

THE FEDERAL WATER POLLUTION CONTROL ACT

CRIMINAL ENFORCEMENT

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**WATER POLLUTION VIOLATIONS
ARE THE MOST COMMON TYPES
OF FEDERAL ENVIRONMENTAL
PROSECUTIONS**



DIRECT DISCHARGE VIOLATIONS

- Discharges **without or in violation of a** Section 402 NPDES or Section 404 permit
 - Negligent violation -Knowing violation

Judge orders U.S. Virgin Islands to stop discharges of sewage

By JEANNINE RELLY
Associated Press Writer

Feb 16, 2000

ST. THOMAS — Making good on last week's threat, District Court Judge Thomas Moore ordered the V.I. Public Works Department to stop discharging 1.8 million gallons of sewage daily into the Caribbean around the island of St. Croix.

Moore on Monday ordered Public Works to repair its two malfunctioning pumping stations, its sewage treatment plant and other equipment.

"This raw sewage has polluted territorial waters and poses a serious threat to human health and the environment, inflicting irreparable harm upon both," Moore said in the court order.

Public Works has discharged more than 225 million gallons of raw sewage over six months from the LBJ Gardens and Figtree stations, according to a statement in court doc-

uments by Pedro Modesto, an engineer with the U.S. Environmental Protection Agency. The EPA joined with the V.I. Department of Planning and Natural Resources last week in asking the judge to take action against Public Works.

Moore ordered the government to stop discharging sewage from the south side of the island

by today and to stop disposal on the north side by Friday.

He ordered Public Works to fix the pumping stations by March 31 and a sewage line interceptor by March 17. A private contractor must be retained to manage the sewage treatment plant until the government has complied with the law.

The Virgin Islands have long been plagued by water and sewage problems, but repair efforts have been hobbled by the territory's \$1.1 billion debt.

"The court is aware of the pressing burdens on the government of the Virgin Islands, but must impel the defendant toward greater efforts to safeguard the health and safety of the people of the Virgin Islands," Moore said.

Public Works Commissioner Harold Thompson earlier blamed "serious funding issues" for the delays, even though \$700,000 has been set aside by the government solely for wastewater repairs. The pumping station repairs were originally estimated by the government to cost \$130,000.

Thompson did not return a call from The Associated Press on Monday.

The EPA filed a request with a federal judge to obtain money for the repairs, which was awarded in August. But the aging pump stations had additional problems, and the funds did not cover the cost of repairs, officials said.

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— Thomas Moore
District Court Judge

Three Islands –population 140,000

- *Saga started in the early 80's

- *Over 18 hearings in Federal District court

- *Intervention of 2 Federal Judges ;Hon Judge Thomas Moore and Hon Judge Curtis Gomes

- *Two Grand Juries

- * Three criminal trials; 3 convictions

V.I. gives Sen. Hansen's husband \$3.6 million contract

Esdel Hansen's new company gets sewer repair job without competitive bidding

By **MARTY SCHLADEN**
Daily News Staff

Jan 16/03

ST. CROIX — The territorial government on Dec. 30 entered into a \$3.6 million contract to make repairs to St. Croix's sewer system. Declaring a state of emergency, the government awarded the contract without competitive bidding to Global Resource Management Inc. — a start-up company owned by Esdel Hansen, husband of Sen. Alicia Hansen, and St. Croix attorney Ashley Andrews.

Territorial revenue has been set aside to fund the work, said Sonya Nelthropp, a senior manager who oversees waste-disposal programs for the V.I. Public Works Department.

The \$3.6 million job is expected to take four to six months.

Nelthropp said that the work is part of a 1984 consent decree with the U.S. Environmental Protection Agency to fix sewers that regularly fail, sending raw sewage into St. Croix streets and waterways. The federal government has been pushing the V.I. government since 2001 to comply with the decree, but the government did not award the contract until the next-to-last business day of 2002.

That the company awarded the con-

tract is associated with the husband of a senator who recently made an unsuccessful bid for governor could raise eyebrows in the territory, Nelthropp acknowledged as much on Thursday but said that any suspicion of an illicit arrangement is unjustified.

"Esdel Hansen was the utilities director and has been with the sewage department in St. Croix for close to 20 years," she said. "He knows the lines, and he knows what's wrong."

"We felt that this was the best of all possible worlds for us. We have a finite number of people here in the territory who have expertise on things, and some of them are going to be married to people and some of them are going to be related to people. It's a small community, and I don't think we should penalize people for who they're married to."

Calls to Global Resource Management and Government House on Thursday were not returned.

The V.I. Property and Procurement Department said it did not have a copy of the contract, which was signed by Gov. Charles Turnbull.

By declaring a state of emergency, the government did not have to solicit bids and go through a process that is intended to ensure that the public gets

the best deal for its dollar.

Nelthropp said that other firms, including VIESCO, American Water Services and Permaliner, looked at the project, but Public Works decided that "Global was the one that could provide the services in the time we needed and had the best plan to do the work."

She explained Public Works' choice of Global, a start-up company that has done no previous work, by citing Esdel Hansen's experience.

The choice is being questioned by the St. Croix Environmental Association, which has been a strong advocate for fixing the island's sewer system.

On Thursday, Bill Turner, SEA executive director, said that suspending competitive-bidding rules was not the right way to go about it.

"The governor chose to waive the procurement process in light of what he claimed was an emergency," Turner said. "We disagree entirely with that. If the Governor had chosen to streamline the process or speed up the process, that would be fine. But outright waiving of the process in a situation that has gone on for this long undermines public confidence."

Nelthropp's explanation was that

St. Croix's sewage problems were so severe that it took a long time to identify the most critical jobs. Now that the government has, it wants to solve them as quickly as possible.

"The past three years, we have been working to get our arms around the whole picture so that we can define what are the various components of the problem; not just that there's sewage running in the streets, there's a pump station clogged," Nelthropp said. "Why is it clogged? It's clogged because this line is broken and debris is getting into it, or this manhole is underwater when it rains."

Turner, however, says that means the competitive-bidding process should be streamlined, not done away with.

"It is a complex problem, but it doesn't require changing the law to address it," Turner said.

"The law is there to protect the taxpayers and the integrity of the system. The complexity of the problem and the integrity of the system are apples and oranges."

Nelthropp said that under the terms of the contract, Global Resource Management estimated how much it would cost to replace all sewer lines in the critical areas. But she said the pro-

ject could cost less because Public Works officials will monitor the work and direct the company to replace only portions of sewer line that are damaged.

"We will determine how much of that line gets replaced," she said. "It's a very closely watched and controlled contract."

The projects covered under the contract with Global are meant to stop most of the spills so that Public Works could then begin planning the replacement of most of St. Croix's decrepit sewer system, she said.

"What we've given them are the absolute critical pieces; the ones that we're finding are knocking out the pump stations," Nelthropp said.

The work to be done includes:

- Repairing an open hole with sewage flowing through it near the Randall "Doc" James Horse Race Track.
- Fixing collapsed sewer lines in Catherine's Rest.
- Repairing the sewer line in Bethlehem Gut west of the Territorial Court building.
- Repairing sewer lines that might have failed in Adventure Gut, causing the accumulation of raw sewage near Patrick Sweeney Police Headquarters.
- Fixing sewer lines and installing an emergency generator at the Lagoon Street Pump Station in Frederiksted.

Judge orders governor to justify sewer contract

Turnbull lashes out at the U.S. Attorney's motion to stop much-questioned deal and Daily News coverage of the issue

By **BILLY SHIELDS**
and **MARTY SCHLADEN**
Daily News Staff

District Judge Thomas Moore on Friday ordered the administration of Gov. Charles Turnbull to appear in federal court next week and explain why it should be allowed to go ahead with a contract to fix St. Croix's failing sewers that was awarded to a start-up company without competitive bidding.

For his part, Turnbull lambasted The Daily News at a hastily organized press conference Friday afternoon, denying charges by the U.S. Attorney's Office, which The Daily News reported Friday, that the Turnbull administration orchestrated an emergency in order to award a \$3.6 million contract to a well-connected start-up company with no experience, tiny assets and few employees.

A noticeably angry Turnbull said that sewage conditions on St. Croix led him to award the emergency contract to Global Resources Management Inc., without competitive bidding, in December.

The conditions have existed since 1984.

St. Croix attorney Ashley Andrews is president of Global, and Esdel Hansen, husband of former senator and gubernatorial candidate Alicia Hansen, is an employee. Esdel Hansen, whose specific duties and salary at Global have not been disclosed, recently retired from a job in the V.I. Public Works Department in



Daily News Photo by ERIC JOHNSON

Gov. Charles Turnbull, left, Attorney General Iver Stridiron and Public Works Commissioner Wayne Callwood.

which he oversaw work on St. Croix's sewers.

The U.S. Attorney's Office charges that Turnbull ignored St. Croix's sewage problems for nine months so he could award a contract to Global without the company having to compete for it.

Turnbull vehemently disagreed Friday.

"I wish to make myself perfectly clear: I did not stage, cause or create the state of emergency surrounding the territory's wastewater or sewage system," Turnbull said. "It is common knowledge that this territory suffers from a wastewater sewage problem."

At the end of his remarks, Turnbull said the contract was awarded "with

the best interests of the citizens of the Virgin Islands at stake."

Citing an imminent legal battle with the federal government, Turnbull declined to comment on anything more than how his actions were portrayed in the media, and he deferred questions to Attorney General Iver Stridiron and three commissioners.

"Rest assured, our response to what we consider to be scurrilous and slanderous statements by the U.S. Attorney's Office will be formally responded to in our pleading before the court," Stridiron said.

Federal officials did not respond to the attorney general's remarks.

"We have no comment with regard to any statements that have been

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made," said Assistant U.S. Attorney Hugh Mabe. "We are looking forward to the hearing next Thursday before Judge Moore."

Thursday's hearing promises to be lively. In October 2001, Moore threatened to hold Turnbull and Public Works Commissioner Wayne Callwood in contempt for not doing more to fix St. Croix sewers.

In the order issued Friday, Moore wrote that the hearing would be held "in view of the potential threat to human health and the environment posed by the ongoing discharges of raw sewage, the persistent and long-standing violations of orders of this court, and unjustifiable delays by the government of the Virgin Islands."

In an accompanying memorandum filed in federal court on Thursday, the U.S. Attorney's Office questioned how Global could have gotten the contract.

"Given its paucity of assets, short life span prior to being awarded this contract, and apparent lack of similar experience, it confounds the imagination how GRM Inc. could be selected to complete a difficult and dangerous construction contract with a value of over \$3.6 million," the memorandum said.

The U.S. Attorney's motion pointed

out that one of Turnbull's closest advisers, Special Assistant to the Governor Othario Harris, was president of Global until March 8.

Harris said in a telephone interview Friday that he removed himself from the company as soon as it became apparent that Global would begin looking for local contracts. Harris reiterated a statement he made Thursday, saying that he presided over a forerunner company called ACS that dealt strictly with off-island clientele. That eventually became Global Resources, he said.

"When Global Resources Management started to do business in the territory, that's when I decided to remove myself."

The memorandum also points out that the contract requires that Global do at least half of the work with its own employees.

"It seems highly unlikely that this consulting company can be considered capable of performing 50 percent of this technically difficult and dangerous construction project," it said.

On Friday, Andrews said an engineering firm, the Berger Group, planned the sewer work, but he declined to say how many employees

▼ See **TURNBULL**, next page

Proving A Criminal Violation

- Most environmental crimes require government to prove beyond a reasonable doubt both the commission of the prohibited act and the existence of a culpable mental state
- Most felonies require proof that the defendant acted knowingly (some require willful)

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V.I. dumps sewer contract

In effort to stay out of court and evade U.S. Attorney, Government House kills \$3.6 million no-bids deal with Global Resources Management - Page 3

Global Resources principal Andrews has long history of controversial V.I. contracts - Page 4

More V.I. missteps on sewer repair bids emerge in \$60 million wastewater treatment plants project - Page 5

Recent activity ; three hearings since March 2010

Citizen group now wants intervention in the case...criticize EPA for “lack” of action....

Send motion to Judge...asking for system privatization , de-delegation of the NPDES program, a court monitor..

Modesto's declaration opposing citizens intervention sent to court past Friday May 27, 2011...(expecting Judge ruling)

Consent Order requested by Judge Gomez due June 11, 2011

THANK YOU

