Introduction:

We, the members of the Thirty-First Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Pennsylvania Solid Waste Management Act, Pennsylvania Clean Streams Law and Pennsylvania Crimes Code, which occurred in _____________ County, Pennsylvania, pursuant to Notice of Submission No. 12, do hereby make the following findings of fact and recommendation of charges:

Findings of Fact:

Special Agent Richard Bosco testified that the Pennsylvania Office of Attorney General, Environmental Crimes Section received a referral from the Pennsylvania Department of Environmental Protection (DEP) regarding allegations of wrongdoing by Allan Shipman, owner of Allan’s Waste Water. The referral alleged that Allan’s Waste Water was illegally disposing of sewage sludge and waste water from Marcellus Shale gas well drilling.

Agent Bosco testified that Allan’s Waste Water is a business located at 1487 Tom’s Run Road, Jackson Township, Greene County, Pennsylvania. Robert Allan Shipman, aka Allan Shipman, is the owner of Allan’s Waste Water. Agent Bosco testified that Allan’s Waste Water hauls three types of waste: (1) grease water byproduct from restaurants and fast food chains that cannot enter normal sewage systems; (2) sludge byproduct from sewage treatment plants; and (3) waste water produced by gas well drilling operations (production water).

Agent Bosco testified that he met with Charles Breathauer, former DEP Water Management Section Chief, who advised that the Cecil Township Municipal Authority (CTMA) operates two sewage treatment plants, Teodori and Cherrybrooke, which produce sludge byproduct. The CTMA contracted with Allan’s Waste Water to dispose of this sludge. The CTMA was concerned that Allan’s Waste Water was illegally dumping sludge in Greene County. These allegations were based
upon an audit conducted by the CTMA which revealed a large discrepancy in the amount of sludge received by Allan's Waste Water and the amount of sludge disposed of by Allan's Waste Water at sludge treatment facilities. Agent Bosco told the grand jury the records relied upon by the CTMA audit included discharge monitoring reports (DMRs) and supplemental sludge reports (SSRs). Agent Bosco testified that DMRs reflect the amount of waste that comes into a sewage treatment plant and the amount of waste that leaves a sewage treatment plant. SSRs list the amount and type of sludge byproduct generated by a sewage treatment plant and the amount of sludge byproduct that leaves the sewage treatment plant. Agent Bosco testified that the DEP requires sewage treatment plants to complete and maintain DMRs and SSRs and relies upon the truthfulness of the information contained in those reports.

Agent Bosco testified that Charles Breathauer reviewed the DMRs and SSRs from the CTMA for the time period of June 2006 through the summer of 2007. Breathauer confirmed that the reports failed to account for the disposal of over 170,000 gallons of sludge during that time period.

Agent Bosco testified that the Morris Run air shaft is located at the abandoned Blacksville Number 1 Mine along Morris Run Creek in Brave, Pennsylvania. The Morris Run air shaft is owned by Consol Energy Inc. (CNX). The Environmental Protection Agency (EPA) permits CNX to dump production water into the Morris Run air shaft by way of a series of piping inlets. Agent Bosco spoke with Samuel Harper, DEP Water Management Environmental Program Manager, who stated that the Morris Run air shaft leads to a mine pool which ultimately discharges into Dunkard Creek.

The grand jury heard testimony from several former and current employees of Allan’s Waste Water. These individuals drove trucks for Allan’s Waste Water between 2003 and 2009. The drivers testified they hauled various wastes for Allan’s Waste Water, including sludge, production water, and oil and grease water.
The drivers testified that Allan Shipman directed them to mix different wastes in their trucks. The drivers described this activity as "cocktail" waste and indicated it was most commonly done with grease loads. Shipman also directed them to haul the mixed waste to various disposal facilities and misrepresent the waste as either production water or sewage sludge. The drivers would dispose of the mixed waste throughout Westmoreland, Washington and Greene Counties at various locations including the Morris Run air shaft, Morris Run Creek, ponds at the Bailey Mine, Franklin Township Municipal Authority, Washington East-Washington Joint Authority and Charleroi Municipal Authority.

Drivers testified that Allan's Waste Water was responsible for receiving, transporting and disposing of production water from gas wells owned and operated by CNX. According to the drivers, during the summer of 2007, CNX's gas wells began to generate more production water than Allan's Waste Water was capable of handling. As a result, Shipman showed the drivers how to leave open the gas well valves and ordered them to discharge production water onto the ground and/or into the nearby waterways. One of the areas the drivers identified where this activity took place was the Green Hill Tank Farm located along Rush Run in Greene County. This activity would typically occur after dark or during heavy rain so that no one would observe the illegal discharge.

Additionally, the drivers testified that if they had any remaining production water in their trucks at the end of their shifts, they were sometimes instructed by Allan Shipman to transport the waste to his business location. After the drivers parked their trucks in the garage at Allan's Waste Water, Shipman would direct them to discharge production water into a floor drain which led to Tom's Run. The drivers occasionally observed Shipman himself empty tanker trucks in this manner. Testimony was presented that Tom's Run leads to Dunkard Creek.
Agent Bosco verified the DEP never provided Allan Shipman or Allan’s Waste Water with a permit to discharge waste into Morris Run Creek, Rush Run, Tom’s Run or Dunkard Creek and/or onto the ground at these locations.

Drivers who transported waste for Allan’s Waste Water testified they were required to complete a manifest in triplicate. The manifest included the generating facility’s information; the driver’s signature; the receiving facilities’ information; and the amount and type of waste hauled. The original manifest was retained by the driver and copies were provided to the generating and receiving facilities.

Drivers informed the grand jury that Allan Shipman often directed them to forge the receiving facility’s signature on the manifests so the manifests would be consistent with the manifests the drivers provided to the generating facility. The drivers testified that Allan Shipman directed them to falsify manifests so he could bill customers for the full capacity of their trucks (4,000 – 4,200 gallons) regardless of how much waste was actually transported. The drivers would cocktail waste, improperly dispose of the waste and create false manifests by misrepresenting the quantity of waste they transported and disposed. The drivers testified that Shipman had them do this because he got paid to dispose of waste by the gallon. The drivers stated that every action they took while working for Allan’s Waste Water was done at Shipman’s direction. Some drivers testified they believed they were fired for their unwillingness to engage in illegal activities. Other drivers voluntarily quit for the same reason. Most drivers complied with Shipman’s requests because they did not want to lose their jobs.

Agent Bosco testified that he presented manifests to drivers to determine whether their signatures were forged. These manifests were dated June 1, 2006 through December 31, 2007. Agent Bosco testified that the drivers identified a total of 480 manifests that contained forged signatures.
The customers Agent Bosco identified on the forged manifests included the following: DDI-CSI, Washington Penn Plastics, Penneco Oil Company, Inc., American Oil and Gas, DynaTec Energy, Inc, PA Land Service, All Clad Metal Crafters, CNX, Coal Gas Recovery, Precision Marshall Steel Company, Morgantown Technical Services, Targe Energy, Nemacolin Inc., Greene Resources, Jes-Mar Energy, Luzerne Township Sewage Authority, N. Strbanc, Mountain View Oil and Gas, Inc., Allegheny Power, Cracker Barrel, Menallen Township Sewer Authority and Uni-Marts Inc. Agent Bosco testified that based upon his review of the forged manifests, the total value of fraudulent billing exceeded $2,000.00.

The grand jury heard testimony from April Morris, Sara Morgan and Jessica Barlow, former and/or current administrative assistants for Allan’s Waste Water. April Morris testified she was the secretary for Allan’s Waste Water from July 2005 through the middle of May 2008, and her duties included managing the daily accounts payable and accounts receivable, taxes and payroll. Morris testified she received manifests from the drivers because she was responsible for customer billing. Morris testified that Allan’s Waste Water maintains a copy of the manifest and is supposed to provide a copy of the manifest to its customer. The manifest provides a customer with the type and quantity of waste hauled by Allan’s Waste Water to a disposal facility. Morris testified that she was often instructed by Allan Shipman to shred or discard the customer’s copy of the manifest. Shipman would instruct her to complete blank manifests with fraudulent information regarding the quantity of waste hauled, sign drivers’ names to the manifests and send the manifests to customers. Morris has also observed Shipman and his drivers forge signatures on manifests.

Following Morris’ testimony, Agent Bosco spoke with her and confirmed she input fraudulent information from the manifests into a QuickBooks computer program to create invoices. Morris then billed customers with the fraudulent invoices. Morris told Agent Bosco that she collected
the payments Allan’s Waste Water received from the defrauded customers and deposited those payments into an account at Community Bank in Rogersville, Pennsylvania. Morris told Agent Bosco that she would then issue payments for payroll, operating expenses, taxes and credit card bills from that same bank account.

Morris testified that Allan Shipman intimidated his employees but they did not do anything about it for fear of losing their jobs. Morris told the grand jurors that Shipman controlled the activities of every employee.

Morris testified that a year and a half after Shipman opened his business he was earning approximately a million dollars per year. When Morris left Allan’s Waste Water after almost three years, Shipman was making approximately seven million dollars per year.

Sara Morgan testified that she worked for Allan’s Waste Water from May 2008 through January 2009. Her responsibilities were to collect manifests and enter them into a QuickBooks program at the office. Afterwards, Morgan prepared billing invoices and forwarded them to customers. Morgan testified there were times when drivers failed to include certain information on the manifests.

Jessica Barlow testified she was originally hired on a part-time basis to work for Allan’s Waste Water from August 2007 through September 2007. In October 2007, Allan and Carolyn Shipman started Tri-Count Waste Water. At that time, Barlow worked as the secretary for Tri-County Waste Water, and in April or May of 2009, she was hired as office manager. Barlow told the grand jurors that Allan’s Waste Water and Tri-County Waste Water operate out of the same office building and that Allan and Carolyn Shipman were her supervisors. Her job duties included making deposits at Community Bank and Federal Bank, maintaining accounts payable and accounts receivable, utilizing the office computers to input QuickBooks information, maintaining customer records,
making loan payments for trucks, and billing customers every two weeks. Barlow testified that in one
month she made approximately 10-12 payments in the amount of $15,000.00 to Pacer Financial, Alter
Moneta and Community Bank.

The grand jury heard testimony from Keith McClure who began driving for Allan’s Waste
Water in 2007 and then worked as a supervisor from April 2008 to July 2009. As a supervisor,
McClure had access to a computer and would order supplies online. McClure testified that he paid
for the supplies with Carolyn Shipman’s personal credit card and/or Allan Shipman’s business credit
 card. McClure testified that the administrative assistants were responsible for paying the Shipmans’
credit card bills. Additionally, McClure testified that while he worked for Allan’s Waste Water,
Allan Shipman bought eight or nine trucks worth $125,000.00 to $175,000.00 per truck.

**Recommendation of Charges**

Based on the evidence we have obtained and considered, which establishes a *prima facie*
 case, we, the members of the Thirty-First Statewide Investigating Grand Jury, recommend that the
Attorney General, or his designee, institute criminal proceedings against the following individual and
company:

**Robert Allan Shipman:**

- Unlawful conduct, 35 P.S. § 691.611
- Unlawful conduct, 35 P.S. § 6018.610(1)
- Unlawful conduct, 35 P.S. § 6018.610(4)
- Unlawful conduct, 35 P.S. § 6018.610(6)
- Criminal conspiracy, 18 Pa.C.S.A. § 903(a)
- Corrupt organizations, 18 Pa.C.S.A. § 911(b)
- Theft by unlawful taking or disposition, 18 Pa.C.S.A. § 3921(a)
Theft by deception, 18 Pa.C.S.A. § 3922(a)

Receiving stolen property, 18 Pa.C.S.A. § 3925

Forgery, 18 Pa.C.S.A. § 4101(a)

Deceptive or fraudulent business practices, 18 Pa.C.S.A. § 4107(a)

Unsworn falsification to authorities, 18 Pa.C.S.A. § 4904(a)

Tampering with public records or information, 18 Pa.C.S.A. § 4911(a)

Dealing in proceeds of unlawful activities, 18 Pa.C.S.A. § 5111(a)

Unlawful use of a computer, 18 Pa.C.S.A. § 7611(a)(1)

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