

MP-1
11-00108155
12/4/90
Hox

Case Filed
Mo. Dec. yr. 90
Docket No. 00027-1162
No. of Det's U.S. MAIL CASE NO.

Central Transport, Inc.

Assigned
04193 1907
JUVENILE
ALIAS
District Office Judge/Magist

CHARGES

U.S. TITLE SECTION	OFFENSES CHARGED	ORIGINAL COUNTS	DISM 1 MC
33:1319 (c)(2) (B)	Introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants, which deft. knew or reasonably should have known could cause personal injury or property damage.	3	<input type="checkbox"/>

RECEIVED

DEC 26 1990

SECRETARY'S OFFICE
Public Utility Commission
SUPERSEDING COUNTS

INTERVAL ONE END ONE AND/OR BEGIN TWO (OR RESTART PERIOD TO TRIAL) END INTERVAL TWO

KEY DATE EARLIEST OF	<input type="checkbox"/> arrest <input type="checkbox"/> summons <input type="checkbox"/> custody <input type="checkbox"/> appears on complaint	KEY DATE 3-5-90 APPLICABLE	<input type="checkbox"/> Indictment filed/unassigned <input type="checkbox"/> consent to Magr. trial on complaint <input checked="" type="checkbox"/> Information <input type="checkbox"/> Felony Withdrawal	KEY DATE	<input type="checkbox"/> 1st appears on pending charge / R40 <input type="checkbox"/> Receive file R20/21 <input type="checkbox"/> Supdgd. find inf <input type="checkbox"/> Order New trial <input type="checkbox"/> Remand <input type="checkbox"/> G/P Withdrawn	KEY DATE APPLICABLE	<input type="checkbox"/> Dismissal <input type="checkbox"/> Plea <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Trial (your date) by <input type="checkbox"/> Jury <input type="checkbox"/> NJ
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1st appears with or waves counsel ARRAIGNMENT 1st Trial Ended RE TRIAL 2nd Trial Began DISPOSITION DATE SENTENCE DATE PTD Note Proc FINAL CHARGES DISMISSED on grounds W P WOP on grounds

III. MAGISTRATE

SEARCH WARRANT	ISSUED	DATE	INITIAL NO	INITIAL APPEARANCE DATE	PRELIMINARY EXAMINATION	DATE SCHEDULED	OUTCOME
Arrest Warrant	Return				OR		DISMISSED HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Summons	Issued / Served				REMOVAL OR HEARING	DATE HELD	HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
Arrest Warrant Issued					<input type="checkbox"/> WAIVED <input type="checkbox"/> NOT WAIVED	Type Number	
COMPLAINT					<input type="checkbox"/> INTERVENING INDICTMENT		

Date of Arrest OFFENSE (In Complaint)

Show last names and suffix numbers of other defendants on same indictment information

RULE 20 21 40 In

ATTORNEYS
U.S. Attorney or Asst.

(Trial Attorney) Floyd Clardy, III

Defense 1 CIA 2 Ret 3 Waived 4 Self 5 Non / Other 6 PD 7 CO

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DOCKETED
JAN 2 1991

Certified to be a true and correct copy of the original.
U. S. District Court
Thomas C. McGraw, Clerk
Western Dist. of N. C.
Mabel L. Anderson
Deputy Clerk
5/1/90

Penalty:
33:1319 (c)(2)(B)
3 yrs / not less than 5,000 or more than 50,000 per each day of the violation or both

BAIL & RELEASE

PRE-INDICTMENT

Release Date

Bail Denied Fugitive Pers. R. PSA

AMOUNT SET \$

Date Set

Bail Not Made

Date Bond Made

Conditions 10% Dep Surety Br Collateral 3rd Ptry Other

POST-INDICTMENT

Release Date

Bail Denied Fugitive Pers. R. PSA

AMOUNT SET \$

Date Set

Bail Not Made

Date Bond Made

Conditions 10% Dep Surety Br Collateral 3rd Ptry Other

IV. NAMES & ADDRESSES OF ATTORNEYS, SURETIES, ETC

FINE AND RESTITUTION PAYMENTS			Docket Entries Begin On Reverse Side		
DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

APPEALS FEE PAYMENTS

DATE	Docket No	Dist	MASTER DOCKET - MULTIPLE DEFENDANT CASE	PAGE	OF	VI EXCLUDABLE DELAY		
90	00027	1	PROCEEDINGS DOCKET FOR SINGLE DEFENDANT			Start Date	End Date	Total

V. PROCEEDINGS

-05-90

Bill of Information Filed

ma

1

Plea Agreement-will waive indictment and plea guilty to the three counts of the Bill of Information. cc: RDP

ma

-5-90

2

Waiver of indictment

-5-90

3

Waiver of arraignment.

Case called for plea and sentencing before RDP in Charlotte. Gary L. Honbarrier, president of co. present repr the Co. Cns1 Parnell present repr. Central Trans. USA Ashcraft & atty Floyd Clardy, III repr the Govt. Deft pleads GUILTY to the 3 ct. info. Rule 11ing and findings made. Court finds F/B for the plea and enters the following judg: 2 yrs probation, + \$1,500,000 fine total + cleanup agreement and public apology. + \$150 assessment. (\$1,000,000 fine SUSPENDED leaving a balance of \$500,000.)

J & C issued

-08-90

Judgment & Commitment order filed in CR. VOL. XXXI pg. 127.

ma

13

MP-2
A-00108155
12/4/90
HUG. JON

FILED
CHARLOTTE, N.C.

MAR - 5 1990

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA

DOCKET NO. C-CR-90-27

vs.

INFORMATION

CENTRAL TRANSPORT, INC.

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DEC 26 1990

SECRETARY'S OFFICE
Public Utility Commission

The United States Attorney informs the Court that:

INTRODUCTION

At all times material to this Information:---

1. Defendant CENTRAL TRANSPORT, INC., was a North Carolina corporation engaged in the business of transporting chemicals by tanker trailer trucks. Defendant CENTRAL TRANSPORT, INC. operated a facility located on Melynda Road in Charlotte, North Carolina.

2. The Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., commonly referred to as the Clean Water Act (CWA), was enacted by Congress to restore and maintain the integrity of our Nation's waters.

3. Section 309(c)(2)(B), 33 U.S.C. 1319(c)(2)(B) of the Clean Water Act prohibits any person from knowingly introducing into a sewer system or publicly owned treatment works any pollutant or hazardous substance which the person knew or reasonably should have known could cause personal injury or property damage.

4. "Publicly owned treatment works" is defined to include

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JAN 2 1991

sewers, pipes and other conveyances which convey waste water into the publicly owned treatment plant. 40 C.F.R. § 403.5.

6. Defendant CENTRAL TRANSPORT, INC.'s Charlotte Plant is connected to and discharges into a public sewer system which conveys waste water to the Charlotte-Mecklenburg Utility Department ("CMUD"), a publicly owned treatment works.

COUNT I

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about April 28, 1987, to April 29, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants, which Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

COUNT II

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about April 30, 1987, to May 1, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants which

Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

COUNT III

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about May 4, 1987, to May 5, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants which Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

THOMAS J. ASHCRAFT
United States Attorney
Western District of North Carolina

by: Floyd Clardy
FLOYD CLARDY III
Trial Attorney, Environmental Crimes Section
U.S. Department of Justice

Correct copy of the original.
U.S. District Court
Thomas J. McGraw, Clerk
Western Dist. of N. C.

Michelle Anderson
Deputy Clerk
5/11/90

MR-3
A-00148155
1/21/90
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DEFENDANT
CENTRAL TRANSPORT, INC.

DOCKET NO. C-CR-90-27-01

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH DAY YR
March 5, 1990

COUNSEL
 WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to counsel appointed by the court and the defendant thereupon waived assistance of counsel.
 WITH COUNSEL E. Fitzgerald Parnell, III, retained
(Name of Counsel)

PLEA
 GUILTY, and the court being satisfied that there is a factual basis for the plea.
 NOLO CONTENDERE.
 NOT GUILTY.

FILED
CHARLOTTE, N. C.
MAR 08 1990

FINDING & JUDGMENT
There being a finding/verdict of NOT GUILTY. Defendant is discharged
 GUILTY, as to the 3 count information
Defendant has been convicted as charged of the offense(s) of Knowingly introduce pollutants into Public Sewer System and Publicly Owned Treatment Works, in violation of 33 U.S.C. 1319(c)(2)(B) (Clean Water Act) as charged in the 3 count indictment.

U. S. DISTRICT COURT
W. DIST. OF N. C.

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DEC 26 1990

SENTENCE OR PROBATION ORDER
The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO (2) YEARS **PROBATION** plus a \$500,000 fine on each count for a total fine of \$1,500,000. million (\$1,000,000) dollars of the fine is **SUSPENDED**. Defendant will properly implement lagoon closure at the Melynda Road facility and present to the Certification from NC Dept. of Environment, Health, and Natural Resources that lagoon closure has been completed. Deft will also implement cleanup of environmental problems related to the lagoons, including ground water contamination, at its Melynda Road terminal in Charlotte, NC. Defendant will also make a public apology.

SECRETARY'S OFFICE
Public Utility Commission

SPECIAL CONDITIONS OF PROBATION
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant to revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

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DOCKETED
JAN 2 1991

SIGNED BY
 U.S. District Judge
 U.S. Magistrate

Robert D. Potter

Robert D. Potter, Chief

Date March 5, 1990

Michelle Anderson
5/11/90

MR-4
A-66108155
12/4/90
Hog you

FILED
CHARLOTTE, N.C.
MAR - 5 1990

DOCKETED
JAN 2 1991

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA

DOCKET NO. C-CR-90-27

vs.

**DOCUMENT
FOLDER**

PLEA AGREEMENT

CENTRAL TRANSPORT, INC.

RECEIVED

DEC 26 1990

NEGOTIATED PLEA AGREEMENT SECRETARY'S OFFICE
Public Utility Commission

The United States of America and the defendant, CENTRAL TRANSPORT, INC., following Rule 11(e), Federal Rules of Criminal Procedure, do hereby enter into the Negotiated Plea Agreement set forth below.

(1) CENTRAL TRANSPORT, INC. agrees to waive indictment and plead guilty to a three-count information. Each count in the information charges a violation of Section 309 of the Clean Water Act, 33 U.S.C. § 1319(c)(2)(B). A copy of the Information is attached to this agreement as Exhibit A. The Chief Executive Officer of CENTRAL TRANSPORT, INC., Gary L. Honbarrier, will appear in court and enter the guilty pleas for the corporation.

(2) The United States agrees not to further prosecute criminally CENTRAL TRANSPORT, INC., its subsidiaries, divisions, officers, employees, or directors for the dumping, disposing, storage, or introduction, of any pollutant or hazardous substance, material, or waste into the ground, water, or air, at CENTRAL TRANSPORT, INC.'s terminal located on Melynda Road in

Charlotte, North Carolina. This provision applies to criminal environmental violations which either the government knew about on the date the parties signed this agreement, which are within the scope of the government's investigation from 1985 to January 31, 1990, or which CENTRAL TRANSPORT, INC. disclosed to the United States before January 31, 1990. This provision will be construed to include, but not necessarily be limited to, the three lagoons maintained at the terminal for the disposal, treatment, and storage of waste, the waste treatment system located at the terminal, and the introduction into the Charlotte sewer system of waste products. This Plea Agreement applies only to criminal violations that occurred in the Western District of North Carolina.

(3) If acceptable to the Court, CENTRAL TRANSPORT, INC. hereby waives the presentence investigation and report following Rule 32(c)(1) of the Federal Rules of Criminal Procedure. The United States does not oppose such waiver.

(4) The United States and CENTRAL TRANSPORT, INC. agree that after entry of the guilty pleas of CENTRAL TRANSPORT, INC., following Rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, the appropriate disposition at the time of sentencing is:

(a) CENTRAL TRANSPORT, INC. will pay a fine of Five-Hundred Thousand Dollars (\$500,000), as provided in Title 18, United States Code, Section 3571(c)(3), for each count of the three counts in the information, which fines total \$1.5 million

dollars. Of this total fine, \$1 million shall be suspended, and the Court will place CENTRAL TRANSPORT, INC. on probation for two years on the condition that during the two-year probationary term CENTRAL TRANSPORT, INC. properly implement lagoon closure at the Melynda Road facility and present to the Court certification from the North Carolina Department of Environment, Health, and Natural Resources that lagoon closure has been completed. Central Transport, Inc. will also implement cleanup of environmental problems related to the lagoons, including ground water contamination, at its Melynda Road terminal in Charlotte, North Carolina.

(b) This environmental cleanup will be subject to the oversight and jurisdiction of the North Carolina Department of Environment, Health, and Natural Resources or its successor. The United States agrees that CENTRAL TRANSPORT, INC. retains any right it may have to contest, in good faith, any order, directive, or condition issued by the North Carolina Department of Environment, Health, and Natural Resources or its successor. The United States agrees that during the two-year probationary term it will not criminally prosecute CENTRAL TRANSPORT, INC. for maintenance of its lagoons so long as CENTRAL TRANSPORT, INC. is proceeding in good faith with the environmental cleanup under the provisions of this agreement.

(c) The United States agrees not to petition to revoke the probation of CENTRAL TRANSPORT, INC. so long as CENTRAL TRANSPORT, INC. is proceeding in good faith with the

environmental cleanup of CENTRAL TRANSPORT, INC.'s facility. The parties understand that the environmental cleanup of CENTRAL TRANSPORT, INC.'s facility may exceed the two year probationary term. For example, the cleanup of ground water contamination often takes many years. The parties, therefore, agree that if lagoon closure takes more than two years, despite CENTRAL TRANSPORT, INC.'s proceeding in good faith to complete lagoon closure, and CENTRAL TRANSPORT, INC. is otherwise in compliance with the terms of this plea agreement, the United States will not oppose CENTRAL TRANSPORT, INC.'s motion to extend probation up to five years from the date of the judgment of conviction. In addition, the parties agree that if any CENTRAL TRANSPORT, INC. challenge to any North Carolina Department of Environment, Health, and Natural Resources order, directive, or condition is made in good faith and results in delay in completion of the terms of probation, and CENTRAL TRANSPORT, INC. is otherwise in compliance with the terms of this plea agreement, the United States will not oppose CENTRAL TRANSPORT, INC.'s motion to extend probation up to five years from the date of conviction.

(d) CENTRAL TRANSPORT, INC. agrees that on the date it enters its pleas pursuant to this Plea Agreement, it will deliver to the United States a certified check payable to the United States Department of Justice, in the amount of Five Hundred Thousand Dollars (\$500,000).

(e) If CENTRAL TRANSPORT, INC. fails to comply with this Plea Agreement or the terms of probation, the United States may

initiate proceedings against CENTRAL TRANSPORT, INC. to revoke probation, including proceedings to collect the suspended portion of the fine. CENTRAL TRANSPORT, INC.'s contesting an order, directive, or condition of the North Carolina Department of Environment, Health, and Natural Resources under the preceding subparagraph (c) shall not be deemed a violation of the Plea Agreement or probation so long as it is otherwise in compliance with the Plea Agreement and probation.

(f) CENTRAL TRANSPORT, INC. agrees that if the Court should determine that it has failed reasonably to fulfill its obligations under this Plea Agreement, the government shall be free to prosecute CENTRAL TRANSPORT, INC. for the environmental offenses that occurred at CENTRAL TRANSPORT, INC.'s Charlotte terminal between 1985 and the date the parties sign this agreement, that would be otherwise barred from being prosecuted because of the expiration of the applicable statute of limitations. Such prosecution must, however, be commenced within 90 days after the Court has determined that CENTRAL TRANSPORT, INC. has breached the Plea Agreement. All guilty verdicts and sentences shall stand. It is agreed that the entry of judgment in this case does not bind the State of North Carolina in any future civil or criminal prosecution of CENTRAL TRANSPORT, INC.

(g) It is agreed that the provisions of this Plea Agreement do not preclude the United States from prosecuting CENTRAL TRANSPORT, INC. or any of its divisions or subsidiaries for Obstruction of Justice, 18 U.S.C. Section 1501 et. seq; or

Misprision of a Felony, 18 U.S.C. Section 4; or for any offenses defined in Title 26 and such Title 18 offenses as may be investigated by agents of the Internal Revenue Service concerning the enforcement of federal revenue laws. The United States represents that now the Department of Justice does not know of any such violations.

(h) The United States District Court for the Western District of North Carolina is the sole judge of any disagreements arising concerning this Plea Agreement, and this Court is the sole judge of whether CENTRAL TRANSPORT, INC. has complied with the Plea Agreement.

(5) CENTRAL TRANSPORT, INC. will pay for and place a full-page advertisement in the Charlotte Observer, in the form attached as Exhibit B apologizing for polluting the sewer system and violating the law. The advertisement shall be placed within three days of entering the guilty pleas and published as soon as practicable thereafter. The advertisement will run once a week for two consecutive weeks.

(6) It is agreed that if the Court refuses to accept any provision of this Plea Agreement neither party is bound by any of the provisions of the Agreement. In addition, if the Court refuses to accept the Plea Agreement, the United States may seek to dismiss the Information without prejudice, and no statement in this Plea Agreement or its attachments will be admissible against either party in any proceeding. CENTRAL TRANSPORT, INC. will not object to such dismissal of the Information. CENTRAL TRANSPORT,

INC. further agrees that if the Court refuses to accept this Plea Agreement, CENTRAL TRANSPORT, INC. will waive all applicable civil and criminal statutes of limitations concerning the matters set out in the Information and the environmental violations that occurred at CENTRAL TRANSPORT, INC.'s Melynda Road terminal, Charlotte, North Carolina, to the extent that this Agreement has delayed any action that otherwise may have been taken.

(7) This document contains the parties' entire agreement. No other agreement, understanding, promise, or condition between the United States Attorney's Office for the Western District of North Carolina, the Department of Justice and CENTRAL TRANSPORT, INC. exists, nor will such agreement, understanding, promise or condition exist unless it is committed to writing in an amendment attached to this document and signed by CENTRAL TRANSPORT, INC., an attorney for CENTRAL TRANSPORT, INC., and a representative of the United States Attorney for the Western District of North Carolina.

(8) The United States and CENTRAL TRANSPORT, INC. agree that the Government's written offer of proof, appended hereto as Exhibit C, is substantially correct.


(9) The United States acknowledges that CENTRAL TRANSPORT, INC. has cooperated fully in the conduct of the Government's investigation of the activities concerning this Plea Agreement.

(10) In establishing the factual basis for these pleas of guilty, the United States and the Defendant do stipulate and shall stipulate if allowed to do so by the Court to the existence

of a factual basis in support of every element of each crime which CENTRAL TRANSPORT, INC. pleads guilty following this plea agreement.

DATE March 5, 1990

Respectfully Submitted,
Thomas J. Ashcraft
United States Attorney


CENTRAL TRANSPORT, INC.
By Its Attorneys

Floyd Clardy
Floyd Clardy, III
Susan B. Squires
Trial Attorneys
Environmental Crimes Section
U.S. Department of Justice

Marilee Anderson
5/11/90

EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
)
)
 vs.)
)
)
CENTRAL TRANSPORT, INC.)

DOCKET NO. C-CR-90-27
INFORMATION

The United States Attorney informs the Court that:

INTRODUCTION

At all times material to this Information:

1. Defendant CENTRAL TRANSPORT, INC., was a North Carolina corporation engaged in the business of transporting chemicals by tanker trailer trucks. Defendant CENTRAL TRANSPORT, INC. operated a facility located on Melynda Road in Charlotte, North Carolina.

2. The Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., commonly referred to as the Clean Water Act (CWA), was enacted by Congress to restore and maintain the integrity of our Nation's waters.

3. Section 309(c)(2)(B), 33 U.S.C. 1319(c)(2)(B) of the Clean Water Act prohibits any person from knowingly introducing into a sewer system or publicly owned treatment works any pollutant or hazardous substance which the person knew or reasonably should have known could cause personal injury or property damage.

4. "Publicly owned treatment works" is defined to include

sewers, pipes and other conveyances which convey waste water into the publicly owned treatment plant. 40 C.F.R. § 403.5.

6. Defendant CENTRAL TRANSPORT, INC.'s Charlotte Plant is connected to and discharges into a public sewer system which conveys waste water to the Charlotte-Mecklenburg Utility Department ("CMUD"), a publicly owned treatment works.

COUNT I

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about April 28, 1987, to April 29, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants, which Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

COUNT II

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about April 30, 1987, to May 1, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants which

Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

COUNT III

1. The allegations contained in the Introduction of this Information are realleged and incorporated in this Count by reference.

2. From on or about May 4, 1987, to May 5, 1987, within the Western District of North Carolina, defendant CENTRAL TRANSPORT, INC. knowingly introduced into the public sewer system and into the CMUD publicly owned treatment works pollutants which Defendant CENTRAL TRANSPORT, INC. knew or reasonably should have known could cause personal injury or property damage.

In violation of Title 33, United States Code, Section 1319(c)(2)(B).

THOMAS J. ASHCRAFT
United States Attorney
Western District of North Carolina

by:

FLOYD CLARDY III
Trial Attorney, Environmental Crimes Section
U.S. Department of Justice

WE APOLOGIZE
FOR
POLLUTING
THE
ENVIRONMENT

CENTRAL TRANSPORT, INC. RECENTLY PLED GUILTY IN FEDERAL COURT TO DISPOSING OF POLLUTANTS ILLEGALLY IN 1987 AT ITS FACILITY IN CHARLOTTE, NORTH CAROLINA. AS A RESULT, CENTRAL TRANSPORT, INC. PAID THE UNITED STATES FIVE HUNDRED THOUSAND DOLLARS, AGREED TO CLEAN UP LAGOONS AT ITS CHARLOTTE FACILITY, TO PAY THE UNITED STATES ANOTHER ONE MILLION DOLLARS IF IT FAILS TO COMPLETE THE CLEANUP, AND TO PUBLISH THIS ADVERTISEMENT. WE ARE SORRY THAT THIS HAS OCCURRED AND WE WILL TAKE ALL STEPS NECESSARY TO INSURE THAT IN THE FUTURE ENVIRONMENTAL LAWS ARE RESPECTED. WE HOPE THAT OTHERS WILL LEARN FROM OUR EXPERIENCE.

GARY L. HONBARRIER
CENTRAL TRANSPORT, INC.

EXHIBIT C

FACTUAL BASIS

The United States provides the Court with this factual basis in support of the information filed in the United States of America v. Central Transport, Inc. The United States will show to the Court the following facts:

1. The Information charges Central Transport, Inc. (CTI) with three counts of knowingly introducing pollutants into the Charlotte Mecklenburg Utility Department's (CMUD) public sewer which conveyed these pollutants to a publicly owned treatment works (POTW). It further charges that CTI knew or reasonably should have known that this action could cause personal injury or property damage in violation of the Clean Water Act. The dates in the Information are from April 28 to April 29; April 30 to May 1; and from May 4 to May 5, in 1987. To establish these violations, the Government must prove the following elements: (1) CTI knowingly; (2) discharged pollutants; (3) from a point source; (4) into a POTW, or sewer system; (5) when CTI knew or reasonably should have known that this action could cause personal injury or property damage.

The waters CTI discharged contained "pollutants." The Clean Water Act (CWA) broadly defines the term pollutant to include chemical wastes. 33 U.S.C. 1362(6).

CTI discharged the pollutants through a point source, a term defined by CWA to include pipes, ditches, and conduits. The essence of the definition of point source discharge is that it must be from a discernible, confined, and discrete conveyance. 33 U.S.C. 1362(14).

A Publicly Owned Treatment Works (POTW) includes sewers, pipes and other conveyances which carry waste water to a POTW. 33 u.S.C. 1292(2)(A)(B). The Charlotte Mecklenburg Utility Department (CMUD) is a POTW. CTI's Charlotte facility has a sewer connection to the Charlotte Mecklenburg (CMUD) sewer. CTI's Charlotte facility also had a four inch sewer clean out line which was connected to the CMUD sewer system. This line was located in the ground just outside the boiler room at CTI's Charlotte facility. On May 13, 1987, during a search at CTI's Charlotte facility, FBI Agent Burleson saw a Regional Supervisor of the North Carolina Department of Natural Resources and Community Development, Ron McMillian, put dye in the four inch line. FBI Agent Burleson watched Ron McMillian pour dye into this line and then saw it as it came out the other end of the line. This procedure proved that the four inch line was connected to the CMUD sewer system. The four inch line is a point source.

2. CTI is a North Carolina corporation with its corporate headquarters located in High Point, North Carolina. CTI is a family owned corporation and is engaged in the bulk transportation of various chemical products. For many years CTI has operated a terminal and tank cleaning facility at Charlotte.

On the three dates in the Information, the FBI found chemical wastes in the CMUD public sewer. On each of those dates Ron McMillian and FBI Agent Tom Burleson placed an automatic sampling device on a sewer line located upstream from

CTI. These persons also placed an identical device on the same sewer line at a location downstream from CTI. They placed the sampling device in the sewer at about 4:00 p.m. and left the sampling device in the sewer overnight. On every following morning at about 7:00 a.m. they removed the samples.

The North Carolina Department of Natural Resources (NCDNR) analyzed these samples and found high concentrations of organic compounds in the sample. These same organic compounds also were present in some of the chemicals hauled by CTI, the residues of which were contained in waste water discharged by CTI.

3. Documents gathered by using grand jury subpoenas show that CTI knew or should have known that the introduction of these pollutants containing these organic compounds into CMUD's sewer system could have caused personal injury or property damage. As a chemical hauler, the U.S. Department of Transportation requires CTI to label their trailers with placards that show the contents of the tanker. These placards help police and fire officials respond to accidents. They list the action emergency personnel need to take regarding fighting fires or evacuating citizens because of toxic fumes. They show that the chemicals CTI hauled can be dangerous.

CTI also had extensive safety procedures in place for its own personnel regarding the wearing of protective clothing, eye protection, tanker entry procedures, and actions to take if an

accident happened involving the chemicals which they hauled. Additionally, CTI maintained a file of material safety data sheets (MSDS) which list the dangerous properties of the chemicals which they haul and how safely to control them. Central Transport, Inc. maintained these documents at the Charlotte terminal as well as their headquarters in High Point, North Carolina. Also, CTI's employees testified they knew about the hazardous nature of some of the chemicals CTI hauled.

JJD/614



MR. 5
A-00108155
12/4/90
Hbg jao

May 31, 1990

Lawrence Wellington
Central Transport
600 Melynda Road
Charlotte, North Carolina 28208

RECEIVED

DEC 26 1990

SECRETARY'S OFFICE
Public Utility Commission

SUBJECT: NOTICE OF NON-COMPLIANCE

Dear Mr. Wellington:

Charlotte-Mecklenburg Utility Department - Industrial Waste Division is issuing a Notice of Non-Compliance (NNC) to Central Transport based on monitoring April 23-26, 1990 at your site. Please see enclosed Monitoring Report. Analysis indicate violation(s) of Permit No. 0188 for the following parameters: BOD, TSS, and Zinc.

As a result of the violation(s), Central Transport is required to monitor those parameters listed above for four consecutive discharge days. Compliance Monitoring (resampling) must occur within 30 days of receipt of this notice. The results of the Compliance Monitoring must be submitted to Charlotte-Mecklenburg Utility Department - Industrial Waste Division within 20 days following the 30 day resampling period.

If subsequent analyses indicate continued violations with Permit limitations, a Compliance Agreement may be issued to establish a Schedule of Compliance with penalties and interim limitations based on State and Federal Enforcement strategies.

If you have questions, or for further discussion please contact Mr. Harold Harris or myself at 553-2121.

Sincerely,

Robert L. Griffin
Robert L. Griffin
Industrial Waste Manager

RLG/cen

enclosures: Monitoring Report

FORM IW.22

DOCUMENT
FOLDER

DOCKETED
JAN 2 1991



August 24, 1990

MR-6
A-00/08/55
12/4/90
Hbg jcw

Lawrence Wellington
Central Transport
600 Melynda Road
Charlotte, North Carolina 28208

RECEIVED

DEC 26 1990

**SECRETARY'S OFFICE
Public Utility Commission**

SUBJECT: NOTICE OF NON-COMPLIANCE

Dear Mr. Wellington:

Charlotte-Mecklenburg Utility Department - Industrial Waste Division is issuing a Notice of Non-Compliance (NNC) to Central Transport based on monitoring February 1, 15 and June 28, 1990 at your site. Please see enclosed Monitoring Report. Analysis indicate violation(s) of Permit No. 0188 for the following parameters: Nickel.

As a result of the violation(s), Central Transport is required to monitor those parameters listed above for four consecutive discharge days. Compliance Monitoring (resampling) must occur within 30 days of receipt of this notice. The results of the Compliance Monitoring must be submitted to Charlotte-Mecklenburg Utility Department - Industrial Waste Division within 20 days following the 30 day resampling period.

If subsequent analyses indicate continued violations with Permit limitations, a Compliance Agreement may be issued to establish a Schedule of Compliance with penalties and interim limitations based on State and Federal Enforcement strategies.

If you have questions, or for further discussion please contact Mr. Harold Harris or myself at 394-9284.

Sincerely,
Robert L. Griffin
Robert L. Griffin
Industrial Waste Manager

RLG/cen

enclosures: Monitoring Report

FORM IW.22

**DOCUMENT
FOLDER**

DOCKETED
JAN 2 1991



CHARLOTTE

September 18, 1990

MR-7
A-00108155
12/4/90

MOS joo

Lawrence Wellington
Central Transport
600 Melynda Road
Charlotte, North Carolina 28208

RECEIVED

DEC 26 1990

SECRETARY'S OFFICE
Public Utility Commission

SUBJECT: NOTICE OF NON-COMPLIANCE

Dear Mr. Wellington:

Charlotte-Mecklenburg Utility Department - Industrial Waste Division is issuing a Notice of Non-Compliance (NNC) to Central Transport based on monitoring June 29, July 3, 5 and 9, 1990 at your site. Please see enclosed Monitoring Report. Analysis indicate violation(s) of Permit No. 0188 for the following parameters: Nickel.

As a result of the violation(s), Central Transport is required to monitor those parameters listed above for four consecutive discharge days. Compliance Monitoring (resampling) must occur within 30 days of receipt of this notice. The results of the Compliance Monitoring must be submitted to Charlotte-Mecklenburg Utility Department - Industrial Waste Division within 20 days following the 30 day resampling period.

If subsequent analyses indicate continued violations with Permit limitations, a Compliance Agreement may be issued to establish a Schedule of Compliance with penalties and interim limitations based on State and Federal Enforcement strategies.

If you have questions, or for further discussion please contact Mr. Harold Harris or myself at 394-9284.

Sincerely,

Robert L. Griffin
Robert L. Griffin
Industrial Waste Manager

RLG/cen

enclosures: Monitoring Report

FORM IW.22

DOCUMENT
FOLDER

DOCKETED
JAN 2 1991



AR-1
A-00108155
12/4/90
Mog jar

State of North Carolina
Department of Environment, Health and Natural Resources
Northeastern Region
1424 Carolina Avenue, Washington, North Carolina 27889

James G. Martin, Governor
William W. Cobey, Jr., Secretary

Lorraine G. Shinn
Regional Manager

DIVISION OF ENVIRONMENTAL MANAGEMENT

October 17, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RECEIVED

DEC 26 1990

SECRETARY'S OFFICE
Public Utility Commission

Mr. Glen Simpson, Environmental Director
Central Transport, Inc.
P.O. Box 7007
High Point, North Carolina 27264

SUBJECT: Notice of Violation
Aurora Terminal
Beaufort County

Dear Mr. Simpson:

An investigation of the pump and haul activities that were in progress at the Aurora terminal of Central Transport, Inc., was made on October 15, 1990. Division of Environmental Management staff Mr. Roger Thorpe, Mr. Al Hodge, and I observed that a wastewater collection system, sump pump, and tanker body were being used for the wastewater generated by a tanker truck wash operation. As Mr. Mike Brown of the Aurora terminal and you were informed by me, the activities being conducted are a violation of G.S. 143-215.1. A violation of G.S. 143-215.1 is subject to civil penalties as authorized by G.S. 143-215.6, which provides for a civil penalty up to \$10,000 per violation.

The Town of Aurora had previously requested the wastewater from a facility exactly like this be allowed to tie onto the Town's wastewater treatment system. The Town reconsidered and withdrew its request. Mr. Al Hodge of the Washington Regional Office spoke with you and relayed

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FOLDER

DOCKETED
JAN 2 1991

CERTIFIED MAIL
Mr. Glen Simpson
Page 2
October 17, 1990

the permitting requirements for a facility such as this. He indicated that a pump and haul permit was discussed.

I want you to clearly understand that each day you operate this system is a violation of State statutes.

If you have any questions concerning this matter, please contact me or Mr. Roger Thorpe, Regional Water Quality Supervisor, of the Washington Regional Office, at (19) 946-6481.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Mulligan", with a stylized flourish at the end.

Jim Mulligan
Regional Supervisor

cc: Town of Aurora
Mr. John Doyle, Weinstein and Sturges

WEINSTEIN & STURGES, P. A.

ATTORNEYS AT LAW

1100 SOUTH TRYON STREET

CHARLOTTE, NORTH CAROLINA 28203-4244

(704) 372-4800

October 31, 1990

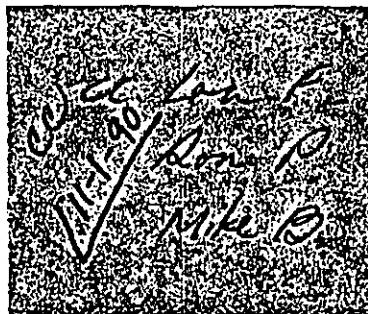
JOHN W. BEDDOW
ROBERT J. BERNHARDT
RICHARD A. BIGGER, JR.
HUGH B. CAMPBELL, JR.
JAMES P. CREWS
JOHN J. DOYLE, JR.
L. HOLMES ELEAZER, JR.
FENTON T. ERWIN, JR.
J. RANDALL GROVES
STEVE C. HOROWITZ
ERIC A. JONAS
WILLIAM S. MICHAEL
GEORGE J. MILLER
THOMAS D. MYRICK
T. LAFONTINE ODOM
DOTSON G. PALMER
E. FITZGERALD PARNELL, III
JERRY ALAN REESE
WILLIAM H. STURGES
JOYCE W. WHEELER

KEVIN L. BARNETT
MICHEL C. GAIBLEY
GARTH K. DUNKLIN
FRANCES C. GIBSON
J. ERIK GROVES
JAMES H. HENDERSON
G. EDWARD HINSHAW, JR.
PATRICIA A. KORNEGAY
THOMAS LAFONTAINE ODOM, JR.
DAVID B. PALMER
CYNTHIA L. ROBERSON
CYNTHIA STARIAS
JUDITH A. STARRETT

MAURICE A. WEINSTEIN
WILLIAM W. STURGES
ALLAN W. SINGER
OF COUNSEL

CABLE ADDRESS
"CAROLEX"

FAX (704) 377-8220
(704) 377-4784



Mr. Jim Mulligan
Regional Supervisor
State of North Carolina
Department of Environment, Health
and Natural Resources
Northeastern Region
1424 Carolina Avenue
Washington, NC 27889

Re: Central Transport, Inc. Aurora, NC Terminal

Dear Mr. Mulligan:

This firm serves as counsel for Central Transport, Inc. I recently spoke with Roger Thorpe, Regional Water Quality Supervisor, about the notice of violation issued to Central Transport, Inc. in connection with certain activities at the Company's Aurora terminal. I pointed out to Mr. Thorpe that your October 17, 1990 letter to our client did not assess any civil penalty or request that Central take any specific remedial action. Mr. Thorpe suggested that an appropriate response from the Company to your letter would be the submission of a letter outlining its position in this matter. That is why I am writing to you.

There are at least two assertions in your letter with which the Company respectfully takes issue. First, the letter states that Central's activities at the Aurora terminal are in violation of N.C.G.S. §143-215.1. Specifically, Mr. Thorpe directed my attention to subsection(a)(2) of the statute which requires that a permit be obtained from a North Carolina Environmental Management Commission in order to "(c)onstruct or operate any sewage system, treatment works, or disposal system within the State". Apparently, the Department maintains that

Mr. Jim Mulligan
October 31, 1990
Page 2

Central's actions in collecting and storing waste water at the site constitutes the operation of a "sewer system, treatment works or disposal system". I do not believe that to be the case as a matter of law.

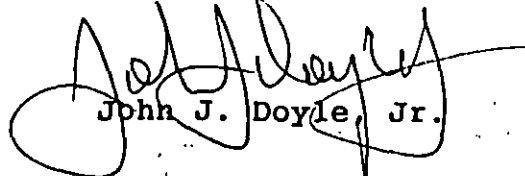
Further, your letter suggests that a DEM permit must be obtained by Central to conduct "pump and haul activities" at the Aurora terminal. Mr. Thorpe reiterated this position during our conversation. However, I can find no statutory authority to support the proposition advanced by the Department. Indeed, I believe the opposite to be true - that "pump and haul activities" such as those contemplated but not actually engaged in by our client do not require a DEM permit as long as the waste water being collected and transported is non-hazardous.

To summarize, our client's activities at the Aurora terminal do not violate N.C.G.S. §143-215.1 as asserted in your letter. Similarly, the collection and hauling of wash rack wastewater planned for the Company's Aurora terminal do not violate any state environmental laws or regulations. If you have any authority to the contrary on either of these propositions I would welcome an opportunity to review it.

Our client's foremost concern is insuring full compliance with applicable environmental laws and regulations. Central also wants to work with the Department in making certain that its operations are environmentally sound. For that reason all tank cleaning operations at the Aurora terminal ceased as of the date of your inspection. They will not be resumed until the issues raised by your September 17 letter have been resolved to the satisfaction of all parties.

Once you have had an opportunity to review this response, please call me so that we can discuss these issues in greater detail. I look forward to hearing from you at your earliest convenience.

Sincerely,



John J. Doyle, Jr.

JJD/jau/1336

cc: Gary Honbarrier
Glen Simpson
Marc Fleischaker