

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA        )  
  )  
  )        No.  
  )  
  )        Violation: Title 18, United States  
PHILIP M. KRAUS                    )        Code, Sections 1001(a)(1) and (2)

COUNT ONE

The SPECIAL SEPTEMBER 2014 GRAND JURY charges:

1. At times material to this indictment:

Regulatory Background

a. The Safe Drinking Water Act of 1974 (“the Act”) was a federal law designed to ensure the safety of drinking water distributed by public water systems to their customers in the United States. The United States Environmental Protection Agency (“USEPA”) promulgated regulations to implement the Act.

b. Under the Act and USEPA implementing regulations, a “public water system” was defined to include a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system had at least 15 service connections or regularly served an average of at least 25 individuals daily at least 60 days out of the year. The term “public water system” included (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with

such system, and (ii) any collection or pretreatment storage facilities not under such control that were used primarily in connection with such system.

c. USEPA regulations defined a “community water system” as a public water system that served at least 15 service connections used by year-round residents or regularly served at least 25 year-round residents.

d. As directed by the Act, USEPA promulgated maximum contaminant levels (“MCLs”) for various drinking water contaminants, including an MCL for microbiological contaminants.

e. USEPA regulations required each community water system to conduct periodic monitoring to determine whether the community water system was in compliance with the MCLs established under the Act.

f. The Act authorized USEPA to grant to a state primary responsibility to enforce the Act and the USEPA implementing regulations, provided that such state had (i) adopted and implemented regulations and requirements that were at least as stringent as those promulgated by the USEPA under the Act; and (ii) demonstrated that it could effectively execute and enforce those regulations and requirements.

g. Pursuant to the Act and a grant of authority from EPA, the State of Illinois, through the Illinois Environmental Protection Agency (“IEPA”), had primary responsibility for enforcing the Act and the USEPA implementing regulations within the State of Illinois. Pursuant to State law, IEPA had promulgated regulations that implemented the Act and the USEPA regulations.

The Village of Dolton Was Obligated to Monitor Its Drinking Water

h. The Village of Dolton (“Dolton”) was an Illinois municipal corporation south of the City of Chicago within the Northern District of Illinois. Dolton operated a community water system that distributed drinking water to residents and businesses in Dolton.

i. Dolton purchased its drinking water from the City of Chicago, Illinois, which used Lake Michigan as a source of drinking water. Prior to arrival of the purchased drinking water at the Dolton community water system, the City of Chicago both (a) treated and disinfected raw Lake Michigan water, and (b) conducted monitoring (sampling and analysis) of the finished Lake Michigan water as required by the Act and the USEPA implementing regulations. As a result, Dolton was excused from performing certain contaminant monitoring that was performed by the City of Chicago. However, under the Act and the USEPA implementing regulations, Dolton was still required to monitor its drinking water for microbiological contaminants.

j. The MCL for microbiological contaminants was based upon the presence or absence of coliform bacteria in drinking water. In particular, as applied to Dolton, the MCL was violated if either (i) more than two routine monthly drinking water samples were positive for the presence of total coliform bacteria, or (ii) if following a routine monthly drinking water sample that was positive for the presence of total coliform bacteria, a repeat sample was positive for the presence of fecal coliform and/or *Escherichia coli* (*E. coli*) bacteria.

k. Pursuant to the Act and the USEPA implementing regulations, Dolton was required, on a monthly basis, to determine compliance with the MCL by collecting, pursuant to a written sample siting plan approved by IEPA, multiple samples from its distribution system at sites that were representative of water throughout the distribution system.

l. Dolton conducted its monthly coliform sampling activity pursuant to a Coliform Monitoring Plan (“CMP”) approved by IEPA. Prior to September 2012, Dolton was required to collect at least 30 drinking water samples per month. Starting in September 2012, Dolton was required to collect at least 25 samples per month. Under the CMP, the drinking water samples were required to be collected from any of 52 identified sites located throughout Dolton. Each CMP-approved site was assigned a unique identifying number and placed into one of 13 groups. For each month’s sampling, Dolton was required to collect at least one sample from each of the 13 groups of sites.

m. Once it had collected drinking water samples in conformance with the CMP, Dolton was required to provide those samples to a qualified laboratory for analysis for coliform bacteria according to specified test methods.

Defendant’s Role in Dolton’s Drinking Water Monitoring

n. Between approximately 1987 and on or about August 30, 2013, defendant PHILIP M. KRAUS (“KRAUS”) was a Certified Water Operator at Dolton.

o. Beginning no later than January 10, 2008, KRAUS was responsible for obtaining, and transmitting to a qualified laboratory, drinking water

samples from Dolton's community drinking water system for the purposes of monitoring for coliform bacteria. As allowed by the CMP, KRAUS collected drinking water samples on three days during each calendar month.

p. From at least on or about January 10, 2008, through on or about August 21, 2013, KRAUS delivered to Contract Laboratory A drinking water samples allegedly collected from Dolton's community water system.

q. When he delivered the drinking water samples to Contract Laboratory A, KRAUS provided to Contract Laboratory A a completed form (the "Coliform Sampling Form") on which KRAUS identified the particular CMP-approved sampling site in Dolton from which each sample allegedly was collected.

r. Contract Laboratory A then analyzed the drinking water samples for the presence or absence of total coliform bacteria.

s. After analyzing the samples for total coliform bacteria, Contract Laboratory A electronically transmitted to IEPA the sample analysis results along with the site locations for each sample as provided by KRAUS to Contract Laboratory A on the Coliform Sampling Form.

t. IEPA utilized the analysis results, as well as the sample site data that accompanied the analysis results, to determine whether Dolton was (i) monitoring for coliform bacteria in accordance with the CMP, and (ii) in compliance with the MCL for microbiological contaminants. None of the samples were positive for the presence of coliform bacteria in Dolton's drinking water.



2. Beginning no later than in or about January 2008, and continuing until in or about August 2013, in the Northern District of Illinois, Eastern Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully falsified, concealed and covered up by scheme and device a material fact within the jurisdiction of the executive branch of the government of the United States, namely, that the drinking water samples from Dolton's community water system were not being collected at representative locations throughout Dolton's community water system in conformance with Dolton's CMP.

3. It was part of the scheme that, starting no later than in or about January 2008, and continuing until at least August 2013, KRAUS engaged in the regular practice of collecting multiple drinking water samples for coliform bacteria analysis at a single location with the intent to falsely represent to Contract Laboratory A and IEPA that the samples were collected from separate CMP-approved sites.

4. It was further part of the scheme that, on CMP forms maintained at Dolton for each calendar month from at least January 2008 through and including August 2013, KRAUS falsely represented that certain samples were collected at a particular CMP-approved site when, as KRAUS knew, those samples had not been collected from the site that KRAUS listed on the CMP form.



5. It was further part of the scheme that, on Coliform Sampling Forms that KRAUS submitted to Contract Laboratory A each month from at least January 2008 through and including August 2013, KRAUS represented that certain samples were collected at a particular CMP-approved site when, as KRAUS knew, those samples had not been collected from the site that KRAUS listed on the Coliform Sampling Forms for those samples.

6. It was further part of the scheme that, by falsifying the Coliform Sampling Forms that KRAUS submitted to Contract Laboratory A each month from at least January 2008 through and including August 2013, KRAUS caused Contract Laboratory A to submit the false drinking water sample site location data from the Coliform Sampling Forms to the IEPA.

7. It was further part of the scheme that, by causing the submission of false drinking water sample site location data to the IEPA, KRAUS caused IEPA to conclude incorrectly that Dolton was monitoring for coliform bacteria in accordance with the Act, USEPA implementing regulations, and the CMP.

8. It was further part of the scheme that KRAUS concealed from Dolton officials and the IEPA that KRAUS (a) had not collected the drinking water samples from Dolton's community water system in accordance with the CMP; (b) caused Dolton's monthly coliform sampling to not be representative of drinking water throughout its drinking water distribution system; (c) falsely identified drinking water sample site location data on the monthly CMP forms maintained at Dolton and the Coliform Sampling Forms provided to Contract Laboratory A; and (d) caused

Contract Laboratory A to submit the false drinking water sample location data from the Coliform Sampling Forms to the IEPA.

In violation of Title 18, United States Code, Sections 1001(a)(1) and 2.

COUNT TWO

The SPECIAL SEPTEMBER 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. On or about March 7, 2013, in the Northern District of Illinois, Eastern

Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the government of the United States, namely, in coliform analysis results that defendant PHILIP M. KRAUS caused Contract Laboratory A to transmit to IEPA, the identification of an address on East 138th Street, Dolton, Illinois, as a site from which one of the drinking water samples listed in the analysis results was collected when, as defendant PHILIP M. KRAUS knew, none of the drinking water samples listed in the analysis results was drawn from that location;

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

### COUNT THREE

The SPECIAL SEPTEMBER 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. On or about April 10, 2013, in the Northern District of Illinois, Eastern Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the government of the United States, namely, in coliform analysis results that defendant PHILIP M. KRAUS caused Contract Laboratory A to transmit to IEPA, the identification of an address on East 138th Street, Dolton, Illinois, as a site from which one of the drinking water samples listed in the analysis results was collected when, as defendant PHILIP M. KRAUS knew, none of the drinking water samples listed in the analysis results was drawn from that location;

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

## COUNT FOUR

The SPECIAL SEPTEMBER 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. On or about May 9, 2013, in the Northern District of Illinois, Eastern Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the government of the United States, namely, in coliform analysis results that defendant PHILIP M. KRAUS caused Contract Laboratory A to transmit to IEPA, the identification of an address on East 138th Street, Dolton, Illinois, as a site from which one of the drinking water samples listed in the analysis results was collected when, as defendant PHILIP M. KRAUS knew, none of the drinking water samples listed in the analysis results was drawn from that location;

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

COUNT FIVE

The SPECIAL SEPTEMBER 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. On or about June 5, 2013, in the Northern District of Illinois, Eastern Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the government of the United States, namely, in coliform analysis results that defendant PHILIP M. KRAUS caused Contract Laboratory A to transmit to IEPA, the identification of an address on East 138th Street, Dolton, Illinois, as a site from which one of the drinking water samples listed in the analysis results was collected when, as defendant PHILIP M. KRAUS knew, none of the drinking water samples listed in the analysis results was drawn from that location;

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

COUNT SIX

The SPECIAL SEPTEMBER 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is incorporated here.
2. On or about July 2, 2013, in the Northern District of Illinois, Eastern Division, and elsewhere,

PHILIP M. KRAUS,

defendant herein, knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the government of the United States, namely, in coliform analysis results that defendant PHILIP M. KRAUS caused Contract Laboratory A to transmit to IEPA, the identification of an address on East 138th Street, Dolton, Illinois, as a site from which one of the drinking water samples listed in the analysis results was collected when, as defendant PHILIP M. KRAUS knew, none of the drinking water samples listed in the analysis results was drawn from that location;

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

A TRUE BILL:

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UNITED STATES ATTORNEY