

# ENVIRONMENTAL CRIMES

Doug Young, Ohio BCI

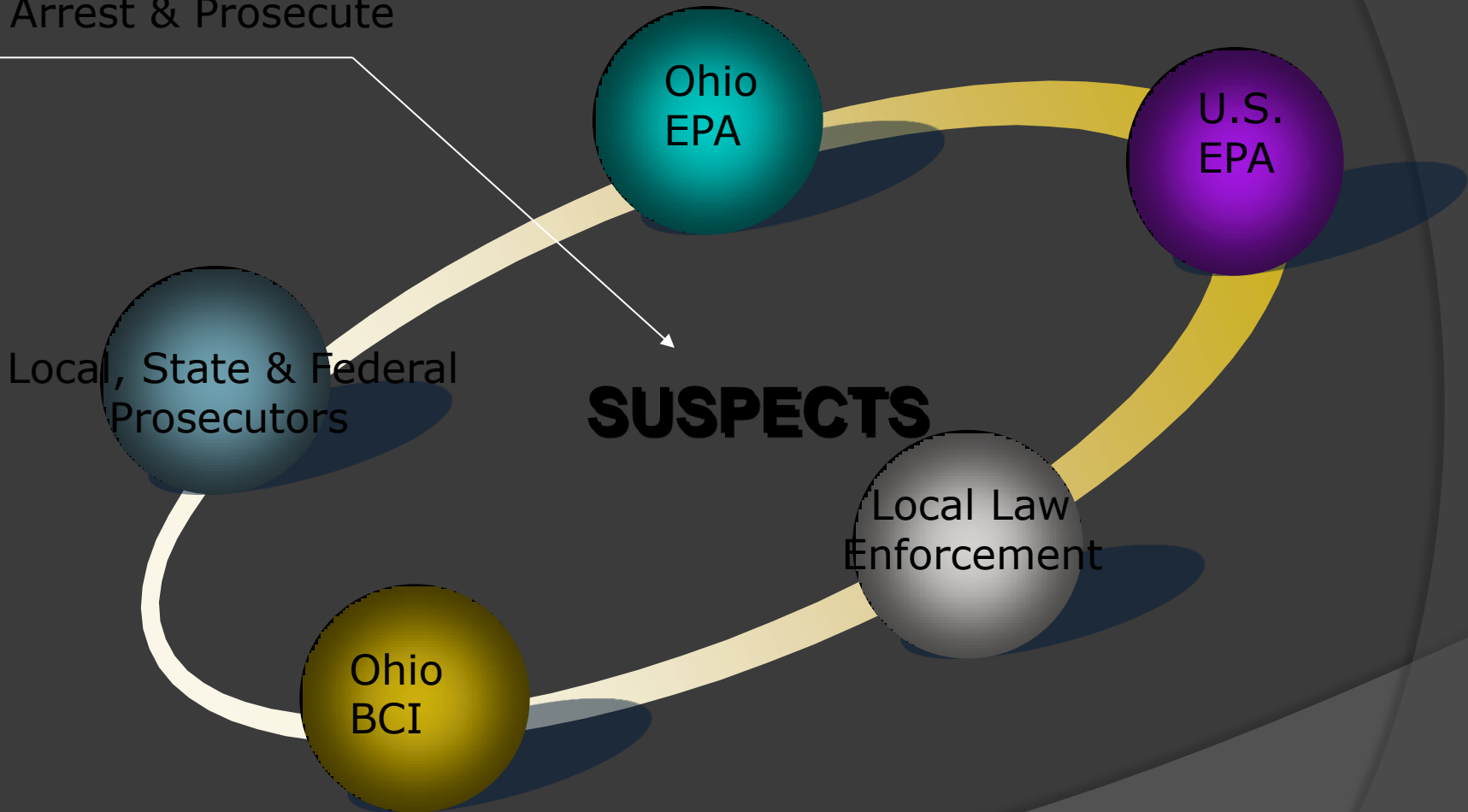
Craig Kleinhenz, Ohio EPA-OSI

Lisa Matovic, U.S. EPA

Brad Beeson, U.S. EPA

# Task Force – Main Players

Arrest & Prosecute



# Who We Are

- Ohio EPA, Office of Special Investigations
  - Criminal investigative branch of the Ohio EPA
  - Five district offices and a central office



# Who We Are

## BCI Environmental Enforcement Unit

- Criminal investigative unit of the Ohio Attorney General's Office
- Law enforcement agents specializing in environmental crimes
- Offices in Columbus & Richfield, covering all 88 counties



# Who We Are

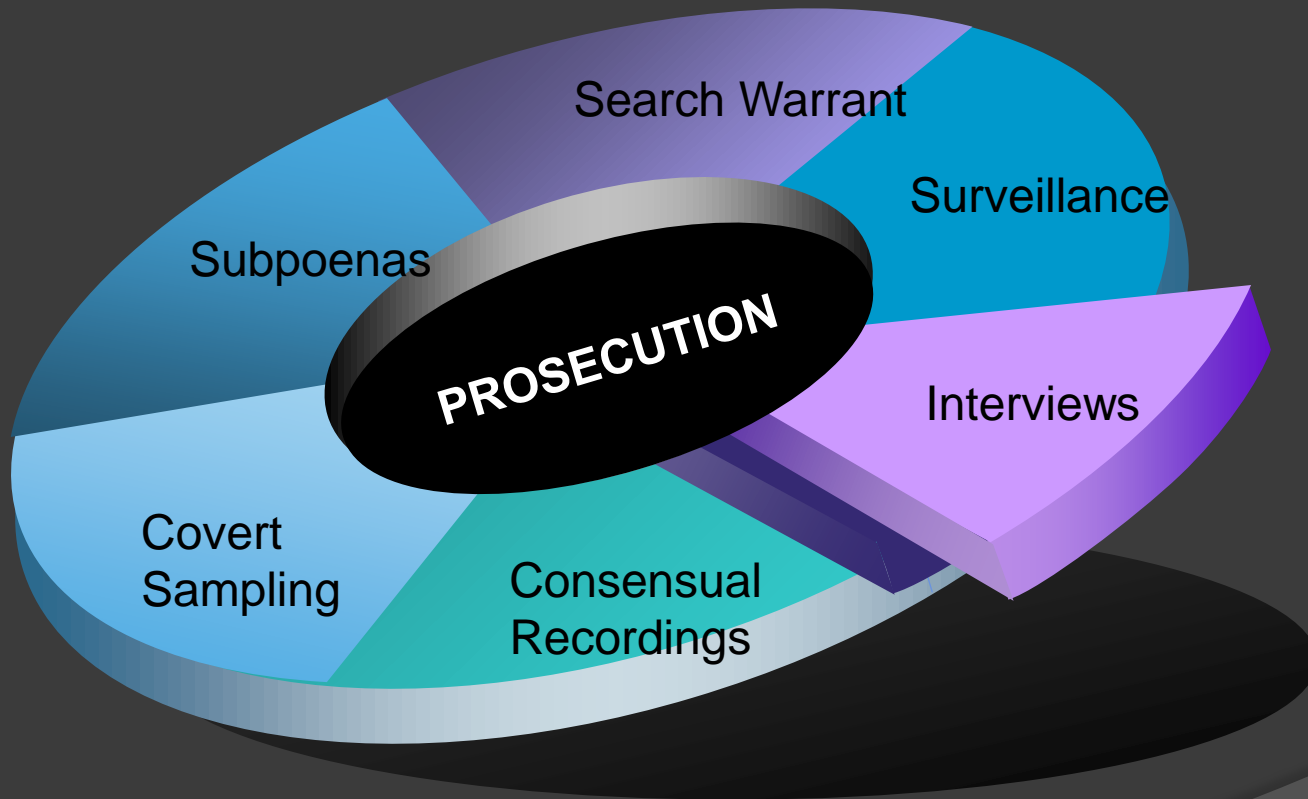


## ● U.S. EPA-Criminal Investigative Division

Federal law enforcement agents of the U.S. Environmental Protection Agency have responsibility for the investigation of criminal violations of laws administered to by the USEPA. These Special Agents are authorized to:

- Carry firearms
- Execute and serve any warrant or other processes issued under authority of the U.S.
- Make arrest without warrant

# Tools



# What We Do

## Protect and Investigate ...



Hazardous Waste



Solid Waste



Pesticides and Toxics



Air Pollution



Water



Drinking Water

# ...Violations of Title 18, the U.S. Criminal Code

LYING

- Obstruction of Justice/Obstruction of Agency Proceeding (§1501 et seq.)
- Conspiracy (§371)
- Mail Fraud (§1341)
- Wire Fraud (§1343)
- Aiding and Abetting (§2)
- Smuggling (§545)
- False Statements/Concealment (§1001)

CONCEALING

CHEATING

STEALING



# The Honor System

- EPA largely depends upon self monitoring and reporting by industries and individuals engaged in regulated activities
- There are those though who choose to provide false or misleading information to EPA.
- Others choose to ignore the regulations all together.

# The Clean Water Act

# THE LAW

The Clean Water Act  
(a.k.a. - The Federal Water Pollution Control Act)

- Imposes regulatory controls on major categories of industrial users.
- Requires local POTWs to pass and enforce local ordinances.

# What is Criminally Enforceable?

- ⦿ Violations of
  - categorical pretreatment limits imposed on major sewer users,
  - violations of general prohibitions,
  - violations of specific prohibitions,
  - and violations of approved “local limits” are federally criminally enforceable.

# Prohibitions Under the CWA

- All industrial sewer users are prohibited from discharging pollutants which cause “pass through” or cause “interference” at the POTW.

# Prohibitions Under the CWA

- Applies to all industrial sewer users. Includes the following types of discharges:
  - Wastes that may cause a fire or explosion (including RCRA ignitable wastes).
  - Corrosive waste, pH less than 5.0.
  - Solid or viscous waste (which causes an obstruction).

# Prohibitions Cont'd.

- Bio-Chemical oxygen demand interference.
- Wastes heated greater than 104 degrees Fahrenheit
- Oil (if it causes interference)
- Wastes which cause toxic fumes
- Trucked or hauled wastes (except at approved POTW points)

# Categorical Standards

- Numerical pollutant reduction requirements or limitations for waste streams resulting from particular industrial processes.
- Designed to prevent the occurrence of pass through and interference
- Numerical limitations are technology-based



# Basic Elements of Crime

- Any person
- Knowingly
- Discharges any pollutant into a POTW in violation of pretreatment standards or
- Introduces into sewer system any pollutant which could cause personal injury/property damage or cause the POTW to violate its NPDES permit

# Criminal Sentences

## ⦿ Knowing –

- Punishable by fines not less than \$5,000 or more than \$50,000 per day
- Imprisonment for not more than 3 years

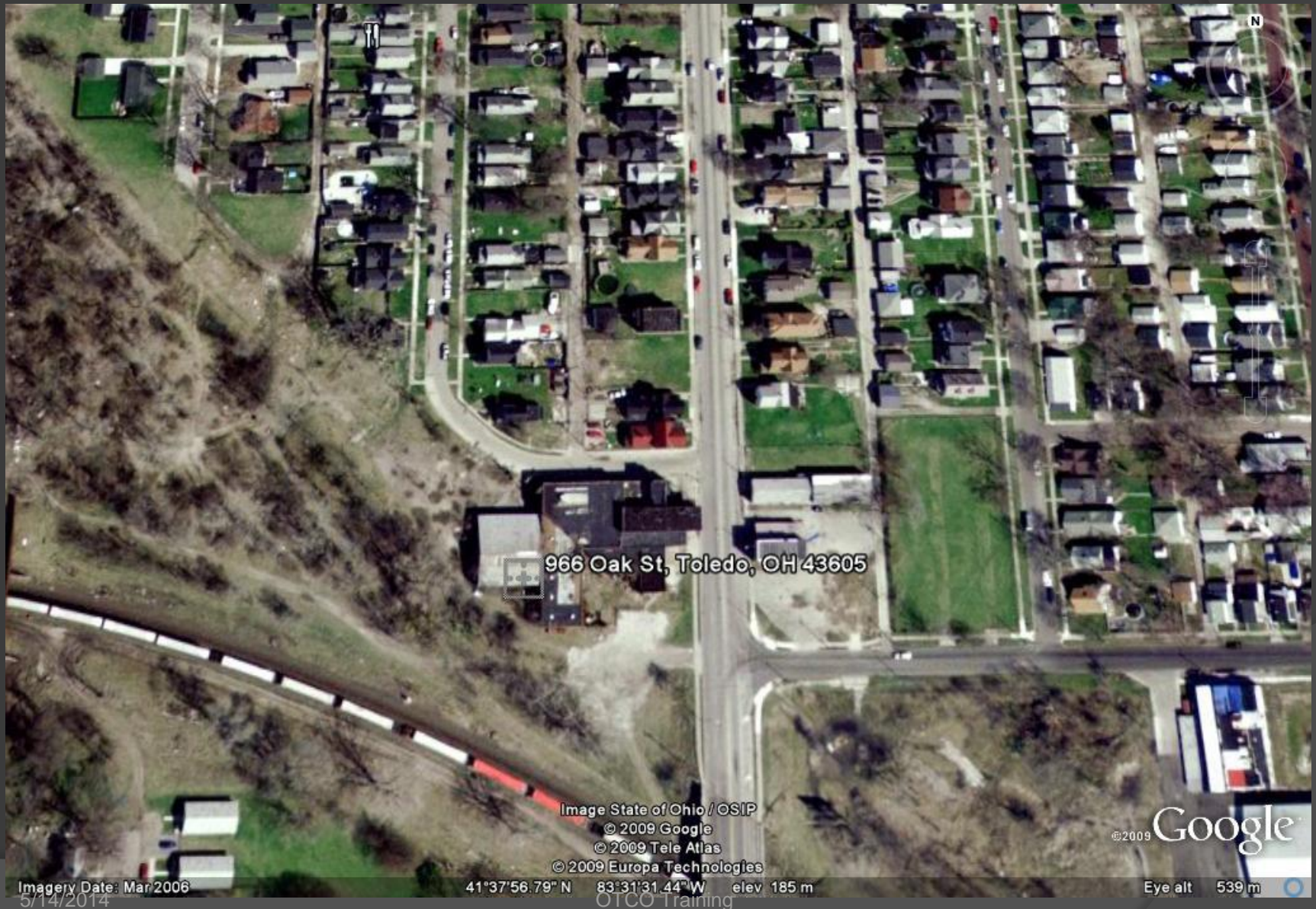
## ⦿ Knowing Endangerment

- Punishable by fine of not more than \$250,000 for an individual or up to a \$1,000,000 fine for an organization
- Imprisonment for not more than 15 years

# Common Pretreatment-Related Crimes

- \* Falsification of Scheduled Discharge Monitoring Reports
- \* Tampering with POTW Monitoring Equipment
- \* Submission of False Documents or Records to POTW
- \* Verbal Misrepresentations to Industrial Pretreatment Coordinator or POTW Representative
- \* Purposeful Discharge of Wastewater which Violates Limits
- \* Bypass of Pretreatment System Resulting in \*\*
- \* Illegal Hookup or Discharge to Storm Sewer without NPDES permit

# MORROW PLATING



966 Oak St, Toledo, OH 43605

Image State of Ohio / OSIP  
© 2009 Google  
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© 2009 Europa Technologies

©2009 Google

Imagery Date: Mar 2006  
5/14/2014

41°37'56.79" N 83°31'31.44" W elev 185 m

Eye alt 539 m

OTCO Training

# Discharge Permit

- Indirect discharge permit with the City of Toledo
  - Significant Categorical
  - Non-Discharger
  - Only Sanitary (Toilet Water)

0897 10:21 4193528468 OHIO TPA N400 PAGE 03/13  
PAGE 1 OF 10

**CITY OF TOLEDO  
DEPARTMENT OF PUBLIC UTILITIES  
ORDERS FOR WASTEWATER DISCHARGE**

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Order No. 071-03A  
Company Name Morrow Plating Company  
Division Name (if applicable) \_\_\_\_\_  
Mailing Address 966 Oak Street  
Toledo, Ohio 43605  
Facility Address 966 Oak Street  
Toledo, OH 43605  
Primary SIC No. 3471 Classification Significant Categorical Non-Discharger  
Major Processes Generating Wastewater:  
Electroplating and Deburring  
Applicable Categorical Regulation:  
Category Electroplating 40 CFR Part 413  
Sub-Part(s) A

The above named industrial user is hereby ordered to comply with the terms and conditions contained in this order for discharging industrial and non-domestic wastewater to the City of Toledo sewer system in compliance with Chapter 930 of the Toledo Municipal Code, and Federal Pretreatment Regulations. Failure to do so may result in prosecution under the criminal laws of the City, as well as being subjected to civil penalties and relief.

This order will have an effective date of September 26, 2001 and will remain in effect until September 26, 2006. This order is not transferrable. This order may be reissued or amended due to changes in processes, wastewater characteristics, regulations or standards.

*E. J. Balk* 09/27/01  
\_\_\_\_\_  
Manager  
Division of Environmental Services

Date Issued: September 26, 2001

OTCO Training 21

# Baseline Monitoring Report

- Required to be submitted by industrial users
- Waste generation and treatment information
- Identified that only sanitary wastes (toilet water) are discharged into sewer
- Wastes evaporated or hauled off via a licensed hauler
- Signed by Larry Morrow

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SECTION F. WASTEWATER INFORMATION

1. a) Sewer bill is based on: Metered Water Use XX or Sewer Meter \_\_\_\_\_  
b) If a sewer meter is employed, list manufacturer and describe method of operation: \_\_\_\_\_  
\_\_\_\_\_

2. Is sanitary waste discharged separately from process waste? Yes XX No \_\_\_\_\_

3. a) Are all of your liquid wastes discharged to the sanitary sewer system?  
Yes \_\_\_\_\_ No XX \_\_\_\_\_  
b) If no, describe any other liquid disposal method(s). Evaporation of process wastes with residue disposed via licensed waste hauler.  
c) If a National Pollutant Discharge Elimination System (NPDES) Permit has been issued for this facility, list permit number: NA

4. List any other environmental permits held by this facility and show permit number and expiration date: EPA - OHD 005 035 209  
\_\_\_\_\_  
\_\_\_\_\_

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# Complaint Received

Division of Water Distribution  
401 South Erie Street  
Toledo, OH 43602  
(419)247-5000 Fax (419)955-2843

Service Request Detail

Report Date 05/10/2006 02:15 PM Submitted By Page 1

Service # 67507  
Problem SMISC MISCELLANEOUS  
Address 900 OAK ST  
TOLEDO OH 43005

Call Date 07/28/2006 08:05  
Taken By HF001 HITCHCOCK, PIRLSO LIA  
Source  
Priority 1 HIGH PRIORITY  
Responsibility OJNG CLEANING  
Duration of Call 00:00  
Project  
Budget #  
Customer Contact Requested  
Service Request Progress  
Schedule (start)  
Inspect Inspection started at: 07/28/2006 08:24 AM by MO001 OREG MACHNICK  
Resolve Unresolved with no due date

Location CONST STATES WTR PUMPING ILLEGALLY, MARO PLATING  
Area  
District  
Parcel  
Template Type  
Asset

Sub-Area 1 ZONE 1 SEWERS  
Map #  
A/P #

Primary Caller  
Name  
First MI  
Address  
City  
State/Province  
Country  
E-Mail  
Day Phone  
Call Date 07/28/2006 09:11  
Evening Phone  
Taken By HF001

There are no additional callers for this service number.

Inspected By	Level	Time	Code	Date	Time	Resolution
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Scheduled Resources

Employee ID	Scheduled Start	Scheduled End	Work Description
No resources scheduled.			

Equipment ID	Scheduled Start	Scheduled End	Work Description
No resources scheduled.			

Vehicle ID	Scheduled Start	Scheduled End	Work Description
No resources scheduled.			

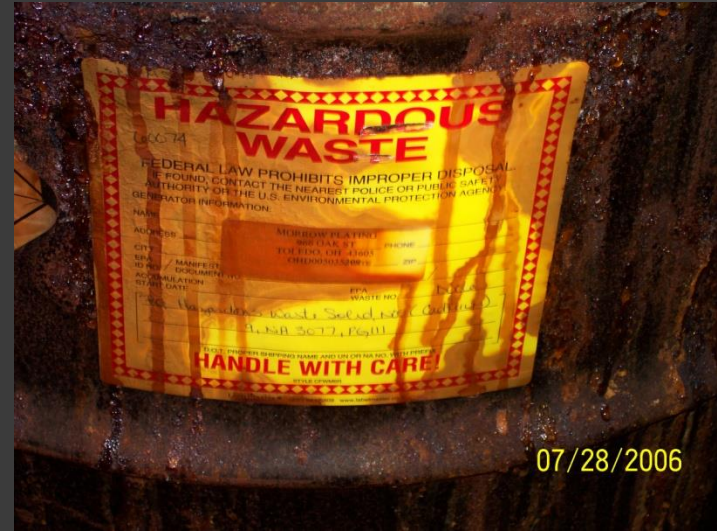
- On July 28, 2006
- Received By: City of Toledo, Division of Sewers and Drains
- Upon Receipt, Inspection Conducted

# Inspection





# Inspection



# Inspection



# Inspection



# Hidden Drain



## Drain discovered during inspection

- Shoes and wood concealing its presence
- Morrow Plating was to have all floor drains sealed

# Samples

12/28/2007 14:23 4193528468 OHIO EPA H400 PAGE 02/02

Water/Air Analysis Report # 9025 a+b  
 Central Laboratory  
 DIVISION OF ENVIRONMENTAL SERVICES - CITY OF TOLEDO

The following information is to be filled out by sampler and/or requestor  
 This sample could be considered: (Check at least one)  
 EXPLOSIVE  HEALTH HAZARD  CORROSIVE  GENERALLY SAFE  HAZARDOUS PROPERTIES UNKNOWN  
 OTHER ARE THERE ADDITIONAL SAFETY PRECAUTIONS TO CONSIDER WHILE ANALYZING THIS SAMPLE?  
 PLEASE SPECIFY: Any Contain Pesticide and oil products

Requested by: Patricia Banwaster Date: 2/28/06  
 Sampled by: Sellen Mitchell Date: 2/28/06 Time: 11:00  
 Received by: S. Postowski Date: 2-28-06 Time: 2:00 pm  
 Tested by: \_\_\_\_\_ Date: \_\_\_\_\_

Location Sampled, Sample Description, Sampling Method:  
A - Outside the facility  
B - Inside the facility  
grab water sample

Results	Detection Limit	Test	Results	Detection Limit
Sample Appearance		Local Limit Pretreatment Metals		
Odor		(Preserve to pH < 2 with Nitric Acid)		
Temperature		<input checked="" type="checkbox"/> Arsenic (mg/L)		
pH		<input checked="" type="checkbox"/> Cadmium (mg/L)		
Conductivity (uS/cm)		<input checked="" type="checkbox"/> Copper (mg/L)		
D.O. (mg/L)		<input checked="" type="checkbox"/> Lead (mg/L)		
B.O.D. (mg/L)		<input checked="" type="checkbox"/> Mercury (mg/L)		
Fluoride (mg/L)		<input checked="" type="checkbox"/> Nickel (mg/L)		
Detergent (mg/L)		<input checked="" type="checkbox"/> Silver (mg/L)		
Hardness (mg/L)		<input checked="" type="checkbox"/> Zinc (mg/L)		
Total Solids (mg/L)		(Filter through a 0.45 um filter)		
Suspended Solids (mg/L)		<input checked="" type="checkbox"/> Hexavalent Chromium (mg/L): <u>433, B&gt;124.1</u>	<u>0.03</u>	
Soluble Solids (mg/L)		(Check for interferences, then preserve to pH > 10 w/ NaOH)		
Bacteriological (analyzed by outside Lab)		<input checked="" type="checkbox"/> Cyanide (mg/L)	<u>0</u>	
Total Coliform (cfu/100ml)		Other Metals (Preserve to pH < 2 with Nitric Acid)		
Fecal Coliform (cfu/100 ml)		<input checked="" type="checkbox"/> Chromium (mg/L)		
Fecal Streptococci		Iron (mg/L)		
E. Coli (cfu/100ml)		Sodium (mg/L)		
(Filter through a 0.45 um filter)		(Preserve to pH < 2 with Sulfuric Acid)		
*Ammonia (mg/L)		*Ammonia (mg/L)		
Nitrite-N (mg/L)		*If Ammonia sample is clear, filter, ultraviolet, preserve.		
Chloride (mg/L) by IC		C.O.D. (mg/L)		
Nitrate-N (mg/L) by IC		Phenol (mg/L)		
(Preserve with 3 drops Sulfuric Acid)		Oil and Grease (mg/L)		
Phosphorus, Total (mg/L)		TPH (mg/L)		
Gas Chromatography		Micro Identify		
<input checked="" type="checkbox"/> Oil Identify by GC		Grease Plug		
PCB (mg/L) by GC		Other		
BTEX (mg/L) by GC		Micro Quantify		
		Other Analysis (list)		

Remarks: \_\_\_\_\_

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Revised March 6, 2006 SLK

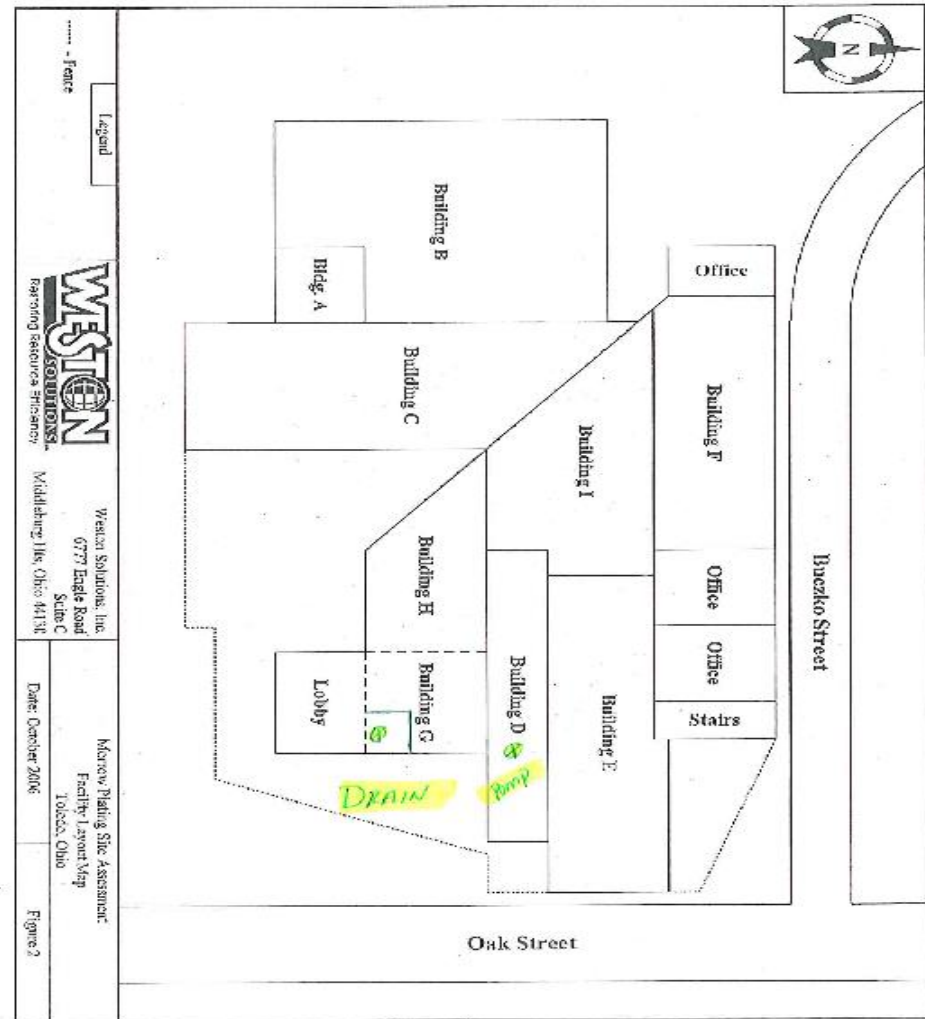
- Green liquid on the floor
  - >124.1 ppm hexavalent chrome

- Drum of liquids from floor cleaning
  - 122 ppm hexavalent chrome

# Investigation

## July 28, 2006 Incident

- Rain event
- Tanks overflowed
- Pump placed into sump pit
- Pumped to hidden drain

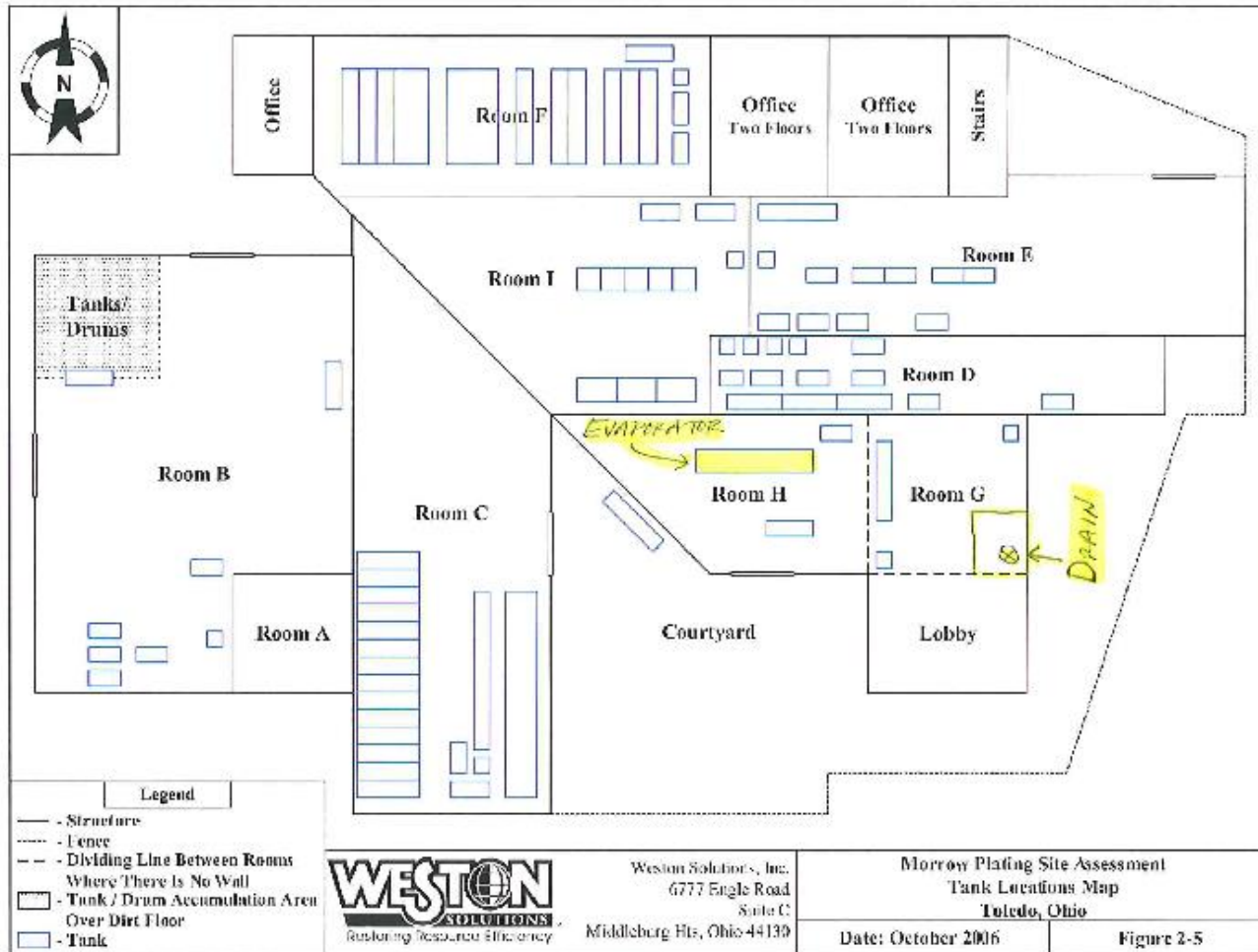


# Investigation

## ⦿ Sewer Discharges

- Contents of rinse tanks pumped on ground and pumped to drain
- Drums of rinse waters dumped onto floor
- Tank overflows pumped to drain
- Parts were rinsed over the floor
- Wastes from a large evaporation tank were routinely pumped into the drain
  - Estimates as much as 50 times in the last three years

# Investigation





# Site Clean-up

- Toledo Fire Department closed down in October 2006 due to electrical code violations
- US EPA, Superfund conducted clean-up of site
  - 185 Cubic Yards of Hazardous Waste
  - 10,523 Gallons of Chromic Acid
  - 17,537 Gallons of Cyanide Liquid
  - 8 Months to Complete Clean-up of Site
  - Over 1 million dollars spent by US EPA, Superfund on clean-up

# Charges Filed

Case 3:08-cr-00243-JZ Document 1 Filed 06/02/2008 Page 1 of 4

FILED

2008 JUN -2 PM 2:00

CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
TOLEDO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, ) INDICTMENT  
 )  
Plaintiff, ) **3:08 CR 243**  
 )  
v. ) CASE NO.  
 )  
JAMES W. MORROW, and ) Title 33, United States Code,  
LARRY J. MORROW ) Section 1319(c)(2)(A), and  
 ) Title 18, United States Code,  
 ) Section 2  
Defendants. ) **JUDGE ZOUHARY**

COUNT ONE

The Grand Jury charges that:

Background

1. JAMES W. MORROW and LARRY J. MORROW were the operators of Morrow Plating Company (Morrow Plating). Morrow Plating, an Ohio corporation, was a metal finishing company located in Toledo, Ohio, which specialized in electroplating and anodizing metal parts. As a part of the electroplating and anodizing processes at Morrow Plating, chromic acid, sodium hydroxide, sulfuric acid, nickel, sodium stannate,

- James and Larry Morrow Indicted
- United States District Court
- Violating Federal Clean Water Act
  - 33 USC 1319(c)(2)(A)
  - Felony

ORIGINAL

# Sentencing

## ◎ Larry & James Morrow were sentenced to:

- 5 Months in Prison
- 5 Months Location Monitoring (Home Confinement)
- One year supervised release
- \$5,000 Fine



# WW Transport

- ⦿ The City of Columbus establishes surcharge rates for TSS for certain customers.
- ⦿ WW Transport is subject to surcharge rate.
- ⦿ City of Columbus – Concerns that their sampling device was being tampered with during scheduled sampling events.

# Task Force Investigation

- Covert sampling
- Covert Video Surveillance

# Results of Sampling/Video

- ▶ High TSS before scheduled sampling event
- ▶ Samples collected by the city during its routine samples were clean.
- ▶ Samples collected by the covert sampling were high for TSS.
- ▶ Video evidence showed two employees tampering with sampling device. Employees were removing the sample probe from the effluent and placing it into a clean bucket of water

# Video

5/24/2010 11:03:29 AM.936



# Individual on Video

- Claimed he was instructed to purge the line each day by the city.



# Indictment

March 5, 2013 – Franklin County

## Scott Seymour and Michael Wolf

- 10 counts Tampering with Records (F3)
- 1 count Grand Theft (F4)
- 1 count of Falsification in Theft Offense (F4)
- 1 count of Obstruction of Justice (F5) additionally for Seymour

# Defendant Scott Seymour

## ◎ Pled guilty

- 1 count, Tampering with Records (F3)

## ◎ Sentenced

- 36 months jail (suspended)
- 3 years of probation
- \$36,793.11 restitution (joint and several with Wolf)

# Defendant Michael Wolf

## ◎ Pled guilty

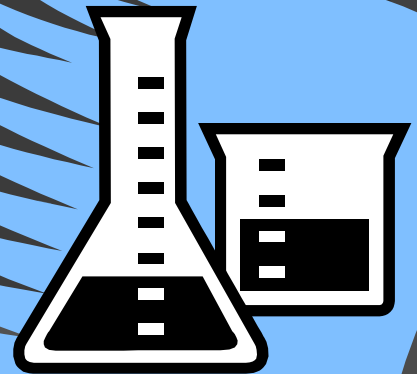
- 2 counts of Tampering with Records (F3)
- 1 count of Theft (F4)

## ◎ Sentenced

- 6 months jail
- 5 years of probation
- \$36,793.11 restitution (joint and several with Seymour)

# What Is Lab Fraud?

- The deliberate falsification of analytical and quality assurance results, where failed method and contractual requirements are made to appear acceptable.



# Practical Translation

- ⦿ A deliberate DECEPTION involving a laboratory's analytical practices or reporting of laboratory data.
- ⦿ Knowing ALTERATION or OMISSION of a material element involving the generation or reporting of laboratory data.
- ⦿ A false material statement, representation, or certification involving the generation or reporting of laboratory data.

# Ultimate Translation

LYING

CHEATING

STEALING

# Categories of Laboratory Fraud

# Sample Tampering

- ⦿ “Doctoring,” exchanging, or incorrectly obtaining a sample.
  - diluting a sample
  - use of a wrong preservative
  - swapping samples
  - improper sub-sampling techniques



# Method Tampering

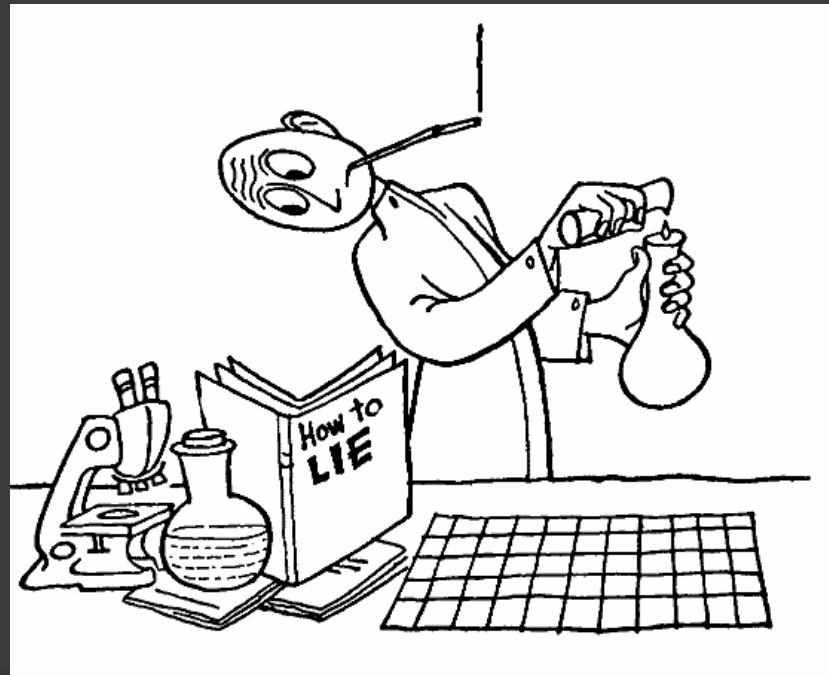
- ◎ Changing or omitting a key step within the analytical process.
  - altering times and dates
  - skipping or altering sample preparation procedures
  - using the wrong instrument
  - using the wrong calibration method
  - not doing required quality control measures

# Data Manipulation

- ◎ Data are inappropriately changed/substituted.
  - Typically involves peak integration as it relates to calibration and quality control measures. May be considered data fabrication when results are changed (pencil whipped).
  - Backdating to show sample analysis within the holding times

# Data Fabrication (Dry Labbing)

- Generation of data or reporting of results without the benefit of analysis.
- Pencil Whipping



# Possible Criminal Statutes Violated As a Result of Lab Fraud

- The Clean Water Act, 33 U.S. C. § 1319
  - 33 § 1319 © (4), False statements
- False Statements, 18 U.S.C. § 1001
- Mail and Wire Fraud, 18 U.S.C. § 1341, 1343
- Conspiracy, 18 U.S.C. § 371
- Aiding and Abetting, 18 U.S.C. § 2
- Obstruction of Justice, 18 U.S.C. § 1503 (a)

# Maximum Sentence for Making a False Statement

- For individuals: five years and \$250,000 fine, term of supervised release
- For organizations: \$500,000 fine
- Alternative fine base on gain or loss

# *Environmental Crimes Outreach*

## How To Reach Us

- **OEPA-Hotline**
  - (800) 282-9378
- **National Response Center (NRC)**
  - (800) 424-8802
- **USEPA-CID**
  - (440) 202-4440
- **BCI&I**
  - (800) 348-3248\*

\* Not 24 hour line

# Questions?

