Union has been the exclusive collective-bargaining representative of certain operators, maintenance, and other employees employed by Respondent at its Bloomsburg, Pennsylvania facility, hereinafter called the Unit, and has been recognized as such representative by Respondent. Such recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period from January 1, 2008, until December 31, 2010.

8. The Unit, as set forth in the collective-bargaining agreement described above in paragraph 7, constitutes an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

9. Since at least 2000, based on Section 9(a) of the Act, the Union has been the exclusive collective bargaining representative of the Unit.

10. Since about November 17, 2010, the Union, orally at a contract negotiation session and on about December 17, 2010, by letter, has requested that Respondent furnish the Union with a copy of Respondent's 401(k) Plan that Respondent proposed to the Union during the negotiations.

11. Since about December 17, 2010, the Union, by letter, has requested that Respondent furnish the Union with all collective bargaining agreements between Respondent and the Union that contained bargained wages of less than 3% for the years 2008-2011.

12. Since about January 5, 2011, the Union, by written "clarification," has requested that Respondent furnish the Union with the actual dollars contributed by Respondent [to the defined benefit pension plan] for the eight bargaining unit employees at Respondent's facility.

13. Since about January 6, 2011, the Union, by letter, has requested that Respondent furnish the Union with the following information:

(a) The total cost of Respondent's proposed package, including the enhanced 401(k) plan; and

(b) The total cost of Respondent's proposed package, including the defined benefit pension plan.

14. The information requested by the Union, as described above in paragraphs 10, 11, 12, 13(a) and 13(b), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

15. From November 17, 2010, until December 29, 2010, Respondent, by failing and refusing to furnish the Union with the information requested by it as described above in paragraph 10, unreasonably delayed in providing the requested information to the Union.

16. Since about December 17, 2010, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 11.

17. Since about January 5, 2011, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 12.

18. Since about January 6, 2011, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraphs 13(a) and (b).

19. By its conduct described above in paragraphs 15, 16, 17, and 18, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

20. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 14, 2011, or postmarked on or before June 13, 2011.**

Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon

the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished in conformance with the Requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE that on July 13, 2011, at 10:00 a.m., at the Columbia County Courthouse, 35 West Main Street, Bloomsburg, Pennsylvania, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form

NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Pittsburgh, Pennsylvania, this 31<sup>st</sup> day of May 2011.

  
Kim R. Siegart  
Acting Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD  
William S. Moorhead Federal Building  
1000 Liberty Avenue, Room 904  
Pittsburgh, Pennsylvania 15222

Attachments

# **Exhibit B**



FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA 1:53  
HAMMOND DIVISION

UNITED STATES OF AMERICA,	)	FOR	
	)	CAUSE NO.	2:10CR 217
v.	)		
	)	18 U.S.C. § 371	
UNITED WATER SERVICES, INC.,	)	33 U.S.C. § 1319(c)(4)	
DWAIN L. BOWIE, and	)	18 U.S.C. § 2	
GREGORY A. CIACCIO.	)		

**INDICTMENT**

**THE GRAND JURY CHARGES:**

**GENERAL ALLEGATIONS**

At all times relevant to this Indictment,

***A. The Defendants***

1. Defendant UNITED WATER SERVICES, INC. (UNITED WATER) was headquartered in Harrington, Park, New Jersey, and operated throughout the United States, including in Gary, Indiana. UNITED WATER contracted to operate publicly-owned treatment works (POTWs), which collect and treat industrial, commercial, and residential wastewater collected by sanitary sewer systems. In approximately April 1998, United Water entered into a ten-year contract to operate and maintain the Gary Sanitary District (GSD) treatment plant, located in Gary, Indiana. UNITED WATER operated the plant under the auspices of the "White River Environmental Partnership." Under UNITED WATER's contract, UNITED WATER received more than \$9,000,000

per year to properly operate and maintain GSD's treatment and collection system. The contract was renewed in approximately May 2008.

2. Defendant DWAIN L. BOWIE was UNITED WATER's Project Manager for the GSD treatment plant, and was the highest-ranking UNITED WATER employee there. He became Project Manager in approximately September 2002, and as Project Manager BOWIE was the senior manager and supervised all phases of the GSD treatment facility, including but not limited to operation of the wastewater treatment operations and compliance with the Clean Water Act permits issued for the wastewater treatment plant. As part of his employment, BOWIE received annual performance and development reviews, which gave substantially higher weight to improving the financial performance of UNITED WATER's GSD operation than to compliance with environmental requirements.

3. Defendant GREGORY A. CIACCIO was UNITED WATER's Plant Superintendent or Operations Manager for the GSD treatment plant, and was the second highest-ranking UNITED WATER employee there. He joined UNITED WATER's GSD operations in approximately July 2003, but did not formally assume the position of Superintendent until the fall of 2005, after he had obtained his Class IV Wastewater Operator's License. A Class IV Wastewater Operator's License was required by the State of Indiana to operate a POTW the size of GSD. As Plant Superintendent, CIACCIO supervised the treatment operations, including the shift supervisors and operators, who

were responsible for day-to-day wastewater treatment operations, including but not limited to the determination of which samples to collect to assess and report compliance with Clean Water Act permits issued to the wastewater treatment plant.

***B. The Clean Water Act***

4. The purpose of the Clean Water Act (CWA) is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). The U.S. Environmental Protection Agency (EPA) has primary responsibility for carrying out the provisions of the CWA.

5. To accomplish its objective, the CWA established a nationwide permit program, called the National Pollutant Discharge Elimination System (NPDES), under which persons who discharge pollutants to waters of the United States are required to seek and obtain discharge permits, known as “NPDES permits.” 33 U.S.C. § 1342. A “person” is defined under the CWA to include individuals, corporations, and any responsible corporate officer. 33 U.S.C. §§ 1319(c)(6), 1362(5).

6. NPDES permits, among other things, typically establish limitations on the amounts and concentrations of pollutants that may be discharged from a point source to a receiving waterway. Such permits also typically include requirements governing sampling and analysis of wastewater, reporting, and recordkeeping. The discharge of any pollutant into a water of the United States is unlawful, except in compliance with a NPDES permit. 33 U.S.C. § 1311(a).

7. U.S. EPA may approve a state to issue NPDES permits. 33 U.S.C. § 1342(b). EPA has approved the State of Indiana and given it the authority to issue NPDES permits. 40 Fed. Reg. 4033 (1975). The federal government retains the right to enforce the provisions of the CWA and NPDES permits. 33 U.S.C. § 1342(i). Violations of these provisions are criminally enforceable. 33 U.S.C. § 1319(c).

8. Under the CWA, the term “pollutant” means “sewage, garbage, sewage sludge, . . . [and] biological materials, . . . discharged into water.” 33 U.S.C. § 1362(6). The term “discharge of a pollutant” means the addition of any pollutant to navigable waters of the United States from any point source. 33 U.S.C. § 1362(12)(A).

9. Under the CWA, a “point source” includes “any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

10. The term “navigable waters” is defined under the CWA as “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

11. The term “waters of the United States” includes rivers, streams, and tributaries to navigable waters. The Grand Calumet River, the Little Calumet River, the Indiana Harbor and Ship Canal, and Lake Michigan are waters of the United States within the meaning of the CWA. 33 U.S.C. § 1362(7); 42 C.F.R. § 122.2.

12. POTWs, municipally-owned sewage treatment plants, are major sources of water pollution. They receive and treat wastewater generated by industrial, commercial,

and residential sources. Wastewater is collected by a sanitary sewer system, which is a series of underground pipes leading to the treatment plant. After receiving the incoming wastewater (“influent”), a POTW treats it through a series of processes, and then discharges the resulting wastewater (“final effluent”) through a permitted discharge pipe to a receiving waterway. The Clean Water Act requires that a POTW treat, monitor, test, report, and discharge wastewater in accordance with the provisions of its NPDES permit. A violation of a condition of a NPDES permit is considered a violation of the CWA. 33 U.S.C. § 1319(c); 40 C.F.R. § 122.41(a).

13. The CWA prohibits knowingly tampering with any monitoring method required to be maintained under the CWA. 33 U.S.C. § 1319(c)(4).

**C. Gary Sanitary District’s NPDES Permit**

14. GSD was a POTW, and received, treated, and discharged wastewater generated by industrial, commercial, and residential facilities in the communities of Hobart, Merrillville, Lake Station, and Gary, Indiana. The receiving water for these discharges was the Grand Calumet River, which flows to the Indiana Harbor and Ship Canal, which feeds into Lake Michigan.

A. GSD’s current NPDES discharge permit (IN 0022977) was issued to “Gary Sanitary District’s WWTP” Wastewater Treatment Plant or POTW, on approximately June 13, 2006. GSD’s prior NPDES permit became effective on approximately November 1, 1994, had the same permit

number, remained in effect until the 2006 permit took effect, and unless otherwise noted had the same terms described herein.

- B. GSD's NPDES permit required periodic sampling of the waste stream and analysis to monitor compliance with effluent limitations for various properties and pollutants, including a daily grab sample for *Escherichia coli* (*E. coli*) and total residual chlorine. (Permit § I.B.). The test results of the *E. coli* monitoring were required to be reported to the Indiana Department of Environmental Management. *E. coli* is a bacterium which is an indicator organism often used to test for fecal contamination (human waste). Total residual chlorine is the total concentration of chlorine that remains in the wastewater after disinfection and dechlorination.
- C. GSD's 1994 NPDES permit, in effect from 1994 through July 1, 2006, required the following: "Samples and measurements taken as required by the permit shall be representative of the volume and nature of the monitored discharge." (Permit § I.B.).
- D. GSD's 2006 NPDES permit, in effect from July 1, 2006 through the 2008, required the following: "Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge flow and shall be taken at times which reflect the full range and

concentration of effluent parameters normally expected to be present.”

(Permit § I.B.).

- E. GSD’s 2006 NPDES permit also required the following: “Samples shall not be taken at times to avoid showing elevated levels of any parameters.”

(Permit § I.B.) .

- F. The permit required that all records and monitoring information resulting from the monitoring activities required by the permit be maintained for a minimum of three years. (Permit §§ I.B.(8) at 18, II.C.(2) at 41; 327 I.A.C. 5-2-14; 40 C.F.R. §122.41(j)).

- G. If an NPDES permittee monitors a pollutant more frequently than required by the permit, using approved analytical methods, it must report that data to the regulatory authority in its Discharge Monitoring Report (DMR).

(Permit § II.B.(7) at 18; 327 I.A.C. 5-2-15(b); 40 C.F.R. § 122.41(l)(4)).

***D. United Water’s Operations at the Gary Sanitary District***

15. UNITED WATER operated GSD 24 hours per day, seven days a week

since approximately June 1998. Its treatment process was designed to operate as follows:

- A. When wastewater reached the GSD plant, it first passed through screens and tanks to remove solids. Further treatment took place in clarifiers and digesters. The clarifiers were large holding tanks that allowed sediment or sludge to sink to the bottom. The digesters were aeration basins that treated

the water by pumping air through it and allowing biological organisms to digest and stabilize the solids. Sludges were thickened, followed by anaerobic digestion and dewatering before being sent off site for disposal in a sanitary landfill. Sand filters were used to further treat the wastewater to filter out suspended solids.

- B. During the disinfection season – April 1 through October 31 – sodium hypochlorite (also referred to as “chlorine”) was used in the chlorine contact chambers to disinfect and kill disease-causing, pathogenic organisms, such as *E. coli*. UNITED WATER purchased chlorine to be used in the disinfection process; the chlorine was injected into the chlorine contact chamber using pumps and mixers. UNITED WATER assessed the quantity of chlorine to inject (also known as “dosing”) by measuring the “free chlorine residual.” Free chlorine residual is a measurement of the concentration of chlorine remaining in the wastewater at the end of the chlorine contact chamber. Generally, UNITED WATER measured the free chlorine residual every four hours during the disinfection season. UNITED WATER personnel determined that the free chlorine residual generally had to be at least 0.50 mg/l (milligrams per liter) to achieve a sufficient reduction (“kill”) of *E. coli* in the water to be discharged in compliance with the NPDES permit to the Grand Calumet River.



- C. The NPDES permit also had a daily limit of 0.04 mg/l on the concentration of total residual chlorine that could be discharged to the Grand Calumet River. After the wastewater made its way through the chlorine contact chamber, UNITED WATER dechlorinated the final effluent using sodium bisulfite. UNITED WATER generally tested the dechlorinated effluent to ensure that the final effluent did not exceed the limit in the NPDES permit.
- D. As part of its ordinary course of business, UNITED WATER employees generated and maintained records that depicted daily activity and operations within the treatment plant, including shift supervisors' logs, chlorine log books, laboratory bench sheets, and other records.

16. GSD had been operating under a Consent Decree filed in U.S. District Court for the Northern District of Indiana, for violations of the Clean Water Act and its discharge permit, since approximately January 3, 1979 (*United States v. City of Gary*, H 78-29), which subsequently had been modified. The Consent Decree required GSD to comply with the Clean Water Act and GSD's discharge (NPDES) permit. Because UNITED WATER operated the GSD POTW, it was required to comply with the Consent Decree. The Consent Decree included the following pertinent provisions:

- A. Sampling. The Consent Decree required the submission of a Monthly Report of Operations (MRO) to U.S. EPA and IDEM containing analytical test results of samples collected. The samples and measurements were

required to be “representative” of the volume and nature of the monitored flow.

- B. Special Administrator. The Consent Decree created the position of “Special Administrator” to aid GSD in bringing its treatment system into compliance with the Consent Decree, GSD’s discharge permit, and the Clean Water Act. The Consent Decree authorized the Special Administrator to hire an Independent Contractor to operate and maintain GSD’s plant. UNITED WATER was the Independent Contractor hired to operate and maintain the GSD plant from approximately June 1998.

**COUNT 1**

**(Conspiracy – 18 U.S.C. § 371)**

17. Paragraphs 1-16 are incorporated.

18. Between approximately June 2003 and October 2008, the exact dates being unknown to the grand jury, within the Northern District of Indiana and elsewhere, Defendants,

**UNITED WATER, DWAIN BOWIE, and GREGORY CIACCIO**

did unlawfully, knowingly, and willfully conspire, confederate, and agree together and with each other and with other individuals, both known and unknown to the grand jury, to commit the following offenses against the United States:

### **OBJECTS OF THE CONSPIRACY**

The conspiracy had the following objects:

19. To knowingly tamper with a monitoring method required to be maintained by the Clean Water Act, in violation of the Clean Water Act, 33 U.S.C. § 1319(c)(4).

20. To defraud the United States Government, that is, to hamper, hinder, impede, impair, and obstruct by craft, treachery, deceit, and dishonest means the lawful and legitimate functions of the U.S. EPA in administering and enforcing federal environmental laws and regulations.

### **MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendants carried out and attempted to carry out the conspiracy included:

21. Devising, executing, and attempting to execute a scheme to decrease the quantity of chlorine used in the treatment process during the disinfection season at GSD, by increasing the amount of chlorine used when the daily *E. coli* sample was taken, and then reducing the amount used after the sample had been taken.

22. Devising, executing, and attempting to execute a scheme to take samples of monitored discharges when there were elevated levels of chlorine by temporarily increasing the concentration of chlorine when the daily *E. coli* sample was to be taken, and then reducing the concentration after the sample had been taken.

### OVERT ACTS

In furtherance of the conspiracy, and to effect its objects, the co-conspirators committed numerous overt acts, including the following:

Overt Act 1: On or about 2003, DWAIN BOWIE directed the former UNITED WATER Plant Superintendent H to turn down the chlorine dosing after the daily *E. coli* sample had been taken, and then turn it back up the next day prior to the next day's *E. coli* sample. The Plant Superintendent refused to comply, and told BOWIE that such action would be wrong and that he (the Plant Superintendent as the operator of record) did not want to go to jail.

Overt Act 2: On or about June 2003, after the UNITED WATER Plant Superintendent H had refused DWAIN BOWIE's order to reduce chlorine dosing after an *E. coli* sample had been taken, BOWIE and UNITED WATER terminated the Plant Superintendent and entered into an agreement signed by BOWIE under which UNITED WATER paid the former Plant Superintendent one year's salary, approximately \$60,000, for the Plant Superintendent, among other things, "not to make any negative or disparaging remarks about" White River Environmental Partnership, which was operated by UNITED WATER.

Overt Act 3: On or about June 2003, DWAIN BOWIE told UNITED WATER employee M that chlorine was to be turned up before taking the *E. coli* sample, and then turned down after the sample had been taken.

Overt Act 4: On or about June 2003, a UNITED WATER technical services employee from another UNITED WATER facility assigned to provide technical advice at the GSD facility, learned about the scheme to turn chlorine up for the *E. coli* sample and turn it down after the sample was taken, and asked DWAIN BOWIE about the scheme. BOWIE told the employee it was a one-time occurrence and claimed that it would not happen again.

Overt Act 5: On or about the summer/fall of 2003, DWAIN BOWIE and GREGORY CIACCIO informed UNITED WATER employees at GSD that the chlorine dosing method would involve increasing the chlorine dosing level prior to taking the daily *E. coli* sample for testing, and then decreasing the chlorine level after the sample had been taken.

Overt Act 6: On or about May 3, 2005, DWAIN BOWIE falsely stated at a meeting with the Contract Compliance Officer that the free chlorine residual at the time of the April 22, 2005 sampling and *E. coli* violation was 0.5 mg/l, when in fact it was substantially lower at 0.11 mg/l.

Overt Act 7: On or about June 26, 2005, UNITED WATER shift supervisor B notified GREGORY CIACCIO and UNITED WATER employee M that the shift supervisor had failed to make sure that a UNITED WATER operator promptly reduced the chlorine and bisulfite dosing following the taking of the *E. coli* sample, which would require purchasing of more chlorine chemicals sooner.

Overt Act 8: On or about August 9, 2005, UNITED WATER employee M directed that the chlorine dosing levels be increased and that laboratory personnel be delayed in taking an *E. coli* sample until free chlorine residuals were sufficiently high “to get the desired results”; after the *E. coli* sample was taken the chlorine dosing level was reduced.

Overt Act 9: On or about April 12, 2006, a UNITED WATER employee from another UNITED WATER facility who had been assigned to provide technical assistance to UNITED WATER at GSD sent an email to GREGORY CIACCIO and DWAIN BOWIE concerning the drop in chlorine usage from approximately 689 to 285 gallons, to which CIACCIO provided no response.

Overt Acts 10 through 78: On or about the following days, each date constituting to be used a separate overt act, UNITED WATER supervisors, in accordance with management instructions, directed and caused an elevated free chlorine residual to be used for the purpose of *E. coli* testing, after which the free chlorine residual was reduced:

OVERT ACT	DATE	SUPERVISOR(S)
10	April 1, 2004	B
11	April 2, 2004	K
12	May 3, 2004	A and employee M
13	May 25, 2004	A and employee M
14	June 2, 2004	K
15	June 10, 2004	A & B
16	July 14, 2004	L and employee M

17	July 22, 2004	A
18	August 3, 2004	A
19	August 6, 2004	A
20	August 21, 2004	B
21	September 7, 2004	A and employee M
22	September 28, 2004	C
23	October 6, 2004	A
24	October 8, 2004	A and employee M
25	October 15, 2004	A, B, and employee M
26	April 30, 2005	A
27	May 3, 2005	A and B
28	May 20, 2005	A and E
29	June 26, 2005	B & D
30	July 9, 2005	A and D
31	August 8, 2005	D and employee M
32	August 9, 2005	D, E and employee M
33	September 10, 2005	A and B
34	October 15, 2005	A and B
35	April 3, 2006	A
36	April 21, 2006	D and E
37	May 15, 2006	E
38	August 1, 2006	A and B
39	August 29, 2006	D and GREGORY CIACCIO
40	September 20, 2006	B and GREGORY CIACCIO
41	September 25, 2006	B

42	October 4, 2006	GREGORY CIACCIO
43	October 6, 2006	A
44	October 26, 2006	GREGORY CIACCIO
45	October 29, 2006	B
46	April 28, 2007	A
47	April 30, 2007	D and GREGORY CIACCIO
48	May 3, 2007	A and GREGORY CIACCIO
49	May 16, 2007	A, D and GREGORY CIACCIO
50	May 27, 2007	D
51	June 20, 2007	A and B
52	June 29, 2007	B
53	July 21, 2007	D
54	July 26, 2007	A
55	August 21, 2007	A
56	August 26, 2007	A
57	August 30, 2007	D and F
58	September 29, 2007	D
59	September 30, 2007	F
60	October 3, 2007	A and GREGORY CIACCIO
61	October 6, 2007	D
62	October 12, 2007	A
63	April 21, 2008	G
64	April 30, 2008	E and G
65	May 4, 2008	A and E
66	May 21, 2008	A and D



67	May 25, 2008	A and G
68	June 23, 2008	D and G
69	June 25, 2008	D
70	July 14, 2008	G
71	August 7, 2008	D and I
72	September 5, 2008	I
73	September 15, 2008	I
74	September 21, 2008	I
75	September 26, 2008	I
76	October 9, 2008	J
77	October 10, 2008	I
78	October 14, 2008	I

All in violation of Title 18, United States Code, Sections 371 and 2.

**THE GRAND JURY FURTHER CHARGES:**

**COUNTS 2 - 26**

**(Clean Water Act – 33 U.S.C. § 1319(c)(4))  
 (Tampering with a Monitoring Method)**

23. Paragraphs 1-16 are incorporated.

24. On or about each of the following days, as indicated below, in the Northern District of Indiana, Defendants,

**UNITED WATER, DWAIN BOWIE, and GREGORY CIACCIO,**

and others did knowingly tamper with a monitoring method required to be maintained under the Clean Water Act, by temporarily increasing the concentration of chlorine before taking *E. coli* compliance samples, and then decreasing it shortly after:

<b>Count</b>	<b>Defendants</b>	<b>Date</b>
2	UNITED WATER, BOWIE	June 26, 2005
3	UNITED WATER, BOWIE, CIACCIO	July 9, 2005
4	UNITED WATER, BOWIE, CIACCIO	August 8, 2005
5	UNITED WATER, BOWIE, CIACCIO	September 10, 2005
6	UNITED WATER, BOWIE, CIACCIO	October 15, 2005
7	UNITED WATER, BOWIE, CIACCIO	April 21, 2006
8	UNITED WATER, BOWIE, CIACCIO	May 15, 2006
9	UNITED WATER, BOWIE, CIACCIO	August 1, 2006
10	UNITED WATER, BOWIE, CIACCIO	September 25, 2006
11	UNITED WATER, BOWIE, CIACCIO	October 6, 2006

12	UNITED WATER, BOWIE, CIACCIO	April 28, 2007
13	UNITED WATER, BOWIE, CIACCIO	May 3, 2007
14	UNITED WATER, BOWIE, CIACCIO	June 29, 2007
15	UNITED WATER, BOWIE, CIACCIO	July 21, 2007
16	UNITED WATER, BOWIE, CIACCIO	August 21, 2007
17	UNITED WATER, BOWIE, CIACCIO	September 29, 2007
18	UNITED WATER, BOWIE, CIACCIO	October 3, 2007
19	UNITED WATER, BOWIE, CIACCIO	April 21, 2008
20	UNITED WATER, BOWIE, CIACCIO	May 4, 2008
21	UNITED WATER, BOWIE, CIACCIO	June 25, 2008
22	UNITED WATER, BOWIE, CIACCIO	July 14, 2008
23	UNITED WATER, BOWIE, CIACCIO	August 7, 2008
24	UNITED WATER, BOWIE, CIACCIO	September 5, 2008
25	UNITED WATER, BOWIE, CIACCIO	September 21, 2008
26	UNITED WATER, BOWIE, CIACCIO	October 9, 2008

All in violation of Title 33, United States Code, Section 1319(c)(4), and Title 18, United States Code, Section 2.

A TRUE BILL:

s/ Foreperson  
FOREPERSON

DAVID CAPP  
UNITED STATES ATTORNEY

By: s/ Toi Denise Houston  
Toi Denise Houston  
Assistant United States Attorney

By: s/ Krishna S. Dighe  
Krishna S. Dighe  
Assistant Chief  
Environmental Crimes Section  
U.S. Department of Justice

By: s/ Jeremy D. Peterson  
Jeremy D. Peterson  
Trial Attorney  
Environmental Crimes Section  
U.S. Department of Justice

By: s/ David P. Mucha  
David P. Mucha  
Special Assistant U.S. Attorney  
Regional Criminal Enf. Counsel  
U.S. Env't'l Protection Agency

# **Exhibit C**



## News Center

### Media Contacts

Feel free to contact us. We welcome all media inquiries.

Rich Henning  
Senior VP,  
Communications  
Corporate

Contact  
201-767-9300

Deb Rizzi  
Director,  
Communications  
Corporate

Contact  
201-767-9300

### Publications

Get more information about our services, our technologies, and our work to maintain our natural and human resources.

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**Contact**  
Rich Henning  
United Water  
201-767-2869  
[Rich.Henning@unitedwater.com](mailto:Rich.Henning@unitedwater.com)

## UNITED WATER REFUTES DOJ CHARGES

**Harrington Park, NJ, Dec 08, 2010, 6:45PM**

United Water officials refuted environmental criminal charges filed today by United States Department of Justice in Hammond, Indiana, regarding the company's former operation of the Gary Sanitary District facilities. The company operated the District's wastewater treatment facilities from 1998 to 2010.

"We are extremely disappointed in the course of action taken by the Department of Justice," said Robert Iacullo, president of United Water. "The allegations are unfounded and we believe that a jury will agree once the facts are presented. Environmental sustainability is the very lifeblood of our business. The government's claim is, at best, a disagreement about operating and monitoring methods, with no allegation of environmental harm. Trying to make a crime out of this disagreement is an abuse of prosecutorial discretion."

He noted that United Water's 12-year record of managing and operating Gary's wastewater facilities is exemplary, as evidenced by the numerous Indiana Water Environment Association Excellence Awards the company received for safety and the integrity of their laboratory procedures. "Our record in Gary is well-documented and stands today as an example of efficient plant operation and environmental stewardship," Iacullo said.

He explained that when United Water assumed operation of the Gary wastewater facilities, the District was under a US Environmental Protection Agency (EPA) consent decree to find an independent contractor to run its system. In addition, there were dozens of consent issues which had been problematic for decades. Within two years of United Water operating the District facilities, numerous consent decree items had been resolved and the EPA returned oversight of the wastewater facilities to the Indiana Department of Environmental Management. In addition, the US Conference of Mayors presented an award to the city for "applying some of the world's best

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Our experts will be happy to answer media inquiries regarding these topics; drinking water quality and treatment, wastewater treatment, and more.

resources to the operation and maintenance of the city's wastewater treatment facility.

"During our tenure in Gary, our team implemented numerous safety and training programs for our employees," said Brent Fewell, United Water's vice president for environmental compliance. "The facility was under constant inspection and oversight by environmental agencies and we operated in a transparent manner. Most important, the quality of the water discharged from the plant into the Grand Calumet River improved significantly under our operation. The Grand Calumet River is cleaner today than it's been in years."

"Our employees worked hard to do their jobs and protect the environment," said Iacullo. "They have the utmost respect for the laws designed to protect the environment. United Water is proud to lead by example and considers environmental sustainability a matter of public trust. We will vigorously defend our actions and demonstrate the positive impact we had on improving the environment in Gary."

#### About United Water

Founded in 1869, United Water is one of the nation's leading environmental companies, providing water and wastewater services to approximately 7 million people in the United States. In addition to owning and operating 20 water utilities, the company operates more than 200 municipal and industrial water and wastewater systems through innovative public-private partnerships and contract agreements.

###

#### Press Contact:

Rich Henning 201-767-2869

Deb Rizzi 201-767-9300

[Back to the News Center](#)

# **Exhibit D**



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**From:** Moser, Bob [Bob.Moser@UnitedWater.com]  
**Sent:** Tuesday, June 03, 2008 11:27 AM  
**To:** Link, Mike  
**Cc:** Dineen, Dennis  
**Subject:** Gary WWTP - Disinfection Operations  
**Importance:** High

Mike:

The increased hypochlorite dosage and operation with a free chlorine residual in the plant effluent before dechlorination has produced E. Coli values in the single digits and for a high flow day the E. Coli value was 25/100 ml. The hypochlorite feed rate is increased to produce an adequate free chlorine residual (0.3 to 0.6 mg/l) several hours before the E. Coli sample is taken and then reduced after the E. Coli sample is taken. Jack indicated that he was asked to do this by Dwain and Reggie.

In my opinion, this procedure is a recipe for disaster -- ethical issue - best effluent all of the time. If IDEM or EPA takes a grab sample outside the higher hypochlorite feed time you would definitely have a problem!

Please advise, if you concur.  
Thanks  
Bob Moser

6374

UW02\_00192558

# **Exhibit E**

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**From:** Link, Mike [Mike.Link@UnitedWater.com]  
**Sent:** Thursday, June 05, 2003 10:56 AM  
**To:** Bowie, Dwain  
**Cc:** Crosby, Jack (UW INDY); Moser, Bob  
**Subject:** Hypochloride Flow rates

I have heard that there is a proposed modification on dosage during testing. This is contrary to the 'rules of the game' and should not be modified for short durations. Call me if you have questions.

UW02\_00041925

# **Exhibit F**

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**From:** Link, Mike [Mike.Link@UnitedWater.com]  
**Sent:** Friday, August 29, 2003 2:33 PM  
**To:** Moser, Bob  
**Subject:** FW: Gary Disinfection  
**Attachments:** garycl.xls

Jack had stated this method as a way to save \$. I recommended against "playing" with the system. Is there anything that you saw to indicate the dosage was being manipulated to coincide with the grab sample?

-----Original Message-----

**From:** Brown, Tom  
**Sent:** Friday, August 29, 2003 2:13 PM  
**To:** Bowie, Dwain  
**Cc:** Link, Mike  
**Subject:** FW: Gary Disinfection

This is very disturbing. I want a complete explanation why these chlorine residuals spike every day.

-----Original Message-----

**From:** Rigdon, John  
**Sent:** Friday, August 29, 2003 1:45 PM  
**To:** Brown, Tom  
**Subject:** FW: Gary Disinfection

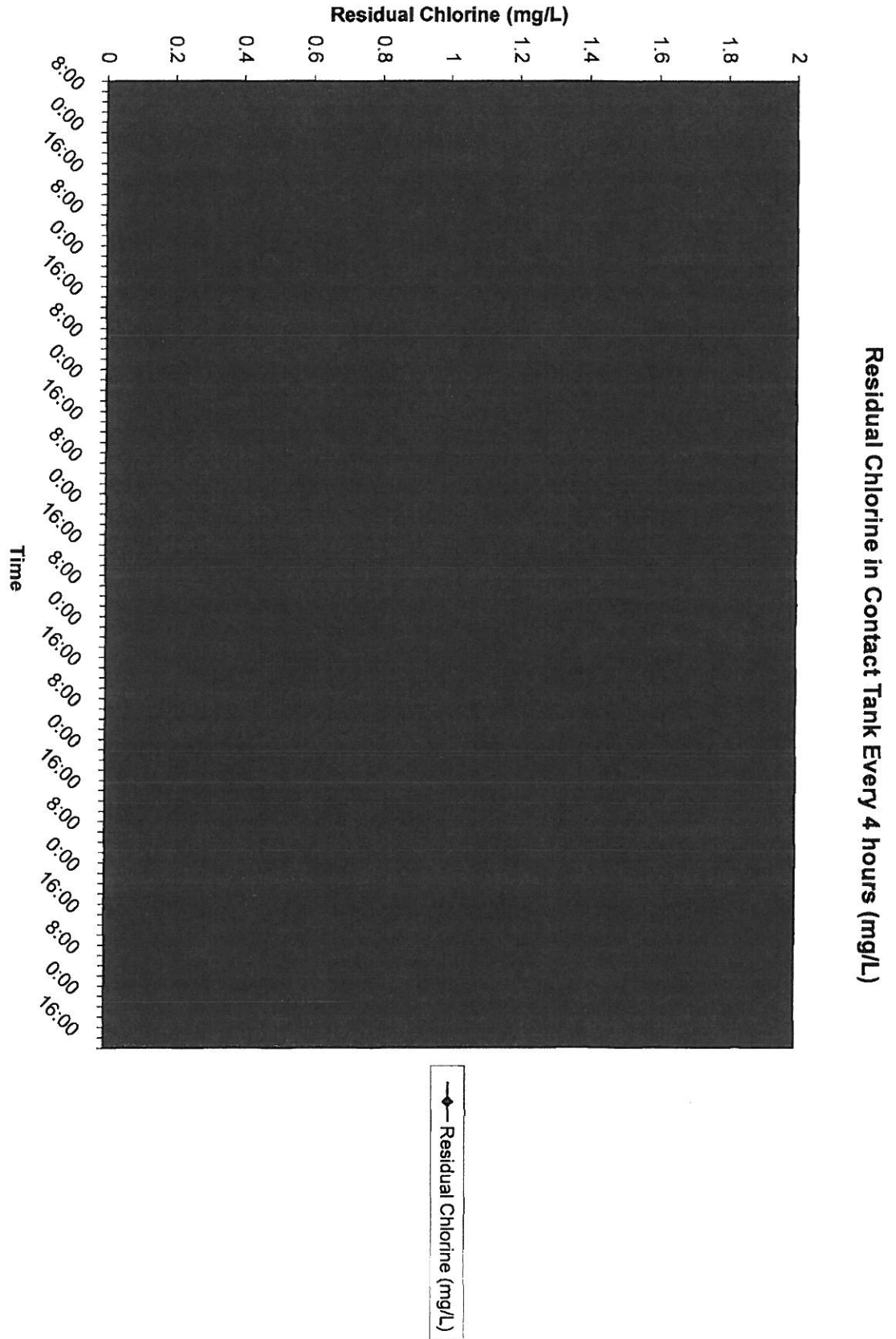
This is FYI.....I haven't heard anything back yet.

-----Original Message-----

**From:** Rigdon, John  
**Sent:** Tuesday, August 26, 2003 8:36 AM  
**To:** Bowie, Dwain  
**Subject:** Gary Disinfection

Tom Brown had asked me to investigate the e-coli exceedance that was observed in Gary last week. I have spoken to Bob Theodorou several times and I asked him for information on chlorine in the contact tank. Bob faxed me some information that I requested on residual chlorine. It is measured every 4 hours and I plotted the data. Best management practices would dictate that a dosage be established and allowed to remain in effect throughout the day. This data would indicate that the chlorine is adjusted higher somewhere around 8:00 am when the e-coli sample is taken and adjusted back down after the compliance sample is taken. Can you explain why the residual chlorine varies so much in the contact tank on a daily basis? Let me know what I can do to continue helping with this assignment.

<<garycl.xls>>



# **Exhibit G**



## President's Update

ROBERT J. IACULLO  
President



May 18, 2011

### AN UPDATE ON GARY, INDIANA

Dear Colleagues:

I'd like to take this opportunity to update you on recent developments involving the U.S. Department of Justice (DOJ) indictment regarding our prior operation of the Gary, Indiana wastewater treatment facility.

On April 14, United Water filed a "Motion to Dismiss" the charges on the grounds that they were unfounded. Yesterday, as expected, the DOJ responded to that motion. Essentially, there was nothing new in their document. They did, however, refer to a few internal emails selected from more than 700,000 documents that we provided. We are confident that the full context of these emails will support our position that the company and its employees acted properly.

By the end of the month, United Water will file a response restating our position that there is no basis for any of the charges and they should be dismissed. We will vigorously defend the company and the good faith efforts of our present and former employees. We are confident that we will be cleared.

Since this is a legal case, it is important that all statements on behalf of the company take place through proper channels. Please refer all questions to the corporate communications department at 201-767-2868 or email [GaryQuestions@unitedwater.com](mailto:GaryQuestions@unitedwater.com).

Sincerely,

*Bob*