

Pollution Investigation: Midnight Dumping at Mud Creek

The Response, Investigation, and Enforcement Actions for the
Iowa Sanitation Env. Services, Inc. Site (Des Moines, IA) &
A-1 Septic Services Sites (Altoona, IA)

Presented by:
Jereme M. Altendorf, CHMM
(Former Region VII OSC)

Critical Points

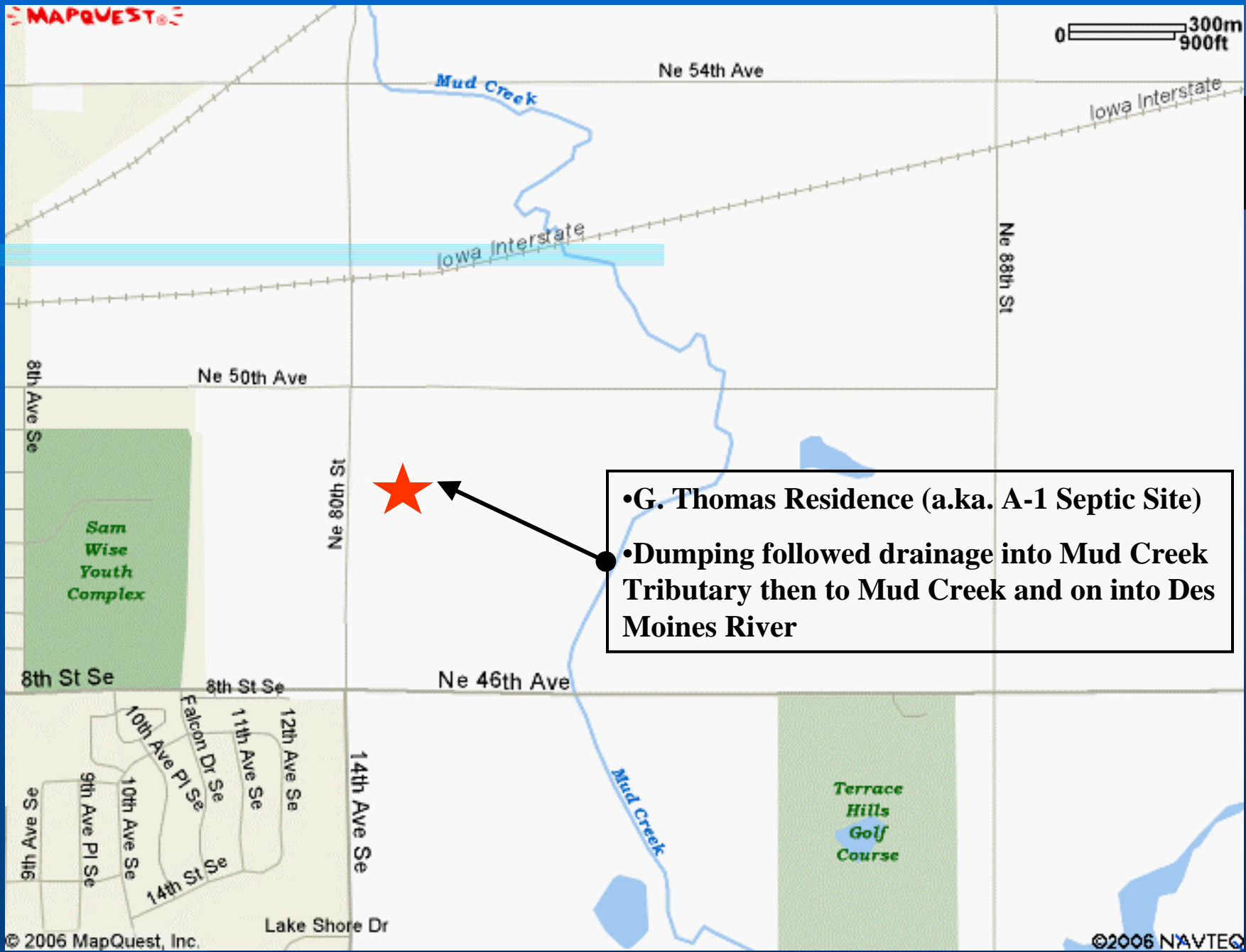
- **Emergency Response & Discovery**
- **Investigation & Regulatory History**
- **Clean-up**
- **Enforcement**
- **Case Summary**
- **Recommendations/Lessons Learned**

Emergency Response & Discovery

- **0120 hrs.: May 9, 1998**

**Report of noxious smell coming from
Mud Creek Bridge by passing motorist
Altoona Fire Dept. & IDNR Responded
Found Gilbert Thomas dumping
odorous mixture of septic & fuel waste
directly from Septic Truck**

**Daylight investigation with florescene
dye revealed possibility of USTs**















Emergency Response & Discovery

- **May 11 – June 1, 1998**

**Case immediately forwarded to DCI S/A Richard Searl;
After several interviews admitted to 'storage' at Iowa
Sanitation Site**

- **Iowa Sanitation Site owned by Larry Thomas who ceased septic pump-out operations in 1993 due to stroke**
- **'Sold-off' business operations to brother Gilbert Thomas in Altoona (A-1 Septic Site)**
- **Allowed operational usage of SE 28th St. site (Iowa Sanitation Site)**

Iowa Sanitation site set several things in motion:

- **Region VII EPA-CID involvement**
- **Discovered 8+ years of complaints and regulatory non-compliance w/o follow-up and/or additional inspections**

Emergency Response & Discovery

- **June 1, 1998**

Iowa DNR, AG's Office, & EPA-CID obtained search warrant for Iowa Sanitation Site (1013 SE 28th St.)

Site Conditions

- 15' x 15' x 4' non-reinforced cement impoundment full of petroleum waste, soil staining and surface contamination
- Hidden PVC Pipe with quick connect
- 9 USTs propped up with cement/wood blocks aboveground...FULL of liquid

Instructed Gilbert Thomas to begin clean-up operations at both properties

Emergency Response & Discovery

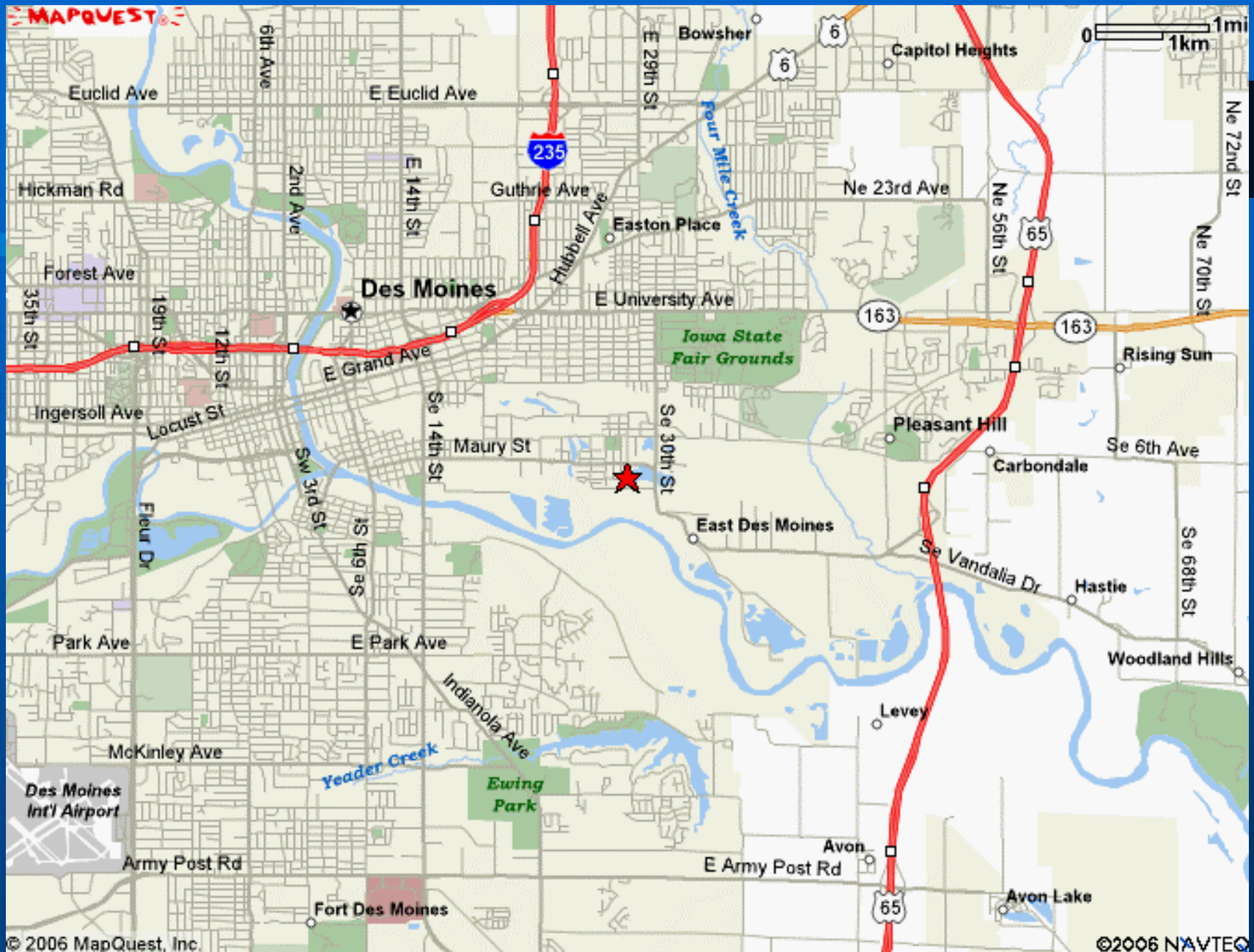
- **June 24, 1998**

 - EPA-CID referred/requested FOSC assistance**

 - Conducted an SPCC Inspection to gain access to property and conduct preliminary assessment**

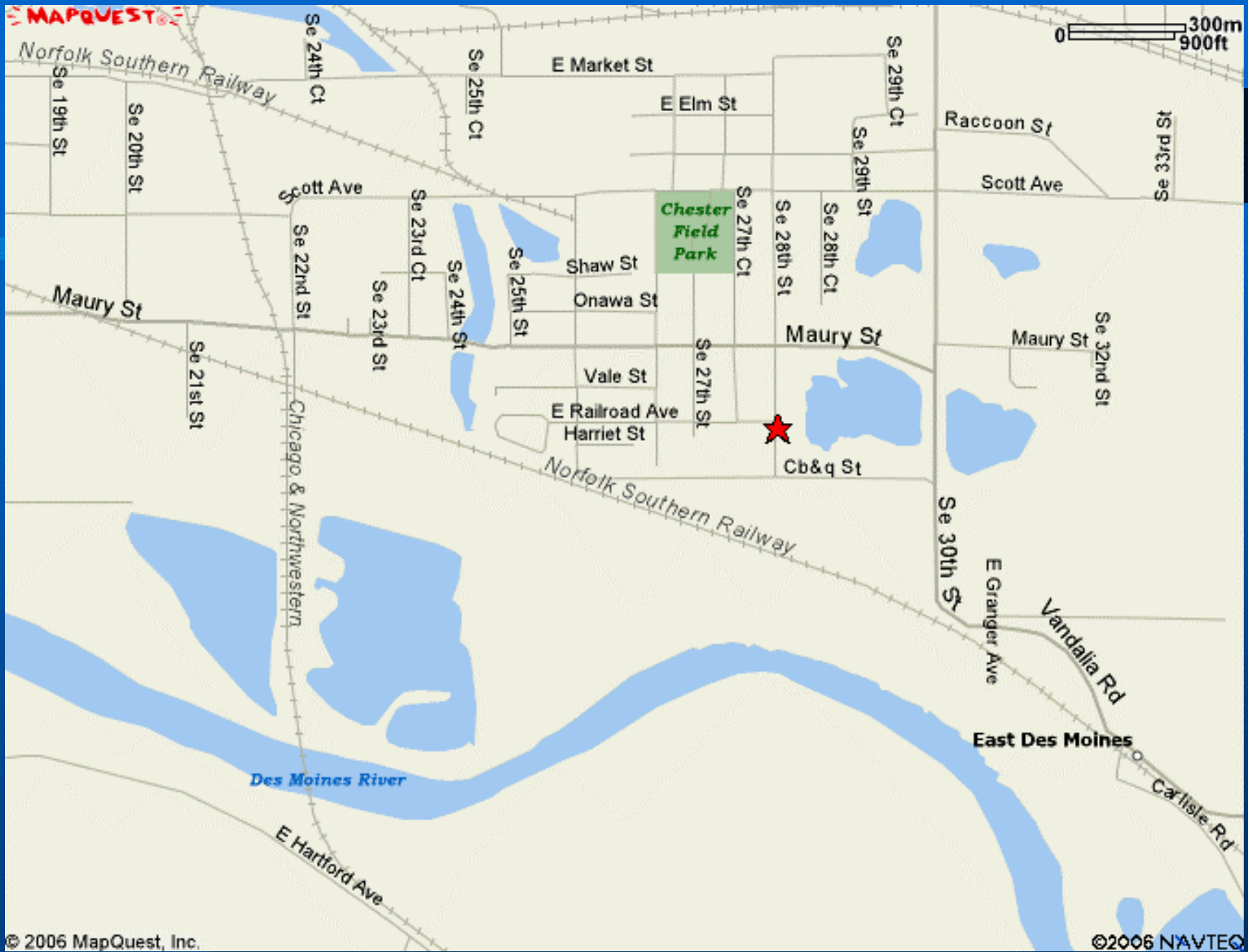
 - Found signs that recent dumping had taken place**

MAPQUEST



© 2006 MapQuest, Inc.

©2006 NAVTEQ















Emergency Response & Discovery

- **July 17, 1998**

Tanker trailer initial found at A-1 Septic Site found in SE DSM
Tanker appeared at Gilbert Thomas sister's house; kids found playing on the tanker while brother in law was cutting into tanker to sell for aluminum

DM Haz-mat team found LEL levels in explosive range
DM Haz-Mat Response Action at Linda Thomas Property

- **July 23, 1998**

Conducted Sampling Event to determine funding stream

- **July 28, 1998**

Imminent & Substantial Endangerment: CERCLA Action

- Lead contaminated liquid waste found inside cement impoundment and assess contaminated Soil
- Tanker Trailer and contents left by DSM Haz-mat team









Investigation & Regulatory History

- EPA Region 7 took response and civil enforcement investigation lead with assistance from IDNR
- State of Iowa AG's office took lead on criminal enforcement actions with assistance from EPA-
- Dual investigations continue following emergency CERCLA Action
 - OPA-90 Unilateral Administrative Orders issued to both Gilbert and Larry Thomas
 - Larry Thomas defers to EPA
 - Gilbert attempts clean-up at A-1 Septic but EPA assumes authority to continue removal action

Investigation & Regulatory History

- **Agencies that interacted with Gilbert Thomas between 1993 and 1999**

Des Moines Wastewater Reclamation Authority

- Banned following 1991 evacuation of POTW
- SE Des Moines sewer line pump stations shut down for emergency cleaning due to heavy petroleum sludge clogging pumps; backed up several hundred homes in area; estimated 5 times per year from 1993-1998

Iowa Fire Marshall's Office

- Inspection followed 1993 fire inside a barn where firefighters discovered two USTs propped up above ground and hidden behind 12' wooden fence

Investigation & Regulatory History

IDNR & Mud Creek Water Quality

- **Environmental Audit began following numerous complaints of sheens spotted by downstream Terrace Hills Golf course**
- **Anecdotal evidence of significant impact to native animal species**

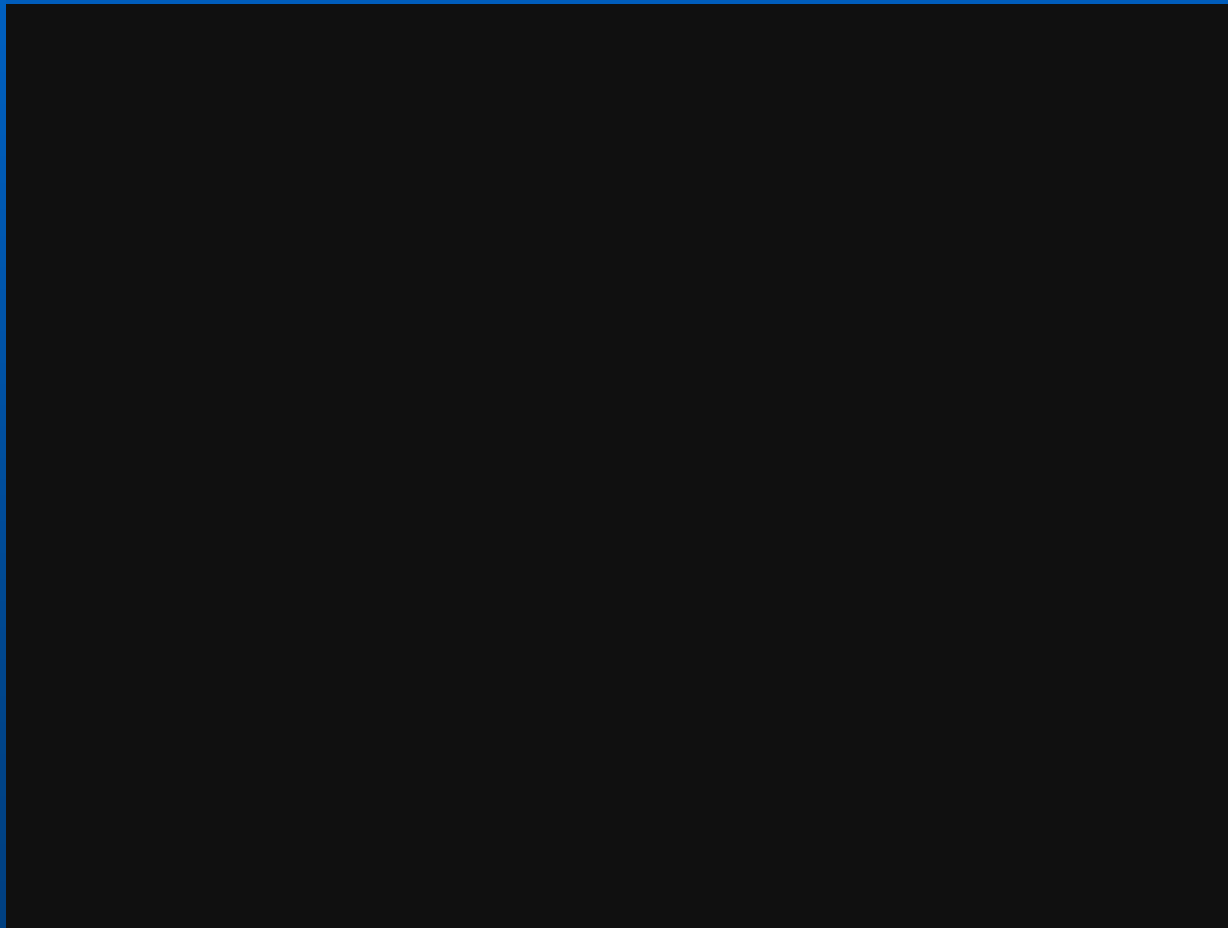
Investigation & Regulatory History

- **RCRA Inspection after floods of 1993**
 - Both sites had large RCRA files
 - Compliance evaluation conducted at Iowa Sanitation site on March 9, 1994 and August 16, 1996
 - Notice of Violation Letter(s) sent regarding used oil regulation
 - RCRA did not pursue NOV and/or further enforcement
 - Iowa's RCRA program run by EPA, only state that did not allow EPA to delegate program

Investigation & Regulatory History

- **Complex sites (Iowa Sanitation & A-1 Septic)**
 - CERCLA and OPA-90 authorities**
 - Civil and Criminal Enforcement**
 - Federal and State interests**
 - Local agencies & lack of funding**
 - Unknown soil contamination**
 - Several informants, interviews, search warrants**
 - Unknown extent of soil contamination**
 - CERCLA liquid hazardous waste mixed with petroleum/septic wastes**

Clean-up: Local News Clip #1



Clean-up (Iowa Sanitation)

- **Iowa Sanitation Site: OPA/CERCLA Removal Action (11/12/98-12/23/98)**
 - OPA ~\$300,000 & CERCLA ~\$80,000**
 - ~6,000 gallons of RCRA Lead contaminated waste**
 - ~42,000 gallons discharged back to DM POTW**
 - PVC piping with quick connect near cement impoundment went directly to nearby sanitary sewer line; unbeknownst to City of Des Moines**

Clean-up (Iowa Sanitation)

**Contaminated groundwater found 20' to 22'
7,431 tons of petroleum contaminated
soils/sludge transported to privately owned
Polk County subtitle 'D' landfill in 450 truck
loads; filling one football field 7' deep**

~23,000 gal. Petroleum hazardous waste

- 4,631 gallons RCRA/CERCLA Haz-waste (TCE/PCB)**
- 17,025 gallons of CERCLA hazardous waste oil**













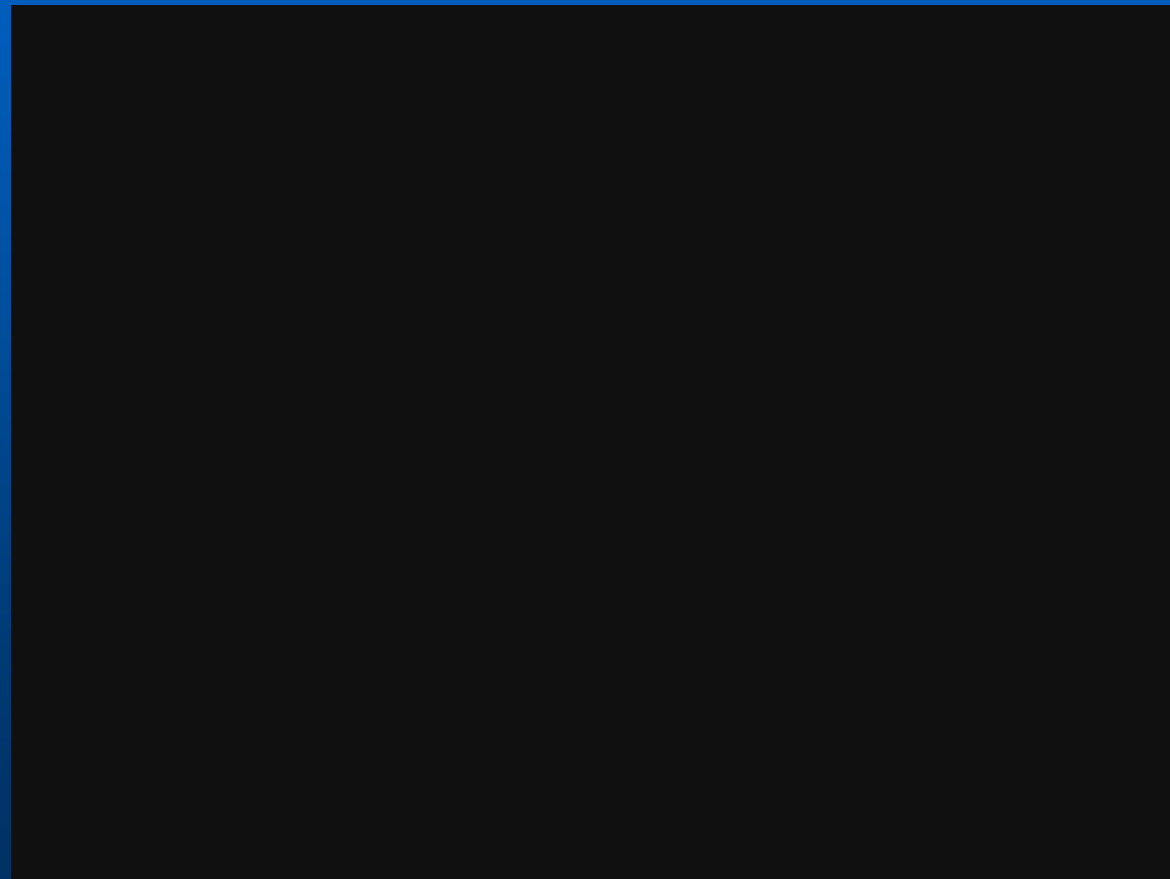








Clean-up: Local News Clip #2



Clean-up (A-1 Septic)

- **A-1 Septic Site: OPA Removal Action
(1/5/99 to 2/26/99)**

OPA \$600,000

13,000 tons Petroleum Contaminated Soil;

1,750 gal. petroleum hazardous waste;

2,280 gal. non-hazardous waste

**some soils over 25 times the regulatory
limit for Total Extractable Hydrocarbons**

Clean-up (A-1 Septic)

- **A-1 Septic Site**

Excavation in drainage way

- 530' (L) x 2'-12' (D) x 5'-45' (W)

Excavation in tank area

- 45' (L) x 12' (D) x 24' (W)

13,000 tons of petroleum contaminated soils/sludge disposed of at privately owned Polk County subtitle 'D' landfill in 865 truck loads; filling one football field 13' deep

Clean-up (A-1 Septic)

Over 750' of PVC pipe discovered

- Both 6" and 4" solid and perforated with pea gravel beds
- Thomas built illegal clandestine underground disposal system of PVC pipes; he eventually clogged with septic wastes
- Began dumping at night on remote parts of property (why he eventually was caught)
- Certainly intentional by Thomas; system was built-on as business increased
 - Hired by several large local gas stations during UST removal and remediation push in late 90's



































Enforcement: Civil

- **Unilateral Order (UAO)**
 - CERCLA/RCRA UAO for Iowa Sanitation to both Larry and Gilbert Thomas
 - OPA UAO for 80th St. Site to Gilbert Thomas
- **Cost Recovery**
 - Several liens placed against Thomas by NPFC

Enforcement: Civil/Criminal

- **State-Lead Search Warrants**
 - 2 @ Iowa Sanitation Site (2 State)
 - 4 @ 80th St. Site (2 State/2 Federal)
- **Iowa AG's Office Indictment**
 - 2 Counts Misdemeanor
 - Illegal Storage
 - Illegal Haz-Waste Transport

Enforcement: Criminal (State)

- **5 Counts Aggravated Misdemeanor**
 - Illegal Discharge to Sanitary Sewer
 - Clean Water Act Discharge
 - Illegal Storage of Haz-Waste
 - Illegal Transportation of Haz-Waste
 - Illegal Discharge of Haz-Waste
- **1 Count Class 'B' Felony**
 - On-going Criminal Conduct (Federal RICO)
 - Mandatory 25 year Sentence

Enforcement: Criminal (State)

- Trial for environmental counts/felony count in early August 1999
- Pleaded guilty to all counts, however to a lesser class-C felony of Theft by Deception
- Sentenced to 10 years jail, \$130,000 fine, and restitution of \$45,000
- Probation denied by judge due to seriousness of case

Case Summary

- The total cost to investigate, remediate, and prosecute Thomas be approximately \$1.2 million (State/Federal monies)
- Environmental Crime conviction: largest ever in Region 7, third largest in history of EPA's criminal program (circa 2001).
- *Combined agency effort*

Recommendations/Lessons Learned

Metropolitan areas of any size should create Environmental Crimes Task Force

Gather all environmental emergency responders, regulators, and prosecuting attorneys to discuss and refer cases easily between all levels of government and appropriate agencies

Open lines of communication between agencies could have prevented A-1 Septic and Iowa Sanitation

Suggest local and state jurisdictions to appoint specific individuals that respond, investigate, and prosecute environmental cases

Do not be afraid to get to know attorneys

Recommendations/Lessons Learned

- **Pollution Investigators**

 - Do Not Give Up & Follow Up**

 - Frequent small spills & sheens + 8 yrs. = 1 large spill

 - Take criminal investigation courses**

 - Learn to interview and follow up on 'tips'
 - Process evidence
 - Learn from 'seasoned' locals
 - Do not dismiss anecdotal 'evidence'

 - Determine who should take lead on specific parts of investigation (civil vs. criminal) and insist on continued support and participation**

Recommendations/Lessons Learned

- **FOSCs and EPA-CID should work closely together**
- **Attend official meetings & meet with local officials immediately and local press if interested**
- **Visit agency officials and ask questions in person vs. phone call and e-mail**
- **Determine capabilities of local and state agencies immediately**
- **Follow your instincts**
 - Does it pass the smell test?
 - Can you verify/validate the information?
 - Corroboration?

THE END

QUESTIONS?