Marine Shale assessed $1 million in fines

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LAFAYETTE — Marine Shale Processors has agreed to pay $1 million in fines after pleading guilty here Monday to three federal offenses involving its controversial operation at Amelia.

The guilty plea to one felony and two misdemeanors ends a criminal investigation that began in 1985. However, a civil investigation remains under way, and for the next week or so inspectors from the U.S. Environmental Protection Agency will be at the MSP plant in St. Mary Parish gathering air, ash and water samples in connection with the civil probe.

The U.S. Justice Department issued a statement pointing out that the guilty plea does not affect the civil investigation examining ‘whether their operations constitute legitimate recycling activity, which is not regulated under the Resource Conservation and Recovery Act.”

Meanwhile, the environmental organization known as Greenpeace plans to meet Tuesday in Amelia with EPA representatives. A press conference has been scheduled for noon Tuesday by Greenpeace at the entrance to MSP.

MSP owner Jack Kent said Greenpeace will not be allowed on the company’s property.

“Greenpeace don’t worry me at all,” Kent said. “I’ve got no use for Greenpeace.” He said. “They are not going to run over us.”

He said security will not be increased in anticipation of the environmentalists. “We’ve got plenty to take care of Greenpeace,” he said.

Kim Folse of Morgan City, representing South Louisiana Against Pollution, said he hopes the guilty plea by MSP will result in the ultimate closure of the company. “We’ve been hoping that all along,” Folse said.

Kent said the federal prosecution won’t have any bearing on any action pending by the state Department of Environmental Quality. The company pleaded guilty to:

A felony count of storing hazardous wastes for five months in 1983 without a storage permit.

According to the bill of information filed Monday, the material consisted of bottom sediment sludge from waste water from wood preserving facilities that use cresote or pentachlorophenol. A Justice Department press release says the wastes were “stored for more than two years in an uncovered pile at the Amelia facility.”

A misdemeanor count of discharging contaminated runoff water, waste chemicals, material remaining from the burning of industrial wastes, including hazardous wastes, degrazers and detergents into Bayou Bœuf from May 1985 until March 1987.

A misdemeanor count of obstructing Bayou Bœuf with a barge used as a dock from May 25, 1986, until Nov. 24, 1986. The government alleges that the company failed to obtain a permit from the Corps of Engineers for the dock.

After the guilty plea, Kent told reporters that the offenses did not involve any major pollution.

“Nothing has been shown that there has been an imminent threat to human beings or the environment,” he contended.

Kent said the charge involving discharges into the bayou resulted from MSP filling a solution containing TDE detergent, used to clean out barges.

But Cristina Ortiz of Washington, a Justice Department attorney with the Environmental Crimes Section, said the violation amounted to more than just washing a household detergent into the waterway.

“The fine reflects that these are more than just the spilling of detergent into the bayou,” she said.

Kent said the Justice Department represented the company for offenses that were “obvious beyond the shadow of a doubt.”

Ann Shielde, Justice Department spokeswoman in Washington, refused to comment on what else was considered in the criminal investigation.

“I can’t tell you all the areas that were investigated in the last couple of years,” she said. “My only comment would be we still have a civil investigation in process.”

Kent said the conclusion of the criminal case should result in improved business for the company, which recently laid off a fourth of its work force, citing a decline in revenue.

“This is the last obstacle we’ve had over us,” Kent said.

DEQ has recommended fines totaling $5.8 million against MSP, and the agency also is trying to prevent the company from selling aggregate produced from the company’s incineration of waste materials. The DEQ says hazardous substances may leach from the aggregate, but the company claims the material is safe.

The company uses a 275-foot rotary kiln to mix and incinerate chemical wastes. The aggregate produced from the process can be sold for road construction and other uses.

The company has claimed that it doesn’t have to follow regulations for incinerating hazardous wastes because it is in the business of recycling, which is controlled by another set of regulations.

But opponents of the company argue that Marine Shale is using the recycling laws as a way of getting around stricter regulations for incineration of hazardous wastes.

Kent said Monday that the company has proven that federal authorities demand strict compliance with environmental laws.

“Everybody had better watch these federal regulations,” he said.

“They definitely intend for you to do these things the right way,” Kent remarked. “They have taught us an awful lot.”

The federal grand jury probe has been under way since 1986. After one grand jury investigated the company for 22 months, another grand jury took up the case in January.

In the plea agreement, MSP agreed to waive a grand jury indictment and to give up its right to trial.

Also, the company agreed to pay $600,000 for the offense involving the failure to have a hazardous waste storage permit, although the company could have faced a maximum of $50,000 a day in fines. MSP also agreed to pay $200,000 on each of the two counts, which is the maximum allowable.

Kent said he chose to have his company plead guilty, rather than go to trial, which could have lasted more than a year.

“I was confident that Marine Shale would not be in business after that period of time,” Kent said.

Such a lengthy trial would have required his top management team to be present in court during much of the proceedings, he said.

“We wouldn’t be able to operate that way,” Kent complained.

MSP attorney Robert Habans Jr. of New Orleans entered the plea for MSP.

Kent was not present.

Habans asked U.S. District Judge J. John Shaw to allow the company to pay the fine on a payment schedule. Ortiz had no objection to the request, so long as the probation office is allowed to review the company’s financial records to verify that the company isn’t able to pay the fine in one lump sum.

Habans also asked the judge to go that far in the formality Monday of imposing the $1 million fine, but Judge Shaw agreed to schedule a sentencing date after a presentence investigation has been completed.

Habans also told the court that the hazardous materials stored without a permit were removed under EPA supervision and that no contaminated substances other than Tide were washed into Bayou Bœuf. He also said that the barge used as a dock was removed at the insistence of the Corps of Engineers.

The bill of information says that Kent was the company’s principal owner during the time of the offenses, but Habans told the court that other parties also had MSP stock at one time.

“He is the sole shareholder today,” Habans said.