



Department of Justice

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McWane, Inc. And Company Executive Plead Guilty and McWane Sentenced for Environmental Crimes

Largest Criminal Environmental Fine in Utah

WASHINGTON, D.C. – Cast-iron pipe manufacturer McWane, Inc. (McWane) and former vice president and general manager, Charles Matlock, pleaded guilty today in federal court to environmental crimes in connection with the operation of Pacific States Cast Iron Pipe Company (Pacific States). Specifically, McWane pleaded guilty to two counts of submitting a document to the State of Utah containing falsified emission test results. Matlock pleaded guilty to one count of rendering inaccurate a testing method required by the Clean Air Act (CAA). McWane was ordered to pay a \$3 million fine—the largest criminal environmental fine in the state of Utah—and to serve a three-year period of probation. Sentencing for Charles Matlock is scheduled for May 2, 2006.

In November 2005, McWane, Matlock and vice president of environmental affairs Charles “Barry” Robison were indicted for conspiracy to violate the CAA by rendering inaccurate a state-required emissions testing method, for making false statements in documents required by the CAA, and for defrauding the United States. McWane and Matlock also were indicted for separate CAA violations for rendering inaccurate the testing method, and McWane was indicted for separate false statement charges for misrepresentations made in documents submitted to the State of Utah. Charges were dismissed against Robison in return for his agreement not to appeal his conviction in another McWane case in Birmingham, Alabama.

“Today’s guilty pleas by McWane and the former general manager of its Pacific States facility prove that the company and its employees engaged in a concerted effort to rig state-required compliance tests, and then to misrepresent repeatedly the level of pollution from Pacific States,” said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department’s Environment and Natural Resources Division. “Unlawful pollution from manufacturing plants and attempts to conceal such violations through lies and misleading conduct warrant prosecution to the full extent of the law.”

Pacific States—a division of McWane—manufactures ductile cast iron pipe for the water and sewer industry at its plant in Springville, Utah. As alleged in the indictment, the plant’s manufacturing process includes melting ferrous scrap metal in a large furnace known as a cupola. Under the CAA, the plant was required to perform a compliance stack test every three years to measure the amount of pollutant PM10 being emitted through a stack at the cupola and to determine whether the plant was in compliance with its permit. Regulations required that the stack test be performed under “conditions representative of normal operations” to ensure that the test results accurately represented the pollutants being emitted at the plant on a daily basis.

According to the indictment, McWane, Matlock and Robison conspired to melt pig iron instead of shredded scrap metal in the plant’s cupola in order to improperly lower the amount of emissions from the cupola and pass the September 2000 compliance stack test. In 2001 and 2002, McWane submitted Emission Inventory documents that were false in that they were based on the inaccurate September 2000 compliance stack test.

“This criminal conduct threatens the health, safety, and quality of life of residents of our state who breathe the air affected by McWane’s operation. When businesses cheat on health related matters it is a crime of serious proportions. Hopefully, the pleas and sentence today will deter others from engaging in similar acts,” said Richard Lambert, Criminal Division Chief in the Utah U.S. Attorney’s Office.

“With this case, we are sending a clear message that corporate leaders like McWane and Charles Matlock, Vice President and General Manager of Pacific States, cannot evade Clean Air Act requirements with criminal behavior,” said Granta Y. Nakayama, EPA’s Assistant Administrator for the Office of Enforcement and Compliance Assurance. “Corporations and their senior officials, such as Matlock, who willfully disregard the law and put public health and the environment at risk, should understand that their crimes will be vigorously pursued.”

The case represents the fourth conviction of a McWane company in the past year. The Department of Justice has taken the following actions against McWane nationwide:

-In June 2005, after a six-week trial, McWane and company executives James Delk and Michael Devine were found guilty of conspiracy to violate the Clean Water Act by discharging industrial process wastewater in violation of their permit. McWane and Delk were convicted of 18 separate counts of discharging pollutants in violation of the permit and Devine was convicted of seven counts of discharging pollutants in violation of the permit. In a related count, McWane and defendant Robison were convicted of making a false statement to EPA. In December 2005, the court sentenced McWane to pay a criminal fine of \$5 million and serve a five-year term of probation. The company was also ordered to perform a community service project valued at \$2.7 million. Delk was sentenced to serve six months home confinement as a condition of three years probation, and was fined \$90,000. Devine was sentenced to serve three months home confinement as a condition of two years probation, and fined \$25,000. Robison was sentenced to serve two years probation, pay a \$2,500 fine and complete 150 hours community service. Another individual, Donald Harbin, a former maintenance supervisor, pleaded guilty on August 26, 2004 to a one-count information charging him with conspiracy to violate environmental laws connected with the operation of McWane. Harbin was sentenced on January 26, 2006 to one year of probation and a criminal fine of \$500.

-In September 2005, Union Foundry Company—a division of McWane and an iron foundry located in Anniston, Alabama—was sentenced to pay \$4.25 million in criminal fines and community service, and serve probation for three years. The McWane Division pleaded guilty to a two-count information charging illegal treatment of hazardous waste and worker safety violations that resulted in the death of an employee, Reginald Elston.

-In March 2005, Tyler Pipe Company—a division of McWane located in Tyler, Texas—pleaded guilty to submitting a false statement and violating the CAA. The federal district court ordered Tyler Pipe to pay a criminal fine of \$4.5 million and serve probation for five years.

-In December 2003 in Phillipsburg, New Jersey, Atlantic States—a division of McWane of Birmingham, Alabama—and several managers were charged with conspiracy to violate federal clean air and water regulations and laws governing workplace safety, as well as obstruction of criminal and regulatory investigations by the EPA and the Occupational and Safety and Health Administration. This case is currently in a jury trial in Trenton, New Jersey.

The case in Utah was investigated by Special Agents of the Environmental Protection Agency's Criminal Investigation Division. The case was prosecuted by Senior Trial Attorney Richard Poole, Trial Attorney Aunnie Steward, Senior Counsel Claire Whitney from the Environmental Crimes Section of the Department of Justice, and Assistant U.S. Attorney Leshia Lee-Dixon from the U.S. Attorney's Office in Salt Lake City.

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