

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, )  
v. )  
Plaintiff, )  
LANCE A. CHAREN, )  
Defendant. )

Criminal Action No. 17- 13-VNA

**REDACTED**

INDICTMENT

The Grand Jury for the District of Delaware charges that:

Count One

(Storage of Hazardous Waste Without a Permit)

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Introduction

1. At all times material to this Indictment, International Petroleum Corporation of Delaware (“IPC”) operated a facility located at 505 South Market Street in Wilmington, Delaware, (the Wilmington “plant” or “facility”) which processed used oil and hydrocarbon-containing waste water and then sold the reprocessed petroleum to various companies for reuse. The plant had two components: oil recovery/processing and waste water treatment. The Wilmington facility’s petroleum processing activities generated sludge tank bottom waste and waste water, the latter of which the company treated at the waste water treatment portion of the facility prior to discharging it into a sewer along Market Street owned by the City of Wilmington, Delaware (the “City of Wilmington” or “the City”).

2. During the period of the offenses described in this Indictment, IPC possessed environmental permits for the Wilmington facility. One, issued by the State of Delaware, was a

federally-enforceable waste and air permit which governed, among other things, what types of material could be taken to the Wilmington plant for processing. It specified seven categories of waste material, all of which had to contain recoverable amounts of petroleum-based compounds, which IPC could accept. The second permit, issued by the City of Wilmington, was a federally-enforceable Clean Water Act pretreatment permit which governed the types and concentrations of pollutants which IPC could discharge into the City of Wilmington's sewer system.

3. From September 13, 2010, through January 31, 2013, Lance A. Charen ("the Defendant" and "Defendant Charen") served as branch manager of the Wilmington facility. In that role, Defendant Charen had overall responsibility for environmental compliance at the Wilmington facility, including the handling of hazardous waste, the determination of which waste streams the facility accepted for processing and treatment, and the operation of the waste water treatment plant.

**RCRA**

4. At all times material to this Indictment, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq., governed the generation, storage, transportation and disposal of hazardous waste. IPC generated hazardous waste at the Wilmington facility which waste was regulated by the federal and state governments under RCRA. The Wilmington facility was classified as a "large quantity generator" of hazardous waste because it generated more than 1,000 kilograms (approximately 2,200 pounds) of hazardous waste per month. 40 C.F.R. Section 262.20.

5. RCRA makes it a felony for a person to knowingly store, treat or dispose of hazardous waste without a permit, to transport or to cause hazardous waste to be transported without a manifest, or to knowingly omit material information or make a material false statement or representation in a record or document filed, maintained or used for purposes of compliance with RCRA. 42 U.S.C. §§ 6925, 6928(d)(2)(A), (3), (5). Under RCRA, to be a hazardous waste and regulated as such from point of generation to time of disposal, a material must first be a solid waste and then meet certain

regulatory definitions regarding what is hazardous. This program is commonly referred to as RCRA's "cradle to grave" regulatory system.

6. A "solid waste" under RCRA is any "discarded material." 40 C.F.R. § 261.2(a)(1). Discarded material includes abandoned, recycled, or inherently waste-like substances or compounds. Id. at § 261.2. The State of Delaware is authorized to operate a state hazardous waste program in lieu of the federal program; however, the federal government retains enforcement authority pursuant to 42 U.S.C. § 6928.

7. There are two general categories of hazardous wastes: listed and characteristic. Listed wastes are specifically identified in the regulations or "listed." 40 C.F.R. § 261.30-.33. Characteristic wastes are those which are hazardous because they exhibit one or more of the following characteristics: ignitability, corrosivity, reactivity or toxicity. 40 C.F.R. § 261.20-.24.

8. As a waste generator, it was IPC's responsibility to determine whether the material it generated at the plant was a waste and, if so, whether it fell within the RCRA definition of hazardous waste. 40 C.F.R. Section 262.11. If a waste was determined to be hazardous waste, it was IPC's responsibility to comply with RCRA regulations governing the handling, storage, transportation and disposal of such material. Hazardous waste could be stored legally at the Wilmington plant for up to 90 days after generation without the facility needing a RCRA storage permit, provided that IPC complied with specific storage and labeling requirements. 40 C.F.R. Section 262.34(a). However, IPC was required to have a RCRA permit to store hazardous waste at the plant for more than 90 days. 40 C.F.R. Section 262.34(b). IPC did not possess a RCRA storage permit for the Wilmington plant.

#### *The Generation of Hazardous Waste by Cleaning Out Storage Tanks*

9. IPC used large metal tanks to store used oil both prior to and after processing, and to store incoming waste water containing petroleum. Solids and sludges that accumulate at the bottom of storage tanks that contain used oil or petroleum often are referred to as tank bottoms. Tank bottoms often are transported off-site for disposal in "Baker boxes," which are commercially-rented roll-off

vacuum boxes from the Baker Corporation. A Baker box has an approximate capacity of 5,000 gallons.

**Tank 7**

10. In the fall of 2011, while Defendant Charen served as IPC's branch manager, Tank 7, which had a capacity of approximately 1,265,000 gallons and was used to store used oil, needed to be cleaned out because it contained about 250,000 gallons of tank bottoms, the presence of which decreased the utility of Tank 7.

11. On or about March 1, 2012, Defendant Charen caused an IPC staffer to take from Tank 7 a sample and send it for analysis to a third-party laboratory.

12. On March 5, 2012, the third-party laboratory reported to Defendant Charen analytical results demonstrating that the tank bottom waste would be classified as hazardous waste after it was cleaned out of the tank, due to the presence of toxic levels of benzene. Also on March 5, 2012, Defendant Charen was advised that the Wilmington plant chemist had received the referenced analytical results and reported in an email, "I guess we have to dispose as haz waste." Further on March 5, 2012, the supervisor of the clean out operation emailed Defendant Charen, advising, in part, that it was Defendant Charen's responsibility "as the generators to classify how [IPC wanted] the material managed. Let us know your waste determination. . ." Finally, on March 5, 2012, Defendant Charen told a representative of the Delaware Department of Natural Resources and Environmental Control that he, Defendant Charen, knew that IPC had to ship any hazardous waste generated during the clean out of Tank 7 off site within 90 days of its removal from Tank 7.

13. From on or about March 1, 2012 through March 6, 2012, at Defendant Charen's instruction, tank bottom waste was removed from Tank 7 and placed in four Baker boxes.

14. On March 12, 2012, the IPC on-site chemist sampled the contents of each of the four Baker boxes containing tank bottoms from Tank 7 and sent the samples to a third-party laboratory. On March 15, 2012, the third-party laboratory reported to Defendant Charen analytical results showing

that two of the Baker boxes had to be handled as hazardous waste due to the toxic waste characteristics benzene and ignitability. Defendant Charen then emailed IPC's on-site chemist, “[s]o much for our hope that we could come down enough to avoid being Haz Waste.” Defendant Charen then directed employees to dispose of the four Baker boxes.

15. On or about April 4 and 6, 2012, the two Baker boxes containing non-hazardous waste were properly disposed of at a landfill. However, the two Baker boxes containing hazardous waste remained at the Wilmington facility for several months and ultimately were trucked off-site to South Carolina without a hazardous waste manifest.

**Tanks 2 and 3**

16. On or about April 11, 2012, IPC prepared to clean out of tank bottoms from Tanks 2 and 3, each of which had an approximate 200,000-gallon capacity. IPC staff provided samples from each of the two tanks to a third-party laboratory for analysis, at Defendant Charen's request. The laboratory reported to IPC analytical results demonstrating the tank bottom waste from Tanks 2 and 3, once cleaned out of the tanks, would be hazardous waste due to toxic waste characteristics for barium, lead, chromium, tricholorethene (TCE) and tetrachloroethene (PCE).

17. From April 17 through May 1, 2012, Defendant Charen caused tank bottom waste to be removed from Tanks 2 and 3 and placed into at least 27 Baker boxes (“the 27 Baker boxes”). The tank bottoms became solid wastes at that point, and IPC had to determine if the 27 Baker boxes needed to be managed as hazardous waste. At Defendant Charen's direction, IPC employees sampled each of the 27 Baker boxes and delivered the samples to a third-party laboratory for analysis. Analytical results for each of the 27 samples demonstrated that the 27 Baker boxes had concentrations of benzene and/or barium, chromium, cadmium, lead, tetrachloroethene and trichloroethene, which each served to classify the contents of each of the 27 Baker boxes as hazardous waste regulated by RCRA. At Defendant Charen's direction, IPC staff then provided the analytical results of the 27 Baker boxes to outside contractors, seeking proposals for the costs of disposal of the tank bottoms as hazardous waste.

18. On April 22, 2012, mid-way through the loading of the 27 Baker boxes on to trucks, an IPC supervisor of the clean out operation emailed Defendant Charen, reporting that 11 Baker boxes had been filled with tank bottoms and labeled with hazardous waste stickers. That same day, this IPC supervisor emailed a hazardous waste profile form to Defendant Charen with suggestions about what hazardous waste codes should be placed on the form.

19. On May 4, 2012, an outside contractor emailed Defendant Charen a quote for the disposal of the contents of the 27 Baker boxes of tank bottoms as “haz sludge. . .” In an attached waste disposal proposal, the contractor listed applicable hazardous waste codes.

20. Also on or about May 4, 2012, Defendant Charen discussed shipping the 27 Baker boxes to a disposal operation run by IPC’s parent company and provided the relevant analytical results. Defendant Charen received a quoted disposal price and rejected it.

21. On May 25, 2012, Defendant Charen selected an outside transportation contractor (“the transportation contractor”) to transport by truck the 27 Baker boxes to a disposal facility which operated a cement kiln in South Carolina. The transportation contractor emailed Defendant Charen a proposal “based on material being disposed of as a hazardous waste.”

22. On May 26, 2012, Defendant Charen had a teleconference with representatives of the transportation contractor, during which he characterized the tank bottom waste in the 27 Baker boxes as non-hazardous waste. When the transportation contractor advised that its experience demonstrated that all tank bottoms should be classified as hazardous waste, Defendant Charen insisted that he had analytical results showing the waste to be non-hazardous.

23. On May 28, 2012, the transportation contractor sent a written proposal to Defendant Charen for the transport of the 27 Baker boxes, as hazardous waste, to the operator of a cement kiln in South Carolina for disposal. However, as the generator of the tank bottom waste within the 27 Baker boxes, it was solely IPC’s responsibility under RCRA to determine whether the tank bottoms

constituted hazardous waste. On behalf of IPC, Defendant Charen, on a waste profile form, ultimately classified the contents of the 27 Baker Boxes as non-hazardous waste.

24. On June 20, 2012, Defendant Charen emailed to the transportation contractor a waste profile form, which he had signed and in which the tank bottom contents were classified as "Non-Regulated Material" and falsely described as being non-hazardous waste that did not include "Detectable Elements/Metals," such as lead, and that ignited at greater than 200 degrees Fahrenheit. The transportation contractor, in turn, submitted that Defendant Charen's waste profile form to the operator of the cement kiln in South Carolina.

25. From on or about June 20, 2012, through July 7, 2012, Defendant Charen caused the shipment of at least 21 of the 27 Baker boxes, containing a total of at least 500,000 pounds of tank bottom waste, to the operator of a cement kiln in South Carolina, without completing a hazardous waste manifest for each shipment as required by RCRA regulations. 40 C.F.R. Section 262.20. After the Baker boxes began arriving in South Carolina, the South Carolina firm operating the cement kiln sampled and analyzed the contents of each Baker box for certain operational parameters. Those laboratory results showed that each Baker box's contents ignited at temperatures inconsistent with the information on Defendant Charen's waste profile form and that the contents of each of the Baker boxes received in South Carolina were ignitable hazardous waste under RCRA. The transportation contractor immediately relayed this information to Defendant Charen and advised that the 21 Baker boxes would be returned by truck to IPC's Wilmington's facility if IPC did not immediately create a RCRA hazardous waste manifest for each of the Baker boxes that had been sent and/or was to be sent to South Carolina for disposal. Defendant Charen complied. However, he already had caused the shipments, without hazardous waste manifests, to South Carolina of 21 Baker boxes each containing hazardous waste.

26. The two Baker boxes of tank bottom waste generated during the clean out of Tank 7 from March 1, 2012, through March 6, 2012, as described above in Paragraphs 13 -15, were stored on site

at the Wilmington facility for several months. On June 21, 2012, one of these two Baker boxes was trucked by the transportation contractor to South Carolina. The second of the two Baker boxes was stored at IPS's Wilmington facility from on or about March 6, 2012, until July 3, 2012, when it was trucked from the facility to South Carolina by the transportation contractor. Each of these two Baker boxes were shipped as non-hazardous waste without a hazardous waste manifest.

**Charging Paragraph**

27. From on or about June 7, 2012, through on or about July 3, 2012, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly stored hazardous waste, that is tank bottoms from Tank 7 that were toxic, without a RCRA storage permit, in violation of Title 42, United States Code, Section 6928(d)(2)(A).

**Count Two**

**(False Statement in a Waste Profile Form)**

28. The allegations contained in paragraphs 1-27 are incorporated herein by reference.

29. RCRA makes it a felony to knowingly omit material information or make a false material statement or representation in any record or other document filed, maintained or used for purposes of compliance with RCRA regulations. 42 U.S.C. Section 6928(d)(3).

30. When Defendant Charen signed the non-hazardous waste profile he emailed to the transportation contractor on June 20, 2012, described above in Paragraph 24, he knowingly omitted material information, that is, analytical data in his possession, as described above in paragraphs 14, 16 and 17; that showed that the tank bottoms cleaned out of Tanks 2, 3 and 7 should be classified as hazardous waste.

31. Had Defendant Charen included the laboratory data on the waste profile form, the transportation contractor and the disposal firm in South Carolina would have known they were handling hazardous waste and insisted that IPC comply with RCRA and complete a hazardous waste

manifest for each individual shipment of Baker boxes containing tank bottoms prior to the tank bottom waste leaving IPC's Wilmington facility.

32. Defendant Charen's failure to include the relevant analytical data made the description of the tank bottoms included in the waste profile form a false material statement in a record or other document filed, maintained or used for compliance with RCRA.

**Charging Paragraph**

33. On or about June 20, 2012, in the District of Delaware, Defendant

LANCE A. CHARIN

knowingly omitted material information and made a false material statement or representation in a record or other document filed, maintained or used for purposes of compliance with RCRA, that is on a waste profile form relating to tank bottom waste the Defendant omitted analytical data concerning various hazardous waste characteristics of the tank bottoms, which data Defendant Charen then and there knew would show that the tank bottom waste should be classified and handled as hazardous waste, in violation of Title 42, United States Code, Section 6928(d)(3).

**Count Three**

**(False Statements in Non-Hazardous Waste Manifests)**

34. The allegations contained in paragraphs 1-33 are incorporated herein by reference.

35. Each shipment of a Baker box described above in Paragraphs 25 and 26 was accompanied by a "NON-HAZARDOUS WASTE MANIFEST". Each of these manifests described the tank bottoms being shipped as "Non-hazardous, non-regulated (oil tank sediment)."

36. Each manifest contained the following language: "GENERATOR'S CERTIFICATION: I hereby certify that the contents of this shipment are fully and accurately described and are in all respects in proper condition for transport. The materials described on this manifest are not subject to federal hazardous waste regulations." From June 20, 2012, through July 7, 2012, Defendant Charen signed the Generators Certification on behalf of IPC on each manifest accompanying each shipment

of tank bottoms from IPC to South Carolina. Defendant Charen's descriptions of the tank bottoms as "Non-hazardous, non-regulated (oil tank sediment)" and his certifications that the tank bottoms were "not subject to federal hazardous waste regulations" were false material statements in records or other documents filed, maintained or used for compliance with RCRA.

**Charging Paragraph**

37. From on or about June 20, 2012, through July 7, 2012, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly made false material statements or representations in records or other documents filed, maintained or used for purposes of compliance with RCRA, that is, in Non-Hazardous Waste Manifests Defendant Charen described tank bottoms as non-hazardous waste and certified that the tank bottoms were not subject to federal hazardous waste regulation, when Defendant Charen then and there knew that the tank bottoms were, in fact, hazardous waste based on analytical data in his possession and his prior experience in dealing with classifying tank bottoms as hazardous waste. In violation of Title 42, United States Code, Section 6928(d)(3).

**Count Four**

**(Transporting Hazardous Waste Without a Manifest)**

38. The allegations contained in Paragraphs 1-37 are incorporated herein by reference.

39. RCRA requires generators to prepare and sign a hazardous waste manifest for each off-site shipment of hazardous waste. 40 C.F.R. Section 262.20. The manifest must include information identifying by name and address the generator, transporter and ultimate destination of the shipment, the types and quantities of the hazardous waste being shipped, and the hand-written signatures of the generator, transporter and, ultimately, of a representative of the final destination of the hazardous waste. A copy of the completed manifest is ultimately returned to the generator to show that the shipment arrived at its destination.

**Charging Paragraph**

40. From on or about June 20, 2012, through July 7, 2012, in the District of Delaware and elsewhere, Defendant

LANCE A. CHAREN

knowingly caused to be transported hazardous waste, that is, tank bottom waste, without a hazardous waste manifest as required by RCRA. In violation of Title 42, United States Code, Section 6928(d)(5), and Title 18, United States Code, Section 2.

**Count Five**

(False Statements to Impede or Obstruct Matter Within Federal Jurisdiction)

41. The allegations contained in paragraphs 1-39 are incorporated herein by reference.

**Charging Paragraph**

42. From on or about June 20, 2012, through July 7, 2012, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly falsified records or documents with the intent to impede, obstruct or influence the investigation or proper administration of a matter within the jurisdiction of a federal agency, that is Defendant Charen falsified approximately 21 "NON-HAZARDOUS WASTE MANIFESTS," concerning the classification and transportation of hazardous waste, a matter within regulatory and criminal jurisdiction of the United States Environmental Protection Agency. All in violation of Title 18, United States Code, Section 1519.

**Count Six**

(Tampering with a Monitoring Method)

43. The allegations contained in paragraphs 1-3 are incorporated herein by reference.

44. The Clean Water Act (sometimes herein "CWA"), 33 U.S.C. §§ 1251, *et seq.*, is the United States' comprehensive federal statute for water pollution control. The purpose of the CWA is

“to restore and maintain the chemical, physical, and biological integrity of the waterways of the United States.” 33 U.S.C. § 1251(a).

45. To achieve this goal, the CWA prohibits the discharge of any pollutant into the waters of the United States, except in compliance with a CWA National Pollutant Discharge Elimination System (“NPDES”) permit issued by the United States Environmental Protection Agency (“EPA”) or a federally-authorized state such as the State of Delaware. 33 U.S.C. §§ 1311(a) and 1342.

46. The CWA regulates, among other things, sewage treatment plants operated by municipal governments, commonly known as publicly owned treatment works (“POTWs”). The discharge of a POTW’s treated effluent into waters of the United States is regulated pursuant to the NPDES permit program.

47. In addition to receiving domestic sewage, POTWs also frequently receive industrial waste water generated by industrial facilities such as IPC’s Wilmington facility that discharge into sewer systems. Depending upon the type of waste water being discharged, a POTW, in accordance with the CWA and the NPDES permit program, may be required to make an industrial user pretreat its waste water prior to discharging the waste water into the sewer system leading to the POTW, as set forth in 33 U.S.C. § 1307 and 40 C.F.R. § 403.8(f). Pretreatment is intended to protect the sewer system and the safety of workers and to ensure that discharges from industrial users do not interfere with or pass through the operations of the POTW without treatment, thereby protecting the equipment and processes of the POTW and the biological, chemical and physical integrity of the receiving waters of the United States.

48. The federal pretreatment regulatory program under the CWA is set forth at 33 U.S.C. § 1317 and 40 C.F.R. Parts 403, 405-471, and is comprised of four components containing specific regulatory prohibitions and limitations:

- “General prohibitions” - 40 C.F.R. § 403.5(a) forbids the introduction into a POTW of any pollutant that would cause Pass Through or Interference as those terms are defined elsewhere in the regulations;

- “Specific prohibitions” - 40 C.F.R. § 403.5(b) forbids the introduction into a POTW of pollutants which would result in actual or threatened harm to the environment, POTW workers or the POTW system, such as fire or explosion, corrosion, and obstruction;
- “Categorical standards,” 40 C.F.R. Parts 405-471 set effluent limitations for certain specified industries; and
- “Local limits” – are developed by individual POTWs and are tailored to address the specific types of pollutants generated by a particular industrial user and discharged to a POTW.

49. The CWA makes it illegal to knowingly tamper with a monitoring device or method required to be maintained or used by the CWA and to make false statements in reports required by the CWA. 33 U.S.C. § 1319(c)(4). It is also illegal to knowingly violate conditions contained in a federally-enforceable CWA pretreatment permit, including compliance monitoring sampling and reporting requirements and prohibitions, notification requirements to the permitting authority regarding changes in waste streams being accepted, and discharge limits contained in federal CWA regulations or on approved local pretreatment program.

50. The City of Wilmington operated a POTW that discharged treated domestic sewage and industrial waste water into the Christiana River. The Wilmington POTW was regulated pursuant to an NPDES permit that was issued by the State of Delaware. The City of Wilmington had a federally-approved CWA pretreatment program governing discharges from industrial users into the City’s sewer system and POTW. That permit and federal regulations were enforceable by the EPA. 33 U.S.C. § 1342 and 40 C.F.R. § 403.5(d).

51. From 1992 through January 31, 2013, IPC and the Wilmington plant were subject to federal pretreatment regulations and local limit requirements contained in “pretreatment permit” No. 91-01 REV4 issued to IPC by the City of Wilmington. Permit No. 91-01REV4 authorized IPC to discharge waste water into the City’s sewer system leading to the sewage treatment plant.

52. IPC’s pretreatment permit specified the maximum amount of waste water IPC could discharge daily; limited the concentrations and amounts of certain pollutants that could be discharged;

required IPC to take representative samples of its waste water on a periodic basis to determine if it was complying with its permit limitations; specified the types of samples required to be taken and the methods to be used in analyzing the samples; prohibited bypassing of treatment and monitoring equipment except in rare circumstances and with advance notice to the City; required IPC to report its compliance sampling results to the City every six months in a report known as a Self-Monitoring Report (“SMR”); and required IPC to seek City approval if it wanted to change the nature of the waste stream being discharged to the sewer system. Federal regulations also required IPC’s waste water samples to be representative of waste water being discharged. 40 C.F.R. §§ 122.41(j)(1); 122.48(b).

53. On or about April 21, 2011, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly tampered with, and caused others to tamper with, a monitoring method required by the CWA by having IPC employees process “cleaner” waste water on days IPC took CWA compliance samples in order to obtain better analytical results, in violation of Title 33, United States Code, Section 1319(c)(4), and Title 18, United States Code, Section 2.

Count Seven

(Tampering with a Monitoring Method)

54. The allegations contained in paragraphs 1-3 and 44-53 are incorporated herein by reference.

55. On or about October 18-20, 2011, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly tampered with, or caused others to tamper with, a monitoring method required by the CWA by having IPC employees operate IPC’s waste water treatment plant at a slower rate, in terms of gallons processed per minute on days IPC took CWA compliance samples than the rate on non-sample days in order to obtain better analytical results from non-representative samples, in violation of Title 33, United States Code, Section 1319(c)(4), and Title 18, United States Code, Section 2.

Count Eight

**(Falsification of CWA Monitoring Report)**

56. The allegations contained in paragraphs 1-3 and 44-55 are incorporated herein by reference.

57. On or about January 17, 2011, through July 31, 2012, in the District of Delaware, Defendant

LANCE A. CHAREN

Knowingly made, or caused others to make, a false material statement, representation or certification in a record, report or other document filed or required to be maintained by the CWA, that is, utilizing analytical data in a Self-Monitoring Report submitted to the City of Wilmington as required by IPC's CWA permit when, in fact, defendant Charen knew the analytical results resulted from tampering with monitoring methods and thus were not representative of IPC's waste water, in violation of Title 33, United States Code, Section 1319(c)(4), and Title 18, United States Code, Section 2.

Count Nine

**(Processing and Discharging Waste in Violation of CWA Permit)**

58. The allegations contained in paragraphs 1-3 and 44-57 are incorporated herein by reference.

59. On or about May 20, 2011, in the District of Delaware, Defendant

LANCE A. CHAREN

knowingly discharged, and caused others to process and then discharge, waste water, that is leachate from a landfill and fly ash ponds at the former Motiva oil refinery, to the City of Wilmington sewer system without notifying the City of Wilmington about its plans to accept the waste stream or its actual discharge of the waste water to the sewer system as required by IPC's federally-enforceable CWA permit, in violation of Title 33, United States Code, Section 1319(c)(2), and Title 18, United States Code, Section 2.

Count Ten

(Discharge in Violation of CWA Permit Limits)

60. The allegations contained in paragraphs 1-3 and 44-59 are incorporated herein by reference.

61. From on or about December 14, 2012, through on or about December 31, 2012, in the District of Delaware, Defendant

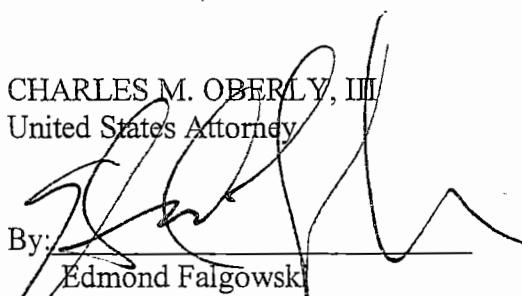
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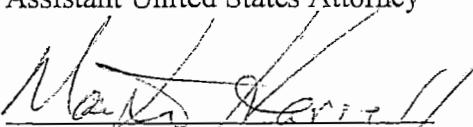
knowingly discharged, and caused others to discharge, pollutants from IPC's waste water treatment plant to the City of Wilmington sewer system in excess of the CWA monthly average permit limit for ammonia, cyanide and phenols, in violation of Title 33, United States Code, Section 1319(c)(2), and Title 18, United States Code, Section 2.

A TRUE BILL:

\_\_\_\_\_  
Foreperson

CHARLES M. OBERLY, III  
United States Attorney

By:   
Edmond Falgowski  
Assistant United States Attorney

  
Martin Harrell  
Special Assistant United States Attorney

Dated: February 16, 2017