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February 29, 2008

BY FEDERAL EXPRESS

Dr. Michael F. Adams, President
0213 Administration Building
The University of Georgia
Athens, Georgia 30602

Re: United States ex rel.
Lewis, McElmurray and Boyce v. Walker, et al.
United States District Court
Middle District of Georgia
Civil Action File No. 3:06-CV-16
DHBB File No. 2829/002

Dear President Adams:

As an alumnus of The University of Georgia School of Law who is deeply concerned about my Alma Mater, I would like to call to your attention an Order issued this week by the United States District Court for the Southern District of Georgia.¹ In his 45-page ruling, the Honorable Judge Anthony A. Alaimo directed the United States Department of Agriculture ("USDA") to pay my clients, members of the McElmurray family of Richmond County, Georgia, for lost crops. I am enclosing a copy of the February 25 Order by Judge Alaimo for your review.

The McElmurray family was in the dairy farm business until damages from sewage sludge caused them to cease operations; and, they have since been unable to use their farmlands to grow food-chain crops. The reason that the McElmurrays cannot grow such crops is because of toxic and hazardous wastes in sewage sludge (biosolids) that was processed under the guise of being an agricultural fertilizer by the City of Augusta and

¹ McElmurray v. USDA, Civil Action File No. CV105-159, United States District Court for the Southern District of Georgia, Augusta Division. Order issued Feb. 25, 2008.

applied to the McElmurrays' lands in violation of a myriad of federal and state laws. The sewage sludge that was put on the McElmurray lands under the guise of safe fertilizer was conclusively shown to contain illegal levels of highly toxic heavy metals and other hazardous wastes, sometimes thousands of times higher than the thresholds for a hazardous waste landfill. The toxic sludge poisoned thousands of acres of cropland, killed hundreds of head of dairy cattle, and likely contaminated commercial milk supplies in Georgia and surrounding states.

The University of Georgia became directly involved in covering up the contamination on the McElmurray and Boyce lands. Faculty members, including Julia Gaskin and Professor William Miller, accepted a grant from Robert Brobst and other senior officials at the United States Environmental Protection Agency ("EPA") to knowingly publish what Judge Alaimo determined to be "fudged," "fabricated," and "invented" scientific data, which were used to falsely assert that my clients' lands were not contaminated. These EPA and University of Georgia employees then provided the fake data to the National Academy of Sciences, which used the data to support EPA's sludge regulations. Finally, Mr. Brobst and his co-authors at the University of Georgia provided the fake data to the USDA in an attempt to prevent the McElmurray family from being compensated for their lost crops.

I hope that you will personally review the conclusions of the United States District Court about the EPA's use of fake scientific data to support its sludge regulations, and the complicity of University of Georgia employees in the effort to protect federal funding that the University of Georgia receives from the EPA. The Court's ruling is only a prelude to what will be revealed in a lawsuit against these EPA and University of Georgia employees filed in the United States District Court in Athens, Georgia under the False Claims Act.² That case specifically deals with false statements made by the EPA and University of Georgia employees in grant application forms to obtain the federal research grant monies which in turn were used to knowingly publish fake data. It will also prove that

² United States of America, ex rel. David L. Lewis, Ph.D., R. A. McElmurray, III, and G. William Boyce v. John Walker, Ph.D., Julia W. Gaskin, Robert B. Brobst et al., Civil Action File No. 3:06-CV-16 (CDL), United States District Court, Middle District of Georgia, Athens Division.

University of Georgia scientists added their own false and fabricated scientific data to the fabricated data discussed in Judge Alaimo's ruling.

In the enclosed Order, Judge Alaimo devotes four pages at the end to describing the University of Georgia's role in covering up the hazardous wastes in the City of Augusta's sewage sludge. The False Claims Act lawsuit will prove, in great detail, how every level of supervision at the University of Georgia, including the Office of the President, was directly involved in publishing the fake scientific data and preventing faculty members and a visiting scientist, Dr. David Lewis, from blowing the whistle on the scientific fraud occurring at EPA and the University of Georgia.

I. BACKGROUND

There are two family-owned dairy farms that I have represented over the last 10 years, the McElmurray dairy farm and the Boyceland Dairy farm in Burke County, Georgia. The Boyce and McElmurray families filed separate lawsuits against the City of Augusta because of the damages to lands and dairy herds suffered from the application of contaminated sewage sludge applied to their lands by the City of Augusta. The Boyce family obtained a favorable jury verdict against the City of Augusta, but the monetary award was not sufficient to save the family's business. Both farms were forced to terminate their dairy farm businesses because of damages from the sewage sludge. The McElmurrays recently settled their lawsuit for damages against the City of Augusta.

Judge Alaimo's February 25 Order addresses applications that the McElmurrays filed with the USDA many years ago for payments allowed under a program that provides compensation when crops cannot be grown for an approved reason, including environmental contamination of the lands. The McElmurrays have been unable to grow food-chain crops on their lands because of the contamination in the sewage sludge that was placed on the lands by the City of Augusta. The Order clearly shows that employees of the University of Georgia participated in egregious intellectual dishonesty in the name of the University of Georgia by publishing the fake scientific data. These same employees maliciously did all that was in their power to prevent the Boyce and McElmurray families from being successful in their lawsuits against the City of Augusta and to prevent the McElmurrays from being successful in their USDA case.

II. USDA CASE

In his February 25, 2008 Order in the USDA case, Judge Alaimo rejected the unsupported arguments provided by Robert Brobst of the EPA and others, including certain employees of the University of Georgia, that the McElmurray farmland was not contaminated. The Court ruled that the scientific data that Mr. Brobst provided, which supported his argument that the McElmurray lands were not contaminated, were widely acknowledged to be “fudged,” “unreliable,” “fabricated,” and “invented.” Specifically, for example, Judge Alaimo concluded that the City of Augusta “fabricated data from its computer records in an attempt to distort its past sewage sludge applications. ... In January 1999, the City rehired Saxon [the supervisor of Augusta’s sludge program] to create a record of sludge applications that did not exist previously.”

III. UNIVERSITY OF GEORGIA WRONGDOING

I am writing to you because Mr. Brobst and several of his colleagues at EPA Headquarters in Washington, DC provided the University of Georgia with a federal grant in 1999 to publish these fabricated data, about which Judge Alaimo speaks in his February 25 Order, in peer-reviewed scientific literature.³ The project was carried out by Ms. Julia Gaskin and others in the College of Agricultural and Environmental Sciences. Ms. Gaskin, Mr. Brobst and others published the fabricated scientific data in the *Journal of Environmental Quality* in 2003.⁴

The specific purpose of the grant was to create a study with a pre-determined outcome to debunk the dairy farmers’ claims against the City of Augusta and EPA’s sewage sludge program. The purpose of the grant was also to attack an internationally acclaimed scientist, Dr. David Lewis. The authors and other faculty involved with the report that resulted from the grant are fully aware, and have been aware at all times, that the deaths of the McElmurray and Boyce dairy herds were caused by the sewage sludge. The authors of

³ EPA Assistance Agreement/Amendment CX 827759-01-0, August 5, 1999. *Metals Assessment for Burke and Richmond County Hayfields Receiving Biosolids*.

⁴ Julia W. Gaskin, Robert B. Brobst, William P. Miller, E. William Tollner, *Long-term Biosolids Application Effects on Metal Concentrations in Soil and Bermudagrass Forage*, J. Environ. Qual. 32:146-152 (2003).

the report are also fully aware that the University of Georgia study was funded by illegally obtained grant money, and that the report is based wholly upon fraudulent data.

In particular, I would like to call your attention to pages 38-41 of the Order where Judge Alaimo condemned EPA and the University of Georgia for ending the career of Dr. David Lewis for helping to uncover the fraudulent data created by the City of Augusta and the EPA. Dr. Lewis, a visiting scientist in the University of Georgia's Department of Marine Sciences, was terminated by EPA in 2003 for publishing articles in *Nature*, linking sewage sludge to human illness and environmental damage. After being blackballed by EPA and the University of Georgia, Dr. Lewis has remained unemployed for the past five years. According to undisputed, sworn testimony by the former head of the Department of Marine Sciences, the University of Georgia decided not to hire Dr. Lewis after EPA terminated him because he was told by people in your office that hiring Dr. Lewis would "hurt EPA funding."

Mr. Brobst and other EPA officials first contacted the University of Georgia in 1998 and stopped funding Dr. Lewis' research at that time. Fortunately, the University of Georgia has allowed Dr. Lewis to retain an office in Marine Sciences. He used his own personal funds to conduct his research on sewage sludge, and published a series of peer-reviewed scientific articles on the subject. His groundbreaking research linking land-applied sewage sludge to human illnesses and deaths published in *BMC-Public Health* is ranked the fourth most widely accessed research article of all *BMC* journals of all times.⁵

This work was independently validated last year in a peer-reviewed scientific article published by researchers working in the field of public health at two major universities.⁶ The authors concluded: "[w]e observed an association between respiratory, gastrointestinal, and general symptoms linked with infectious diseases and residence in homes near farm fields permitted to receive Class B biosolids. Moreover, we found a

⁵ Lewis, D. L., et al., *Influence of Environmental Changes on Degradation of Chiral Pollutants in Soils*, *Nature* 401:898-901 (1999); Lewis, D.L., et al., *Interactions of pathogens and irritant chemicals in land-applied sewage sludges (biosolids)*, *BMC Public Health* 2:11 (28 Jun) (2002). <http://www.biomedcentral.com/1471-2458/2/11>.

⁶ Khuder, S., SA Milz, M Bisesi, et al., *Health Survey of Residents Living Near Farm Fields Permitted to Receive Biosolids*, *Archives of Environ. & Occupat. Health*. 62:5-11 (2007).

significant dose-response relationship for excessive secretion of tears, abdominal bloating, and dehydration. These findings are in agreement with the findings of Lewis *et al.* and studies on wastewater treatment workers.”

Dr. Lewis remains a major supporter of the University of Georgia and donor, including organizing a center for funding research projects on public health and the environment at the University of Georgia.⁷ Despite all of this history of Dr. Lewis trying to advance the interests of the University of Georgia, Associate Director for Legal Affairs Arthur H. Leed and other University of Georgia administrators rebuffed all efforts by Dr. Lewis and me to get the University of Georgia to withdraw the fabricated scientific data and undo some of the damage that the data caused to Dr. Lewis and the dairy farmers.⁸

Absent any interest on the part of the University of Georgia in resolving the matter, Dr. Lewis and the dairy farmers filed a False Claims Act lawsuit against EPA and University of Georgia officials involved in the fraud.⁹ Last year, the United States District Court in Athens denied immunity from prosecution to these Defendants, who are federal and state employees, and ordered that they be served with the lawsuit.¹⁰ That lawsuit continues to proceed in the court.

My concern is that the officials of the University of Georgia who have handled this matter thus far have failed to grasp the gravity of the situation and the amount of damage their lack of corrective action is doing to the reputation of the University of Georgia. The false, misleading, and fabricated data that EPA paid the University of Georgia to publish include environmental monitoring data required under the Clean Water Act

⁷ Georgia-Oklahoma Center for Research on the Environment, a Georgia Museum of Natural History Partnership. <http://dromus.nhm.uga.edu/htmldocs/Partnerships/gaok.html>

⁸ Memorandum from Dr. David Lewis to Arthur Leed, Aug. 10, 2005 (15 pp.); Mr. Leed's reply to Dr. Lewis, Aug. 24, 2005; Letter from F. E. Hallman, Jr. to Julia Gaskin, Feb. 5, 2004; Memorandum from UGA Asst. VP Research Regina Smith to Dr. Arnett Mace and Dr. Gordhan Patel, Apr. 19, 2004; Letter from Julia Gaskin to Mr. Hallman, Apr. 21, 2004.

⁹ *United States of America, ex rel. David L. Lewis, Ph.D., R. A. McElmurray, III, and G. William Boyce v. John Walker, Ph.D., Julia W. Gaskin, Robert B. Brobst et al.*, Civil Action File No. 3:06-CV-16 (CDL), United States District Court, Middle District of Georgia, Athens Division.

¹⁰ *United States of America, ex rel. Lewis, et al. v. Walker et al.*, Civil Action File No. 3:06-CV-16. Order Sept. 14, 2007.

("CWA"). Moreover, the University of Georgia and EPA Defendants also misled the National Academy of Sciences by providing the fabricated data to that entity and represented it as being valid. The National Academy of Sciences then used the fabricated data to support EPA's sludge regulations, again with the full knowledge and support of University of Georgia faculty, specifically including Julia Gaskin and Dr. William Miller. In addition to the use of fabricated data, the involved University of Georgia employees blatantly violated numerous mandates applicable to the proper application for grant monies.

The United States Department of Justice in Washington, DC, has not decided to pursue criminal charges as of this date. Nevertheless, falsifying environmental monitoring data required under the CWA is a federal crime punishable by fines and imprisonment. Because these false representations continue to be supported by the University of Georgia, such false statements made under federally supervised programs continue today, keeping the criminal statutes of limitations alive should the United States Department of Justice decide to prosecute responsible individuals for such continuing false statements made in violation of federal laws.

A very similar case involving fabricated scientific data at the University of Vermont was recently criminally prosecuted by the Justice Department.¹¹ In the Vermont case, the University of Vermont took immediate action and dismissed the professor who fabricated data to obtain federal grants. University of Georgia officials under your administration, on the other hand, have done just the opposite. All University of Georgia officials thus far have *rewarded* faculty members for supporting EPA's flawed, illegal policy and publishing the fraudulent data and have continued to misrepresent such fraudulent information through and including today. And, for the past ten years, persons under your direct supervision have worked with certain senior EPA officials to punish Dr. Lewis for publishing truthful scientific data.

Because you, as the President of the University of Georgia, are ultimately responsible for the conduct of such persons who work for you, I want to make sure that you are directly made aware of the truth of the horrific conduct that may have been hidden from

¹¹ *U.S. v. Poehlman*, Civil Action File No. 2:05-cr-00038-wks-ALL, United States District Court of Vermont (Burlington), Mar. 17, 2005. Complaint, Plea Agreement.

you. If our belief that you likely do not know of the facts surrounding this situation is correct, we are confident that you will take swift and decisive action to remedy the situation.

IV. REQUESTED ACTION

I request that you personally review the United States District Court's ruling dated February 25, 2008, which determined that data published by EPA and the University of Georgia are false and fabricated. Contrary to the position of the University of Georgia in the research article containing the fabricated data, and the University of Georgia's press releases and current postings on the University's website concerning this article, the McElmurray farm was severely damaged by hazardous waste in the City of Augusta's sewage sludge.

Actions taken against Dr. David Lewis, which are outlined in the United States District Court's ruling are also very troubling. Until EPA and the University of Georgia took extraordinary steps to stop Dr. Lewis from publishing truthful scientific data concerning public health threats posed by illegal hazardous wastes in sewage sludge, Dr. Lewis was included by EPA Headquarters on a short list of national experts to contact in case of a bioterrorist attack on the United States. United States Senator James Inhofe, Chairman of the Senate Environment and Public Works, and United States Senator Charles Grassley, Chairman of the Senate Finance Committee, both asked EPA Administrator Christie Todd Whitman to intervene in Dr. Lewis' termination on this basis.

Given the prominent role that the University of Georgia would play in the proposed national center for agro-bioterrorism research, your immediate action is absolutely imperative to protect the interests of the University of Georgia, including its credible professors, students and alumni, the State of Georgia, and the nation. Upon carefully reviewing the enclosed ruling by the United States District Court, I am confident that your actions will include reversing and rectifying the damages that certain professors and other employees of the University of Georgia have caused to the McElmurray family, the Boyce family, and Dr. David Lewis.

Dr. Michael F. Adams
February 29, 2008
Page 9

Sincerely,



F. Edwin Hallman, Jr.

For DECKER, HALLMAN, BARBER & BRIGGS

FEHjr:tbm
Enclosure

c: Dr. David L. Lewis
The McElmurray Family
The Boyce Family

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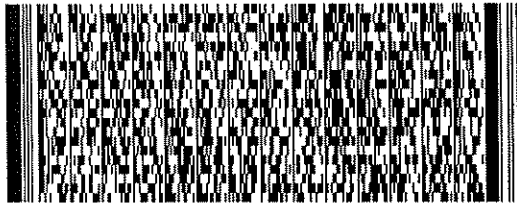


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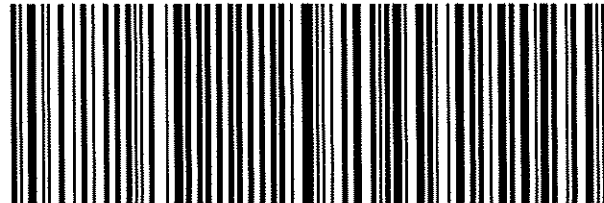
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