

THE CLEAN WATER ACT

3. The Clean Water Act (“CWA”) prohibited all discharges of pollutants into the waters of the United States, except in accordance with a permit. 33 U.S.C. §§ 1311, 1342. The purpose of the CWA was to restore and maintain the chemical, physical and biological quality of the Nation's waters. 33 U.S.C. § 1251(a). The CWA was enacted to prevent, reduce, and eliminate water pollution in the United States and to conserve the waters of the United States for the protection and propagation of fish and aquatic life and wildlife, drinking water, recreational, agricultural, and industrial use.

4. Pursuant to the CWA, National Pollutant Discharge Elimination Systems (“NPDES”) permits were issued by EPA or a delegated state agency which authorized the discharge of pollutants into surface waters and imposed limits on the type and amount of pollutants that could be discharged into the waters of the United States. 33 U.S.C. § 1342.

5. The CWA also regulated the discharge of industrial wastewater going indirectly into surface waters through sewer systems connected to Publicly Owned Treatment Works such as DELCORA’s. POTWs are generally designed to treat conventional pollutants or “domestic sewage,” and do not have the capacity to treat every type of wastewater that could come to them through sewer systems, particularly corrosive substances.

6. It was unlawful for any person to negligently discharge a pollutant into a water of the United States without a permit issued by either the EPA or by a State or in violation of pretreatment prohibitions or requirements. 33 U.S.C. § 1319(c)(1).

THE CEL FACILITY

7. The CEL facility had truck loading bays in front, along with a parking lot. Train tracks bordered one side, and Marcus Hook Creek, a tributary of the Delaware River, was located on another side.

8. The CEL parking lot had a manhole located near one of the truck loading bays in front of the facility. The manhole was part of a storm sewer that collected rain water and snow melt from the parking lot and took it approximately 600 feet where it discharged via a culvert into Marcus Hook Creek, and then flowed downstream to the Creek's intersection with the Delaware River.

CLEAN WATER ACT VIOLATIONS

9. CEL routinely washed the interior of 400- to 500-gallon plastic tanks used to ship liquid chemicals via truck to remove residual contamination prior to shipping different chemicals. This process generated chemical-contaminated waste water. The washing of these tanks occurred both at the parking lot and inside the facility.

10. CEL routinely washed the interior and exterior of five-gallon plastic containers used to ship chlorine to clean them and make them suitable for reuse. This washing took place inside the CEL facility. Employees would fill a plastic "tote" supported by metal rods, and would then wash each container separately. This process generated chemical-contaminated waste water. When the water became too dirty to use, employees discharged it via a black hose connected to the base of the tote. The hose led through a wall into a dirty unused bathroom, and discharged into a drain located on the bathroom floor. The waste water then flowed into a sanitary sewer system leading to a publicly owned treatment works (POTW),

otherwise known as a sewage treatment plant, owned and operated by the Delaware County Regional Waste Water Authority (DELCORA).

11. On or about April 25, 2007, CEL employees rinsed the interior of the tank of a CEL truck that had been parked in a loading bay in front of the CEL facility, and which had been used to transport sodium hypochlorite (chlorine). Liquid from a valve on the truck had pooled near the truck and flowed into the manhole in the parking lot.

12. As a consequence, the next day, on or about April 26, 2007, the Marcus Hook fire and police departments responded to and notified EPA and the U.S. Coast Guard of a chemical spill into the Marcus Hook Creek. Sample results of the liquid coming from the truck, on the parking lot surface, and in the manhole, reflected pH levels ranging from 9 to 10.2 on a scale of 14, of which 7 is neutral. Each one-level change in test results reflect a ten-fold increase in acidity or alkalinity. Thus, an 8 is 10 times more alkaline a 7; a 9 is 100 times more alkaline, and a 10 is 1,000 times more alkaline.

13. On or about April 25, 2007, in Marcus Hook, in the Eastern District of Pennsylvania, defendant

CHEMICAL EQUIPMENT LABS, INC.

negligently discharged and caused the discharge of pollutants, that is chemical-contaminated waste water, from a point source into a water of the United States, that is Marcus Hook Creek, without a permit as required by the Clean Water Act.

All in violation of Title 33, United States Code, Sections 1319(c)(1)(A) and 1311(a).


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United States Attorney