

Russo, Stephanie

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Subject: Articles re recent federal indictments at the Gary Sanitary District

Former Gary wastewater treatment operators, national water company charged with violating Clean Water Act

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[Former Gary wastewater treatment operators, national water company charged with violating Clean Water Act](#)

By Sarah Tompkins sarah.tompkins@nwi.com, (219) 836-3780 nwi.com | Posted: Thursday, December 9, 2010 12:00 am | [1 Comment](#)

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HAMMOND | The former contract operator of the Gary Sanitary District wastewater treatment plant and two of its employees were charged Wednesday with conspiracy and violating the Clean Water Act.

The 26-count indictment accuses United Water Services Inc., former Gary plant manager Dwain Bowie and staff member Gregory Ciaccio of tampering with wastewater monitoring methods to meet mandated environmental standards.

United Water Services is denying all charges.

"We believe the claim at best is really a disagreement about operating and monitoring methods, with no allegations of environmental harm," said Rich Henning, company spokesman. "And trying to make a crime out of this disagreement is an abuse of prosecutorial discretion."

The city of Gary had a contract with United Water Services starting in 1998 to pay the national company more than \$9 million a year to run its wastewater treatment operations, court records show. The plant treats and discharges wastewater from Gary, Hobart, Lake Station and Merrillville.

According to the indictment, Bowie and Ciaccio conspired to increase the amount of chlorine used before taking daily E. coli samples and then decrease the amount of the disinfectant used afterward to inaccurately portray the levels of bacteria being emptied into the Grand Calumet River.

Randall Ashe, special agent-in-charge of the U.S. Environmental Protection Agency's criminal investigation division, declined to comment at this time.

United Water Services President Robert Iacullo said the company took over operations in Gary after an EPA consent decree required the district to find an independent contractor to run its system. Within two years of United Water operating Gary's facilities, he said, numerous consent decree items were fixed.

"We will vigorously defend our actions and demonstrate the positive impact we had on improving the environment in Gary," he said.

Gary renewed the company's 10-year contract in 2008 but dissolved it earlier this year. According to Henning, United Water Services spokesman, the city claimed it was due to financial issues.

"We maybe disagreed over the financial aspects of it, but we reached a mutual agreement ... it was in the best interests of both parties."

The indictment also claims Bowie fired a superintendent who refused orders to tamper with the E. coli sampling, and had the former employee sign an agreement to, among other things, not say anything negative about the plant partnership operated by United Water Services. In exchange for signing, the unidentified worker allegedly was paid about \$60,000, or about one year's salary.

"At this point, we're still reviewing the charges in-depth, and we'll have no comment on that," Henning said.

Bowie, who still is employed with United Water Services and now is living in Mississippi, could not be reached for comment. Ciaccio no longer is associated with the company, and calls to his home in Valparaiso were not returned.

If convicted, they each could face up to five years in prison on the conspiracy count and two years on each of the 25 alleged Clean Water Act violations, as well as more than \$500,000 in fines. A conviction could also affect United Water Services' government contracts and result in fines.

Calls to Gary's Sanitary District Board of Commissioners were not returned.

Gary Mayor Rudy Clay is administrator of the sanitary district board and earns approximately \$30,000 annually for that position in addition to the salary he draws as mayor. City spokeswoman LaLosa Burns said the mayor "was not available to talk," and when asked if he would like to comment as the sanitary district administrator, she said, "there's no comment at this time."

The case was investigated by the EPA's criminal division, the FBI and Indiana State Police.

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2 sewage plant employees charged with fudging tests

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December 9, 2010

BY TERESA AUCH SCHULTZ AND JON SEIDEL, (219) 648-3120 AND 648-3068

United Water Services, the company that operated the Gary Sanitary District for 12 years, chose increasing its profits over properly killing E. coli bacteria before its water headed to the swimming beaches of Lake Michigan, according to a federal indictment.

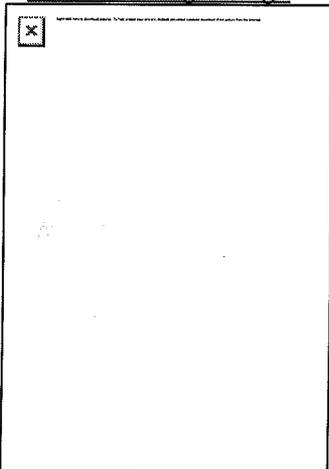
The company and two employees face 26 counts of conspiring to defraud the U.S. government and violating the Clean Water Act by allegedly lowering the amount of chlorine used to kill E. coli until just before samples were taken.

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Workers wait outside the administration building on Oct. 20, 2008, on the grounds of the Gary Sanitary District in Gary as federal investigators seized records inside.
(Stephanie Dowell/Post-Tribune, file)

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Dwain Bowie

The indictment, filed Wednesday in the U.S. District Court in Hammond, claims the conspiracy started in 2003, soon after Dwain L. Bowie, one of the defendants, was named project manager for the GSD treatment plant. He and co-defendant Gregory A. Ciaccio, then-plant superintendent, told employees to lower the amount of chlorine used to treat the discharge water for E. coli after daily test samples had been taken and then to turn the chemical back up just before the tests.

The plan, the indictment claims, was to save money by buying less chlorine than was actually needed. By turning the chlorine up just before the tests, the level of E. coli in the tests would appear to be within federally approved ranges for the bacteria without having to constantly treat it during disinfecting season, which ran from April through October.

Water from the treatment plant --which treats sanitary sewage for Gary, Merrillville, Hobart and Lake Station -- goes to the Grand Calumet River, which then flows into Lake Michigan. That would mean the GSD would have added increased levels of E. coli to Lake Michigan if the lowered amounts of chlorine had failed to kill off the bacteria before the water left the treatment plant. The indictment does not say if that contamination did happen.

The indictment claims the scheme lasted until October 2008, when federal agents began a two-day raid at the GSD. They said at the time they were seeking evidence of "environmental crimes." Agents followed up a few months later with a subpoena seeking further GSD financial, personnel and water treatment records dating back as far as 2000.

When asked, United Water spokesman Rich Henning didn't dispute the specific facts in the indictment but said the issue deals with interpretation of the law.

"The government's claim is, at best, a disagreement about operating and monitoring methods, with no allegation of environmental harm," Robert Iacullo, United Water president, said in a news release. "Trying to make a crime out of this disagreement is an abuse of prosecutorial discretion."

If convicted, Bowie and Ciaccio face up to five years in prison on the one conspiracy count and two years on each of the violation counts, for a total of 55 years in prison, plus a fine of up to \$250,000. United Water would face a fine, probation or both if convicted.

Gary Sanitary District's waste release permit requires it to take daily samples "representative of the volume and nature of the monitored discharge," according to the indictment.

Iacullo also says in the release that the indictment is without merit and the company won numerous environmental awards for operating the GSD plant. The release also says the treatment plant was always inspected by environmental agencies and the water discharged into the Grand Calumet River improved during United Water's tenure.

The Gary Sanitary District's Board of Commissioners voted in March to terminate United Water's contract, but the two agencies didn't end their association until July when they struck a mutual deal to part ways. GSD Director Rinzer Williams III said Wednesday, as he has insisted since March, that severing from United Water was a cost-cutting move unrelated to the federal investigation.

Williams also said it would be improper to comment on the indictment, which outlines activity that took place more than a year before his tenure as GSD director began. Luci Horton, the previous director, died in February, and Williams became director a few weeks later. He said Bowie and Ciaccio left their jobs at the GSD plant before he took the job.

Gary Mayor Rudy Clay, the Sanitary District's special administrator, didn't return calls for comment by press time. Richard Comer, president of the GSD Board of Commissioners, only said he was sorry to hear about the indictment.

Neither Bowie nor Ciaccio could be reached for comment.

Lee Botts, a Gary resident and veteran environmentalist, questioned why Gary and GSD were not being held responsible for the actions of United Water.

"United Water was working for the city of Gary," Botts said. "Where was the city of Gary in all of this? Because the problems with the Gary Sanitary District long preceded when United Water was hired."

Botts also questioned whether this scheme really started in 2003 or if that was the earliest that the federal government could prove.

Employees noticed changes

The indictment lists 68 times that 12 unnamed superintendents and employees lowered chlorine levels, although it charges United Water, Bowie and Ciaccio with just 25 of them. Also, it claims that on May 3, 2005, Bowie lied to a contract compliance officer, saying the chlorine used during a sampling a month earlier that had violated the amount of E. coli was at 0.5 mg per liter, when it was actually a fifth of that at 0.11 mg per liter, the indictment says.

The indictment says some employees did protest or question the practice. In 2003, Bowie told an unnamed superintendent to lower the amount of chlorine treating the waste water after a daily E. coli test had been taken, according to the indictment. The employee refused, though, saying that doing so was wrong and the employee didn't want to go to jail. United Water fired the superintendent in June 2003, the indictment claims, and paid him \$60,000 not to say anything negative about the plant.

Ciaccio was hired in July 2003.

Another United Water employee who worked at a different plant questioned Bowie after learning about the scheme, but Bowie said the plant had lowered the chlorine just once and that it wouldn't do so again, the indictment says.

A year later, another employee from a different United Water location e-mailed Ciaccio and Bowie about why the GSD plant went from using 689 gallons of chlorine to 285 gallons, less than half of the original amount. The indictment does not say in what time period that chlorine would have been used.

This is not the first time the GSD has violated the Clean Water Act. The city reached a consent decree with the federal government in 1979 that allowed the city to start charging a user fee and to name a special administrator to make sure the district was following the consent decree and the Clean Water Act.

Former Mayor Scott King was the special administrator when Gary agreed in 1998 to pay United Water \$9 million to run the treatment plant for 10 years, a decision to privatize the GSD that was unpopular with many citizens. King said the city took a long time to go through all the proposals and had an independent firm in Philadelphia review the bids to make sure they were all proper. King said he remembers the two finalists were close to each other in yearly operating costs.

King, who resigned as mayor in 2006, was still acting as special administrator when the conspiracy was alleged to have started.

"We dealt with a variety of issues, but at no time was there any indication from any source of a shorting of chlorine," King said Wednesday.

He said the city had hired an engineering firm, although he couldn't remember the name of it, to help oversee technical aspects of United Water as an added layer of precaution. He said he was not sure if GSD was still using that firm when he resigned in 2006.

According to United Water's news release, the company improved several consent problems the city had with the federal government within two years of taking over the plant. The U.S. Environmental Agency also agreed during United Water's tenure to turn oversight of the plant over to the Indiana Department of Environmental Management, the release said.

According to court records, no appearance date had been scheduled as of press time for United Water, Bowie and Ciaccio.

