

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO.  
v. : DATE FILED: February 13, 2003  
GARY WASSERSON : VIOLATIONS: 42 U.S.C. § 6928 (d)(5) (Illegal  
transportation of hazardous waste  
without a manifest - 1 Count)  
42 U.S.C. § 6928 (d)(1) (Illegal  
transportation of hazardous waste  
to an unpermitted facility - 1  
Count)  
42 U.S.C. § 6928 (d)(2)(A)  
(Illegal disposal of hazardous  
waste without a permit - 1 Count)  
18 U.S.C. § 2 (Aiding and  
abetting)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this Indictment:

1. Defendant GARY WASSERSON was the Chief Executive Officer of Sterling Supply Company (SSC), a supplier of dry cleaning products to local dry cleaning establishments.
2. From in or about 1984, through at least 1999, SSC operated a warehouse located at 5697 Rising Sun Avenue, in Philadelphia, Pennsylvania.
3. While in operation, SSC accumulated hundreds of drums and containers of hazardous waste, that is, acetone, sodium perborate tetrahydrate, sodium hydrosulfite, isopropanol, tetrachloroethylene (also known as perchloroethylene), methylene chloride,

isopropanol, xylene and naphthalene.

4. SSC ceased operations in approximately 1994 and disposed of most of its inventory of drums and containers of chemicals, as well as other items, in September 1999.

5. In September 1999, Wasserson caused the transportation and disposal of hazardous waste from SSC's warehouse at 5697 Rising Sun Avenue, in Philadelphia, Pennsylvania, to the Girard Point Transfer Station located at 3600 S. 26th Street, in Philadelphia, Pennsylvania, and then to Modern Landfill, a solid waste landfill in York, Pennsylvania, neither of which was permitted to accept hazardous waste.

#### Applicable Environmental Laws and Regulations

6. Pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA), the United States Environmental Protection Agency (EPA) and the states regulate various types of solid wastes as hazardous wastes. States may apply for and receive authorization to operate a hazardous waste regulatory program in lieu of the federal program pursuant to 42 U.S.C. § 6926. Once a state program has been federally authorized, EPA retains full authority to enforce the authorized state program pursuant to 42 U.S.C. § 6928.

7. Pennsylvania obtained EPA's authorization for its state hazardous waste regulatory program in January 1986. 51 Fed. Reg. 1791 (Jan. 15, 1986).

8. Pennsylvania's hazardous waste state regulatory program is set forth in the Pennsylvania's Hazardous Waste Management Regulations, Title 25, Sections 75.259 *et seq.* (the HWMR).

9. Under RCRA, solid waste includes any discarded material not otherwise excluded. 42 U.S.C. § 6903(27). Hazardous waste is a solid waste which, because of its

quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. 42 U.S.C. § 6903(5).

10. For purposes of the HWMR, a solid waste is a hazardous waste if it either exhibits the characteristics of ignitability, corrosivity, reactivity or toxicity, 25 Pa. Code § 75.262(b)(2) and (g), 40 C.F.R. § 261.21-.24, or is listed as a hazardous waste in accordance with 25 Pa. Code § 75.261, 40 C.F.R. § 260.10-.11.

11. Persons generating hazardous waste must identify it as hazardous and provide for its proper transportation, treatment, storage, and disposal. 25 Pa. Code § 75.262; 42 U.S.C. §§ 6903(5), 6922; 40 C.F.R. § 262.

12. A “generator” of hazardous waste means any person who produces or creates hazardous waste, 25 Pa. Code §75.260(a), 40 C.F.R. § 260.10, including the hazardous wastes identified or listed in 25 Pa. Code § 75.261, 40 C.F.R. § 260.10.

13. “Disposal” includes, among other things, depositing, dumping, spilling or placing any solid waste or hazardous waste into or on the land or water in a manner that the solid waste or hazardous waste or any constituent thereof may enter the environment. 25 Pa. Code § 75.260(a); 42 U.S.C. § 6903(3).

14. 25 Pa. Code § 75.270 and Section 3003 of RCRA, 42 U.S.C. § 6935, require the owner or operator of any facility at which hazardous waste is treated, stored and/or disposed of to have a permit for such activity. The owner or operator has to have either obtained

a permit or be in interim status, having met certain statutory requirements under RCRA or applied for a permit.

15. RCRA makes it a crime for a person to knowingly treat, store or dispose of hazardous waste without a permit. 42 U.S.C. § 6928(d)(2).

16. RCRA transporter requirements apply to all off-site shipments of hazardous wastes.

17. Under the HWMR, a generator of hazardous waste is required to manifest such waste in accordance with 25 Pa. Code § 75.262(e). See also 40 C.F.R. § 262.20(a). A hazardous waste manifest is a shipping document or form originated and signed by the generator used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of treatment, storage or disposal of hazardous wastes. See 25 Pa. Code § 75.260(a); 40 C.F.R. § 260.10; 42 U.S.C. § 6903(12).

18. RCRA makes it a crime for a person to knowingly transport a hazardous waste to an unpermitted facility. 42 U.S.C. § 6928(d)(1).

19. Wasserson was aware that hazardous waste had to be accompanied by a hazardous waste manifest, transported by a hazardous waste transporter, and hazardous waste had to be disposed of at specifically designated landfills that were capable of handling hazardous waste.

20. Between September 7, 1999 and September 8, 1999, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

GARY WASSERSON

knowingly caused to be transported and aided and abetted the transport of hazardous waste, including:

- a. acetone, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste numbers D001 and U002 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);
- b. sodium perborate tetrahydrate, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- c. sodium hydrosulfite, an ignitable hazardous waste, subject to spontaneous combustion, as defined under 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- d. isopropanol, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g) and 40 C.F.R. § 261.21(b);
- e. tetrachloroethylene, a hazardous waste, as defined under 25 Pa.

Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U210 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);

- f. methylene chloride, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U080 according to 40 C.F.R. § 261.33(f);
- g. xylene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U239 according to 40 C.F.R. § 261.33(f);
- h. naphthalene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U165 according to 40 C.F.R. § 261.33(f);  
and
- i. various other ignitable hazardous wastes, as defined under 25 Pa. Code § 75.261 and 40 C.F.R. § 261.21;

from SSC's warehouse at 5697 Rising Sun Avenue, in Philadelphia, Pennsylvania, to the Girard Point Transfer Station located at 3600 S. 26th Street, in Philadelphia, Pennsylvania, without a manifest as required under 25 Pa. Code § 75.262(e) and 40 C.F.R. § 262.20.

In violation of Title 42, United States Code, Section 6928(d)(5), and Title 18, United States Code, Section 2.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations contained in paragraphs one through nineteen of Count One of this Indictment are incorporated here.

2. Between September 7, 1999 and September 8, 1999, at Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

GARY WASSERSON

knowingly caused to be transported and aided and abetted the transport of hazardous waste, including:

- a. acetone, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste numbers D001 and U002 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);
- b. sodium perborate tetrahydrate, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- c. sodium hydrosulfite, an ignitable hazardous waste, subject to spontaneous combustion, as defined under 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(a), and listed under EPA

- hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- d. isopropanol, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g) and 40 C.F.R. § 261.21(b);
  - e. tetrachloroethylene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U210 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);
  - f. methylene chloride, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U080 according to 40 C.F.R. § 261.33(f);
  - g. xylene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U239 according to 40 C.F.R. § 261.33(f);
  - h. naphthalene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U165 according to 40 C.F.R. § 261.33(f);  
and
  - i. various other ignitable hazardous wastes, as defined under 25 Pa.

Code § 75.261 and 40 C.F.R. § 261.21;

from SSC's warehouse at 5697 Rising Sun Avenue, in Philadelphia, Pennsylvania, to the Girard Point Transfer Station located at 3600 S. 26th Street, in Philadelphia, Pennsylvania, and then to Modern Landfill, a solid waste landfill in York, Pennsylvania, which did not have interim status or a permit for the storage or disposal of hazardous waste.

In violation of Title 42, United States Code, Section 6928(d)(1), and Title 18, United States Code, Section 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. The allegations contained in paragraphs one through nineteen of Count One of this Indictment are incorporated here.

2. SSC, the Girard Point Transfer Station, and Modern Landfill did not have interim status or a permit to treat, store or dispose of hazardous waste.

3. Between September 7, 1999 and September 8, 1999, at Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

GARY WASSERSON

knowingly caused and aided and abetted the removal of hazardous waste from SSC's

Philadelphia warehouse and the disposal of the hazardous waste without a permit, including:

- a. acetone, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste numbers D001 and U002 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);
- b. sodium perborate tetrahydrate, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- c. sodium hydrosulfite, an ignitable hazardous waste, subject to

- spontaneous combustion, as defined under 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g)(2) and 40 C.F.R. § 261.21(b);
- d. isopropanol, an ignitable hazardous waste, as defined under 25 Pa. Code § 75.261(a) and (g) and 40 C.F.R. § 261.21(a), and listed under EPA hazardous waste number D001 according to 25 Pa. Code § 75.261(g) and 40 C.F.R. § 261.21(b);
- e. tetrachloroethylene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U210 according to 25 Pa. Code § 75.261(h)(v), which incorporates by reference 40 C.F.R. § 261.33(f);
- f. methylene chloride, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U080 according to 40 C.F.R. § 261.33(f);
- g. xylene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U239 according to 40 C.F.R. § 261.33(f);
- h. naphthalene, a hazardous waste, as defined under 25 Pa. Code § 75.261(h)(4) and 40 C.F.R. § 261.33, and listed under EPA hazardous waste number U165 according to 40 C.F.R. § 261.33(f);

and

- i. various other ignitable hazardous wastes, as defined under 25 Pa. Code § 75.261 and 40 C.F.R. § 261.21;

without a permit for the disposal of hazardous waste.

In violation of Title 42, United States Code, Section 6928 (d)(2)(A), and Title 18, United States Code, Section 2.

A TRUE BILL:

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FOREPERSON

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PATRICK L. MEEHAN  
United States Attorney