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WASTE MANAGEMENT OF HAWAII INC. AND MANAGERS INDICTED FOR VIOLATIONS OF CLEAN WATER ACT, CONSPIRACY, MAKING FALSE STATEMENTS

Millions of Gallons of Medical Waste-Contaminated Storm Water Released into Hawaii's Coastal Waters

HONOLULU – A federal grand jury in Honolulu returned a 13-count indictment today charging Waste Management of Hawaii Inc. (WMH); Joseph R. Whelan, WMH's General Manager and a vice president of WMH; and Justin H. Lottig, WMH's environmental protection manager, with multiple felonies, including knowing violations of the Clean Water Act, conspiracy and making false statements to the Hawaii Department of Health and the U.S. Environmental Protection Agency (EPA), the Justice Department announced today.

The charges stem from alleged illegal discharges of contaminated storm water from the Waimanalo Gulch Sanitary Landfill into Hawaii's coastal waters after heavy rainfalls in December 2010 and January 2011. WMH was permitted to discharge storm water from the landfill to the Pacific Ocean under a National Pollutant Discharge Elimination System (NPDES) permit issued by the Hawaii Department of Health Clean Water Branch (DOH-CWB). The storm water was required to go through the landfill's storm water management system to ensure that it did not come into contact with waste in the landfill before being discharged to Hawaii's coastal waters. The NPDES permit prohibited WMH from causing or contributing to a violation of Hawaii's state water quality standards.

The indictment alleges that from April 19, 2010 until Dec. 23, 2010, WMH Environmental Protection Manager Lottig conspired with employees from an environmental consulting firm to submit false and outdated information to DOH-CWB in June, August and September 2010. The purpose of the conspiracy was to convince DOH-CWB that the landfill had an adequate storm water management system in place in order to renew its NPDES storm water discharge permit.

The indictment also alleges that from Oct. 27 to Dec. 23, 2010, Lottig and WMH violated the permit by knowingly failing to inform DOH-CWB of material changes in the storm water management system that would have alerted the DOH-CWB that an inadequate system was in place.

On Dec. 19, 2010, a heavy rainstorm struck Oahu, and Cell E6, which contained millions of pounds of waste including raw sewage, sewage sludge and medical waste, was flooded with millions of gallons of storm water from up canyon. The indictment alleges that from December

20 to 23, WMH pumped millions of gallons of contaminated storm water from Cell E6 into coastal waters near the Ko Olina Resort. The indictment alleges that on December 20 and 23, Lottig falsely stated to DOH-CWB inspectors that any storm water being discharged from the landfill had not come into contact with waste from Cell E6.

On the evening of Jan. 12, 2011, another heavy rainstorm struck Oahu. The indictment alleges that unbeknownst to DOH-CWB, Whelan and WMH caused the discharge of millions of gallons of contaminated storm water to the coastal waters near the Ko Olina beach resort for several hours that evening and/or into the morning of January 13 without authorization from DOH-CWB. The pollutants included large amounts of medical waste, including blood vials, syringes and catheters, raw sewage and sewage sludge. The indictment alleges that on Jan. 13 and 20, 2011, an engineer from WMH falsely stated to DOH-CWB inspectors that the manhole which WMH used for the unauthorized discharges had been closed when in fact he knew that it had been left open to serve as an overflow drain.

The indictment also alleges that Whelan and WMH submitted false material statements and concealed material information in written submissions to DOH-CWB on April 21, 2011 and to the EPA on Aug. 1, 2011.

An indictment is merely an accusation, and a defendant is presumed innocent unless and until proven guilty in a court of law.

If convicted, WMH faces a maximum criminal fine of \$500,000 for each count. If convicted of the count charging failing to inform DOH-CWB of material changes in the storm water diversion system, WMH faces a maximum fine of \$50,000 per day of the alleged violation.

If convicted, Lottig faces a maximum sentence of five years in prison for each count of conspiracy and for each count of making a false statement to DOH-CWB; a maximum of three years for failing to inform DOH-CWB of material changes in the storm water diversion system plus a fine of \$50,000 per day of the alleged violation; a maximum of two years for each count of providing false information to DOH-CWB; and a maximum of three years for each count of illegal discharges in violation of the Clean Water Act. If convicted, Lottig also faces a maximum criminal fine of \$250,000 for each count.

If convicted, Whelan faces a maximum sentence of three years for each count alleging illegal discharges in violation of the Clean Water Act and a maximum of two years for each count of making false statements to DOH-CWB and EPA; and a maximum criminal fine of \$250,000 for each count.

The case is being prosecuted by Assistant U.S. Attorney Marshall Silverberg of the U.S. Attorney's Office for the District of Hawaii and Senior Trial Attorney Daniel Dooher of the Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division. It was investigated by U.S. Environmental Protection Agency-Criminal Investigation Division, with the assistance of the DOH-CWB.

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